

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

October 4, 2006

Council Chamber

CONVENE: 9:05 a.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Joseph Pontanilla, Vice-Chair
Councilmember Michelle Anderson, Member
Councilmember Jo Anne Johnson, Member (Arrive 9:09 a.m.; Leave 4:35 p.m.)
Councilmember Dain P. Kane, Member (Leave 4:05 p.m.)
Councilmember Danny A. Mateo, Member
Councilmember Michael J. Molina, Member
Councilmember Charmaine Tavares, Member (Arrive 9:06 a.m.)

EXCUSED: Councilmember G. Riki Hokama, Member

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

ADMIN.: Clayton Yoshida, Planning Program Administrator, Current Planning Division,
Department of Planning
Michael Miyamoto, Deputy Director, Department of Public Works and Environmental
Management
Alice L. Lee, Director, Department of Housing and Human Concerns
Patrick Matsui, Chief of Planning and Development, Department of Parks and Recreation
Scott English, Lieutenant, Fire Prevention Bureau, Department of Fire and Public Safety
Brad Hickle, Officer, Department of Police
Cindy Young, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Charles Jencks, Owner's Representative, WCPT/GW Land Associates, LLC
Aki Sinoto, Aki Sinoto Consulting (Applicant's archeologist)
Wayne Yoshioka, Manager, Parsons Brinkerhoff Quade & Douglas, Inc.
(Applicant's traffic consultant)
Tom Schnell, Manager, PBR Hawaii (Applicant's planning consultant)
Stuart Cohen, Environmental and Turf Services, Inc. (Applicant's golf course
management plan engineer)
Kimoeko Kapahulehua (Applicant's cultural advisor)
Blaine Kobayashi, Esq., Carlsmith Ball, LLC (Applicant's attorney)
Lee Altenberg, University of Hawaii at Manoa; Native Hawaiian Plant Society,
Maui
DeGray Vanderbilt
Kimoeko Kapahulehua, Maui Nui O Kama

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

Keala Kaopuiki-Santos
Mercer “Chubby” Vicens
Additional attendees (30)

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

CHAIR CARROLL: . . .(*gavel*). . . This Land Use Committee meeting of October 4, 2006 is now in session. Members, this morning we have only one item on our agenda. And we have in attendance, we have quorum, we have Chair. . .Vice-Chair of the Committee, Mr. Pontanilla; Councilmembers Molina, Mateo, Kane, and Anderson. Excused are Mr. Hokama, and joining us later will be Councilmember Johnson and Tavares.

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

We have before us LU Item 38, Change in Zoning and Project District Phase I approval for. . .Wailea 670 Residential Development.

You have. . .the Committee is in receipt of County Communication No. 01-334, from former Planning Director, transmitting the following:

A proposed bill entitled “A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.90, MAUI COUNTY CODE, AND ESTABLISHING A NEW CHAPTER 19.90A, MAUI COUNTY CODE, PERTAINING TO KIHEI-MAKENA PROJECT DISTRICT 9 (WAILEA 670)”. The purpose of the proposed bill is to grant Phase I Project District Approval and repeal in its entirety Chapter 19.90, Maui County Code (MCC), and establish a new Chapter 19.90A relating to Kihei-Makena Project District 9 (Wailea 670), to facilitate the development of a residential community consisting of up to 1,400 dwelling unites, an 18-hole golf course with recreational amenities, and village mixed uses.

A draft bill entitled “A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. 2171 (1992), RELATING TO KIHEI-MAKENA PROJECT DISTRICT 9 (WAILEA 670) ZONING, FOR PROPERTY SITUATED AT PAEAHU, PALAUEA, KEAUCOU, MAUI, HAWAII”. The purpose of the draft bill is to amend Ordinance No. 2171, relating to Kihei-Makena Project District 9 (Wailea 670) for approximately 402 acres to facilitate the proposed development.

A draft bill entitled “A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURE AND OPEN SPACE DISTRICTS TO KIHEI-MAKENA PROJECT DISTRICT 9 (WAILEA 670) (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT PAEAHU, PALAUEA, KEAUCOU, MAUI, HAWAII”. And the purpose of the proposed, draft bill is to change the zoning from Agriculture and Open Space Districts to Kihei-Makena

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

Project 9, Wailea (Wailea 670) for approximately 268 acres to facilitate the proposed development.

By correspondence dated September 29, 2006, from the Department of Corporation Counsel, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE TO REPEAL ORDINANCE NO. 2171 (1992) AND TO ESTABLISH KIHEI-MAKENA PROJECT DISTRICT 9 (WAILEA 670) ZONING (CONDITIONAL ZONING), FOR APPROXIMATELY 670 ACRES SITUATED AT PAEAHU, PALAUEA, KEAUHOU, MAUI, HAWAII". The propose of the proposed bill is to consolidate the previously mentioned draft bills, therefore establishing Kihei-Makena Project District 9 (Wailea 670) zoning across the 670, 670-acre project district, with a single set of conditions.

The Committee is also in receipt of correspondence dated September 28, 2006, from the Planning Director, suggesting revisions to the Project District bill. The revisions relate to permitted uses and structures in the Project District and a conflict with respect to the height of antennae in the Single-Family and Multi-Family Residential Sub-district.

In addition, the Committee has received correspondence dated September 28, 2006, from the owner's representative, Charles Jencks, containing conditions proposed by WCPT [sic] Land Associates, LLC.

Note distribution of two packets of documents. Note that all the documents distributed have previously been distributed to the Members and are contained within their binders. One packet contains referenced proposal, proposed and draft legislation, along with the Department of Planning's suggestions, suggested revisions and the owner's proposed conditions. The other packet consists of documents culled from the Committee record. These have been made available for the ease of the Members' references. This is in the hopes that it will make it a little bit easier instead of going through all these binders to find the pertinent material.

. . .Members, at this time we are going to take public testimony, and then after public testimony we will be, first, addressing the Parks Department.

Public testimony is now open. To those wishing to testify, you have three minutes and. . .excuse me, and one minute to conclude. Anyone in the audience, if you have any pagers or cell phones, please put them on the silent mode or turn them off. We would like to minimize any interruptions. Ms. Nakata, the first testifier?

MS. NAKATA: The first testifier, the first testifier is Lee Altenberg.

CHAIR CARROLL: And please give your name as soon as you come to the microphone so we can have it clear for the record. Thank you.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

...BEGIN PUBLIC TESTIMONY...

MR. ALTENBERG: Good morning, Committee Members. I am Lee Altenberg. I am an Associate Professor at the University of Hawaii at Manoa and Chair of the Native Hawaiian Plant Society of Maui, and I'm testifying today as an individual.

I have to say that I, I don't relish coming before the Committee and stating that the Wailea 670 proposal, as it stands, is fatally flawed, but I feel it's my obligation to do so.

In, back in March, I testified about the nature of the southern one-quarter of the property which used to actually be a different parcel, and that because of the unique geological nature, a lava flow that flowed through there 10,000 years ago, the soil conditions are exactly right for the survival of a remnant patch of native dry land wiliwili forest, which is a highly endangered ecosystem. Less than 10 percent of it, of the original stand of, of this ecosystem. . .exists in Hawaii. The parcel on the lava flow through Wailea 670 happens to be. . .a, an excellent remnant with some of the largest wiliwili trees on the island and, in particular, some very rare species.

Now what is new, what has happened since the previous meeting on March 15th? Three weeks ago the Federal register came out with a . . .new proposed rules, and I have a stack of handouts that I gave to the Secretary. I don't know if you've each received--oh, good. Okay. And in particular, the, one of the species on this property, the awikiwiki (*canavalia pubescens*), the description in these proposed rules is that the species is known from at least 10 populations in Hawaii totaling less than 200 individuals. The species is threatened by development (Maui), goats that degrade and destroy habitat (Kauai and Maui), and by nonnative plants that outcompete and displace native plants (all islands). Feral goats have been fenced out of three of the ten of populations where *canavalia pubescens* currently occurs and nonnative plants have been reduced in two of the populations that are fenced. This species is represented in an ex situ collection. Because the threats are ongoing in more than half of the known populations, they are of a high magnitude and imminent. Therefore, retain, we retain a listing, a priority number of two for these species (high and imminent threat of extinction).

Now, this description mentions development as one of the threats on Maui. And if you look on the map on your page, it shows the four locations where this awikiwiki still survives on Maui. Number four is in the nat..., Kanaio Natural Area Reserve. Number three is in La Perouse, and one of those is an enclosure--

MS. NAKATA: Three minutes.

MR. ALTENBERG: --that's maintained by the--excuse me?--

MS. NAKATA: Three minutes.

MR. ALTENBERG: --by the Native Hawaiian Plant Society. Number two is Wailea 670 and number three is Pu`u O Kali, which is on Hawaiian Home Lands and, and protected by the USGS. So

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

when they're saying development, they are. . .referring specifically to Wailea 670, and none of those other sites are threatened with development.

So this species that's in high and imminent danger of extinction, what is the recovery plan proposed for Wailea 670? It's essentially to destroy 95 percent of the habitat and cultivated in perpetuity in the remaining 5 percent. Now if the Nature Conservancy were to propose that as a recovery plan for any of its threatened species, it would be seen as absurd. And I think the same standard--

MS. NAKATA: Four minutes.

MR. ALTENBERG: --has to apply here. I'll conclude with that and I'm happy to take any questions you may have.

CHAIR CARROLL: Thank you. Questions for the testifier? We'll start with Ms. Johnson, followed by Ms. Anderson.

COUNCILMEMBER JOHNSON: Thank you very much, Lee, for coming. Because you've also given us this handout with regard to the wiliwili, one of the things that I would like to also--and you don't mention it in here--because of the gall wasps, what has happened to this particular population as it stands right now? Is there any effort to actually conserve the species irrespective of the other plans that are made?

MR. ALTENBERG: Several activities have taken place. First of all, it wasn't known whether the wiliwilis would even survive a year with the gall wasp infestation. However, they have been successfully able to maintain leaf cover over this season, which was the critical question, and they managed to put out their leaves fast enough that they seem to be surviving, and it may be possible that they can survive in this state, while not producing seed, survive for some time. And so for the long-term health of the wiliwilis some kind of biological control is going to be necessary. The State is actively pursuing it and has some candidate control parasitoids.

So the good news is that the, the trees seem to be surviving, whereas some of the, the coral trees that are always in leaf are in bad shape. But the wiliwilis, 'cause they shoot their leaves out briefly, they, they seem to be able to outpace the wasp enough to have photosynthesis to keep them alive.

COUNCILMEMBER JOHNSON: Okay. And, and the reason I asked that is because, you know, with the plan that you're stating here in your written handout that more than 90 percent of the habitat is going to actually be destroyed. How will this put further pressure on a species that is already under severe pressure?

MR. ALTENBERG: Well, this, this particular remnant patch of ecosystem would be destroyed and there are some other patches, but it's. . .you don't find--there's, there's 20 native species that are all reproducing without any human aid on this property, and there are very few places in the entire

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

State where you can, you can find this to be the case. And so, I believe it merits protection, that the development rights should be transferred to other parts of the property where, which had zero botanical, botanical value. Three-quarters of the property has zero botanical value, it's all alien African grasses and kiawe, and, and I would propose that higher density be allowed for that three-quarters of the property if the Committee approves in general the idea of the development.

The. . .Mr. Jencks has touted that this is smart growth, and one of the main principles of smart growth is that you use higher density to lessen your footprint on, your ecological footprint on the surrounding areas, and yet he stated in previous testimony that he wants to maintain the density actually below that of Maui Meadows, which is a conventional suburban subdivision. So this to me doesn't, isn't consistent with smart growth principles. I think the smart growth solution to this dilemma would be to allow higher densities in the remaining three-quarters of the property and preserve this precious remnant for conservation.

COUNCILMEMBER JOHNSON: Thank you very much, Lee. I really appreciate your handout and also your testimony. Thank you.

MR. ALTENBERG: Thank you.

CHAIR CARROLL: Thank you, Ms. Johnson. Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chair. Dr. Altenberg, thank you very much for being here. The handout you gave us focuses on the awikiwiki and. . .correct me if I'm wrong, but it, it. . .from what I see here regarding the Federal register that this is considered an endangered species. Is that correct?

MR. ALTENBERG: It's a proposed endangered species for listing, but because the Federal government has not approved listing of a whole backlog of hundreds of species, it's stuck in that proposed category. But it's at the highest possible rank that this species could be listed for protection, R, R2. If it was a monospecific genera, then it would be an R1, but because there are other canavalias it's R2. But that, that's the highest possible risk rating for this species.

COUNCILMEMBER ANDERSON: So then it would be fair to assume that once Fish and Wildlife get, get around to processing these lists, that this would be on the Federal register of endangered and threatened species?

MR. ALTENBERG: Yes, certainly, and that is a consideration. For, for example, there were some candidate species that were of concern with the building of the, the windmills and because the likelihood of the. . .them being listed within the project, duration of the project was high, and because this project is said to go over, what, 20 years, the chance that this, this and other species would become listed in that 20-year period I would say is high and should be taken into consideration.

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

October 4, 2006

COUNCILMEMBER ANDERSON: And so you're saying now that in the southern portion of this project 90 percent of the awikiwiki that's within this area will be destroyed?

MR. ALTENBERG: Actually, it's 95. . .I, I talked briefly with Charlie this morning, and it's actually 95 percent of the habitat--

COUNCILMEMBER ANDERSON: Of the habitat.

MR. ALTENBERG: --all but 6 acres is going to be destroyed.

COUNCILMEMBER ANDERSON: And so if this were. . .lucky enough to be processed before we make our decision--let's say by some miracle tomorrow Fish and Wildlife processes all these candidate threatened and endangered species and it, it gets on the Federal list, then isn't, isn't it a Federal violation to destroy habitat of an endangered species?

MR. ALTENBERG: I'm not. . .up on all the details of the Endangered Species Act, but certainly a whole battery of regulations would come into effect then, and I believe this area should be designated as critical habitat for the recovery of the awikiwiki because it's, it's found scattered throughout the area. It's the nature of this habitat that. . .and probably the reason the plants have survived is that the soil is patchy enough that it wasn't thick enough with vegetation that fire could destroy it, and so it resisted some of the great conflagrations the past century and that's why the plants are still there. And so, but that means that the, the seed has to find just the right little puka of soil to be able to, to survive, and so you find the, the plants kind of jumping around as they get randomly dispersed from one year to the next.

COUNCILMEMBER ANDERSON: So do you have--you've given us kind of a. . .you know, a very broad map here. Have you given us a map that shows exactly the habitat area within the Wailea 670 project?

MR. ALTENBERG: Yeah. I submitted in past testimony maps showing the details of the locations of. . .many of the 20 native species that have been identified there. That should be in the, in the public record.

COUNCILMEMBER ANDERSON: Do you, do you have a date when you did that?

MR. ALTENBERG: Uh. . .

COUNCILMEMBER ANDERSON: We have so much here that it's just--

MR. ALTENBERG: Yeah, there were. . .that was the, in the March meeting.

COUNCILMEMBER ANDERSON: At the last March meeting.

MR. ALTENBERG: Here's a. . .one of the maps--

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

October 4, 2006

COUNCILMEMBER ANDERSON: Okay, I'll find it.

MR. ALTENBERG: --yeah--

COUNCILMEMBER ANDERSON: Thank you very much.

MR. ALTENBERG: --showing the locations of the species.

COUNCILMEMBER ANDERSON: Thank you for being here, Dr. Altenberg. Appreciate it.

CHAIR CARROLL: Thank you. Any further questions for the testifier? Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Good morning, Mr. Altenberg.

MR. ALTENBERG: Good morning.

VICE-CHAIR PONTANILLA: You mentioned that by active propagation that we can repop..., repopulize the. . .some of the species, rare species that we have on this island?

MR. ALTENBERG: I think it should be attempted. The, the art of trying to propagate native plants in a`a is currently an unknown question whether it can even be done, whether--because if you look at this. . .locations of these plants, you find them growing in the middle of what looks like a bunch of stones. We don't know how to identify a particular site and say the plants will grow here and be able to be sustained here, but I think at least some effort should be made to try to increase the population size to guard against random extinction. Whether that would. . .those human cultivations would succeed or not is completely unknown.

VICE-CHAIR PONTANILLA: Yes, 'cause you mentioned over here, over the next five years we should be, you know, looking at propagation in regards to saving some of the native plants that we do have in Hawaii, and if it does grow good in a`a lava, then hopefully we can propagate more in different areas with a`a lava here on Maui County.

MR. ALTENBERG: The issue about the a`a is this is a combination of factors that allow these plants to reproduce on their own without any human help. We don't know that there's any other place that they can survive on their own without perpetual human inputs from now to eternity, and, you know, can the development assure that they're going to propagate these plants for the next 5 years, 10 years, 50 years, 100 years, 1,000 years? They've been living on their own on this a`a for thousands of years without any human help.

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

CHAIR CARROLL: Thank you. Any further questions for the testifier? Hearing none, thank you.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. ALTENBERG: Thank you, Committee.

CHAIR CARROLL: Ms. Nakata.

MS. NAKATA: The next testifier is DeGray Vanderbilt.

Note: Pause while Mr. Vanderbilt approaches the podium.

MR. VANDERBILT: Good morning, Mr. Chair. . .I'm here to testify on the Wailea 670 project, mainly from the standpoint of the affordable housing.

. . .I'm, there's a handout being passed out, but basically on the first page of that handout, a developer Jim Riley appeared before you on June of 2003, or before the Planning Commission, and he said, your children are going to be moving to the Mainland where they can afford a place to live. On the West Coast you can buy a very attractive medium cost home for 150 to 200 with tile roof, stucco exterior, landscaped yards. On Maui the same house, for whatever reason, costs 5 to 600,000. And he said, there's a lot of land here on Maui, a tremendous amount of land here on Maui. It isn't the cost of the land that drives up the cost of housing. And I think that's pretty obvious. Several of the major developments around here have been buying. . .the Sterling Kim, Jesse Spencer, the Pu`unoa project--all their land was 11 to \$25,000 an acre, about 5 or 6,000 per house lot.

I guess what I am trying to say is that. . .I'm hoping that the affordable housing here will be balanced. Right now, the affordable housing committee is, is looking at 40 percent affordable housing; Molokai projected they wanted 70. Councilmember Charmaine Tavares put forth a very realistic proposal, 80 percent. And, and one of the reasons she probably did that--and I don't want to put words in her mouth--but there's a chart on Page 2 that shows that on Maui 87 percent of the people make 160 percent of median income or less; on Molokai it's 96 percent of all of our households. That means the wealthy people who can afford these wealthy homes on Maui. . .are 13 percent of the households; on Molokai only 4 percent.

So, I don't know what the affordable housing situation is going to be on, on Wailea 670. I would hope that they would put some lots 40 percent, 50, 60 percent of the lots, and they don't have to build the houses, they can donate a lot of it. If it costs them 60, 70,000 to develop the lots, sell that lot. Don't give it, sell it. They don't lose any money that way. Then, Habitat can come in. On Molokai they're building houses 65,000 to 70 for three and four bedrooms. So they are the working person, the, your friendly guys up at Costco that are making \$10 an hour each, husband and wife; that's 40,000 a year. They can afford--

MS. NAKATA: Three minutes.

MR. VANDERBILT: Mr. Chair, what, three minutes?

CHAIR CARROLL: You, you have one more minute to conclude.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. VANDERBILT: Okay. And, and that 80 percent figure, I want you to know, is, is supported--you got some figures on the next page from a developer, David Goode, who showed that 80 percent doesn't work. We adjusted those numbers based on some real facts and show the developers could make a 23 percent profit at 80 percent on the factors that Councilmember Charmaine Tavares. There are also some notes there that we sent to ask Mr. Goode to clarify his figures, but he wouldn't.

And just one last thing. . .in. . .Mr. Jencks sent a letter in to you that said that. . .he wanted the in-lieu fees reduced, and I guess the key is that I hope that he'll, they'll make the lots available to the people and--

MS. NAKATA: Four minutes.

MR. VANDERBILT: --anyway, so that we can get our workforce population in, and not in a segregated community, but in with everybody else. Thank you.

CHAIR CARROLL: Thank you. Questions for the testifier? Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Thank you for coming down, DeGray. I agree with you that, you know, Habitat for Humanity can provide affordable housing for this County. You mentioned that, you know, looking at your testimony on the per acre, acre certain developers, you know, paid \$25,000 for an acre of land. . .

MR. VANDERBILT: Uh-huh.

VICE-CHAIR PONTANILLA: . . .that can develop five lots. In regards to the \$25,000 for the 5 acre, for the acre of land, do you know what would be the infrastructure cost to provide for those five lots?

MR. VANDERBILT: Well, on the Hale Mua project where it was on ag land and they had 10,000 square foot market homes, but only 5,000 square foot for the working families, their infrastructure cost was, on-site was 58,000. Mr. Spencer's on-site cost was about 50,000 for this project going up here. So just say 60,000. And if, if the developer, whether it's Charlie or somebody else, gets the money for the lot at cost to develop that or a portion of it, then Habitat can come in for 60 or 70, and you're looking at 130 to \$140 [sic] package which works for people making 30 percent to 50 percent to 60 percent of, of. . .of Maui's median income. And, and as this chart shows, on Maui 67 percent of the people, households make what the Council does or less, and none of you Council people at the salaries you make, like Ms. Anderson here, would qualify for an affordable housing under the current draft of the bill. So we, we need to get the workforce people some housing and guys like Charlie, if they open the doors to Wailea 670 and be creative, they can do a lot for the working people. So, thank you.

VICE-CHAIR PONTANILLA: Thank you, Mr. Vanderbilt, for that answer. Thank you.

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

October 4, 2006

CHAIR CARROLL: Any further questions for the testifier? Ms. Anderson.

COUNCILMEMBER ANDERSON: I was actually just scratching my head. . .(*chuckle*). . .but since you called my name, I guess. . .

CHAIR CARROLL: . . .(*chuckle*). . . That's alright then.

COUNCILMEMBER ANDERSON: You know, the, the \$60,000, Mr. Vanderbilt, that you mentioned for the lot cost, that includes the infrastructure, correct?

MR. VANDERBILT: Well, that's what some developers represented in their figures that they presented to government agencies.

COUNCILMEMBER ANDERSON: Okay. Thank you.

CHAIR CARROLL: Thank you. Any further questions for the testifier? Hearing none, thank you.

MR. VANDERBILT: Thank you, Mr. Chairman.

CHAIR CARROLL: Ms. Nakata.

MS. NAKATA: The next and last testifier who has signed up is Kimokeo Kapahulehua.

CHAIR CARROLL: If there's anyone else wishing to give testimony today, please come forward and sign up.

MR. KAPAHULEHUA: Hello, Chairman Carroll and Council Members. My name is Kimokeo Kapahulehua. I'm here in representation of Maui Nui O Kama. We're a volunteer group that has been working cooperatively up there since 2002, particularly our interest up in Honua`ula or better referred to you as Wailea 670. We work with the archaeological person that they have on-site to go and look at the archaeological site, to make recommendations on boundaries, and to make sure that whatever was claimed with the State Commission, that we look at a preservation. . . --(*CHANGE OF TAPE, start 1B*)-- . . .educational plan maybe in the future in looking at some of these archaeological sites.

Secondly, our interest is in the native plants, particularly what was discussed this morning was awikiwiki. More than two years ago we had a note that this was on the list, so we had gone to . . .Mr. Jencks and told him that we'd like to write a grant to U.S. Fish and Wildlife, which we did in cooperation with the landowner and ourselves, to go and propagate more of the awikiwiki plant. In this research that we're talking about, we also work with Maui Botanical Gardens and there's several scientific name to this plant, and one of these plants that is endangered is under Molokai. This plant that we're talking on Maui, it has been on the potential endangered list, and they have hundreds of potential endangered list. But we worked with them on the awikiwiki and

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

tried to apply a grant to repropagate with the partnership of U.S. Fish and Wildlife and the landowner and myself, and this grant was turned down because the U.S. Fish and Wildlife didn't think that it was. . .a thing that needed to be done for the awikiwiki plant. Initially, ourselves, we went out and propagate this plant. The awikiwiki plant and the seeds we have. . .were propagated at the Maui Botanical Garden, were propagated in Makena and in Wailea area, and also given to several different groups. Most closely to this area was given to Leinaala Drummond who was a Council Member back years, and she was. . .called up Charlie guys and how the conversation came about the name up here called awikiwiki, and so we had propagated plants for her to plant around this area that she called awikiwiki. So this plant can be propagated and has been propagated.

Our group has heard about the wiliwili tree and in talking to Art Medeiros. . .that many of you know said you gotta go get some seeds. So we went out there and collect or own seeds when this gall wasp came, and we have approximately over a thousand seeds in, in the bag now and that's in the, in the freezer and ready to come out when we feel that, this gall wasp is, is controlled, you know, and then we can go out and propagate that.

Particularly, our group is out here just to preserve, perpetuate, and educate, and we work--

MS. NAKATA: Three minutes.

MR. KAPAHULEHUA: --a partnership not, not only with him, but with University of Hawaii, Maui Botanical Gardens, or anybody that can help us to continue to preserve our plants and make sure that we have it. But our plants can be propagated and can be moved parts of the island.

CHAIR CARROLL: Thank you. Questions for the testifier?

MR. KAPAHULEHUA: Mahalo.

CHAIR CARROLL: Okay. Hearing none, thank you. Ms. Nakata.

MS. NAKATA: The next testifier is Keala Kao..., Kaopuiki-Santos.

MS. KAOPUIKI-SANTOS: Aloha. I'm Keala Kaopuiki-Santos, and I've lived in Maui County my whole life and was raised in Kihei. I hope you don't mind me reading my testimony. I just don't want to miss any points.

I oppose Wailea 670 for many reasons. I feel that there are too many homes being proposed and of those homes, too few of them are deemed affordable. I feel that these luxury homes will bring in more people from the Mainland, putting further stress on our island's population, resources, and infrastructure, rather than providing for the local people who have lived here their whole lives; and I know many native plants will be displaced or destroyed as a result of this project. While I know it is not realistic to completely stop all development, it is possible to limit the amounts of homes, to require them to be at least 50 percent affordable, and to place them in areas

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

that aren't going to destroy native plants or cause hardship on an already stressed and overdeveloped area. Maui has been voted best island by visitors for a number of years now. At the rate we are going with the approvals of developments, we are sure to lose that title along with our beautiful beaches, clean water, or water period, native plants and native people. We should be working towards preserving what is left, not destroying it. I know many local people who would love to own a home in Kihei or Wailea, but not at the cost of a thousand more luxury homes and another golf course. Mahalo.

CHAIR CARROLL: Thank you. Questions for the testifier? Hearing none, thank you. That was the last testifier that had signed up. Is there anyone else wishing to give testimony in the gallery at this time? Seeing none, if there's no objection, we will close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

...END OF PUBLIC TESTIMONY...

CHAIR CARROLL: I had intended to hear Parks first, but Mr. Matsui is still on his way. Mr. Yoshida, do you have anything that you would like to comment at this time?

MR. YOSHIDA: Good morning, Mr. Chair, Members of the Committee. As the Chair had noted, we did transmit a letter dated September 28, 2006 regarding the Project District Standards bill. Other than that, we have no further comments.

CHAIR CARROLL: Any questions for Mr. Yoshida concerning the letter before you or any other thing relating to the Planning Department? Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chair. I wasn't ready for him, so I haven't got the letter in front of me, but I think I recall it pretty close. Mr. Yoshida, the letter that you folks sent us--here it is--September 28th, you are recommending that the section in their proposed. . .chapter relating to "Village mixed-use sub-district" be revised and, and then you say as follows and you list permitted uses and structures. Is this taken straight out of the County Code, this list that you have?

CHAIR CARROLL: Mr. Yoshida.

MR. YOSHIDA: Mr. Chair, Councilmember Anderson, I believe as noted in the first paragraph, there were several amendments to the County Code made since the original transmittal of this, these land use changes were made in 2001, such as the. . .were the Maui Lani Project District which has Village Mixed Use District, VMX District, so we had recommended that these changes be made to the original bill.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: I read the letter, so I know that. My question is, is this list that you've given us of principal uses straight out of the current County Code or did you take this out of the Maui Lani Project District, or where did this list come from?

MR. YOSHIDA: Well, again, I believe the Maui Lani Project District project performance standards bill is part of the County Code.

COUNCILMEMBER ANDERSON: That's what I'm trying to get at. Where did you get this list from? Did you take this list out of the Maui Lani Project District, or where did you get it. . .

MR. YOSHIDA: Oh. . .

COUNCILMEMBER ANDERSON: . . .the list of permitted uses that you're recommending that we incorporate into this bill?

MR. YOSHIDA: I believe it is from the Maui Lani Project District expansion.

COUNCILMEMBER ANDERSON: The Maui Lani Project District expansion? The latest. . .amendment to the project district?

MR. YOSHIDA: Yes, which the Council dealt with recently.

COUNCILMEMBER ANDERSON: And so do you have. . .the section of the County Code that we can find this?

. . .In other words, this is taken out of the most recent amendment to the Maui Lani Project District having to do with Village Mixed Use, and so, so far the only place in the County Code where this Village Mixed Use permitted uses is in the Maui Lani Project District? There's no zoning code for Village Mixed Use?

MR. YOSHIDA: There's no specific zoning district for Village Mixed Use. Village Mixed Use is contained in various project districts. I believe the Maui Lani Project District is Chapter 19.78 of the Code, as amended.

COUNCILMEMBER ANDERSON: And so this, this listing of Village Mixed Uses is in that current Code?

MR. YOSHIDA: I believe, yeah, that was one of the projects that was referenced--

COUNCILMEMBER ANDERSON: Okay.

MR. YOSHIDA: --in recent approvals by the Council.

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

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Thank you, Ms. Anderson. Any further questions for Mr. Yoshida? Hearing none, I still do not see Parks, but we do have Mr. Miyamoto here from Public Works. If you could come down, please, Mr. Miyamoto? . . . And I believe you have some comment about the Coordinated Traffic Study? We could start with that.

MR. MIYAMOTO: We received the, the referred report on Monday and we're still in the process of reviewing it and. . . in discussions with the applicant's consultant that developed the study to, to (*inaudible*) clarify some things for us.

CHAIR CARROLL: Thank you. You have any other comment you'd like to make before I open the floor?

MR. MIYAMOTO: Not at this time, Mr. Chair.

CHAIR CARROLL: The floor is now open for questions from Mr. Miyamoto. Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, Michael. One of the things that, you know, unfortunately we're not able to visit about is the State Department of Transportation and any comments that they have with regard to the updates. Have you had an opportunity to visit either with Charlene or I believe it would be Brennon Morioka with regard to the update on the Traffic Impact Analysis Report and any recommended changes?

MR. MIYAMOTO: Mr. Chair, if I may respond? We haven't had any coordination discussions with the, the State Department of Transportation at this time regarding--we provided our comments and we did not, they did not provide us their comments. So we don't, we have not read or seen what their comments were.

COUNCILMEMBER JOHNSON: Okay. Do you have any idea because of other involvement that you have with regard to where the terminus will be for the Upcountry connector road? I know Mr. Morioka was present at a meeting yesterday and he gave us an update on some of that, but he didn't really reference where the terminus would be in the. . . either the Wailea area or the Kihei area. Do you have any idea if that is still slated for. . . I believe it would be near the Keonekai?

MR. MIYAMOTO: Mr. Chair.

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Are you ref..., Member Johnson, are you referring to the Kihei-Upcountry connector or. . . ?

COUNCILMEMBER JOHNSON: The Kihei-Upcountry connector, yes.

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

October 4, 2006

MR. MIYAMOTO: Having previously had some experience with that project, I think the...the terminus on the South Maui end that was...I think the preferred was the one that was going to be near Kaonoulu, that end of the, the Piilani Highway.

COUNCILMEMBER JOHNSON: Yeah. And I, I believe you're right, I said the wrong development. But you don't have any idea when that would be taking place at this point in time or any updates on Mokulele?

MR. MIYAMOTO: Mr. Chair.

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: My understanding regarding the Kihei-Upcountry, they currently contracted a consulting firm to do, start the design process of that project. So, I imagine the design process will probably take another year or two and probably after that whatever right-of-way they need to acquire may take between one and five, and then ultimately the construction should be beyond that. But that's going to be up to the State to fund and secure the funding for construction. As far as Mokulele, I think they're in, they were working on...I think it's a five-phase project. They've done, completed two phases. They're currently in construction on what's actually the fourth phase 'cause you see the gap between the, the second phase and this current phase. So there's the third phase. And if I'm not mistaken, the fifth phase is the reconstruction of the intersection with Mokulele Highway and Piilani Highway.

COUNCILMEMBER JOHNSON: Okay. Thank you very much.

CHAIR CARROLL: Any questions for--Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chair. In the traffic study that you folks received, I do have a letter from Mr. Morioka in regards to the Coordinated South Maui Traffic Study for Honua`ula/Wailea 670, Wailea Resort, and Makena Resort. Now that we've had some news in regards to Makena Resort being sold, how will that affect the traffic study for this particular project?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: In starting to review the study, I had some concerns about that because on, I think it's on Page 21 there's sort of a...I think it's the third paragraph that states about they know what's going to happen with Wai..., for Wailea, and what's going to happen with Makena, they took the best guess at this time, was currently approved for development, and the rest of the development is pretty much what it's currently zoned, if I'm not mistaken. So they did their best guess as to what was possible there, what's approved, and what's currently...you know, what it's zoned at current configurations. But the applicant certainly can answer to that with their conversations with their, the planners for the Makena Resort.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

VICE-CHAIR PONTANILLA: Okay. One, one more question. In regards to the Mokulele Highway improvement plans, when is the estimated completion date for the highway itself? I know the last phase was bid out, but, you know. . .

MR. MIYAMOTO: Yeah. To be honest, I, I can't answer that. I have no idea to be honest. We, we just saw the, that phase five portion come through Planning Commission, so it's about the latest that I know of.

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

CHAIR CARROLL: Thank you, Mr. Pontanilla. Mr. Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you very much, Mr. Chairman, and just for the body's information and the public's, we just received a letter in our packet this morning dated October 3rd, from Mr. Morioka, the State Deputy Director-Highways, and I just wanted to share and read into the record that they received a September 26, 2006 letter from the Committee and again due to prior commitments they're not able to send a DOT representative here for our meeting today. And they also, it goes on to say that they received the September 2006 Coordinated South Maui Traffic Study for the project itself which includes Makena Resort, Wailea Resort, and Wailea 670, and the consultants who prepared the report are currently in the process of responding to our informal request, meaning the State's informal request for additional info. And it goes on to say, they will provide us, I assume, with comments and recommendations when the review process is complete. So it makes it somewhat difficult for Mr. Miyamoto from Public Works to respond to some of the questions that we're asking here today because, again, we don't have a State DOT representative here, and that the report is still being assessed, and as well as they are in the process of working with the consultants to try and find some type of solution to some of the traffic concerns. So, I just wanted that noted for the record, Mr. Chairman. Thank you.

CHAIR CARROLL: Thank you, Mr. Molina. I'd like to call the Members' attention, too, to the correspondence in the packet that we handed out of March 9th, 2006.

COUNCILMEMBER ANDERSON: . . .I see March 1 and March 13th, Mr. Chair.

CHAIR CARROLL: March 9th, 2006.

. . .This also, of course like everything else in the packet, is in the binder, but we had structured it this way just to try to make it easier for the Members to be able to access the. . .the information that might be the most pertinent for this meeting. . . Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you. Mr. Miyamoto. . . have you had a chance at all to look at this traffic analysis?

CHAIR CARROLL: Mr. Miyamoto.

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

October 4, 2006

MR. MIYAMOTO: Are you referring to the coordinated update?

COUNCILMEMBER ANDERSON: The one that we just got.

MR. MIYAMOTO: Yes, we've started looking at it and when we come upon questions, we were, we've been in contact with the consultants to further--

COUNCILMEMBER ANDERSON: And could you share some of those questions with us?

MR. MIYAMOTO: They primarily. . .the, the concern that currently was brought up was regarding the, the information regarding the trip generation rates that they developed. They developed, they went through a process of rather than using, using industry standards that are developed through numerous surveys throughout the country, they went through the task of developing more site specific information such as using things. . .data collected from subdivisions in the Wailea and the Makena area. And so we were just looking for some additional information regarding that just so that we can confirm that what these rates were and how, how they went about collecting the data and generating these trip generation rates at this point.

COUNCILMEMBER ANDERSON: I really appreciate that because without that information the report means nothing, you know. I mean you have to have verification of where the data was collected and at what time. And so do you know. . .is there in this report a cumulative. . .projection of the increase of traffic generated from all the projected projects that, that they've reviewed in this analysis?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Yes, that's the purpose of. . .the, the primary purpose that they were developing this additional study was to, to assess, first determine what that incremental increase in traffic was going to be, whatever roadway improvements that are proposed for down the road, when all of this is to mature and reach a. . .the occupancy rate, and determine what the impacts of the roadway network has been determined. At this time, we haven't reached that far into the, the study. We're just trying to make sure that the building blocks and the, the basic premises of the report right now are acceptable.

COUNCILMEMBER ANDERSON: So you don't have that, that cumulative figure yet?

MR. MIYAMOTO: I'd have to look into the study real quick and. . .

COUNCILMEMBER ANDERSON: Well, you know, maybe you can do that later, Mr. Miyamoto, and, and get back to us on that. So were you folks involved in setting up the protocol for this study or was it just DOT?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. MIYAMOTO: To my understanding it was primarily DOT, but the, the basic premise that the, the DOT setup is pretty standard and, and good practice and professional in developing these types of studies. You know, because there's three large developments, they want them all to be consistent. So they gathered all three consultants involved in all three major projects and had a uniform effort, and this is the result of that effort.

COUNCILMEMBER ANDERSON: And so do you know that. . .the, the projects that they've included in, in this how far out they project? In other words, you know, we've seen projection studies in conjunction with the General Plan that we're doing right now. So it seems to me that it would be easy to quantify the projected amount of homes that are going to be happening, and, you know, it's not to say that they're responsible for all of this, but, but they are doing the cumu..., the cumulative Traffic Impact Analysis for this area in conjunction with Wailea Resort and I guess with the orig..., with the current zoning that Makena Resort has.

MR. MIYAMOTO: Uh-huh.

COUNCILMEMBER ANDERSON: And I might add that I think that, if my memory serves me, the current zoning that Makena Resort has provides for a greater density build-out than what they brought forward for rezoning. So, I hope they took those numbers into consideration because whoever buys Makena Resort is totally entitled to go forward with that build-out. So can you confirm that, that they used those numbers for Makena Resort?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Mr. Chair. In the short conversation that I had with the consultant performing the traffic study, they did coordinate with the, the planner that was involved with the, for the Makena Resort and they did coordinate, you know, what was approved and what. . .you know, besides the, the lands that were previously approved, what the current zoning of the other lands that currently their, they really didn't have any detailed plans for at this time. So my assumption would be that yes, they have accounted for all of those types of approvals.

COUNCILMEMBER ANDERSON: Well, I mean I appreciate that I'm asking you hard questions because you really haven't had a chance to look at this, but I don't really think that we can go on assumptions, we want it verified that the actual build-out has been considered because--and I also would like to know if. . .if any of the traffic counts were taken during high season, number one; and number two, if the traffic counts or the data collected for traffic counts were during, were done during commuter time. Because that's when the traffic *currently* is in a bottleneck situation, bumper to bumper, specifically through the two-lane corridor that. . .I think this traffic report is specifically addressing.

CHAIR CARROLL: Mr. Matsui [*sic*]. Mr. Miyamoto.

MR. MIYAMOTO: The. . .a lot of the traffic data that was utilized in this study came from the previous update that was done in the, the June traffic study which was, which typically having done a lot

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

of these traffic studies myself, we're, we're very sensitive to, you know, the morning and p.m., a.m. and p.m. peak hour, the, the commuter time. So a lot of times we count traffic for more than just one hour. We're counting somewhere between two and four hours in the morning, two and four hours in the evening, the afternoon to. . .towards the evening peak period just to confirm that the, the peak period that we identify is in fact the actual peak hour. And it's also done just to show, demonstrate that let's say in the old Piilani Highway when you had these large backups, you wanted it, the traffic counts would often demonstrate that you had these large backups by having a relatively consistent volume over more than just one hour. So typically all the traffic consultants, we do count more than just a one-hour period during the peak hours.

COUNCILMEMBER ANDERSON: I, again, appreciate that typical, but I'm asking for specifics because you haven't verified then what time they did this data collection, and, and it's not just a matter of how many hours they collected it because, you know, commuter time in this area is different than commuter time say in Wailuku because this is hotels and, you know, they start letting people out at 3:30, and so the backup for commuter time in this area of Maui is from like 3:30 to 4:30, 5:00, whereas here it might be 5:00 to 6:00. So can you verify that or have you had a chance to check that?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Mr. Chair, I'd have to refer back to the 6/05 study, the June 2005 study to confirm it. I don't recall it right offhand, but I can certainly look at the study and see what it was in the study.

COUNCILMEMBER ANDERSON: Okay. Thank you. You know, it's, it's really disturbing, Mr. Chairman, because it's been 2 ½ months since we last met, and this study was in the process of being done then and it was a requirement of DOT and I'm sure this Committee also, and we just got it Monday of this week and we've been in meetings all week this week. And I, myself, who pride myself in doing my homework have not had time to read this. And that's why I'm asking our people if, if they've had a chance to read it, and they haven't either. And DOT says they haven't read, had a chance to review it. So. . .you know, this is an, a critical issue that we can't just make assumptions that. . .you know, it's gonna, it's gonna be an adequate review because who's reviewed it--not even DOT. And I would like to know if, you know, DOT says that the consultants that prepared the report are in their process of responding to our informal request for additional information. What is that additional information? This Committee should know that, Mr. Chairman, and I think Mr. Deputy Director of DOT should've told us what that is so that we know what we're working on here and not just making blind assumptions that everything is going to be okeydokey. I, I think that it's irresponsible for us to go forward with this project without having that information.

CHAIR CARROLL: Well, Ms. Anderson, the Chair's intent today is to go as far as we can with what we have and then we'll look at what we need, but that is the Chair's intent today.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chair.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Any further questions for Mr. Miyamoto? We have Mr. Matsui with us, so we can get into Parks after this. Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes. And when you're reviewing the information, because you're probably much more familiar with looking at trip generation rates than we are, I'm particularly interested in knowing if the trip generation rates are above or below standards. Also, I think when you mentioned about where the data was gathered and trying to use actual projects, my additional concern is that when you're looking at trip generation rates from existing projects, there are not any projects of which I'm aware where there's a complete integration in a resort community of the affordable housing component which is proposed. Therefore, I would really be concerned about using models or similar kinds of trip generation data gathering, if you will, because there isn't such an animal that I'm aware of here in Maui County. Thank you.

CHAIR CARROLL: Thank you, Ms. Johnson. Any further questions for Mr. Miyamoto before we get into Parks? Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chair. I'm just flipping through some of these traffic count sheets, and it looks like they did use the appropriate peak hour, but they only used one hour. Some of 'em are 4:00 to 5:00, but there's others here. . . 3:30 to 4:30, and, and I would note that yes, they're using the old counts from October '03. And, and I believe DOT had a problem in that they, they requested an--didn't they request an update of the. . . --(*CHANGE OF TAPE, start 2A*)-- . . .when they asked for this combined traffic analysis?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Mr. Chair. I'm not familiar. If, if DOT made that request, it was not something that was shared with us regarding this study. But this study shows they did do three-hour traffic counts, they did count 6:00 to 9:00 and 3:00 to 6:00 p.m. in the. . .in the evening peak, the evening period. And the reason they're using one hour as the peak hour is primarily because that's when you determine, try to use a capacity. When you talk about intersection road capacity, everything's per hour. So that, they tried to pick the highest hour, the worst hour.

COUNCILMEMBER ANDERSON: Right. And so you're gonna try to get us just to reconfirm the total expected increase in traffic generation--

MR. MIYAMOTO: Yeah, I took a--

COUNCILMEMBER ANDERSON: --out of this?

MR. MIYAMOTO: --I took a quick look and it looks like Figure 9 is their summary, it says projected build-out traffic volumes.

COUNCILMEMBER ANDERSON: Could you give us that page?

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

October 4, 2006

MR. MIYAMOTO: . . .Figure 9 is on Page 22. That's the total, that's the total development, not the incremental. The incremental should be. . .actually, I'm not seeing the incremental diagram. So that's certainly something we might want to see, make a request to the consultant for additional information.

COUNCILMEMBER ANDERSON: . . .*(chuckle)*. . . Yeah, and--

MR. MIYAMOTO: Just to clarify the picture of how they went from--

COUNCILMEMBER ANDERSON: Right. Okay. Thank you, Mr. Chairman.

CHAIR CARROLL: Thank you, Ms. Anderson. Any further questions for Mr. Miyamoto? Hearing none, thank you for now. And Mr. Matsui is with us. . .Planning Development Division Chief of Parks and Recreation. Is there any opening statement you'd like to make, Mr. Matsui?

MR. MATSUI: No, I have no opening statements.

CHAIR CARROLL: Alright, Members, we're going to open the floor. Our Parks Chair, Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, Pat, because we have in the interim in my Committee met and actually put forward a resolution to urge adoption and implementation of the Parks Master Plan for South Maui, how does that actually relate now to what is being proposed in this particular area, and what components of that particular plan do you see actually being implemented or at least moved toward in this particular project?

MR. MATSUI: You know, right now we're in the process of doing the permitting and design for the South Maui Park, and where we are is we're at the point of submitting an environmental assessment. The next step would be for an SMA, Project District approval with the Planning Commission, and we're looking at submitting that maybe like February; and then, you know, our consultants will be starting on the construction drawing. So timing-wise if we're looking at like July, sometime middle of next year, we'll be ready to go out to bid. The problem is we have no construction funding, and what the Department is looking at right now is taking some of the. . .park assessment monies and also for this development, depending on the timing again, there was an upfront contribution, I think, we estimated at \$5 million. That would be the value of the Little, the land for the Little League field and the value of construction, and that would be part of our funding for the South Maui Park Phase I. Phase I, we're doing a soccer field, a softball field and the gymnasium, and also the mass grading for much of that 40 acres; and right now we're looking at like \$15 million for Phase I. So, you know, whatever money we can get from park assessment and then hopefully we could, you know, get some kind of G.O. bond. But, you know, those are what the Department wants, you know, it's not within our power to grant that, but that's something we're gonna be going to the Administration, to the Mayor and also. . .to the Council for approval, but that's our plan.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER JOHNSON: Okay. So what you're saying, Pat, if I'm . . .and correct me if I'm wrong, is that with regard to this particular project the one component that you would be looking at that would help towards the implementation of the Master Plan for South Maui Parks would be either financial contribution, which would be in the neighborhood of 5 million for park assessment? Is that correct?

MR. MATSUI: No, the, the 5 million is, is for. . .of the in lieu of them building the Little League field within their project. We would take the cash equivalent of that, and that's the 5 million. There's gonna be more from the park assessment, and right now the park assessment for Kihei is 15,390 per unit. . .so. . .but that is due incrementally, you know, when they're in development. Whenever their first phase is, the timing for first phase, that's when that money is gonna be due.

COUNCILMEMBER JOHNSON: Okay. So, I'm still not clear, Pat, about. . .you're talking about park assessment, and that's irrespective of the 5 million because the \$5 million would've been what the contribution was and is this a donation or. . .?

MR. MATSUI: Yeah.

COUNCILMEMBER JOHNSON: I, I'm not clear about exactly--

MR. MATSUI: Okay.

COUNCILMEMBER JOHNSON: --what it is that you're giving me.

MR. MATSUI: Part of the approvals, prior approvals was for this project, was that they build a Little League field--

COUNCILMEMBER JOHNSON: Oh, okay.

MR. MATSUI: --okay, and, and then since then it's changed and the Department has agreed that instead of building it we'll take the cash for it. So that's the 5 million.

COUNCILMEMBER JOHNSON: Okay, so--

MR. MATSUI: Then on top of that there is the park assessment on a per unit basis and depending on what their phasing is, that's when we'll get the money. So if they're looking at a 20-year time span, we'll be getting the money over 20 years.

COUNCILMEMBER JOHNSON: So you're, you're saying that the 5 million then is instead of actually doing the ball fields, which was a condition that was tied to this originally?

MR. MATSUI: Yes, that's correct.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER JOHNSON: Okay. And with regard now to the actual. . . I guess it would be the General Plan Advisory Committee's work in looking at all of the park needs and the data that was provided or will be provided to them when they're looking at the South Maui regional needs, have you had any indication as to whether there will be any changes from the data that was originally presented, I believe, at some of the Planning Commission workshops with regard to the needs assessment, square footage per person projected, population? 'Cause I know there was a whole bunch of data that was actually provided at one of the early workshops, and my basic complaint about the, I guess the--I don't want to say--to me it was inadequate. But anyway I, my understanding was that originally the park needs with regard to that specific data that is to be provided to the General Plan Advisory Committee was irrespective of the visitor counts. In, in other words, it didn't take into consideration what the visitor counts were for the South Maui area. Now has that been integrated into that and has that been basically. . . updated so that all of the needs and all of that information would then be able to at, at least be looked at with respect to this project?

MR. MATSUI: You know, as far as the district park, we're looking at servicing the resident population, not so much the visitors, 'cause we're talking about a gymnasium, soccer fields, ball fields and that type of thing. So, you know, although you're going to have some of the visitors coming in, you know, we, we're essentially serving the resident population. And, and as far as the needs, the needs are still, still there. I mean, if anything, even with the. . . you know, with, with this proposed build-out for this total 40 acres, you know, we're still going to end up short of national standards, you know, 'cause. . . you know, if we're looking at 20 years, the population is going to be increasing over the next 20 years, too. So right now we're kind of like looking at if the whole park was built today, we're kind of like just about catching up to what the needs are.

COUNCILMEMBER JOHNSON: And, and I understand what you're saying because, you know, we're. . . and we can't hold them accountable for the growth and lots of other things because that's going to happen anyway. But where my concern, Pat, is in your assumption. . . *(chuckle)*. . . that the data that was actually being collected is targeted to the resident population and providing amenities for the residents. My bigger concern is still that the visitor population in large part uses, particularly our beach parks, all the areas that are very attractive. And as you well know, we're having to close off a lot of those areas. So some of the components of our park system that were not used previously may actually now be more attractive. I mean if you want to have some kind of a celebration, a visitor might ordinarily go to a beach park. Now if that beach park's closed, they won't be able to do that. But the bigger question is with regard to integrating that visitor population in the actual needs for the South Maui community because we have commercial activities in our beach parks and there was that assessment that was done, which actually I don't believe has been transmitted to my Committee for the ocean rec. activities permits, and my concern is that we have commercial activities that actually cater to our visitors on our public park spaces. So if you're not including the visitors in the overall needs for South Maui, that to me is, is not going to be accurate. We're, we're going to be even in worse shape than what you're, what you're actually, you know, speaking about. So can you take a look at that again and if we have some visitor counts, can you integrate that into the whole mix so we know how short we really are on park space?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. MATSUI: Yeah, we can do that. . . . You know, just offhand I can tell you that our beach parks are overcrowded and, and. . . yeah, you know, the visitor component is a large component of Parks' planning, but then, you know, right now we're focusing on the active parks. . . the South Maui District Park. So, you know, what. . . my comments is basically that we need this active park, this 40-acre park and, and that's the focus of our Department right now. But, you know, yeah, there is a need also for, you know, more beach parks or beach facilities.

COUNCILMEMBER JOHNSON: Okay. Thank you.

CHAIR CARROLL: Before I ask if there's any more questions, are there going to be any request for either the Police or the Fire Department? I have them on call and if there is, then I will have them here after the break today. Any request for Police or Fire? Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes. I would request Police because of the recent problems that we've been having in the South Maui area, and although it relates to parks and a lot of public property, I, I really want to know what's going on there because I've been getting reports--

CHAIR CARROLL: We will have them here after the break. Any request for the Fire Department? Alright. The floor is open for--excuse me, Ms. Anderson?

COUNCILMEMBER ANDERSON: Yeah. I did want to speak to someone about drainage and I notice Mr. Miyamoto left. So if maybe--

CHAIR CARROLL: I thought I made it clear to him that we were finished with him *for now*--

COUNCILMEMBER ANDERSON: Okay.

CHAIR CARROLL: --and I would hope that he is nearby--

COUNCILMEMBER ANDERSON: Okay.

CHAIR CARROLL: --and we will be calling him back for you.

COUNCILMEMBER ANDERSON: Thank you.

CHAIR CARROLL: Alright. Mr. Mateo, followed by Mr. Pontanilla.

COUNCILMEMBER MATEO: Chairman, thank you very much. In, in prior discussion the, the developer had indicated an interest relative to a fire substation.

CHAIR CARROLL: Yes.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER MATEO: So had the Chair in fact gotten any response from that, from the Department in regards to the requirements for a particular substation in this development project?

CHAIR CARROLL: I tell you what, after the break we'll have the Fire Department representative over here so you can hear it from the horse's mouth.

COUNCILMEMBER MATEO: . . .*(chuckle)*. . . Thank you, Chair.

CHAIR CARROLL: We will have the two, Police and Fire, available sometime after the midmorning break. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chair. Good morning, Mr. Matsui. I agree with you that Kihei really needs more active park. You know, we have had testifiers come up before this Committee in regards to a Little League field, soccer fields that, you know, you don't have in Kihei, and Kalama Park is overtaxed. The 40 acres would provide more fields for the Kihei. . .kids as well as adults. The question that I have is, have you ever had any conversation with the developer in regards to maybe going into a partnership to create this 40-acre park?

CHAIR CARROLL: Mr. Matsui.

MR. MATSUI: We talk generally but, you know, we haven't really gotten down to specifics.

VICE-CHAIR PONTANILLA: I understand that the developer is willing to work with the Parks Department in creating these park facilities and, you know, I, I think we should have more conversation. I would like, I would really like to see, you know, the 40 acres as far as a park done in, in short time. In, in other words if you're gonna go for the first, first phase, hey, why don't you come, have some conversation in doing the whole 40 acres? I, I know the assessment over the next 20 years will be \$16 million in regards to the park assessments. . . .You know, at least strike up the conversation in regards to doing a partnership in creating the 40 acres into park land.

MR. MATSUI: Okay, we can do that. Yeah.

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

CHAIR CARROLL: Thank you, Mr. Pontanilla. Mr. Molina.

COUNCILMEMBER MOLINA: And thank you, Mr. Chairman. Mr. Matsui, just in, in details with regards to the Department's plans for the construction of this field. This includes the amenities of the bleachers, scoreboards, or is this just, you know--I guess what, how shall I put it?--the grounds keeping and the land acquisition, is that, well, what this entails with regards to that Little Field that you're looking at?

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

October 4, 2006

MR. MATSUI: No, we're looking at, you know, the total--

COUNCILMEMBER MOLINA: Backstops, dugouts, and all that.

MR. MATSUI: Dugouts, yes. Bleachers, scorekeeper's booth, that kind of thing. Yes.

COUNCILMEMBER MOLINA: Okay. Thank you.

CHAIR CARROLL: Any. . .Ms. Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chair. You know, the Little League field is a condition currently on this property. A previous Council to us. . .um. . .made this a condition, and it included all the amenities. So that's where the 5 million comes from. I hope that's in 2006 dollars and not 1993 dollars.

MR. MATSUI: It's in what it's going to cost today, yes.

COUNCILMEMBER ANDERSON: Yeah. So. . .Mr. Matsui, do you have a figure on what the park assessment would be? I believe we're looking at 1,400 units at 15,390 per unit. Have you figured out what that is?

MR. MATSUI: No. You know, you can multiply that by 15,390. . .um. . .I don't have a calculator.

COUNCILMEMBER ANDERSON: Well, you know, you're the Parks Department. I would hope that you would know what the park assessment's going to be--

MR. MATSUI: Well--

COUNCILMEMBER ANDERSON: --and what, what it's going to be per phase because you guys are letting them get off without having to do any parks in this area and, instead, taking the money. So we need to know what that's going to be.

MR. MATSUI: Well. . .if I could give you a solid number, I would, but it depends on the timing. The 15,390 is determined, that figure is determined annually and it's based on real property values for the Kihei-Makena area, and every year it gets updated. So--

COUNCILMEMBER ANDERSON: And hopefully, it gets increased every year, right?

MR. MATSUI: It's been going--

COUNCILMEMBER ANDERSON: Yeah, it's pretty scary--

MR. MATSUI: --up and up and up, yes.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: --how much it's been going up.

MR. MATSUI: Yes. So--

COUNCILMEMBER ANDERSON: But if you could give us based on today's figure so we know what we're looking at here today into the future for the next 20 years, and how much we could look at in phases. In other words, you're only going to get this money when the units are on the ground.

MR. MATSUI: Right.

COUNCILMEMBER ANDERSON: So based on what they're phasing projection is, how much are we looking at in the next, you know, 5 years, 10 years, 20 years? I think that we need to know that, just based on today's figures, and that would give us a minimum amount.

MR. MATSUI: Okay.

CHAIR CARROLL: Mr. Matsui, you can come back afterwards, later today--

MR. MATSUI: I can get back to you, yes--

CHAIR CARROLL: --with that? If that's alright with you, Ms. Anderson?

COUNCILMEMBER ANDERSON: Yeah, that'd be great. I have one more question, Mr. Chair.

CHAIR CARROLL: Proceed.

COUNCILMEMBER ANDERSON: Has your Department. . .um. . .maybe in connection are you, have you reviewed the ocean recreation permit environmental assessment or been involved in that at all?

MR. MATSUI: Yes, I am. Yes.

COUNCILMEMBER ANDERSON: And so does that. . .I would hope that that assessment looks at a carrying capacity of our beach parks in South Maui.

MR. MATSUI: The assessment is just pretty much what's happening now. . .the overuse, you know, the parking lot is full, you know, that, that type of thing. . .just observations, and it identifies what's, what's there, like how many parking spaces for each of. . .I think we did 17 parks. So we've pretty much completed that aspect. We're working on the rules and regs based on these findings.

COUNCILMEMBER ANDERSON: Have you submitted that assessment to the Committee?

MR. MATSUI: No.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: Could you maybe bring a copy of that for us to look at, at least for me to look at? As a rep..., representative of South Maui, I think it would be irresponsible not to know where we are right now in our beach parks because visually--and you just said it--we're overcrowded and, you know. . .I think that we need to look at that because we can't just create more beaches. We've gotta deal with what we've got.

MR. MATSUI: Yes, we can send that to you. We're intending on sending it to you along with the proposed rules and regs after we went out for public hearings, because both documents are related to, to each other, but--

COUNCILMEMBER ANDERSON: Yeah, I understand that.

MR. MATSUI: --I can just send you. . .if you want it, I can send that--

COUNCILMEMBER ANDERSON: Yeah.

MR. MATSUI: --that portion.

COUNCILMEMBER ANDERSON: Right. I mean that's for another topic, the rules and regs. I just want the information for this because I see no assessment in any of this on the impact that this is gonna have on our recreational facilities and, frankly, I think that's a big flaw because you can't be putting in. . .you know, 1,400 houses in a beach area and not expect it to impact our beaches. I mean that's only 1,400 houses times, what, three or four people. So we're looking at, what, another 5,000 people? And I think it's critical that we see how that impacts our beaches. Thank you, Mr. Chair.

CHAIR CARROLL: Members, it is now 10:30--

VICE-CHAIR PONTANILLA: One, one more question.

CHAIR CARROLL: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Mr. Matsui, in, in regards to the design for this park, we're going to be ut..., utilizing any reclaimed water from the treatment plant?

MR. MATSUI: Yes, we are.

VICE-CHAIR PONTANILLA: Okay. Thank you.

CHAIR CARROLL: Members, it's now 10:30. We are going to take our midmorning break. After our break we are going to have, we will have Public Works. Also, I hope that the Police and Fire Department, we will be hearing them first. Mr. Matsui will. . .we are going to ask him to stay around 'cause I foresee some more questions for him. As for Housing and Human Services, due to unforeseen circumstances of an emergency, Ms. Lee will not be available until 1:30.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

So any questions on that line, please, that might come up or you might have, just make a note and we'll have to address that in the afternoon. We'll stand in recess for 15 minutes. We will reconvene at 10:45. . . .(*gavel*). . .

RECESS: 10:30 a.m.

RECONVENE: 10:55 a.m.

CHAIR CARROLL: . . .(*gavel*). . . This Land Use Committee meeting of October 4th, 2006 is now back in session. Members, we have with us Mr. English from the Fire Department. We're going to hear from Fire and then Police, and I would hope that we could ask all the questions of them now so we don't need to keep them here. If you do think that we'll need them here later, well, we'll hold them, but I would hope that we can. . . ask all the questions and get the answers we need now so we don't have to tie them up all day. Alright, who requested the Fire Department? Ms. Anderson? No. Who requested Fire? Mr. Mateo.

COUNCILMEMBER MATEO: Mr. Chairman, you requested Fire.

CHAIR CARROLL: Mr. Mateo, you have the floor.

COUNCILMEMBER MATEO: . . .(*chuckle*). . . Thank you very much.

COUNCILMEMBER ANDERSON: He doesn't look anything like me. . . .(*chuckle*). . .

COUNCILMEMBER MATEO: Pardon?

COUNCILMEMBER ANDERSON: I said, you don't look anything like me. . . .(*chuckle*). . .

COUNCILMEMBER MATEO: . . .(*laughter*). . .

CHAIR CARROLL: Would you like a moment to consolidate your thoughts, Mr. Mateo?
. . .(*chuckle*). . .

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

COUNCILMEMBER MATEO: . . .(*chuckle*). . . What? Chairman, thank you very much. Fire Department, I, I think in our last. . .(*chuckle*). . .in our last discussion there was a, a . . representation by the developer that there would be considerations of land that would be provided for a substation in the development site, in the project site. Is, is the Fire Department aware of the potential offer, and can you tell us what requirements would be in terms of the land size and expectations of the Department?

CHAIR CARROLL: Mr. English.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. ENGLISH: Yeah. I didn't have no comments to that right now. I'm not sure what the Chief and the developer worked out prior to this meeting or the previous meeting before this. So, I cannot really answer you that question.

COUNCILMEMBER MATEO: Okay. Yeah. Then, then, Chairman, at this point it would be, it would be moot for me to, to continue because I just wanted the Department's comment on whether, whether any discussion had gone on and whether or not we are aware of the, the size of the parcel that would be required, et cetera. So un..., until that discussion occurs, there's no sense to continue.

CHAIR CARROLL: The Staff will follow-up on that and get the information.

COUNCILMEMBER MATEO: Thank you, Chairman. Thank you.

COUNCILMEMBER ANDERSON: Chair.

CHAIR CARROLL: Any other questions? Ms. Anderson.

COUNCILMEMBER ANDERSON: Yeah. I have notes from our last meeting when Captain or Deputy Chief Neal Bal was here, and he did say that. . .1,400 houses would severely impact our services and by half of the build-out we would need upgrades, and that. . .um. . .as far as land and as he--they would need land and a station, plus backup dispatch for police, and that they're looking at 5 acres. That the Kihei, the current Kihei Station needs to be relocated. And. . .so they want land and a. . .5 acres and they will need a station with a helipad. And that's what we were told at the last meeting by Chief Bal.

CHAIR CARROLL: Thank you, Ms. Anderson.

VICE-CHAIR PONTANILLA: Chair, question.

CHAIR CARROLL: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Officer English, in regards to the Wailea Fire Station we do have a helipad at that location, but no permanent helicopter?

MR. ENGLISH: Yes, the Wailea Fire Station does have a helipad for emergency use, but at this moment none of the stations really house the helicopter. The helicopter does stay at the airport.

VICE-CHAIR PONTANILLA: What would be the response time from the Wailea Station to this proposed project? Is there like a circumference from this station that tells us, you know, the response time for different locations in the Wailea area?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. ENGLISH: Okay. What the Hawaii Insurance Bureau. . .what I think we have to take into consideration is that the, they get their ratings of the area. If you're outside of a five road mile area of a fire station, then your ratings get pretty bad and your insurance rate gets up. So where the Wailea Fire Station is presently to where this project is, I'm not sure on the road configuration. I think it's. . .will fall into this five road mile range.

VICE-CHAIR PONTANILLA: Okay. . .The, the--you guys review the construction plans, right? The roadway within the subdivision itself, does it meet your requirements in regards to our firefighting apparatuses?

MR. ENGLISH: When this project come, when they. . .come to me for a subdivision approval, the required road width, fire mains, fire hydrant spacing will all be based on the zoning, whether it'll be Residential or Ag, and they will have to meet that minimum requirements; and evening like the turning radius of the trucks, the turnarounds all will have to meet the requirements of the trucks that's serving this area. So when it comes to the subdivision application time, the permits will be reviewed by myself and the requirements will have to be met, the minimum requirements will have to be met.

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

CHAIR CARROLL: Thank you, Mr. Pontanilla. Mr. Mateo.

COUNCILMEMBER MATEO: Thank you, Chair. And, and to, just to follow-up where Member Anderson had provided the information on the discussion with the Deputy. I, I guess that was just discussion at that particular point in time, and I, I would assume then that the Department and the developer did not continue on any kind of a dialogue to provide us with the more specific requirements, the needs of the Department. So until we get something tangible from both sides, then it was just nice having that discussion. Thank you, Chair.

CHAIR CARROLL: Thank you. And, again, we will be in writing, requesting in writing an answer to this question. Ms. Anderson.

COUNCILMEMBER ANDERSON: Just to follow-up on that. Mr. Jencks did say at the meeting that. . . --(*CHANGE OF TAPE, start 2B*)-- . . .but I agree we need it in writing.

CHAIR CARROLL: Any further questions for Mr. English, the Fire Department? If not, thank you for coming. Is the Police Department representative, did he arrive? . . .Mr. English, can you look outside, see if the Police Department representative is over there for me, please?

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

CHAIR CARROLL: Thank you. Alright, we'll call Mr. Matsui back. We. . .when we took our break, I believe there was still some questions for him. The floor is open. Any further questions for Parks? Ms. Johnson.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER JOHNSON: I, I just wanted to let everyone know that I did have an opportunity to speak with Mr. Matsui during the break and also, Planning was the agency that was going to try to at least get the information to us with regard to visitor population being included with the resident population mix for our park needs. So he did confirm, and Mr. Yoshida is trying to get that information, too. So, I, I know that Mr. Matsui, after speaking with him, was not the individual who was going to provide us with that. Thank you.

CHAIR CARROLL: Thank you. Any further questions for Mr. Matsui? Ms. Anderson.

COUNCILMEMBER ANDERSON: Did you get those figures?

CHAIR CARROLL: Mr. Matsui.

COUNCILMEMBER ANDERSON: Oh, you thought I was going to forget already?

MR. MATSUI: No. I did some. . .based on 1,400 units and if it was built today, all at once, would be 21,546,000.

COUNCILMEMBER ANDERSON: And then did you do it by phases of the project?

MR. MATSUI: No, I was, you know, I was not familiar with how they were phasing or the numbers involved in each phase. But if you can get me the numbers for each phase, I can give you the--

COUNCILMEMBER ANDERSON: . . .*(chuckle)*. . . I, I guess I can do the math. But I, I thought you would know this since you're counting on this money to do the regional park. Just to be very clear, the \$5 million for the Little League field will be used to build a Little League field at the regional park, correct?

MR. MATSUI: Softball fields. Well, not specifically. It will be thrown into the general pot 'cause it's, you know, first phase is gonna cost more than \$5 million, and we're not specifically earmarking any field for that \$5 million. We're, we're building Phase I all at once and we're looking at like 13 to \$15 million. So that 5 million would go to funding a part of that.

COUNCILMEMBER ANDERSON: Well, that contradicts what we were told that the 5 million for the Little League park. . .um. . .was going to be transferred for a Little League park at the regional, the regional park. So. . .you know, Mr. Chairman, we were told that there was an, there was an. . .agreement--well, that's not the right word--that the Little League folks in South Maui were consulted regarding dropping the condition that currently exists for a Little League field in Wailea 670, and that they agreed to the changing of the location of the Little League field. And now I'm hearing that they're doing softball fields and, you know, I'm not a ballplayer, but I think that that's. . .there's a difference between a Little League field and a softball field and, you know, the Little League field was supposed to be done for the Little League with all the amenities--bleachers, scoreboard and all. So now we're hearing that the \$5 million for the Little

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

League field is going to be used to build the regional park. And I can see, you know, that there's probably some sense in that because until you have the park. . . doesn't make much sense to build a Little League field because you won't have parking and all the amenities that would go with it. So, I got a problem with that because it, it is a condition that a previous Council set for this project and. . . um. . . I for one don't feel comfortable about overriding the wisdom of a previous Council and, you know, what they worked out with the previous owners of this property. But at any rate, I just want to make that comment because. . . um. . . have you, have you discussed this. . . what you're currently telling us, have you discussed this with the Little League peop..., people in South Maui?

MR. MATSUI: Well, you know, these, these things have been going on for, you know, a number of years now. You know, the Little League Association, you know, it changes. So if you're asking if we talked to the current guys, no. But, you know, it's, generally we know Little League wants their dedicated field. . . exclusively for Little League. Right now, Little League is at Kalama Park and there's I think one main field, actually two fields and then one like for Peewee League and, you know, just kind of a field that's tucked in the corner of, of part of the soccer field; and, you know, it's a multi-use kind of thing where year-round it's not just Little League, you're talking softball, soccer, even rugby I've seen out there. . . Pop Warner, too. So what we're looking at is moving the adults to the district park or. . . and making Kalama exclusively for Little League and the youth, youth type of balls, ball field so Peewee League and Little League would be there, and that would be exclusive. The ones we have at the district park are softball fields, but, you know, softball fields are, you know, pretty much the same dimensions as Little League fields, you know, we use it interchangeably. The base paths is about the same. . . just the fence line for softball is further out. So, you know, we, we put in portable fencing when Little League comes in. So, you know, our. . . the end result of our planning is that you would have a totally dedicated Little League field for South Maui.

COUNCILMEMBER ANDERSON: But you're. . . um. . . you mean the existing fields at Kalama?

MR. MATSUI: Right.

COUNCILMEMBER ANDERSON: And so are they gonna get the automated scoreboard?

MR. MATSUI: Yes.

COUNCILMEMBER ANDERSON: They will? Because I have talked to the Little League folks, maybe not for six months, but back during Budget. . . so. . . and they're already overstressed there just as Little League. So, I'm wondering how, you know, building a field for the adults is gonna help the Little League folks?

MR. MATSUI: Well, you know, those are two more fields that they'll have available. Actually, we're building three ball fields. One is for baseball, but that can also be used for Pony League and, you know, high school ball, if there's high school ball, or Senior Little League; and then the two

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

softball fields can be used for the younger kids, too. So, you know, you're talking the combined, the Kalama Park and also those fields at the district park, and it's a lot more fields.

COUNCILMEMBER ANDERSON: Oh, I thought I, I thought you just said that the new fields at the district park would be for adults?

MR. MATSUI: Yes, but it's for softball. But then like I said, you can use the softball field for Little League. So that will be available for Little League also.

COUNCILMEMBER ANDERSON: At the district park?

MR. MATSUI: At the district park, right.

COUNCILMEMBER ANDERSON: So the Little League, the, the *Little* League can also use those parks?

MR. MATSUI: Right.

COUNCILMEMBER ANDERSON: Okay.

CHAIR CARROLL: Thank you, Ms. Anderson. Any further questions for Parks? Ms. Johnson.

COUNCILMEMBER JOHNSON: Pat, with regard to, I guess, some of the lighting that--you know, now I know that in Mr. Molina's Committee been looking at lighting standards for a long while--how are we actually because of the proximity that a lot of these facilities have to the ocean, how are we going to be looking at the operation of these parks? Are they going to be after hours? I know we've been closing a number of them. . .as, as far as our beach parks go. The regional park would be not close to the ocean, though. So that one, your intention would be to keep that open and keep it fully lighted for availability, availability in the evening?

MR. MATSUI: Yes, we're planning on lighting the, the ball fields and the soccer field.

COUNCILMEMBER JOHNSON: Uh-huh. And then would they operate on timers, much like our other parks do?

MR. MATSUI: Yes. Our parks close at 10:00. So that's when, you know, we set the timers for that.

COUNCILMEMBER JOHNSON: Okay. With regard to the actual cost, because I know everything's been going up, do we have approximations based on our other parks that are lighted in the evenings what the cost might be that we're looking at for our projected use with this new regional park? Do we have any idea?

MR. MATSUI: Yeah, we can get you those numbers. It depends on how many fields we light.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER JOHNSON: Uh-huh.

MR. MATSUI: You know, we don't expect to light all six fields--

COUNCILMEMBER JOHNSON: Right.

MR. MATSUI: --all at once. I think our priority would be at least one field, one soccer and one softball field--

COUNCILMEMBER JOHNSON: And which would be--

MR. MATSUI: --initially.

COUNCILMEMBER JOHNSON: --that would be 50 percent roughly or is that less than 50 percent?

MR. MATSUI: Well, we're building three soccer fields and three ball fields.

COUNCILMEMBER JOHNSON: Okay, so a third?

MR. MATSUI: Yes.

COUNCILMEMBER JOHNSON: Alright. If, if we could have those figures, I think that would be very helpful, and with regard to, I guess, some of the issues that we've been having with vandalism and whatnot, have you considered what the additional staffing would be required in order to monitor the parks and keep them safe into the evenings?

MR. MATSUI: Okay. We can get you some of those figures, too.

COUNCILMEMBER JOHNSON: Yeah. And, and is there an intention then to also increase park rangers for our parks facilities or not at this point in time?

MR. MATSUI: Yeah. We haven't gone that, you know, I haven't gone that far. Maybe the Director or the Deputy have, you know, thought of stuff like that. Yeah, right now I'm just looking at getting the fields maintained and hopefully--

COUNCILMEMBER JOHNSON: Okay.

MR. MATSUI: --you know, we'll get maybe another three or four caretakers.

COUNCILMEMBER JOHNSON: Okay. Thank you.

CHAIR CARROLL: Any further questions for Parks? Mr. Pontanilla--

VICE-CHAIR PONTANILLA: Thank you.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: --followed by Ms. Anderson.

VICE-CHAIR PONTANILLA: In, in regards to youngsters versus adults, I understand that most of the fields that we have today that are lighted are being used by adult. . .players. In this case here, I'm assuming that it's going to be same throughout for this particular district park, that the softball activities will be done at night with adult participants?

MR. MATSUI: Yeah. Generally, that's true. Mostly at night is the adults. . .and, and the kids usually do it during the day. But I know like soccer, like upcountry, there's, yeah, there's. . .the youth do use it at night, too. So. . .

VICE-CHAIR PONTANILLA: Okay. Thank you.

CHAIR CARROLL: Thank you, Mr. Pontanilla. Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chair. Mr. Matsui, the, the developer is planning a 6-acre public park within the project, but you folks aren't giving them park credits for that. Can you explain why?

MR. MATSUI: Well, yeah, our focus has been on active parks and. . .you know, we've agreed with them that, you know, an active park is not a good idea in this development, and, and so, you know, they've agreed with us that, that we can. . .we'll take a cash contribution and develop the active park, the 40-acre active park.

COUNCILMEMBER ANDERSON: You know there's going to be affordable housing in this project, right? So--

MR. MATSUI: Okay.

COUNCILMEMBER ANDERSON: --that means children. So why wouldn't we want to have--I mean 6 acres is a big area for a public park. Why couldn't there be, you know, I mean. . .it doesn't take much to make a soccer field. It's just some lines on the ground and--

MR. MATSUI: Well, they've agreed to do the park *and* give us the money. So--

COUNCILMEMBER ANDERSON: . . .*(chuckle)*. . . So you're taking both?

MR. MATSUI: Yes.

COUNCILMEMBER ANDERSON: But it's going to be a public park. So that means that we're going to be maintaining it? Is that correct?

MR. MATSUI: That still hasn't been decided yet.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: I mean I think it, it's absolutely necessary that we provide park space for the children that will be living here, and there's no guarantee that all the market homes are not gonna have children as well as the affordable. So maybe--you know, park assessment is supposed to be addressing the needs of the development that we're doing, and here we're extracting \$21 million in park assessment fees out of this project and using it in an area that no children are gonna be able to access without some adult driving them there. So, I'm very appreciative that the developer is still gonna do 6 acres of public park within their development, but I think you folks need to consider this 6 acres as more than just passive green grass, you know. I mean are, are there gonna be, is there gonna be bathrooms? Is there, is this gonna be more than just 6 acres of green grass, or is it gonna be an area where children can come and play. . .and families can picnic or whatever?

MR. MATSUI: Or are you asking if it's going to be developed as an active park?

COUNCILMEMBER ANDERSON: I'm asking you why it isn't, why you don't think it's necessary?

MR. MATSUI: Well, again we're looking at the active areas to be taking at the district park, okay, the 40-acre park. You know, if, if they want to build--yeah, we'd like them to build more, you know, flat areas that you can have, you know, can throw Frisbees, you can have a small ballgame, pickup ballgame, that kind of thing; kick a soccer ball around. I mean that would be ideal.

COUNCILMEMBER ANDERSON: You mean the 6-acre park?

MR. MATSUI: Right.

COUNCILMEMBER ANDERSON: Well, I just think you need to maybe focus a little bit of the. . .(sigh). . .park monies that this project's generating on the project itself so that the people who are living there and, most particularly, the affordable housing component which is going to have children, that we make sure that there's amenities on-site for them. I think a 6-acre park for the number of people that are gonna be there should have a bathroom. All of our small parks that are, you know, passive, active provide that. So. . .rather than extracting all of the park assessment money out of this project for this regional park, you need to leave some of that money in, in the actual project so that the people who live there can really enjoy the 6 acres in an active way, which means, you know, spending the afternoon--and even, even if they're gonna play soccer, AYSO soccer, you're going to need bathrooms for the kids. Would you consider that?

MR. MATSUI: Oh, we can take a look at it, yes.

COUNCILMEMBER ANDERSON: Well, could you do more than take a look at it, maybe talk with your Director and give us some kind of assurance that. . .what they end up with there is going to be, you know, suitable for active use? And, you know. . .active use is just a flat field, flat grassy

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

area. You can play soccer, like you said, Frisbee, any number of things, but I think we need to make sure that there's a bathroom there.

MR. MATSUI: Well, yeah. Well, I agree with that, we, we need a bathroom.

COUNCILMEMBER ANDERSON: And maybe some picnic tables.

MR. MATSUI: Yes.

COUNCILMEMBER ANDERSON: So maybe we can get a confirmation from the Department that you'd be willing to do that?

MR. MATSUI: Well, yeah, we'll sit down with the developer and, and see what they're willing to provide as far as the park and--

COUNCILMEMBER ANDERSON: Mr. Matsui, Mr. Chairman, we've been at this for how long now. We have six years worth of documentation here, and we need to know this when we make our approvals and not just hope that it's gonna happen after we approve this. I mean. . .(sigh). . .you know, I appreciate you guys trying to do this regional park, but to do it completely out of park assessment fees I think is unfair to South Maui. Did we use park assessment fees to build Keopuolani Park? No. Park assessment fees--

CHAIR CARROLL: Ms. Anderson, maybe after lunch Mr. Matsui might be able to get back to us and maybe clarify some of the questions that you've, you've been asking. I think that might be a better tact to take at this point.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman.

CHAIR CARROLL: 'Cause it doesn't seem like he's able to answer anything right now.

COUNCILMEMBER ANDERSON: I'm, I'm sorry to put him on the hotspot. It's too bad he has to take the heat, but, you know, I think that this is something that we need to know now.

CHAIR CARROLL: I'm sure he has the word. Let's bring him back after lunch and give him some time to consult with his staff and other members.

COUNCILMEMBER ANDERSON: Thank you.

CHAIR CARROLL: Alright. Any more questions for Mr. Matsui? I do have the Police Department over here waiting for us. If not, Mr. Matsui, we're going to let you go for now, but we would like to have you available this afternoon.

MR. MATSUI: Okay.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Thank you. And if the Police Department representative could please come forward. . . .And if you could please identify yourself and your position at the microphone.

MR. HICKLE: My name is Officer Hickle. I'm a Police Officer for Maui Police Department and I'm currently stationed in South Maui.

CHAIR CARROLL: Thank you. The floor is now open. I believe it was Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, I really appreciate you being here. Because of some of the concerns that have been raised recently with regard to vandalism and violence in our parks and because I know also that you have some challenges in terms of your staffing through that whole big area, I really want to know from your perspective where we stand right now with things as they exist and then what you would project in terms of challenges or particular conditions that we might look at to address the real serious problems that we're having in our parks and just in general in the areas for South Maui.

MR. HICKLE: Well, currently, you know, we've been experiencing a lot of vandalism, graffiti. We're addressing it as well as we can. And as a matter of fact, Officer Brown and myself were up at 4 o'clock this morning and we were in Kalama Park and making checks. . .hoping to catch somebody. You know, it's one of those type of crimes that it's really difficult to catch, you know, the responsables. You just have to stay vigilant. Eventually, eventually the responsables are caught, you know, doing something like that. I think that's one of the biggest problems that we have in our park. Most of the South Maui parks are beach parks and the signage is such that they close at 7 o'clock at night, with exception to Kalama Park which closes at 10:00. All of the parks, with the exception of Kamaole Park, I believe, II are gated currently and that includes Cove Park as well. . .and farther south of the State parks, Makena Beaches and, and now Wailea Beaches, I believe, are all, all gated at night. So we're slowly but surely addressing the problems and trying to, you know, fix 'em as we go along.

COUNCILMEMBER JOHNSON: The, the impact, I guess, on your staffing particularly because as you said you're up at 4 o'clock in the morning and, you know, I know some of the officers just to make a living have other jobs too that they have to do. I wanted to find out what your current staffing is if you're running into problems of having to do overtime currently? And then what are we looking at down the road because obviously this development will have an impact because it's going to intensify the number of people that are concentrated throughout the area, whether it's in our parks or our public spaces, even on our roadways. What are your staffing needs right now and are they being met, and what situations do you think we have in terms of challenges with this project should it be approved?

MR. HICKLE: Well, I. . .*(cleared throat)*. . .excuse me, like any new development, you know, in I think the South Maui area specifically. . .staffing is a problem. The more officers we have. . .I think the better for the community. Currently, we have an ongoing recruitment efforts which is being spearheaded by Sergeant Becraft and. . .he's, he's doing a bang-up job, I can tell you. We're training guys, we're getting them out there on the streets and as quickly as we can. Obviously,

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

you know. . .you know, any new development that comes into an area is going to affect staffing, you know, what I mean. The more officers we have, the better.

COUNCILMEMBER JOHNSON: Are you up to full staff right now for South Maui?

MR. HICKLE: Currently, I think in South Maui we're up to full staff.

COUNCILMEMBER JOHNSON: Okay. And in terms of coverage because I know you get called, you know, from one end to the other--that's kind of a wide area to really address--how are you able to actually answer in terms of the response time?

MR. HICKLE: I can't really tell you regarding response times. It really depends on time of day or night. . .

COUNCILMEMBER JOHNSON: Uh-huh.

MR. HICKLE: . . .and, you know, what's, what's going on. We cover everything from the, the tunnel. . .just above Olowalu or Ukumehame all the way to La, La Perouse Bay. So that's quite a big area. Our guys are doing a great job, you know. We get slammed sometimes, but it happens, you know, just like our job and everything else, you know.

COUNCILMEMBER JOHNSON: And because. . .and, and have you had an opportunity to look at some of the, the changes or the things that we're looking at with regard to this development? Have you had an opportunity to do that recently?

MR. HICKLE: No, I haven't.

COUNCILMEMBER JOHNSON: Okay. Is there someone in your Department, because I know, again, you get multi-task requests all the time. . .

MR. HICKLE: Uh-huh.

COUNCILMEMBER JOHNSON: . . .is there someone that would have the capability to look at this and then project out what your needs are going to be and what the cost would be associated with that operationally or even with regard to the need for your new station?

MR. HICKLE: I would say probably our administrative staff in the main station would be able to provide that information.

COUNCILMEMBER JOHNSON: Okay. And would they be able to do that at some, you know, let's say within the foreseeable future if we're asked to make a decision on this?

MR. HICKLE: I'm sure that if a request, request was made through the Chief of Police's office, why they would be able to provide that information.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER JOHNSON: Okay. Thank you very much.

CHAIR CARROLL: Thank you, Ms. Johnson. Any further questions for the Police Department?
Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chair. Officer Hickle, thanks for being here.

MR. HICKLE: Good morning.

COUNCILMEMBER ANDERSON: You know, you said that you're full staffed, but that means your full staff for the number of officers that are assigned and the number of beats that you have there.

MR. HICKLE: Currently.

COUNCILMEMBER ANDERSON: But that is not up to the per capita need that we have. You have somewhere in the neighborhood of 35, 32 officers?

MR. HICKLE: I believe it's around 36.

COUNCILMEMBER ANDERSON: Thirty-six. And the, the current facility needs assessment that was done says we need 82 based on our population.

MR. HICKLE: Wow. . . .*(chuckle)*. . .

COUNCILMEMBER ANDERSON: So, I just want to get that clear. The other thing--wouldn't you like that? Wouldn't that be great? . . .*(chuckle)*. . .

MR. HICKLE: That'd be great. . . .*(chuckle)*. . . It'd be like one case per officer per day, yeah.

COUNCILMEMBER ANDERSON: You wouldn't have to get up at 4:30 every morning. . . .*(chuckle)*. . .

MR. HICKLE: Yeah.

COUNCILMEMBER ANDERSON: But you said that you think that you've addressed the vandalism and, and I guess--

MR. HICKLE: It's an ongoing process to tell you the truth.

COUNCILMEMBER ANDERSON: Yeah.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. HICKLE: It's not something that I can sit here and say we've done it, it's done. It's, it's something that's going to occur on a daily, on a weekly, on a monthly and a yearly basis. You know what I mean?

COUNCILMEMBER ANDERSON: Right.

MR. HICKLE: It's an ongoing thing.

COUNCILMEMBER ANDERSON: And, and I think to address it, gates have been put up and the parks are being closed at what, 7:30?

MR. HICKLE: Signs are indicating all through South Maui Parks right now, 7:00 in the morning the parks are open with the. . .yeah, including Kalama Park, and they close at night at 7 o'clock, except for Kalama Park which stays open till 10 o'clock.

COUNCILMEMBER ANDERSON: So, you know, I, I think that's probably necessary due to the situation that you're dealing with. . . --(*CHANGE OF TAPE, start 3A*)-- . . .I hate to see us close down the one free amenity that we offer our residents who work hard all day long and, and also our visitors who like to enjoy, you know, walks on the beach and, and. . .and, you know, closing the parks means closing the gates to the parking lots, and that doesn't prevent people from walking into the park anyway.

MR. HICKLE: No, it certainly doesn't or we wouldn't have people (*inaudible*)--

COUNCILMEMBER ANDERSON: So, I don't know how that that. . .right, I don't know how that that really prevents, you know, vandalism and, and crime because if people want to be there, they're going to be there. They'll just park their car on the street and walk in. So my question to you is do you think--you know, the County does have contracts with private security agencies. . .

MR. HICKLE: Uh-huh.

COUNCILMEMBER ANDERSON: . . .and they. . .roam around, I guess, at the various parks. They lock up the gates at various parks. And I would note that I've reviewed these contracts recently and the contract for West Maui includes on-site patrolling of the beach parks, but it doesn't include that for South Maui. So, I'm wondering if the County were to up their contract to these security services to include patrolling at the park so that you have security personnel, you know, on a regular basis rotating at night throughout these parks to have a physical presence there, if that would help deter the problems that you're dealing with now?

MR. HICKLE: I'm not sure if a private company is the best alternative for that or the best resolve for that. I think that possibly our park rangers who've recently been trained and are working in our parks would be the best suited for that position. They're also being trained to be able to write citations and stuff right now. So, I'm thinking park rangers maybe.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: And so do we have enough park rangers, once they're trained, that they can do that right now?

MR. HICKLE: No, I'm sure we don't. I, I know that there's at least two right now, but I'm sure that others could be trained, and I think that's probably a better place to put the money at.

COUNCILMEMBER ANDERSON: Well, I hope we can move on that because I hate to see us close down our beach parks. It's punishing, you know, the general public for the bad behavior of a few, and I don't think that's fair. So maybe until we get the park rangers up to speed and we get enough to do that, maybe we can up our contracts to these private security people to just get out there and make a presence, and then they're able to notify you folks to come on-site when necessary. And, and I would like to note, since we're on this subject, Mr. Chairman, that the, the Kalama Park patrol are dropping back on their activities because they are having a lack of cooperation, and they feel that they don't have the backup that they need and that they're wasting their time. And that's, that's a sad situation after all the hard work they've done. So, I think it is a serious issue that we need to address. Thank you.

CHAIR CARROLL: Thank you, Ms. Anderson. Any further questions for the Police Department? Ms. Johnson.

COUNCILMEMBER JOHNSON: Just one final question, and that would be when--and, and I'm hoping, Mr. Chair, that we can send this through because I don't expect Brad to answer this--when you look at where the regional park would be located and you look even in some of the areas where there would be park amenities included within this particular development, what kind of strains is that going to place on your personnel? Because if, if you've gotta be down near our beach parks, if you've gotta be in another area. . .in terms of your beats, in terms of your coverage of those areas, what are we looking at over time and then with the phasing in? So if you would be able or, Mr. Chair, if you would be able to make that request, I think it would be helpful for us to understand what we're looking at budget-wise, what we're looking at in terms of the, I guess, the impact on our Police Department. And, and I can--

CHAIR CARROLL: We--

COUNCILMEMBER JOHNSON: --help work with Staff to frame the question.

CHAIR CARROLL: Yeah. Maybe if afterwards you could meet with Staff and frame that question, and then we can get it out to the Department and get an answer.

COUNCILMEMBER JOHNSON: Yeah. And, and I really just want to say for the record that you are doing and you're Department's doing a great job. Given the staffing that you have and given the area of coverage that you have, it's remarkable the work that you're accomplishing. And I'm very grateful that we have. . .albeit there's not enough of you, I'm very grateful that we do have you there because you've really saved quite a few people from very bad situations. Thank you.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. HICKLE: Thank you.

CHAIR CARROLL: Any further questions for the Police Department? Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. The reason why Kalama Park is closed at 10:00, is it because of the night activities in regards to the utilization of the ball fields by adults?

MR. HICKLE: Yeah. Well, I think as the other gentleman was saying, you know, the, the adults are typically the ones that use the park at night. But. . .*(cleared throat)*. . .excuse me, there's also the. . .in-line skating, which is mostly juvenile groups. . .

VICE-CHAIR PONTANILLA: Uh-huh.

MR. HICKLE: . . .and. . .*(cleared throat)*. . .excuse me, it's been one of those weeks.

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

VICE-CHAIR PONTANILLA: No, that's good. . .*(chuckle)*. . .

MR. HICKLE: But also there are church groups that meet in there in, in the evening hours and. . .and utilize the park and, and people bring their children down and also utilize the park at night, the playground.

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

CHAIR CARROLL: Thank you. Any further questions for the Police Department? Seeing none, thank you for coming down.

MR. HICKLE: Yes, sir.

CHAIR CARROLL: And we have Mr. Miyamoto--there he is--and Ms. Anderson had a further question for Mr. Miyamoto. Please when you come down, identify yourself at the microphone and your position.

MR. MIYAMOTO: Thank you, Mr. Chair. Mike Miyamoto, Deputy Director of Public Works.

CHAIR CARROLL: Ms. Anderson.

COUNCILMEMBER ANDERSON: Shift things around here a little bit, Chair. . . .*(chuckle)*. . . Okay. I'm referring to an August 14th letter that you actually signed for Mr. Arakawa, and it says that the. . .that the Department of Public Works has reviewed the drainage report submitted as part of their. . .Wailea 670 Site and Infrastructure Master Plan dated June 2000. The narrative provided for the drainage report was very general in nature. Therefore, we withhold comments until receipt of the final drainage report and master plan. . . .So we have a, attached to

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

an. . . August 1st, '06 letter to actually Ms. Johnson from Wailea 670, is a preliminary drainage master plan. And I'm wondering if you folks have reviewed this and that. . . well, I guess I'm asking for is there any update because the last we heard from you folks was August 6th --

CHAIR CARROLL: Mr. Miyamoto.

COUNCILMEMBER ANDERSON: --and that you're gonna withhold comments until you get the final drainage report.

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Mr. Chair. To my knowledge, I have not seen a response to that, that updated report. Typically at this stage of a development the drainage report is very tabletop you might say, it's very preliminary in essence, it looks at the acreage, the rain intensity, the soil types, the anticipated change in the surface area with the proposed development, and they look at how they're going to handle the--they first determine what the incremental increase in runoff will be and then they. . . they really haven't designed any retention basins or collection systems at this point at the preliminary stage. But typically those types of things, given that this is a 670-acre project, they should be able to develop and design facilities that could handle the incremental runoff, especially since they're, I guess they're looking at this includes a golf course and those water features on golf courses are great retention basins and they can be used for the water that they retain. It can certainly be used for irrigation to help offset any lack of water that, you know, if they have a sewage treatment plant, they could use the reclaimed water on. . . for irrigation on the, the golf course. So those two can work in conjunction and make it a very, very viable project.

COUNCILMEMBER ANDERSON: Well, I mean the preliminary master plan does show where they intend to put detention basins. And I'm just wondering if you folks have looked at this, if you, if you feel that it's adequate, and, and if there are any proposed alterations to the natural drainageway within this project.

MR. MIYAMOTO: Mr. Chair. I'd have to, I'm going to go back and check with staff to see what the, the status of that review is. At this time, I did not see a response cross my desk for my signature to my knowledge.

COUNCILMEMBER ANDERSON: Yeah. I'm, I'm sure all they have is preliminary anyway, but I'm just interested to see because. . . you know, part of the application requirements is identification of the topo..., topographical and drainage patterns on the parcel and any alterations that are proposed. And so I'm just wondering if in the. . . and this preliminary master plan has no topography on it, so it's hard to see if they're changing any of it.

CHAIR CARROLL: Mr. Miyamoto.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. MIYAMOTO: Yeah. We'll, I'll have to go back and check with staff to see what level of review they're in.

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

CHAIR CARROLL: Thank you, Ms. Anderson. Any further questions for Mr. Miyamoto? Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes. Because we've had this issue come up in my Parks Committee recently where detention basins are doubling, I guess, as park space or open space that can be used, and then you just mentioned about the golf course. I don't have as much of a problem with that because, you know, that is really very different from active ball fields. Have there been any modifications or can you see within looking at their drainage plans if any of the areas would be also doubling as either pathways, parks, walkways, anything of that sort where we might have concern?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: To my recollection--I guess that's a better, a question better answered by the applicant at this point. I mean primarily when we're looking at drainage studies, we're looking at the path like you're saying and we're, we're not so much concerned with the multiple uses of these paths. So that's something that the applicant may be better off, better to answer.

COUNCILMEMBER JOHNSON: Okay. And with regard to the reclaimed water that you spoke about, I know one of the challenges is also a dual water line system so that you can use potable versus nonpotable water. Has that been integrated within the planning for this particular development?

MR. MIYAMOTO: Mr. Chair. We, what we did with the...in discussions with the applicant, we provided two alternatives. One, you could build the off-site improvements to connect to the County system and be responsible for all of those improvements or two, possibly put on...construct their own wastewater treatment plant within the project, which from the plans that I see it appears that's, that's the path that they're going. They looked...if I recall correctly, there was a treatment plant, I guess, in the south end of the project, and that would allow them to reclaim that water, utilize it for irrigation, and if they had the water features within the golf course, they could use that reclaimed water and use the water features as actual storage basins which they could blend with any surface catchment or water that they have and then use that to irrigate the golf course and whatever landscaping that they have.

COUNCILMEMBER JOHNSON: Okay. The actual lines in order to utilize the reclaimed water, though, that would be integrated within their development, have you looked at that or is there any condition that we might impose that would require that type of, I guess, detail?

MR. MIYAMOTO: Typically, you know, the...currently we've been requiring dual systems in the event. I think one of the conditions that Planning Commission had mentioned was a dual system

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

so that in the event reclaimed water does come available, that they could switch over. So, I think the applicant is planning on having a dual system so that currently if they have no nonpotable sources, they could use potable water, but should, when the reclaimed water comes on-line and, and the surface catchment, that they could then switch off of this potable system and then into a nonpotable system.

COUNCILMEMBER JOHNSON: Okay. Thank you. And I will recheck to make sure that we have that stated as a condition then. Thank you.

CHAIR CARROLL: Any further questions for Mr. Miyamoto? Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chair. Any possibility of extending our transmission line for sewage from the treatment plant towards Maui Meadows towards Wailea 670?

MR. MIYAMOTO: Mr. Chair.

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: The current system is part of that Wailea system that's along Wailea Alanui that transmits down to pumpstations along South Kihei Road. Typically when you have. . .the, the sewer system all gravity flows to the lowest point, which unfortunately is near the shoreline area, and that's South Kihei Road where we, we have a lot of our pumpstations. In the original planning for the pumpstations and the treatment plant, Wailea 670 was not included in that amount. So, so if we extend the system, there would be significant costs to upsize gravity lines to handle the additional wastewater flow, there would be pumpstations that would have to be upsized to handle the increase in flow, and typically we place that at the responsibility of the applicant.

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

CHAIR CARROLL: Any. . .I saw Ms. Anderson's hand go up.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chair. I just wanted to comment. Ms. Johnson brought up the drainage area being used as a park and in the August 1st letter from Mr. Jencks--it's a letter to me responding to questions from the last meeting--he states on Page 2 that the project is proposing to build within the project area 6 acres of public park area included within the open space areas contained within the drainage area. So it sounds like they're putting in the 6-acre park in a drainage area, but I'm trying to locate a site plan to see how that looks, and maybe after lunch we'll have a chance to find the site plan and I don't know if--

CHAIR CARROLL: As you said, perhaps after lunch we can locate that plan.

COUNCILMEMBER ANDERSON: Right.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Any, anything--

COUNCILMEMBER ANDERSON: Unless Mr. Miyamoto has something?

CHAIR CARROLL: --further for Mr. Miyamoto or would you like (*inaudible due to interruption*)--

COUNCILMEMBER ANDERSON: I don't know. He looks like he's got something to say.

MR. MIYAMOTO: I'm, I'm looking at, I'm just looking at the. . .a site plan that was in the June 2005 Traffic Study and. . .I'll be honest, I don't see that site. Maybe the applicant or if Parks, if Parks is going to accept that as credit towards parks assessment, could answer.

COUNCILMEMBER ANDERSON: Yeah. They're not using it as credit, but I guess that's something that's up to us at this point. Thank you, Chair.

CHAIR CARROLL: Members, any more questions for Mr. Miyamoto? If not, it is almost lunch. We're going to adjourn a few minutes early. After lunch, we will be hearing from Housing and after lunch, I intend to take a stab at working on the conditions for this application. We had many questions come up today that were pertaining to conditions. I would like to take this as far as I can, so we have another meeting. . .we are at least close to being able to make a decision. There are several outstanding things that is questionable, if we can answer today. Perhaps we can after lunch, I don't know. When we do address the conditions, of course we will be bringing down the applicant and we will have the Department over here to answer questions. And again, this project's been around for seven years. I want to take this thing as far as we can in the time allotted to us today. We will now recess and we will reconvene at 1:30. We stand in recess. . .(*gavel*). . .

RECESS: 11:53 a.m.

RECONVENE: 1:34 p.m.

CHAIR CARROLL: . . .(*gavel*). . . This Land Use Committee meeting of October 4th, 2006 is now back in session. Members, during the lunch hour working with Staff, I've come up with a proposal that I hope will work to help us address the things that I think we all want to get into. What I'm going to propose first is to put a motion on the floor to recommend passage of the proposed bill for an ordinance repealing Chapter 19.90, Maui County Code, establishing a new Chapter 19.90A, Maui County Code, pertaining to the Kihei-Makena Project District. And the reason for this is. . .we need to get this bill done so we can go over there and hopefully put the other bill, a motion to approve the consolidated zoning bill, which I'm going to have Mr. Yoshida talk about in a minute, on the floor so we can start working on conditions--most of them are pertaining to housing--but we have a lot of other conditions that are considered. If for any reason the zoning bill doesn't pass at this meeting or the next meeting, the Chair will ask for reconsideration to rescind the project ordinance bill, the first one, because we wouldn't want to leave that out there. That would give. . .the applicant rights and privileges that we would have

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

no restrictions on. So, I would ask that we would reconsider that bill. But we need to get through that one first and there are things on there, I believe there is amendments that we're going to put on that bill. It's not just something that we're going to pass right away so we can do the other one. I hope that Committee Members will find this acceptable. This is the only way the Chair feels that in the time that we have to be productive to actually start addressing the issues that we have discussed and the ones that we haven't discussed on housing, which need to be done on the zoning portion, can be addressed.

Mr. Yoshida, could you please give us an overview of the consolidated bill that the Chair is proposing to put on the floor if we pass the project district.

MR. YOSHIDA: Thank you, Mr. Chair, Members of the Committee. As specified in the memorandum from the Deputy Corporation Counsel James Giroux dated September 29, 2006, this is to zone. . .well, for the whole 670 acres to be Kihei-Makena Project District 9 and it attaches 19 conditions, some of which were from the original zoning back in 1992 for the two golf courses, and some other conditions that were proposed by the Planning Commission. So there, all of the conditions are in one, to be in one ordinance, and we feel that it may be more efficient to do it this way, that we would only have to look to one document.

CHAIR CARROLL: Thank you. And, again, the purpose of consolidating these two into this one bill is so we will have one line of conditions, so you won't have conditions on both bills and so nothing can be misinterpreted. The conditions will apply to both the 600 acres and the 200 acres and there can be no way that anything can slip through and it's just tightening it up, and that is the purpose of consolidating those two bills.

Any questions before I make a recommendation? Hearing none, I would remove, I would accept a motion to rec..., recommend passage on first reading a proposed bill entitled "A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.90, MAUI COUNTY CODE, AND ESTABLISHING A NEW CHAPTER 19.90A, MAUI COUNTY CODE, PERTAINING TO KIHEI-MAKENA PROJECT DISTRICT 9 (WAILEA 670)".

VICE-CHAIR PONTANILLA: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR CARROLL: It's been moved by Mr. Pontanilla, seconded by Mr. Molina. Discussion, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Yield to the Members of this Committee.

CHAIR CARROLL: Any discussion? Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chair. I have passed out during the break two handouts to the Members. One is a . . .summary that was done back in 2000 for

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

Councilmember Nishiki by Richelle Kawasaki, our Legislative Attorney, giving an overview of Wailea 670's entitlements and the procedures that they went through up to 2000 and to the time that we received this application. And I want to draw to the Member's attention the State Land Use . . . Findings of Fact and Decision and, and Order that was processed in 1994, and this was after they had received. . . Project District zoning for the golf course, which is what they currently have right now is an entitlement to build a golf course and related facilities as well as the Little League field. And so after the County gave them that zoning, then they went and got their State zoning for the whole 700 acres. And I want to draw Member's attention to Page 6 of--and, and, Members, that Decision and Order is the very last thing in this handout. Just to verify that you have the right thing, it says Docket No. A93-689. And if you'll go to Page 6 under Findings of Fact where they list. . . what was presented to them in receiving this State Land Use Commission District Boundary Amendment from Ag to Urban, and the reason I bring this up, Mr. Chair, is because we have heard from the developer and in, in all the presentations I've seen, the PowerPoint that they've given and whatnot, they kind of make it sound like they are reducing the entitlements that they have. The only entitlements they have ever gotten from the County is to build the golf course. There was no entitlements for any kind of housing, and maybe they planned more housing than they're now doing but nonetheless. If you will see on Page 6, paragraph 3 in there, they're discussing the, the project's proposal. It says that Item No. 23, the single-family residential portion of the project has been represented to include approximately 450 to 570 units with a proposed density of 3.1 to 4.2 units per acre over approximately 138 acres. The size of the lots have been represented to range from 5,000 to 20,000 square feet. It has been represented that sales prices are expected to start at approximately \$250,000 for an 8,000 square foot lot in 1993 dollars. The multi-family portion of the project has been represented to be developed with approximately 1,250 to 1,435 multi-family units at densities of 10 to 13 units per acre over approximately 111 acres. It's also been represented that the multi-family units which would primarily include two- and three-bedroom units will be offered for sale at prices estimated from appro..., approximately 204,000 to 240,000 per unit in 1993 dollars. Now, this is the, the proposal for the housing, the market priced housing. This is not affordable. There's another condition in this Decision and Order that addresses the affordable housing.

And the reason I bring this up, Mr. Chairman, is because when this project received Community Plan designation from this body, it was with the intent that this would be a residential project for the residents of Maui. And, and I have minutes from the Planning Committee meetings back in whenever it was, in the stone age, but I thought I would cut to the chase by presenting this information because this is a legal document and it, it clearly shows that the price range of what this project originally was intended to address is not what we have now. What we have now is a totally morphed project, high-end million dollar lots for second and third homes. So, I just want everyone to be clear that what we're doing here is we're changing the original intent of what the Council. . . intended when they gave this project district designation. It was for a residential project, i.e., the Little League field and the amenities that required 50 percent kamaaina rate for the golf course so that we could have public play for our residents on this golf course. Now that, those conditions are still in effect right now on the 400 acres that already have entitlement. They went to the State Land Use Commission and asked, and the State Land Use Commission adopted

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

those conditions in their Decision and Order, which was done after the golf course entitlement at the County level. Subsequent to that, they have gone back to the State Land Use Commission, asked them to drop that condition for the Little League field and also for the golf, public play on the golf course. And the way it was configured--I don't know, I don't play golf--but something like. . .I don't know, more than 18 holes, something like maybe, maybe two, nine-hole golf courses or. . .I, I can't remember. It was two golf courses that would be contiguous and that the holes would rotate so that maybe one week the public gets to play on these nine holes at 50 percent kamaaina rate and that the rest of the nine holes would be the going rate for resorts. . . --(CHANGE OF TAPE, start 3B)-- . . .is one private golf course with no kamaaina rates at all. And I want the Members to know what they're doing here, and that's why I brought this forward because I think it's very disingenuous not to admit that this project has morphed into a whole different project than was originally intended. And, and I also want you to see the, the. . .consumer price index. I, I had Ms. Kawasaki research this for me so you could see what 1993 dollars would translate into to 1990. . .to 2005 dollars; 2006 figures aren't available yet. But just to give you an idea we're looking at. . .back in '94 when they got this State Land Use approval, they represented that the multi-family units would be two to three bedrooms offered at sale, estimated from 204 to \$240,000 per unit. Something at \$204,000 in 1994 or '93 is now 262,000, 263,000. So that's a long way away from the multi-million dollar prices that we're looking at for this project. And, and I think that. . .I want it on the record that that's what we're doing, you know, that we're changing the original intent from this body when they. . .designated that land for a residential project.

And while I have the floor, Mr. Chair, I also want to mention that back then it was fully expected that the extension of Piilani Highway would happen, and this project was. . .and you, and you can look through this Decision and Order, and even back when they gave them the golf course zoning at the County level the intention was to have this extension of Piilani Highway happen **concurrent** with this project.

So, I just want it on the record that this is a wholly different project than the community plan envisioned. So, you know, it's easy to, to take words that are in our community plan and kind of twist them around to fit your, your current needs, but I think this demonstrates clearly that it was the intention of this 670 acres to be a residential project for the people of Maui County and not a resort development for second and third homes. So that's what I have to offer at this moment. Thank you.

CHAIR CARROLL: Thank you, Councilmember Anderson, and thank you for making copies for the Members. I'm sure we will find this useful in our discussions. Any further discussion on the motion on the floor? Hearing none, all in favor of the motion signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Oppose?

COUNCILMEMBER ANDERSON: No.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER JOHNSON: No.

CHAIR CARROLL: Was that one or two noes? We have two noes and six ayes. Motion passes, with Councilmember Hokama excused, Michelle Anderson and Jo Anne Johnson voting no.

VOTE: AYES: Councilmembers Kane, Mateo, Molina, Tavares, Vice-Chair Pontanilla, and Chair Carroll.

NOES: Councilmembers Anderson and Johnson.

EXC.: Councilmember Hokama.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: Recommending FIRST READING of proposed bill.

CHAIR CARROLL: Alright, Members. . .moving on. The consolidated bill is the one I'm going to ask now. . .to recommend passage on first reading a draft bill entitled [*sic*], entitled "A BILL FOR AN ORDINANCE TO REPEAL ORDINANCE NO. 2171 (1992) AND TO ESTABLISH KIHEI-MAKENA PROJECT DISTRICT 9 (WAILEA 670) ZONING (CONDITIONAL ZONING), FOR APPROXIMATELY 670 ACRES SITUATED AT PAEAHU, PALAUEA, KEAUKOU, MAUI, HAWAII".

VICE-CHAIR PONTANILLA: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR CARROLL: It's been moved by Mr. Pontanilla, seconded by Mr. Molina. Discussion, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Yield to the floor.

CHAIR CARROLL: The floor is now open. Members, we have the projector over here, but before we get into--is Ms. Lee here? Yeah, if you could call Ms. Lee. When Ms. Lee comes down, obviously there are a lot questions pertaining to housing and I would like to have her over here. However, the floor is now open and the purpose of this exercise is that we can start addressing the specific things that have been talked about and if the Members wish, to craft conditions or things that want to be considered or information that needs to be gotten, the floor is completely

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

open at this moment. Oh, here comes Ms. Lee. Ms. Lee, please come down. We're going to hear from Ms. Lee on the housing first before we get into that because most of the cond..., not most, but many of the conditions are going to pertain to housing. Ms. Lee, if you could identify yourself at the microphone.

MS. LEE: Good afternoon, everyone. I'm Alice Lee, Director of Housing and Human Concerns.

CHAIR CARROLL: Do you have any opening statements, Ms. Lee?

MS. LEE: Mr. Chair, the only statement I really have is that the applicant has informed us that he will—

COUNCILMEMBER MATEO: Mr. Chair, point of information.

COUNCILMEMBER KANE: Chairman.

CHAIR CARROLL: . . .Oh, Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, I believe we have a motion on the floor. So is the Chair prepared to deal with the motion?

CHAIR CARROLL: Yes, we do have a motion on the floor.

COUNCILMEMBER MATEO: Thank you.

CHAIR CARROLL: Thank you, Mr. Mateo. I had hoped to have Ms. Lee here before we did that motion on the floor, but. . .so, Ms. Lee, we do have a motion on the floor. She will be here as a resource person. And the floor is now open for discussion.

COUNCILMEMBER MOLINA: Chair.

CHAIR CARROLL: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Mr., Mr. Chairman. Procedurally, should we at this time maybe withdraw the motion on the floor and then do the Q&A with Director Lee? I don't know if that's more appropriate.

CHAIR CARROLL: If it is the kind. . .I have, the Chair has no problem with that because that was my intent originally. I would accept a motion to reconsider--

COUNCILMEMBER MOLINA: Or withdraw--

CHAIR CARROLL: --the motion.

VICE-CHAIR PONTANILLA: Move to withdraw the motion.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER MOLINA: Yeah, I withdraw the second.

CHAIR CARROLL: Alright. The. . .Ms. Lee, did you have anything you wanted to say before I call on the first Council Member? . . .Anything further?

MS. LEE: Mr. Chair, all I was going to say is that the applicant has informed us that he will comply with the requirements of the affordable housing ordinance which is currently pending and expected to pass within the next couple of months.

CHAIR CARROLL: Thank you. Alright, the floor is now open. Ms. Anderson.

COUNCILMEMBER ANDERSON: Mr. Chairman, I just want some clarification. It seems like we're going forward here with approving or, or making motions to approve, and you didn't ask any of us if we had any further questions in regard to this project. And. . .you know, apparently nobody else does, but I have some concerns and I guess, you know, if you want to go forward, I will state my concerns after the motions are made, but it seems rather. . .kind of after the fact. I, I just feel like. . .I think that we need to have the Traffic Impact Analysis reviewed by our Department and by the State DOT and until we do that, we don't know that the. . .what the mitigation measures are.

CHAIR CARROLL: Again, at this point in time, the Chair had no intention of calling for a vote on it. But, however, the Chair did want to bring it forward and hopefully at either a recessed meeting or another meeting we would have that information. The Chair had no intention to proceed until the Members were satisfied that that information was given to them. The point of the exercise--and I realize it is confusing and I realize it is not the norm; however, there are times when it is necessary to leave the norm in order to be able to go anywhere and that is why we're pursuing it this way. But there is no intention of passing any bill without all the Members having all the information that was requested.

COUNCILMEMBER ANDERSON: Okay. Thank you.

CHAIR CARROLL: Alright, now the floor is open to questions about housing. We have Ms. Lee over here.

VICE-CHAIR PONTANILLA: Question.

CHAIR CARROLL: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Just to reconfirm, did I hear you, Director, that the developer will comply with the new housing policy when is, when it is approved?

MS. LEE: Yes.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

VICE-CHAIR PONTANILLA: Thank you.

CHAIR CARROLL: Mr. Mateo, followed by Ms. Johnson.

COUNCILMEMBER MATEO: Chairman, thank you very much. Ms., Ms. Lee, good afternoon.

MS. LEE: Good afternoon.

COUNCILMEMBER MATEO: And I don't know, Chairman, if the question is more appropriate to the Director or to the developer because projections that we've been looking at based on the Affordable Housing Summary is based on, on 30 percent. Obviously when we look at the number of affordables, the 420 affordables versus the 40 percent's requirement of, of 560 affordables, that becomes a major change. So, I would have concerns whether or not we're now looking at a realistic summary because this summary includes the affordables, it includes \$1,000 per closing of escrow. . .unit, which is like a \$1.4 million inclusion. In the prior discussions it included, I believe, 5 acres of land that was supposed to have been applied to a special needs development project. It also could impact another parcel of. . .another property that they would've put a fire station or a substation on. So, I think at this particular point in time I think what we're looking at has very little consequence because the larger percentage will have an impact, and I think I would like to see what the developer would come up with if, if he has to in fact deal with that larger percent, Chairman. Thank you.

CHAIR CARROLL: Ms. Lee, do you have any comment?

MS. LEE: Yes, Mr. Chair. Councilmember, the 30 percent, I believe, was established because it was following the previous version of the draft ordinance and at one time we were at 30 percent, now we're at 40. But I recall that the applicant mentioned at the last meeting that. . .before he could commit to all the conditions that were recommended, he would have to assess whether he could afford them. So, I agree, I think maybe you should talk to Mr. Jencks at this point.

CHAIR CARROLL: Mr. Mateo--

COUNCILMEMBER MATEO: Chairman.

CHAIR CARROLL: --do you wish to call the applicant forward?

COUNCILMEMBER MATEO: Let me ask the Director one more question and then it's the decision of the body. Thank you, Chairman. Ms. Lee, under the Affordable Housing Summary, under the overall affordable housing provisions the, one of the, the items listed on. . .under that category indicates 100 percent product may be special needs housing and County looking for site. Would you. . .I mean how do you read that in terms of addressing the overall need?

MS. LEE: Okay. Are you looking at the September. . .is that 28th letter?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER MATEO: Um. . .

MS. LEE: Which, which letter are you--

COUNCILMEMBER TAVARES: We're looking at a packet.

COUNCILMEMBER MATEO: I'm looking at a packet that was provided to us by the, by the Committee and I believe it's an excerpt from August 10th. . .

MS. LEE: Okay.

COUNCILMEMBER MATEO: . . . '06 letter from Mr. Jencks.

MS. LEE: As you know, Mr. Jencks and I have been in discussions regarding a special needs project for South Maui, in, in particular the South Maui Resource Center, but that is on hold at this time pending the finalization of conditions that the Council places on the project because our project may not go forward depending upon the conditions he has to deal with. So all I can say is that we've taken a second position to. . . well, whether or not we can proceed with the project that we had hoped to, to pursue. So that is, is really. . . shouldn't be a consideration in your deliberations because. . . you, you know, it's really what the Council decides to do and I don't think that the new ordinance would provide for what we had intended to do previously.

COUNCILMEMBER MATEO: Okay. Okay. Thank you very much, Ms. Lee. Chairman, the option was yours whether the, whether the developer comes down and, and respond to questions.

CHAIR CARROLL: Could the developer please or the representative please come to the podium?

COUNCILMEMBER MATEO: Oh.

MR. JENCKS: Good afternoon, Mr. Chair.

CHAIR CARROLL: Mr. Mateo.

COUNCILMEMBER MATEO: Mr. Jencks, good afternoon.

MR. JENCKS: Good afternoon.

COUNCILMEMBER MATEO: I'm sure you heard the discussion regarding the percent, percentage of requirement. Your, your summary is based on the 30 percent which was the original percentage that the Housing and Human Services Committee in addressing the policy developed. It has since, like the project, evolved and it is. . . we're now looking at a potential 40 percent. Can you tell me what this does to your project in terms of being able to meet some of the suggested conditions that, that the developer had. . . I, I guess more or less indicated they, there was a possibility of them completing or giving?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. JENCKS: Certainly. The 30 percent, as you correctly pointed out, Mr. Mateo, includes a 30 percent affordable allocation, which is 420 units. But in addition to that, we also provided \$1,000 per unit contribution to the new homeowner program as well as this 5-acre parcel that we've talked, that you just talked about briefly, providing that to the County in land owned by the partnership for special needs housing in South Maui. If we get into a 40 percent range, we would certainly have to go back and look at the things that we're providing to make sure it still makes economic sense for us. By example, if I go to 40 percent that's--right now we're, I'm at 420 units, like another 40 units to provide in the project--that may affect the ability to give \$1,000 per unit on the new owner, homeowner program. Likewise with the 5-acre dedication. . .we also asked for credit for 100 units on the 100 percent or less as a part of that, that dedication to the County. That, that might have to change as well, the dedication might have to change. So we'd like to stick with the 30 percent, which is, which, which is what I provided to you in the draft conditions I provided, and still be able to provide that 5 acres if all the conditions seem to be reasonable for the project. So that's how it would affect my ability to deliver, Mr., Mr. Mateo.

COUNCILMEMBER MATEO: Okay. Chairman, I'll, I'll yield the floor to the other Members.

VICE-CHAIR PONTANILLA: Chair. Chair.

CHAIR CARROLL: I'm sorry?

VICE-CHAIR PONTANILLA: Right here.

CHAIR CARROLL: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Mr. Jencks, the new policy that's being formulated now, you know, we're taking a look at the median income increasing by 20 percent, from 141 to 160.

MR. JENCKS: Uh-huh.

VICE-CHAIR PONTANILLA: And the price range, you know, is going to be higher than as far as building a home, would be higher than the existing 140. So how much difference, you know, is it if we, not if, but when the additional 20 percent falls in between 141 and 160?

MR. JENCKS: In terms of. . .? I'm not quite sure.

VICE-CHAIR PONTANILLA: In, in other words, it's going to cost you so much to build 400 plus units at 100, 101 to 140.

MR. JENCKS: That's correct.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

VICE-CHAIR PONTANILLA: How much will it cost you knowing that we're going to a different bracket in regards to median income, the higher income?

MR. JENCKS: Well, the, the subsidy cost per unit when I go from 140 to 160 is less than it is from 120 to 140 to be sure. It's hard to say today what that value is, but I would say to you it's probably a couple hundred thousand dollars per unit in subsidy cost that's passed on to someone else. So there is, there is a difference, but as you get into the higher income brackets or qualifying brackets the subsidy is reduced or the surcharge is reduced. That's, that's, that's for sure.

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

CHAIR CARROLL: Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, Charlie. Because of what Ms. Anderson read in when the original application or the original proposal was made, this being a residential development for local families, and also looking at the inflation index 'cause you were looking at prices that were in that range back in 1993 and then coming forward now, what is your reasoning or what has driven this to change the project now from what would've been an entirely residential and basically an affordable project? What is driving this right now? Is it that that didn't work or what?

MR. JENCKS: Well, to be very honest with you, I think if you, if you just look at this summary that you received that's in your file from the State Land Use Commission and you just look at that, one could interpret that information from that, from that file, from the SLUC document. However, if you go back and you look at the actual documents that were submitted that were developed by PBR at the time--and, and I have to tell you at the time I was the Deputy Director of Public Works. I was reviewing this project in the context of the application before the Council at the time for the, for the zone change as well as the time that this was before the State Land Use Commission, 'cause we were asked to comment on it. And the concept was at that time, and still is today, to have a variety of housing product for different economic brackets, including high end and low end and mid, midrange housing. It was the same. It was the same. You have to look at the entire context of the application and not just look at what's in the State Land Use Commission summary. That just, that tells you there's two golf courses. It doesn't say to you in detail that one of those golf courses was planned to be a golf course we could use 50 percent public play and one, one was going to be a private, essentially a controlled course, but that was the intent. It doesn't say that in that file, but that was the intent. So you have to go back. In looking at this document, I mean it's a good resource, it gives you an idea where we were going, but there's no way you can compare dollar values at '93 to dollar values today especially if you use the, the CPI or you compare market--I mean there's just apples and crates of grapefruit. There's no comparison. You can't take a single-family home or a multi-family for 204,000 then and compare it to a multi-, multi-family home or a three bedroom today. It's just, they're just not the same thing. So we have. . .it's, it's the same concept, we've reduced the density by half, nearly half. We have one golf course, reduced the gross density down to 2.1 per acre from what it was then. It's, it's the same intent, same overall goal, and I might add to you, add to this

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

conversation that I went to the State Land Use Commission when I took over the project and I made it clear, this is what this project is intended to do and that's in your file, and I got a declaration back from the Commission saying you're still on target. So we are in cons..., we are consistent with the State Land Use Commission on this project today based upon that Decision and Order that goes back to '93.

COUNCILMEMBER JOHNSON: Okay, but looking. . .you know, and I'm just gonna give you the benefit of the doubt in that regard, but basically now when this was originally proposed, too, the condition that was running with this would be that it would basically be a course, a golf course that was open to the people that lived in that area. Is that still your intent that it's going to be a course where let's say the local people would not have to pay top dollar in order to golf there? Because I think you had come before us and you had made, I guess, there was some arrangement where some of the kids that are in junior golf or something--

MR. JENCKS: That's correct.

COUNCILMEMBER JOHNSON: --gonna be out there, but that's just, you know, a small segment. So could you explain that?

MR. JENCKS: Okay. The State Land Use Commission approval includes two golf courses, and the current proposal before you day, today includes one golf course.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. JENCKS: The State Land Use Commission approval talked about public play, as I recall, in some measure. Your zoning that was placed on the property in '92 talks about public play as well. What the project team did was to quantify for the State Land Use Commission as, as well as in response to the fact we're going from two courses to one course. We quantified what public play would be for the State Land Use Commission and developed a program, and that program includes Maui Junior Golf instruction, equipment and teaching and play, also quarterly play and intramural play. It also includes play for, of course, the people who live in the project and their guests. That was the proposal we brought forth to the State Land Use Commission which they, which they accepted and modified the condition. We're asking this Council to help us take the two courses to one course and in play, and put in place that, that condition that, that describes and defines the public play component for the course. I think one of the things you have to remember here is that this project, it's 670 acres, 1,400 units. The infrastructure cost, the cost that, that we have to put in place to get it so we can build homes in this project is in excess of \$200 million, and that's because there is no County water, there are no County roads, there is no County wastewater. So for me to build 400 plus affordable units, I've gotta put in the ground to create the basis of value to pay for that \$200 million in infrastructure. That's \$150,000 per unit in infrastructure costs. I took two golf courses to one golf course so I could create a basis of value, so I could pay for all these additional costs that I have to put in the ground--roads, sewer, water, dual systems that you described earlier, off-site well systems, on-site well systems, tanks, wastewater treatments. It's all there, but it costs me money. So to pay for this and to cover this

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

October 4, 2006

surcharge, the surcharge for these affordable units that everybody needs to have built in excess of 400, I gotta cover that cost somehow. Two courses to one course, with a defined public play component so that everyone knows what the deal is.

COUNCILMEMBER JOHNSON: So even the individuals that will be living in the affordable units that are a component of this particular project, they would be able to golf on this, but they. . .would they get a discounted rate, would they get. . .have to pay a standard rate? How would that work?

MR. JENCKS: It's intended to be a homeowner golf course.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. JENCKS: And a golf course of this caliber that we'd like to create a high-caliber golf course, 7,000 yards designed by Tom Weiskopf is, is limited in the number of people that can play and the number of memberships, that you'll find that anywhere. If, if a person buys an affordable unit and wants to become a member of this club, then he may.

COUNCILMEMBER JOHNSON: So you're saying there is a membership fee attached to it, irrespective of the fact that you live in the project area, there's a separate fee to become a member?

MR. JENCKS: That's correct.

COUNCILMEMBER JOHNSON: Okay.

MR. JENCKS: And you can only have so many members, you can have so many people playing on a golf course to keep up the caliber of the course and keep it maintained properly. So there'll be a fixed number.

COUNCILMEMBER JOHNSON: Okay. And the likelihood of those individuals living in the affordable homes given the income range is probably pretty remote. You're not going to be giving away free memberships? . . .*(chuckle)* . . .

MR. JENCKS: I guess, I guess the question would be, Councilmember, if I'm buying an affordable home, how can I also afford to buy a golf course club membership?

COUNCILMEMBER JOHNSON: Well, originally there were two golf courses and that's what I'm looking at, that one of them was going to serve the community because it's a residential community with a recreational component that is very popular here on Maui. And many of our seniors and many of the young people, and even young families, they can't possibly afford that, but, you know, it--

MR. JENCKS: It, it's an interesting point. At the time it was approved there was a very large demand for golf course play on this island because of the Japanese investment bubble and people were

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

reacting. Actually when this project was zoned and went through the State Land Use Commission, it was behind that bubble. There still was the thought at the time that we needed to provide for this play. That is not the same situation today in Maui County. There's plenty of play for everyone. So it's a different market, a different demand set and a different response to that mindset and play set.

COUNCILMEMBER JOHNSON: Okay. Thank you.

CHAIR CARROLL: Ms. Anderson.

COUNCILMEMBER ANDERSON: I'd like to follow-up on that because. . .I'm reading, Members, from the Planning, PED Committee, so it must be in Planning and Economic Development, back in 1992 when this project came forward. And originally, just so everybody understands, we're looking at 670 acres today, but all that's been zoned is the 400 acres of the 670. So back then what they were considering was the 400 acres for a golf course. . .um. . .it's amenities, which includes a clubhouse and whatnot. And I am reading from the minutes of the meeting when this was presented to the Committee by David Nakamura, which was then the attorney representing the applicant, and this is exactly what he says about the golf course which is, was the major thing that they were considering at that time.

And it says, let's turn to the golf courses. The golf courses take up 396 acres of the 402 acres and will consist of two 18-hole golf courses, a clubhouse, driving range, maintenance buildings, and related structures and improvements. I mentioned that it will have two 18-hole golf courses. Well, this is not going to be your traditional two separate 18-hole golf courses. What the applicant is proposing is really a 36-hole golf course with six possible, 18-hole layouts. So on a given week the public can play on one 18-hole layout; another week the public can play on a different 18-hole layout. With the full rotation the public will have an opportunity to play on all 36 holes. But what is the advantage to the public with the rotating system like this? The advantage is that the public will be ensured that all 36 holes will be built to the same quality standard and well constructed as that of a private golf course. Because what we're talking about on a given day, 18 holes will be for the public, 18 will be for the private. But because the private and the public will be playing all 36 holes, we will have to build and maintain the entire 36 holes to the standards expected by private members. As a result, the public will benefit because they will get the quality of golf, that quality of golf course. And it goes on. . .and I'm not going to go into that. I'm just trying to follow-up on the golf course issue here. And then to make sure that 18 holes was for the public of Maui. . .the Council Members attached a condition to this zoning. . . --(*CHANGE OF TAPE, start 4A*)-- . . .make available to Hawaii residents 50 percent of the tee times on one of the two golf courses and charge such Hawaii residents green fees, including golf cart rental fees, in an amount not to exceed 50 percent of the green fees, including golf cart rental fees charged to non-Hawaii residents.

And it was the intention of the Committee Members to make sure that, you know, while we're dedicating resources to more golf courses, that the residents of Maui County get their fair share of it. That was the intention behind this, and that's gone out of here. Now we have one private

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

course and, granted, they're going to give special favors to junior golf and whatnot, but junior golf gets special favors at all the private courses already--not all of them, but many of them. So as I was saying before, this is entirely morphed from what the original intention was. And I just want to make that clear because. . .you know, maybe I'm at a disadvantage because having worked for Councilman Nishiki when this first came forward, I spent a lot of time reviewing this and so. . .and going back into the record and, and looking at what was done and, and why they insisted on kamaaina rates. And, you know, we don't have that many golf courses for our playing public at kamaaina rates. What do you get? You get Waiehu and. . .I'm not a golfer, but I don't know, I don't think there's that many other--Siversword? Sorry?

VICE-CHAIR PONTANILLA: Every course has kamaaina rates, local resident rates.

COUNCILMEMBER ANDERSON: So, I think that that should be included on this course, too, because that was the original intention and I certainly think anybody that lives in South Maui should have the opportunity to play the course. And I know that, you know, they want it private because that, that sells the lots around. It'll. . .you know, raise the price of the lots around the golf course. But I just wanted to make that clear.

So back to affordable housing, which is what we were originally talking about. Mr. Jencks, when you first. . .at our last meeting I asked you if you could give us some indication of the square footage that you would be dedicating or that you would be planning for the affordable housing.

MR. JENCKS: Yeah, that's correct, and I sent you a letter and I included a chart, a matrix that showed you exactly what the square footage would be in every price range.

COUNCILMEMBER ANDERSON: You did. I'm sorry I don't, I missed it in all of this somehow. You have that with you?

MR. JENCKS: I, I can go through it for you very--

COUNCILMEMBER MATEO: It's in your packet.

COUNCILMEMBER ANDERSON: Oh, it's in the packet.

COUNCILMEMBER MATEO: Yeah.

COUNCILMEMBER ANDERSON: Okay, then that's fine. Thank you very much.

MR. JENCKS: Okay.

COUNCILMEMBER ANDERSON: Maybe you should go through it.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. JENCKS: Just briefly, 100 percent or less square footage: the one bedroom/one bath unit is 650 to 950 square feet, which is multi-family--

COUNCILMEMBER ANDERSON: I see.

MR. JENCKS: --the two bedroom/two bath, 1,100 to 1,200 square feet, multi-family. The 101 to 120 percent: the two bedroom/two bath, multi-family, 850 to 1,100; the three bedroom/two bath multi-family/single-family is 1,200 square feet. And then the 121 to 140 percent range: the 1,300 to 1,700 square foot homes, two bedroom/two bath, multi-family; three bedroom/two bath, same square footage for multi-family; and then last but not least the 1,400 to 1,900 square feet, three bedroom/two bath, single-family/duplex product for the last category. And these are, these are square footages--footages are based upon a product that is being built today by D.R. Horton. It's a combination of multi-family, some single-family condo with garages, without garages--really nice product profiles.

COUNCILMEMBER ANDERSON: Thank you for that, Mr. Jencks. I think this is very fair.

MR. JENCKS: It's, it's a great product profile.

COUNCILMEMBER ANDERSON: It's a very fair square footage for affordable category and I appreciate, you know, you're not squeezing people into little mouse boxes. . . .(chuckle). . . Would you have any objection to having this square footage attached as a condition to the affordable?

MR. JENCKS: No, I think it's reasonable.

COUNCILMEMBER ANDERSON: Okay. Thank you very much.

MR. JENCKS: You're welcome.

CHAIR CARROLL: Thank you, Ms. Anderson. Further discussion? Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, just for clarification. Mr. Jencks, in, in your Affordable Summary that you provided to us that we have in the packet, your August 10th letter, there was one item listed under your overall, and that item reads "100 percent product may be special needs housing". Can you clarify that for me?

MR. JENCKS: Yeah. Maybe that wasn't entirely clear. What I was saying there was that of the 420 units, our program is proposing that 50 percent of those or 210 would be built at 100 percent or less. Okay. What I was suggesting there was that we'd like to get credit. If the County accepts the--or, excuse me, Maui Economic Concerns of the Community accepts and you require us to give the 5 acres to MECC, we would like to get 100 units of credit in that affordable range for that transaction. We give them the 5 acres and we get 100 units of credit. Of the 210 we get credit for 200 and, excuse me, 105 units. That's what I was trying to communicate.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER MATEO: Okay. 'Cause the way it reads now, it actually looks at 100 percent of the product which could mean, though, the--

MR. JENCKS: That's, that's--

COUNCILMEMBER MATEO: --entire 420 could all go towards--

MR. JENCKS: . . .*(chuckle)*. . . No, that's not what I--

COUNCILMEMBER MATEO: --and I was going to laugh you off the podium. . . .*(chuckle)*. . . So--

MR. JENCKS: That's not what--and the balance is built within the project area.

COUNCILMEMBER MATEO: Okay, yeah.

MR. JENCKS: Okay?

COUNCILMEMBER MATEO: Okay. Thanks for the clarification--

MR. JENCKS: Sure.

COUNCILMEMBER MATEO: --Charlie. Thank you, Chairman. I'm done.

CHAIR CARROLL: Ms. Johnson.

COUNCILMEMBER JOHNSON: Again, based on what Ms. Lee had mentioned, though, and when you just finished stating that these are your projections, but what you're going to do--and correct me if I'm wrong--is once we develop our affordable housing policy, you will take a look at what we have and then see if you can make it work? I realize you want what you've presented, but according to what Ms. Lee said, that you were going to be agreeable to whatever our housing policy was once we've adopted it.

MR. JENCKS: We have talked about the 30 percent, the 40 percent demand or requirement. But to be one, honest with you, Councilmember, that's about as far as I can go, because the bill that's being considered by the Committee is a good bill on its own merits, but no one here can tell me when that bill's going to pass or exactly what's going to be in the bill. So to build the number of affordable units we're talking about here, whether it's at 30 percent or 40 percent, I need a high degree of certainty. I need to know exactly what the rules are. So what I've done is I've developed a, a program at 30 percent, which I can do. I approved it, I, I have good product profiles, I know I can make it work, and it makes economic sense for me to do that within the context of the entire project. If I go to 40 percent, that's going to be tougher for me, things are going to change. But I can't have all these other things in the bill floating around that I have no idea and you don't have any idea what they're going to be. I need certainty to proceed on this

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

project 'cause, because of that large number of units and the fact, by the way, that all these units are being asked to be developed upfront. I build one market rate, I build one affordable. In effect, when there's 840 units on the project, half will be affordable, half will be market. At that time, I've got a significant investment in the project, and I don't know where I'm going to go with the market, but I've got a significant investment. So, I need a high degree of certainty to make this happen.

COUNCILMEMBER JOHNSON: Okay. So, I guess your answer is that you'd prefer not to be subjected to the affordable housing policy, whatever that might be?

MR. JENCKS: That's correct.

COUNCILMEMBER JOHNSON: Okay. Thank you.

CHAIR CARROLL: Thank you, Ms. Johnson. Any further questions for Ms. Lee or Mr. Jencks? Members, I'm going to call for a--

COUNCILMEMBER MOLINA: Mr. Chair. Members, sorry, just one, one quick question.

CHAIR CARROLL: Mr. Molina.

COUNCILMEMBER MOLINA: And thank you, thank you for your patience, Mr. Chair. And, Mr. Jencks, one question. So just out of curiosity percentage-wise, what would be a deal breaker for you? I mean anything above 40 percent--

MR. JENCKS: It gets *very*, very, very difficult.

COUNCILMEMBER MOLINA: Uh-huh. Okay, enough said. Thank you.

CHAIR CARROLL: Members, I'm going to call for a five-minute recess. Please stay in the area. We are going to stand in recess until 2:30. Recess. . . .(gavel). . .

RECESS: 2:25 p.m.

RECONVENE: 2:31 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use Committee meeting of October 4th, 2006 is now back in session. Members, I called for that recess because we need to go back and reconsider the first . . .bill that we had approved. The Chair was remiss. I was distracted by Councilmember Anderson's exceptional work that she presented to us.

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

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

ACTION: APPROVE reconsideration.

CHAIR CARROLL: Alright, the Chair would consider a motion to recommend passage on first reading a proposed bill--

COUNCILMEMBER KANE: Mr. Chairman.

CHAIR CARROLL: Oh, excuse me. Yes, Mr. Kane.

COUNCILMEMBER KANE: Can I call a very brief recess to approach, Mr. Chair?

CHAIR CARROLL: Recess at the call of the Chair. . . .(*gavel*). . .

RECESS: 2:33 p.m.

RECONVENE: 2:35 p.m.

CHAIR CARROLL: . . .(*gavel*). . . This Land Use Committee meeting of October 4th, 2006 is now back in session. Members, what we have done is that we have gone for re..., made a motion to reconsider. The motion is--the vote--the motion is now on the floor. We have the motion on the floor at this time. It's not necessary to restate the motion. The Chair has several amendments. You have before you that we distributed early. . . are the bill. Everyone have that? That's that thick documented that we distributed earlier.

COUNCILMEMBER KANE: With the blue pages, Mr. Chair?

COUNCILMEMBER ANDERSON: No, gold.

CHAIR CARROLL: No.

COUNCILMEMBER KANE: The gold pages? Okay, thank you. Thank you.

CHAIR CARROLL: If you'll turn to second page, you'll have the ordinance, Chapter 19.90A. If there's no objection, the Chair is going to walk through this bill with the amendments so we have a clear understanding, and we have it up on the screen.

The first one is on Page 2, and that we question is it appropriate to reference the proposed Piilani Highway extension. That also occurs on Page 5 and 6. Where is that now? . . .Ms. Nakata.

MS. NAKATA: Mr. Chair, on Page 2 it's in Subparagraph 4, "Integrate bicycle/pedestrian recreation ways into the project's parks, and include buffer zones between residential areas and the proposed Piilani Highway extension."

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER KANE: State the reference point again, please, Chair, from Staff, if Staff can do that? Page 2?

CHAIR CARROLL: Ms. Nakata?

MS. NAKATA: Paragraph 4.

COUNCILMEMBER KANE: Thank you.

MS. NAKATA: Staff would note that it also occurs on Page 5, Paragraph No. 6, "A minimum twenty-foot wide landscape buffer area shall be provided for single-family and multi-family development adjoining the Piilani Highway extension."

CHAIR CARROLL: And this was a question that came up in the review of that. . .if it was appropriate to leave this reference inside, and the floor is open.

COUNCILMEMBER KANE: Mr. Chairman.

CHAIR CARROLL: Mr. Kane.

COUNCILMEMBER KANE: Yeah. I'm sorry, just to get clarity. The, the intention. . .we're, we're back on the floor with the motion, we've reconsidered, so we're back on the floor with a motion to approve the repeal of 19.90 and in its place to adopt 19.90A. That's correct?

CHAIR CARROLL: That is correct.

COUNCILMEMBER KANE: Okay. So now you're pointing out these two issues. What's your intent on these two issues? And I'm sorry if I wasn't paying attention at that moment, but where. . .what's your intention with these two items that you have just listed to us, No. 4 on Page 2, as well as No. 5 on Page 5? What's your intention?

CHAIR CARROLL: It was, it was the Chair's intention that it did not seem that this ref..., reference was appropriate and to remove it.

COUNCILMEMBER KANE: So you're asking us to consider removing it as an--

CHAIR CARROLL: Yes.

COUNCILMEMBER KANE: --as an amendment to the existing motion on the floor?

CHAIR CARROLL: That reference to, yes. Ms. Anderson.

COUNCILMEMBER ANDERSON: Well, regarding the bicycle/pedestrian, recreation ways into the project's parks, and include buffer zones between residential areas in the proposed Piilani

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

Highway extension. . .um. . .why would we want to take that out, Mr. Chair? I mean I think we'd want to make sure that they put in pedestrian and bicycle ways.

CHAIR CARROLL: The Chair and the Staff had questions whether it should be in there or not, and that's why we brought it up before the Committee for discussion. The Chair has no strong feelings about it one way or another. It's just that there was some discussion on it and when we had reviewed it. So, I wanted to make sure that everyone was aware of it. It's not that we're saying it has to be taken out, but we just wanted to be the Member, have the Council, the Committee Members aware of it. . .because there was some concern, but it doesn't have to be taken out.

COUNCILMEMBER ANDERSON: The one thing that I, I would like to see, I'd like to see the bicycle/pedestrian ways left in there, and I think include buffer zones between residential areas in the proposed Piilani Highway extension. I think that that's a misnomer because we've already been told by State DOT they have no intention of going forward with that project. So it's no longer a proposed Piilani Highway extension.

CHAIR CARROLL: That's why the question came up.

COUNCILMEMBER ANDERSON: So maybe we should change the word "proposed" to. . .something other than proposed, which I can't think of at the moment, but that, that highway extension is still there and they don't own it. So. . .I think we want to leave that in, but what, what I'm trying to get at is I think that we need to name how big the buffer zone needs to be. . .if it's 30 feet. I know we've got 100-foot buffer zone between the project and Maui Meadows, but that's for a different area, I mean for. . .a different purpose, and the Fire Chief told us that we needed 100 foot buffer for fire safety and I don't think that's the case in, in this situation, but. . .maybe they can tell us if they're planning a landscaping buffer how big it's going to be, that we could include. I mean obviously we're working off of their proposed ordinance, right? This is something they proposed to us. Unless Mr. Yoshida can tell us whether or not any of these changes are from the Planning Commission or if this ordinance is, is directly from the developer?

CHAIR CARROLL: Mr. Yoshida.

MR. YOSHIDA: I believe that this ordinance is what was recommended by the Planning Commission, Maui Planning Commission when they reviewed the matter in 2001.

COUNCILMEMBER ANDERSON: So they changed the ordinance? This is all their language or this is the language that was proposed by the applicant that they approved?

MR. YOSHIDA: They took the draft ordinance proposed by the applicant and made amendments and approved their, the amended. . .the proposed bill, as amended.

COUNCILMEMBER ANDERSON: And but we don't have any record of what they amended?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. YOSHIDA: The minutes should reflect, the minutes from that meeting should reflect the amendments made.

COUNCILMEMBER ANDERSON: Well, God knows where they are. How many--that was five years ago. I just think, Mr. Chairman, that we need to be careful about taking things out that the Planning Commission spent a lot of time discussing and putting in, and since we don't know what it is, I just assume not take anything out.

CHAIR CARROLL: Then we don't have to.

VICE-CHAIR PONTANILLA: Chair.

CHAIR CARROLL: Alright. If there's no further discussion on this, we'll move to the next one. Oh, Mr. Pontanilla.

COUNCILMEMBER ANDERSON: Oh, wait, wait, wait.

CHAIR CARROLL: Oh, excuse me.

COUNCILMEMBER ANDERSON: Um. . .

CHAIR CARROLL: I'm sorry, I thought you were finished, Ms. Anderson.

COUNCILMEMBER ANDERSON: Well, I was just going to address No. 5, Page 5. Is it No. 5 on Page 5, is that, was that the--

VICE-CHAIR PONTANILLA: Okay. Can we finish 4 first?

COUNCILMEMBER ANDERSON: Oh, sure. I'm sorry, go ahead.

VICE-CHAIR PONTANILLA: Okay.

CHAIR CARROLL: Mr. Pontanilla, followed by Ms. Johnson.

VICE-CHAIR PONTANILLA: Okay, coming back to No. 4. I'm looking at a map over here and it seems like there is a buffer of greenery between the highway and the residential units from the start of the project to the end of the project. If it's there, just as well leave it in. . . .It's part of their landscape buffer.

CHAIR CARROLL: Yeah. On Page 5, No. 5, reference is a minimum 50-foot wide landscape buffer. That's the one you're referring to?

VICE-CHAIR PONTANILLA: No, I'm just looking at my drawing here. . . .*(chuckle)*. . . And maybe the applicant can explain that as far as the buffer and pedestrian and bicycle ways within the, the

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

development. I'm looking at this as a passive park, all the greenery that's included in the development, which would mean bicycle paths as well as walking paths.

CHAIR CARROLL: . . .*(sigh)*. . . Alright, Mr. . . .I'm sorry, Mr. Kane.

COUNCILMEMBER KANE: Yeah. Mr. Chairman, and, and just point of clarification and I apologize I didn't speak up, I wasn't finished, and then Member Anderson--

CHAIR CARROLL: Oh, I'm sorry, Mr. Kane.

COUNCILMEMBER KANE: --was recognized while I was still having questions. So if I can finish, I'd appreciate it.

CHAIR CARROLL: Proceed.

COUNCILMEMBER KANE: The reason I'm asking the questions, Mr. Chair, is we voted to reconsider, we're here, we're back on these two issues. So help me understand why you as our Chair are bringing these forward as issues of concern to be considered for removal? What's, what's your reasoning for that, Mr. Chair? Why, why. . .I mean you said that there was some concern in previous discussions. Is your Staff aware or are you aware of some concern from the, the applicant or is it concerns generated out of the Committee Staff and you as our Chair? But give us some indication as why we're even talking about these things? I mean I, I tend to agree with Member Anderson, I don't see the problem with them being there, but help us understand the point of reference for concern so that we are clear on why we're even engaging this discussion?

CHAIR CARROLL: Well, thank you, Mr. Kane. The concerns were brought up as Staff was reviewing the bill, and this is what some of the concerns they had that they come up with, that they did come up with that I didn't have a clear yea or nay on. Ms. Nakata, would you like to comment?

MS. NAKATA: Yes, Mr. Chair. The question is simply whether due to the passage of time and some changed information since the bill was originally drafted, it was still appropriate to reference this proposed Piilani Highway extension, as one example, where it appears the Committee's been informed that it's no longer. . .proposed for construction by the State.

COUNCILMEMBER KANE: Okay.

MS. NAKATA: If there's some clearer way to reference that landmark.

CHAIR CARROLL: Mr. Kane.

COUNCILMEMBER KANE: Okay. So because Staff has brought forward this issue, does Staff has a recommend. . ., does Staff have a recommendation for the Committee to update us and removing out the Piilani Highway extension proposal and give us some amended language that we can

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

work off of so that we can move forward? Is there something that we have as a recommendation?

CHAIR CARROLL: I did not have amended language ready. I don't know if Staff had a chance. Did you have a chance, Ms. Nakata, to work out any amended language?

MS. NAKATA: No, Mr. Chair. It was just a matter of whether the Committee felt comfortable continuing to reference this proposed extension.

CHAIR CARROLL: Mr. Kane, Ms. Anderson's indicated that she did have amended language for this particular one. Would you mind conceding the floor to her?

COUNCILMEMBER KANE: Yeah. At this point I, I do mind. I'd like to continue if--

CHAIR CARROLL: Proceed.

COUNCILMEMBER KANE: --if I may.

CHAIR CARROLL: Proceed.

COUNCILMEMBER KANE: Thank you. So, Mr. Chair, just to be clear. Your intention is to keep the integrate bicycle/pedestrian recreation ways into the project's parks? That part is okay? 'Cause this is a two-part piece if the way I'm reading it. And then it says, "and include buffer zones between residential areas and the proposed...". So the whole question--and Staff can clarify, you and/or Staff can clarify--the concern is the proposed Piilani Highway extension reference? Is that the concern?

CHAIR CARROLL: Yeah.

COUNCILMEMBER KANE: Okay. So if we just simply remove that and kept it as far as include buffer zones between residential areas and, I don't know, the perimeter or whatever. And if Member Anderson is going to come up with some language, that's fine, but if not, then I'd like to continue.

CHAIR CARROLL: Yeah. And the Chair apologizes for not making that clear, but that's what I had meant, removing the reference to "Piilani Highway extension", and that was the intent.

COUNCILMEMBER KANE: Okay, on that one. And then the second. . .just, again I'm just trying to get clarity, Mr. Chair, on what your intentions are. The other one was, as a reference point Page 5--No. 5 or No. 6?--No. 6, the 20-foot wide landscape buffer?

CHAIR CARROLL: Yes, Page 5, No. 6.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER KANE: Is the intent, is the concern of Staff and you, Mr. Chair, again just the reference of the Piilani Highway extension, but we still are interested in retaining the minimum 20-foot wide landscape buffer area? And we don't have to reference the Piilani Highway extension, but are we still interested in the 20-foot buffer area with landscaping?

CHAIR CARROLL: The 20-foot buffer area was my intent to leave, but the Piilani Highway was what we wanted removed.

COUNCILMEMBER KANE: Okay. Thank you, Chair. I yield the floor.

CHAIR CARROLL: Thank you. Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chair. You know, I think that we can solve this. . .pretty simply because, you know, if you look at the concept map and if you look at our community plan and you look at everything, it's there and it's called Piilani Highway extension. So, you know, just because we've heard from this Administration that they have this. . .State Administration that they have no intention of going forward with that, as far as I know they haven't relinquished this corridor, neither has Ulupalakua Ranch. I know that Mr. Jencks has been in discussion with them because he's told that to us in these letters, but there's no commitment from the State to relinquish this corridor. So it's on our maps and so I don't think that we should just, you know, pretend it's not there anymore. But I think maybe appropriate language would be--back to No. 4 on Page 2--"Integrate bicycle/pedestrian recreation ways into the project's parks, and include buffer zones between residential areas and the Piilani Highway extension corridor", and just take out the word "proposed" and add the word "corridor" so that it's very clear that we're talking about this corridor that is named the Piilani Highway extension. Whether it ever happens or not, that's not our kuleana today, but at least it makes it very clear what area that we're talking about, and then we could do the same thing on Page 5. And I would note that. . .so then it would say, on No. 6, "A minimum twenty-foot wide landscape buffer area shall be provided for single-family and multi-family development adjoining the Piilani Highway extension corridor", and add "corridor" to that language so it takes out the idea that it's actually an ex..., you know, an extension. That's the name of it. And if anybody. . .has a problem with that, then I guess we'll have to figure out something else. Also, I wanted to mention that while we're on Page 5, No. 5, it says "A minimum fifty-foot wide landscape buffer shall be provided between the southern boundary of Maui Meadows and Kihei-Makena Project District 9". I think we need to change that to 100 feet because that's what the Fire Department told us, and I think we got it--

CHAIR CARROLL: I believe it was 116-foot buffer.

COUNCILMEMBER ANDERSON: One hundred and sixteen feet?

CHAIR CARROLL: I believe so.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: I think we got a commitment for 100 feet out of the . . . developer, too--

CHAIR CARROLL: Perhaps the applicant. . . --(*CHANGE OF TAPE, start 4B*)-- . . . on that because we have the landscape buffer and we also have the fire buffer. It's, the question is the Fire buffer 15 feet of it landscaped? Perhaps the applicant, Mr. Jencks?

MR. JENCKS: Certainly, Mr. Chair. The, the buffer is actually 116 feet measured from the houses in Maui Meadows to the first home in the project, and within that 116 feet from the project boundary into the project there's a 50-foot wide landscape buffer. Okay. So it's. . . if you want to say 100 feet from the boundary to the first home and then a 50-foot buffer on the property line, that would probably do the trick, that gets you to the same place. Then you have your 100 feet that you're saying the Fire Department wanted.

COUNCILMEMBER ANDERSON: And that's 100 feet of cleared area, no kiawe.

MR. JENCKS: . . . (*chuckle*). . . Well, the, actually the 100 feet includes the 50 foot of landscape area and a . . . in some cases a single- or a double-loaded road to the house. So it's clear area--no fences, walls, anything like that in that area.

COUNCILMEMBER ANDERSON: So, Mr. Chair, I just offer that language change if Members feel that that. . . makes it clear.

CHAIR CARROLL: Alright. Anybody else have any comment on this? Ms. Johnson.

COUNCILMEMBER JOHNSON: I guess, you know, in, in reading the Kihei-Makena Community Plan, the landscape buffer clearly is stated several times in, within different departments, like State DOT, DOE, Department of Public Works and Wastewater [*sic*]. So it's clearly there. But I guess my bigger question would be with regard to the corridor, the extension. One of the things that I think we should look at is triggers, and I'm not sure if--and I haven't gone through the community plan completely, but when this project was being reviewed by even Kihei Community Association, was the extension of Piilani always planned? Because if it's still anticipated that this would've provided relief for traffic or if it was to provide circulation, or if it was integrated into any of the Traffic Impact Analysis Reports, I think it's really important that we figure out is there a trigger or is there some requirement as a component of either this development or other developments for certain infrastructure, including this particular component, to be completed in order for the development to proceed? And I . . . and, and it's a question of the body because basically at this point in time I don't know the answer to the question, but I would like at some point to at least find out, whether it's from Public Works or from the Kihei Community Association--maybe Ms. Anderson has the information--is this something that was counted upon to provide relief for traffic with regard to these major projects coming up? And if it's not going to be built, then I think we have to look at that in the context of this application. Thank you.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Thank you. Mr. Kane.

COUNCILMEMBER KANE: Mr. Chair. . .I, I think that the language adjustments that Ms. Anderson is providing, i.e., on Page 5, No. 6, at the end, "adjoining the Piilani Highway extension corridor" I believe is there, and then on Page 2, the language would be to delete the word "proposed" and then include the word "corridor" after the word "extension". And if there aren't any objections, I have no problem with moving to amend the main motion to insert that language and delete out the word "proposed".

COUNCILMEMBER TAVARES: Second.

CHAIR CARROLL: The Chair accepts your motion and the second. Mr. Kane, discussion?

COUNCILMEMBER KANE: I yield the floor to Member Anderson.

COUNCILMEMBER ANDERSON: Thanks, Mr. Kane. Yeah, I just think that this makes it clear and doesn't confuse people and. . .let's just leave it at that. I think I already explained it.

CHAIR CARROLL: Any further discussion on the motion on the floor? Ms. Johnson.

COUNCILMEMBER JOHNSON: It, it still doesn't answer my main question with regard to this particular corridor because whether it's built or not I--just for my own information and perhaps Staff can at some point send a transmittal. I have no problem with the language, but I, I think the bigger question for me is if this was anticipated always to be a component of the traffic circulation and the traffic master plan for that area and it was integral to this project or other projects proceeding, then--

CHAIR CARROLL: We, we--

COUNCILMEMBER JOHNSON: --I just would like to know that.

CHAIR CARROLL: --we recognize what you're repeating what you said the first time and for the second time we recognize that, which I said, and we will proceed to find that, but it has nothing really to do with the motion on the floor.

COUNCILMEMBER JOHNSON: Well, for me it does because to just put language there and not have it tied to anything. . .I, I just would, I, I would have another condition then that I would add in at a later time if I can get the answers to my questions. Thank you.

CHAIR CARROLL: Thank you. Any further discussion? Hearing none, all in favor of the motion signify by saying aye.

COUNCIL MEMBERS: Aye.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Opposed? Motion carried.

VOTE: AYES: Councilmembers Anderson, Johnson, Kane, Mateo, Molina, Tavares, Vice-Chair Pontanilla, and Chair Carroll.

NOES: None.

EXC.: Councilmember Hokama.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE amendment to the main motion.

CHAIR CARROLL: Alright, Members, we have--

COUNCILMEMBER TAVARES: No. 5, Mr. Chairman.

CHAIR CARROLL: Yes, Ms. Tavares.

COUNCILMEMBER TAVARES: I'm sorry, did we formally adopt the changes for No. 5 on Page 5, increasing the buffer to 100 feet?

CHAIR CARROLL: No.

COUNCILMEMBER JOHNSON: One hundred and sixteen.

COUNCILMEMBER TAVARES: I know, I know the Staff was typing it in there.

CHAIR CARROLL: Yeah. No, we did not. That was only referring to the Piilani Highway extension.

COUNCILMEMBER TAVARES: Right. So we need to do that one, I think.

CHAIR CARROLL: That was the motion on the floor. Now we're going to address the . . .buffer.

COUNCILMEMBER TAVARES: Oh, okay.

CHAIR CARROLL: Do you wish to--

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER TAVARES: Yeah. Mr. Chair, I, I'll move on it. I make the motion to amend No. 5 to read in place of "fifty foot", "one hundred foot wide fire buffer area with a minimum", I guess we'll stop there. And then the other--

COUNCILMEMBER ANDERSON: No, no, 116.

COUNCILMEMBER JOHNSON: One hundred sixteen.

COUNCILMEMBER ANDERSON: One hundred sixteen.

COUNCILMEMBER TAVARES: One hundred and sixteen?

COUNCILMEMBER ANDERSON: Yeah.

CHAIR CARROLL: Sixteen.

COUNCILMEMBER TAVARES: Okay, "one hundred sixteen feet"--that covers everything--"with the minimum of the fifty-foot wide landscape buffer within".

COUNCILMEMBER ANDERSON: Second.

CHAIR CARROLL: Been moved by Ms. Tavares, seconded by Ms. Anderson. Discussion, Ms. Tavares?

COUNCILMEMBER TAVARES: No.

CHAIR CARROLL: Mr. Kane?

COUNCILMEMBER KANE: Yes. Thank you, Mr. Chair. I just wanted to make sure we capture the intent. 'Cause I know Mr. Jencks came up, talked about the 116 feet representing from the property--I don't know if it's the house itself or the property line to the opposite side, 116 feet. It included a 50-foot landscape buffer and then the other additional one or two road or two-lane open area. So, I'm just making sure that we captured, capture the intent and if just saying the 100 foot captures make, you know, making sure that we capture that. So just to make sure that we wordsmith it, you know, so it doesn't, we don't lose what we're trying to do.

CHAIR CARROLL: Yeah. I think, well, the object is, of course, is to clarify, to make sure that the intent is met with the language. I think the verbiage is sufficient.

COUNCILMEMBER KANE: Can I ask and--

CHAIR CARROLL: Mr. Kane.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER KANE: Because I know the developer is the one or the applicant is the one who has to actually deal with this, and I don't know if the language is clean and if Mr. Jencks sees up there. And I'm not asking for his approval, I'm just asking for him to. . .if, if it's--and I know we have a motion on the floor, but we asked him for his comments and so I'm just trying to make sure that we capture the intent 'cause they're the ones who have to deal with this.

CHAIR CARROLL: If no one has any objection to calling Mr. Jencks to the podium?

COUNCIL MEMBERS: No objections.

COUNCILMEMBER KANE: And, Mr. Chair--

CHAIR CARROLL: Mr. Jencks.

COUNCILMEMBER KANE: --for Mr. Jencks it's the underlined, right behind your head, that the minimum 116-foot wide fire buffer area with a minimum is going to be what we're considering. Is that what captures what you intended on your comments to us?

MR. JENCKS: Yes, it does. . .keeping in mind that the 116 feet was from buildings in Maui Meadows--

COUNCILMEMBER KANE: Yes.

MR. JENCKS: --and the setback in that district is 15 feet.

COUNCILMEMBER KANE: Yes.

MR. JENCKS: So it would be 100 feet from our property line to the project. That would be, I think, a more accurate way, 100 feet into the project, not 116 feet. That's what we represented at the Maui Meadows' folks. Otherwise, it's fine.

COUNCILMEMBER KANE: Okay. So, so from the maker of the motion--I know, Ms. Tavares--any, any objections to just using the 100 foot?

COUNCILMEMBER TAVARES: I have no objection. What I was basing it on was the house to house, which I thought was 116 feet. But with. . .if, if 100 foot is from the boundary line, yeah, that's fine because that's usually what we go by is boundary lines and not setbacks and buildings usually.

CHAIR CARROLL: Is there any objections to changing the motion from 116 to 100 feet?

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: No objection? Okay. Any further discussion?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER KANE: Is what they call a “friendly amendment”, Mr. Chair?

COUNCILMEMBER TAVARES: Yeah, friendly. . . .(chuckle). . .

COUNCILMEMBER KANE: . . .(chuckle). . . I have no further discussion. Thank you.

CHAIR CARROLL: Thank you, Mr. Kane. Hearing no further discussion, all those in favor of the motion signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried.

VOTE: AYES: Councilmembers Anderson, Johnson, Kane, Mateo, Molina, Tavares, Vice-Chair Pontanilla, and Chair Carroll.

NOES: None.

EXC.: Councilmember Hokama.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE amendment to the main motion.

CHAIR CARROLL: . . .(sigh). . . Alright, Members, on Page 4, Section D.4. provides that “The height of any structure within the project site shall be measured from the finish grade.” Compare to Maui County Code requirement. Note, we also have language from SunStone to compare. But. . .if Ms. Nakata can pull that up. This, of course, was a red flag when me and the Staff saw this. Any comment? Mr. Kane.

COUNCILMEMBER KANE: Do you have any proposed or recommended language for consideration, Mr. Chair?

CHAIR CARROLL: Yes, the obvious language and I don’t have it written before me, but that it would be. . .not from the finish grade, but from--the word escapes me right now.

COUNCILMEMBER ANDERSON: Existing or finish grade, whichever is lower.

CHAIR CARROLL: Yes.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER TAVARES: Second. . .(*chuckle*). . .if that was a motion.

CHAIR CARROLL: Mr. Kane, is not finished yet.

COUNCILMEMBER KANE: . . .(*chuckle*). . . Thank you, Mr. Chair.

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

COUNCILMEMBER ANDERSON: We need a break.

COUNCILMEMBER KANE: And. . .that's exactly what I was going to ask. Mr. Chair, because you don't have it in writing before you, can we request for a mid-afternoon break and then when we reconvene, maybe you and Staff can coordinate some language for us to take a look at for a proposal and a recommendation?

CHAIR CARROLL: Alright. If there's no objection, we will come back to this, but--

COUNCILMEMBER ANDERSON: Chair.

CHAIR CARROLL: --we do have. . .yeah, we don't have a motion on the floor, yeah.

COUNCILMEMBER KANE: Well, we have a motion. We just haven't amend, we've not taken care of existing amendments.

CHAIR CARROLL: No, I mean we don't have a motion to amend--

COUNCILMEMBER KANE: Yes.

CHAIR CARROLL: --on the floor, yeah.

COUNCILMEMBER KANE: We'll wait till written language, you know--

CHAIR CARROLL: Alright. If there's no objection, we'll come back to this after our mid-afternoon break.

COUNCILMEMBER KANE: Thank you.

CHAIR CARROLL: Alright.

COUNCILMEMBER KANE: Mr. Chair, can we take that break now, 3:20 come back?

CHAIR CARROLL: Oh, yes. Thank you, Mr. Kane. The time flies.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: . . .(*chuckle*). . .

CHAIR CARROLL: We will take our break until 3:15. We stand in recess till 3:15. . . .(*chuckle*). . .

RECESS: 3:08 p.m.

RECONVENE: 3:27 p.m.

CHAIR CARROLL: . . .(*gavel*). . . Land Use Committee meeting of October 4th, 2006 is now back in session. Alright, Members, during the break we have put some language on the board. . . .The floor is open. Comment, revisions, suggestions?

COUNCILMEMBER KANE: In accordance with--oh, I'm sorry.

CHAIR CARROLL: No. Mr. Kane, the Chair recognizes you.

COUNCILMEMBER KANE: To Staff, so after the word--oh, okay, I see the word "in". I, I didn't see it.

COUNCILMEMBER TAVARES: It needs a space over there.

MS. NAKATA: This is the wording recommended by Planning to delete "from the finish grade" and insert "in accordance with the provisions of the Maui County Code".

COUNCILMEMBER KANE: Thank you.

CHAIR CARROLL: Further discussion? Ms. Anderson, followed by Ms. Johnson.

COUNCILMEMBER ANDERSON: Well, I know this is the language that Mr. Jencks wanted because there is a proposal to, there is currently a proposal brought forward by the Planning Department to change our building height definition. I can tell you right now I'm totally against changing it. I think what we have is very sufficient and I like the fact that it specifically says finished, existing or finish grade, whichever is lower, and I, I would be in favor of that. But. . . I guess this makes it flexible so that if there is any changes in the future, we won't have to change this. But. . .

CHAIR CARROLL: That was the Chair's hope in crafting this language.

COUNCILMEMBER ANDERSON: Yeah. . . .You know, if we're going to do that, I would rather it be more specific to the actual section in the County Code, according to. . . .I think it's Chapter 19.04 which gives us definition, the definition of building height.

CHAIR CARROLL: Ms. Nakata.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MS. NAKATA: So would the Chair like the Section reference inserted, 19.04.040?

COUNCILMEMBER TAVARES: Yes.

COUNCILMEMBER ANDERSON: Yes, please. . . .And that currently--Mr. Chair, if I may--that currently reads?

MS. NAKATA: The definition for height in that section currently reads, "Height means the vertical distance measured from a point on the top of a structure to a corresponding point directly below on the natural or finish grade, whichever is lower."

CHAIR CARROLL: Is that sufficient, Ms. Anderson?

COUNCILMEMBER ANDERSON: Yes. Thank you, Chair.

CHAIR CARROLL: Any further discussion?

COUNCILMEMBER JOHNSON: Yes.

CHAIR CARROLL: I'm sorry. Ms. Johnson.

COUNCILMEMBER JOHNSON: Just a question because I know that the applicability is always, in fact that was the subject of some debate on another situation because the date of the applicability. I want to make absolutely certain that when the proposal or when the proposed structure is actually being built, that it's clear what the Council's intent is. Is it the ordinance as it exists now at this point in time, at the time of the application that it's being submitted, or is it going to always be something that only at the time when the building would actually be constructed, would that be the applicable point so that there's no debate about when this is really applicable?

CHAIR CARROLL: Do you have suggested language that you would like to add?

COUNCILMEMBER JOHNSON: Well, well, the only thing would be that it seems that it's pleasing to individuals on the Council based on what it is right now. Now, if it would change and it would be something that was perhaps more liberal in the future and it might be something that this Council would not necessarily support, I guess my language would be, you know. . .if, if you're going to really nail it down to what's in effect right now, Maui County Code, and then just state whatever the, the date is as it exists right now, if you want to tie it to what the Code says now.

CHAIR CARROLL: The Chair's preference is not to really--

COUNCILMEMBER JOHNSON: Well, but I just and, and--

CHAIR CARROLL: I, I'd open up the discussion to the floor.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER JOHNSON: Yeah. I have no problem one way or the other, but I just want us to be clear about what our intent is. Thank you.

CHAIR CARROLL: Any further discussion? Mr. Kane.

COUNCILMEMBER KANE: Are you entertaining a motion, Chair, for your recommendation?

CHAIR CARROLL: I am. . .I will entertain a motion to accept the language as on the board above you and as explained.

COUNCILMEMBER KANE: I yield to the Vice-Chair of the Committee.

VICE-CHAIR PONTANILLA: So moved.

COUNCILMEMBER KANE: Second.

CHAIR CARROLL: Been moved by Mr. Pontanilla, seconded by Mr. Mol..., Mr. . . .

COUNCILMEMBER TAVARES: Kane.

COUNCILMEMBER JOHNSON: Kane.

CHAIR CARROLL: . . .Kane. Discussion, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: I think the amendment is clear in regards to the--

CHAIR CARROLL: Further--

VICE-CHAIR PONTANILLA: --(*inaudible*) or the definition of the, you know, if it's finish grade or the lowest point. So with Section 19.04.040, Maui County Code, it's specific.

CHAIR CARROLL: Mr. Kane.

COUNCILMEMBER KANE: Everybody's gonna be treated the same. I'll say it again, Mr. Chair, everybody's gonna be treated the same if we reference the Maui County Code, and if it changes, then everybody will be treated the same on the change. Bottom line, ***everybody will be treated the same***, no matter you big guy, small guy, medium guy or gal.

COUNCILMEMBER ANDERSON: . . .(*chuckle*). . .

COUNCILMEMBER KANE: Thank you.

COUNCILMEMBER TAVARES: . . .(*inaudible*). . .

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Thank you, Mr. Kane. . . .*(chuckle)*. . .

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

CHAIR CARROLL: Further--I'm glad everybody's happy today. It's nice to see happy people.

COUNCIL MEMBERS: . . .*(laughter)*. . .

CHAIR CARROLL: Further discussion on the motion on the floor? Ms. Anderson.

COUNCILMEMBER ANDERSON: I'm fine with this, Mr. Chairman. I think, as a matter of fact, that we have done this kind of thing not too long ago in accordance with whatever the provision says because, you know, it could change. But I, I'm going to tell you right now, I'll vote no. . . .*(chuckle)*. . .

CHAIR CARROLL: Any further discussion? Ms. Johnson.

COUNCILMEMBER JOHNSON: Just for the record, then the way that I am understanding this particular motion is it's whatever Section 19.04.040 says at the time that the application for the permit for the structure comes forward?

CHAIR CARROLL: Correct.

COUNCILMEMBER JOHNSON: Okay.

CHAIR CARROLL: And the Chair liked that tight language because usually it's more stringent. It's very rare when we ever have something that becomes and goes the other way.

COUNCILMEMBER JOHNSON: Okay. So, so people can't go back and say oh, well, that was the section, unless the section actually is eliminated at some point or it is a new section that's amending that particular. But whatever it is, I trust that people will be able to change verbiage within, I guess, these types of conditions that actually would accommodate the permit moving forward.

CHAIR CARROLL: I think that's the best we can do.

COUNCILMEMBER JOHNSON: Thank you.

CHAIR CARROLL: Any further discussion to the motion on the floor? Seeing none, all in favor signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

VOTE: **AYES:** **Councilmembers Anderson, Johnson, Kane, Mateo, Molina, Tavares, Vice-Chair Pontanilla, and Chair Carroll.**

NOES: **None.**

EXC.: **Councilmember Hokama.**

ABSENT: **None.**

ABSTAIN: **None.**

MOTION CARRIED

ACTION: APPROVE amendment to the main motion.

CHAIR CARROLL: . . .*(sigh)*. . . Alright. Members. . .*(sigh)*. . .let me just go through this really quickly and see what else we have over here. On Page 2, again Section 19.90A.020(B), the question is, is it appropriate to reference “inclusive of accessory dwellings” ‘cause are accessory dwellings, the question is are they permitted in the project district? And that was just something that we came across and I’m sorry, again, I do not have any proposed language for that. This was something that just came across this morning and I wish to bring it to the attention of the Members if they have any comment on that. Ms. Anderson.

COUNCILMEMBER ANDERSON: The way I’m reading this means that there will be a total of 1,400 units, including any accessory dwellings. So somebody that might have a single-family home and have an ohana dwelling. . .um. . .that’s counted as 2 dwellings, 2 out of the 1,400. So, I think it’s probably a good idea to keep it in and, you know, since we are. . .we are giving them specific. . .land use standards of development and. . .permissible uses and we’re, we’re calling--maybe we should have Clayton answer a question for us on this because we’re, we’re having single-family and residential and. . .I mean and multi-family residential. And I guess. . .I’m, I’m not really certain that. . .um. . .if we, if we give them this, these sub-districts will they be able to build--let’s look at the permitted uses if it says everything within Residential, R-1, R-2, R-3, then, you know, the, the accessory dwelling is tied to the lot size in, in the zoning Code. And so maybe we should ask Mr. Yoshida if. . .um. . .you know, there’s, we just have like single-family and multi-family and, and so I’m trying to find out. You know, with Maui Lani it was more definitive, it would say SF-1, SF-5, whatever, and, and that designated how big the lots were going to be. So, I think, I think it’s 7,000 square foot is the minimum size in order to have an accessory dwelling in Residential, but I’m not sure if that’s R. . ., 75, it might be 75.

MR. YOSHIDA: Yes, you need a minimum lot size of 7,500 square feet.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: So . . .and what are the lot sizes in here going to be from. . .what size to what size? I think it's up to 10,000, but I'm not sure the smallest.

MR. YOSHIDA: I believe under 19.90A.040(B)(1), minimum lot area, 7,500 square feet. . . .So the minimum lot size is 7,500 square feet.

COUNCILMEMBER ANDERSON: Except that they also have Zero Lot Line, which I'm, I'm totally against having. But I guess we'll get to that, won't we? So it says that accessory uses permitted in Chapter 19.08 of this Code. So that looks like, except for the Zero Lot Line, every house in the subdivision or the project will be allowed an accessory dwelling. Correct, Mr. Yoshida?

MR. YOSHIDA: Yes, I believe that's correct.

COUNCILMEMBER ANDERSON: So, I guess that, the question that we brought up originally, Mr. Chair, on Page 2, Item B. is fine because then we are limiting the total build-out to 1,400.

CHAIR CARROLL: Alright. If no one has any problems with that, we'll just move on.

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

CHAIR CARROLL: Are you finished, Ms. Anderson?

COUNCILMEMBER ANDERSON: Yes, thank you.

CHAIR CARROLL: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chair. How do we track in regards to the total number of units once total build-out is completed? In other words, I do have a 7,500 square foot lot, I come into the Planning Department to put up an ohana, how do we keep track as far as the numbers? How do we know, you know, ohanas aren't gonna be built after, after total build-out?

MR. YOSHIDA: I guess we would just have to keep track of the number of units, residential dwelling units that we. . .(*inaudible*). . .or have been constructed, whether it's just main dwellings or it includes some ohanas, but, you know, there's a 1,400 dwelling unit cap.

VICE-CHAIR PONTANILLA: So there will be a mechanism to track that?

MR. YOSHIDA: Yeah, I believe we can use our permit tracking system to help to track the number of dwelling units built in the project district.

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

CHAIR CARROLL: Alright, if there's no further discussion on this one, we're just going to leave it like it is and move on to the next concern. We have two more. Alright, this is to Mr. Yoshida, on

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

Page 6 there's an inconsistency over there, the antennae requirements between Section 19.90A.040(A)(2)(c) and 19.90A.040(B)(4), and we have correspondence dated 9/28/06 from the Planning Department. If you could please comment, Mr. Yoshida.

MR. YOSHIDA: I believe on Page 3 of that letter from Mike Foley to the Committee, he had proposed some amended language due to some concerns about maximum height, which is specified on Page 3.

CHAIR CARROLL: I couldn't hear that, Mr. Yoshida.

MR. YOSHIDA: Oh. On Page 3 of that letter, there is some proposed amended language to Item (c) regarding antennae and antennae dishes.

CHAIR CARROLL: Ms. Nakata, can you put that amended language on the board. . . --(*CHANGE OF TAPE, start 5A*)-- . . .This is the amended language from the Planning Department. I think it's self-explanatory. Uh. . .any questions? If there's no questions on the language, the Chair would accept a motion to accept that language. But take a moment to consider. And if there's any questions. . .? Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah, could the Staff please read the, what it says 'cause it's getting a little small from this--

CHAIR CARROLL: Ms.--

COUNCILMEMBER TAVARES: --end.

CHAIR CARROLL: Ms. Nakata?

MS. NAKATA: Yes. The . . .language recommended by the Planning Director reads as follows: "Antennae and antennae dishes, provided that ground dish antennae shall not exceed ten feet in height, shall be screened by walls, earth berms, and/or landscaping with a minimum height of four feet, and that any roof or wall-mounted antennae shall meet the development standards for maximum height of the single-family residential sub-district and the multi-family sub-district".

COUNCILMEMBER TAVARES: Thank you.

COUNCILMEMBER KANE: Can you plug in the word "meet".

COUNCILMEMBER ANDERSON: No, it's there. . . .(*inaudible*). . .

MS. NAKATA: "Meet" is there following the omitted building.

COUNCILMEMBER ANDERSON: It's hard to see 'cause it's (*inaudible*).

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER KANE: Oh, no space. . . .*(inaudible)*. . .

CHAIR CARROLL: . . .Ms. Tavares?

COUNCILMEMBER TAVARES: Thank you for reading it. I didn't know what that word was that says. . . .*(inaudible)*. . .

COUNCILMEMBER ANDERSON: . . .*(laughter)*. . .

COUNCILMEMBER TAVARES: Now that I know it's two words.

CHAIR CARROLL: We'll buy you field glasses--

COUNCILMEMBER KANE: . . .*(inaudible)*. . .

CHAIR CARROLL: --so you can see better over there.

COUNCILMEMBER TAVARES: . . .*(chuckle)*. . . I'm gonna use my binoculars again.

CHAIR CARROLL: Alright, if there are no questions, I would accept a motion from the floor.

VICE-CHAIR PONTANILLA: So moved--

COUNCILMEMBER TAVARES: Mr. Chair? Oh. . .

VICE-CHAIR PONTANILLA: Oh. . .

COUNCILMEMBER TAVARES: Go ahead.

VICE-CHAIR PONTANILLA: Go ahead.

COUNCILMEMBER TAVARES: Second.

CHAIR CARROLL: It's been moved by Mr. Pontanilla, seconded by Ms. Tavares. Discussion, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: I'll yield to Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah, I think that clarifies it. . . a lot more and that it's not gonna be things that stick up above the roof, the roof level.

CHAIR CARROLL: No further discussion? All those in favor of the motion, please signify by saying aye.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried.

VOTE: AYES: Councilmembers Anderson, Johnson, Kane, Mateo, Molina, Tavares, Vice-Chair Pontanilla, and Chair Carroll.

NOES: None.

EXC.: Councilmember Hokama.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE amendment to the main motion.

CHAIR CARROLL: Alright, Members, I have one more over here. Page 8...Section 19.90A.060(A)(1)(d). And that has "golf courses".

...The Chair would like to move to make that singular. And also on Page 11, paragraph 2(b), it has one clubhouse per golf course. We'd like to change that to one *clubhouse*...because there is only *one* golf course. ...Do we have that?

VICE-CHAIR PONTANILLA: Page, was it 8 and 11?

UNIDENTIFIED SPEAKER: ...*(sigh)*...

CHAIR CARROLL: And all of this almost falls under the classification of a nonsubstantive change which I will be asking for the liberty to do with my Staff. There are some minor things inside there with language. I felt it was important enough to bring to the Committee because it is actually very significant--it's going from one golf course, I mean, two golf courses to one. Ms. Anderson?

COUNCILMEMBER ANDERSON: Do you...do you know why it was two golf courses?

CHAIR CARROLL: That was the original language. Remember, we're--

COUNCILMEMBER ANDERSON: Oh, we're working off, we're consolidating the existing...I don't know what we're doing, to tell you the truth.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: No, we, we are--

COUNCILMEMBER ANDERSON: There's so many bills here.

CHAIR CARROLL: --we're on the Project District bill. The--

COUNCILMEMBER ANDERSON: Yeah.

CHAIR CARROLL: --19.90 one, Project District bill.

COUNCILMEMBER ANDERSON: Okay.

CHAIR CARROLL: And that's why the language is like that.

COUNCILMEMBER ANDERSON: Thank you.

CHAIR CARROLL: Any comment on the proposed language change? . . .Ms. Johnson?

COUNCILMEMBER JOHNSON: Will they only have one driving range also? Or are there gonna be more, is, will there be more than one driving range? 'Cause if you're making one singular, I just wanted to ask if you're making the other one singular, too.

VICE-CHAIR PONTANILLA: Uh-huh.

CHAIR CARROLL: Uh. . .is driving range in there?

COUNCILMEMBER JOHNSON: Yes.

CHAIR CARROLL: It's, it's not even--

COUNCILMEMBER JOHNSON: Well, it was a minute ago. . . .*(chuckle)*. . .

COUNCIL MEMBERS: . . .*(inaudible)*. . .

CHAIR CARROLL: Oh, there--driving ranges. Very good. To driving *range*.

COUNCILMEMBER JOHNSON: I, I don't know.

COUNCILMEMBER TAVARES: Mr. Chair?

COUNCILMEMBER JOHNSON: . . .*(inaudible)*. . .

COUNCILMEMBER TAVARES: . . .Mr. Chair?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: . . .Yes, Ms. Tavares. . . .(laughter). . .

COUNCILMEMBER TAVARES: . . .(laughter). . . Thank you. I think this is getting. . .little picky. These are talking about principle uses and structures. Everything else is in plural. I mean, a whole lot of things are in plural.

CHAIR CARROLL: Yeah.

COUNCILMEMBER JOHNSON: Oh.

COUNCILMEMBER TAVARES: So, I don't think it matters because it's not *specific* to *this* golf course or *this* driving range. It's just saying that a permitted use is. . .you know, golf courses and golf driving ranges. So while it's limited elsewhere that's it's gonna be one, then it'll be one. I don't think we have to go through and, and change them to singular. 'Cause if not we have to do it for, you know, greenhouses and nurseries and. . .recreation centers and all that stuff. So, I think it's just listing the, you know, it's the litany of things that you find under. . .what's that, Chapter 19. . .

COUNCILMEMBER JOHNSON: Uh-huh.

COUNCILMEMBER TAVARES: . . .Permitted Uses. So, I don't have a problem with us leaving it as plural.

CHAIR CARROLL: Any further comment?

COUNCILMEMBER KANE: No objections.

COUNCILMEMBER JOHNSON: Just leave it.

CHAIR CARROLL: Alright. . . .Is there, the Chair would accept a motion just to change that two things.

VICE-CHAIR PONTANILLA: One--

CHAIR CARROLL: . . .golf course be golf. . . "golf courses" be "golf course", and one clubhouse.

VICE-CHAIR PONTANILLA: . . .Wait, wait.

COUNCILMEMBER TAVARES: And so where are you?

VICE-CHAIR PONTANILLA: You're on Page 11?

COUNCILMEMBER JOHNSON: Where. . . .(chuckle). . .

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER TAVARES: You're on Page 11 now? On Page 11?

CHAIR CARROLL: Yes.

COUNCILMEMBER TAVARES: . . .*(laughter)*. . . Okay.

VICE-CHAIR PONTANILLA: Yeah, so moved.

CHAIR CARROLL: Those were the only two things that I felt was . . .pertinent to . . .this application that we needed to address. . . .It makes it very clear.

VICE-CHAIR PONTANILLA: Page 11.

COUNCILMEMBER TAVARES: Page 11.

VICE-CHAIR PONTANILLA: B.

COUNCILMEMBER TAVARES: B? One clubhouse per golf course.

COUNCILMEMBER JOHNSON: I don't think it matters.

COUNCILMEMBER ANDERSON: I do.

COUNCILMEMBER KANE: . . .You're gonna second the motion, Michelle?

CHAIR CARROLL: Ms. Tavares still has the floor. I will call on you afterwards.

COUNCILMEMBER TAVARES: So what is. . .what was the motion for?

CHAIR CARROLL: The motion was just to change the . . .language. It has one clubhouse per golf. . .uh. . .course. And we were just going to have one clubhouse.

COUNCILMEMBER TAVARES: . . .Yeah, I--

CHAIR CARROLL: It was, instead of "golf courses", was just going to make golf course singular. That was all.

COUNCILMEMBER JOHNSON: It's single.

CHAIR CARROLL: Just golf course.

COUNCILMEMBER TAVARES: It's all, yeah, it's already singular, single there--one clubhouse per golf course.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Yeah.

COUNCILMEMBER TAVARES: So you want it to just say one clubhouse?

CHAIR CARROLL: One clubhouse.

COUNCILMEMBER TAVARES: Assuming that all clubhouses are. . .associated with golf courses. I mean, what if the teens in the group wanted to have a clubhouse? . . .You know, I. . .this is another place where I don't see a problem with it being one clubhouse per golf course because it's. . .specific enough.

CHAIR CARROLL: This is another one just taking away the "s". I almost thought it was nonsubstantive, but still we brought it before. Are you through, Ms. Tavares?

COUNCILMEMBER TAVARES: Yes, I don't see a need to, to change.

CHAIR CARROLL: Ms. Anderson?

COUNCILMEMBER ANDERSON: I, I'm in agreement with you, Mr. Chair. I think we need to make this singular. One, one golf, one clubhouse for the golf course with a snack bar, a restaurant with a bar, a locker room facility, a weight room, a pro shop for the sale and service of materials. You know, we're all sitting here thinking that, you know, we all know it's one golf course. But this is a 20-year build-out. What's gonna happen 15 years down the road. . .and somebody wants to come in and do another golf course there, and they can point to this and say well, it says per golf course? I think we need to be specific.

CHAIR CARROLL: That is the Chair's suggestion.

COUNCILMEMBER ANDERSON: So, I would move to make. . .item B. on Page 11 singular in its language and allow Staff to reword it.

CHAIR CARROLL: And could you include on Page 8 to have "golf courses" be "golf course" in your motion?

COUNCILMEMBER ANDERSON: Including. . .Page 8, Section D. under 060.

COUNCILMEMBER JOHNSON: . . .Second.

CHAIR CARROLL: Thank you. Is there a second?

COUNCILMEMBER JOHNSON: I seconded.

CHAIR CARROLL: Seconded by Ms. Anderson. Discussion, Ms. . . .excuse me. . .(laughter). . .second by Ms. Johnson. Discussion, Ms. Anderson?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: You know, Mr. Chairman . . .

. . .I don't like to be picky either, but I spent a lot of time. . .researching old. . .legislation trying to find the purpose and intent beside, behind something because it's being reinterpreted ten years down the road. . .different from what the purpose and intent was. So, I think it's very important to keep the language specific to what is permitted. And since this project originally. . .was for two golf courses. . .(laughter). . .I think we need to be very clear that this is for *one* golf course. And so. . .I think it's wise that we make this change.

CHAIR CARROLL: Thank you. Any further discussion to the motion on the floor? Mr. Mateo?

COUNCILMEMBER MATEO: Chairman, thank you very much. I, if you take a look at the very beginning of the ordinance, 19.90A.010, purpose and intent, it's real specific in what's actually gonna be involved in this particular development project. And I'm gonna read it. It says, the purpose and intent of the Kihei-Makena Project District 9 (Wailea 670) at, and it locates the location, is to establish permissible land uses and appropriate standards of development for a residential community consisting of Single-Family and Multi-family dwellings completed with Village Mixed Uses all integrated with an 18-hole golf course and other recreational amenities. So it identifies *one* golf course. So I don't, I don't think it really matters at this point whether we leave the "s", take out the "s" because it's specific from the very purpose and intent and does identify, in fact, just one golf course. So. . .you know, I'm just going to throw--

CHAIR CARROLL: Per--

COUNCILMEMBER MATEO: --my two cents in.

CHAIR CARROLL: Perhaps overkill, but we do have the motion on the floor and it does seem that it's still. . .pertinent. Any further discussion? Seeing none, all those in favor of the motion signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed?

COUNCILMEMBER TAVARES: No.

CHAIR CARROLL: Motion carried. Members--

COUNCILMEMBER TAVARES: No.

CHAIR CARROLL: No? One no, Ms. Tavares. One excused, Mr. Hokama.

COUNCILMEMBER KANE: No.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Two noes, Mr. Kane. We have one, two, three, four, five ayes. . .and two noes, and one excused. Motion is carried. Thank you. Alright. Members, at this time, I would ask--

COUNCILMEMBER JOHNSON: Six ayes.

CHAIR CARROLL: --if the Members would allow the Chair and the Staff--

COUNCILMEMBER TAVARES: Chair. . .point of clarification?

CHAIR CARROLL: Oh, excuse me. I'm sorry.

COUNCILMEMBER TAVARES: I think it's 6, 2 and 1.

CHAIR CARROLL: Pardon?

COUNCILMEMBER TAVARES: Six ayes, two noes, one. . .one excused. . . .I think you had said five ayes. But--

CHAIR CARROLL: Oh, excuse me--

COUNCILMEMBER TAVARES: --that meant--

CHAIR CARROLL: --I'm sorry.

COUNCILMEMBER TAVARES: --somebody was missing. . . .(laughter). . .

CHAIR CARROLL: Six ayes. Thank you, Ms. Tavares.

VOTE: AYES: Councilmembers Anderson, Johnson, Mateo, Molina, Vice-Chair Pontanilla, and Chair Carroll.

NOES: Councilmembers Kane and Tavares.

EXC.: Councilmember Hokama.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE amendment to the main motion.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: At this time, the Chair would like, would ask if the Committee Members would allow the Staff to make any nonsubstantive changes. . .to. . .in this bill. Ms. Tavares?

COUNCILMEMBER TAVARES: I have one other change--

CHAIR CARROLL: Yes, proceed.

COUNCILMEMBER TAVARES: --to, to discuss. On Page 3. . . over where the small letter "a." is, solar water heating. . . .That I would ask that we consider putting, adding in after the word "solar", "or other renewable energy", and then add the word "system" after "water heating".

COUNCILMEMBER ANDERSON: . . .Second.

COUNCILMEMBER TAVARES: Thank you. So it would read--

CHAIR CARROLL: Is that--

COUNCILMEMBER TAVARES: --"Solar or other renewable energy water heating system". . . .Because there are more and more technologies now that are renewable that can be used to run your water heaters besides solar.

CHAIR CARROLL: Is that a motion?

COUNCILMEMBER TAVARES: I think I moved and Ms. Anderson seconded already.

CHAIR CARROLL: We. . .(*chuckle*). . . have a motion on the floor. Discussion, Ms. Tavares?

COUNCILMEMBER TAVARES: Oh, just that, you know, because this is a long-term project, too, while solar might still be the, the, the most economical to put into, you know, residential use for water heating, there are other technologies coming on board. Photovoltaics, which is still part solar, but you know, photovoltaics. Fuel cells. There are other kinds of. . . technologies coming into where it's getting more and more economical it may be, in the end or later on, more economical than solar. But I think this would give folks the. . . a wide spectrum to choose from. And they could look at not just price, but also. . . you know, productivity. As long as it's renewable energy. . . and *renewable* energy, I hope everyone has a definition of that. It is not *alternative* energy. Renewable energy is *renewable* energy. So gas would not qualify in this. . . instance.

CHAIR CARROLL: Any further discussion to the motion on the floor? Hearing none, all in favor signify by saying aye.

COUNCIL MEMBERS: Aye.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Opposed? Motion carried.

VOTE: AYES: Councilmembers Anderson, Johnson, Kane, Mateo, Molina, Tavares, Vice-Chair Pontanilla, and Chair Carroll.

NOES: None.

EXC.: Councilmember Hokama.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE amendment to the main motion.

CHAIR CARROLL: Members, we do have one. . .we have one more but, Mr. Kane, I'll call on you first.

COUNCILMEMBER KANE: I was just gonna say no objections to your request for nonsubstantive changes by your Staff prior to first reading, Mr. Chairman.

CHAIR CARROLL: Any objections to any nonsubstantive changes?

COUNCILMEMBER TAVARES: No.

CHAIR CARROLL: And then. . .I am going to ask if anybody else has any amendments. But I do have one more over here that I missed. There is, are no objections, then?

COUNCILMEMBER TAVARES: No objection.

VICE-CHAIR PONTANILLA: No objection.

COUNCILMEMBER ANDERSON: No objection.

CHAIR CARROLL: Thank you.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (excused: GRH)

ACTION: Authorizing nonsubstantive revisions by the Chair.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: We do have one more. . .Section 19.90A.070. And that's Page 9 and 10. And that refers to "homeowner guest housing". And Mr. Jencks has informed. . .the Chair that he would recommend deletion of this provision. And I would like to call him down at. . .to the podium.

COUNCILMEMBER TAVARES: What letter is that?

CHAIR CARROLL: That's Section 19. . .oh, the page number? Pages 9 and 10.

COUNCILMEMBER TAVARES: Anything more specific than 9 and 10?

MS. NAKATA: Section 19.90A.070, the Village Mixed Use sub-district.

COUNCILMEMBER KANE: And what about it?

COUNCILMEMBER TAVARES: Yeah.

COUNCILMEMBER KANE: What's the change?

MR. JENCKS: It's, if I may, Mr. Chair? It's the deletion of subsection "b."

COUNCILMEMBER KANE: Yeah, on Page 10.

MR. JENCKS: Which is at the top of Page 10.

. . .The ordinance clearly states that there are no short-term residential units allowed. When we. . .first developed this draft ordinance years ago, we had the idea of developing units that could be occupied by the owners for their family or whatever. And we just didn't wanna get into a situation where we're in conflict with anything we had said or any of the philosophies on the Council. So we. . .we're just suggest, suggesting just delete this subsection "b." entirely out of the ordinance.

COUNCILMEMBER KANE: . . .Okay. Delete.

CHAIR CARROLL: Comment? The floor is open. Mr. Kane?

COUNCILMEMBER KANE: So delete, Charlie?

MR. JENCKS: Yeah.

COUNCILMEMBER KANE: Thank you.

CHAIR CARROLL: Ms. Tavares?

COUNCILMEMBER TAVARES: I would support that, Mr. Chair.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: I would accept a motion to delete.

VICE-CHAIR PONTANILLA: Move to delete.

COUNCILMEMBER MOLINA: Second.

CHAIR CARROLL: It's been moved by Mr. Pontanilla, seconded by . . .Mr. Molina. Discussion, Mr. Pontanilla? I think it's very small.

VICE-CHAIR PONTANILLA: Yield to the floor.

MS. NAKATA: Uh. . .Mr. Chair?

CHAIR CARROLL: Any more further. . .discuss. . .uh, excuse me.

MS. NAKATA: Just a point of clarification, please? In the initial paragraph introducing the sub-district, there's also a reference to "homeowner guest housing". If this. . .paragraph is deleted, Staff would recommend that reference also be deleted.

COUNCILMEMBER TAVARES: Yes.

MS. NAKATA: And then the subsequent paragraphs renumbered.

COUNCILMEMBER TAVARES: Yes.

VICE-CHAIR PONTANILLA: Yes.

CHAIR CARROLL: Is there any objection to adding that to the motion?

COUNCILMEMBER TAVARES: No.

VICE-CHAIR PONTANILLA: No objection.

COUNCILMEMBER MOLINA: No objection.

COUNCILMEMBER ANDERSON: And, and where is that again. . .Ms. Nakata?

MS. NAKATA: It's right upfront.

COUNCILMEMBER KANE: Page 9.

MS. NAKATA: Right following the section heading, 19.90A.070, Village Mixed Use sub-district.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: . . .Oh, “homeowner guest housing”.

MR. JENCKS: Yeah.

COUNCILMEMBER TAVARES: Right.

CHAIR CARROLL: Further discussion? . . .Ms. Anderson?

COUNCILMEMBER ANDERSON: You know, I mean if they’re allowed accessory dwellings, they can certainly put their guest in an accessory. . .*(laughter)*. . .dwelling.

. . .Anyway. . .yeah, I support taking it out.

CHAIR CARROLL: Any further discussion? Hearing none, all in favor of the motion, please signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried.

VOTE: AYES: Councilmembers Anderson, Johnson, Kane, Mateo, Molina, Tavares, Vice-Chair Pontanilla, and Chair Carroll.

NOES: None.

EXC.: Councilmember Hokama.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE amendment to the main motion.

CHAIR CARROLL: Are there any other. . .amend. . .amendments? Ms. Johnson, and followed by Ms. Anderson.

COUNCILMEMBER JOHNSON: Yes, I, my question would be because. . .we want this to be residential. . .would, is there somewhere--and I haven’t gone through every component of this bill, we don’t want any short-term rentals, we don’t want vacation rentals, or resort uses. Is there some area that that’s stipulated? If Staff could point to it?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MS. NAKATA: I don't believe that short-term rentals have been specifically permitted. We may wanna seek the assistance of the Planner.

COUNCILMEMBER JOHNSON: . . .Yeah, it, Mr. Chair, I don't know if it's appropriate, but I would like to see some stipulation so that it's absolutely clear that we *do not want* our short-term rentals, we don't want hotels, we don't want timeshares at any time. . .within this particular development.

CHAIR CARROLL: I assume you do not have any suggested language for that?

COUNCILMEMBER JOHNSON: Well, I had sent a . . .a memo, which I don't have in front of me right at this time, but. . .basically, I just said to prohibit transient vacation rentals. . .short-term rentals. . .hotel or resort amenities, you know, hotel or resort units of any type.

CHAIR CARROLL: Alright, could you repeat that one more time for Ms. Nakata, please?

COUNCILMEMBER JOHNSON: It would just be to prohibit vacation rentals. . .timeshares. . .short-term rentals. . .resort and hotel uses of any type.

CHAIR CARROLL: . . .Alright. If you don't mind, we'll give her. . .a few moments to put this up on the screen. You. . .this would have to be under a new. . .where could we fit this in, even?

VICE-CHAIR PONTANILLA: She's gonna add.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR CARROLL: Ms. Tavares?

COUNCILMEMBER TAVARES: Would this be more appropriate as a, one of the conditions of zoning?

COUNCILMEMBER JOHNSON: Uh-huh.

CHAIR CARROLL: Actually, I was just thinking that, that I think that would be more appropriate. We usually do not. . .this is amendments. And this is more like a condition. I don't think it's really appropriate at this point. When we go into the zoning bill, that's where this would be effective and that's where it really should be.

COUNCILMEMBER JOHNSON: Okay. And I think that's where most of my. . .amendments would probably occur.

CHAIR CARROLL: I think most all of ours are gonna be over there. . .Any. . .I'm sorry, Ms. Anderson?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: I have a couple things, Mr. Chair.

. . .I don't know if it was not, if it was purposely, your intention to not address. . .Mr. Foley's September 28th letter. We did address the antennae and maximum height. But he also. . .mentioned permitted uses in the Village Mixed Use District. And Mr. Yoshida mentioned to us earlier that. . . mentioned to us earlier that. . .the. . .changes that he is proposing. . .are those changes for Village Mixed Use that is currently in the Maui Lani Project District. And if--I don't know if Members have it, there's so much here in front of us. It's a September 28th letter.

. . .I'm wondering if the conversation behind me could step outside? Because it's very distracting.

CHAIR CARROLL: I'm sorry, what was that? . . .Could you repeat that, please?

COUNCILMEMBER ANDERSON: . . .*(laughter)*. . . Well, they stopped talking. I was just--

CHAIR CARROLL: Oh.

COUNCILMEMBER ANDERSON: --asking those people with--

CHAIR CARROLL: Excuse me?

COUNCILMEMBER ANDERSON: --the conversation--

CHAIR CARROLL: As. . .one moment. If anybody is going to have conversations in here, I would appreciate it if you would leave this Chamber. I'm way up here and I can't. . .hear you, but it is very disturbing to the Members. Thank you. Please continue.

COUNCILMEMBER ANDERSON: Thank you, Chair, 'cause this is concentrated work here. . .*(laughter)*. . . despite what it looks like. . .*(laughter)*. . .

. . .So I haven't had a chance to. . .compare the two of these. Some of it looks the same, but a lot of it isn't. So I'm wondering if Mr. Yoshida can give us some. . .justification or explanation. I was gonna ask you what a. . . eleemosynary organization is--

COUNCILMEMBER JOHNSON: Charitable.

COUNCILMEMBER ANDERSON: --but that--

COUNCILMEMBER JOHNSON: Charitable.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: Oh, a charitable organization. . . .(laughter). . . Okay, that's in both of them, so that doesn't matter. But. . .Mr. Yoshida, if you could explain to us. . .what the advantage would be in substituting the language that was provided in the September 28th letter?

CHAIR CARROLL: Mr. Yoshida?

MR. YOSHIDA: Thank you, Mr. Chair. Councilmember Anderson, very briefly. . .the Department felt that because a Village Mixed Use sub-district was passed for Maui Lani and it had definitions for the various uses specified, it may be advantageous to incorporate those in terms of the Village Mixed Use sub-district for this project. But the applicant has already deleted, I guess, principle use "b.". . .or the Committee has already deleted--

COUNCILMEMBER ANDERSON: Right.

MR. YOSHIDA: --principle use "b." previously. That was the thought behind it since it was done recently, or earlier this year.

COUNCILMEMBER ANDERSON: And so I'm wondering if the applicant has a chance, has had a chance to see this September 28th letter. I see it was CC'd to him. And if he has a *preference*. . .because there are some differences. And. . .you're not prepared to tell us the main differences, Mr. Yoshida?

MR. YOSHIDA: Yeah, I guess probably the applicant would be in the best position to answer that question.

CHAIR CARROLL: . . .Would you like to call the applicant to the podium?

COUNCILMEMBER ANDERSON: Well, yeah, I mean, since we're on this, we might as well address it now rather than later. And I don't think it's something we should just skip over since it was sent to us--

CHAIR CARROLL: Please identify--

COUNCILMEMBER ANDERSON: --just recently.

CHAIR CARROLL: --yourself for the record.

MR. JENCKS: Charlie Jencks.

CHAIR CARROLL: . . .You heard the question, Mr. Jencks?

MR. JENCKS: I believe so. I. . .I was talking to Clayton about this issue earlier. And. . .you know, we, what we did. . .in. . .this district is try to develop a zoning district that would incorporate neighborhood level type of retail. And when we did that, we included this reference to 19.16 of

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

the Maui County Code, which, which is the Neighborhood Business District. And you know, when you go to the Planning Department, a lot of times when you're talking about a permitted use, they. . .if it isn't specifically identified, then you, they're not allowed to, to build that use or--

COUNCILMEMBER ANDERSON: Well, especially for Project District.

MR. JENCKS: Right. Exactly. So the idea of including this section, 19.16.020 or 19.16, allows, gives you a. . .an additional list of things. Like, for example: barber or beauty shops, bakery, bake or good stores, bookstores, candy stores, churches. It, it allows you a little more flexibility and then gets you truly to that neighborhood level. So *my* advice to you would be. . .for a Project District and given our vision, would be to in, leave this the way it's written. . .including 19.16.

COUNCILMEMBER ANDERSON: Uh, and, and what is 19.16, Mr. Jencks?

MR. JENCKS: 19.16 is the B-1 Neighborhood Business District. If you like, I have a. . .copy of it right here, if you'd like.

COUNCILMEMBER ANDERSON: Well, it's all listed here, right?

COUNCILMEMBER JOHNSON: Uh-uh.

MR. JENCKS: Not, not in, not in its entirety. We referenced 19.16 at the very top there under C.

COUNCILMEMBER ANDERSON: Right.

MR. JENCKS: It says, "Any use or structure permitted under Chapter 19.16 of this Code." And then we included all these other things.

COUNCILMEMBER ANDERSON: Oh, and then you're *adding* these things--

MR. JENCKS: Right.

COUNCILMEMBER ANDERSON: --including 19.16.

MR. JENCKS: Right.

COUNCILMEMBER ANDERSON: Uh . . .

. . .Well, I'd wanna look at what 19.16 is because Village Mixed Use. . .to me. . .I mean, I don't think we wanna just permit anything. . .like gasoline and. . .yeah, maybe that's the reason behind. . .Mr. Foley's. . .suggestion. . .Because. . .grocery stores, meat markets. . .gasoline retailing. . .that could be touchy. Because then that means the gasoline can, station could go in without any. . .neighborhood input or ability to appeal it or any--

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Again, this would be something that if we are going to make conditions, restricting uses like that, we should really do it at the zoning. . .as a zoning bill. Restricting. . .use, we could do it at that time. Would probably be. . .more appropriate.

COUNCILMEMBER ANDERSON: Well. . .

CHAIR CARROLL: You can do this over here, but. . .amend, as an amendment to. . .this, but *usually* we would address that as a, in the zoning portion with the other conditions.

COUNCILMEMBER ANDERSON: But it's, it's in this bill that we're addressing, Mr. Chairman, Village Mixed Use District.

CHAIR CARROLL: We can if you wish, if you have proposed language to address your concern.

COUNCILMEMBER ANDERSON: Well, the proposed language was provided to us by the Planning Director. And. . .I think that it's a good suggestion. And so I would move to approve the language submitted for Village Mixed Use under. . .principle, permitted uses and structures, principle uses. . .principle uses and structures for Village Mixed Use.

CHAIR CARROLL: If you would wish to make a motion?

COUNCILMEMBER ANDERSON: Didn't I say that? I would. . .(*chuckle*). . .move to include. . .under principle uses and structures, the language. . .provided in the September 28th memo from the Planning Director.

COUNCILMEMBER TAVARES: Second.

CHAIR CARROLL: Moved and seconded. Discussion, Ms. Anderson?

COUNCILMEMBER ANDERSON: You know, I think that we need to be very careful here because a project district. . .is a long-term project. And once it leaves the hands of the Council today or whenever it does. . .we're out of the loop on this. And. . .and so is the public. . . .Because this is above, there is gonna be no public review. There will be. . . --(*CHANGE OF TAPE, start 5B*)-- . . .project district at the Planning Commission. But as far as. . .you know, the ability to do a gas station or something like that that is in 19.16. . .I think we need to be *careful* because. . .we, we were all here when there was the problem with a gas station going in very close to a residential area. So, I think that. . .and it didn't happen, but it was only because the community mobilized and they were lucky enough to be in the SMA District. So they had that option. But this, this option won't be there down the road, 10 years, 15 years, even 20. So, I think it's a good suggestion that he gave us.

CHAIR CARROLL: The Chair would support your motion.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: Thank you, Chair.

MS. NAKATA: Mr. Chair?

CHAIR CARROLL: Any further discussion?

MS. NAKATA: Mr. Chair? Could Staff clarify--

CHAIR CARROLL: Ms. Tavares?

MS. NAKATA: --that the motion would include, though, the omission of subsection "b."--

COUNCILMEMBER TAVARES: Yes.

MS. NAKATA: --relating to the homeowner. . . association dwelling units?

COUNCILMEMBER ANDERSON: . . . Oh, yes. Yes. . . the language that we got from. . . the Planning Department included that existing "b." and we've already taken it out. So. . . the motion would be to include the principle uses and structures in the September 28th memo, *excluding* item "b."

CHAIR CARROLL: . . . Is everybody clear on the motion?

COUNCILMEMBER TAVARES: Yes.

CHAIR CARROLL: Ms. Tavares?

COUNCILMEMBER TAVARES: Uh. . . yes, under discussion. . . on numbers, or letter "c." is automobile service stations. And automobile service stations are gas stations.

COUNCILMEMBER ANDERSON: Oh, dear. I didn't see that.

COUNCILMEMBER TAVARES: And. . . while we can have a discussion about this. . . leaving it in or taking it out, I do wanna make the case for. . . this is an area that doesn't *have* any of these services. And *perhaps* in this particular case, it is a use that we would like to see in such a large neighborhood, that there is a place for a service station like this so people don't have to drive down into Kihei to get gas. And I think when you, when we talked about that other situation, the houses were there *already*. But I think with this development, it'll be done as a. . . you know, this commercial area, the VMX will probably go up the same time as the rest. So everyone will know before they get in there. . . that there *is* gonna be a service station. And. . . so it's not quite the, you know, as disturbing as when you're living in a residential and then next door to you pops up a service station. I think it's kind of two different things. But I see a place for this type of service in this area 'cause there is none nearby.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: . . .Any further discussion to the motion on the floor? Seeing none, all in favor of the motion signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried.

VOTE: AYES: Councilmembers Anderson, Johnson, Mateo, Molina, Tavares, Vice-Chair Pontanilla, and Chair Carroll.

NOES: None.

EXC.: Councilmembers Hokama and Kane.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: APPROVE amendment to the main motion.

CHAIR CARROLL: Any further. . .

COUNCILMEMBER ANDERSON: . . .*(sigh)*. . .

CHAIR CARROLL: . . .*(cleared throat)*. . .excuse me, amendments?

. . .Ms. Johnson, followed by. . .oh, I'm sorry. Ms. Anderson, were you. . .

COUNCILMEMBER ANDERSON: Yeah, I'd like--

COUNCILMEMBER JOHNSON: Oh. . .

COUNCILMEMBER ANDERSON: --to finish--

COUNCILMEMBER JOHNSON: Oh, fine.

COUNCILMEMBER ANDERSON: --my. . .and then I'll yield.

CHAIR CARROLL: I'm sorry. I thought you were finished with that motion. Continue.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: No, that was just the first one and the easiest one. . . .(chuckle). . .
Um. . .you know. . .I got a problem with--this is Page 5, Members, 040, item "C" under
Single-Family Residential sub-district, Zero Lot Line residential developments as a principle use.
Um. . . you know. . .I just think that. . .we should not be. . .forcing people onto Zero Lot Line
developments unless the whole development is Zero Lot Line. You know, that was the *purpose*
and intent of the Zero Lot Line--was to reduce the cost of a subdivision for affordability, but not
necessarily to build affordable homes in the, say, workforce housing that we're doing. And, you
know, I just think it just *marginalizes* people, that we're gonna have all the other housing in this
District, it's gonna be a minimum of 7,500 square feet, up to 10,000. . .who else, who knows
how, how much larger. I think it's just 10,000. But. . .and then, to turn around and do all the
affordable housing on Zero Lot Line. . .that's. . .I think, unfair because the. . .he's, he's making
huge profits on this and to offset. . .the affordable housing that he's being required to do. And so
why should we then, you know, reduce the cost even more by allowing all the affordable housing
to be Zero Lot Line? And I would mention, Members, that, have any of you gone and looked at
the Zero Lot Line. . .and what it looks like? There's no place for kids to play. You, you probably
can't even put up a clothing line in your backyard, a clothes line. . .or a swing set. . .or anything
that would be, you know, amenable for children playing in their backyard. And, and the side
yards are enough to get. . .a, a lawn mower down. And, and you know, to make it. . .

. . .you know, I just feel like we need to give people the dignity of space. And, and hopefully the
people that will be in the affordable units--and mind you, this is under Single-Family Residential
sub-district. So these will be single-family homes, not the multi-family. And I don't think
there's gonna be that many of 'em. So, I would like to take this out. And, you know. . .if. . .

CHAIR CARROLL: Is that a motion, to remove "C", Zero Lot Line residential developments?

COUNCILMEMBER ANDERSON: Well, I'm, I'm stating my case before I make the motion 'cause I
wanna. . .(laughter). . .make sure it sticks. Um. . .I just don't feel that. . .you know, especially
when these. . .affordable houses are going to be in, integrated into a high-end development. . .to
make their lots so small. . .just will. . .segregate them from the rest of the development. . .in
an extreme way. And I just don't think it's right. And I think that they can certainly afford to give
these people a little bit of space, room for a swing set. . .so the kids can play in their yard. And
so that's. . .why I'm making the motion to delete item "C", Zero Lot Line residential
developments.

CHAIR CARROLL: Do I have a second?

COUNCILMEMBER JOHNSON: Second.

CHAIR CARROLL: It's been moved and seconded. Discussion, Ms. Anderson?

COUNCILMEMBER ANDERSON: I guess I already made the discussion. . . .(chuckle). . .

COUNCILMEMBER JOHNSON: . . .(chuckle). . .

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: Thank you.

VICE-CHAIR PONTANILLA: Chair.

CHAIR CARROLL: Any further discussion? Ms. Tavares? Oh, I'm sorry, Mr. Pontanilla, followed by Ms. Tavares.

VICE-CHAIR PONTANILLA: I was wondering if we could have the developer come up front and give us some indication as far as the lot sizes for Zero Lot Line. We do have some projects up in Wailuku with Zero Lot Line subdivisions, and I find that the, the yard space. . .it's big. Uh. . .the side yards are, are. . .the boundary. . .boundaries on the side yards are, are shared with a fence in between. The backyards meet the minimum standards of 15 to, 15 feet, I think. And some is, some is even larger than 15, longer than 15 feet. I know because my son lived in a Zero Lot Line subdivision.

CHAIR CARROLL: Do you--

VICE-CHAIR PONTANILLA: With two boys.

CHAIR CARROLL: Mr. Jencks, could you identify yourself at the microphone?

MR. JENCKS: Charlie Jencks, owner's representative.

CHAIR CARROLL: Mr. Pontanilla, you may. . .proceed.

VICE-CHAIR PONTANILLA: Yes, thank you. Mr. Jencks, what, what are the sizes for Zero Lot Line lots?

MR. JENCKS: Well, first of all. . .a Zero Lot Line lot. . .the concept is you're not defining a lot size. You're putting two houses together--not a duplex, but two, you have a zero, you have zero side yard. Okay? Then you have a side yard, then you have a house, the zero side yard, then a house. Okay? It doesn't define a lot *size*. It's a, it's a building concept. Like condominiumization is. Okay? And I would tell you that if you go over to Kaimana in. . .in the Kehalani Project District, some of the nicest homes in that project are Zero Lot Line. And they have back yard space just as you described, Mr., Member. They have side yard, they have back yard, they have front yard. They're nice homes. People take care of them, and they are selling at premium value. I'm not saying, I never said in here or nor am I proposing that I would, I would allocate all of the affordable product into a Zero Lot Line, small lot configuration. I never said that. I wouldn't do that. This gives us options. Some of the, some people *prefer* to have a small lot, Zero Lot Line product. . .smaller yard to take care of, they can, they can arrive, they can enjoy their house, they don't have to, they have a lot of upkeep. It's a nice concept for some people. So we just, what we're saying is we want the option to build, to incorporate this concept. But we're not saying it's gonna--it could be a 6,000 square foot lot. It could be a, I think the *minimum*, I believe the

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

minimum in the Code today, per this reference is. . .it's either 3,500 or 4,000 square feet. And I *believe* the lots at Kaimana, some of them are 4,000 square feet. They're great lots. They're great homes. It's a great product.

CHAIR CARROLL: Thank you. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you, Chair. Yeah, that's all I had.

CHAIR CARROLL: Ms. . . .Anderson?

COUNCILMEMBER ANDERSON: Uh, Mister--

CHAIR CARROLL: Mr. Jencks?

COUNCILMEMBER ANDERSON: --Jencks?

CHAIR CARROLL: Mr. Jencks, could you please come back down?

COUNCILMEMBER ANDERSON: . . .*(laughter)*. . .

CHAIR CARROLL: We're not quite finished with you yet.

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . .

COUNCILMEMBER ANDERSON: . . .*(laughter)*. . . Thank you for that explanation. I appreciate that.

MR. JENCKS: You're welcome.

COUNCILMEMBER ANDERSON: So it doesn't have anything to do with the size of the lot?

MR. JENCKS: No, it's a concept. It's a building concept.

COUNCILMEMBER ANDERSON: And so. . .then if it's Zero Lot Line, it does define, it does allow, are you saying it allows for a *shared* wall or just. . .a narrower side setback?

MR. JENCKS: You have the concept. It, you, you. . .if you line the lots up, you shift all the homes to, onto one property line. You just shift them to the right so that the house, the, the wall of the house is on that property line. You follow me?

COUNCILMEMBER ANDERSON: Uh-huh.

MR. JENCKS: So there's no side yard. That's the concept.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

COUNCILMEMBER ANDERSON: So it just takes away the side yard on one side of the house.

MR. JENCKS: It just, all the, the houses just shift to one side. That's the concept for Zero Lot Line.

COUNCILMEMBER ANDERSON: Okay, so then let me ask you while you're here. What would be the minimum size for the Single-Family Residential, I mean affordable?

MR. JENCKS: Minimum size. . .

COUNCILMEMBER ANDERSON: Lot.

MR. JENCKS: I don't have an answer for that right now.

COUNCILMEMBER ANDERSON: Well, then, I mean. . .you know. . .

MR. JENCKS: Actually, if I may, Councilmember. . .when I, we talked about the, the chart I provided to you--

COUNCILMEMBER ANDERSON: Right.

MR. JENCKS: --in the letter, I talked about a couple of things. One of those actually included a single-family program with garages and without garages in the condominium concept--which is very popular. People enjoy that very much. . .and not, not having a, a lot, but they have a single-family home in the condominium regime which gives them more common area outside, and not defined lots--which is very popular as well. So it can be a *variety* of different programs. We're just asking for the flexibility.

COUNCILMEMBER ANDERSON: . . .You know, I, I'm just wondering if, is there gonna be different standards, then, as far as--because in here we have. . .the. . .single-family lot size minimum is 7,000 square feet.

MR. JENCKS: It--

COUNCILMEMBER ANDERSON: So. . .are you saying that you're gonna, the affordable homes that you're gonna be building, which I'm assuming aren't gonna be very many, 'cause most of what you're gonna be doing is. . .is multi-family.

MR. JENCKS: We, we have a minimum lot size of 7. . .7,500 square feet. We're also asking, within the body of this performance, the zoning document, to allow us the flexibility to go to Zero Lot Line, but per these Code sections that we reference. Okay? So--

COUNCILMEMBER ANDERSON: Per what Code sections, Mr.--

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. JENCKS: Well, it says, let's see. . .I'll read: except that Zero Lot Line residential developments shall comply with Sections 19.09.060 to 19.09.090, inclusive of this Code. That's at the bottom of Page 6. And alls we're asking for is some flexibility on the product we build--whether it's market rate or affordable. It applies to both categories.

COUNCILMEMBER ANDERSON: And so since we don't have. . .oh, you're saying within sections here inclusive.

MR. JENCKS: And basically, those are the sections that provide the performance standards review by the Planning Department, the Planning, they have to review those kinds of things.

COUNCILMEMBER ANDERSON: So--

MR. JENCKS: It's a little more rigorous than a typical, typical subdivision.

COUNCILMEMBER ANDERSON: And so then in the chart that you gave us with the square footage--and, and I'm not trying to pin you down because I guess. . .that's going to be flexible, but what is your intention as far as building single-family home, how many would you build out of the 400?

MR. JENCKS: Out of the. . .for the affordable categories?

COUNCILMEMBER ANDERSON: Uh-huh.

MR. JENCKS: Well, in the chart I, I'm pretty sure that I, I included a reference to multi-family, single-family in the right-hand side--

COUNCILMEMBER ANDERSON: Yeah, you did.

MR. JENCKS: --and my recollection is I believe I had some, some single-family in the 120 percent and I had some single family in the 140 percent as well.

COUNCILMEMBER ANDERSON: Right. But I'm asking how many?

MR. JENCKS: Well, I mean, I, at this point--

COUNCILMEMBER ANDERSON: You don't know?

MR. JENCKS: --I don't know. I, I tell you what--

COUNCILMEMBER ANDERSON: Okay, just conceptually then, whatever it is, will they be. . .even if they are single, Zero Lot Line, will they be 7,500 square feet minimum like the rest?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

MR. JENCKS: No, I can't. . .I, I want the flexibility given the property I'm working with and the slopes I'm working with and the serviceability and the cost for both market and affordable to reduce that lot size, or go to even single-family condo--

CHAIR CARROLL: One moment. Excuse me, Mr. Jencks. Mr. Molina, do you have to leave at this time? Could you wait one moment? I'm sorry to interrupt, but we need to do something before we lose Mr. Molina. Members, there is obviously. . .Ms. Anderson has more amendments to this and I think the other Members have more to say. We have never had so much discussion on a bill like this because we have never had a bill from 19. . .2001 that was five or six years old, and that has created a problem. Usually a bill like this just passes with a motion, and I don't ever recall even putting an amendment on a bill like this, usually we do it on the zoning. But it is not clean because we have had so much time pass and that is a problem. The other problem is it is 4:30 and we need to close. We would like. . .if I could take a poll right now if Members would consider a recessed meeting on Monday, Monday morning. . .that's, that is. . .

COUNCILMEMBER TAVARES: October 9th.

CHAIR CARROLL: . . .because of Sunshine Law I believe that we would have to do that, unless we went another 15 minutes we might be able to do it on Tuesday. But I hate to see us stop over here, we are making progress on this. We have a bill that's, we have an application that's about seven years old. I would like to see us to be able to continue at least on this to be able to find some resolution to the concerns and be able to address them--not for us or the applicant, but for our community. Is anyone able, anyone that is able to do a recessed meeting--and I know Ms. Johnson cannot--on Monday, could you raise your hand?

COUNCILMEMBER TAVARES: Who can?

COUNCILMEMBER MATEO: Can or cannot?

CHAIR CARROLL: That's a no?

COUNCILMEMBER TAVARES: No.

COUNCILMEMBER MATEO: No. Chairman, your. . .I'm sorry, Chairman, your question is those who can or who *cannot*?

CHAIR CARROLL: *Can*.

COUNCILMEMBER MATEO: *Can*.

CHAIR CARROLL: Ms. Tavares, Mr. Molina. We have only two, and myself, three. So we cannot have a recessed meeting. That means we will schedule another meeting, but we will have to do it with the posting and everything else and continue. We can continue now until we lose quorum.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

We will continue with the discussion Ms. Anderson has had. When the fifth person has to leave, we will adjourn this meeting. Ms. Anderson, you may continue. Thank you.

COUNCILMEMBER ANDERSON: Thank you. Thank you, Mr. Chairman. You know, I, I think I don't understand this clear enough and so I'm going to just yield at this point and discuss this with Mr. Jencks at another time. So he can explain to me. . .I, I don't understand the flexibility he's asking for when we have a minimum lot area spelled out here. So, I guess rather than waste everybody's time, I'll ask him to explain that to me in detail and we'll deal with it later. Thank you.

VICE-CHAIR PONTANILLA: Chair.

MS. NAKATA: Mr., Mr. Chair, there's a pending motion.

CHAIR CARROLL: Since Mr. Molina has to leave--I'm sorry, Ms. Nakata?

MS. NAKATA: There's a pending motion.

COUNCILMEMBER ANDERSON: Oh.

COUNCILMEMBER JOHNSON: Oh, just withdraw.

MS. NAKATA: Would the Member like to withdraw it?

COUNCILMEMBER ANDERSON: What motion are we talking about?

COUNCILMEMBER JOHNSON: Zero Lot Line.

COUNCILMEMBER TAVARES: Zero Lot Line.

COUNCILMEMBER ANDERSON: I thought it didn't pass.

COUNCILMEMBER MOLINA: No, we didn't vote.

MS. NAKATA: There's a motion pending to delete--

COUNCILMEMBER ANDERSON: Oh, we didn't vote on it? I guess it's getting late. Yeah, I'll withdraw the motion.

CHAIR CARROLL: Thank you. Mr. Molina.

COUNCILMEMBER MOLINA: Mr. Chairman, may I request a short recess?

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

CHAIR CARROLL: One-minute recess. . . .(gavel). . .

RECESS: 4:35 p.m.

RECONVENE: 4:37 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use Committee meeting of October 4th, 2006 is now back in session. Note that we have a bare quorum. . . .Having a bare quorum, it makes it very difficult. But is there any other dates that we might have a recessed meeting, possibly is anybody able to do tomorrow? Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. If we recess now, we gotta reconvene on Monday or Tuesday?

CHAIR CARROLL: We are after 4:30. It is my understanding, and Staff can correct me, after 4:30 we are allowed to go to the next day, and that's what I was told.

MS. NAKATA: Mr. Chair, I believe two other committees have already polled for the Tuesday off-week meeting--both Housing and Human Services as well as Parks and Economic Development.

CHAIR CARROLL: Alright, that's the answer to that. Is, if it would be possible, would anybody consider 6:00 p.m. tomorrow after. . . .Mr. Mateo's Housing meeting, if Mr. Mateo, first, would agree to that?

COUNCILMEMBER TAVARES: We have the Kula forum, the Kula forum is tomorrow night.

CHAIR CARROLL: Oh, Kula forum. That's right. Okay. The other thing is Friday, this is the last date I can propose for a recessed meeting. Mr. Molina.

COUNCILMEMBER MOLINA: I'm open for Friday, after Council.

CHAIR CARROLL: Friday can, after Council meeting?

COUNCILMEMBER MATEO: Chairman, thank you. Friday I would be available; however, I still have a 4:20 p.m. flight and that's the last one back home, unless somebody can take me on a boat.

CHAIR CARROLL: Okay. So could anybody else. . . .let's say Friday at. . . .well, considering 1 o'clock? No.

COUNCILMEMBER TAVARES: Or 1:30.

CHAIR CARROLL: Alright, the Chair is trying over here and I know we all are, but our schedules, it's, I know it's very, very difficult. Mr. Pontanilla.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

VICE-CHAIR PONTANILLA: Can we reconvene on Friday and recess the meeting to--

COUNCILMEMBER MOLINA: Monday or Tuesday.

VICE-CHAIR PONTANILLA: --to Wednesday of next week?

CHAIR CARROLL: I am not sure if that is allowable. I know that subject came up before about having just a meeting to, you know, extend the time, and I don't think that is allowed. It certainly is against the intent of the Sunshine Law. I would not feel comfortable with that. Yeah, that would be difficult.

COUNCILMEMBER ANDERSON: Mr. Chair.

CHAIR CARROLL: Yes, Ms. Anderson.

COUNCILMEMBER ANDERSON: You know, I think we've had all the testimony we're gonna get on this.

CHAIR CARROLL: Yeah.

COUNCILMEMBER ANDERSON: It's been dwindling down and we only had, what, three testifiers today that didn't take up much time. And so I just assume that we, you know, schedule this for a regular meeting because I, myself, am not comfortable going forward without having the Traffic Impact Analysis reviewed. I think that is *critical* in our decision making to make sure that. . .the traffic situation is going to be dealt with, and I'm not comfortable leaving it after the fact for DOT to decide what's going to happen with our road, even though it's theirs. You know, we've asked some *critical* questions and, and this Traffic Impact Analysis is vital to getting those questions answered. And so, hopefully, by then we would have a response from DOT because they apparently still have concerns with it and there needs to be some kind of written agreement with the parties involved, and there's just too much up in the air about it. So, I'm hoping that maybe we can just schedule this during our regular meeting week. This is a hard time right now to--

CHAIR CARROLL: And I might say and I will say for the general public, I had talked to Ms. Anderson earlier, and I said over this podium that the Chair would not pass anything out until we had the information, just so the public doesn't think that we're trying to do that.

COUNCILMEMBER ANDERSON: Right.

CHAIR CARROLL: And. . .yes, thank you. And the idea, again, was to go as far as we could and crafting what we could and answering the questions, and that is the purpose of this meeting and that was the *only* purpose into trying to have a recessed meeting so we could make more progress--not for this Committee, not for the developers, but trying to get something for our

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 4, 2006

community that is worthwhile. That is the whole purpose of doing this. However, it is all moot since we have no one. . .(*chuckle*). . .that can attend the recessed meeting.

The Chair will say to the Members, to the applicant, and the public, I will work with the Chair of the Council to see if I can get an off-week day that will fit the Members and we will be polling, and the reason for that is that we have lots of other business, too, that we need to attend. We have a Molokai meeting that we need to go to on November 15th and we have other things. So the Chair will do his best to work with you and the Staff to try to schedule the next meeting at the first available date that we can work together.

Is there any other comment before I adjourn this meeting? None? Thank you. Thank you to. . .for you Members that could stay late and even the ones that had to leave, thank you to the applicant, and especially to the public out there in the TV land that has joined us today.

This Land Use meeting of October 4th, 2006 stands adjourned. . . .(*gavel*). . .

ACTION: DEFER pending further discussion.

ADJOURN: 4:43 p.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

lu:min:061004:tf

Transcribed by: Tammy M. Frias