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MEMO TO: PSLU-54(5) File

F R O M: TAMARA PALTIN, Chair
Planning and Sustainable Land Use Committee

Tamara A. M. Paltin

SUBJECT: **TRANSMITTAL OF INFORMATIONAL DOCUMENT RELATING TO
KAPALUA MAUKA** (PSLU-54(5))

The attached informational documents pertain to Item PSLU-54(5) on the committee's agenda.

Attachment

RECEIVED AT PSLU MEETING ON 12/3/20
(Committee Chair Paltin)

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

July 13, 2005

Lahaina Civic Center Social Hall

CONVENE: 6:10 p.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Joseph Pontanilla, Vice-Chair
Councilmember Michelle Anderson, Member
Councilmember Jo Anne Johnson, Member
Councilmember Danny A. Mateo, Member
Councilmember Michael J. Molina, Member
Councilmember Charmaine Tavares, Member

EXCUSED: Councilmember G. Riki Hokama, Member
Councilmember Dain P. Kane, Member

STAFF: Tammy M. Frias, Committee Secretary
Carla M. Nakata, Legislative Attorney
Morris Haole, Executive Assistant to Councilmember Robert Carroll

ADMIN.: Michael W. Foley, Director, Department of Planning
Ann Cua, Planner, 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, Planning and Development Division Chief, Department of Parks and Recreation
Carl Kaupalolo, Chief, Department of Fire and Public Safety
Victor Ramos, Lieutenant, Department of Police
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Warren Montoya
Randy Bartlett, Watershed Manager, Maui Land & Pineapple Company, Inc.
Perry Artates
Herman Nascimento, Hawaii Carpenters Union
George Aikala, Hawaii Laborer's Union - Local 368
Thomas Lau Hee, International Brotherhood of Electrical Workers (IBEW) Union
- Local 1186
Jocelyn S. Cardona
James Peat, Villas Accounting Manager, Kapalua Land Company
Shan Steinmark

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Danny Collier

Jerry King

Tom Rosenquist, Maui Preparatory Academy

Robert McNatt, Executive Vice President, Maui Land & Pineapple Company, Inc.

Warren Suzuki, Senior Vice President, Maui Land & Pineapple Company, Inc.

Ryan Churchill, Vice President, Maui Land & Pineapple Company, Inc.

Wes Nohara, Vice President of Farm Operations, Maui Land & Pineapple
Company, Inc.

Pamela English, Development Manager, Maui Land & Pineapple Company, Inc.

Verna Podlewski, Administrative Professional, Maui Land & Pineapple, Inc.

Yarrow Flower, Administrative Professional, Maui Land & Pineapple, Inc.

Tom Schnell, Associate, PBR Hawaii, Land Use Planner (Applicant's consultant)

Wayne Yoshioka, Parsons Brinkerhoff, Traffic Engineer (Applicant's consultant)

Warren Unemori, Warren S. Unemori Engineering Inc., Civil Engineering
(Applicant's consultant)

David Schideler, Cultural Surveys Hawaii (Applicant's consultant)

Rick Kiefer, Kiefer and Merchant LLC, Legal (Applicant's attorney)

Additional attendees (100)

PRESS: Harry Eager, *The Maui News*

CHAIR CARROLL: . . .(*gavel*). . . This Land Use meeting of July 13, 2005 will come to order. We have this morning [*sic*] Councilmembers Anderson, Johnson, Mateo, Molina, Vice Chair of the Committee Pontanilla, and Ms. Tavares. Excused for tonight's meeting are Dain Kane and Riki Hokama. We also have staff and different department chairs with us tonight, department heads with us tonight.

ITEM NO. 69: WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA) (LAHAINA)
(C.C. No. 04-181)

CHAIR CARROLL: We have on the agenda one item, Land Use Item 69, West Maui Project District 2, Kapalua Mauka, Lahaina. We have three bills associated with this, A Bill for an Ordinance to Amend the West Maui Community Plan and Land Use Map from Agricultural and Open Space to West Maui Project 2 (Kapalua Mauka) for Property Situated to the Southeasterly Side of Honoapiilani Highway at Honokalua [*sic*], Napili, Lahaina, Maui, Hawaii. And the purpose of this bill is to amend the West Maui Community Plan and Land Use Map.

We also have a proposed bill entitled, A Bill for an Ordinance to Change Zoning from County Agricultural District and Interim District to West Maui Project 2 (Kapalua Mauka) (Conditional Zoning), for Properties Situated on the Southeasterly Side of Honoapiilani Highway.

And a third bill, A Bill for an Ordinance Amending Title 19, Maui County Code, to Establish West Maui Project District 2 (Kapalua Mauka).

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Tonight we are going to hear a 15-minute presentation from the applicant. Following that, we are going to hear from the Planning Department, and following that we will have public testimony. And after the public testimony, then we will get into the Council Members, turning the floor over to them to ask questions of the departments.

So without anything further, I'd like to call upon the applicant. Proceed.

MR. McNATT: Thank you, Mr. Chairman. Can everybody hear me?

COUNCIL MEMBERS: Yeah.

MR. McNATT: Great. Aloha, Mr. Chairman, Members of the Committee, and members of the community. I'm Bob McNatt with Maui Land and Pineapple Company, 1000 Kapalua Drive, Lahaina. I'd, first of all, like to thank all of our employees for Maui Land and Pine for your support tonight. I talked to the Chair earlier about this, if you could all please stand, everybody who has come to support us tonight. Thank you very much for coming. We, we had sort of just a silent support and that's very nice. Thank you for your kokua. Thank you also for the opportunity to talk to you tonight and present Kapalua Mauka to the community.

I'm going to spend just a few minutes explaining the basics of the proposal and addressing key issues, and then we'll be happy to answer any of your questions. First of all I want to say that Kapalua Mauka is not just another resort development. In reality, it is our chance, that is to say, all of our employees and shareholders a chance to strengthen our company so that we can give back to the community and share the future bounty of our work.

You will see in the presentation that Kapalua Mauka is about giving. In the tradition of the ahupuaa, we want to create an abundance to be shared by all, and we want your help to do it. Tonight we're asking you to approve three items: West Maui Community Plan Amendment; Change in Zoning from County Agriculture to Interim in West Maui Project District 2; Phase I, Project District 2 approval, which is the performance standards and development standards of the, of the ordinance.

Kapalua Mauka incorporates about 900 acres, just mauka of Honoapiilani Highway. Here's Honoapiilani Highway, if everybody can see the red dot. The existing core area of the resort is right there, so mauka, the Mauka project is obviously just mauka of the existing resort. The current Community Plan for West Maui includes 450 acres, a potential for 750 homes and condominiums, 5 acres of commercial, a 27-hole golf course potential, and a density of about 1.7 units to the acre.

What we're proposing to do is change that. So right now the existing Community Plan is this area right there, about 450 acres. We're proposing to include a rural buffer around that, a rural designation that would increase the area to 925 acres and reduce the density by 60 units to 690. The acreage of commercial remains the same at 5 acres, and then there's still the potential for 27

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holes of golf. Of course, there's currently an 18-hole golf course in that location, 16 out of 18 holes. And the density would go down from 1.7 to .7 units to the acre.

The Land Use designations and classification has already been changed by the State Land Use Commission. That was approved in 2004. There's an area of Urban, 515 acres of Urban, pretty much just around the original Community Plan area, little bit more than that. Then there's some Rural designation I mentioned before in this location, as we transition to Plantation Estates and to the north. Then there's another Rural designation mauka of the Urban that would be an additional buffer before you get into the Agriculture and then eventually into Conservation areas. There's 135 acres of Agriculture primarily in the Honokahua Gulch, in that location.

Key issues we want to talk about tonight are transportation, affordable housing, water infrastructure, wastewater, archaeology, economics and schools.

Regarding transportation, we, of course, have done a complete EIS for this project that was approved a couple of years ago. It included a significant traffic impact report, and I guess the, one of the key items of that is that at full build-out of this project in 15 years, it'll add about 166 trips to the a.m. peak hour and about 247 trips in the p.m. peak hour. At, to give you an example of what that means, at the Lahainaluna intersection, Lahainaluna intersection at full build-out of the project in 15 years, it'll be about 3 percent of that, of that, the traffic of that intersection.

So it's a fairly nominal amount, and that's at built-out in 15 years, as I've mentioned. In spite of that, what I'd like to suggest is that we're willing to pay fair, our fair share of regional traffic improvements. Hopefully, the bypass is on its way. It's been mentioned. And it's, there's a contract that's been signed by the State. We've all been praying for it for about, oh, 30 years or so. But we're offering to pay a fee of \$2.4 million or \$3,500 per unit for our regional fair share. Or we'll pay whatever fee the Council comes up with in the meantime, when you get into deliberations on Code Section 14.62. So what, what, if you think something else is fair, we will pay that. But we're offering pro-actively to pay \$3,500 per unit.

We'll also, of course, improve the road next to the project at, to DOT standards as they desire at our cost. So you can see that in spite of the minimal impact, we're offering to pay our fair share, and I want to remind you that when the West Maui Community Plan was amended and adopted in 1996, it considered the larger unit in the overall regional transportation plan. The larger number of units, at 750, and we've reduced that density since then.

Affordable housing. Maui Land and Pineapple Company has a great history of providing affordable housing to our employees, and we're going to continue that tradition. We're proposing to pay, provide our fair share, and we're committed to doing that, or, concurrently with the development of Kapalua Mauka.

What does that mean? I'm going to go through this chart very quickly. I know it's a little hard to read. You have copies of it in front of you at the Council. We'll come back to this afterwards if you have questions, but the key here is that we're willing to provide 25 percent affordable

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housing, that's 173 units, as the fair share number for this particular community of Kapalua Mauka. And it's distributed over, over the various ranges that are defined by the County and HUD as the affordable housing categories. One hundred and twenty-five of those units would be for rent, heavily weighted at the lower end of the, of the affordability scale. So about 79 units in that lowest range. And then 48 units in the for-sale range. But I'll, we'll come back to that later on if you have questions. Key here is that we're willing to provide those concurrently with Kapalua Mauka.

Water infrastructure. In Kapalua, we, our water is provided by Kapalua Water Company. Very efficient water purveyor, regulated by the Public Utilities Commission. We have three wells in the resort, each providing or capable of providing a million gallons a day. And we are currently using about, about 600,000 gallons a day in the resort. This project will add about another 300,000, so one of our three wells will accommodate both the existing development at Kapalua and this, this proposed community at full build-out. Non-potable water supply is provided by the Honolua Ditch.

Wastewater infrastructure. We, my predecessors had the foresight to enter into an agreement with the County years ago in 1994 and pre-purchase connections and help the County expand its wastewater treatment plant. Because of that, the County was able to take care of a lot of customers in West Maui. We paid \$4.1 million for that expansion, and, and for that reason, we have rights to connect to the sewer system. We've been told, and we have a letter from the Wastewater Division that, that there is capacity, somewhere around 1 to 2 million gallons right now. And they are also looking at improving and expanding the plant over the next couple of years. Keep in mind that we probably won't have a house built in this community for at least three years, so we, we're confident that there's plenty of capacity for sewer and we've pre-purchased it and have the right to purchase additional capacity by that contract.

So there's currently capacity of 1 to 2 point, 1 to 2 million gallons per day. This project will use about 176,000 gallons. We have 183 gallons left on our allocation from that agreement and the right to purchase an additional 120,000 gallons.

Next issue I mentioned is archaeology. There are 39 sites in Kapalua Mauka. Almost all of them are in Honokahua Gulch. A very deep gulch that's, that is not been part, it's not going to be developed. None of these sites will be touched in any way. In fact, we'll be preserving all of them. So of the 39 sites, all will be protected.

Economics. Over the life of this project, there'll be \$73 million in taxes to the County of Maui, that's over the next 15 years. On an annualized basis, there's a projection of \$5 million, \$5.6 million in annual property taxes that'll be paid to the County. That's at build-out in 15 years. And, of course, there's also taxes that go to the State. And then there's, because of the residents in the community, there's approximately \$50 million in additional revenue and expenditures by both residents and guests of the community. It's got a very positive economic impact to the County.

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Schools. We've met with the Department of Education and entered into a contract with them to pay almost \$700,000. We'll pay that at building permit. The Department of Education has also told us that there is no need for a school in the project itself or in Kapalua. We agreed with them on that. And in spite of that, we've also provided a 15-acre site for the Maui Prep Academy that is just, just next door to Kapalua. And the good news is there that that's going to be opening in August 30 of this year. So I'll remind you, those of you who haven't read the EIS lately that the projection for the number of students in Kapalua Mauka, because of its resort nature, is 17 students at build-out. So we're paying fees of about \$700,000 to take care of those 17 students and more than our fair share.

So just to recap very quickly, we're pro-actively offering to pay \$2.4 million for regional roads; 25 percent affordable housing, that's 173 units; contribute almost \$700,000 for schools. And by the way, that contract requires that money to be used in the Lahaina complex, so it'll be used locally. And we're going to preserve all the archaeological sites.

Reasons to support this project, we believe, are many. Of course, it's long been anticipated in the Community Plan. It was originally included in 1983. Kind of shows you how long it takes to get things done, besides the bypass. We've addressed all of the, all of the impacts that we've seen. It's going to help sustain our Maui economy. This is one, Kapalua is one of the key engines that drives our economy. It provides jobs, provides money to support everything that we're doing. It's also going to help us create the critical mass in the resort that supports our, our business, the Kapalua Land Company business. You've probably heard that we struggled recently. We've had a couple restaurants that closed. Luckily, we've reopened one recently. We're trying to reopen the other, but, but businesses have been struggling. And these additional units that we're, we're bringing into the community will help support that and hopefully make Kapalua Land Company profitable.

It also updates the, it helps us to update the entire infrastructure of our resort and adds a product, will add a product that will add diversity and a newness that we currently don't have. Almost all of our, our product is fairly old, 20 years old. So it's going to do a lot of things to, to support our Company and provide us with the income that we need in order to do the things that we're trying to do, including supporting agriculture.

So that concludes my presentation. At the appropriate time, we'll be happy to answer questions.

CHAIR CARROLL: Thank you. We'd now like to hear from the Planning Department, Mr. Foley or Ms. Cua.

MS. CUA: Test . . . Good evening, Mr. Chair, Members of the Committee. Just a couple things I wanted to add to the description of the project that Mr. McNatt spoke about. In addition to the Community Plan Map Amendment, you're also being asked to review a text amendment to the Community Plan. And the Community Plan that they're asking to amend is the West Maui Community Plan, and on Page 53 in the Community Plan, a description of Project District 2, Kapalua Mauka, is included and it talks about the 450 acres and the intended uses for the Project

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District. And they are planning to amend that description in just a few areas. One is to better describe the exact location of the Project District. Another one is to amend the language going from 750 units within the Project District to 690 units. Also they plan to amend the overall average density reference. Currently in the Community Plan, it lists the overall average density for Kapalua Mauka to be 5 units per acre, and they're requesting an amendment to .7 units per acre. And then they're also amending the text to refer to, in addition to single-family and multi-family to include resort residential-type uses within the Project District. And then finally to include a Rural residential district within the Community Plan description.

The Phase I plan development approval that you're also asking to review, which is the last application, includes the preparation of an ordinance, which you have before you, and the ordinance establishes standards identifying things like permitted land uses, accessory uses, densities, heights, setbacks, and lot densities. Or, excuse me, lot dimensions.

The Planning Commission did review all of these applications and held a public hearing on July 21, 2003 in this very room, actually. In the Lahaina Civic Center. And the reason for having it in West Maui is because the Project District application requires that the public hearing be held in the affected Community Plan region. And that occurs for the Plan Development Step 1, excuse me, Phase I application. If the ordinance passes through Council, the applicant would still need to come back to the Planning Commission for the Phase II plan, excuse me, Project District application. The Commission would, again, have to hold public hearing in the affected Community Plan region. So we'll be back in West Maui again to have another public hearing in the future. The Project is not within the Special Management Area.

At the public hearing held by the Planning Commission, there was no testimony directly in support or in opposition of this application or the applications. There were, however, six people that testified with some concerns dealing with stream restoration, traffic, and wastewater. The Planning Commission voted to approve or recommend approval of the Community Plan Amendment application, as well as the Project District Phase I application. And they also voted to recommend approval of the Change in Zoning application, subject to a number of conditions. And if you like, I can go over all of those conditions. Would you like me? Where did that go? I had it, I'm sorry. Oh, here it is. Okay.

The first condition was that Best Management Practices designed to prevent infiltration of contaminants from reaching the underlying aquifer shall be incorporated into the design and construction of the Project. Additionally, Maui Land and Pineapple Company, Inc. shall promulgate preventative measures to minimize potential groundwater contamination and provide copies of the preventative measures to new homeowners.

Condition Number 2, that as represented by Maui Land and Pineapple Company, Inc., water conservation techniques shall be incorporated into the Project's design, construction and operation to discourage excessive use of water. Water conservation techniques shall include, but not be limited to, the installing and maintaining of low-flow fixtures and devices, limiting irrigation and turf area, preventing over watering by automated systems, eliminating single-pass

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cooling using, using native plants for landscaping, and installing meters to potable and non-potable water systems.

Proposed Condition Number 3, that Maui Land and Pineapple Company, Inc. shall submit a Preservation Plan for the 39 historic sites recommended for preservation to the State Historic Preservation Division for approval and obtain State Historic Preservation Division approval for the Preservation Plan prior to the commencement of any ground altering activities. Maui Land and Pineapple Company, Inc. must obtain written verification from the State Historic Preservation Division that the interim protection measures are in place prior to the commencement of any ground altering activities. Maui Land and Pineapple Company, Inc. must also obtain written verification from the State Historic Preservation Division that the interim protection measures have been successfully implemented, a copy of which shall be submitted to the County.

Condition 4, that Maui Land and Pineapple Company, Inc. shall obtain approvals of the Maui/Lanai Islands Burial Council and the State Historic Preservation Division Burial Program for its Preservation Plan or relocation of historic sites with burial components prior to commencement of any land altering activities.

Condition 5, that Maui Land and Pineapple Company, Inc. shall notify potential lot owners of the Hawaii Right-to-Farm Act, which limits the circumstances under which normal farming activities may be considered a nuisance.

Number 6, that Maui Land and Pineapple Company, Inc. shall contribute to the development, funding, and/or construction of school facilities on a fair share basis, as determined and to the satisfaction of the Department of Education. An executed agreement between Maui Land and Pineapple Company, Inc. and the Department of Education shall be submitted to the Department of Planning with the Phase II Project District application.

Seven, that Maui Land and Pineapple Company, Inc. shall implement, per State Department of Transportation standards, median left-turn lanes on Honoapiilani Highway into the Project District 2-Kapalua Mauka development at each of the proposed access intersections at Maui Land and Pineapple Company's, Company, Inc.'s sole expense.

Condition 8, that Maui Land and Pineapple Company, Inc. shall implement, per State Department of Transportation standards, appropriate right-turn deceleration lanes at each of the three accesses to the Project District development at Maui Land and Pineapple Company, Inc.'s sole expense.

Number 9, that Maui Land and Pineapple Company, Inc. shall install appropriate signing and pavement markings at each of the three accesses to the Project District development at Maui Land and Pineapple Company, Inc.'s sole expense.

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Number 10, that, as represented by Maui Land and Pineapple Company, Inc., a voluntary contribution for road and traffic improvements in the West Maui Community Plan region shall be provided by Maui Land and Pineapple Company, Inc. to the County of Maui in the amount of \$3,500 per dwelling unit in the West Maui Project District 2 (Kapalua Mauka) area. This contribution shall be made prior to issuance of a building permit. An agreement between Maui Land and Pineapple Company, Inc. and the County of Maui shall be executed and recorded setting forth the terms and conditions of the voluntary contribution prior to Phase II Project District approval. This contribution shall satisfy traffic impact assessments or similar assessments which may be imposed regarding the Project under Chapter 14.62, Traffic Impact Fees for Traffic and Roadway Improvements in West Maui.

Eleven, that Maui Land and Pineapple Company, Inc. shall comply with the County of Maui, Maui's Affordable Housing Policy. A copy of a draft agreement between Maui Land and Pineapple Company, Inc. and the Department of Housing and Human Concerns shall be submitted to the Department of Planning together with the Project's Phase II Project District application.

And that a stream restoration program shall be initiated, initiated for Honokohau and Honolua Streams.

There is also a Condition 13 that is reflected in the draft bill. This Condition was presented to the Planning Department and also to the Planning Commission from the Department of Transportation. It's in our Planning Department's report and was always intended to be a condition of, a proposed condition of the Change in Zoning; however, it was not included, and we ask the Council staff to include that condition.

That concludes my presentation.

CHAIR CARROLL: Thank you. We'd now like to move on with public testimony. Public testimony is now open. Ms. Nakata. Before we call the first speaker forward, you have three minutes and one minute to conclude. We'll notify you at three minutes.

MS. NAKATA: Mr. Chair, the first person who signed up to testify is Warren Montoya to be followed by Randy Bartlett.

...BEGIN PUBLIC TESTIMONY...

MR. MONTOYA: Good evening, Mr. Chairman and Members of the Committee and all others in the community that are here. It seems by the people that stood [*sic*] up earlier that I'm a voice crying out in the wilderness. I have some opposition to this Project. I think we should not just look at it as a microscopic view of what's going on in Kapalua Mauka. It should be looked on as a total problem that we have in the West Maui area right now. Already there are hundreds of units that have been approved for building in the West Maui area that are under construction, that are going to be under construction, or nearing completion of construction. And nothing's been

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done with our infrastructure to handle these units that have been built, let alone the units that are being proposed to be built. So I think that we should stop building anything in the future until our infrastructure catches up with what we have . . . now and already on, on the plannings for the future. Because right now we are stressed with our Police Department. We are stressed with the Fire Department. We are stressed with electricity. Things are going to get worse as more and more people come onto the island. Our traffic problem is being exacerbated because of the continued construction and that was brought home in the past two days with a fatal accident just down the street here and the fire on the Pali, where people have been paralyzed and haven't been able to go to work or get their jobs done that they're assigned to do. So I just think that we should not do any more approvals of any building projects until we catch up in the infrastructure of what we have already planned.

And another thing, the affordable housing. I think if we have affordable housing planned for a community, it should be built in that community. It shouldn't be built at some future date at another location. It should help mix and have some kind of diversity in the community instead of just making, you know, a exclusive resort or an exclusive high-priced home area. But it should all help everybody have an intermingling in the community. Thank you.

CHAIR CARROLL: Thank you. One moment. Any questions for the testifier? Hearing none, thank you. And when you come up to the microphone, please give your name first and if you represent any organization. Ms. Nakata.

MS. NAKATA: The next testifier is Randy Bartlett to be followed by Perry Artates.

MR. BARTLETT: Aloha kakou, Chairman Carroll and Committee Members. My name is Randy Bartlett, and I am an employee of Maui Land and Pineapple Company. I speak on my behalf tonight. Although I was born and raised on Oahu, I've lived on Maui full time since 1986 and with my wife and ten-year old son, consider this island my home, our home. Also for the past 17 years I've worked for Maui Land and Pineapple Company in the capacity of Manager of the Puu Kukui Preserve which consists of over 8,600 acres of Conservation zoned lands mauka of our Honolua Plantation pineapple fields to the top of Mauna Kahalawai, also known as the West Maui Mountains.

Most of you on the Committee may know me from my past appearances before you over the years on behalf of the Maui Invasive Species Committee, which I've chaired since its formation in 1991 and whose on-going work of protecting the health of Maui's people, its unique natural environment and its economy, Maui Land and Pineapple Company strongly supports. And I am very grateful to you and past Council Members for all the support you have provided MISC all these years to help keep Maui Maui.

Tonight, though, I'm here to ask you to support Maui Land and Pineapple Company's Kapalua Mauka project. It is vital to both the short-term and long-term . . . (CHANGE TAPE) . . . trans..., to transform all our operations into a more sustainable model to serve the next five to seven generations of both our employees and Maui residents and visitors. As the land-rich yet

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relatively cash-poor Company, profits from Kapalua Mauka will enable all of ML&P's divisions, agricultural resort and community development, to reach a sustainable balance to maintain a healthy agriculture industry on Maui, to maintain Maui's leadership in the tourism industry, to maintain Maui's leadership in environmental protection, and to provide desperately needed housing for working residents of our island home.

I hope that you will see fit to approve our request for Kapalua Mauka, and thank you for your consideration and time this evening. Mahalo.

CHAIR CARROLL: Thank you. Questions for the testifier? Hearing none, thank you. Ms. Nakata.

MS. NAKATA: The next testifier is Perry Artates to be followed by Herman Nascimento.

MR. ARTATES: Aloha and good evening, Chairman Carroll and Committee Members. My name is Perry Artates, representing the Hawaii Operating Engineers Industry Stabilization Fund, which is a labor management organization. I'm testifying in support of Kapalua, of the Kapalua Mauka project. The reason for supporting this project is basically sustaining our future of our young apprentices that has enrolled in our apprenticeship program. As the percentage of our journeymen near their retirement age, we need to fulfill our pool of classifications within our trade. By doing so, future employment needs to be in place. The period before they become journeymen is six years. Our 7 million training facility in Kahuku teaches hands-on operations as well as up-to-date technology, such as GPS, hazardous material clean up, and a crane simulator for crane certification. We have upgraded with the times of technology to provide our signatory contractors with the quality apprentices and journeymen. Kapalua Mauka will give an opportunity for our young generation in the Operating Engineers of a sustaining future employment. Much mahalo for allowing me to testify on behalf of our future young generation of qualified operating engineers.

CHAIR CARROLL: Thank you.

MR. ARTATES: Mahalo.

CHAIR CARROLL: Questions for the testifier? Hearing none, thank you. Ms. Nakata.

MS. NAKATA: The next testifier is Herman Nascimento to be followed by George Aikala.

MR. NASCIMENTO: Good evening, Chairman Carroll and Members of the Committee. My name is Herman Nascimento. I'm recently retired from the Carpenters' Union. I'm here on behalf and full support of Kapalua development. I think what they have planned for the future of Maui, more so the people of or the residents of the West Maui is commendable. It'll provide work for these people here on the west side of the island. It'll provide much-needed rentals, affordable rentals and affordable homes. We cannot, as leaders of the County, we cannot sit back and wait until the State decides to build the highway. As you probably know and we all know in this

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room, it'll probably take the next 10, 15 years before they get started. In the meantime, what will these people do?

Also, it'll provide much work for the construction industry. Like the speaker before me, the Carpenters' Union, we have the largest apprenticeship program in the State. A lot of the carpenters, like myself, is, will be retiring shortly. In the matter of couple of years, a lot of them will be going out, and we need to fulfill our requirements as far as the apprenticeship is concerned. And we need to provide our contractors qualified, quality carpenter's apprentices. It'll also provide a lot of work for the residents here on the Lahaina side, and the only thing that's going to keep these people here is by providing the opportunity for them to remain on this side of the island. If we have a vision where everything stops until we get the right infrastruc..., the proper infrastructures and so forth and so on, by that time, a lot of these people in this room will be on welfare or homeless. We need to keep the ball rolling. We need to keep the machine well oiled and keep these people employed. Thank you.

CHAIR CARROLL: Thank you. Any questions for the testifier? Hearing none, Ms. Nakata.

MS. NAKATA: The next testifier is George Aikala to be followed by Thomas Lau Hee.

MR. AIKALA: Aloha, Mr. Chairman, distinguished Members of the Land Use Committee. I want to thank you today for allowing me the opportunity to appear before you to facilitate this process related to the commencement of the Kapalua Mauka development in the Kapalua, Lahaina, community. I'm sorry, my name is George Aikala. My title is Apprenticeship Coordinator for the Laborers' Union.

On behalf of the Business Manager and Secretary-Treasurer, Mr. Ben Saguibo, and each of the members of the Laborers' Union and also the apprenticeship members of Local 368, we would like to ask for your support for this project.

As many of you know, Maui has continued to enjoy economic growth during the past several years. With your approval of this Project, not only you will be meeting the needs and the demands of the community, but you also will be supporting and creating the additional work opportunity for the construction industries.

To that end, you will continue to foster overall economic growth for Maui. As it has been shown repeatedly throughout history, that where new construction continues to be supported, the economic viability of a community will follow. Thank you, Mr. Chairman.

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

MS. NAKATA: The next testifier is Thomas Lau Hee to be followed by Jocelyn Cardona.

MR. LAU HEE: Good evening, Chairman Bob Carroll and Members of the Council.

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CHAIR CARROLL: Could you adjust your microphone a little bit. Try tip it down.

MR. LAU HEE: Good evening, Chairman Bob Carroll and the Members of the Council. Aloha, my name is Thomas Lau Hee, and I am the Business Representative for the International Brotherhood of Electrical Workers. And I am here today in support of the project with my fellow members in favor of the Kapalua Mauka Project District. This is an important project for the community and the economy of Maui. With this project going, you know, will bring millions of dollars in property taxes, millions of dollars will be generated for the general, taxes for general for the State, millions of dollars in wages and granted building buy-outs, millions of dollars in estimated of 226 permanent jobs and annual wages generated on an on-going operation and maintenance. And will also bring millions of dollars in discretionary expenditure will be infused into the island economy. The 20-year build-out will allow gradual absorption of population and infrastructure needs. Yeah, thank you for having me represent our union.

CHAIR CARROLL: Thank you. Questions for the testifier? Hearing none, thank you. Ms. Nakata.

MS. NAKATA: The next testifier is Jocelyn Cardona to be followed by James Peat. . . . (pause) . . . Jocelyn Cardona. The next testifier is James Peat to be followed by Shan Steinmark.

MR. PEAT: Aloha, Council. My name is James Peat, better known as Jim Peat. About a little over a year ago, I interviewed with Kapalua Land Company, and I interviewed with a lot of other companies. And the one difference that I saw was a growing, expanding, exciting company that was bound to go somewhere with the plans that they had already scheduled and the dreams that they had. And I bought into that plan. And in addition to that, it's something I can get excited about. And in addition to that, I was representing, obviously, I am an employee of Kapalua Land Company, but I'm also representing myself.

On the other token of that, I would like to have the opportunity some day to own a portion of Maui, and I realize that the success of this project is going to enable, not only the strength financially for the Company, but also for affordable housing. And I support this project and ask for you to support it also. Thank you.

CHAIR CARROLL: Thank you. Questions for the testifier? Hearing none, thank you. Ms. Nakata.

MS. NAKATA: The next testifier is Shan Steinmark to be followed by Danny Collier.

MR. STEINMARK: Aloha, County Council, and mahalo for coming to the West Side. My name is Shan Steinmark, and I'm a West Maui resident. And I've tried to help our community from time to time by helping facilitate Focus Maui Nui, serving on the MEO Affordable Housing Task Force and the Pali to Puamana Task Force with Mr. Foley, and anything else I can do. I wasn't going to testify here this morning *[sic]*, but I, frankly, was inspired by Councilmember Johnson's editorial today. The idealist side of me has three wishes. One, I would like to see planned sustainable growth for our community. It's very hard for us to do, but I would love it if we could

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get to that stage. Second, I would like to see us diversify our economy, more involvement in high-tech jobs and diversified agriculture. My third wish would be to have a primary focus on housing with affordable housing in this County so that all the people in this room could have a home of their own and on the west side if they would like it there.

The realist side of me has a different view, however. If we're going to have growth, if we're going to have tourism, if we're going to have real estate development, then I think we need to have criteria for which projects go forward and which don't, and which companies we support and which we don't.

The first criteria I would suggest is that we support those companies that are headquartered on Maui, where the revenues stay in Hawaii. And among other things, if they're headquartered here, we have access to the people that run those companies and they're accountable to us all.

The second criteria I would suggest is that they have a true commitment to agriculture. Not a pseudo-commitment to agriculture where we pay lip service to it and have so-called gentlemen estates, but we have true agriculture. Agriculture that has investment in R&D, investment in improved manufacturing, investment in improved distribution, and, frankly, investment in education on agriculture. If we don't have this support for agriculture, frankly, we end up with a combination of Waikiki and Beverly Hills, and I would rather have Maui.

Last, but not least, I think the criteria ought to be that the companies here support what the community truly needs, whether that's affordable housing, medical facilities or education. Now, obviously, if we use these criteria, I think Maui Land and Pine comes out pretty good. My career for 35 years has been critiquing corporations. Corporations inherently have no heart. They have no soul. But some of the people inside them do have a heart and do have a soul. My examples with Maui Land and Pine, as I see Bob McNatt and Rob Shelton, from time to time on our island--

MS. NAKATA: Three minutes.

MR. STEINMARK: --and what I notice about them is they're willing to listen, they're willing to care about their community, and, frankly, they don't run away if I critique them. They don't run away. They don't shun me. So it's up to us, the community and our government representatives, to encourage this heart and soul in our corporations. We do this by serving as a check and balance. We alternately support and challenge these corporations, and hopefully we pick the ones that as Steve Case says want to do well and do good. And so I would place one of our bets on Maui Land and Pine. Mahalo.

CHAIR CARROLL: Thank you. Questions for the testifier? Hearing none, Ms. Nakata.

MS. NAKATA: Next testifier is Danny Collier to be followed by Jerry King.

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MR. COLLIER: Good evening, County Council. Mr. Carroll, Chairman. Alice Lee. Opportunities, opportunities and opportunities out here. I've been with, working out on this side here for the last 15, maybe 19 years, and it's all, also been with Maui Land and Pine or Kapalua Development. And right now what I see is opportunities, not only for me. I'm on my way out. It's for the young guys. They're, they're the guys that's going to benefit from all this development out here and all this movements. As far as it'd be my kids, too, and it'll be the future. And I think Bob McNatt guys and all those, they're doing the right thing. They're protecting a lot of, lot of artifacts up there, you know. Archaeological stuff, and which they do care about. And we do, too. That's all I have, and I just see opportunities. That's all.

CHAIR CARROLL: Thank you. Questions for the testifier? Hearing none--

MR. COLLIER: Thirty-five years in the business.

CHAIR CARROLL: Thank you. Ms. Nakata.

MS. NAKATA: Next testifier is Mr. Jerry King to be followed by Tom Rosenquist.

MR. KING: Mr. Chairman, Council Members, my name is Jerry King, and I'm speaking tonight on behalf of myself. However, I am a ten-year employee of Kapalua Land Company, and I'm one of the very fortunate and ones that feel blessed that are part of the Kapua Village, which was the last employee housing project. And I've lived here ten years, and which is longer than I've ever lived anywhere, working for Kapalua for ten years. That's the longer, longest I've worked with any other company in my history. And on behalf of my wife and my two-year-old boy, we plan on being here for the rest of our lives. And the Kapalua Mauka project, in my perception, pretty much stands for the future of what we're doing over here at Kapalua.

And in the ten years that I've witnessed, it's to me it's a no-brainer. It's something that I think is fantastic. By being a part of the Kapalua Mauka Project, not only just being an employee, I've witnessed first-hand the Company giving back to the employees. Not only giving back to the employees, but giving back to the community. So a project like this allows us to take that next step so we can actually give back to the employees more and give back to the community more.

So it's like today, running our Junior Golf Program, I was out there with the rest of our golf staff, and we had, I would say approximately about 80 juniors from the community. Not only just West Maui. There's a lot of people that made the commute, and, from the other side. And it was just fantastic to see those young juniors being able to go out there and learn the game of golf because I'm a little biased, but I believe that golf teaches a lot more than getting that ball in the hole. It sets a foundation for life as well. Honor, integrity, patience, perseverance, yada, yada, yada. I think it's great for our kids.

I know for the last, you know, ten years that I've been here, I've seen Kapalua give away over a thousand sets of custom fit clubs to the juniors, to the community. And I could go on with that, but that's, it's just something that I've seen first-hand, and I've got a lot of passion for working

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for the Company. And I look forward to the future and I'm in full support of this project, and I hope you, as the Council, will support it as well. Thank you.

CHAIR CARROLL: Any questions for the testifier? Hearing none, thank you. Ms. Nakata.

MS. NAKATA: The next testifier is Tom Rosenquist and no further testifiers have signed up.

MR. ROSENQUIST: I'm the one you're looking for. I'm Tom Rosenquist. I am speaking as a resident of Kapalua and also as Chairman of the Board and President of Maui Preparatory Academy, a tremendously wise Council-initiated school that you have re-zoned for us earlier this year and has been supported tremendously by the generosity of Maui Land and Pine. They were able to take the old Honolua dorms, and we've been able to convert those into a wonderful prep school for the west side of Maui. All the kids in the west side of Maui. Kapalua further has supported tuition assistance programs in excess of \$100,000. They provide this wonderful mechanism, provide jobs for the west side of Maui, all over Maui I should say, not just the west side. It's rare that we have a corporate citizen that continues to give and give like they do. You've heard that all tonight. I support. I hope that you support because I think it's the right thing to do. Thank you.

CHAIR CARROLL: Any questions for the testifier? Hearing none, thank you. That was our last testifier that signed up this evening. Is there anyone that wishes to give testimony now? Please come forward. Going once. Seeing none, no objection, we will close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

...END OF PUBLIC TESTIMONY...

CHAIR CARROLL: Members, we will now be dealing with the Committee's, with Housing Committee and then we'll be opening up the discussion to the floor. Ms. Lee.

MS. LEE: Good evening, Mr. Chair. What would you like me to do?

CHAIR CARROLL: That's a very leading question, Ms. Lee. Is there anything that you would like to bring forward at this time?

MS. LEE: Mr. Chair, I believe I sent you a letter the other day, which updates our recommendation for this project. As you know, our original recommendation is about two to three years old. That's how long this project has been pending. Our updated recommendation is to require this project to provide 25 percent affordable housing, and as the presentation showed, the Company is willing to provide 25 percent and actually, quite frankly, a very generous breakdown as shown in the presentation providing homes at 50 percent to 140 percent of median income. We believe

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that this is a very fair and generous offer for affordable housing. A good mixture of for-sale and for-rent homes. And we, in this light, support this project.

CHAIR CARROLL: Thank you. Members, any questions for Ms. Lee? Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. Ms. Lee, it shows here that from the 50 to 80 percent median income, all the houses will be for rent. Forty-six percent of the affordable housing that will be built. If I'm reading this chart right, please correct me if I'm wrong because a tad confusing. There's going to be 125 houses for rent and 48 for sale, is that correct?

MS. LEE: Yes.

COUNCILMEMBER ANDERSON: And of the 125 for rent, 79 will be from the 50 to 80 percent median income, 21 or rather 37 will be from 81 to 100 percent, and 9 will be 101 to 120 percent.

MS. LEE: Yes.

COUNCILMEMBER ANDERSON: Did you do any calculations to see what the, the difference between the rental, the cost of the rental rate would be in comparison to a mortgage payment?

MS. LEE: No.

COUNCILMEMBER ANDERSON: Specifically . . . you didn't? Specifically from the 100, say the 80 to 120 percent median income?

MS. LEE: No. We, as I've mentioned on multiple times, actually, the demand for housing is greatest in West Maui of all of Maui County. And of the types of housing demanded, the greatest need is in rental housing. So this is the reason why our Department supports this proposal because most of the units, the housing units will be for rent rather than for sale. And the greater number of units to be provided will be for the low income, 50 to 80 percent of median income.

COUNCILMEMBER ANDERSON: So you did not do a comparison as to what the, the, the monthly mortgage payment would be as opposed to the rental at these median income prices?

MS. LEE: No, because that's not--

COUNCILMEMBER ANDERSON: Thank you.

MS. LEE: --something we would normally do.

COUNCILMEMBER ANDERSON: Well, we're trying . . . rents are good, but if you're building affordable housing and you're sticking to the guidelines, the HUD guidelines for the median income prices, it seems to me that you could, you could offer these homes for sale as well as you

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could offer them for rent so that somebody could have a stake in West Maui for themselves, their family and their future. And renting, you're just, you're not, you're not putting that money towards any kind of equity or any kind of stake in the future. So I got a problem with all this for rental because I think that you could do the same thing and maybe help some of these people with the down payment and they could still make the mortgage payment at these median prices. So that's why I'd like to see a comparison. That's all. Thank you.

MS. LEE: Mr. Chair, I'd be happy to provide a comparison, but I'd like to add that, as shown up on the screen, the rental rates include utilities. They include utilities. Electricity, water, and also trash pick up. So that's a gross amount, \$702 to \$1,122 and \$1,123 to \$1,403. Okay.

CHAIR CARROLL: Thank you.

COUNCILMEMBER ANDERSON: Could you tell me where that is, where it says that anywhere?

MS. LEE: Right here in my rent guidelines.

COUNCILMEMBER ANDERSON: Well, yeah, but it doesn't say anything in this, that these rental rates are going to be including utilities. It makes a big difference.

MS. LEE: Well, that's why I'm clarifying it.

COUNCILMEMBER ANDERSON: I'd like to see that in writing so that we have that, you know, for the future, that these rental rates include all utilities.

CHAIR CARROLL: We will get that for the Committee Members as soon as possible at the next meeting. Thank you. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Question for Alice in regards to Section 8 monies. On the Section 8 qualification, what income or what median income are we looking at as far as, you know, the most need?

MS. LEE: Councilmember, the Section 8 applies . . . in order to qualify for our Section 8 Program, you have to be earning 30 percent of median income. So our Section 8 clients wouldn't necessarily fit in these categories. However, when you first apply for Section 8, you must be at the 30 percent level, but in following years, you can be at 40, 50, et cetera.

VICE-CHAIR PONTANILLA: So a person like, say, from Central Maui that want to relocate to West Maui and presently are, is on Section 8 Program, can that person qualify for a affordable rental unit in this case here?

MS. LEE: Yes, if they're already on the program, yeah.

VICE-CHAIR PONTANILLA: Okay, thank you.

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CHAIR CARROLL: Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, thank you very much. Ms. Lee, can you tell me how you derived at 25 percent.

MS. LEE: Councilmember, we believe that the Kapalua Mauka Project is primarily, the majority of those units will probably be for part-time owners, so we applied the 25 percent to this project as we would, let's say, a hotel development or transient accommodation. That was the thinking.

COUNCILMEMBER MATEO: And in your negotiation or discussion with the applicant or the developer, was there indication as to when these affordable units would be built?

MS. LEE: They would be built concurrently with the market units.

COUNCILMEMBER MATEO: So if the project is termed at 15 years, when would these affordables be built?

MS. LEE: Concurrently with the market units, one for one.

COUNCILMEMBER MATEO: So, but if, if they're going to be selling after the project is completed, we might not see affordable homes for a number of years?

MS. LEE: Councilmember, for every market home that's built, they must build an affordable unit, so if they build one market unit, then we'll get one affordable unit.

COUNCILMEMBER MATEO: Yeah. Ms. Lee, thank you. I'm aware of that. I think what I needed to know is whether there was a timetable presented to you in your discussion, so we know exactly when these affordables will be planned to come on line.

MS. LEE: I'm not aware of a timetable.

COUNCILMEMBER MATEO: Thank you. Mr. Chairman, perhaps at a later . . .(CHANGE TAPE). . . developer, if they can respond to some of those questions. But . . . well, I just, I have additional questions, but I don't think Ms. Lee will be able to respond to them. I think the developer would.

CHAIR CARROLL: If there's no objection, we'll call the developer forward at this time.

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: Please come forward, Mr. McNatt. Mr. Mateo.

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COUNCILMEMBER MATEO: Thank you, Chairman. Mr. McNatt, thank you very much and good evening. Just to, I guess you heard my question to Ms. Lee. My concern would be or my interest would be when the so-called affordables will be coming on line with your 15-year duration of Kapalua Mauka.

MR. McNATT: Councilman Mateo, thank you for that question. As Ms. Lee indicated, we'll do the units concurrently, so for every time we do three units or even the first unit in Kapalua Mauka, we'll do an affordable unit. The quickest that we can do these units would be probably in the next, by the end of next year, we could start doing some units. Some affordable. Our intent, we really want to do the affordable housing as fast as we can. We have a dire need for housing for our employees, and, in fact, we're having a lot of trouble because unemployment is so low right now. It's about, what? It's less than 3 percent on Maui, probably even less than that on West Maui. We need housing as fast as we can get it for, for people who need affordable housing. So our intent is to do it as fast as we can and chances are it's going to be ahead of the, ahead of the Kapalua Mauka project by at least a year or more. So to answer your question, we hope to have units in the ground within, within the next couple of years. Kapalua Mauka is going to be at least three years away.

COUNCILMEMBER MATEO: Okay, so the first phase of the development project, how many homes are you looking at, how many marketables are you looking at building?

MR. McNATT: Market rate units?

COUNCILMEMBER MATEO: Yeah.

MR. McNATT: We haven't determined that yet. We're going to wait for the market to tell us. Who knows what's going to happen with this market in Kapalua in--

COUNCILMEMBER MATEO: So at this particular point in time, all we know is that as you develop, and you don't know when that's going to happen, we're going to have affordables?

MR. McNATT: That's right.

COUNCILMEMBER MATEO: So how many affordables and when can we expect affordables?

MR. McNATT: Well, we're planning to do 173 affordables during the life of this project; however, we have other potential areas where we can do affordable housing. And we'll do 'em as fast as we can.

COUNCILMEMBER MATEO: Okay. I'm not, I mean, I still think I need a little more information, but since you mentioned location, the location of these affordables, since they're not on-site is going to be located where?

MR. McNATT: We have a property that's zoned, that'll, will accommodate rentals in the Napili area.

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COUNCILMEMBER MATEO: Where? I'm sorry.

MR. McNATT: In Napili. We also have property in Kapalua that is capable of handling rentals.

COUNCILMEMBER MATEO: We're not talking the Pulelehua site?

MR. McNATT: We're not talking Pulelehua.

COUNCILMEMBER MATEO: Okay. Is any of these affordables projected in Pulelehua?

MR. McNATT: It doesn't have to be. They could be. There could be, there's certainly going to be a lot more in Pulelehua with 450 affordable units planned there, we will have a lot more.

COUNCILMEMBER MATEO: Okay, so there is no connect between Kapalua Mauka and Pulelehua?

MR. McNATT: No, there's isn't. None whatsoever.

COUNCILMEMBER MATEO: Okay, so your affordables then should not be located in Pulelehua?

MR. McNATT: Well, they, we would like for some of them to, certainly, but, but, no, there's no connection, and we--

COUNCILMEMBER MATEO: So if you're going to build it there, you're not going to be expecting credits?

MR. McNATT: Well, of course we would. We would want the credits if they're built in Pulelehua because there's going to be so many.

COUNCILMEMBER MATEO: So, with--

MR. McNATT: With over half of the project in affordable housing, we would certainly like to have the credits.

COUNCILMEMBER MATEO: So 51 percent is projected Pulelehua as affordables.

MR. McNATT: That's correct.

COUNCILMEMBER MATEO: So that's what you, you're going to, you know, donate or give to the community in terms of affordability. So this 25 percent with Kapalua, some of it might end up in Pulelehua?

MR. McNATT: That's correct.

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COUNCILMEMBER MATEO: So you're not going to, the credit number is still credited to that separate development instead of Kapalua?

MR. McNATT: Could be. It could be because, of course, we're not going through a 201G process for Pulelehua or any other special considerations. It's just a standard process. So every, every affordable unit that's built there should be, should be a credit towards our requirements, of course. But, but it's not tied to it. You're not, in other words, you're not bound to approve Pulelehua before we start building affordable housing.

COUNCILMEMBER MATEO: Then who are you building homes for?

MR. McNATT: Who are we building them for?

COUNCILMEMBER MATEO: Yeah.

MR. McNATT: For our employees first.

COUNCILMEMBER MATEO: No, Kapalua Mauka project.

MR. McNATT: Oh, for the Kapalua Mauka project.

COUNCILMEMBER MATEO: Yeah.

MR. McNATT: Kapalua Mauka is intended to be a resort product. It's the completion of the core area of Kapalua. So it is our product. It's the product that was created by Colin Cameron 30 years ago, and his great vision to create an upscale resort. That's, it's a continuation of this great resort and bringing it back to worldwide prominence.

COUNCILMEMBER MATEO: Okay. And then I appreciate your reference to the need to take care of the employees because I believe, you know, your boss also has the same vision as well. So with that understanding, can your affordables be built first?

MR. McNATT: We're certainly going to try. We're going to be, as I said before, we have couple of sites we've looked at that we can accommodate some affordables and another site, if it's approved, Pulelehua will accommodate a lot more. That's the intent.

COUNCILMEMBER MATEO: Okay. Chairman, thank you, I'll yield.

CHAIR CARROLL: Ms. Anderson followed by Ms. John..., Ms. Johnson has a microphone, so Ms. Anderson.

COUNCILMEMBER ANDERSON: I think I'm going to be quicker than Jo Anne because I just have a real quick question. Would it be possible . . . are you married to the 125 units for rent?

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MR. McNATT: Well, the 125 originally came from the County, and it was a request to us to find a place because there is such a dire need for rentals at the lowest end. So that's why we offered that right up front--

COUNCILMEMBER ANDERSON: But you wouldn't have a problem doing them for sale?

MR. McNATT: The for sale is a little more difficult because the land that we have currently in title would accommodate rentals very easily. So if we could put the for sales in Pulelehua that would be easy, but I don't want to tie that to Pulelehua and get it, go in that direction. We can easily do it in Pulelehua. It's more difficult to do it outside of Pulelehua, but we do have the ability to do rentals right away.

COUNCILMEMBER ANDERSON: Could we get maybe some maps or some information on what these parcels are, what the entitlements are, what the condition of the parcels are that you're talking about? Because you're not intending to do this affordable housing within the project area, so I would like to know where you do intend to build the affordable housing.

MR. McNATT: Well, most of it, as I said, ultimately a lot of it will be in Pulelehua. Before that, we have a property in Napili, 10 acres, right--

COUNCILMEMBER ANDERSON: Excuse me, Mr. McNatt, you just said that the affordable housing for Kapalua Mauka is not tied to Pulelehua.

MR. McNATT: That's right, it's not.

COUNCILMEMBER ANDERSON: And then you just now said that a lot of it is going to be at Pulelehua.

MR. McNATT: A lot of our affordable housing that we're going to create, not necessarily connected to Pulelehua or to Kapalua Mauka--

COUNCILMEMBER ANDERSON: Well, I'm just talking about Kapalua Mauka right now.

MR. McNATT: Right, very good. So as we, as we begin to build affordable housing, we have other sites that I've mentioned. One of them is in Napili. It's a 10-acre property that's zoned to accommodate apartments, and we can provide you with a map.

COUNCILMEMBER ANDERSON: Great, that would be very helpful.

MR. McNATT: We'll provide that at the next meeting.

COUNCILMEMBER ANDERSON: That would be very helpful. Thank you.

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

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COUNCILMEMBER JOHNSON: Hi, Bob. Thank you for providing this--

MR. McNATT: . . . Jo Anne.

COUNCILMEMBER JOHNSON: --you know, opportunity and bringing your employees with you, too.
I am sure they would rather be--

MR. McNATT: I didn't bring them with me. They all came on their own.

. . . (applause in the audience) . . .

MR. McNATT: I think they were curious to see how sausage is made.

COUNCILMEMBER JOHNSON: No, I'm sure they have their families, too, to deal with so I thank them for coming.

MR. McNATT: And I do, too.

COUNCILMEMBER JOHNSON: One of the things that I--and this is on Page 13 of your, I guess, it's your submittal, which was the Executive Summary--and I'll just read it so then you can probably answer it. It's Number 36, it's Pulelehua Projects intend to include a mix of market rate and affordable rental and, oh, I guess, this is the State Land Use Application Decision and Order, and it's for affordable rental for multi-sale [*sic*], or sale multi-family housing with a minimum of 125 affordable units. You, it says here that your desire to give some priority to employees in the rental and sale of affordable housing units. My, I guess my question is, do you see the issue of affordable being separate from your, I guess your employee housing issue? You know, because there, usually what happens is when you do a resort project, you have employee housing requirement that's triggered off the four-to-one ratio, so that's where Ms. Lee said that she got that guideline I guess. But that's not necessarily affordable. You understand what I'm saying? That I see employee housing and affordable as two different things because in the statement here it says that you may try to accommodate employees, but not necessarily. So I just need to know how that's going to integrate, your employee housing is going to integrate with the affordable.

MR. McNATT: Well, our employees will have first choice. The employees that qualify will have first choice.

COUNCILMEMBER JOHNSON: So all of the units that are proposed both for rental and for sale would go to employees first?

MR. McNATT: If, if that many employees qualify, they would go to employees first. That would be our choice.

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COUNCILMEMBER JOHNSON: Okay, so you don't see employee and affordable as two separate issues?

MR. McNATT: No, because if there is excess, if there are excess units beyond our need for employees, then they are, they will be open to others within the community.

COUNCILMEMBER JOHNSON: Okay, but I guess--

MR. McNATT: . . . (inaudible) . . . an affordable is an affordable, whether it's one of our employees or not one of our employees. So if we have a choice, we want to take care of our employees.

COUNCILMEMBER JOHNSON: Right, and, and I guess what I'm getting to in my mind is that when you look at the studies and other information that we've been provided, part of the rationale for actually looking at the project would be that you are going to be keeping people out of the equation on the highway. You know, in other words, they would be not commuting the long distance. They would be located within the area over here so that would shorten that commute time--

MR. McNATT: Uh-huh.

COUNCILMEMBER JOHNSON: --and they would be kept here.

MR. McNATT: Certainly, yes.

COUNCILMEMBER JOHNSON: My, I guess my difficulty sometimes is trying to commingle the idea of affordable with employee housing because sometimes your people, just as they did not, a lot of them didn't qualify for Kapua subdivision, some of them did, but they weren't in the affordable range. I--

MR. McNATT: Well, Kapua was different because it was, it was based on seniority. It was, it was employee housing and just so happens that I think about 30 of the 45 units, the purchasers of those units would have qualified and do qualify under the HUD guidelines for affordability. So that was, that was just a, I guess a coincidence. It was primarily an employee housing project, not actually, we didn't say, okay, we're going to do affordable housing first. We thought we would do employee, employee lots. That was the choice. But and coincidentally some of them did qualify as affordable. So it's totally different than us saying, first it's affordable and, second, which employees can qualify for that. And then if there's any left over, then they will go to others, others who are employed in West Maui, which would be our second choice.

COUNCILMEMBER JOHNSON: Yeah, and, and I guess where I, you know, I consider the two, employee housing and affordable housing, while they're commingled and they, that could be, I just see that maybe in my own mind as being a little bit of a problem because it's not guaranteed to your employees.

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MR. McNATT: It's not guaranteed to our employees?

COUNCILMEMBER JOHNSON: Not based on what you have in the statement here.

MR. McNATT: Well--

COUNCILMEMBER JOHNSON: It says that you'd like to do it, but--

MR. McNATT: So let's say we have a 100, a 100 units, for instance, but we only have 75 employees that qualify. Then 25 of the other units would go to other needy families, right? And it would, and if someone moved out that was a non-employee and a employee did qualify, then it might go to 76. So I think it, I think it needs to be flexible so that we meet the needs of the broader community, if we can, which would be our hope.

COUNCILMEMBER JOHNSON: Right. And then your other figures with regard to the employee or affordable, you know, employee/affordable housing. Those figures were predicated for your traffic impact studies and, you know, the, you know, the percentages that you had as far as the triggers for traffic. That was predicated on what? All the employee housing or how did you calculate that?

MR. McNATT: Traffic.

COUNCILMEMBER JOHNSON: In other words, to come up with a traffic impact?

MR. McNATT: Traffic was based on the Kapalua Mauka, the traffic generated by Kapalua Mauka itself, 690 units.

COUNCILMEMBER JOHNSON: Okay, and you didn't take into consideration the units that you would be building that employees would be living in?

MR. McNATT: Well, the, those units are already taken, taken into consideration because the property we're looking at is already zoned. It's already zoned for that capability. And I don't want to say that word, but I will . . . Pulelehua has its own Environmental Impact report, its own traffic study and has taken that into account for that project. So each of the projects has its own traffic impact analysis. It's been analyzed and accommodated. So, so it's already taken care of. And the, keep in mind the longer-term nature of Kapalua Mauka in relation to traffic.

COUNCILMEMBER JOHNSON: Oh, and that was the other thing, too. In one place it says here, it's going to be a 20-year build-out and then you've said--

MR. McNATT: We're counting, yeah, we're saying it's now 15 years because we've already, we're already five years into the process, so we're counting that. We're counting the last five years. We're not counting the previous 15 years it's in, it was in the Community Plan, but we are counting the first five.

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COUNCILMEMBER JOHNSON: Okay, so you're already--

MR. McNATT: So now we're saying, now we're saying it's going to take 15. But we're also saying-- and that's the beauty of the Project District Ordinance--is that it needs to be flexible based on market conditions. We all know that we're at the peak of a market right now. We, it very well could stop the next year or so and then maybe we'll have a lot more affordable housing. Perhaps we could catch up just because the market conditions on the affordable housing side. But that, that 15 years could compress a little bit, but we're projecting 15 years right now.

COUNCILMEMBER JOHNSON: Okay. And I guess one final question with regard to the affordable units. When you're looking at the range as low as it is, how does that stack up? You know, when you're looking at income qualifications, where would your, the majority of your employees in terms . . . and I don't want you to give me wages, you know, for every person, but, you know, in terms of what your actual statistics are--

MR. McNATT: The . . .

COUNCILMEMBER JOHNSON: --for your employees? How does that fit into that equation?

MR. McNATT: I don't have statistics for our employees right now, the ones that would qualify because we haven't pre-qualified our employees for this. We do have a list of employees interested in, for instance, Pulelehua. But just, just if you look at the, maybe this'll help, the 50 to 80 range in the upper left box, where it says 50 to 80 percent, that's someone, that's a household that makes from \$31,000 to \$49,800 per year. So that's, that's that range. A lot of our employees fall within that category. The household income. That's husband and wife and two jobs or three.

COUNCILMEMBER JOHNSON: Yeah, if you would be able to just, you know, nail that down a little bit better--

MR. McNATT: So you'd like to know how many of our employees would fit within these different categories?

COUNCILMEMBER JOHNSON: With, within that so then that way--

CHAIR CARROLL: Excuse me, you know, between you two, somebody take a breath before the next one speaks. Thank you.

MR. McNATT: I've been breathing the whole time she's been asking questions.

CHAIR CARROLL: Because our recorders are having a really hard time.

COUNCILMEMBER JOHNSON: No, that's fine. Mr. Chair, I just would like that information then before the next meeting. Thank you.

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MR. McNATT: Thank you, Mr. Chairman.

CHAIR CARROLL: Thank you. Mr. Molina.

COUNCILMEMBER MOLINA: Yeah, thank you very much, Mr. Chair. I can understand the eagerness of everyone here wanting to get at Mr. McNatt right now for the line of questioning because of his charismatic and articulate personality.

MR. McNATT: Thank you. Thank you.

COUNCILMEMBER MOLINA: But I--

MR. McNATT: . . . (inaudible) . . .

COUNCILMEMBER MOLINA: I believe, Mr. Chairman, we had Ms., Director Lee awaiting for any possible questions, and I know you wanted to proceed in a fashion of having our department heads give an overview and then we can get at Mr. McNatt. So I would prefer to respect, you know, that process. I know we somehow got sidetracked here, so we'll all have our opportunity at Mr. McNatt. I have several questions for him, but if possible, can I proceed with hearing from the departments and then go forth that way?

CHAIR CARROLL: If your questions are about housing, it would be appropriate now. If not about housing, then I would appreciate going on to the other departments. But I was letting the dialogue go with housing because I was hoping to address this since it's one of the most serious parts of the application.

COUNCILMEMBER MOLINA: Thank you. I just wanted that clarification. Does, I do have some housing questions with, for Mr. McNatt, but, again, if it's not--

CHAIR CARROLL: Proceed with your housing questions now. I'd rather get, try to finish up housing before we take our break.

COUNCILMEMBER MOLINA: Okay, my question for Mr. McNatt, is that permissible at this time?

CHAIR CARROLL: Yes, proceed.

COUNCILMEMBER MOLINA: Okay, thank you. I'll be very brief, Mr. McNatt. Thank you.

MR. McNATT: Thank you, Mr. Molina

COUNCILMEMBER MOLINA: You're going to get a good workout tonight.

MR. McNATT: All right.

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COUNCILMEMBER MOLINA: With regards to the rentals, you have your 125 of, 125 units for rent, is, has Kapalua considered giving the renters an option to buy over time because as people, you know, some of these renters, potential renters in the future of this project is approved will probably, may have a good chance of bettering their incomes over time. Is it something that you're consider, has the Company discussed this matter?

MR. McNATT: Well, we haven't, no, we haven't considered it, but it's a possibility. We could, we could design a product that might be easily convertible to ownership. That's something to look at. Yes, we could consider that.

COUNCILMEMBER MOLINA: That's something I would, I ask you folks to consider because renting is one thing, but home ownership is another, and I think people take more pride in what they have if they own it, yeah.

The other question I had, will the affordable units for ownership and for rent, will they be intermixed with the market units or will that be segregated in one area?

MR. McNATT: Well, it becomes more difficult if we, if, again, I have to mention Pulelehua. There it is intended to be a complete mix of units, 50/50. You won't be able to tell one from the next other than perhaps size in some cases. But, but if we begin providing units on a smaller site than we currently have zoned, and there's very little zoned property in West Maui for residential, as you probably know. There may be a lot planned, but there's very little zoned. Because of that, we may have to concentrate some of them, perhaps an apartment project on one site at least to get started to do a lot of them before we do the market-rate units, which we'd truly love to do.

COUNCILMEMBER MOLINA: And, finally, Mr. Chairman, in terms of aesthetics, the differences in look between the affordable units versus the market, how big--

MR. McNATT: We don't want 'em to, you don't want, we don't want 'em to stand out at all. They all need to look the same.

COUNCILMEMBER MOLINA: How much more amenities would the market units have as compared to the affordable units?

MR. McNATT: They'll be more expensive . . .

COUNCILMEMBER MOLINA: We know that. I'm just curious as to what kind of additional--

MR. McNATT: For instance, again, there won't be any difference in amenities. We haven't planned it. We haven't designed the project yet, so I can't tell you what the amenities are, but there wouldn't be any difference.

COUNCILMEMBER MOLINA: Okay, thank you. Thank you, Mr. Chair.

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MR. McNATT: I can't wait to get to the hearing on Pulelehua.

CHAIR CARROLL: All right, Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Good evening, Bob.

MR. McNATT: Good evening, Joe.

VICE-CHAIR PONTANILLA: In regards to the affordable housing solutions, the thing is showing on that screen there, you know on your buy-back restrictions, ten years, would the Company consider 15 years?

MR. McNATT: Yes, we would.

VICE-CHAIR PONTANILLA: Good. Thank you. And the other question that I have is that looking at the current Community Plan and the revised Community Plan, in actuality the number of units is going to be reduced, right?

MR. McNATT: That's correct.

VICE-CHAIR PONTANILLA: Okay, out of the 690 units, do you have an idea how many units going be built in years to come?

MR. McNATT: How many total?

VICE-CHAIR PONTANILLA: Year by year?

MR. McNATT: No, we don't. We don't. That's, that's why we need the flexibility for market conditions. We just don't have an idea. It can't, you don't want to say we're going to do 75 or 100. We may do a project that's, that's 200 units at one time and then there may not be a project for a couple of years, and then there'll be another one that might be 200 units. It's hard to tell. It's all based on what the ultimate design of the community is, what the market rate, market conditions are at the time, and then we go forward.

VICE-CHAIR PONTANILLA: You mentioned earlier that you had properties that you could develop for affordable rentals. For instance, that 10 acres in Napili.

MR. McNATT: Yes.

VICE-CHAIR PONTANILLA: So if we were to do that, the 10 acres on affordable rentals, how many units could you get on that 10 acres?

MR. McNATT: Uh . . .

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VICE-CHAIR PONTANILLA: Let's say you do it in the next three years.

MR. McNATT: We could do at least a 100 units on that property. At least a 100 units.

VICE-CHAIR PONTANILLA: At least a 100.

MR. McNATT: We'd prefer not to do that. We'd prefer, as Councilman Molina was suggesting, mixing 'em, so we could start there, build some units, but catch up on that other project that starts with a "P".

VICE-CHAIR PONTANILLA: Well, we're all looking forward to that one. Thank you. Thank you, Chair.

CHAIR CARROLL: Thank you. Any other questions pertaining to affordable housing before we move on to the next department? Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. Mr. McNatt, can you give me an idea-- let's just stick with the 79 units for rent from \$702 to \$1,122--what would be the square footage for those units? And how many people would be able to live in that unit?

MR. McNATT: Well, we don't know the square footage because they haven't been designed. But we're intending to have a mix of units because there are different needs. And, of course, the rent would be less on even smaller units. So we're intending to have a mix of one-, two-, and three-bedroom units.

COUNCILMEMBER ANDERSON: And are these multi-family units or are there going to be any single-family?

MR. McNATT: These are all multi-family units. The rentals would all be multi-family.

COUNCILMEMBER ANDERSON: So the one, one-bedroom unit would be \$702?

MR. McNATT: Yes.

COUNCILMEMBER ANDERSON: Could we get a breakdown on that?

MR. McNATT: Of the number of units and the different sizes?

COUNCILMEMBER ANDERSON: Yeah. Yes.

MR. McNATT: Yeah, we can take a shot at that.

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COUNCILMEMBER ANDERSON: That would be good. And, and, you know, and approximate square footage so that we know what we're getting.

MR. McNATT: Well, you're not getting 'em. Somebody else is actually going to live there, but I know what you're talking about.

COUNCILMEMBER ANDERSON: Well, it's our job to get this for the public.

MR. McNATT: Yes, we're very concerned about--

COUNCILMEMBER ANDERSON: So we want to know--

CHAIR CARROLL: Excuse me, we need to take that deep breath between speakers.

MR. McNATT: We're old friends.

COUNCILMEMBER ANDERSON: I was talking first, Bob.

MR. McNATT: Okay, please proceed.

COUNCILMEMBER ANDERSON: So the 10 acres that you have in Napili, you can get a 100 units there. And that's zoned for multi-family?

MR. McNATT: Yes, it is. It's actually light industrial, which allows multi-family.

COUNCILMEMBER ANDERSON: And so as we go up the scale here, it looks like you're going to have 44 houses for sale.

MR. McNATT: That's what we're proposing, uh-huh.

COUNCILMEMBER ANDERSON: From the 100 to 140 percent range.

COUNCILMEMBER TAVARES: Forty-eight.

COUNCILMEMBER ANDERSON: What did I say, 44?

COUNCILMEMBER TAVARES: Forty-eight.

COUNCILMEMBER ANDERSON: Huh?

MR. McNATT: Forty-eight.

COUNCILMEMBER TAVARES: Forty-eight.

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COUNCILMEMBER ANDERSON: Yeah, 48. Can you give us some idea on what, where and what that might be as far as size? Because it makes a difference, it makes a big difference. Is this for a family of four? I mean, I mean, what kind of size are you going to be proposing here? It's not just numbers and sales prices. So if we could get some idea as to--

MR. McNATT: That would be primarily . . . can I, you want me to answer?

COUNCILMEMBER ANDERSON: Yes, go ahead.

MR. McNATT: Primarily two- and three-bedroom units. In fact, all two- and three-bedroom units. Size will range from 1,000 square feet to 1,500 square feet.

COUNCILMEMBER ANDERSON: And will these be multi-family or single-family?

MR. McNATT: Those are intended to be a mix.

COUNCILMEMBER ANDERSON: A mix?

MR. McNATT: Probably, yeah, there'll be a mix. Mix of product. But multi-family is a possibility and single-family.

COUNCILMEMBER ANDERSON: I would be real interested in knowing, if you've only got room right now in Napili for 100 units, where the other 73 units are going to be located.

MR. McNATT: Well, of course the intent is to get started with the multi-family units and catch up with the single-family as quickly as we can, once we get the other project approved, Pulelehua. And if we can't, if there is some delay in that, then obviously we're delayed. But the intent is to put primarily most of the for-sale units into Pulelehua, which is the great community that we're trying to create. That's where they'll go, the single family. But in the meantime, we could do multi-family units that'll, that'll take care of a great need.

COUNCILMEMBER ANDERSON: Well, if you could give us some idea of where this is going to break down. I mean, not just some idea. I mean, you've gotta know. You've been at this for how many years. You have so much land available. You've got plans in the works all over the west side here, so you should, you should be able to tell us where you're going to put these units. And I think that we need to know that.

MR. McNATT: I think I just did. Okay. And we'll provide you with a map at the next meeting.

COUNCILMEMBER ANDERSON: Okay. The other thing is that you have 250 time share units in Kapalua Mauka.

MR. McNATT: Is that a question?

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COUNCILMEMBER ANDERSON: No, it's a statement. And those 250 time share units would require employee housing, just the same as a hotel would. So that's one employee unit for every four rooms. So the 250 time share units, how many, can you give us an idea of how many rooms those 250 time share units will provide? In other words . . . oh, I know it's 1-to-4, but if the time share unit, what's the equivalent in the time share unit to a hotel unit? In other words, generally it's two people in a hotel room, but are you going to have lockout units? You know, how is the time share going to be configured so that we can get some idea? Now, I've done some calculation and at, of your 690 units, 440 are residential, 250 are time share, at 25 percent of the residential, you've got a 110 affordable units. At 4 time share units equaling 1 employee housing unit, that's 63 units. So the totals come out the same. But I want to know in, really what your plans are with the time share units. And, you know, it's, it seems like maybe this was a recent development in your plans because I didn't see it in the EIS, I didn't see it in the petition to the State Land Use Commission. There was no mention of time share. And I, obviously you're going to put the time share in the urban core of Kapalua Mauka, correct?

MR. McNATT: Yeah, actually the zoning request includes a request for multi-family with the potential for transient vacation units or, or even time share. We're not proposing time share, but it's just an option in the zoning within 250 units. So it would be a similar product to our current villa product, whether it be a one-, two-, or three-bedroom villa, and we don't know what that mix is because we haven't designed 'em yet. But it would be very similar to what we already have in the Bay Villas and the Golf Villas and the Ridge. So it--

COUNCILMEMBER ANDERSON: But still a time share unit is not a residential unit.

MR. McNATT: It's a, it's basically a condominium and--

COUNCILMEMBER ANDERSON: Well, I mean however it looks.

MR. McNATT: --it could be a one-bedroom or two-bedroom--

CHAIR CARROLL: Okay, you know, we're starting to forget to take that deep breath again. It is a quarter to 8:00. We are going to take a ten-minute recess and then we will resume. So this Committee will stand in recess until five minutes to 8:00. Recess. . . .(gavel). . .

RECESS: 7:45 p.m.

RECONVENE: 8:00 p.m.

CHAIR CARROLL: . . .(gavel). . . Land Use Committee meeting will come back to order. Members, even if we have some more questions on housing, we're going to move on and we can always come back if we have more time and . . . (CHANGE TAPE) . . . other departments over here that we need to hear from tonight. And next we'd like to hear from Public Works. Mr. Miyamoto. Do you have any opening statement?

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

CHAIR CARROLL: Members, any questions for Public Works at this time? Hearing no questions from Public Works, I'd like to move on to Parks. Mr. Matsui, do you have anything you'd like to, opening statement?

MR. MATSUI: Councilmen, I guess you all have received our letter. You know, we looked . . . took a step back and looked at the total development for all of that Napili region area. And so right now we're discussing with Maui Land, looking for large acreage. Looking at 60 acres, which would take care of all of future growth for the Napili region. And so we, it's not going to be within this Project District. It's going to be outside of it, but as you know, Maui Land and Pine owns a lot of land in West Maui, and so we're looking at lands mauka of the highway, south of Kapalua Mauka, in and around, perhaps in and around Pulelehua.

CHAIR CARROLL: Thank you. Members, question for Parks Department? Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, Pat, just only for Kapalua Mauka, what is the, if it was a cash-only contribution and then if it was land dedication, what would the formula be if it was tied only to Kapalua Mauka and nothing else?

MR. MATSUI: To meet the subdivision requirements for park dedication, just for Kapalua Mauka for the 690 units, you're looking at roughly 8 acres. But, you know, and the cash equivalent right now, we're looking at about \$7 million. So--

COUNCILMEMBER JOHNSON: Okay, and, Pat, the 8 acres, there's no requirement then that that be in the Project District? It could be anywhere in the region?

MR. MATSUI: That's correct.

COUNCILMEMBER JOHNSON: Okay. Because some of the units are time share or they're resort, I guess more like hotel-like accommodations, what have you been collecting from other similar developments for your hotels--even though I know that there's not a requirement in there for them to pay? This doesn't include these units, is that correct?

MR. MATSUI: For some of the other projects, because they were within the hotel zone, our attorneys advised us that they were not residential units, so they did not have to comply with the park dedication. But, as you know, hotels have a employee housing component, so as far as this development, I'm not sure what the call would be. If it's, you know, because it's time share, whether it's going to be residential development or, you know, hotel. But, you know, that's a question we need to get a reading from our Corporation Counsel.

COUNCILMEMBER JOHNSON: Okay, and, Mr. Chair, I would like at some point, if--and it could be in writing--just to get an answer from our Corporation Counsel on that issue. Thank you.

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CHAIR CARROLL: We will make the request to get that to the Members by the next meeting. Any further questions for Parks? Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. Mr. Matsui, you said the Kapalua Mauka, based on the 690 units or actually it's based on the 925 acres. Is that how the formula works?

MR. MATSUI: It's based on units--

COUNCILMEMBER ANDERSON: Units?

MR. MATSUI: --residential units created.

COUNCILMEMBER ANDERSON: Residential units.

MR. MATSUI: Yes.

COUNCILMEMBER ANDERSON: So you're counting 690 units total?

MR. MATSUI: That's correct.

COUNCILMEMBER ANDERSON: And because . . . maybe I should ask Ms. Cua before I ask my question to you because it's not really clear here. On Page 13, Members, of the Planning Department report, there's a table that breaks down the proposed Project District 2, and it shows the total of 690 units. And then below that, it shows . . . underneath the totals, it shows that the time share units to be 250 units. So is that in addition to the 690 residential units?

MS. CUA: No, it's not.

COUNCILMEMBER ANDERSON: Okay, so then we would have to take the 250 units off the 690 in order to have an accurate formula for the park, park requirement? Is that . . .

MR. MATSUI: We may have to, depends on what we are advised by our attorneys. If they say that's a, is a hotel, then there's no park dedication requirement, so it would be 690 minus, what, 250.

COUNCILMEMBER ANDERSON: So maybe we can get that worked out because I'd also like to know what the dollar amount would be.

MR. MATSUI: That's correct. Okay.

COUNCILMEMBER ANDERSON: Okay, thank you.

CHAIR CARROLL: Thank you. Any further questions for Parks? Does . . . Ms. Cua, do you need any clarification on what was asked?

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MS. CUA: Just a comment. If you look at the Project District Ordinance, as proposed, there's four districts. There's the Village District, which has a mixture of residential, short-term rental, and commercial use. And then you have--

COUNCILMEMBER ANDERSON: What page?

MS. CUA: I'm on Page 2. It's going to be Page 2 and 3 actually. But I'm starting at Page 2, which talks about the land use categories and acreage for the Project District. And you see that there's A, B, C, and D. I'm focusing pretty much on A and B. There's the Village District and there's the Rural Residential District. And so if you go down to 19.92.040, the Village District, Number 2, under Short-Term Rental Uses, that is where you find at the bottom of that paragraph or at the end of that paragraph, where it talks about transient vacation rentals, time share units, et cetera, et cetera. It says, shall be restricted to a maximum of 250 dwelling units. That is the, the maximum amount of units, and I think what you're asking for would, it would really depend on what they decide to do. The Department had concerns with what Kapalua originally wanted. Kapalua came into the Planning Department and wanted the flexibility for all of the units to be able to be transient vacation rentals, to have that possibility. Not that they intended them for all to be, but they wanted that flexibility. And we didn't agree with that and that's why we have that 250 unit limit. But that doesn't mean that it's, that 250 of them would be used as that. So I don't know how you can get . . . I guess you could get an opinion from Corp. Counsel assuming that, but you don't really know what it's going to end up to be because they don't really know what it's going to end up to be.

CHAIR CARROLL: Ms. Anderson.

COUNCILMEMBER ANDERSON: I don't think there's any reason why we shouldn't know what it's going to be. I mean, if, if it's a maximum 250, then we should calculate for that.

MS. CUA: You could. No, you could. You could calculate on the, on the maximum, but I'm just letting you know that--

COUNCILMEMBER ANDERSON: I mean, you know, 'cause . . . you know, I know that this is a Project District and it allows for certain amount of flexibility, but we still have a Zoning Code that we need to follow. And all of these various requirements that and entitlements that they're asking for have various regulations that stem from that. So, you know, the employee housing requirement, the park requirement. We need to have some exact figures, and if they build less than that, well, oh, well. But they have the entitlement and that's what they're asking for.

CHAIR CARROLL: Thank you. Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah, just a point of clarification. There is no employee housing requirement now for anything. The requirement is affordable housing that was changed some years back, and I don't want to mislead the public that there is such a thing as employee housing.

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Now, for commercial developments coming down the line, there may be something called employee housing, but right now we don't have anything on the books described as employee housing. It's called affordable housing. So it's one for four in hotels per unit, regardless of the number of rooms that's in that unit. It goes by units. So if you have a suite or a villa that has five bedrooms or six bedrooms, it still counts as one unit. So, you know, just so people can kind of get a, the gist of what that, the law I think actually reads. And I see the Planning Department nodding, so I, they're the ones who would know. So I just wanted to clear that up. Thank you.

CHAIR CARROLL: Thank you. Any further questions for Parks before we move on to the next department? Hearing none, thank you. Is the Police Department still with us? The representative from the Police Department?

MR. FOLEY: Mr. Chairman, the representatives of the Police Department and the Fire Department had to leave, but they asked me to state that they are continuing to work with our Department to assess their facilities in Napili and Kapalua and the level of service that'll be necessary in the future as future growth occurs. But neither Police nor Fire expect additional facilities within this particular project.

CHAIR CARROLL: Thank you. Since we have neither representative, Members, if you have any questions for the Police or Fire, please let the Chair know, and we will notify them in writing and get your answers at the next meeting. Thank you.

All right, now I'd like to hear from our Corporation Counsel. Where is he? You have any statement to make?

MR. GIROUX: Not at this time, Chair. If there's any questions, I'll field the questions.

CHAIR CARROLL: Any question, Members, for Corporation Counsel? Ms. Anderson.

COUNCILMEMBER ANDERSON: Mr. Giroux, could you tell me, say we were to approve this project and, and they have not identified enough land or a place certain to build the 173 affordable units or whatever it turns out to be, with the intention that some of the units would be built at Pulelehua, does that commit the Council to approving Pulelehua in order to get those affordable units?

MR. GIROUX: No, I don't think so as far as the condition goes. As was stated, it's totally separate. You know, it's going to be up to the applicant to meet those conditions or else, you know, based on the condition, he either doesn't get final subdivision or he doesn't get a permit or he violates his conditions of zoning. So that's what those requirements, if you put 'em in as conditions of zoning, that's what it's tied to. It's not tied to another development. You're not committed to giving up your police power and zoning just because of that commitment.

COUNCILMEMBER ANDERSON: It wouldn't be prudent for us to accept Pulelehua as a location for any of these affordable units, correct?

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MR. GIROUX: I wouldn't go that far. I mean, that's something for the Council to work out. I mean, that's something that can be worked out as far as your calculation.

COUNCILMEMBER ANDERSON: Okay, well, hopefully they can give us some sites that would accommodate the 173 units by the next meeting. Thank you.

CHAIR CARROLL: Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, thank you. I don't know if you'll be able to answer this, but I would at some point in time like an answer. My Parks Committee for years has been trying to make a solid determination as to whether or not park assessments can be required on hotel-zoned land. I had been informed quite some time ago by Council Services staff that there was a State law that prohibited the passage of any ordinance that required park assessment for hotels. May I get an answer because this has been now I think about three years that I've been trying to get some kind of definitive answer. And even if it requires writing to the State, I would like some kind of answer because if there's no legal prohibition, I would like to be able to amend the ordinance. Thank you.

CHAIR CARROLL: Thank you, Ms. Johnson. Any further questions, Members, for Corporation Counsel? Hearing none, Members, the floor is now open to address any department. Seeing none, Members, at this time, it's obvious that we have more questions than we had originally when we entered this room. There's much work that the applicant needs to do to get back to us and also the departments. So at this time, no objection, the Chair is going to recommend deferral of this item.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: RH, DK).

CHAIR CARROLL: Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. I did have a question for the applicant. You asked if there was questions for the department. If I could just ask a couple of questions.

CHAIR CARROLL: You may.

COUNCILMEMBER ANDERSON: Thank you.

CHAIR CARROLL: If the applicant could please come forward.

MR. McNATT: Councilmember Anderson.

CHAIR CARROLL: Ms. Anderson.

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COUNCILMEMBER ANDERSON: Thank you, Mr. McNatt. It's my understanding that you're going to be using water from Honolua Ditch for irrigation of the project. Is that correct?

MR. McNATT: Yes.

COUNCILMEMBER ANDERSON: And have you got any figures on how much, how much water you're going to be using and I have a concern with . . . well, first, let me ask you this. Is the stream flow from Honokohau and, diverted into the Honolua Ditch system? A portion of the stream flow from Honokohau Stream?

MR. McNATT: Is it?

COUNCILMEMBER ANDERSON: Is it?

MR. McNATT: Yes, it has been for about a 100 years.

COUNCILMEMBER ANDERSON: So when we talk about Honolua Ditch, we're talking about stream water from Honokohau?

MR. McNATT: Honokohau and several other sources, yeah. Natural sources.

COUNCILMEMBER ANDERSON: And so when you talk about the condition for stream restoration, I might have that wording wrong . . . for Honolua, that wouldn't include Honokohau?

MR. McNATT: I'm sorry, I don't understand the question.

COUNCILMEMBER ANDERSON: Oh, it says, that a stream restoration program shall be initiated for Honokohau and Honolua Streams. You know, that's kind of a general statement, and I'd like to see it be more specific as far as restoring some stream flow. It says stream restoration program, so if you could tell us by our next meeting how much water you're willing to put back in both of these streams for true restoration of the in-stream life. I know that you've done, you've done a little bit with Honokohau, but I'd like to see you do more, and if we could get some idea before we make a commitment to allow this water, this irrigation water to go to this 925 acre development, I'd like to know how much stream flow you might be willing to restore to the streams for in-stream life and also for taro farmers.

CHAIR CARROLL: Could you get back to us in writing? I don't expect an answer on that tonight. It would really help us. Could you get that back to the Committee before our next meeting?

MR. McNATT: Yes, Mr. Chairman, we can get back to you in writing. I just wanted to say, though, that we're not diverting any additional water for this development. It's water that's already being diverted.

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COUNCILMEMBER ANDERSON: Well, I understand, but it, you know, State Code, State Water Code says that we are supposed to restore in-stream flow to the streams, and I'd like to see you do it voluntarily rather than have citizens have to petition for it or, you know, we have very, we have a few cases going on on the other side of the island right now. And the County is spending money and, and public interest groups are spending money and time litigating. And so because there is a condition here that says that you will initiate a stream restoration program, I'd like to know exactly what that means.

MR. McNATT: Uh-huh. I'd be happy to get back to you with the details, but as I said, we're not diverting any additional water for this project. We have restored additional water to the stream over the past year and added additional measuring devices throughout the different intakes. Right now there's more water going down the stream than there has been in the last 100 years. The stream is continuously wet and, and there's great biodiversity and protection of also the, the indigenous species. So we've made great progress and the stream is, is restored.

COUNCILMEMBER ANDERSON: All the streams that go through this ditch system?

MR. McNATT: I don't understand that question. All the streams that go through the ditch system?

COUNCILMEMBER ANDERSON: Well, you just told me there's several streams besides Honokohau--

MR. McNATT: There's Honolua Stream and Honokohau.

COUNCILMEMBER ANDERSON: And are there others?

MR. McNATT: Not that I personally know of. We can, we can get more information for you.

COUNCILMEMBER ANDERSON: Okay, something in writing would be very helpful. Thank you.

COUNCILMEMBER TAVARES: Chairman.

CHAIR CARROLL: Ms. Tavares.

COUNCILMEMBER TAVARES: Can I ask the Planning Department, on that Condition, who has jurisdiction over overseeing the program that's submitted by Maui Land and Pine?

CHAIR CARROLL: Planning Department? Ms. Cua?

MS. CUA: I believe the Department of Health would have some jurisdiction. I'm not sure who else. Probably, yeah, Water Department, yeah.

MR. McNATT: State Water Commission.

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MS. CUA: Water . . . yeah. Water Commission.

COUNCILMEMBER TAVARES: The State Water Commission. So as you develop a program, it gets submitted . . . I guess I'm trying to find out, when you develop your program, who reviews and approves it?

MR. McNATT: Well, you're asking for it, so we would be submitting it to you, but the State Water Commission has jurisdiction over the water.

COUNCILMEMBER TAVARES: Okay, thank you.

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

VICE-CHAIR PONTANILLA: Thank you, Chair. For fire protection, the water that's going to be used for fire protection . . . I know you use non-potable right now for Kapalua Resort. For Kapalua Mauka you'll be using non-potable also?

MR. McNATT: Yes, non-potable water out of the reservoirs.

VICE-CHAIR PONTANILLA: Thank you.

CHAIR CARROLL: Any further questions for the applicant? Hearing none, members of the public, thank you very much for attending our meeting today. As I said first time, there's many questions that need to be answered and there's a lot of work to do.

ACTION: DEFER pending further discussion.

CHAIR CARROLL: Thank you, Members, for coming all this way to Lahaina, and this Land Use meeting of July 13 stands adjourned. . . .*(gavel)*. . .

ADJOURN: 8:23 p.m.

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APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

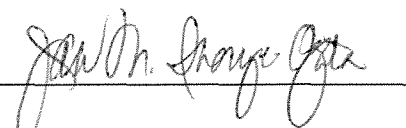
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Transcribed by: Jan Inouye-Ogata

CERTIFICATE

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

DATED this 25th day of July, 2005, in Kahului, Hawaii

A handwritten signature in cursive script, reading "Jan M. Inouye-Ogata", is written over a horizontal line.

Jan M. Inouye-Ogata
d.b.a. Secretarial Services Plus

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

August 31, 2005

Council Chamber

CONVENE: 1:33 p.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Joseph Pontanilla, Vice Chair
Councilmember Michelle Anderson, Member
Councilmember G. Riki Hokama, Member (Arrive 2:35 p.m.; Leave 4:33 p.m.)
Councilmember Jo Anne Johnson, Member
Councilmember Dain P. Kane, Member (Leave 5:45 p.m.)
Councilmember Danny A. Mateo, Member (Arrive 1:34 p.m.)
Councilmember Michael J. Molina, Member
Councilmember Charmaine Tavares, Member (Arrive 1:34 p.m.)

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

ADMIN.: Michael W. Foley, Director, Department of Planning
Ann Cua, Planner, Department of Planning
Michael Miyamoto, Deputy Director, Department of Public Works and Environmental Management
Alice L. Lee, Director, Department of Housing and Human Concerns
John Buck, Deputy Director, Department of Parks and Recreation
Charles Hirata, Captain, Department of Police
Valeriano Martin, Captain, Department of Fire and Public Safety
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Eunice Garcia
Sean Lester
June Higa, Executive Assistant, Kapalua Land Company, Ltd.
Rogelio Ganoy, Supervisor, Maui Land & Pineapple Company, Inc.
Shan Steinmark
Lance Cowan
Dick Mayer
Tom Rosenquist, President and Chairman of the Board, Maui Preparatory Academy
Lucienne deNaie, Sierra Club
Wesley Nohara, Vice President, Maui Land & Pineapple Company, Inc.
Robert McNatt, Executive Vice President, Maui Land & Pineapple Company, Inc.
Warren Suzuki, Senior Vice President, Maui Land & Pineapple Company, Inc.

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Ryan Churchill, Vice President, Maui Land & Pineapple Company, Inc.
Wesley Nohara, Vice President, Maui Land & Pineapple Company, Inc.
Pamela English, Development Manager, Maui Land & Pineapple Company, Inc.
Tom Schnell, Associate, PBR Hawaii, Land Use Planner (Applicant's consultant)
Warren Unemori, Warren S. Unemori Engineering Inc., Civil Engineering
(Applicant's consultant)
Rick Kiefer, Kiefer and Merchant LLC, Legal (Applicant's attorney)
Additional attendees (80)

PRESS: Harry Eager, *The Maui News*
Akaku--Maui County Community Television, Inc.

CHAIR CARROLL: . . . (*gavel*). . . This Land Use Committee meeting of August 31st, will come to order. We have with us this afternoon: Members Anderson, Johnson, Kane, Molina, Vice-Chair Pontanilla. Members Tavares and Mateo and Hokama will be joining us later.

ITEM NO. 69: WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA) (LAHAINA)
(C.C. No. 04-181)

Members, this morning, we have on our agenda only one item -- that is Land Use Item No. 69, West Maui Project District 2, Kapalua Mauka, Lahaina. The Committee is in receipt of the following:

County Communication No. 04-181 from the Planning Director, relating to a request from Robert McNatt on behalf of Maui Land and Pineapple Company, Inc. for a Community Plan Amendment, Change in Zoning, and Project District Phase I approval for West Maui Project District 2, Kapalua Mauka, Honokahua, Napili, Lahaina, Maui.

Correspondence dated July 8, 2005, from the Department of Corporation Counsel transmitting the following:

A revised proposed bill entitled, A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2476 (1996), THE WEST MAUI COMMUNITY PLAN AND LAND USE MAP, FROM AGRICULTURAL AND OPEN SPACE TO WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA) FOR PROPERTY SITUATED ON THE SOUTHEASTERLY SIDE OF HONOAPIILANI HIGHWAY, AT HONOKAHUA, NAPILI, LAHAINA, MAUI.

The purpose of this revised bill is to amend the West Maui Community Plan and Land Use Map for approximately 475 acres from Agricultural and Open Space, respectively, to West Maui Project District 2, (Kapalua, Mauka) to facilitate a request from Maui Land and Pine to develop a 690-unit resort development and amenities at Napili, Lahaina, Maui.

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A revised proposed bill, the second bill, A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT AND INTERIM DISTRICT TO WEST MAUI PROJECT 2 (KAPALUA MAUKA) (CONDITIONAL ZONING), FOR PROPERTIES SITUATED ON THE SOUTHEASTERLY SIDE OF HONOAPIILANI HIGHWAY, AT HONOKAHUA, NAPILI, LAHAINA, MAUI.

The purpose of the revised proposed bill is to conditionally change the zoning for approximately 925 acres from Agricultural District and Interim District, respectively, to West Maui Project District 2 (Kapalua Mauka) to facilitate the proposed development.

And three, a revised bill entitled, A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH WEST MAUI PROJECT DISTRICT (KAPALUA, MAUI [*sic*]), excuse me (KAPALUA MAUKA).

The purpose of the revised proposed bill is to establish the performance standards for the West Maui Project District 2 (Kapalua Mauka).

Before we proceed with and we are going to have the applicant, a short presentation followed by the Department, after which we will have public testimony. Before I call the applicant forward, anyone that has cell phones, pagers, please put them in the silent mode or turn them off. And I would now like to call the applicant forward or their representative. Mr. McNatt.

MR. McNATT: Mr. Chairman, Members of the Committee. I'm Bob McNatt, with Maui Land and Pineapple Company. Good afternoon and aloha. Thank you for scheduling the meeting today, looking forward to talking about Kapalua Mauka. I wanted to first thank all the people in the audience for coming today. There is quite a few of our employees here who have taken time off from their busy schedules to come, and also wanted to thank other supporters who are here. And of course I want to thank those who may have other opinions that are also here to, to speak.

I'll be very, very brief. We had the hearing on July 13th, with your Committee in Lahaina, and there were a couple of questions raised. And, and because of those questions regarding conditions, which we responded to in correspondence on July 25th and August 17th, we, I wanted to address Conditions 11 and 14, which were revised to respond to those questions.

Condition 11 was a condition related to affordable housing. We have, since the hearing of the 13th, decided to offer additional assurances and provisions in that condition. The key one is that we're proposing to provide 40 units of affordable housing prior to or concurrent with the first market-rate unit to be built in Pulelehua. So that, of the maximum of 173 affordable units that could be attributed to Kapalua Mauka, 40 of them will be built before we do any market-rate units.

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Also, suggested at that last hearing was an additional restriction period on those units from 10 to 15 years, and we agree with that restriction and, and are proposing that, that there will be a presale or a sales restriction if somebody buys an affordable unit of 15 years rather than 10.

I wanted to reiterate that, you know, we're proposing something that's unprecedented here. It hasn't happened before for a non-201G process and project. And that's 25 percent commitment for anything built in Kapalua Mauka. By the way, after the, after we build the first 40 affordable units, we would build them one, one for every four units, so 25 percent after that.

I wanted to reiterate, excuse me, the some of the items that we talked about before, very quickly. You'll recall that this project at buildout will generate about \$5,602,002 -- so it's gone up a little bit in property taxes to the County of Maui, \$5.6 million that will cover things such as police services, fire, other administrative services.

We've thought about the infrastructure for this project over many years and because of that had pre-purchased our rights to connect to the Lahaina sewer treatment plant and, and paid a lot of money, millions of dollars in the early '90s to help augment that plant. We also have private water through Kapalua Water Company to supply us adequate water.

We're planning to preserve all of the archeological sites that were identified in the Environmental Impact Statement. We're also proposing to contribute \$3,500 -- that's \$3,500 per unit -- for our fair share of regional highway improvements. Now, that comes to about \$2.4 million if we build the entire 690 units over about a 15-year period.

Finally, we have already entered into an agreement with the Department of Education to pay about \$700,000 in, in fees to DOE that will be used within the Lahaina Complex for school improvements.

The, that concludes my comments. We'll be here and members of our, our team and consultant team will be here to answer more detailed questions later on, but we appreciate your time and ask for your support. Thank you very much.

CHAIR CARROLL: Thank you. Mr. Foley or Ms. Cua.

MR. FOLEY: Thank you, Mr. Chairman and Members of the Committee. At, after the, the last meeting of this Committee regarding this application for Kapalua Mauka, we were asked to prepare a list of West Maui projects, so that the Committee would be able to review this project in context with other development that is proposed in West Maui. Your request to us was dated July 18th; our response to you was dated August 10th; and the Members have that near the end of their booklet for today's meeting.

And I'm not going to go through all of it, but I want to just summarize it for you and then point out the projects on the map on my right and the audience's left. The West Maui residential development projects are, are listed in a chart attached to the memo, and we pointed out in the

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introductory paragraph that it's very difficult to predict exactly when projects will receive all the necessary land use approvals. And it'll even, it's even more difficult to predict when the projects will be completely built out. But the list of projects before you is our best guess as to the development proposed for the next 10, 15 years.

I should emphasize that this is, these are developments that are proposed. A lot of the projects are not approved, and some of the projects probably won't be built for one reason or another. The, the projects are categorized in three different categories: committed projects; planned or designated projects; and proposed projects, with the proposed projects being the ones with the, the fewest approvals and the furthest way to go.

If you'll refer to the list that was attached to that August 10th memo, you'll see a list of 18 projects, and seven of those are Maui Land and Pine projects. Kapalua Mauka is approximately in the middle of that list and the other Kapalua or Maui Land and Pine projects that are on the list are Honolua Ridge, which is on the far left of that map and Kapalua Bay, which is near the, the Kapalua Bay Hotel, then Kapalua Mauka, which is 690 units. Kapalua Village, which is in the central part of the resort, two different phases, and Lipoa Point, which is off the map to the left. And then the last one listed is Pulelehua with a total of 1,149 units.

Some of the larger projects that are on the list are Kaanapali 20/20, which is listed as 2,410 units and Villages of Leialii. We've only listed the first two phases: the one phase that already has infrastructure that's south of the Lahaina Civic Center, that's 104 units; Phase 2 is above the Civic Center. But we haven't listed the other several thousand units in Villages of Leialii because those units are not under the control of, of DHHL.

The other project that I'll point out on the map is the Wainee Village project that's proposed by Kaanapali Development Corporation, and that's at the southern edge of, of Lahaina just mauka of the Honoapiilani Highway.

This list that I referred to of 18 projects, does not include hotels, time shares, projects with vacant lots that are being developed. These are, are basically projects under construction or projects that are, that are proposed. It doesn't include commercial development or public projects or industrial, just strictly residential. The, the total number of units is 6,432, which translate to, in round numbers, 19,000 people at around 3.2 people per, per household. I'll go up to the map now and, and point out some of these projects that have, I've referred to. And . . .

CHAIR CARROLL: I don't think you're going to be able to reach all the way over there. You might have to move the map up there. Mr. Kane will assist you. Thank you, Mr. Kane.

UNIDENTIFIED SPEAKER: Mr. Kane.

MR. FOLEY: I can't move the mike, we move the map. Thank you, Dain. I won't point out all of these projects, because there are a lot of little ones that would be very hard for you to see. But the one

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on the far extreme edge of the map is Honolua Ridge in this location, these are large lots up above the golf course.

The, the next one, the one in lighter green is Kapalua Mauka, the one before you today. This is Pulelehua, which is shown both makai and mauka of the West Maui Airport. Next to that is a DHHL project, which isn't on our list, because it isn't proposed at this time at least. They have four other DHHL projects ahead of this one on their list. But this is 1,250 units DHHL, and you probably realize that DHHL doesn't require County review or approval, so they could basically build that whenever they want to.

Kaanapali 20/20, which is 2,400 units, is, is this U-shaped area. North Beach, which is basically under construction now; the time shares are shown here in green. These are two ag subdivisions proposed up on the hills by Jim Riley and Peter Martin.

And this is, these are the first two phases of Villages of Leli'i [*sic*]. Phase 1 here where the infrastructure has been in for 10 years; and Phase 2, which wraps around two sides of the Civic Center. It doesn't really come around this side, because that's, that's a park area that's been EO'd from the State to the County.

And then the other project of some size is Wainee Village, which is in this location, which was 800, over 800 units in this location. And then there's some smaller projects on the map. That, unless there are any questions at this time, concludes our, our presentation. We just wanted to respond to the, the question asked by the Committee.

CHAIR CARROLL: Thank you, Mr. Foley. We will now have public testimony. We will have questions afterwards, Ms. Anderson. If anybody has questions for Mr. Foley or the applicant please take notes.

For your information, we'll be doing it how we've done all the other Land Use meetings. After the public testimony, I'll be calling the departments up. As each department comes up, questions will be allowed for the Members until we finish with that department until we get through all of them. And the last one we'll get back to is Mr. Foley at the end.

Public testimony is now open. You have three minutes and one minute to conclude. Please give your name at the microphone, and for some of you who are taller or shorter, please adjust the microphone as you come up to the podium. Ms. Nakata.

MS. NAKATA: Mr. Chair, the first testifier is Eunice Garcia, to be followed by Sean Lester.

...BEGIN PUBLIC TESTIMONY...

MS. GARCIA: Thank you for the opportunity to speak. My name is Eunice Garcia, and I'm a records manager for Maui Land and Pineapple Company. I am speaking today because I really wanted to.

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Maui Pineapple Company's Board of Directors has approved investing over \$17 million in a new pineapple processing plant at, in Kahului, and Kapalua Mauka will provide funds needed to strengthen Maui Pineapple Company for generations to come.

My parents and grandparents worked for the plantations and other Baldwin family companies. My brother and I worked summers for Maui Pineapple Company, and our mother retired after 34 years of service. While growing up, I heard of other pineapple companies such as Libby's, Hasarot, and California Packing, here on Maui. And I looked through the history files to see what other companies existed and sadly, so many of them have disappeared.

In 1890, Dwight Baldwin planted his first pineapples in Haiku. In 1904, Haiku Fruit and Packing Company built its first cannery up in Haiku. In 1917, Pukalani Dairy and Pineapple Company started planting lilikoi. In 1909, Keahua Ranch, which is now Maui Pineapple Company, started planting pineapple in Haliimaile. In 1910, Maui Pineapple Company, a group of Japanese men built a cannery in a gulch at Pauwela. In 1914, Honolua Ranch built at Honolua; Baldwin Packers built at Mala; Pauwela Pineapple Company built in Kuiaha; and Haiku Packing and Fruit bought Kipahulu Sugar Company and built their cannery in Hana in 1924.

And in 1926, California Packing Company built the cannery we're in now in Kahului. And Maui Pineapple Company is now the only pineapple canner left on Maui and in fact, throughout the United States. Everybody else is gone and a lot of the names that I had mentioned before, even I had never heard of, they've completely disappeared.

And I just feel strongly that I don't want Maui Pineapple Company to shut down, and I don't want Maui Pineapple Company to disappear. And with the funding from Kapalua Mauka and other projects, we can help to keep our company strong for other generations to come. Thanks.

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

MS. NAKATA: The next testifier is Sean Lester, to be followed by June Higa.

MR. LESTER: Good afternoon, Mr. Chair and Members. I'm Sean Lester. To get back to the same thing that we went through last week, we're at a place where we actually have a major question on what we're going to be doing with affordable housing. I've sat with Bob McNatt and, Mr. Cole and talked story about their company, and I've always been for that company to be able to make it.

Bottom line is that's not what this is all about. What it's about is the future of our Island. Do we have a capacity to handle this tremendous influx of new building on the other side? Do we have the water? Do we have the infrastructure? It's nice to see that they're willing to do \$3,500 a unit, yadda, yadda, yadda. Because you know why it's yadda, yadda, yadda, because this body hasn't put something together where there's a real defined goal for our entire island.

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So, what we have is we have the developers running what's happening with our planning future. We all desperately need affordable housing but at what cost? Once again, we're at that what cost point? I heard last week the moratorium word used, with good reason. You know, if the time that was spent with Hale Mua and some of the other 201Gs, if that time would have been spent putting together an affordable housing authority or policy then these folks would know where they need to go.

I'm asking today for you to turn this down very specifically, because we're getting driven at fifth gear, at 150 miles-an-hour towards a wall, and our kids are going to have to pay for it. So, that's ultimately it. What they're asking, Maui Land and Pine is asking to do is to vote for 690 new market value homes in the Napili area. What that would do is increase by 20 percent the homes in the area. The 173 affordable housing were not in the EIS that they put in, so they're kind of like sidestepping the EIS for the affordable housing they're talking about, something really to take a look at.

As far as the water and what they've done, I went back over and checked with the PUC, and it'd be interesting for this body to take a look at what happened with the, the lands versus the water and you know some of the voting stock. I can give you the PUC numbers on that if you'd like.

But today we're really at a point to ask, is this the time for us to say enough until we get our affordable housing authority in place? And I'm asking you to vote it down. Thank you very much for your time.

CHAIR CARROLL: Questions for the testifier? Hearing none, thank you. Ms. Nakata.

MS. NAKATA: The next testifier is June Higa, to be followed by Rogelio Ganoy.

MS. HIGA: Aloha and good afternoon, Chairman Carroll, and Council Members. My name is, June Higa, and I am an employee with Kapalua Land Company since 1989. I support Kapalua Mauka for several reasons: the success of Kapalua Mauka will make it possible to reinvest profits in sustainability projects that will benefit our entire community. The success of Kapalua Mauka will make it possible for our company to provide affordable homes and rental units for residents who want to live and work in the West Side. The success of Kapalua Mauka will be also be reinvested in agricultural ventures throughout West Maui, Central Maui and Upcountry Maui. I especially support Kapalua Mauka because the company that is developing it is Maui-based and Maui-operated.

Maui Land and Pineapple Company was established over 100 years ago, and it plans to stay in business for another 100 years. They have provided jobs for generations of families, and there is no other company in the islands that offers housing opportunities for its employees.

There was a time when Maui Land and Pine also provided child care for its young. ML&P has been very generous to the community with donations of merchandise, rounds of golf, season

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passes to the Mercedes Championships, golf carts, comp nights in the Kapalua Villas and tons of fresh Hawaiian gold pineapple and canned juice as well as hundreds of thousands of dollars that Kapalua Maui Charities has contributed to non-profit organizations.

We have offered golf and tennis scholarships to our young people in Hawaii and have given away hundreds of sets of refurbished Ping golf clubs to junior golfers. In some way, shape or form, many of us if not all of us have benefited from Maui Land and Pine's generosity.

Maui Land and Pineapple Company is a local company, not a major development company from the mainland coming in to change the face of Maui, make a hefty profit and pack up and leave and take its wealth elsewhere. They are here for the long haul, to live and work in the community and be a major contributor in making Maui truly no ka oi for us and future generations. I say imua Kapalua, imua Kapalua Mauka. Thank you.

CHAIR CARROLL: Thank you. Questions for the testifier? Seeing none, thank you.

MS. NAKATA: The next testifier is Rogelio Ganoy to be followed by Shan Steinmark.

MR. GANOY: Aloha and good afternoon, Chairman Carroll, and Council Members. My name is Rogelio Ganoy.

CHAIR CARROLL: Speak into the microphone, please.

MR. GANOY: Aloha and good afternoon, Chairman Carroll and Council Members. I'm Rogelio Ganoy, I am an employee of Maui Pineapple Company. I am in support of Kapalua Mauka, because it will help provide affordable homes.

I was one of the lucky ones to receive a home at Kapua Village. Without the generosity of Maui Land and Pineapple to sell lots way below market value I would not own a home today. Maui Land and Pineapple has a strong history of providing housing for its employees, and Kapalua Mauka will help to continue that tradition. Thank you.

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

MS. NAKATA: Next testifier is Shan Steinmark, to be followed by Lance Cowan.

MR. STEINMARK: Mahalo, Committee Chair, mahalo, Council Members. My name is, Shan Steinmark, and I'm a resident of West Maui. Today, I would like to invite you to consider two sets of actions: the first is inspired by Councilmember Anderson, and it's important for us to continue to ask Mr. McNatt the tough questions about affordable housing: the numbers, the size, the cost, the location of affordable housing.

For those of us who've been long-time advocates of affordable housing this is a very important chapter in our West Maui area. But I also encourage you to consider another set of actions and

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this was inspired by Councilmember Johnson, that we all lift our heads up, maybe out of our binders, look at the bigger picture, look at all of West Maui and develop what Councilmember Johnson, I believe, has called a core legislative process. It's important to do this because of what Mr. Foley has just demonstrated. We have 10,000 units or 6,000 or 12,000, depending on what number and what day we hear about it.

So, we need to consider more than just this development, more than just this landowner, more than just any one project. We need to consider all of West Maui. And my suggestion of how to do that is to select the best landowners and developers and the best projects for growing and developing West Maui.

We want to make it pono for our aina, our ohana, and our community. We need a fair and balanced process for making these decisions, and most of all we need objective criteria for weighing all these projects. My suggestion, just one vote, one person's voice is that we value those landowners and developers who develop strong sustainable island economy, not just the economy, not just jobs but a strong, sustainable island economy. One where people reinvest the most revenues and profits back into Maui, where they invest the most in recycling and renewable energy in Maui, and one where we invest the most in eco-tourism and educational tourism, not just traditional modes.

We also, of course, need landowners and developers who meet educational, medical and housing needs of our ohanas. And so, I encourage you to look at those variables not just the project itself.

But perhaps most important, building on what some of the people have already said here, I think we need to value landowners and developers who engage most actively in real agriculture. I grew up near farm country, I was taught to respect the people that work the land.

You can always tell the real farmers, they're people who pick up the soil; they rub it in their hands; they can tell you what grows in it and what doesn't grow it. They can pick a leaf off of a corn stalk or a pineapple plant, and they can tell you how healthy that plant is or how much disease it has. They can look up at the sky and they often know the weather before the weather person does. They can point out to their crops and tell you which ones drink the most water and which ones don't. They can survey their fields--

MS. NAKATA: Three minutes.

MR. STEINMARK: --they can tell you when to harvest, when to rotate and things like that. The farmers are the closest to the aina, and I think they are the best stewards of our land and we need to find a way to support those people. So you. . .(CHANGE TAPE). . .I hope you vote for those that have the most interest in strong sustainable island economy; for meeting the needs of our ohanas; and for serving as invaluable stewards of our aina. I hope you encourage companies that do well and do good with a fair and balanced process and objective criteria. Mahalo.

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

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COUNCILMEMBER KANE: Thank you. Thank you for your testimony. Sir, do you consider this applicant that's before us today as one who fits the criteria that you've just drawn for us?

MR. STEINMARK: Let me answer that a bit cautiously. My main interest always in the projects I've been working on in West Maui, for as long as I've been doing this, is to focus on coming up with a fair and balanced process and to come up with objective criteria. Some groups listen more to this than others; some are working already on it more than others before I arrived on the scene; and some do better or worse without me involved in it.

The interesting thing is, I have had the least contact I think with the Maui Land and Pine of all of the, the landowners and developers on the west, excuse me, the West Side. But I am very impressed with what they do for the sustainable island economy and what they do for agriculture.

I think you have to make some judgments yourself about, you know, how you do affordable housing and where it fits on the map here. And there may be a lot of contenders for who is doing well in that category. But when it comes to the sustainable island economy and the, and the real agriculture, I don't see anybody close, frankly.

You'll have to make up your judgments and one of the things I always encourage in the processes I'm working in is to get a wide diversity of opinions to judge that. I don't think any one person should really have more weight than the others. I just, not many criteria. But you know if you ask a random sample, not just in this room but anywhere in the island, I think you might, might get some interesting results.

COUNCILMEMBER KANE: Thank you. Thank you, Chair.

MR. STEINMARK: Mahalo.

CHAIR CARROLL: Thank you. Further questions? If not, thank you.

MR. STEINMARK: Mahalo.

MS. NAKATA: The next testifier is Lance Cowan to be followed by Dick Mayer.

MR. COWAN: Good afternoon everyone. My name is Lance Cowan, and I've been an employee of Maui Land and Pineapple now for approximately 10 years. I'm here in support of Kapalua Mauka and also to express my gratitude to Maui Land and Pineapple and the County of Maui for giving me an opportunity to purchase land and build a home at Kapua Village, which was Maui Land and Pineapple's most recent employee housing project.

Without this opportunity, my dream of becoming a homeowner on Maui could not have been possible. So, thank you again; thank you for your time.

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CHAIR CARROLL: Thank you. Questions for the testifier? Hearing none, thank you. Ms. Nakata.

MS. NAKATA: The next testifier is Dick Mayer.

MR. MAYER: Hello, Council Members, Chair Carroll. My name is, Dick Mayer. I'd like to urge caution on this one. I think this project is very, very large; it hasn't received a lot of attention in the press. I suspect very few people on Maui: A, either know about it; or B, recognize the enormous scale of the project. I think if had been described at least that you'd have some people here, large number testifying for or against it.

I'm concerned because the EIS that was drawn up did not look at the entire area and all the projects that this company is involved in. They have a whole separate EIS on Pulelehua, I suspect on other projects as well. And my understanding of the law is that an EIS should be comprehensive, it should not be segmented into different projects. This would be like any developer or any, and anything taking their big project of 1,000 units and dividing it up into a 1,000 different EISs, each one for each unit.

What we need to have is a comprehensive look at all of the Maui Land and Pine projects. We had, from Mr. Foley, some numbers on some of those projects, there's indefinite numbers on many, many others.

What he didn't include was all the development in Olowalu. And the reason why that's significant is that the major infrastructure problems of West Maui I would see for the three: one is the high school -- not necessarily in order -- number two, health facilities and number three, the highway connecting West Maui to Central Maui.

They were offering to pay twenty . . . \$2,300,000 towards that highway. The estimate is it's probably somewhere in the order of \$400 million would be needed to build a highway from Maalaea to Puamana through Lahaina. This 2.3 million is a tiny drop. I think one good intersection is probably all you'll get out of that amount of money.

The traffic already is backed up, it's dangerous, we need to buy it right away, we need to put probably another way to get over the Pali, et cetera. You know the problems, and so I think the, the amount they're offering to pay for that is much, much, much too low for the project's impact. Not to mention all of the other, Pulelehua and all the other projects that will add to that and all the other projects that will come along.

The number that I heard for Olowalu . . . yesterday, I was at a meeting some people from Olowalu, they were talking about 1,500 units just in that little community that would have to be, you know, would have to get through that area.

The finances of Maui Land and Pine are talked about here as if this is needed to support the agricultural building. Just recently, they sold the Hui Noeau lands for somewhere in the order of \$10 to \$15 million, I don't know what the final number was. They also have been in the process,

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and I don't know if it's concluded, the sale of that triangle above Pukalani Superette. They also have sold two very large parcels in Lower Kula for, what I understand, is close to \$20 million.

So, the amount of money is not needed from this project to support the \$17 million new agricultural facility. That they already have the money. This would be a project with -- and you can do the math -- somewhere around 690 units times 2 to 4 million or 2 to 6 million per unit. We're talking about probably somewhere about \$1.5 billion in revenues from this project, far in excess of anything needed to build another ag plant, and I believe the money for that's --

MS. NAKATA: Three minutes.

MR. MAYER: --already available. May I come back at the end, please?

CHAIR CARROLL: No, there is no coming back. You have one minute to conclude.

MR. MAYER: Thank you. Thank you. And finally, the community plan itself, excuse me, the General Plan of the County asks that resident housing be provided. My guess is that very few of the 690 units are going to be for any residents who are now on the island. And it'll be interesting to see how many people stand up today and say, I'm so looking forward to building a house, excuse me, to buying a house in this project area, unlike what you heard last week with the affordable housing project where many people said, I need a house, I'm desperate. My guess is they are almost no residents that are going to be buying a house in this area. What we're essentially doing is bringing in another three to four thousand people to live in this project. Thank you very much.

CHAIR CARROLL: Thank you. Questions for the testifier? Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, Dick, thank you for coming. With regard to your comment about the, the regional impacts, now you mentioned that it was only just the projects associated with their development or were you referring to all of the cumulative impacts of projects for the region?

MR. MAYER: Okay. When the company goes in or a developer goes in for a community plan change, my understanding is that they have to provide a EIS. And that EIS should look at not just that project but essentially all of their projects. So, that means all of the Maui Land and Pine projects. The Planning Director mentioned, I think, seven of them that are, that, that company is planning in that area. And all seven of them should be one EIS, so you would see the interaction in water, sewage, schools.

Lahainaluna High School, I read the EIS for Pulelehua, which is separate, and already it talked in there that Lahainaluna already is two or three hundred students over its capacity. I don't see a public high school being proposed, and I don't see the State providing one on the West Maui for many years to come. The small amount of money they offered for that. So, that's the type of thing I'm talking about.

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Now in addition to that, what the Council needs to do, I think, is get a look at the whole West Maui area from the Pali all the way up to Honolua not just the area that Mr. Foley mentioned that starts, starts at Lahaina north. It's really all of West Maui because all of West Maui needs a hospital, desperately. It needs good transportation to Central Maui, desperately. It needs a high school, desperately. And those are just three, not to mention water, sewage and all the other things that are needed.

So, yes, to answer your question, I think a comprehensive EIS is the requirement, and I only see it for this project and not for their total development. And Mr. Foley didn't even mention the tear-down and the reconstruction of Kapalua Bay Hotel, which is an additional project.

COUNCILMEMBER JOHNSON: Okay. Thank you very much, Dick.

CHAIR CARROLL: Further questions? If not, thank you.

MR. MAYER: Thank you all and good luck.

MS. NAKATA: The next and last testifier signed up is Tom Rosenquist.

MR. ROSENQUIST: Hi. I'm Tom Rosenquist. I am a resident of Kapalua and the present Chairman of the Board of Maui Preparatory Academy. Stand up, start out comments today relative to Kapalua and as a resident. I support this project, it's been a joy to live in Kapalua, it'd be great to have a lot more neighbors.

As far as the school goes, the Land Company has been our biggest donor so far. They provided the land, 15 acres; the buildings; they supported, they built a road there; \$150,000 of tuition assistance for all children on Maui. We're lucky to have a company like this. I think that it would be reticent to not to support this. They've been the best steward of the land, they'll continue to do the right thing. Thank you.

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

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. Thank you for being here. Could you maybe in like just a generalized guess, what is the value of the contributions that Maui Land and Pine has made to Maui Prep Academy?

MR. ROSENQUIST: Well, we have, we had gotten an appraisal when we were putting the thing together, so it was over \$7 million for the land and the buildings and another million dollars for the entrance road that they're putting in. And then they've given us \$142,000 of cash for tuition assistance.

COUNCILMEMBER ANDERSON: And so, would it be fair to assume that the, the contribution they've given towards Maui Prep is because they're anticipating that people who will be living in Kapalua Mauka may want to send their children there?

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MR. ROSENQUIST: I'm not so sure that, that's the case, because they're doing it way ahead of Kapalua Mauka even in any of the approvals that have been given. So, all of the, this has been a dream of Chairman Cole's to have a school in the Kapalua area and to have an alternative for the people of West Maui, all the people of West Maui--

COUNCILMEMBER ANDERSON: Thank you.

MR. ROSENQUIST: --which is why they've been so good to and supporting not only just the, the gift of the land and the, and the roads and all the rest but also the tuition assistance, which goes to all kids.

COUNCILMEMBER ANDERSON: Thank you very much.

MR. ROSENQUIST: Alright.

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

VICE-CHAIR PONTANILLA: Thank you. Good afternoon, Mr. Rosenquist. The Maui Prep Academy, what type of school will they be focusing on?

MR. ROSENQUIST: It's, we're starting out as 6th, 7th and 8th grade and then adding one year every year going forward. It takes three years to get accreditation for colleges, so we'll be six through twelve to start out.

VICE-CHAIR PONTANILLA: And part of the curriculum would be?

MR. ROSENQUIST: It's, it's a baccalaureate program, which is based also in conjunction with Earth University. So, it's a broad-based five major program going through, through school with the addition of extra units available for marine study, biology study, earth sciences, things like that.

VICE-CHAIR PONTANILLA: Agriculture?

MR. ROSENQUIST: Yes. Oh, definitely, agriculture. That's why Earth University is part of it.

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

CHAIR CARROLL: Any further questions for the testifier? If not, thank you.

MR. ROSENQUIST: Thank you.

CHAIR CARROLL: And I see we have one more person signing up for testimony. If there's anyone else that wishes to give testimony, please come forward and sign up at the counter over here. Right to the podium.

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MS. deNAIE: Thank you, Chair Carroll and Members of the Council. My name is Lucienne deNaie. You all know me and testifying today for Maui Sierra Club. Oh, we've testified on this project at a variety of venues and we want to make sure that the right questions are asked about water issues surrounding this.

Just a kind of a quick thumbnail sketch: the systems that supply the Kapalua lands are a dual system: one for potable water, one for non-potable water. The non-potable water comes from the Honokohau Stream by way of the Honolua ditch and the County also uses water from this same source. The County uses an average of about 3 million gallons a day for the, from the ditch, but records show that over the course of a year about 25 million gallons a day are transported by this ditch.

And the majority used to go to Pioneer Mill. They are out of business right now, and we sort of have a similar situation here that we did in the West Maui area with Wailuku Agriculture that we have a business that doesn't do a lot of farming now and still a large amount of water that used to go to their lands is traveling in that direction.

The water is not controlled by Pioneer Mill, it's controlled by Maui Land and Pine. It has been a business venture for them since they first built the ditch in the early part of the century. And our concern is as more development is approved in this area, they will have dual potable systems and non-potable systems. This is a good idea, but the non-potable system should use reclaimed water rather than continue to put claims on the Honokohau Stream water.

So, we ask you to consider looking at conditions that can make sure there's adequate stream flows, not one to two million gallons a day in the stream as is presently there but around 6.5 million gallons, which is what the USGS concurred would be the minimum base flow of this stream. Their records, that go back to 1916, confirmed that, that, you know, even when it hasn't been rained for weeks that's what flows in the stream.

I'd be happy to provide more information anyone who's interested. I know the time is short here, but there needs to be a way to make sure there's adequate stream flows. There is a study that Maui Land and Pine has done, your staff should review it, they should compare it to the USGS study on Honokohau Stream and you know try to get to the bottom of this, so that we don't overlook this great resource one more time as the next level of demands increases.

I believe your Committee or your Water Committee heard a report in July by the Department of Water Supply saying that the County was looking for ways to phase out of their use of Honokohau water. And I don't know if pressure has been put to return that water to Maui Land and Pine or not, but that might be another question you'd want to be asking your Water Department. Thank you very much.

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

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COUNCILMEMBER MATEO: Chairman, thank you. Good afternoon, Ms. deNaie. So, the Sierra Club's only, I guess, concern with this total project is its water uses?

MS. deNAIE: Well, we submitted extensive comments to the Land Use Commission and also to the Planning Commission on other topics. But I thought with three minutes that it might be best just to stick to the water. We have concerns about the lack of affordable housing on site. It just seems a, you know, continuation of a very poor precedent of segregating the wealthy and the poor and our visitors having no authentic contact with anybody except a maid that might come to their room.

We also have concerns about the protection of the marine districts there, Honokohau, I mean Honolua Bay has had terrific impacts in the past few years. It's usually said that development will decrease that, but there is no real proof of that. So, I know Maui Land and Pine is a company that wants to do the sustainable thing, and I feel that, you know, they may need a little shove to go a little bit further beyond what's been done in the past.

Also, the grading on the slopes, I don't know if you folks remember from your site visit, but a lot of the proposed growth is on steep slopes. And that does, you know, end up in runoff usually even with the basins, the basins. If you talk to people who have basins in their already-developed areas like Kahana Ridge they'll tell you, those basins get filled and then they overflow and then well, where does the water go, you know, into the ocean. So, I noticed that Kaanapali 20/20 has really minimized any developments on their upper slopes, and I think that, that was the reason for doing that. So, these are some of the areas of concern that we expressed.

We'd really like to see a way that there's a partnership that allows this area to use the readily-available, good-quality reclaimed water that, that is just begging for use in, in West Maui.

COUNCILMEMBER MATEO: Thank you. Thank you, Chairman.

CHAIR CARROLL: Further questions for the testifier? Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chairman. Thank you for coming, Lucienne. You mentioned 6.5 million gallons a day is what USGS, according to their studies does . . .

MS. deNAIE: This is the conclusion of their study and you can, you can see it online.

COUNCILMEMBER ANDERSON: And that's the amount that's needed to restore stream flow?

MS. deNAIE: This is their base flow. You might get, you might get by with a little bit less, but this is what the stream naturally would have as its flow if it was in drought conditions, if, if there was not significant rainfall. This is the ground water.

This stream is so deeply incised that it actually cuts through into the groundwater table, and the USGS also notes that of the sustainable yield of that entire aquifer, Honokohau Aquifer that

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probably majority of it is discharged in the stream. So, since the majority of the stream is, you know, being diverted, you know, there's kind of no place else for the aquifer to get water.

COUNCILMEMBER ANDERSON: The study was done when? Do you know?

MS. deNAIE: 2003. It's on the website of the USGS.

COUNCILMEMBER ANDERSON: It's on their website --

MS. deNAIE: Uh-huh.

COUNCILMEMBER ANDERSON: --and it's, it's identified as Honokowai Stream Study?

MS. deNAIE: Honokohau.

COUNCILMEMBER ANDERSON: I mean, sorry, Honokohau?

MS. deNAIE: Yeah. Uh-huh. And also Maui Land and Pine has done a study of, of stream life, and you would probably want to have that, too and compare the two. I, I haven't, I don't have a copy of that, so I can't speak to it.

COUNCILMEMBER ANDERSON: And do you know how much water is being diverted, total amount that's being diverted?

MS. deNAIE: Well, you know, it varies from day to day. But you know some days it's as much as 60 million gallons according to the reports up to 2002, that I was able to review at the, the Water Commission. Some days, it's 13 million gallons a day, it really varies. In times when it's not rainy and, and Maui Land and Pine folks will tell you this, everybody is fighting for water, 'cause there's barely enough for the County to take its three to four million gallons.

Also, the County's use varies, sometimes the County takes up to five million gallons a day, sometimes it's only two. So, it averages out around three.

COUNCILMEMBER ANDERSON: And so, is there any indication as to how much water is typically left in the stream? I know, you know, rainy times is not--

MS. deNAIE: Yeah. The USGS report -- I hope I quote correctly -- I think about 89 percent of the time, the majority of the water is, is diverted below the, you know, in other words, the stretch below the diversion gate is dry. Now, there is a spring that's part way down the stream, this is the longest stream in the West Maui Mountains it's very, very . . . it's 15 miles long or 15 meters long. Anyway, it's a long stream, and so there's, you know, different springs and things that, that come up along it. But a spring does supply some more water, so that there is a small flow at the mouth.

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COUNCILMEMBER ANDERSON: I guess what I'm trying to get at, Lucienne, is of the six-and-one-half million gallons a day that USGS recommends as base flow--

MS. deNAIE: Yes.

COUNCILMEMBER ANDERSON: --how much, actually, currently, is there on an average?

MS. deNAIE: One point five million gallons up to maybe two million gallons, but there's a taro gate that releases about a million gallons a day and there's a spring that supplies about a half million a day.

COUNCILMEMBER ANDERSON: So, we're short about five million gallons a day?

MS. deNAIE: Well, I believe Maui Land and Pine was talking about releasing more water out the taro gate for growing taro. But I just want to be clear that growing taro is important, but the biological health of the stream is a sort of separate subject and needs additional flows of water.

COUNCILMEMBER ANDERSON: Thank you very much.

MS. deNAIE: Thank you.

CHAIR CARROLL: Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, Lucienne, I appreciate your information. When you looked at the water concerns that you had for that area, and I know you've had extensive studies and involvement with studies about water. Because of the magnitude of the actual buildings that would be going on the land -- you're talking, you know, many, many units -- and because of the fact that you'd be sealing some of these areas off with concrete or you know making them impervious to rainfall, did you look at what would happen to the recharge for that region just simply by hardening the surfaces?

MS. deNAIE: Well, you know, that's a very good question and I wish I had the scientific background to give it a justified answer. I will say, the things that should be looked at are the project is going to use more water from the Honolua Aquifer, groundwater from existing wells, and those wells have never been very heavily pumped. So, we don't know what's going to happen year in, year out if another seven-tenths of a million or half a million gallons is pumped from them. They're pumped at, at about, I think, under a million gallons among all the three wells right now.

However, that aquifer does supply a lot of our drinking water for our domestic system. For the County, we have wells in, in the, in the Honolua Aquifer, and we would be recharge..., you know, concerned about the recharge capability. And I think that, you know, that's something that information should be provided before the Council makes its final decision since it impacts the County's drinking water sources and the County's wells there.

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Or you can ask our own Department, they've had very mixed results in terms of their productivity. There's also the pollution, you know, from DBCP, which affects the County's well there, Honokohua A So, hopefully that gives you, you need to ask more questions of people more expert than I, but my guess would be that it could have some effect and it should be, you know, determined.

COUNCILMEMBER JOHNSON: Okay. Thank you very much, Lucienne.

CHAIR CARROLL: Any further questions for the testifier? Hearing none. Thank you. Ms. Nakata.

MS. NAKATA: The next testifier is Wes Nohara.

MR. NOHARA: Good afternoon, Chairman Carroll and fellow Council Members. My name is Wes Nohara, I'm with Maui Pineapple Company. I've been an employee of the company for about 26 years. My grandfather starting working in 1921, and my dad retired in 1986. So, we go span three generations working for the company. Needless to say, I support this project. The company has been good to its people, has been good to me and my family.

More importantly, I'd like to say that we really do need to look at the bigger picture, what does Maui Land and Pine represent not only in West Maui but all of Maui County? Our importance in supporting jobs, the economy as well as the environment. I know there's talk about water and there is a balance, and we're working towards finding what that balance is. However, that water is very important including partners as the County of Maui, our resort as well as much of the various industries of West Maui, all of the agriculture that's based on that water.

Just to also get some of the highlights, you know, we span not only giving of charitable donations to the community, but we're a major player in protecting the upper watersheds, the Pukukui Watershed. And we take that leadership role, one that is so important that it protects our, our environment and our future water supply for all of Maui County.

We also take a leadership role in West Maui for the soil and water conservation projects. And I can tell you right offhand that in my all the life that I've lived in West Maui I've never seen the coastline cleaner and the improvements that we've made working with the Soil and Water Conservation District.

But that's just a glimpse, you know, the things that we have added to our community in forms of parks, affordable housing, those are all very, very important things. I ask that you support this project and look at Maui Land and Pine as a whole and what we do for our community. We are a stakeholder, we are a partner with all of us here in this room and I ask for your support. Thank you.

CHAIR CARROLL: Thank you. Questions for the testifier? Hearing none, thank you. Nakata.

MS. NAKATA: Mr. Chair, no one else is signed up to testify.

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...END OF PUBLIC TESTIMONY...

CHAIR CARROLL: Is there anyone that wishes to give testimony? Please come forward. Seeing none, if there's no objection we will close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed. Members, we are going to start off with the departments, bringing them forward one at a time and allowing questions of each department at the time they come forward. We would like to call Director of Housing and Human Concerns first, Alice Lee. Ms. Lee, do you have any opening statement?

MS. LEE: No, Mr. Chair. I would be happy to answer any questions though.

CHAIR CARROLL: The floor is now open for questions for Ms. Lee. Mr. Molina.

COUNCILMEMBER MOLINA: Thank you very much, Mr. Chairman. Good afternoon, Ms. Lee. The Department has recommended the same priority system as the applicant, you know, for developing an interest list for the affordable housing units. What is the policy of the Department in terms of, is this being driven, this recommendation you support the developer's direction, or is this something that you threw out at the . . . the Housing and Human Concerns recommended to the developer? I'm just trying to get a nexus or a reason why, I guess, the Department is going with the recommendation of the developer in terms of the priority list for the housing.

CHAIR CARROLL: Ms. Lee.

MS. LEE: Mr. Chair, Mr. Molina, I'm not really sure what your question is, but are you asking if we support the priority list that has been--

COUNCILMEMBER MOLINA: Yeah.

MS. LEE: -- offered by the--

COUNCILMEMBER MOLINA: Right.

MS. LEE: --developer? This is not something that we would normally include in, in an affordable housing agreement. I believe the priority list was something that is in the outcome of discussions with the Council. So, I believe that they were responding to the Council with regard to having a priority list.

COUNCILMEMBER MOLINA: And this is something in, at least from the Department's perspective, this is something that you would also support as well?

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MS. LEE: Well, I try to support whatever the Council proposes.

COUNCILMEMBER MOLINA: Uh huh. Okay. I'm just trying, trying to get a clear feeling from you. Okay. Thank you.

CHAIR CARROLL: Thank you, Mr. Molina. Ms. Johnson, followed by Ms. Anderson.

COUNCILMEMBER JOHNSON: Yes, Alice. With regard to the affordable housing location, have you had discussions with the developer as to where this housing would be located? And then, because, from my understanding, it wouldn't be located within the community, do you have any, I guess, justification based on some of the recommendations? . . .(CHANGE TAPE). . .I think task force and some other entities about the integration of housing that is affordable being co-located with the regular-priced housing.

CHAIR CARROLL: Ms. Lee.

MS. LEE: Yes. All I can say, Council Member, is that we would like to see the affordable housing component developed as soon as possible. And in this particular case, Maui Land and Pine has already-zoned property in Napili, which would help to expedite the development of affordable housing.

We're not really sure how practical it would be to have affordable housing interspersed with multi-million dollar homes in a resort destination area. So as a result, we believe that having the affordable homes in another area in the same community plan would, would be acceptable.

COUNCILMEMBER JOHNSON: Okay. And then the area that they have in Napili would you know, on the map that's available, about where that would be, and has that site actually been determined as the site for where the affordable housing will go, or is that still not been determined?

MS. LEE: My understanding it's, it's right, it's the old Rainbow Ranch.

COUNCILMEMBER JOHNSON: And that, and that's been confirmed that, that is the site where they will locate their affordables?

MS. LEE: Yes. Because that's the only site that they have in title at this time.

COUNCILMEMBER JOHNSON: Okay. And how much acreage is that total? Do you recall?

MS. LEE: I'm sorry. I don't have that information with me. I do know that they have, have run various scenarios, and the maximum that, number of units they could provide there is 85. But I believe that they are looking at some multi-family units and some office space in that area.

COUNCILMEMBER JOHNSON: Okay. Thank you.

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CHAIR CARROLL: Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chairman. That site is zoned light industrial. And I was told by Maui Land and Pine representatives that they want to do some light industrial, some retail, commercial and then a 40-unit apartment complex.

It's a little bit contradictory to what we heard about Consolidated Baseyards who also has light industrial, but it wasn't appropriate to have a four-plex apartment there for affordable housing. Just want to bring that up.

Ms. Lee, the, the priority list and I don't see it in our binder, but I, and I might have it in my office, but I do know that there was a letter from you to the applicant, I guess, agreeing to their priority list. And I don't recall the, and the top of the priority list is employees of Kapalua Land Company or Maui Land and Pine and, and Kapalua. I don't recall the Council ever requesting that, that employees of Maui Land and Pine be number one on the priority list.

MS. LEE: This, the proposal has, has, you know, undergone a number of changes. But I think it's helpful to keep in mind that the reason why they were required or are required to provide at least 25 percent affordable housing is because they are subject to Chapter 294, which requires a one-to-four ratio, or four, yeah, one-to-four ratio, 25 percent, minimum.

And initially, Chapter 294 was created for employee housing but later changed to affordable housing. So, the whole purpose of Chapter 294 is, when you create transient accommodations, be it hotels, motels or this type of development, that the developer is creating an impact by creating the need for employee housing. So, it's not unusual to have employee housing at the top of the list.

COUNCILMEMBER ANDERSON: But my point was, you just said that you were trying to, you know, fulfill the Council's wishes, and I don't recall the Council ever saying that this should be, this affordable housing that's going to be developed, should be number one priority for employees of Kapalua Land Company.

And furthermore of the 690 units that they're building, only 250 are earmarked for time share, which would be applicable to, to the code that you just referenced. The rest of it is, is just what the Council determines to be an affordable housing need based on, on, on the fact that they're building this large resort area.

So, would it be possible for you to provide the Council a copy of that letter that lists the priority? The reason I'm concerned about this, Mr. Chairman, is because if Kapalua Land Company is negotiating with Housing and Human Concerns to allow them to set a priority list and allow them to pick and choose depending on what their priority list is, those who can buy in to these affordable units then I have some concerns. Because it's going outside HUD guidelines and, and

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in essence, privatizing the affordable housing procedure. So, I'm just wondering if, Ms. Lee, do you have a copy of that letter that you could share with the Committee, so we could discuss it?

MS. LEE: Council Member, it's my recollection -- I could be wrong -- that this, this question came up at a prior Committee meeting and that -- I'm not sure but -- I thought it was you who requested that the company come up with a priority list, some Member came up with that question. And the company responded to the Committee.

Now it's not my priority list, I didn't negotiate that list, I didn't ask for a list. The Council asked for the list. I'm just sharing with you my opinion on why possibly employees were at the top of the list. That's all. But it, it wasn't my list, they didn't discuss it with me, and I believe I got a copy of a communication that was directed and sent directly to the Council.

COUNCILMEMBER TAVARES: Mr. Chair.

CHAIR CARROLL: Uh . . . Ms. Anderson.

COUNCILMEMBER TAVARES: Point of information.

CHAIR CARROLL: Yes. Ms. Tavares.

COUNCILMEMBER TAVARES: The letter is dated August 2nd, and it's in the binder, toward the back of that, about four or five sections in. It's on the Department of Housing and Human Concerns' letterhead. It has a chart on the front of it that compares the median income with rental and mortgage payments. Then on the back of that letter has the list.

CHAIR CARROLL: Thank you, Ms. Tavares.

COUNCILMEMBER TAVARES: You're welcome.

COUNCILMEMBER ANDERSON: You said August 6th?

COUNCILMEMBER TAVARES: Second.

COUNCILMEMBER ANDERSON: Second. Thank you very much, Ms. Tavares. That was the letter I was looking for. Thank you.

MS. LEE: And if I may add to that, Mr. Chair.

CHAIR CARROLL: Proceed.

MS. LEE: This is information provided by the company that was included in this list.

CHAIR CARROLL: Any further questions, Ms. Anderson?

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COUNCILMEMBER ANDERSON: Will, will the use of this priority list by Maui Land and Pine, Ms. Lee, in anyway jeopardize anybody from using programs provided by HUD?

CHAIR CARROLL: Ms. Lee.

MS. LEE: If you followed the priority list, let's see, by using, by prioritizing employees of the company, I'd have to check on that. I really don't know if you, unless if you're talking about the first-time home buyers program or is that what you're talking about?

COUNCILMEMBER ANDERSON: Well, you mean, there's any number of, of HUD programs that can be utilized by the public, but it's my understanding that in order to do that you have to, the projects have to comply with HUD standards. And I don't know by giving preference to certain individuals that we would be complying with HUD standards.

MS. LEE: Well, we'll definitely have a problem with public service employees. Whenever there is any kind of discrimination, there is a big question on whether or not HUD or Federal programs can be used.

COUNCILMEMBER ANDERSON: Yeah. That's my concern. Thank you, Mr. Chairman.

CHAIR CARROLL: Any further questions for Ms. Lee? Mr. Mateo, followed by Mr. Molina.

COUNCILMEMBER MATEO: Thank you, Chairman. Ms. Lee, good afternoon. In dealing with the, the developer, what options are available that you have in determining, you know, the number of units? And in this particular case, I think the question will, would be, out of the 173 required units, 24 are actually single-family that's been identified. What options are available to you in taking a look at the numbers, so that we can actually deal in increasing the 173 more equitable by saying, perhaps the single-family unit was really not as important as additional apartment-type units to increase the number because the developer of a structure, an apartment type dwelling is, is not as costly as developing 24 single-family units. What options were available to you in trying to come out with a creative means of taking a look at trying to increase that number versus just because the formula says 173 and that's all there is?

CHAIR CARROLL: Ms. Lee.

MS. LEE: I'd have to check, Council Member. I'd have to check with counsel, legal counsel. I believe those numbers were derived by the Land Use Commission, but I need to double check on that and whether or not we have, you know, we could supersede their authority. I'm not sure.

COUNCILMEMBER MATEO: Okay. And would one of your options also be, instead of, instead of some of the, the units, a request for land?

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MS. LEE: Again, I'd have to check the Decision and Order of the Land Use Commission to see if we have any options at all or, or we would have to return to the Land Use Commission for their permission.

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

CHAIR CARROLL: Mr. Mateo, would you like the Chair to forward your request to Ms. Lee for reply?

COUNCILMEMBER MATEO: Perhaps to Corp. Counsel, Chairman.

CHAIR CARROLL: Before . . . Corporation Counsel, you have any comment at this time?

MR. GIROUX: Chair, I'd have to look over the Order again and specifically with the eye of looking if there was any conditions specific to affordable housing.

CHAIR CARROLL: Thank you.

COUNCILMEMBER MATEO: Thank you, Chairman.

CHAIR CARROLL: Mr. Molina.

COUNCILMEMBER MOLINA: Yeah. Thank you, Mr. Chairman. Ms., Ms. Lee, again, I want to thank, first I want to thank Member Tavares for pointing out that letter to us, 'cause I know it was in there someplace. The August 2, 2005 letter signed by you, um, going . . . referring to the list that was recommended by the applicant. What role, if any, does your Department have in insuring the fairness and accuracy that, you know, that the applicant will be following this to the "T"? And if you, your Department doesn't have any role, what recommendations could you make to the Council?

CHAIR CARROLL: Ms. Lee.

MS. LEE: Up till now, we didn't have a rule. If you, if you wish, we could somehow participate in the selection process and help come up with establishing a very specific and structured process with notification to the Council. But you know up until now, we weren't really involved in, in the development of that list, because generally most developers don't have a priority list to deal with. In this case, I believe, it was part of a discussion at a prior meeting. We, we didn't, we generally don't try to make more work for ourselves.

COUNCILMEMBER MOLINA: Okay. Do you, if you, we do ask for your involvement do you see needing another position or, or position to help augment this list or maintain this list to ensure that it's accurate and being followed to the "T"?

MS. LEE: Probably six or seven. How's that?

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COUNCILMEMBER MOLINA: Six or seven positions?

MS. LEE: Well, you know, the thing is, Council Member, and I don't want to make too light of this, but a lot of these projects really don't, do not have our oversight with the selection process simply because we don't have the staffing. For instance, it would be literally impossible for us to monitor Spencer's project. Spencer alone has 3,000 applicants, and then I can imagine how many, Sterling Kim is going to have. And I can imagine how many Maui Lani and all the other big developments are going to have.

There's absolutely no way we could possibly monitor the selection process unless we had more staffing. But I'm, I'm wondering whether or not we should be involved in, in that process. Maybe what we could do is do some spot checking. But with . . . there's no way we could go every person's application and qualifications and income verification and all of that. We don't have, it's just Herman and me.

COUNCILMEMBER MOLINA: Okay. Thank you. Thank you, Chairman.

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

VICE-CHAIR PONTANILLA: Thank you, Chair. Good afternoon, Alice.

MS. LEE: Good afternoon.

VICE-CHAIR PONTANILLA: In regards to the affordable housing component that's being developed by the Maui Land and Pine, is any County, State or Federal monies involved?

MS. LEE: Not that I am aware of.

VICE-CHAIR PONTANILLA: So, in regards to the conditions themselves or the priority list, maybe a question for Corporation Counsel. Do you see any problems in regards to the list, the priority list that the company come up with knowing that there's no government money involved?

MR. GIROUX: Chair.

CHAIR CARROLL: Corporation Counsel.

MR. GIROUX: Council Member, as far as looking at the priority list, I didn't get a chance to, to look at the full list, but I understand a couple of the, the issues is the matter of whether or not the employees, you know, are, are at the top of list. And as Lee, Alice had pointed out that I don't see any problem with that as long as that they qualify under the affordable housing guidelines --

VICE-CHAIR PONTANILLA: Guidelines.

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MR. GIROUX: --and in that respect, it is a private enterprise, it is a private. If like when we're looking at 201Gs and things, I think, you know, because there's so much government involvement at that level you really have to be a lot more cautious.

VICE-CHAIR PONTANILLA: Yeah. And I think the difference here is that, you know, we always talk about providing homes for our local families here on Maui, and the only way that we can do it is by developers themselves creating the affordable housing.

MR. GIROUX: Right. We've been wrestling with the idea that, you know, you would, we can't be putting these, you know, term of residency type of clauses on these, and it seems to be that if the company is satisfied that, that worker is really, you know, a resident and, and committed to the company I think it does qualify in that area to help further that interest.

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

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

COUNCILMEMBER HOKAMA: Chairman, more of a comment, if you allow me, regarding this very specific consideration. I will let my colleagues know that I'm very open to this proposal, and let me give some background. I administered a similar program on behalf of Castle and Cook on Lanai with our employees there.

One, I can tell you, if done right it does work. It takes care of the employee, employee resident workforce. I think we have and I have gone on record to support that component of our community, resident employees.

Two, I think there is safe guards that can be incorporated to ensure fairness and consistency in the administration of this program. Also, Mr. Chairman, you know, employees that work out there, that live out there definitely don't need to be on the roads. So, of course that's another advantage for, for me to be open to support.

I believe that, you know, allowing this as another option for us to see how to address the housing issue, Mr. Chairman, is, is, is viable. I think it's workable, I think some of the concerns on whether or not fairness will be achieved, I think what we did on Lanai my, my fellow Members, is that we had equal participation of three components: we had the company or the employer with equal seats on a housing committee with the union; and then we had community or at-large seats, also. And that the committee at-large members that sat on our Housing Committee was there to ensure fairness and that the union nor the employer could abuse it and would need to follow the guidelines that was established and made public information throughout our community.

So, I believe, Chairman, that, you know, you can, we can build in oversight. I think Ms. Lee's comments about maybe having them perform with Council giving them the resources to maybe

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do spot audits at times that they pick and choose, so that there's no forewarning to ensure compliance, can be done.

But I think this is another alternative for us to ensure that our residents, our employees of this County or this island get the housing and not others that have not invested or paid their dues to this community, Chairman. So, I'm very open to this option for us this afternoon, Mr. Chairman. And I'm happy to answer any questions about how an actual operation can be done and I, and again, I mention that I can speak from experience of administering a very similar program on Lanai. Thank you, Mr. Chairman.

CHAIR CARROLL: Thank you, Mr. Hokama. Mr. Kane.

COUNCILMEMBER KANE: Thank you, Chair. Listening to comments of Ms. Lee brought to mind the question of, of monitoring compliance. And it sounds like you said that we, at this point, we don't have the resources to monitor compliance now. That may rise into a bigger cushion beyond just your Department, but you know right into Mr. Foley's Department.

And so, can you help us understand? And I'll put it in this context, the, the intent of my question is to somehow develop some level or a condition that would help us be able to monitor the compliance of what we're trying to achieve if this project does go through and we get through that process. Can you provide some comment, Ms. Lee?

MS. LEE: Yes. Thank you, Council Member. We monitor compliance with the other departments that there is, there will be units. So, the delivery of units is not an issue, compliance in that regard is not an issue. What might be an issue, where we do not have the resources, is whether or not an applicant of, for, a purchaser, a home buyer is actually qualified or not qualified. That's where we don't have the resources to check.

COUNCILMEMBER KANE: And do you have any suggestion or recommendation, or are you prepared to provide this Committee with some mechanism via a condition that would provide your Department as well as for us to look at eventual boiler plate language to have as a condition for all levels of monitoring compliance of conditions? Are you prepared at this time to provide at least some preliminary comment to what language would be available to us to consider?

MS. LEE: Yes. That the ap..., the homebuyer selected would be listed and a copy sent to our Department and to the Council, oh, with addresses, so we can check.

COUNCILMEMBER KANE: So, that, that information could be sent to you and then you could provide us with a, as an example, well, a quarterly report that's sent to the body for our purview?

MS. LEE: Yes.

COUNCILMEMBER KANE: Okay. Thank you very much, Chair. Thank you.

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CHAIR CARROLL: Thank you. Ms. Johnson.

COUNCILMEMBER JOHNSON: I don't know, Alice, if you were familiar with the condition that I added to the Haliimaile project. I had listed in there that it was a report. I don't know if you want to take a look at the language in that, but my intent was to add that as a standard condition. And it would have been on a quarterly reporting basis with each criteria enumerated as to how many buyers, you know, what the status of the project was.

I don't know if that is specifically what Mr. Kane is talking about, but you may want to take a look at that particular language. And I would be advocating, you know, as, you know, this is just one more project. I want that condition, Mr. Chair, to be applied, which I stated very clearly, that, that should be applied into every project that has an affordable housing component because we have just no way to follow up on this, so.

MS. LEE: We'll be happy to look at it.

COUNCILMEMBER JOHNSON: Okay. Thank you. And my other question, Alice, is in regard to some of the problems that we've had in the past with people not, just as you mentioned, being able to financially qualify. Let's say they get bumped out because they don't have sufficient down payment, their credit history might not be good, you know, something in their financial background that causes them not to be eligible for that unit. Because in most of these projects there's a standard condition that stipulates for "X" number of days these off..., these units will be offered to people within this particular income range. Thereafter they would be offered to whoever.

Is there anything that, I guess, gives us the assurance that the people who are in those income brackets will actually be receiving those units? Have you figured out how we can actually accomplish that goal? Because given that time constraint, sometimes, it's not achievable.

MS. LEE: And that's something we've been contemplating, changing and revising is the escape clause and making that, the ability for the developer to move to the next level, extending that period, from 75 days to a longer, maybe doubling that amount of days. So, we, we're seriously looking at that.

COUNCILMEMBER JOHNSON: Yeah. And the only reason I bring that up, Mr. Chair, is because even and it was unfortunate but some of the people that even wanted to get into the Kapua subdivision it was just their misfortune that they didn't have quite enough down payment, or something in their credit history prevented them from getting those homes. So, of course, they went to others within the, you know, employ of Maui Land and Pine, but it was not within the range of income that would have been ideal, I guess, to satisfy some of those requirements.

Anyway, I, I do want to address that, because I see this as another job that we have, we have to do this as a Council. Because if we put in conditions, Mr. Chair, that we envision people who are in certain income brackets moving into those homes and then it doesn't materialize, then what

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good is an affordable housing policy if it's not putting people that are in those income brackets into that housing? Thank you.

CHAIR CARROLL: Members, it is three o'clock. We are going to take a ten-minute recess. This Committee stands in recess. . . .(gavel). . .

RECESS: 3:01 p.m.

RECONVENE: 3:16 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use meeting of August 31st is now back in session, and I was going to call on Ms. Anderson, who is right here. As soon as she is seated, Ms. Anderson may speak to us.

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

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

COUNCILMEMBER ANDERSON: I just wanted to make a comment, Mr. Chair, so that everybody knows what we're really discussing here as far as affordable. The proposal is for 123 affordable units; however, 125 of those units will be rental units. That only leaves 48 for-sale units. And of those for-sale units, 10 will be two-bedroom units for sale at 110 percent of the median income; 14 will be two-bedroom units at 120 percent of the median income; 10 will be three-bedroom units at 130 percent median income; and 14 will be three-bedroom units at 140 percent median income.

So, I have questions regarding this, but I think the, the person to direct them to would be the applicant. So, I guess I'll wait until that's appropriate.

CHAIR CARROLL: If you could wait till we finish with the departments, and we'll bring the applicant down.

COUNCILMEMBER ANDERSON: Thank you, Chair.

CHAIR CARROLL: Thank you. Any further questions for Ms. Lee? Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. I'm glad Ms. Anderson brought that particular issue up. Ms. Lee, according to the survey and study, I guess, that was done some years back, what was the, the pent-up demand for rental units in West Maui, in the West Maui area?

CHAIR CARROLL: Ms. Lee.

MS. LEE: Thank you. I don't recall the exact numbers, but I can tell you that the greatest need for housing was in the area of rental housing and especially in West Maui.

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COUNCILMEMBER TAVARES: Okay. Thank you. So, you, you had seen this breakdown of how the affordable units were going to be dispersed between rental and for purchase?

MS. LEE: Yes.

COUNCILMEMBER TAVARES: And this was okay with you?

MS. LEE: During the break, Council Member, I mentioned to one of the Council Members that you probably have more updated information in front of you than I do. Because what generally happens is I might look at a preliminary proposal by the developer, and then he goes to visit each and every one of you, and I don't know what it ends up being.

COUNCILMEMBER TAVARES: Uh-huh.

MS. LEE: So, what I thought. . .(CHANGE TAPE). . .of a breakdown has changed about six or seven times.

COUNCILMEMBER TAVARES: Oh, okay.

MS. LEE: So, I'm not really sure . . .

COUNCILMEMBER TAVARES: It's in our laps now.

MS. LEE: It's in your laps, yeah.

COUNCILMEMBER TAVARES: Thank you very much. Thank you, Chair.

CHAIR CARROLL: Thank you, Ms. Tavares. Any further questions for Ms. Lee? Hearing none, thank you, Ms. Lee.

MS. LEE: Welcome.

CHAIR CARROLL: We'd now like to call down the Deputy Director of Public Works Environmental Management, Michael Miyamoto. Mr. Miyamoto, do you have any opening statement?

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

CHAIR CARROLL: The floor is now open. Mr. Kane.

COUNCILMEMBER KANE: Thank you, Chair. If Mr. Miyamoto perhaps could provide some overview on the, the topo features of this proposed project and how that relates to the proposed drainage component. You know, we've heard some comments and testimony and are aware of

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just simple island topography and how we deal with mitigating impacts off of, of said project sites. And this one is a considerable-size project.

Any, any issues that we should be aware of that, I guess, should be brought to the table, over and above what's been proposed by the applicant? Or are you folks fully satisfied with what they've proposed in keeping, keeping drainage to, to nil as far as negative impacts to off-property?

MR. MIYAMOTO: Mr. Chair.

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: The, the drainage impacts, they can, if they can mitigate it and keep it on the property without further impacting, as required by the County Code, is our preference. And seeing as how much green space they have at the golf course and the amount of water features that they're proposing, we're going to rely on their engineers to assure that the force of the drainage water isn't going to cause some breach of these facilities that could further impact County facilities and I guess the State highways makai of all of this development.

COUNCILMEMBER KANE: Are you prepared to respond to whether or not what's being proposed is, is minimal as far as compliancy? Or can you state, in your professional opinion, that what they're providing us is over and above the minimal qualifications, I guess, or the word I'm looking for is minimal compliance with, with, what we have in the Code?

MR. MIYAMOTO: Mr. Chair, if I may. Right now, I'm not comfortable at giving an opinion of regarding that as I haven't personally looked at that, that information. Maybe the applicant can provide their, their civil engineer who can further provide more details and analysis, results of analysis that they've performed to give a more informative answer.

COUNCILMEMBER KANE: Yeah. And I'm not aware of, within the report that you folks do provide to the application prior to it getting to us, any comments specific to their compliancy with, with the structures that they're going to be providing to mitigate the impacts. So, is there somebody within the Department that did take a look at the proposal and is prepared to respond, not today maybe but at some point, to provide a little more detail as to the, the position of the Department with respects to this?

MR. MIYAMOTO: Mr. Chair.

CHAIR CARROLL: Proceed.

MR. MIYAMOTO: In looking at the file and seeing what comment was in there, the primary comment I see is a standard comment that we put for all new developments. But I also see an additional comment regarding phasing of this project and seeing how the roadway system is going to impact the drainage and everything. And as I don't see any additional follow-ups in regards to answering those comments our Engineering Division has a drainage section that could probably

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look at any kind of a report that's provided to, to give an answer of if they're doing the minimum or if they're doing more than they are required to do.

COUNCILMEMBER KANE: And to be clear and my final point, Mr. Chair, before I yield, is, beyond this process, legislative process when they come in for actual approvals and permits, that's when the Department will be adequately staffed, if you will, to provide clear compliancy as far as being, being up to Code and being able to determine whether or not they're over and above what the Code asks for?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Yes. We're, we're, currently we do have sufficient staff to do it. It's just that I'm not sure if they've had a chance to see a full report as, as I see there is a comment regarding master plan for this drainage. I'm assuming that there hasn't been one for them to review at this time.

COUNCILMEMBER KANE: Thank you, Mr. Miyamoto. Thank you, Mr. Chair.

CHAIR CARROLL: Mr. Miyamoto, I'd like to bring something up at this time. The Committee has, excuse me, correspondence regarding the Lahaina Wastewater Reclamation Facility capacity and the applicant's remaining wastewater allocation, the letter dated 6-29-05, that was distributed at the July 13th meeting. The letter dated 6-22-05, transmitted to the, to the Committee Chair today, notes lower remaining allocation of 177,110 gallons per day with a project estimated to generate 176,000 gallons per day. Is the affordable housing in these figures, the usage?

MR. MIYAMOTO: Mr. Chair, in checking with our Wastewater Division, the affordable housing units have not been accounted for within this allocation for Kapalua.

CHAIR CARROLL: And there would not be enough, it would appear from these figures, for these 173 units of affordable housing.

MR. MIYAMOTO: That is correct. They, they would have to then tap into the what's the County's available capacity.

CHAIR CARROLL: Thank you. Members? Ms. Johnson.

COUNCILMEMBER JOHNSON: I appreciate you asking that question, because that is something that's really critical. I know we're reaching the breaking point in West Maui, and of course because we have no control over the Intrawest project that's coming online, that my fear is that, that capacity is quickly going to evaporate.

The, the question though that I have for you, Mr. Miyamoto, is with regard to that affordable housing component and the drainage elements and the circulation, because when you look at how will a particular land use change or you know, let's say, putting development into an area

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that currently is not there. How will that impact the overall infrastructure: our roadway circulation and other things?

Have you had an opportunity based on the proposed location, at least, for a portion of that housing which is at the old Rainbow Ranch location, have you had an opportunity to review the drainage and the site plan and how that would impact the region in those areas with regard to your facilities?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Councilmember Johnson, does this, are you referring to their proposed affordable?

COUNCILMEMBER JOHNSON: Yes. I'm talking about their affordable component.

MR. MIYAMOTO: We have not seen, at least, I have not seen anything regarding that particular proposal at this time.

COUNCILMEMBER JOHNSON: Okay. And one of the testifiers, I don't know if you were here during public testimony, but one of the comments was made that, basically, you have to take into the account, I guess, when you're looking at the Environmental Impact Statement, instead of segmenting it into these smaller components, it's still large, but putting into the smaller components to look at it comprehensively. Have you actually been able to do that with this particular project in comparison to all the other proposed Maui Land and Pine projects that are occurring in that area, or have you not had an opportunity to do that?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Mr. Chair. Regarding the affordable housing proposal, we have not had a chance to, to really look at it from regarding drainage and traffic impacts. But from a wastewater standpoint, we've, in preparation for this meeting, we've called, talked to our consultants and tried to firm up the number that we're comfortable with as far as the capacity for the treatment plant.

And given with we can do some minor process modifications, we could probably get the Lahaina treatment facility up to about a 6 million gallons a day capacity. And then, if we do some additional, very probably between a half million to a million dollar infrastructure modifications, we could get that up to about 7 million gallons a day capacity. So, from a wastewater stand point we're fine, but from a roadway and drainage we need more information.

COUNCILMEMBER JOHNSON: Okay. Thank you very much.

CHAIR CARROLL: Thank you. Further questions for Mr. Miyamoto? Mr. Pontanilla.

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VICE-CHAIR PONTANILLA: Thank you, Chair. In regards to the wastewater infrastructure, you know, going through the last budget, we had budgeted some monies to, I guess, increase the capacity in that plant or do some work at that plant to, to receive more wastewater from the Lahaina, Kapalua, Kaanapali area. And what I want to know is if that project is scheduled? And if it is scheduled, when it's going to be completed?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Mr. Chair. If, if I'm, if I'm correct it's that \$1 million that was budgeted for design services for our consultant that had done the preliminary evaluation for the West Side wastewater treatment facility. That project is ongoing. We met with them, Wastewater Division met with them this morning through teleconferencing, discussed trying to define what the exact capacity of that Lahaina facility is, what has changed in it.

They, they had an extensive meeting and they're comfortable now that they can go ahead and start the design process, modifications for this treatment facility to get it up to the 9 million gallons. In looking at the required infrastructure and the projected cost for this, somewhere in the \$20 million range to get it up to 9.0 million gallons-per-day capacity, the . . . we will probably be coming back to the Council for additional design funds, because if you look at a \$20 million facility improvement you're talking about a 10 percent design fee, so we requested one million previously, we'll probably request a little bit more to help further that design.

So, with the design taking about two years and then construction maybe taking about another two years, they'll probably be the earliest, four to five years before we can open the facility.

VICE-CHAIR PONTANILLA: Thank you. Switch gears to drainage. As far as the plans themselves, did we receive any plans in regards to their drainage plan for Kapalua Mauka project?

CHAIR CARROLL: Mr. Miyamoto.

VICE-CHAIR PONTANILLA: And all of us here are probably not experts in drainage, you know. We kind of rely on the Public Works to provide us that information.

MR. MIYAMOTO: Yeah. Given, based on what I'm finding in the file for this project, I imagine a preliminary report was done, because the comment says, a final drainage report should be provided. So, we don't usually put that unless a preliminary drainage report has been done.

I haven't seen the actual report, and I guess because of the size of this project, the phasing, we're very concerned about phasing how they would go ahead and phase this project over so many years. So, that was also a comment that was provided regarding a phase master plan for drainage.

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

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CHAIR CARROLL: Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman. Good afternoon, Mr. Miyamoto. In Condition No. 10, it basically states that Maui Land and Pine will be making a \$3,500 contribution per unit for road and traffic improvements. Do you know offhand, will the funds be used more towards County or State projects? Are you able to make a determination with regards to that?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Mr. Chair. I'm not aware of any special earmarking for where that actual money is going to at this time.

COUNCILMEMBER MOLINA: Okay. I guess I'll, Mr. Chairman, I'll try and I guess maybe through the applicant at a later time I'll try and get an answer--

CHAIR CARROLL: Thank you.

COUNCILMEMBER MOLINA: --for that question. Thank you.

CHAIR CARROLL: Any further . . . Ms. Anderson.

COUNCILMEMBER ANDERSON: I'd like to just follow up on, on what, Member Molina, just asked, since I'm looking at the letter right now and what they have committed to. And this is Exhibit 20 in the Planning Department report. It's a letter from DOT, dated July 1, '03.

They have committed to: providing signal..., at no cost to the State of Hawaii, signaling Honoapiilani Highway and Office Road intersection, when warranted; implement, per DOT standards, median left-turn lanes on Honoapiilani Highway into the Project District 2 development at each of the proposed access intersections; to implement, per DOT standards, appropriate right-turn deceleration lanes at each of the three accesses to the Project District 2 development; and to install appropriate signing and pavement markings at each of the three accesses to the Project District development.

Additionally, the applicant has agreed to participate in their fair share of regional improvements identified in a County-approved impact fee study. And that would be, I've figured it out for 690 units at \$3,500, that's the \$2.4 million that was mentioned earlier by the applicant, which is supposed to be going to regional improvements, which I'm assuming would be the Lahaina bypass. So, I just wanted to add that, because I think if we could get the answers to the questions while they're asked it helps everybody.

CHAIR CARROLL: Thank you, Ms. Anderson. Any further questions for Public Works? Hearing none, thank you, Mr. Miyamoto.

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COUNCILMEMBER KANE: Mr. Chair, I'm sorry.

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

COUNCILMEMBER KANE: The, the plan would include interior roads within the project that would eventually be dedicated to the County, is that correct?

CHAIR CARROLL: Mr. Miyamoto.

MR. MIYAMOTO: Mr. Chair. I'm not aware of that intention, but maybe that's a better question that the developer might be able to answer.

COUNCILMEMBER KANE: Okay. Thank you. Sorry for just popping it in at the very end, but we'll go ahead and follow up on that. Thank you, Chair.

CHAIR CARROLL: Thank you, Mr. Kane. And, Mr. Miyamoto, thank you very much for coming down. The next Department we'd like to hear from is Parks and Recreation, the Deputy Director, Mr. John Buck. Mr. Buck, do you have any opening statement?

MR. BUCK: Thank you, Chair Carroll. No. I really don't have any opening statements. We are in negotiations as far as a combination of cash and land or land. That's where we're at right now.

CHAIR CARROLL: Thank you. The floor is now open. Questions for Mr. Buck, Parks and Recreation? Ms. Johnson.

COUNCILMEMBER JOHNSON: John, because the area, of course, out there is we've got Napili Park now, and we had designated, in the community plan region, the regional park right below the airport. Have you had any discussions about whether or not that regional park, which is, I guess, now according to proposals that have been received with Pulelehua, that would be no longer there. Have you had any discussions with the community about what they see as needs for that particular area?

CHAIR CARROLL: Mr. Buck.

MR. BUCK: Thank you. We, that's one of the . . . we have recently sat and down and identified the future needs of the Department in regards to facilities and anticipating some of the future needs, you know, with the developers, including the State lands developments, you know, the Hawaiian homes and things like that, which do not have park requirements. But part of the negotiations that we're looking at, maybe in lieu of cash contribution, is to, down by Pulelehua is the maybe develop a district park of about 50 acres. And that's what we're in, talking to the developer now about it.

We also and just for your information in regards to the other developments, we're looking at another district park in the area of where 20-20 is going to be, just to address those needs,

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because we are, are short, but we're also anticipating the growth even with the Hawaiian Home Lands. There's going to be a need for large park areas for it we foresee. In the past practices they have not produced or provided parks based in, you know, the recent developments.

So, that's kind of what we're looking at right now is just find areas where we'd like to have these parks; and hopefully, we can somehow either negotiate the land or a combination of or including maybe the purchase of some land.

COUNCILMEMBER JOHNSON: Okay. And if, if we do take land, for example, do you envision it being within that project area that's being proposed or outside of it in the area that you just mentioned?

MR. BUCK: You mean Kapalua Mauka?

COUNCILMEMBER JOHNSON: Yeah. Would be inside Kapalua Mauka?

MR. BUCK: No, no. We're probably looking down more like towards the, where the community plan calls for the regional park, maybe in that area. But because of the development or the changes proposed over there, wouldn't be a real large park, but we're looking at maybe a 50-acre district park and then maybe move one down closer into town, another 50 acres. And then we're looking at additional acreage over by Lahaina Recreation Center.

COUNCILMEMBER JOHNSON: Okay. And then also along those same lines, if there was a park or park land that was dedicated, are you looking at then the County maintaining that park area? It would become County property and we would become responsible for maintaining it?

MR. BUCK: We haven't got that far. You know, our intent is, is what's best for the County. If it's matter of us getting a large park and we have to maintain it then that's the direction that we'll go. If it's a small park in an area, we may have a tendency to, hopefully, that the developer will maintain perpetuity. But we're still, we're still working on it and we're still in negotiations with the developer. Unfortunately, Pat and Glenn, who have been talking to the various developers had other commitments, so I'm just basing what I know what they told me about an hour ago. But it's kind, it's what we're looking at as far as all of the developments is planned or proposed to take place out there.

COUNCILMEMBER JOHNSON: Yeah. I, I know also that there was, I believe, with the State, a land swap for some of the lands that are near, I guess, one of the ravines there that they would provide some kind of a walking or jogging or trail area. Are you familiar with that particular concept and with that also, as part of your negotiations, be qualifying as part of that parks space, or would it not be included?

MR. BUCK: I can't answer that question right now, 'cause I, I did not meet with a lot of the developers on some of these meetings. If that, if you, if that question comes up I'm sure I can get either, probably Patrick to be able to answer that question.

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COUNCILMEMBER JOHNSON: Okay. Thank you very much, John.

CHAIR CARROLL: Any further questions for Parks Department? Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chairman. Mr. Buck, thank you. You, you mentioned that you're looking at another 50 acres owned by the applicant for a, you didn't call it a regional park, you called it district park. And that would, I'm assuming, replace the 50 acre designated park space at Pulelehua is proposing to use?

MR. BUCK: That's our intent, yes.

COUNCILMEMBER ANDERSON: Is there much difference in the topography of these two parcels?

MR. BUCK: Actually, the area that we're looking at is above the airport, and the reason for that, it's pretty flat. So, as far as development costs. the only problem that may hinder us to look at that site would be maybe the infrastructure like the roads going up to it. But as far as constructing ball fields and tennis courts and you know what we're looking at, you know, the future buildout, that's probably the flattest parcel of land up there. That's one of the areas flattest, but again we, just something that we've recently done is sat down, addressed our needs and, and we're starting to, we're going to be talking to all of the developers in regards to how we're going to address our needs.

COUNCILMEMBER ANDERSON: Are you saying, directly above the airport?

MR. BUCK: That's one of the areas that we're looking at, 'cause it's pretty flat up there, even the same area there's a cane haul road up there, and there's some areas that's pretty flat that would make it a lot easier to develop park land versus on a slope area.

COUNCILMEMBER ANDERSON: And so this would be in Phase 2 of Pulelehua?

MR. BUCK: That's where the proposed Phase 2 is, but we're hopefully and we really not have talked to the developer, but we got a meeting with them next week and that's one of the areas that we're looking at. There's several other areas, but that's, that's our druthers, because it's the flattest piece.

COUNCILMEMBER ANDERSON: Right. Because in meeting with the developer recently, I asked about this, and they didn't mention anything above the airport. They mentioned a parcel, I believe, it would be north of the airport and that seems to be a pine field currently and quite a sloping area. Are you familiar with that area?

MR. BUCK: Yeah. One of the areas that they were recommending is we took a look at the area, and if you are familiar with the area, about that area there's a transition, transition, so it's always wet. That's where, kind of where Napili Park and then kind of that same transition period, so there's a

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lot of rain out there and of course we're concerned about the slope. And that's why we would like to get into negotiations as far as maybe moving that park site maybe a little farther south, so we're not, so it's not always raining, you know, in the park area.

COUNCILMEMBER ANDERSON: Good thinking. Thank you.

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

VICE-CHAIR PONTANILLA: Thank you, Chair. Good afternoon, John. In your possibility of looking, going further south from the proposed location, that you guys was talking about on that 150 acres, when you do meet with the developer -- and I, I don't know how far this park you talking about is away from the Lahaina treatment plant, the wastewater plant -- and if there's a possibility of providing effluent to irrigate your park from the treatment plant in Lahaina?

MR. BUCK: I think -- good question -- I think the distance right now would be, you know, it's pretty substantial, because we're talking around the airport right now. I'm a proponent of, whenever possible, to use treated effluent in our parks. You know, we have the special district in Kihei where we're, we have it in some of our parks, and those including the parks and then some of the other commercial businesses that are using it for landscape like it because of the price.

But also the plants seem to, because there's so much, there's a lot more nitrogen in it than the regular water, seems to, the plants seems to do a lot better. They thrive better and without the use of, you know, like fertilizer and things like that, which we're trying to get away from using. So, and I think it's better to try to use it whenever possible on into the parks instead of putting injection wells.

VICE-CHAIR PONTANILLA: Yeah. And the reason why I bring it up is that I think one of the Members questioned the use of the stream water. And if we can use, utilize the effluent then, you know, that's much more less stream water, that we can use for irrigation, so.

MR. BUCK: Yeah. That's correct. I mean if we can use it we'll look into it. We have to offset with the initial cost but versus what the long-term cost is and the impact in, on the potable water supply. But we're always open for that, looking for those, and I'm, personally I'm a proponent whenever possible is to use the treated effluent for our parks, because we've had a lot of successes with it.

We'd have to be a little more careful with it, and we have stricter guidelines that we have to use, and you know our guys have to be, have had additional training, which most of them have. But we've been quite successful, as long as the, you know, the equipment is working it's, it's quite successful.

And, and I really like it, and I think it's the best thing for the environment instead of, you know, again, not putting it into the ground is to use it and reduce our amount of potable water we need to water grass and, and landscaping.

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

CHAIR CARROLL: Any further questions for Parks Department? Ms. Johnson.

COUNCILMEMBER JOHNSON: I just want to follow up on what Joe was asking, because talking about it reminded me of the problems that we've had with the Napili Park and getting the water there. Because we had drilled a 300 foot well and the pump kept burning out, because we didn't have proper phasing for the electric in that area. So, depending on where the park is located, is that going to become another problem for the County if we end up operating it?

CHAIR CARROLL: Mr. Buck.

MR. BUCK: When we build facilities or build parks and we have contractors who build these things, we're assuming that they are going to put something in it that works, and they should know if there's a difference in phasing and, and whatever. Because that has been a problem in the past, any additional construction or projects that we do, we are, you know, one-step little bit smarter on what we're going to do for the next project. And it'll be one of the things that we'll carefully look at is what they're recommending and the type of equipment.

It doesn't matter if the private person, you know, like the developer maintains the park or if the County maintains the park, if the pump is not working the grass don't get watered. It behooves, you know, sometimes it's better to have the developer do it, but they may at some point in time want to reduce their cost, maintenance cost, and you may or may not get the same quality.

On some areas you get better quality than what we can do, and then some areas, because they may want to reduce cost, they may not maintain. But we try to, you know, keep it pretty standard. But yeah, that's a concern and. . .(CHANGE TAPE). . .projects come up, we'll address those concerns in regards to the problems we've had in the past with the pumps and everything else.

COUNCILMEMBER JOHNSON: Okay. And just one, one other thing, too, with regard to the comment that was made about using, reusing water, you know, once it's been processed at the plant. Are you aware of any storage that would be built in that area, so that we would be able to have gravity feed if we're going to actually use any of the effluent, you know, for our parks' irrigation?

MR. BUCK: I'm not privy to that information right now, I'm not really sure. I don't know what the overall plan is, but because of the treatment times, sometimes and when you have the water, you have to have some storage capacity. Just like down in South Maui, there is storage areas, because we're required to water at night, and sometimes at night, that's the minimum flow, you know, in the evening or like midnight when, when nobody is in the park. So, yeah. There would have to be. But as far as the answer to your question, I'm not really privy if there was any plans for that right now, but it's something we can look into.

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COUNCILMEMBER JOHNSON: Okay. And, Mr. Chair, that is something because I know that area that Mr. Buck is speaking about is higher, and that's been an issue with reusing or using the effluent to water, because there's no storage and pumping it up is really expensive. So, that would be something I would need to get additional information on. Thank you.

CHAIR CARROLL: Thank you. Any further questions for Parks? Hearing none, thank you, Mr. Buck. We'd now like to hear from our Police Department. Captain Hirata, who I believe is right outside the door over there, somebody could call him. He has been waiting patiently. And afterwards we'll be hearing from our Fire Department. Thank you for joining us today, Captain. Do you have any opening statement?

MR. HIRATA: When the project . . . oh, good afternoon, Mr. Chairman and Council Members. When this project was first proposed, I think we had made some recommendations that possibly a traffic light might be needed at that intersection of Office Road and Honoapiilani Highway. And from the review in the traffic studies and also looking at the traffic situation out there, it does reflect the traffic study, which shows high service levels.

We don't anticipate any congestion. We usually see congestion in that area when Tiger Woods and Michelle Wie are playing at the Kapalua course, but other than that it's pretty free-flowing even into the evening and morning hours. We don't, we don't anticipate any problems.

We, we always leave that with the, this development is only a fraction of the total development that's anticipated in the West Maui area. So, what we are recommending to add a couple beats to the West Maui area. And with the population due to double in the next ten years, we're looking at possibly adding two more beats. Each beat requires six officers to man it. So, we'll need a total of 12 officers in the Lahaina district.

The long term, we're probably going to need to move into a new facility, because the one that we are in currently was built in 1972. It has only two cells, and on some weekends, we, we have four guys in one cell and two females in the other. So, it gets a little cramped, but that's pretty much my opening.

CHAIR CARROLL: Thank you. The floor is now open. Ms. Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chuck, for being here. I know you're looking at the impacts right at the point where this would impact the roadway. Have you taken a look at the, the regional traffic, like obviously the trucks are going to have to come in and go out with whatever equipment they're bringing. The new circulation of the 690-plus occupants, have you looked at that with regard to Honoapiilani Highway?

MR. HIRATA: Yes. As a matter of fact, when the project was first proposed, I believe, about three years ago, Officer Yazaki submitted a memo recommending that the light be built before the project starts in order to accommodate the trucks going in and out of that, that area.

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That is a major concern, because the intersection of Honoapiilani and Office Road is at the apex of a hill where people, where people are coming up from two directions. So, in the interest of safety, I think we're rather concerned about that, especially large trucks going in and out.

Some people have a tendency to speed up the hill, which doesn't make sense sometimes, but then we see it everyday at, on Haleakala Highway, where people are going 80 miles an hour uphill. That, that was a major concern.

And of course, you know, that, that development is not an island in itself, because, you know, it affects the other traffic on the other parts of the highway. Hopefully, it'll provide enough living space for people, who would work near or in the resort area to minimize the, the trips through the main corridor going through Lahaina.

COUNCILMEMBER JOHNSON: Okay. With regard to the traffic coming into Lahaina, because, as you know, it starts to back up every day now, and it sometimes it's backed up pretty much to Olowalu. What have you looked at in terms of the construction traffic more specifically, because initially it won't be all the people living here. Eventually it will be, but have you looked at just the construction traffic that comes into that area already?

MR. HIRATA: I haven't done any studies but anecdotally, you know, there's a constant stream of trucks going to other projects, you know, it's not just any one particular project. And there's, right now there's even trucks going up to Kaiheleku, which is up at Launiupoko.

But if you, if you look at, you know if you just do a random sample just, you know, a just a quick look and you're looking at the vehicles, you can pretty much pick out the type of vehicles. And you know you're going down the road and you're looking and you're, you're going, you're going tourist, tourist, tourist, local, tourist, truck, local, tourist, tourist, tourist, tourist. So, especially lately for this for some reason this pass summer, we had a lot of tourist traffic, and, and I think it's backed up by the hotels reporting high occupancy.

So, it could be a number of things. I think my daily commute has been lengthened approximately 10 to 15 minutes just because of school, school traffic. So, you know, it's just like anything else, you're going to have to start up a little bit earlier.

The, the traffic lights need to be monitored, they need to be checked on a regular basis to determine whether or not they are causing problems on the, on the main highway. And in some cases they were, and we made recommendations that they be adjusted to allow more through-traffic on Honoapiilani to flow. And that has helped somewhat, but you cannot overcome the sheer numbers of vehicles on the roadway. You know that's just a fact that we live with now.

And like I was telling somebody earlier, 15, 20 years ago, my uncle tried to put the bypass through and he had a difficult time, and, and we're still . . . I think that's the number one wish,

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wish on the wish list for Maui residents, especially the West Maui residents, is to get that bypass finished.

COUNCILMEMBER JOHNSON: Uh-huh. And I know that you have been following up on a lot of the things with the State Department of Transportation. Have they communicated to you at all with regard to the Keawe Street extension how that is progressing? Because that's a regional thing that affects all the traffic.

MR. HIRATA: Only what I read in *The Maui News* and that was the fact that it, it may be delayed because of a bidding error or process. I'd like to see that get completed as soon as possible. I believe they're working on widening Honoapiilani Highway between, between Lahainaluna Road and Aholo right now. And that should reduce the queue that goes out all the way towards Launiupoko. So, you know, eventually, slowly, we're, we're trying to work with all the different public agencies to make the trip bearable.

COUNCILMEMBER JOHNSON: And my last question, Mr. Chair, with regard to the Napili station. You have a little substation out there that's located, I guess, in the little back of the shopping center right next to the fire station. Do you have any plans, or would the developer be willing to improve that area to at least provide some regional coverage should this project proceed?

MR. HIRATA: As, as you can well imagine just based on what we've heard today and what we've been commenting on, on the various projects, it, we know that the development is moving further north, but then, you know, there's some also for the south even as far down as the pistol range, you know. So, it kind of stretches us in both directions, but the majority of the development is going to be taking place north of our station, the vast majority of it. The, the just the numbers of thousands of homes will be north of the station.

So, the problem with our current facility in Napili is that it doesn't have a restroom. The nice thing about it now is that it has . . . it does have a LAN line, which we can hook up our computers to. And it helps but it would be nice to have a facility we can actually use the restroom.

COUNCILMEMBER JOHNSON: Okay. Thanks so much, Chuck.

CHAIR CARROLL: Thank you. Any further questions for our Police Department? Hearing none, thank you, Captain. We'd now like to call down our Fire Department. Mr. Martin.

And while he's coming down, I have the Water Department on call. Is there going to be any requests to hear from our Department of Water Supply? Let me know now, so I can have them come up. Any requests for Water Supply? Thank you.

Do you have any opening statement?

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MR. MARTIN: Yes. Good afternoon, Chair, Members of the Committee. My thoughts today are with the residents of the Gulf Coast, I wish them well. The Fire Chief, Fire Chief Kaupalolo has asked me to represent him today, he couldn't be here.

We have had discussions with the Planning on Fire Department presence in the West Maui community. Specifically with Kapalua Mauka we do not have any specific requests at this time due to the close proximity and vicinity of the Napili Fire Station. But Chief Kaupalolo is worried about a time span 20 to 30 years from now with the growth, as Captain Hirata mentioned, on how we're going to service the community.

Chief Kaupalolo's response was to see if we could start discussions with Maui Land and Pine or other developers on looking at designating somewhere, whether it's, you know, possibly north of the project. Of course development would determine that, but for this particular project right now, that's his thought is to see if we could designate a site that could possibly accommodate Fire and Police. Maybe at the time, it would be manned by two persons on a fire truck something similar to the Pukoo Station until needed. We can always expand.

CHAIR CARROLL: Thank you. Floor is open for questions for our Fire Department. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: So, that request for a facility north of the project would that be a new facility or relocating the existing facility north?

CHAIR CARROLL: Proceed.

MR. MARTIN: Mr. Pontanilla, there is no plans or no requests. Chief Kaupalolo feels that the Napili Fire Station is at, at a great location now, so it would be adding another facility north.

VICE-CHAIR PONTANILLA: Okay. Thank you.

CHAIR CARROLL: Any further questions for our Fire Department? Ms. Johnson, followed by Mr. Hokama.

COUNCILMEMBER JOHNSON: Yes. Because of all of the fires we've had in . . . that is maybe a little bit more wet area than some others, but because it's getting increasingly difficult for the Fire Department to spread their resources all, you know, from the extremes, going all the way towards Ukumehame and then up towards Kahakuloa. Do you see, when we approve development or land use changes where development will occur, do you see increasing pressure put on your Department to serve these communities, because they're in more remote areas?

They have some ravines and some unusual features in terms of the equipment that you might need to fight those fires. How does this fit into the overall scheme of what, you know, you see your Department as really needing for the future?

CHAIR CARROLL: Captain.

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MR. MARTIN: We, we could always use more equipment and personnel, we would never turn that down. Again, 80 percent of our calls are medicals, so someone having a heart attack, minutes count, and we all know that. Again, we can't be everywhere and it's very expensive for municipalities to put emergency response personnel everywhere.

And, and we do, we do see all the development coming in. As of right now, there is no plans to, to add anything as far as Fire Chief Kaupalolo is concerned. He would like to relocate some, the Lahaina station and, actually, he would like to add another station near Lahaina and relocate the existing civic center. As Captain Hirata mentioned, it was, even the police station was built in 1972, but that's a different subject.

But specifically for Kapalua Mauka, what his thoughts are, is just to try and see if we could begin some type of discussion and have a site that's set aside, so that 20,30 years from now or, or when the time comes, we don't have to look for a site that somebody has already bought or the County has to come up with a large sum of money. But right now, there's no plans, we feel that we can provide adequate service with the facilities we have now. But of course we can always do better.

COUNCILMEMBER JOHNSON: And you have your EMTs at the Napili Station, also? Or is there no one located there, only at the Lahaina Station?

CHAIR CARROLL: Captain.

MR. MARTIN: The paramedic unit is also stationed at the Napili Station depending on the amount of calls that they have, but they're usually there when they're in between calls, yes.

COUNCILMEMBER JOHNSON: Okay. And I also want to thank you for responding in five minutes when I had to call 911. So, thank you to your staff.

CHAIR CARROLL: Thank you, Ms. Johnson. Mr. Hokama.

COUNCILMEMBER HOKAMA: Captain, are you able to provide this Committee with something written from your Chief that you have verbalized to us regarding potential requirements of new facilities, additional equipment and manpower requirements? Can you, and can you relate it to the build out of this request?

CHAIR CARROLL: Captain.

MR. MARTIN: Mr. Hokama, we could put something in writing, and the information is sitting down and speaking with Fire Chief Kaupalolo and his staff on what we came up, what was proposed and what we came up and some of the thoughts. And the thoughts also included members of the Fire Department, who have spent over 30 years on the West Side, so we really value their

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comments and appreciate their participation in it. But we could put something in writing, specifically what Fire Chief Kaupalolo requests.

COUNCILMEMBER HOKAMA: I ask, I ask that Captain, because from another point of view under Mr. Kane's leadership, you know, your Department asking, is asking for a new station on Molokai. You've asked, you, your Chief has informed me, he's considering a substation on Lanai. You're talking about Kapalua. You're talking about now replacing Lahaina. We're talking about major investment of capital improvement dollars.

So, I would say, one, it would help us to get some kind of schedule and priority; approximate cost; manning requirements, so that we make the better land use decisions. And I am hoping that your Chief will then participate in the General Plan update that will help create the parameters, so that when the community plan committees come forward, the sites that you have asked us for consideration can be then part of a total community input process, whereby the locations that we will consider make sense and there is something that the community has discussed and bought into so that we can do the better regional planning as well as your total Department coordination.

Because from what I'm hearing, we're talking, you know, in the \$100 million dollar range already. And again, what is the timing of that kind of request and how we're going to effect that to our County finances and what we're going to ask our people to pay versus borrowing cash versus borrowing is something that I think is a responsibility we need to have our due diligence on, Captain, so that, your, your assistance in that would help us please. Thank you, Chairman.

CHAIR CARROLL: Thank you. Any further questions for the Captain? I'm sorry, Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chair. Thank you for being here, Captain. You know it's, it's rather disturbing that there's no comment from the Fire Department at all on this application. Can you give us any indication as to why that happened--

CHAIR CARROLL: Captain.

COUNCILMEMBER ANDERSON: --or didn't happen? Did you read, did the Department review this application?

MR. MARTIN: I am responsible for reviewing all the SMAs, SUPs, Environmental Impacts and I got about 40 right now sitting on my, on my desk, and I offer no excuses. So, we'd be more than willing to have additional manpower, additional personnel. Our office also conducts 6,000 inspect..., we're responsible for 6,000 inspectors a year, I mean, inspections, facilities, not necessarily a year, at least every two years. I offer no excuses. We have three inspectors right now.

COUNCILMEMBER ANDERSON: So, you don't need to offer excuses, Captain. We're all overworked. So, the only reason there wasn't a comment is because you didn't have a chance to get a review done?

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MR. MARTIN: That is correct.

COUNCILMEMBER ANDERSON: Okay, fine. I'd like to note, Mr. Chairman, that in the, the public facilities assessment that was done recently for the County, it does state on Page 7 through 9, that fire protection for the Kapalua resort and residential areas is currently not adequate, currently not adequate.

So, I would hope that maybe in this multi-million dollar development that Kapalua is proposing that they would maybe offer up a couple acres of land for a station in Honolua. And would the Fire Department be agreeable to that?

CHAIR CARROLL: Captain.

MR. MARTIN: I will take that back to Fire Chief Kaupalolo and see, see what he, his comments are.

COUNCILMEMBER ANDERSON: Thank you. We look forward to your comments in writing. Thank you.

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

COUNCILMEMBER KANE: Thank you, Chairman. Just a couple of questions and maybe the Captain can provide his insight. Kapalua Mauka is being presented to us as, I guess, a resort development, and so it will probably have the higher-end type of units that's going to be developed there. Is it the Fire Department's take that most higher-end units, or let me couch it this way, do you see a higher usage of sprinkler systems in the higher-end homes that we find throughout the island of Maui or in the County of Maui? Can you provide us with some insight on that?

CHAIR CARROLL: Captain.

MR. MARTIN: Thank you, Mr. Kane. Fire sprinklers in residential units are generally not required, so as a cost savings, homeowners are not generally anxious or willing to install them. If the homeowner is safety-conscious and would like to add a great benefit for their life, health reasons we really, really encourage it, but I wouldn't say that it's generally more common in the more expensive homes than the less expensive homes. Because we do have homes that are pretty modest in rural areas that do decide to sprinkle it, also. So, I wouldn't say that it's generally more prevalent in the more expensive homes.

COUNCILMEMBER KANE: Are you finding more private alarm, fire alarm systems within the more expensive homes? And again, I'm asking these questions, so I can have a better understanding of what kind of project we have here, what can we anticipate as not a trend, but what is a general practice of people who are more affluent. I mean, do they have private systems whether it's for

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security and oh, by the way, fire, fire alarm systems that are monitored, privately? I know we've had discussions in other meetings, but I think it ties in nicely to this discussion.

CHAIR CARROLL: Captain.

MR. MARTIN: Mr. Kane, I also was educated recently with the insurance industry's requirements of having homes that have a replacement value of 750,000 or greater to be monitored by a fire alarm system. So, for any insurance company, I believe, to underwrite the policy they're going to require it. So, it would be fair to say that many of these homes, if they exceed that amount, will have alarm systems in them. And it could be that the ratio could be a lot higher than what's out in the, you know, existing neighborhoods or communities throughout the County.

COUNCILMEMBER KANE: So, based on that comment, are you prepared to provide at least a preliminary comment as to how this project, understanding what you just stated and understanding that this is going to be a higher end project, how will that impact your, the, the frequency of your responses, if you will, or the frequency of how you folks have to respond to fire calls with respects to a project like this? Is it going, is it going to a higher demand, a lower demand? Is it something that you folks are finding it's cumbersome?

I mean, we had this discussion, so just so we're clear, help us understand this, and the intent, Mr. Chair, is if we need to start talking to the applicant about assisting us, because we're getting feedback that's adversely impacting County services. And for me, that's the important thing that we need to focus on, over and above the other things, the County services over the long term. Then, you know, it's, it's going to help us try to make this a better project. You know, if it does go through we want to make sure we do the best we can to make it as best we can, Mr. --

CHAIR CARROLL: Captain.

COUNCILMEMBER KANE: --Captain.

MR. MARTIN: Thank you, Mr. Kane. We will be going there probably quite frequently if the smoke detectors are activated. 'Cause they are tied into an alarm company that would be required to call the emergency dispatch and send a fire truck there.

As many of us are well aware, we tried to put something in the Fire Code to eliminate or at least reduce those amount of calls. And I would also like to add that a police officer generally is also responding when we respond. So, the Police and Fire would be responding.

Of course, we're, we're always willing to go wherever our services are needed at, at all costs; however, we would like to reduce the false alarms. And if we could work with the developer in adding something to reduce them we would be more than happy to work with them.

COUNCILMEMBER KANE: Thank you, Captain. Chair, thank you very much.

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CHAIR CARROLL: Thank you, Mr. Kane. Anything further for the Fire Department? Seeing none, thank you, Captain. We now would like to call back Mr. Foley. And after we finish, there were questions for the Planning Department, then we will hear from the applicant. The floor is now open. I believe Ms. Anderson indicated she had a question, followed by Mr. Kane.

COUNCILMEMBER ANDERSON: I'll yield to Mr. Kane. I'm not quite organized for his questions yet. Thank you.

CHAIR CARROLL: Mr. Kane.

COUNCILMEMBER KANE: Thank you, Chair. Understanding our Planning Director's disposition, if you will, and, and that's, it's meant in a positive light, and because he's at the tail end of the discussions, and because his Department has been responsible for gathering a lot of the information from the various departments, I would ask if the Planning Director does have any additional comments that he'd like to share to perhaps shed some light or clarification on any of the issues that have been brought before the body. I'd appreciate it if he's provided that opportunity to respond.

CHAIR CARROLL: Thank you, Mr. Kane. Proceed.

MR. FOLEY: Mr. Chairman and Mr. Kane, thank you for that opportunity. First of all I wanted to comment on several of the statements that were made during the public hearing, to offer clarifications. First of all, with respect to the Environmental Impact Statement on this project, it did consider a wide range of projects in the West Maui. However, the projects that it considered aren't exactly consistent with the list that we provided, because some of these projects have become known since that Environmental Impact Statement was prepared. So, there are some projects, fortunately small ones, but they did analyze numerous projects in West Maui, in this particular Environmental Impact Statement.

Secondly, it was stated that I hadn't men. . .(CHANGE TAPE). . .Kapalua Bay Hotel. But one of the projects on this list, which is listed as Kapalua Bay, is actually the conversion of Kapalua Bay Hotel to residences at Kapalua Bay, and it does list 155 units. So, that project is on our list.

Also, it was pointed out that I didn't mention Olowalu, Launiupoko, Makila, Puunoa and Ukumehame, and that's true. I do have a map that shows those projects, but I can tell you that the . . . I added up the numbers for your information, and I can show you on the map if you'd like. But the, the numbers basically are: 92 units at Ukumehame, 1,500 at Olowalu, 271 existing units or existing lots at Launiupoko, Makila, Puunoa, which are adjacent to one another, which is a total of 1,863. And then you can add to that, if you wish, Peter Martin's desire to build another 2,000 units basically at Launiupoko along the seashore. So, you can, it's, basically, in round numbers, another 4,000 units, Launiupoko to Ukumehame.

The other issue that came up that I wanted to refer to was the, the site for, one of the sites for the affordable housing that's being discussed is, is basically across the street from the, the existing

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Napili shopping center at the corner of Napilihau and Honoapiilani Highway. And it, it's currently a parking lot for the horse stables and also the, the corp. yard for Maui Land and Pine. That area, as has been mentioned, is, is potentially location for affordable housing, and it's zoned industrial now, which allows apartments. And so, it, in our opinion, would be at an appropriate location for apartments and also offices.

We've had some discussion about the possibility of Maui Land and Pine offices there. I would have to say, tentatively, that I don't think it's a good location for retail, because it's across the street from a struggling retail shopping center. I won't go into the details, but Maui Land and Pine was smart enough to sell it. And I think we need to fill that shopping center before we build another one across the street.

The last comment, I guess I would make, would be with respect to the fire stations. We're having conversations that I think all of the Council is aware of with all of the Departments: Water, Public Works, Fire, Police, in conjunction with the General Plan update. And we're asking all of the Departments to look at future development plans that we have for the next 25 years, including the map on my right. And so we are working with them on, on asking them to try to, try to estimate their future needs, both in terms of, of stations and, and manpower with respect to fire and police. And it, they aren't quite at the point yet of, of saying exactly what their priorities are.

But with respect to fire, my understanding is that the first priority is the station in Molokai. The second priority is probably a station in Haiku, where they've had some real challenges look, finding a location. And those are probably ahead, you know, budget-wise, those are probably ahead of West Maui, which is pretty well served by, by the Napili Station and the civic center station although both of those fire stations are, are very small. So, that's kind of where we are with respect to the, the Fire Department, but we are in close communication with, with the Fire Department with respect to stations. We're talking to them about the need for a station at Maalaea, which is outside of the magic five-mile radius. And it may be a station eventually at Olowalu if there's support in the future for a new town at Olowalu. Are there additional questions?

CHAIR CARROLL: Mr. Kane.

COUNCILMEMBER KANE: Thank you. Thank you, Chair, and, Director, thank you for your additional comments. My only other question, Chair, is, and then I'll yield the floor, is to Mr. Foley. Mr. Foley, has the administration or more specifically your Department developed a, a position on this project as it's presented to us today?

CHAIR CARROLL: Mr. Foley.

MR. FOLEY: Mr. Kane, we, we have supported this project consistently, and part of that support is related to the fact that this project has been designated on the community plan and in zoning as a Project District with 750 units for a number of years. And in that respect it's quite different than

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our other projects in West Maui, because in this case the applicant is requesting that you add acreage to the site but that you reduce the number of units from 750 to 690 , and that previous Project District designation, to my knowledge, didn't really address the need for a requirement for affordable housing.

So, you could look at the 173 units of affordable housing as a, you know, kind of an updated bonus proposed with this change in the Project District from 750 to 690 units. We also have to take a look at the fact that, you know, this project is quite a bit different than others in a lot of respects.

And one of the most obvious is that houses in the projected price range that we're looking at above two or three million dollars, typically have a very slow absorption rate. And if you look at Plantation Estates, for instance, or Honolua Ridge the lots sell, perhaps, pretty quickly because of pent-up demand. But there, there, there isn't a rapid sale or rapid demand for construction and there will be a long buildout period for Honolua Ridge and for Kapalua Mauka if it's approved.

COUNCILMEMBER KANE: Thank you, Chair. I yield.

CHAIR CARROLL: Ms. Anderson, followed by Mr. Molina.

COUNCILMEMBER ANDERSON: Thank you, Chairman. Mr. Foley, I'm going to go back to the presentation you gave us regarding that map earlier this afternoon. The, the Kahoma Ag lots that are on the map, they're not on this list. Is that correct?

CHAIR CARROLL: Mr. Foley.

MR. FOLEY: I believe that is correct, I don't see them, either. I was thinking that they were the Palisades at Kaanapali, which must be above the Pinnacles, the Palisades above Pinnacles. But I don't believe those, that's the, those ag subdivisions are on the list.

COUNCILMEMBER ANDERSON: And so, do you know how many lots would be involved in these, in this proposed Kahoma Ag lots?

CHAIR CARROLL: Mr. Foley. Do you want the laser?

MR. FOLEY: Yeah. No. I don't have that information with me. I would add though that we recommended denial of those two subdivisions.

COUNCILMEMBER ANDERSON: So, they, have they received preliminary approval?

MR. FOLEY: I, I don't know. I, I remem..., the, the most striking feature of those subdivisions is it that they said that their water supply was bottled water.

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COUNCILMEMBER ANDERSON: And I'm sure that's one of the reasons you, you recommended that it not be approved?

MR. FOLEY: That was one of many. Yeah. Another reason was that they're, as you can see, high on the slopes of the West Maui Mountains with extremely difficult access, particularly for fire trucks.

COUNCILMEMBER ANDERSON: Okay. So, and just one other question. Would you know, I'm assuming then that these lots would have to comply with the sliding scale?

MR. FOLEY: Yes.

COUNCILMEMBER ANDERSON: Okay.

CHAIR CARROLL: Are you through, Ms. Anderson?

COUNCILMEMBER ANDERSON: No, I'm not. Thank you. So, the list of, that you've given us, of those proposed projects, have any of these or have all of them on your proposed list received any Planning Commission review?

CHAIR CARROLL: Mr. Foley.

MR. FOLEY: Yeah. I'd have to go through the, the whole list, but some of them have final approval or, and are under construction, like Kahana Ridge Villas, 170, 117 condos at, you know, the south, the south edge of Kahana Ridge.

COUNCILMEMBER ANDERSON: Excuse me.

MR. FOLEY: Those are under construction rightfully.

COUNCILMEMBER ANDERSON: Mr. Foley. Excuse me, I think you misunderstood my question. I don't care about the ones, the two top ones.

MR. FOLEY: Oh, okay.

COUNCILMEMBER ANDERSON: I'm talking about the proposed ones, if any of those that have been proposed, your third level there, if those have been reviewed by the Planning Commission? I'm just trying to get an indication if they're in the loop already?

MR. FOLEY: These . . . yeah. The ones that have been reviewed by the Planning Commission would include Land Tech, Kapalua Mauka and that's it. The staff has reviewed environmental documents for a number of these projects, and of course Villages of Leialii don't need to go to the Planning Commission or the Council.

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But quite a few of these are, are in the process of having their Environmental Impact Statements completed, like Kaanapali 20/20 and Pulelehua, which are, you know, tentatively scheduled for review this Fall, and Wainee. I should, I should clarify that the, the number for Pulelehua is for the phase makai of the airport. It doesn't include the area above the airport.

COUNCILMEMBER ANDERSON: Have you had any discussions on the area above the airport?

MR. FOLEY: We, we had discussions about that area when Victor Dover and, and the rest of the consultants were here a year ago. But we haven't, we've been concentrating, as has the developer, on the phase below the airport, because that's, that's certainly the first phase. They, for a while, we took the area above the airport off the map, and, and they asked us to put it back on because they want that to be considered when we do the, the urban growth boundaries.

COUNCILMEMBER ANDERSON: When you say, "they" you mean Kapalua?

MR. FOLEY: Maui Land and Pine, yes.

COUNCILMEMBER ANDERSON: Yeah. Maui Land and Pine. Okay. So, in those discussions what is the intended use at this time?

MR. FOLEY: The area above the airport would be predominately residential with, you know, smaller lots close, at the bottom and the larger lots at the top. I don't remember the, the number of units, because it's, it's, you know, proposed to be 10, 15 years in the future.

We can get that from you, we have it in documents that were submitted some time ago. But we, we haven't really been talking about the area above the airport now for some time.

COUNCILMEMBER ANDERSON: Okay. Thank you. I'd like to bring up something, because I think the Planning Department might want to make a comment on this. But the Project District 2 description for this project in our community plan says nothing about time shares. It, it's very clear that it is meant to be residential within the resort area. And, and it disturbs me, Mr. Chairman, because in the Environmental Impact Statement, Mr. Foley, there's no mention of time shares. In the petition for re-designation of lands, excuse me, reclassification of State boundaries to State Land Use Commission there was also no mention of time shares.

So, therefore, there was no assessment done in the Environmental Impact Statement for the time share use, nor was there any assessment or review or acknowledgment to the State Land Use Commission that there would be 250, possibly 250 time share units or transient vacation rentals in Project District 2.

Now, the, the proposal that's in front of us for a community plan amendment is to revise the description in the West Maui Community Plan to add the approximately 475 acres, but there's . . . that they have reclassified at the State level, expanding the land for this Project

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District. But there's no mention of any amendment to include time shares within the Community Plan description. So, it appears that this has been an addition rather late in the game.

In your report is the first mention of time share units. Now, I've been told by OEQC, State Office of Environment Quality Control that there needs to be . . . any change in the EIS prior to a land use entitlement requires either a new EIS or a supplemental EA to the EIS because, after all, the purpose of this document is to give us environmental assessment for the proposed use. And it was the intention, when this project district was designated in the community plan, that it be residential.

So, I think that there needs to be an amendment sought by the applicant to the State Land Use Commission's Decision and Order, and I think there needs to be a supplemental environmental assessment to address the time share issue. And I think our ordinance needs to be changed if we're going to allow time shares. Because, I'm sorry but I'm a stickler for following the community plan and, and if we're going to amend it let's amend it properly and not ignore the fact that the community plan, the intention of the community plan and those who sat here before us and, and made this designation, this Project District 2 designation, it was their intention that it be residential, resort residential. And, and I'm sorry, but I do believe there is a difference for time share or transient vacation rentals.

And just as an aside to underscore why I think that's important, Mr. Chairman, is I have had mentioned to me, on numerous occasions lately, by people who live in condominium units where they bought in intending to be a resident only to find that their neighbors are transient and that it's like living in a motel. So, I'd like to be very clear on this and make sure that we're following the law. If Corp. Counsel or Mr. Foley would like to respond I'd appreciate it.

CHAIR CARROLL: Mr. Foley, could you comment on Ms. Anderson's comments?

MR. FOLEY: The world's longest question.

CHAIR CARROLL: I hope it can be a little shorter than the question.

COUNCILMEMBER ANDERSON: Not any longer than yours.

MR. FOLEY: I don't know quite where to start. I guess first of all, when, when this Project District was drafted years ago the phrase "time share" probably didn't exist. So, in terms of use what we're looking at is units that are, are rented out in a pool when they're not occupied by their owners like many of the condos throughout Kapalua.

And when we had conversations with the applicant, we asked the question about, you know, what percentage are, are going to be available for transient use or rental by the week. And that's where we started talking about 250 or 300 or 400 that would be possible to be rented on a short-term basis.

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And my recollection, it was analyzed and discussed with the Land Use Commission and, and was adequately covered in the Environmental Statement. The, plus, I think, I think, I share the same concerns that Councilmember Anderson does about units being used for transient purposes where it's a surprise to the neighbors. But frankly, we feel that in the resorts that's the best location for the transient vacation rentals, and that's the area where people should expect a weekly change in, in tenants.

I know there are people that live in condominium projects at Kapalua, and, but I, I think in a resort they're more likely to expect transient vacation use in the condo project than they are, say, in, in a, a condo project in Central Maui or, or even Lahaina or, or Kihei. So, we, we did consider the transient use we, and we considered it appropriate.

COUNCILMEMBER ANDERSON: You considered it appropriate in contradiction to the community plan.

MR. FOLEY: No, I don't, I don't think it is in contrary to the community plan. The community plan recognizes Kapalua and Wailea and Kaanapali as resorts and recognizes that the majority of the people staying in those resorts are staying there for a week or ten days. They're not staying there on a permanent basis. They're a mix, all of the resorts, all three of those resorts have permanent residents that stay there full time, but they have, each of them have hundreds or thousands of units that are occupied at, by people that are staying there from five to ten days.

COUNCILMEMBER ANDERSON: Well, you know, I'm disappointed with your response, Mr. Foley, because first of all, the community plan was adopted in 1996, and we have an ordinance on our books for time shares, its been there since 1981. So, "time shares" certainly were a word that was used, a descriptive word that was used way before the community plan was adopted. And, within this, I mean you're talking in generalities, I'm talking in specifics in that the description for Project District 1 and 2. And, and do you have a community plan with you, Mr. Foley? If not, I have an extra that I would be happy to loan you.

MS. CUA: If, if I could.

CHAIR CARROLL: Ms. Cua.

MS. CUA: If I could comment.

COUNCILMEMBER ANDERSON: Excuse me, I'm not finished. Project District 1 is, is the area makai of the highway, and that is the area that was designated for visitor-oriented use. Project District 2 was meant to be for residential use. So, and, and the reason I'm concerned about this, Mr. Chairman, because I lived at Kapalua for some time, and, and I lived in a condominium complex that was meant for residential use. And it was disturbing that to have neighbors on one side that were truly neighbors and neighbors on the other side who were visitors. So, you never got a sense of community, because there was always somebody new there.

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And you know I don't know that, you know, there, you're specifically and within the ordinance that's been written it specifically limits the number of transient vacation rental use within this Project District to 250 units. So, meaning that the rest of the units are meant for long-term residential use. So, that seems to contradict what you were just saying, Mr. Foley.

And like I said, I've already spoken to OEQC about this and to the State Land Use Commission staff, and they both feel that because this use was not presented to them at the time that they reviewed this project that there needs to be amendments. And, and I think that, you know, we're, we're amending the language that's in the community plan for Project District 2 if we allow this use. So, I think that also needs to be clarified in the ordinance not just in the community plan amendment that we are adopting if this project passes. So, I will yield if the Department has further comments, Mr. Chairman.

CHAIR CARROLL: Thank you. Ms. Cua.

MS. CUA: The point I wanted to raise is they are seeking a community plan amendment to the language. And we are familiar with the existing language, currently. And our report and their application reflected the fact that they wanted to modify the language, and we worked with them on that, so that it would be very clear that resort residential included transient vacation rentals. And so, there is, there is a request to do that and there, you know, that, that is before you that went through the Planning Commission. It always was the intent and we wanted to make sure that the community plan language is clear. And so, that is a request that is before you.

COUNCILMEMBER ANDERSON: Could you tell me where in the ordinance there is an amendment to the existing community plan language for Project District 2?

MS. CUA: Well, you have, you have two things that you're dealing with: you have a community plan amendment application to add additional acreage to the Project District, and also request to modify the language in the community plan.

COUNCILMEMBER ANDERSON: Can you point that out, Ms. Cua, 'cause I haven't found it.

MS. CUA: Okay. I'd have to look for the ordinance. I'm looking at, I'm actually looking at my report right now.

COUNCILMEMBER ANDERSON: The ordinance is attached to a July 18, 2005 memo from Corporation Counsel to our Land Use Chair.

MS. CUA: I'm looking at . . . did you say, July 8th?

COUNCILMEMBER ANDERSON: Eighteen.

MS. CUA: I'm looking at the July 8th memo --

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COUNCILMEMBER ANDERSON: July 8th memo?

MS. CUA: -- from Corporation Counsel. This is the most recent draft of the ordinance. And it's a bill for an ordinance amending Ordinance No. 2476 the West Maui Community Plan and Land Use Map. And Section 2 . . .

COUNCILMEMBER ANDERSON: July 8th.

COUNCILMEMBER TAVARES: About an inch from the back. One inch from the back. . . (inaudible) . . . measure by . . . (inaudible) . . .

UNIDENTIFIED SPEAKER: Yeah.

MS. CUA: I think, I think you found it. Okay.

COUNCILMEMBER ANDERSON: It was provided to me by staff, but it's not in my binder. All I have is the July 18th one. Okay. So, I'm with you now.

MS. CUA: So, that is, that is the most recent version of the ordinance, and this first section of the ordinance talks about the amendment to the community plan map. And Section 2 refers to the amendment of the language in the community plan --

COUNCILMEMBER ANDERSON: Okay. I see that.

MS. CUA: --where it goes from 450 acres to 924.8 acres, and then, there is mention of when, when you go down, further down in the language it says, the Project District also includes, it takes out 750 and it puts in 690 residential units with an overall average density, and it goes from 5 to 0.7 units per acre in a mixture of single-family -- take out the word "and" -- multi-family and. . . (CHANGE TAPE). . . you wanted this description in the community plan to clearly reflect what they wanted this Project District to be. And so, the further clarification of resort residential uses includes transient vacation rentals and time share.

CHAIR CARROLL: Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. I see that. Thank you, Ms. Cua.

CHAIR CARROLL: Okay.

COUNCILMEMBER ANDERSON: I still have --

CHAIR CARROLL: Ms. Anderson, if you have some more I'll come back to you. But we have some other. . . (inaudible). . .

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COUNCILMEMBER ANDERSON: --no, I'm fine. Go ahead, then. But I still have a problem with the EIS, but that's my problem.

CHAIR CARROLL: Thank you. Mr. Molina followed by Ms. Johnson.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman. Before I have, look for a response from Mr. Foley, I do have a number of questions, but out of consideration for the body it has been a long day. If you prefer I don't mind coming, coming back with my questions after a short break. I have about 42 questions for Mr. Foley, so . . . just kidding.

CHAIR CARROLL: I'll tell you what.

COUNCILMEMBER MOLINA: I'm open to taking a break.

CHAIR CARROLL: We're, we're going to take a short recess right now until five o'clock. And please, Members, please return at five. We don't have much time, and some Members do have to leave at 5:30. So we stand in recess until five o'clock. . . *(gavel)*. . .

RECESS: 4:52 p.m.

RECONVENE: 5:01 p.m.

CHAIR CARROLL: . . . *(gavel)*. . . This Land Use meeting of August 31st, is now back in session, and we return to Mr. Molina.

COUNCILMEMBER MOLINA: And thank you very much, Mr. Chairman, and thank you for that much-needed break. My question is for Mr. Foley and no, I don't have 40-plus questions, I just have a couple, relating to an August 17, 2005 letter from Mr. Churchill, the Vice-President of Community Development, and relating to revisions to some of the conditions that have been proposed.

My first question deals with Condition No. 10, where, I guess, the revision reads as follows: 10B, if traffic impact assessments under Maui County Code 14.62 are implemented before Maui Land and Pineapple Company, Inc. satisfies Condition No. 10A, Condition No. 10A shall no longer be in effect and Maui Land and Pineapple Company Inc. shall comply with the traffic impact assessments or similar assessments, which may be imposed regarding the project under Chapter 14.62. The applicant has proposed a \$3,500 per dwelling contribution for road improvements. Can I get comment from you, Mr. Foley, as it regards this proposed revision?

CHAIR CARROLL: Mr. Foley.

COUNCILMEMBER MOLINA: And what would that, if impact fees were to be implemented how does it compare? Is what the developer proposing more or less than what the traffic impact fee would be?

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MR. FOLEY: Mr. Chairman, in response, we support the revision to the, to the condition. Thirty five hundred is approximately what the Kaku report had a couple of years ago. And we like this condition because we are hopeful that the traffic impact fee will be implemented before they get a building permit. And if it is we're confident that the fee will be higher than 3,500 per unit. So, this condition is fine with us.

COUNCILMEMBER MOLINA: Okay. Thank you. And my next question relates to Condition No. 11D. The proposed revision relates to . . . I guess I'll just sum it up, recommends that in the event of any future development change in zoning the less restrictive affordable housing condition shall apply. Can I get comment from you on this proposal?

CHAIR CARROLL: Mr. Foley.

MR. FOLEY: You know, this, this is, this is something new. We really haven't, haven't talked about it. I don't know. I think this is, you know, why you get the big bucks.

COUNCILMEMBER MOLINA: Okay.

MR. FOLEY: I mean, I guess if it were my druthers, you know, this falls into the category that a deal is a deal. Why, you know, why reduce it if was some question mark in the future? But, you know, I think this is, is pretty much basically, totally up to you.

COUNCILMEMBER MOLINA: Alright. Thank you. And my last question, I guess, for probably Corporation Counsel on Condition No. 12, where the applicant is suggesting that the County does not have authority to manage the stream flows of Honokohau and Honolua Streams. Corporation Counsel, I guess, Mr. Giroux, do you concur with this assessment made by the applicant?

MR. GIROUX: Mr. Chair.

CHAIR CARROLL: Corporation Counsel.

MR. GIROUX: I, I just recently got these conditions, and I tried to go over and, and look at concerns that Corporation Counsel might have. And I did see that, that memo regarding the concern over jurisdiction. I conferred with, Jane Lovell, who does a lot of the litigation in our office with, you know, the Water Commission. And, one of, one of the ideas that came out of that conversation was that when we're looking at this, the, the Water Commission has, has their rules and, and, and their Administrative Rules, I guess.

And the concern was the actual management of the stream, it really isn't County jurisdiction. However, within the, the State Water Resource Management Rules, there is room for the County to participate to some certain extent, and the extent would be in helping to develop studies for the, for the, basically, the stream management.

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And what we, what we looked at as was the Hawaii Water Plan, where it talked about the Hawaii Water Plan within the Rules, 174C31. And basically, within, within their, their rules, there is room for the County to take up a certain amount of responsibility to, to prepare studies that would help the State to get to the point where they could actually designate surface waters in their management system.

The problem right now is that, my understanding is that the State just hasn't gotten to that level. You know, they have, they just haven't done the studies and they haven't designated any streams to be management areas. So, it looks like there is room for the Counties to encourage, you know, studies, but the actual management or designating the amount of water that needs to be conserved I think is the ultimate authority would be into, in the Water Commission.

COUNCILMEMBER MOLINA: Okay. Thank you for that response. I just asked that, because I just want to ensure the applicant fulfills their obligations to responsibly manage those streams. So, and that's fine. Thank you, Chairman. Thank you, Mr. Giroux.

CHAIR CARROLL: Thank you. Anything further for Public Works?

COUNCILMEMBER ANDERSON: Chairman.

CHAIR CARROLL: Ms. Johnson, followed by Ms. Anderson.

COUNCILMEMBER JOHNSON: Planning, you mean, I'm sure. One of the questions I had of Mr. Foley would be, because we're going into the General Plan process and we're looking at all of the shortfalls that we have in terms of infrastructure, and I know that there were studies done that were presented at the Planning Commission and workshops, basically, to brief people on where we stood in terms of parks, the open spaces, you know, sewage capacity, schools, that type of thing. Have you looked at this project and of course the affordable housing units that would be tied in with it as it relates to the General Plan in, in the big-picture sense?

CHAIR CARROLL: Mr. Foley.

MR. FOLEY: Mr. Chairman. Yes. We, we look at all these projects in relationship to the region and, and the General Plan update, more specifically, the Maui island plan, which we're working on. I mentioned earlier that, in some respects, this project is in a different category than a lot of the other projects that are proposed and are on this map to my right.

And the reason for that is that this, this project already has a designation for 750 units. They're, they're proposing to reduce that to 690 units. That's, in our mind, quite a bit different than somebody applying to create a new development in an area that's been designated as Agriculture for the last five or ten years. And most of the projects, almost all of the projects that, that are proposed in West Maui are proposed to be changed from Agriculture to Urban and, and, more specifically, Residential.

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So, this one, you know, actually, fits in a different category with respect to already having Project District designation. It also would result in slower construction because of, of the market that it's addressing and, and less traffic because the, of the very slow absorption rate and development of houses.

And again, the, the type of occupants don't generate the traffic that people generate who are, for one of a better phrase, working for a living. These people tend to be retired, and these are second and third homes. They are not typically people who are working in Central Maui or elsewhere in, in Lahaina.

But the other distinction, that's different about this project from some of the others, is the, the use of a private water company rather than the County water system. So, it has a different impact on the County water system, on traffic and, and on construction timing than, than most of the other projects that we're looking at in this region.

I, I think the more difficult questions regarding the infrastructure inadequacies, especially highways, will be more focused on when we review the other projects.

COUNCILMEMBER JOHNSON: And, and I guess the reason that I'm addressing that area and I, I don't know if I'm completely convinced that , you know, you've answered my question, at least, you know, the way I'm looking at it. I'm looking at, if we're already inadequate, let's say, in park space, if we're inadequate in police, if we're inadequate in fire, how much more inadequate are we going to be by approving this and then at least not be any worse?

And I know that this project, because of the way that we do our assessments and our evaluations, we can't place on this project all of these sins of the past and dump that on them. Because all they have to do legally is mitigate or when they go forward with their development mitigate the impacts that they create.

And yet, what I'm hearing from all of the various agencies is that they don't have enough personnel, they don't have enough ability, I guess, to address a lot of these concerns. And I'm looking at, I have to make a decision, I have to do it in the context of, okay, we have these areas of deficiency in terms of our General Plan coming up. How does this fit in to that whole picture? And does it help? Does it hurt? Does it make things substantially better? Does it address our affordable housing crisis?

And that's kind of why I'm looking at it and then looking to you to see, well alright, where does this fall in that context? Because you're more knowledgeable because you're dealing with this on a daily basis. I don't know if that makes any difference on how you would respond but.

CHAIR CARROLL: Mr. Foley.

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MR. FOLEY: Mr. Chairman, the, all, all projects have impacts, all projects have, place some demand on our general services like police and fire and libraries and schools, et cetera. The way we're set up right now, we have mitigation fees like sewer connection charges and, and housing requirements and water connection requirements. But, but we don't have mitigation fees for our general services like police and fire.

And one of the challenges that we're looking at in the, in the General Plan update process is coming up with some, some creative financing alternatives, for you to consider, that have been used in other communities to try to bring us up to a higher standard than, than we currently enjoy with respect to some of our, our public services, such as police and fire, where we have no regular fee or, or mitigation attached to developments.

Unfortunately, we're not there yet, but you know we're, we're going to have to look at alternative financing for schools and highways, which are not technically our responsibility. But as you well know, we can come up with money, eventually, for improving the water system and the sewer system and even the fire stations and police stations and, and libraries. But the highway bill in this region is, is so large that we're going to have come up with something really different than what we have now or face the possibility that DOT isn't going to really accomplish two more lanes from Lahaina to Maalaea in, in, within 20 years. And I think that would be intolerable.

So, I, I, you know, I guess, I, I, it's premature for me to have an adequate answer to your question, but we are looking at alternative financing mechanisms in the General Plan update for all kinds of infrastructure in order to do some of that catch-up, because we can't attach all the mitigation to these new projects. The catch-up can't be attached to the projects, and I mean, we have significant litigation that tells us that.

So, you know we're, we're always playing catch-up, and we can probably do a good job with it, with certain things like water and sewer and fire and police, but we're going to have a really significant problem in the areas of schools and highways. So, I don't, I don't know what else to say.

COUNCILMEMBER JOHNSON: One final question, Mr. Chair. Have you utilized the monies that were set aside in the budget for cost of community services studies to assist you?

MR. FOLEY: Well, we, I'm not, I'm not absolutely sure where we got the money, but we have continuing contracts with a number of consultants who are updating our facilities reports and doing . . . I can't think of the right phrase but that are addressing the adequacy of, of all of the public services, not only facilities like fire stations and sewer treatment plants but also the adequacy of, of personnel and maintenance and those kinds of things.

So we are doing that as, as part of the General Plan update. Most of those studies are pretty much done and we're about to shift into the public participation phase when you adopt, when you appoint the General Plan advisory committees.

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COUNCILMEMBER JOHNSON: Mr. Chair, I just would ask that if staff could assist in following up and find out where the cost of community service money is. Because I think we had set aside, it was either fifty or a hundred thousand dollars to assist in cost of community service studies. And they're specific studies that help to determine in different regions what the actual cost is, if it's 53 cents for every tax dollar or a dollar and ten cents, that type of thing.

So, this is really important that we, if Mr. Foley is needing the help in order to evaluate what we're looking at here then I think that this Council has provided at least some resources. So, I want to see that they're being properly utilized. Thank you.

CHAIR CARROLL: Thank you. Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. I just want to follow up on a couple of issues. Member Molina mentioned the condition on, on stream restoration. This is a condition that was put in by the Planning Commission. And you know, Kapalua Land Company, their argument is that we don't have the authority, but that's not necessarily true. We have the authority that we, we are giving them land use entitlement, and we have the authority to condition that land use entitlement.

And you know, if we wait for the Commission on Water Resource Management to establish stream flow as required by the State Water Code we're going to be waiting a very, very long time. They don't have the staff, that's why, Members, we are funding, partially funding the study for Na Wai Eha for the streams on this side to get an adequate stream flow figure to restore the streams there.

And this is an opportunity that we have to do the same thing for Honokohau [*sic*] stream, Honokohua stream because of this land use request. So, you know, I have spoken to several attorneys that are experts in, in water law in the State, and they say that there is nothing that precludes us from requiring, as a condition, that the applicant restore the stream flow to, in order to get their land use entitlement.

And as a matter of fact, the Hawaii Supreme Court, actually, upheld that, that right for a non-commission on water resource agency to attach water use conditions to land use approvals in their September '04 decision in Lanai Company vs. the State Land Use Commission. And I would be happy to further cite the, that case if anybody would want it.

But this is an opportunity for us, Members, to be proactive and to require the restoration of this stream. And, and I would remind everyone that the wells that they are going to be using surrounding the stream, could have an effect on the stream, because you know there's, it's an intrical(?) system. One is not independent of the other. So, if we're ever to get the, the stream flow restored in this stream now is the time.

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So, I hope Members would, would support the condition for that, and I will be probably rewording the condition to make it more specific, Mr. Chairman. I think we have every right to do that and, and if we don't do it we're passing, you know, we're passing up an opportunity that we may not get again.

And, and this is an important major stream and, and I just feel that it's very important for us to take the opportunity in front of us to get this stream flow restored. We heard from the testifier today, who's very well versed in the water issues of Maui County, has just completed a report for the Board of Water Supply. And I'd like to see us get that 6½ million gallons back into the stream.

The other thing I wanted to address is Mr. Foley's contention that, that it's an appropriate use in condominium areas for transient vacation rentals. Well, that flies in the face of our Code, Mr. Chairman, because the only place where transient rentals are appropriate, according to our Code, is hotel-zoned property, not multi-family.

And, and so, basically, what they're doing in this, in this Project District ordinance is rewriting our Code specifically to suit their needs for transient vacation rentals in this residential area. And I have, I question that, because that should be in Project District 1 as the community plan was written and not in Project District 2. So, that's, those are my comments, Mr. Chairman. Thank you for allowing me the time.

CHAIR CARROLL: Thank you. Any further questions at this time for the Planning Department? Hearing none, thank you, Mr. Foley. Thank you, Ms. Cua.

We have reached the point to where I'll ask the applicant to come down, several Members have indicated they have questions for the applicant. Would the applicant or their representative come to the podium? I'll start from, did you have a question, Ms. Tavares? Okay.

COUNCILMEMBER TAVARES: No. I have no questions.

CHAIR CARROLL: Thank you, I appreciate that. Any questions for the applicant? Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, I do and it's . . . good afternoon, Mr. McNatt.

MR. McNATT: Good afternoon, Mr. Mateo.

COUNCILMEMBER MATEO: The, on your proposal there is a requirement of the 173 affordable components. The 173 had been broken down into single-family and multi-family type housing units. Has, if we were to ask you to consider two possibilities: the 173 units to be all single-family units, or the possibility of changing the existing proposal to increase the number of units, eliminating the single-family unit, which is only 24, and just increasing it to all the multi-family units, would there be room for discussion with you at this point?

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MR. McNATT: Mr. Chairman.

CHAIR CARROLL: Proceed.

MR. McNATT: So, if I understand it, you want the second alternative was to change all the, all 173 to multi-family units?

COUNCILMEMBER MATEO: Yeah. And the number will increase, yeah. The number. . .(inaudible). . .

MR. McNATT: So, it would be more than 173?

COUNCILMEMBER MATEO: Yes.

MR. McNATT: We think that 173 is fair, because it's, because it's been discussed over and over again with other landowners and committees of the Council. It represents 25 percent.

COUNCILMEMBER MATEO: So, if I was to tell you 173 is fair, but 173 single-family units.

MR. McNATT: Unfortunately, that wouldn't give us the flexibility to provide units as fast as we can in the West Maui Village site, that ten-acre site we talked about, where we can, we can do the 40 that we proposed up front very quickly, as soon as we can get into design, because the site is already zoned. So, that would be difficult to do, to change it to single-family.

COUNCILMEMBER MATEO: Okay. So, but at this particular point, the Council will have the opportunity to, to have this discussion with you based on, you know, the projections is your recommendations to this body telling us that you will do 24 single-family and the rest of the 173 units, the rest of the 133 is, is primarily multi-family. That is something you are, you're telling us that, you know, you're willing to do.

MR. McNATT: Well, actually we're proposing to do 125 multi-family rental units, 48 for-sale units and a total of 173, and 40 units as fast as we can before we sell any market-rate units.

COUNCILMEMBER MATEO: What is the number of your single-family? How many single-family units?

MR. McNATT: Forty-eight for-sale units. They could be, they could be condominiums or single-family but primarily single-family.

COUNCILMEMBER MATEO: I, I was under the impression it wasn't 48, it was 24 single-family units.

MR. McNATT: No. It's 48, 48 for-sale units. Those could be attached units, they could be condominiums or single-family.

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COUNCILMEMBER MATEO: Well, okay. Single-family units would be the, the single-family dwelling just the separate this, that --

MR. McNATT: Yeah. They would --

COUNCILMEMBER MATEO: --yeah. Okay --

MR. McNATT: --exactly.

COUNCILMEMBER MATEO: --It's not a condominium unit. So okay, so I'm hearing from you at this particular point that you're going to, you're going to with any, the recommendation that you are proposing, and there is no room for considerations for changes at this particular point?

MR. McNATT: Well, we think it's a fair proposal, Mr. Chairman. So, we would like to stay with that proposal.

COUNCILMEMBER MATEO: Well, you know I, I, you know, I thank you, because I think the fair proposal at this particular point would be 173 single-family units, which will definitely increase costs, you know, but it will provide people, you know, in your community, you know, that, that particular need. So, I thank you very much at this particular point.

MR. McNATT: Thank you, Council Member.

CHAIR CARROLL: Thank you. Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Chairman. Good afternoon, or shall I say good evening, Mr. McNatt.

MR. McNATT: Good evening.

COUNCILMEMBER MOLINA: Just a question regarding the expanded, expanded Project District 2 area. It includes gulches and open space. At this point, do you know after the so-called 20-year buildout plan that you have, is the company, does the company have any intentions of developing those additional open spaces?

MR. McNATT: No, not at all. The only, the only intention there would be to provide trail connections; and primarily, they would be along existing roads that connect pineapple fields or, or old pineapple fields.

COUNCILMEMBER MOLINA: Okay. And one last question with regards to the issue of the stream restoration program. Are you open to providing . . . I know your attorneys have stated that the County has no jurisdiction with regards to the stream restoration program. But are you open to providing the Council as well as the Water Department with copies of your program prior to getting your building permit should this project be approved?

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MR. McNATT: Yes. We can, we'll provide you with copies of the program. I'd like to point out that since the Planning Commission approval or recommendation of approval of the project two years ago and, and the suggestion that the condition, we have restored the stream and that's one of the reasons why we didn't feel the condition was necessary. . .(CHANGE TAPE). . .the water flow in the stream to over four million gallons per day. During flash episodes where there's high rains, it, it actually builds the average up to more like ten million gallons a day, so there's a significant amount of water going through the stream today.

COUNCILMEMBER MOLINA: Okay. Thank you. Thank you, Mr. Chairman.

CHAIR CARROLL: Thank you. Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you. I'd just like to follow up on that. Mr. McNatt, when, when was this stream flow increased?

MR. McNATT: We . . . Mr. Chairman . . .

CHAIR CARROLL: Proceed.

MR. McNATT: We started improving our monitoring systems about the time of the Planning Commission hearing a couple of years ago and have been improving them on a continuous basis since then. And once we got those into place, we could see . . . remember this system was built about 100 years ago, so, it, and it wasn't updated on a continuous basis because of lack of funds. But we really focused on that stream over the last couple years and, and then began to realize that we could add additional water to the stream, so we started doing that. And it's been about a year or so, at least, that we've started adding water.

Now, because of that, the stream is wet continuously from one end to the other. Before, there were periods where portions of it, a certain portion was dry, but now it's always wet.

COUNCILMEMBER ANDERSON: It's always wet since about a year ago?

MR. McNATT: At least a year ago.

COUNCILMEMBER ANDERSON: And, and you have at least four million gallons a day--

MR. McNATT: That's correct.

COUNCILMEMBER ANDERSON: --running in the stream?

MR. McNATT: About four million gallons a day, a little bit more.

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COUNCILMEMBER ANDERSON: And do you have any data that supports that, any kind of study or. . .(inaudible). . .

MR. McNATT: We do, we have, we have recording devices that are recording the flow as they go through the gates over the diversion.

COUNCILMEMBER ANDERSON: And so, that was done since the Planning Commission. . .(inaudible). . .

MR. McNATT: Yes.

COUNCILMEMBER ANDERSON: Okay. Thank you very much.

MR. McNATT: You're welcome.

CHAIR CARROLL: Thank you, Ms. Anderson. Further questions for the applicant?

MR. McNATT: Mr. Chairman, if I could make one statement if there are no other questions. I just had a couple comments on previous comments, I'd like to clarify.

CHAIR CARROLL: Is there any objection to having the applicant make a statement to the Committee?

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR CARROLL: Proceed.

MR. McNATT: Thank you, Mr. Chairman. Just a couple things. There was a mention of a Phase 2 for Pulelehua, I realize that's not on the agenda. We're not currently planning a Phase 2 of Pulelehua, and it's not addressed in the EIS. And we had asked the Planning Department to take it off the maps, but we suggested that if there was, at some point in the future, a area that might be developed and it was going to be considered in the General Plan they could consider it. But we're not proposing it and it's not part of any of those plans. I know that's off, off of this agenda item, but it was brought up during the meeting.

The, also, Director Lee had mentioned that there were several changes to the affordable housing program over the past few weeks. We haven't made any changes or any suggestions to it. It's probably our fault that we weren't as clear to her with our communications, but we haven't made any changes to it. It's the same as, as what was discussed primarily, except for the 40 units that we're willing to do up front as, as we discussed on July 13th.

And then there was the other discussion about time shares and the EIS, and I wanted to read to you very quickly a paragraph on Page 21 of the EIS that was certified by the Planning Department in November of 2002. And the title of the paragraph on Page 21 is Urban Residential.

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The urban residential component of the community is proposed to contain a mix of single-family and multi-family residential homes. Some homes may be owned under interval- or fractional-ownership type plans including time share plans. And that's specifically in the EIS and it was addressed. And I'd like to point out that time shares are simply a form of ownership, not necessarily, they're not a product type. It's a condominium that's just owned differently.

That concludes my comments, and I'd be happy to answer any additional questions. Thank you very much.

CHAIR CARROLL: Any further questions? Ms. Anderson.

COUNCILMEMBER ANDERSON: Yeah. I, I see that, Mr. McNatt, but that was added in the final EIS. So, but I don't see any assessment, I mean this is just one little sentence. I don't see any assessment of time shares and I'm willing to let it go for now, because I don't think any of the others Members are really that concerned with it. However, I am since I've worked for OEQC, and I'd like to stick by the rules.

I'm going to ask you one more time if you are at all flexible on the affordable housing component for this 900 acre, upscale, multi-million dollar project. Are you willing to be flexible in any way with the affordable housing component?

MR. McNATT: Actually, we are. Mr. Chairman.

CHAIR CARROLL: Proceed.

MR. McNATT: We would be willing to offer a first-time home buyer program of \$250,000 to assist first-time buyers. And we could work that out with your Housing and Human Concerns Department. We're willing to propose that as an addition that, that makes sure we do everything that we can to get those, those buyers in the lower categories into those homes.

COUNCILMEMBER ANDERSON: Primarily your employees?

MR. McNATT: Well, our preferences are to start with our employees, but if, if not enough employees qualify then, of course, commuters and others in West Maui would certainly be our second choice to address the needs of West Maui.

COUNCILMEMBER ANDERSON: Okay. I'm looking for more flexibility than that as far as single-family homes, and you know I already heard your answer to Member Mateo that this is the only, the Napili parcel is the only place you have to do this. But, Mr. McNatt, Kapalua Land Company has tons of land, and, and surely you could find ten acres somewhere in Project District 2 that you could, you could designate for affordable housing.

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I know you haven't done it, but that doesn't mean you can't do it. I mean it doesn't need to be dispersed within all these multi-million dollar homes, it could just be a parcel somewhere in Project District 2 to take care of all the affordable needs that this Council is going to condition. Would you be flexible to that?

MR. McNATT: As I said before, I think our program is fair. We're delighted to talk about additional single-family homes when we start talking and discussing Pulelehua in the future. That's where a lot of it will go, but at this time we think it's a very fair program.

COUNCILMEMBER ANDERSON: So, your answer is, no. And you know there's no guarantee that Pulelehua is going to be approved.

MR. McNATT: That's, that's absolutely correct. You're right.

COUNCILMEMBER ANDERSON: So, where's the alternative site for the rest of these affordable homes?

MR. McNATT: But we're . . . Mr. Chairman.

CHAIR CARROLL: Proceed.

MR. McNATT: If we're, we're talking about zoning at this time, so we're going to do 40 or more of these, of these affordable units in West Maui Village, the 10 acre site in Napili. If for some reason we do not come up with additional entitled land, including Kapalua for instance, in the future, then we would not be able to proceed with, with Kapalua Mauka. It would stop until we could, because we've, we've already guaranteed to you that we will only do affordable units as we, prior to or concurrently with the market-rate units. So, that will be the burden on us.

COUNCILMEMBER ANDERSON: You, you have no alternative sites other than Pulelehua?

MR. McNATT: Well, nothing entitled outside of Kapalua.

COUNCILMEMBER ANDERSON: Well, what's wrong within Kapalua?

MR. McNATT: Mr. Chairman.

CHAIR CARROLL: Proceed.

MR. McNATT: I was hoping you'd say, no. We really feel that the resort area, particularly Kapalua Mauka, is, is going to be, it's going to be a resort. And frankly we talked to our employees and others about it, and they're not necessarily that excited about living within, within high-end resort housing. So, it would be difficult. Maybe, maybe we can have this discussion more in the central part of the resort, but right now we're really not very flexible on that.

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COUNCILMEMBER ANDERSON: So, you can't offer us any sites for the affordable housing except 40 units at Napili, which most likely will go to your employees and which, you know, is okay. But just for all the land that you have and all the profits that are going to be made off of this project, Mr. McNatt, I would think that Maui Land and Pine, Kapalua Land Company could be much more generous in what they're offering. And I'm disappointed, and I'm going to leave it at that.

CHAIR CARROLL: Thank you.

MR. McNATT: Mr. Chairman, do you want me to respond?

CHAIR CARROLL: A point of a clarification.

MR. McNATT: Yes, sir.

CHAIR CARROLL: When we were talking about the \$250,000 for the first-time home buyers and rent fund, whether that would be private fund or a County fund that you was talking about? Putting in a County first time home buyers fund, or if you were going to, as Mr. Hokama talked about on Lanai, having a private fund with a board?

MR. McNATT: We would . . . I'm sorry, Mr. Chairman, we would prefer to do it as a private fund, and we'd certainly be happy to talk to Housing and Human Concerns and let them monitor the program. But we'd like it to stay private, so that we could do the preferences, starting with employees first.

CHAIR CARROLL: Alright. Thank you.

MR. McNATT: Thank you, sir.

CHAIR CARROLL: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Since you got this priority list, could you follow the priority list in regards to the . . .

MR. McNATT: Preference list?

VICE-CHAIR PONTANILLA: Yeah.

MR. McNATT: Yes.

VICE-CHAIR PONTANILLA: Thank you. And I think Mr. Hokama brings up a very good suggestion similar to what the Dole Company had done for people on Lanai having, you know, not only the company people but community people, as well as the union as a committee to administer not only the, the housing itself but also the \$250,000 for first-time home buyers.

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MR. McNATT: Thank you very much.

CHAIR CARROLL: Anything else for the applicant? If not, thank you.

MR. McNATT: Mr. Chairman and Members of the Committee, thank you very much.

COUNCILMEMBER KANE: Chair.

CHAIR CARROLL: Alright, Members . . . oh, Mr. Kane.

COUNCILMEMBER KANE: The other, the other consideration that I'm going to ask the body to, to look at is, in addition and I'm sorry if I missed it, so, Members, forgive me I'm trying to, trying to plan, plan my evening here and get this as the priority. We also have a rental assistance program, Mr. McNatt, that we've recently had discussions on.

And so, in addition, since the flexibility seems to be very diminished or very restricted on your folks part in being able to offer things, I would ask you to favorably consider additional monies not only for a first-time home buyer program but also for a rental assistance program that we have established. And so, it would be in a dollar amount that's going to be more than what you're currently offering, but it would be to provide for both programs, which I think we're, we're are in the process of trying to put together to assist, again, with the whole affordable housing thing.

So, your, any, any brief comments on that, Mr. McNatt, because again it's going to be a cash contribution on your part.

MR. McNATT: Mr. Chairman.

CHAIR CARROLL: Proceed.

MR. McNATT: We'd be delighted to talk to you about that and, and offer additional assistance there and a cash payment.

COUNCILMEMBER KANE: Thank you. Thank you, Chair.

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

MR. McNATT: Thank you, Mr. Chairman.

CHAIR CARROLL: Alright, Members, we have reached the point, we have about 15 minutes before we are going to have to adjourn this meeting. I think it's obvious that in 15 minutes, we're not going to be able to address all of the issues and all of the proposed amendments that have come up.

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We have two choices over here: one, we could recess this meeting until tomorrow, with the knowledge that I cannot be here. I know Vice-Chair Pontanilla would have to run the meeting. Or . . . and that would be recessing the meeting until tomorrow or we defer this item. If we defer it, it will have to be until October. And I'm going to call a short recess, a five-minute recess. . . .(gavel). . .

RECESS: 5:45 p.m.

RECONVENE: 5:50 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use Committee meeting of August 31st is now back in session. Members, due to the time constraints we have today and the inability to recess and meet tomorrow, I'm going to recommend that we defer this meeting. And I will work with staff and applicant to reschedule probably in October since the Chair will not be here for the month of September. Any objections?

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: RH, DK).

ACTION: DEFER pending further discussion.

CHAIR CARROLL: Hearing none, thank you. And thank you for coming, to all those who have participated today, either in the audience or out in TV-land. This meeting stands adjourned. . . .(gavel). . .

ADJOURN: 5:51 p.m.

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APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

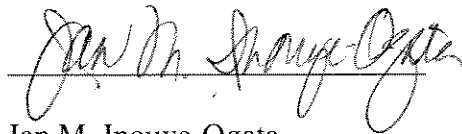
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Transcribed by: Ann Freitas

CERTIFICATE

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

DATED this 26th day of September, 2005, in Kahului, Hawaii

A handwritten signature in cursive script, reading "Jan M. Inouye-Ogata", written over a horizontal line.

Jan M. Inouye-Ogata
d.b.a. Secretarial Services Plus

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M I N U T E S
LAND USE COMMITTEE
Council of the County of Maui
Council Chamber
November 16, 2005

APPROVED:

Committee Chair

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

2 **PRESENT:** Councilmember Joseph Pontanilla, Vice-Chair
3 Councilmember Michelle Anderson, Member
4 Councilmember Jo Anne Johnson, Member
5 Councilmember Dain P. Kane, Member
6 Councilmember Danny A. Mateo, Member
 (Out 5:08 p.m.)
7 Councilmember Michael J. Molina, Member
8 Councilmember Charmaine Tavares, Member
 (Out 4:40 p.m.)

9 **EXCUSED:** Councilmember Robert Carroll, Chair
10 Councilmember G. Riki Hokama, Member

11 **STAFF:** Carla Nakata, Legislative Attorney
12 Camille Sakamoto, Substitute Committee Secretary

13 **ADMIN.:** Michael W. Foley, Director,
14 Department of Planning
15 Ann Cua, Planner, Department of Planning
16 Milton M. Arakawa, Director, Department of
17 Public Works and Environmental
 Management
18 Alice L. Lee, Director, Department of Housing
 and Human Concerns
19 Va Martin, Captain, Department of
 Fire and Public Safety (In 3:45 p.m.)
20 James A. Giroux, Deputy Corporation Counsel,
 Department of the Corporation Counsel
 (Out 2:30 p.m.)
21 Brian T. Moto, Corporation Counsel,
 Department of the Corporation Counsel

22 **OTHERS:** Brad Fitkin
23 Brenton Reeves
24 Jack Rizzo
 Shan Steinmark
25 Dick Mayer
 Noelle Lai
 Lucienne deNaie
 Debbie Revilla
 Kyle Scharnhorst

26 Bob McNatt, Executive Vice President,
 Maui Land & Pineapple Company, Inc.
27 Brian Nishida, President,
 Maui Pineapple Company
28 Warren Suzuki, Senior Vice President,
 Maui Land & Pineapple Company, Inc.

- 1 Ryan Churchill, Vice President, Maui Land & Pineapple Company, Inc.
- 2 Wes Nohara, Vice President, Maui Land & Pineapple Company, Inc.
- 3 Pamela English, Development Manager, Maui Land & Pineapple Company, Inc.
- 4 Mercer "Chubby" Vicens
- 5 Thomas Lau Hee
- 6 Steven Suyat
- 7 James Pacopac
- 8 John Rapacz
- 9 Jeffrey Pearson
- 10 Stephanie Hall
- 11 Additional attendees (50+)

PRESS: Akaku: Maui Community Television, Inc.
 Harry Eager, The Maui News

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11 VICE-CHAIR PONTANILLA: (Gavel). Members, the Land Use
 12 Committee meeting for November 16th, 2005 is now in
 13 session.

14 With us this afternoon we do have Member
 15 Anderson, Member Johnson, Member Kane, Member Mateo,
 16 Member Molina, and Member Tavares. Excused are
 17 Member Hokama and the Chair of this Committee,
 18 Member Carroll.

19 **ITEM NO. 69: WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA)**
 20 **(LAHAINA) (C.C. No. 04-181)**

21 VICE-CHAIR PONTANILLA: Members, this afternoon we do have
 22 one item on the agenda, which is the West Maui
 23 Project District 2, Kapalua Mauka, Lahaina. This is
 24 in regards to County Communication No. 04-181 from
 25 the Planning Director relating to a request from

1 Robert McNatt, on behalf of Maui Land & Pineapple
2 Company, Inc., for a Community Plan Amendment,
3 Change in Zoning, and Project District Phase I
4 approval for the West Maui Project District 2
5 (Kapalua Mauka) at Honokahua, Napili, Lahaina,
6 Hawaii.

7 Members, we do have three revised bills
8 that's going to be discussed this afternoon. One is
9 the revised proposed bill entitled, A Bill for an
10 Ordinance Amending Ordinance No. 2476 (1996), The
11 West Maui Community Plan and Land Use Map from
12 Agriculture and Open Space to West Maui Project
13 District 2 (Kapalua Mauka) for Property Situated on
14 the Southeasterly Side of Honoapiilani Highway at
15 Honokohau, Napili, Lahaina, Maui, Hawaii.

16 The second bill that is being proposed this
17 afternoon is, A Bill for an Ordinance to Change
18 Zoning from County Agricultural District and Interim
19 District to West Maui Project District 2 (Kapalua
20 Mauka) (Conditional Zoning), for Property Situated
21 on the Southeasterly Side of Honoapiilani Highway,
22 at Honokahua, Napili, Lahaina, Maui, Hawaii.

23 And the third proposed bill is entitled, A
24 Bill for an Ordinance Amending Title 19, Maui County
25 Code, to establish West Maui Project District 2

1 (Kapalua Mauka).

2 Also with us this afternoon, I failed to
3 mention earlier, is our Staff, Carla Nakata, as well
4 as Camille Sakamoto, and from the Administration we
5 do have Corporation Counsel James Giroux, Planning
6 Director Mike Foley, and Planner Ann Cua.

7 At this time the Chair will be accepting
8 public testimony. And public testimony will be
9 limited to three minutes and one minute to conclude.
10 Before we start with the public testimony, if the
11 members here this afternoon, as well as members of
12 the public, could turn your cell phones to the off
13 position or silent mode, as well as your pagers to
14 off position or silent mode. Thank you.

15 At this time people that are giving
16 testimony, if you can give your name, the
17 organization that you represent for our records.

18 Carla, do you have the first person?

19 MS. NAKATA: Mr. Chair, the first testifier is Brad
20 Fitkin, to be followed by Brenton Reeves.

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

22 MR. FITKIN: Aloha, Council Members and Committee Chair.

23 My name is Brad Fitkin, and I am here today as a
24 former employee of Maui Pine. So I represent myself
25 basically. You guys are going to be hearing a lot

1 of arguments for and against Kapalua Mauka today,
2 and I'm sure you've heard a lot thus far. I'm going
3 to let others discuss the specifics of the project
4 itself. I'm going to give you my argument that I
5 think is possibly from a slightly different point of
6 view. It's one that's closer to my heart.

7 A rural agricultural way of life is at stake
8 here. I don't think some of my former colleagues
9 expected me to be here, and by that statement I've
10 got a few of them sweating probably. But it is at
11 stake here. The picturesque settings of rolling
12 pine fields heading up into the hills, the open
13 space that that allows, and the jobs, hundreds of
14 them, in an industry that provides food for our
15 tables and all of the above that I just said in an
16 environmentally sustainable fashion.

17 I think it's important at this time to
18 briefly explain one of the reasons that I left Maui
19 Pine. I hate to say it, but I'm a bit of a coward.
20 After 20 years with Maui Pine, shortly after
21 graduating from Lahainaluna High School, I spent the
22 next 20 years at Maui Pine. And in those 20 years
23 there were probably only a handful that were
24 profitable for Maui Pineapple Company. It was
25 basically 20 years of fighting and scratching for

1 everything that we got. My former colleagues and I
2 worked our butts off basically for 20 years, and
3 about a year ago I got an opportunity to do
4 something else. And after much deliberation in my
5 mind, I took it. So in a way I kind of took the
6 easy way out. However, I do -- I left a lot of
7 friends behind, and a lot of them -- you know, none
8 of them are cowards. They're still there. They're
9 still there putting up the good fight for the way of
10 life that we were all brought up with, the rural
11 agricultural way of life.

12 In those 20 years, I also want to point out
13 that I was given every opportunity for -- me and my
14 colleagues and co-workers were given every
15 opportunity for advancement by this company, sent to
16 some of the finest --

17 MS. NAKATA: Three minutes.

18 MR. FITKIN: -- institutions for education. I also got my
19 own house out of it, which they provided hundreds of
20 houses over the years for employees. But let me try
21 to put it all together right now real quickly,
22 because there is a turnaround plan.

23 I left about a year ago. I even helped
24 formulate some of this plan. I had a small part in
25 formulating some of the plan. Kapalua Mauka is an

1 important aspect to keeping agriculture in Maui
2 Pineapple Company going. It's more important than
3 maybe some of my former colleagues will admit.
4 They're proud people, but this is why Kapalua Mauka
5 is very important to me. You know, it's important
6 to a lot of people, Kapalua. It's important to a
7 lot of Realtors. It's going to be important to a
8 lot of construction workers. But this is why it's
9 important to me, for those hundreds of people out
10 there who you're probably not going to hear from,
11 who --

12 MS. NAKATA: Four minutes.

13 MR. FITKIN: -- who their lifestyle is at stake here.

14 Thank you.

15 VICE-CHAIR PONTANILLA: Members, any questions for the
16 testifier? Member Anderson.

17 COUNCILMEMBER ANDERSON: Thank you for being here this
18 morning. I just need you to clarify for me, you
19 made a statement that when you were describing
20 yourself as an employee, you said that we were
21 fighting and scratching for everything we got. What
22 do you mean by that?

23 MR. FITKIN: Well, yeah, that might not have been the
24 right choice of words. It just means that over the
25 20 years, it was a constant battle, you know, to try

1 to be profitable every year, and most years we ended
2 the year unprofitable. I mean, in the late '80s, I
3 remember, the hallmark year of unprofitability, we
4 ended up with a \$17 million loss, despite all of our
5 best efforts, you know. I mean it wasn't like we
6 were all sitting back, you know, not putting our
7 nose to the grindstone, so to speak. And, you know,
8 in a way, I hate to admit it, after 20 years of
9 that, it wore on me and I needed to move on. But,
10 you know, they are still there fighting and
11 scratching and putting their nose to the grindstone
12 and doing their best. I know that.

13 COUNCILMEMBER ANDERSON: Okay, thank you very much.

14 VICE-CHAIR PONTANILLA: Thank you. Member Kane.

15 COUNCILMEMBER KANE: Thank you, Chair. Good afternoon.

16 Thank you for being here. I'm not going to put
17 words in your mouth, first and foremost, but I need
18 to understand, I guess, the overall point of your
19 testimony. The survival of agriculture depends on
20 this project providing revenue to subsidize
21 agriculture so it can be endured or it can endure as
22 far as surviving?

23 MR. FITKIN: Yeah, I wouldn't say agriculture in general
24 on Maui. I'm being more specific to Maui Pineapple
25 Company, but yes, that's basically -- it is an

1 important -- Kapalua Mauka is an important aspect to
2 a multi-faceted turnaround plan for Maui Pineapple
3 Company. There is a plan in place to change the
4 products that they produce and change the way that
5 they produce them to become competitive.

6 However, it takes capital, and to be quite
7 honest, after the last 20 years I've witnessed, you
8 know, the stockholders and the board members have
9 grown tired of our excuses that, you know -- that,
10 well, it's foreign competition, well, it's rising
11 costs of production. There now is a plan in place.
12 There now is a light at the end of the tunnel.
13 However, this Kapalua Mauka is a very important
14 source of revenue to -- to let that plan carry
15 through.

16 COUNCILMEMBER KANE: One more question, Mr. Chairman.

17 VICE-CHAIR PONTANILLA: Go ahead, Mr. Kane.

18 COUNCILMEMBER KANE: Thank you. In your mind, do you
19 believe that it's genuine that this project is going
20 to help agriculture remain sustainable? In other
21 words, ten years from now, 15 years from now, are we
22 going to come back and say, you know what, we just
23 cannot make it in agriculture. The costs are too
24 high, you know, all the things that you just
25 described. Do you see this plan actually being

1 sustainable? Because I heard you use that word in
2 the beginning of your testimony, and I appreciate
3 that.

4 MR. FITKIN: I absolutely do, you know, I mean there are
5 realities at stake. I can't say ten years from now
6 that, you know, it just doesn't work, but I do
7 believe after all the meetings that I've sat in, you
8 know, up to a year ago I do believe that the -- they
9 have -- their best interests are, you know, in the
10 right place here, and I do believe that this is
11 going to allow them to allow the company to be
12 sustainable. They're making great efforts in
13 educational collaboration too, on that forefront to
14 become sustainable. So, I mean, there's a lot
15 that's already taking place, but this is going to be
16 the source of revenue that I truly believe is going
17 to allow Maui Pineapple Company to fulfill its plan.

18 COUNCILMEMBER KANE: Thank you, sir.

19 Thank you, Chair.

20 VICE-CHAIR PONTANILLA: Thank you, Mr. Kane. Any more
21 questions for the testifier? If not, thank you very
22 much.

23 MR. FITKIN: Thank you.

24 MS. NAKATA: The next testifier is Brenton Reeves, to be
25 followed by Jack Rizzo.

1 MR. REEVES: Good afternoon, Council Members and Committee
2 Chair. My name's Brenton Reeves, and I've been a
3 Maui resident for two and a half years, and I'm one
4 of the newest additions to Maui Land & Pineapple,
5 being with this group for just three and a half
6 months. Today I wanted to share with you my
7 perspective on Kapalua Mauka from my first
8 impressions and also through fresh eyes.

9 I understand the concerns from any project
10 with a thought being an additional stress to our
11 current public fabric. I would be concerned too
12 with any developer who desires to implement any new
13 development without any concern or a complete
14 understanding of its outcome and impact that it has
15 towards the community. However, I've seen that the
16 three core themes that operate our company today,
17 equity, economy, and ecology, these are the same
18 covenants that have been applied to the planning of
19 Kapalua Mauka for the future.

20 In equity I've learned that this project will
21 be very distinctive as far as the mix of housing
22 types that embrace a diversity of people and
23 activities. It will prove to be very unique with
24 architectural styles that are mixed, that also stay
25 consistent with the overall theme of our resort.

1 In terms of economy, Kapalua Mauka will
2 contribute to our island's economy through wages
3 generated through the build-out period as well as
4 having permanent jobs created by ongoing operations
5 and ongoing maintenance. I've seen that the County
6 of Maui will also realize future revenue from the
7 real property taxes created from this venture. It's
8 also refreshing for me to see that the money made
9 here will stay here on Maui, as opposed to going off
10 island or to the mainland.

11 In terms of ecology, my opinion is that Maui
12 Land & Pineapple also understands that Maui's
13 economic success is directly linked to the quality
14 of our environment and our ability to preserve those
15 unique environmental qualities that make Maui an
16 attractive island for all of us to live on. The
17 company has adopted sustainability and smart growth
18 planning for the Kapalua Mauka project to ensure the
19 absence of environmental degradation.

20 Maui Land & Pineapple has embraced
21 environmental responsibility which supports a more
22 sustainable development to preserve the quality of
23 our water, enhance the livability of our community,
24 while maintaining the beauty of our beaches and our
25 mountains. Maui Land & Pineapple has adopted a

1 smart growth plan with visionary principles and
2 strategies for the wise use of our precious
3 resources and strategies and our stewardship of the
4 land.

5 My belief is that we can make Maui a model of
6 economic success over the long-term if we stay
7 environmentally strong and become an island that
8 defines its success by opening the door of
9 opportunity for those that follow these three core
10 values. Thank you.

11 VICE-CHAIR PONTANILLA: Thank you. Members, any questions
12 for the testifier? If not, thank you very much.

13 MS. NAKATA: The next testifier is Jack Rizzo, to be
14 followed by Shan Steinmark.

15 MR. RIZZO: Aloha, Council Members, and thank you for
16 giving me the opportunity to share some of my
17 thoughts this afternoon. My name is Dr. Jack Rizzo,
18 head of school at Maui Preparatory Academy, the new
19 school that's opened up on the West Side. Very
20 proud to say that. And for the record, I would
21 state that I'm absolutely 100 percent in support of
22 Kapalua Mauka.

23 My pitch -- and I want to speak on behalf of
24 Maui Prep and myself and what Maui Land & Pineapple
25 has done for our keiki, for our kids. The

1 generosity, the kindness that they've shown, I've
2 never seen anything like it. I've been a principal
3 for almost 20 years, representing public schools and
4 private schools, and I'm just amazed at what they've
5 done for our kids, because that's why we exist as a
6 school, for our keiki.

7 Beyond the land that they've donated, the
8 road that they put in, the financial aid that they
9 have put forth for so many of our kids to attend
10 Maui Prep -- 50 percent of our kids are on financial
11 aid. I've never seen anything like it. And perhaps
12 that's what brought me to Hawaii. My wife lived
13 here for many, many years, and I'm a born-and-raised
14 kid from Massachusetts, but every time I visited for
15 the last X amount of years, 15 years, I just felt
16 that spirit of aloha. And, you know, I'm an
17 outsider looking in, and at some point maybe they
18 won't call me a haole anymore, but I'm starting to
19 get aloha, and if there's an ambassador, I'd say
20 it's Maui Land & Pineapple and what they stand for.

21 As a football coach of 25 years, I didn't
22 give my kids a long list of rules and regs.
23 Kainaole(?). My wife taught me that, and she
24 learned that from here. And kainaole(?) means do
25 the right thing, and I believe Maui Land & Pineapple

1 is doing the right thing, and we're going to
2 transfer that to our kids and our school and our
3 lessons, certainly with regards to sustainability.
4 And if it thinks right and it feels right, we're
5 going to do that, and I stand behind this project.
6 I think if you put their name behind it, and that's
7 why we stand behind it, it's going to leave a
8 positive, everlasting impact on the West Side, and
9 certainly it's going to strengthen our school, and
10 that's what I'm here to represent. So I thank you
11 for the opportunity to speak.

12 I want to say thank you to Councilmember
13 Jo Anne Johnson for her support of our kids and our
14 staff and our parents at Maui Prep, and certainly
15 would invite any questions that you have.

16 VICE-CHAIR PONTANILLA: Thank you, sir.

17 Members, any questions for the testifier? If
18 not, thank you very much, sir.

19 MR. RIZZO: Thank you.

20 MS. NAKATA: Next testifier is Shan Steinmark, to be
21 followed by Dick Mayer.

22 MR. STEINMARK: Aloha, Council Members. My name is Shan
23 Steinmark. I'm a citizen of West Maui. Imagine for
24 a moment that you are the parents of Michelle Wie.
25 You know that your daughter's wonderful qualities

1 are simply too rare and too compelling to keep the
2 world from her, or her from the world. You hope and
3 pray with all your heart that your daughter will be
4 up to dealing with the threats and opportunities
5 that lie ahead.

6 However, you know that the world can be a
7 tough place. You know that the world is full of
8 self-serving people who care much more about
9 themselves than they do about your daughter. You
10 know that the world is full of dangerous people who
11 pretend to offer help, but can cause your daughter
12 great harm.

13 Deep down you know that the best you can do
14 with the short time that you have is to provide your
15 daughter with some loving guidance and introduce her
16 to caring people who will provide lifelong support
17 and wisdom to ensure a wonderful future.

18 Now imagine for a moment that you are the
19 guardians of West Maui. You know that your
20 community's wonderful qualities are simply too rare
21 and too compelling to keep the world from her, or
22 her from the world. You hope and pray with all your
23 heart that your community will be up to dealing with
24 the threats and opportunities that lie ahead.

25 However, you know that the world can be a

1 tough place. You know that the world is full of
2 self-serving people who care much more about
3 themselves than they do about your community. You
4 know that the world is full of dangerous people who
5 pretend to offer help, but can cause your community
6 great harm.

7 Deep down you know that the best you can do
8 with the short time you have is to provide your
9 community with loving guidance and then to introduce
10 her to carrying hui that will provide
11 multi-generational support and wisdom to ensure a
12 wonderful future.

13 So the real question is who are the best
14 stewards of West Maui? Who will care for West Maui
15 like she is our own daughter? Who will preserve and
16 protect the best of West Maui, while allowing her to
17 achieve her hard-earned and much deserved success?

18 Are the best parents and guardians for West
19 Maui single-minded real estate developers with
20 insatiable appetites for gobbling up green space, or
21 are they stewards of the land with a long-term
22 commitment to preserving and protecting the 'aina
23 and developing and maintaining agriculture?

24 Are the best parents and guardians of West
25 Maui self-serving capitalists making disingenuous

1 speeches but seeking only to build their own
2 personal wealth, or are they stewards of the
3 community who will contribute significantly to new
4 schools, health care facilities, and affordable
5 housing for our hard-working local residents?

6 Are the best parents and guardians of West
7 Maui corporate pirates, hit-and-run raiders who will
8 plunder our lands and disappear into the night with
9 their profits, or are they stewards of our island
10 who are here to stay who will partner with the
11 community and who will invest in a sustainable
12 island economy?

13 If the truth be told, the best parents and
14 guardians of West Maui are probably the kupuna of
15 our host culture, therefore the best --

16 MS. NAKATA: Three minutes.

17 MR. STEINMARK: -- that the rest of us can do is team up
18 with our kupuna to provide future generations of
19 stewardship. If we are to be good stewards of West
20 Maui, we must care for our community like she is our
21 own daughter.

22 Like Michelle Wie, West Maui will be
23 developing for many years to come, a work in
24 progress, but the scope and shape of that
25 development remains to be seen. We know that both

1 of these rare gems will have a wonderful impact on
2 the people of the world. The real question is what
3 impact the world will have on them? We can only
4 pray that their inner strength, their external
5 beauty, and their unique qualities will survive
6 their journeys intact. We can only hope that
7 Michelle Wie and West Maui will select the right
8 people to help guide them to their rightful
9 destinies.

10 With the loving help of wise parents, caring
11 advisors, and true friends, Michelle Wie will
12 survive and thrive. With the loving help of wise
13 leaders, caring stewards, and true citizens, West
14 Maui will also survive and thrive. We all hope and
15 pray that the magical place called West Maui --

16 MS. NAKATA: Four minutes.

17 MR. STEINMARK: -- like the magical person named Michelle
18 Wie, will achieve great success, without being
19 spoiled or destroyed by their success. Mahalo for
20 your kokua.

21 VICE-CHAIR PONTANILLA: Thank you, sir. Members, any
22 questions for the testifier? If not, thank you,
23 Mr. Steinmark.

24 MS. NAKATA: The next and last testifier who signed up is
25 Dick Mayer.

1 MR. MAYER: Thank you, Mr. Pontanilla and Council Members.
2 And I'm truly sorry for the loss of your Chair,
3 Mr. Carroll. My thoughts are with him today. I'd
4 like to speak about the Kapalua Mauka project as not
5 a project by itself, but a project amid several
6 other projects.

7 West Maui has on a list here about 30
8 projects. I think one of them can be subtracted,
9 number 28. But basically 29 projects that are going
10 to impact the area. And that's I think clearly
11 obvious to all of you. Some of them are further
12 along than others. The total number of units we're
13 talking about is not 1,000, 2,000 but something like
14 15 to 16,000 units to be added to the West Maui
15 numbers.

16 My concern is that the EIS that was drawn up
17 originally for Kapalua Mauka did a disservice to us
18 all by not being the cumulative project --
19 discussion that it should have been, and it's on
20 several levels. For one thing, the Kapalua Mauka
21 project isolated itself within the much larger
22 projects of Maui Land & Pine, which include the
23 tearing down of the present hotel and putting up
24 somewhere around 150 time-share units, the Honolua
25 Ridge, the Pulelehua project, affordable housing

1 projects off the site.

2 What should have been done is there should
3 have been an EIS for all of those projects offered
4 by the same developer, in the same area, with
5 virtually contiguous property boundaries, rather
6 than segmenting them into separate units. And the
7 result is that you're being asked to look at each
8 project separately without seeing the cumulative and
9 interactive effects of those projects on the
10 community and on the area of northwest Maui.

11 The second thing is the effect of this
12 project within the overall West Maui, and you have
13 there the list of projects which are being proposed.
14 And my particular concern is that the Council, in
15 looking at Kapalua Mauka, I think invited in several
16 County Departments, Parks and Police and Fire, to
17 come before you, but absent were the State
18 Departments dealing with highways, the hospitals,
19 health care, and schools, all three of which have
20 serious problems in the West Maui area. And until
21 we have an EIS that looks at all of these for the
22 West Maui region, we are really in trouble and the
23 people in West Maui will be in far greater trouble.

24 And particularly I'd like to call attention
25 to the highway situation. We're talking about a

1 highway from Maalaea over to West Maui that probably
2 will be in the order of 3, 400 million dollars. If
3 these projects are put in -- all of the Kapalua
4 projects put in, adding somewhere on the order of
5 3,000 units, or whatever the number will finally be,
6 if we even know that number, added to the units
7 already over there, that two-lane highway will not
8 be able to handle it. And until we have the 3 or
9 400 million dollars available for that highway over
10 the Pali or through the Pali, whichever it's
11 designed, and then around away from the coastline,
12 as it's supposed to be designed, we're going to have
13 massive traffic jams. As everybody in West Maui
14 already knows, it's going to be much, much, much,
15 much worse.

16 Hospital care. There's two proposals, but we
17 don't know --

18 MS. NAKATA: Three minutes.

19 MR. MAYER: -- if the money is enough for either of them.

20 Another problem is the State level and the County
21 level. These projects over at Kapalua Mauka are
22 going to affect the County and the State in some
23 interesting ways. For example, with all the
24 time-shares and second homes that we have, many of
25 the residents over there will pay no income tax to

1 the State of Hawaii. Because they live out of
2 State, they pay their income taxes elsewhere. And
3 yet we're expected to fund lots of enterprise,
4 everything from education to prisons, et cetera, et
5 cetera, and there will be no income coming from
6 these part-time residents in the various Kapalua
7 projects.

8 Very often in the past you have heard we
9 should have projects built because we need to
10 provide jobs for the labor force. This morning's
11 paper indicated that we have a shortage in the State
12 of 26,000 workers. That we have so much
13 construction going on, that there's no need to
14 provide a project that will add to our need for more
15 labor, jobs for our work force, and what we should
16 really be doing is looking what is the best thing
17 for Maui.

18 MS. NAKATA: Four minutes.

19 MR. MAYER: We have the GPAC coming up. That's the time
20 it should be discussed, not in -- at this stage. I
21 think it's premature. Thank you very much.

22 VICE-CHAIR PONTANILLA: Thank you, Mr. Mayer.

23 Members, any questions for Mr. Mayer? Member
24 Anderson.

25 COUNCILMEMBER JOHNSON: Johnson.

1 VICE-CHAIR PONTANILLA: I'm sorry, Johnson. Switch the
2 signs.

3 COUNCILMEMBER JOHNSON: I need to wear a name tag, I
4 guess.

5 Anyway, thank you, Mr. Mayer, for being here.
6 The list that you handed out to us, you know, with
7 the projects on it, do you have an update of which
8 of those projects are actually approved, or are all
9 of these -- you know, because I see many on there
10 that have already received approval.

11 MR. MAYER: No, I don't have the updated -- in fact, thank
12 you for reminding. This list is probably about a
13 year old, and it could be updated. And the Planning
14 Department has provided you with a map over there.
15 The problem is that map does not say -- and I think
16 there should be a little chart like the one that I
17 handed out to you there that indicates particularly
18 three things, the number of units, the number of
19 individuals, and the number of vehicles as an
20 absolute minimum should be on a graph so that --
21 what is projected with some indication of how many
22 have already been approved. And I do not have the
23 updated list.

24 COUNCILMEMBER JOHNSON: Okay. And then my second question
25 is that if I understand what you're saying -- and

1 correct me if I'm not understanding this properly.
2 With regard to the Environmental Impact Statement,
3 you wanted all of the cumulative projects that are I
4 guess taking place in the West Maui area, is it by
5 the same developer or all these different
6 developments?

7 MR. MAYER: What I'm saying is that usually when a
8 person -- or a company comes in for a project, they
9 have to provide EIS on their project. In this case,
10 Maui Land & Pine has segmented -- there are multiple
11 projects on the same virtual plantation site there,
12 Pulelehua, Kapalua Mauka, the hotel, et cetera.
13 There should have been an EIS drawn up for their
14 whole cumulative project, which would have been --
15 at least at that level, and then within that -- by
16 doing it that way, they would have really seen what
17 a dramatic impact it would have on West Maui, and
18 that they did not do.

19 And particularly with regard to the highway,
20 which I think is certainly the weakest link, the
21 health care. Their EIS for Pulelehua, which is a
22 more recent EIS, shows that Lahainaluna is already
23 200 students overcrowded above its limit. There's
24 no provision to build a public high school over
25 there. The private school, which was just

1 mentioned, is a school that is very costly, beyond
2 the means of most of the workers who work in that
3 West Maui area, and I -- you know, it's not really a
4 substitute for the need to build a whole new high
5 school, intermediate school, and elementary school.
6 By looking at the whole project, those types of
7 numbers would come out.

8 COUNCILMEMBER JOHNSON: Okay, thank you very much.

9 VICE-CHAIR PONTANILLA: Thank you, Ms. Johnson.

10 Ms. Anderson?

11 COUNCILMEMBER ANDERSON: The real Ms. Anderson.

12 VICE-CHAIR PONTANILLA: The real Ms. Anderson.

13 COUNCILMEMBER ANDERSON: Thanks, Chair.

14 Thank you for being here, Dick, and giving us
15 this chart. It's very helpful. I'm assuming that
16 you read the EIS for Kapalua Mauka.

17 MR. MAYER: I did not. I didn't -- I looked at it
18 briefly, but I looked -- I went through in great
19 detail -- because that was done about three years
20 ago, the EIS, and I didn't look at it at that time.
21 I went through the EIS in great detail on Pulelehua,
22 which I was looking for all the connections to
23 Kapalua Mauka on that. So I did not -- I have not
24 gone through their EIS, but I know it did not
25 consider Pulelehua, which had not yet been

1 developed, and certainly didn't consider the
2 time-share and their other developments.

3 COUNCILMEMBER ANDERSON: So you don't know if they did a
4 cumulative impact analysis on the Kapalua Mauka EIS?

5 MR. MAYER: For all those things I'm talking about? I
6 don't believe they did.

7 COUNCILMEMBER ANDERSON: No, just for -- I mean just
8 for --

9 MR. MAYER: It was done prior to those other ones
10 coming -- being discussed, so I presume it was not
11 handled.

12 COUNCILMEMBER ANDERSON: Okay, I'll check that. Thank you
13 very much.

14 VICE-CHAIR PONTANILLA: Thank you. Members, any more
15 questions for Mr. Mayer? If not, thank you.

16 MR. MAYER: Thank you, Council Members.

17 MS. NAKATA: Mr. Chair, the next testifier is Noelle Lai.

18 MS. LAI: Hello, ladies and gentlemen. My name is
19 Ms. Noelle Lai. I am a major owner of Honokohau
20 Valley. Now, a couple weeks ago I was reading the
21 newspaper, and for this project I read that they
22 wanted to use more of our river water for this
23 project. I'm very disappointed in this, and I know
24 Honokohau Hui, which is my organization, there's
25 going to be a little bit of a problem with this. So

1 I want to know how the water issue is going to work,
2 because we don't need any more water in our river
3 being dissipated by the County.

4 You know, we have rights. We do the kalo out
5 there, water rights. So I'm here to fight this. I
6 don't know -- and, again, this is just -- I don't
7 know the complete detail of all this, but I want to
8 learn, compromise even, but yet, please, do not take
9 my river.

10 VICE-CHAIR PONTANILLA: Are you done, ma'am?

11 MS. LAI: I suppose so. This was just going to be short
12 and sweet, and I don't know if you'll have another
13 meeting about this in the future or if this is the
14 only proposal meeting.

15 VICE-CHAIR PONTANILLA: Well, we don't know for sure at
16 this time.

17 MS. LAI: Okay, well, we are going to have a huge problem
18 with this. Get your water, please, from somewhere
19 else, not our valley. That is sacred hui land,
20 kuleana land. You know, we have the original deeds,
21 40,000 acres from the king of the Great Mahele of
22 1848 to 1853, re-instate Hawaiian nation, you know,
23 this could be -- this could be -- the Maui Land &
24 Pineapple land is originally Lai's land. It's a
25 very touchy subject, and we want to keep the country

1 country.

2 Maui Land & Pineapple, they're on top.
3 They're always putting their chemicals in our river.
4 It's disgusting. No respect. And I'm sick of all
5 these greedy developers that want money, and so I'm
6 the first to speak out amongst the Honokohau Hui,
7 and we are going to fight this. Do not take the
8 river water. Thank you very much.

9 VICE-CHAIR PONTANILLA: Thank you. Members, any questions
10 for -- ma'am, we do have Member Johnson that wants
11 to ask you a question.

12 MS. LAI: Sure. Certainly.

13 COUNCILMEMBER JOHNSON: Yes, I really appreciate you
14 coming. Have you actually done any investigation
15 with the State Water Commission to ask them for a
16 determination and at least some kind of a ruling as
17 to --

18 MS. LAI: You know what, about five years ago, yes, the
19 HVA, Honokohau Valley Association, had the water
20 lawyers come. We have already done that. So yet we
21 haven't had any opposers so far, so this is the
22 first one yet.

23 COUNCILMEMBER JOHNSON: Okay, so you were then -- you had
24 a determination made by the State Water Commission
25 that you were entitled?

1 MS. LAI: We have lawyers, and I will -- should I come
2 back, I would really love to negotiate with you,
3 talk with you, you know. I don't want to cause too
4 much hassle, but I want to show you the facts, and
5 I'd very much love to meet with you later on and
6 discuss this. This is a very important issue.
7 Honokohau is very much sacred ground.

8 COUNCILMEMBER JOHNSON: Thank you very much.

9 MS. LAI: All right. Thank you.

10 VICE-CHAIR PONTANILLA: Thank you, Member Johnson.

11 Member Anderson.

12 Ma'am. Ma'am, more questions.

13 MS. LAI: Oh, I'm so sorry. I am not used to talking in
14 front of audiences.

15 COUNCILMEMBER ANDERSON: I'm sorry, I didn't catch your
16 name. What was your name?

17 MS. LAI: Miss Noelle Lai.

18 COUNCILMEMBER ANDERSON: Noelle Lai.

19 MS. LAI: Yes.

20 COUNCILMEMBER ANDERSON: Thank you, Noelle, for coming.

21 Do you know -- do you know how many million gallons
22 a day in stream flow that your hui uses or needs?

23 MS. LAI: You know what, actually the County takes the
24 water. We have a truck come up there and they --
25 they take the water from the river, divert it to a

1 fire hydrant in Napilihau, take that truck back up
2 there, pump the water back up. I mean, it's so
3 irrelevant and so ridiculous. I do have the facts
4 on paper, though, from one of my neighbors in the
5 valley about that. And they have no right, as long
6 as we have the kalo going, the taro, that's part of
7 the rights. I'm not Hawaiian. I married a local
8 family. They gave me a lot, and I'm here to
9 represent them. I'm half American-Indian.
10 Pansalon's(?) the last name. And I just can't
11 imagine you guys taking away my paradise and my
12 river. I just could not imagine that.

13 COUNCILMEMBER ANDERSON: So you don't know how much actual
14 stream flow?

15 MS. LAI: On paper at home, yes, I do.

16 COUNCILMEMBER ANDERSON: Did you put your phone number on
17 your --

18 MS. LAI: Yes, I did. Yes, I did.

19 COUNCILMEMBER ANDERSON: We'll contact you. Thank you.

20 MS. LAI: I would -- please do so.

21 COUNCILMEMBER ANDERSON: Thank you.

22 MS. LAI: Any more questions before I walk away?

23 VICE-CHAIR PONTANILLA: Thank you. Members, any more
24 questions for the testifier? If not, thank you very
25 much.

1 MS. LAI: Thank you.

2 MR. SCHARNHORST, FROM THE AUDIENCE: I have a question.

3 VICE-CHAIR PONTANILLA: Next testifier, please.

4 MS. NAKATA: The next testifier is Lucienne deNaie, to be
5 followed by Debbie Revilla.

6 MS. DeNAIE: It would be nice if they could look at the
7 chart while I spoke. Aloha, Vice-Chairman
8 Pontanilla and Members of the Council. My name is
9 Lucienne deNaie, and I'm speaking today on behalf of
10 Maui Tomorrow. We've tracked this issue for a while
11 and testified at the Planning Commission and the
12 Land Use Commission as well about some of the things
13 that could definitely inform these bodies and help
14 them make a good decision about how this project
15 should be shaped.

16 I want to preface this by saying I'm mostly
17 going to talk about water, and what I'm passing out
18 to you might help you understand the previous
19 testimony a little bit. There are two items there.
20 One is a two-page handout that details the water use
21 from the Honokohau Stream. This is diverted from
22 the Honolua Ditch, that used to be called the
23 Honokohau Ditch, and it gives a breakdown of all the
24 different users of this water and how much they've
25 used since 1988 until 2002, when I was able to do

1 this research, and the records go up to October of
2 2002.

3 What you will see when you see this is that
4 the water from Honokohau Ditch is used by the County
5 of Maui for its domestic use. It's used by Maui
6 Land & Pine for irrigation. It's used by Kapalua
7 Land for irrigation. It's used also by Pioneer Mill
8 for crop irrigation. Now, Pioneer Mill, you will
9 note, on the part 2, their use did go down since
10 they ceased their major agricultural operations in
11 '99, but they still actually do use a considerable
12 amount of Honokohau Ditch water, Honokohau/Honolua
13 Ditch water when it is available to them.

14 The flows -- the second piece of paper is
15 interesting because it is part of the large one, the
16 eleven by seventeen. It's part of a contract
17 agreement between Baldwin Packers, which was the
18 predecessor of Maui Land & Pine, and the Pioneer
19 Mill. Pioneer Mill needed a lot of water during the
20 turn of the century. The Honokohau/Honolua Ditch
21 was built to supply that water, and there was a
22 payback sort of arrangement. And what this shows,
23 the interesting part, is some of the flow levels.
24 The minimum flow level that was available was about
25 7 1/2 million gallons a day, you know, in any given

1 month and the maximum was over 35 million gallons a
2 day.

3 I just want to say that the USGS has done a
4 report on the Honokohau Stream. It was released I
5 believe in 2002, and it's their estimation that
6 between 5.4 million gallons a day and perhaps about
7 6 million, because they said there was a 10 percent
8 error factor, really is the base flow of it,
9 absolutely needs to be in this river for it to be
10 healthy for both the stream life and any, you know,
11 appurtenant or riparian rights to be successful.

12 I believe -- and the folks from Maui Land &
13 Pine can I think provide you this -- with this
14 information. I believe now somewhere between 2
15 million gallons a day and perhaps 3 million gallons
16 a day is regularly available in this stream. So
17 what you see is that this is a major water way
18 that (inaudible) --

19 MS. NAKATA: Three minutes.

20 MS. DeNAIE: What we would like to ask is that this
21 Council would take into account that for additional
22 cost Maui Land & Pine could have reclaimed water
23 available for their projects. There is not a line
24 to their project now, but we really feel that it's
25 time to let the waters of Honokohau be used by the

1 people there and to support stream life, and Maui
2 Land & Pine is a very good steward in Puukukui.
3 Here's an opportunity for them to also be a very
4 good steward in Honokohau Valley. Thank you.

5 VICE-CHAIR PONTANILLA: Thank you very much, Lucienne.

6 Members, any questions for our testifier?

7 Member Anderson.

8 COUNCILMEMBER ANDERSON: Hi, Lucienne. Thanks for giving
9 us this information. When you said that there's 2
10 to 3 million gallons a day available right now --

11 MS. DeNAIE: That goes into the stream, that actually --
12 there's two sources. There's a spring in the stream
13 that provides some of this water, a natural spring,
14 and there's a taro gate that releases a million
15 gallons, could be more than a million gallons now.
16 I understood from previous testimony by Maui Land &
17 Pine employees that they were considering releasing
18 more water, but one thing I have to point out, there
19 is a stretch of the stream that is completely dry a
20 lot of the time.

21 I'm not going to go into all the details
22 here, but if any of you were interested, the USGS
23 report is very, very helpful. It's 86 years' worth
24 of monitoring this stream condensed into a report,
25 but this dry section once had a lot of traditional

1 taro growing along it and it doesn't now, of course,
2 because it rarely has water, unless it rains, and of
3 course, you know, there is rain water in it a
4 certain percentage of the time, but I think it's
5 something like 86 percent of the time more than 90
6 percent of the flow of the stream is diverted. So
7 this affects the people who live here.

8 I believe the people who live in Honokohau
9 Valley, by the way, have water trucked in by the
10 County. I don't believe they have any domestic
11 source of water. So this is something that's kind
12 of highly ironic, but the County did ask Maui Land &
13 Pine to perhaps provide water from wells that they
14 have in their Kapalua area, but that hasn't been
15 arranged yet. So that might be a condition that is
16 considered to this project.

17 COUNCILMEMBER ANDERSON: So your estimate is that there's
18 2 to 3 million gallons a day stream flow on
19 average --

20 MS. DeNAIE: Yes, and you should confirm that with Maui
21 Land & Pine.

22 COUNCILMEMBER ANDERSON: And that the rest of it is
23 diverted?

24 MS. DeNAIE: Yes, and they say the average over the year
25 is about 24 million gallons a day diverted.

1 COUNCILMEMBER ANDERSON: And that USGS in their study says
2 that between 5 and 6 million gallons a day is the
3 necessary base flow to maintain stream life?

4 MS. DeNAIE: This is what their studies showed pretty --
5 pretty solidly, yes.

6 COUNCILMEMBER ANDERSON: Okay, thank you very much.

7 MS. DeNAIE: Thank you.

8 VICE-CHAIR PONTANILLA: Thank you, Member Anderson.

9 Any more questions for the testifier? If
10 not, thank you.

11 MS. NAKATA: The next testifier is Debbie Revilla, to be
12 followed by Kyle Scharnhorst.

13 MS. REVILLA: Aloha mai. Some of you know me. Sorry, I
14 work for Maui Land & Pine as a training coordinator,
15 and I do support the project. And I'm sure some of
16 you that don't know me may think that that's just
17 because they employ me. I'm relatively new, but the
18 reason that I am supporting the project -- and I'm
19 going to shift from water to what's really important
20 to me, and those of you here that know me know that
21 this is true. I stand for kids, especially
22 teenagers. I'm trying to help the County on a
23 strategic plan to keep children engaged in their own
24 futures and to stay out of the juvenile system.

25 And in the three years that we've been

1 studying what works and what doesn't work and
2 actually working with these children, they have said
3 one thing in common again and again and again, they
4 need their families. One young man who had been in
5 and out of rehab, he was 17 years old and pretty
6 much everybody had thrown him away as he's never
7 going to be repaired, said all I want is somebody to
8 play with me. Unfortunately, families can't do that
9 anymore because they have to live here, they have to
10 work three jobs.

11 Maui Land & Pineapple was the last place I
12 ever thought I'd work. I went in to help as a
13 consultant and then I was asked to come a few times
14 before I finally said yes, and what got me was this
15 development that they're going to be doing on the
16 west side. Because we have an opportunity, everyone
17 here, to actually impact our County like no other
18 place, to be sustainable, to actually touch
19 children's lives and to bring their families back
20 together, I would hope that this Council comes up
21 with these plans that makes developers do that and
22 look at that.

23 They want people that work in this community
24 to live in the community so they can go home and
25 spend time with their families, so that these 17

1 year olds -- you know, we grow children and we're so
2 engaged in them when they're five and then we let
3 them go when they're teenagers, and that's when the
4 trouble hits, because that's when they need us the
5 most. Yet to live here we have to stay away from
6 them, and then we give them things, cars, money, and
7 they just get in trouble. What we need to give them
8 back is our time.

9 So if we can grow communities so that they
10 are sustainable, they're in that community, that
11 they don't have to drive two hours on the two narrow
12 roads, that they can live there and actually go home
13 and spend time in the daylight with their children,
14 we won't have epidemics. We will have engaged
15 families once again that can sit down and have
16 dinner, and that's really important.

17 Kapalua Mauka, yes, is a big, huge
18 development, but as our first speaker mentioned,
19 it's a cornerstone to start to be able to fund the
20 rest of everything. Now, I'm not the expert. I'm
21 the trainer. And the other thing you all know about
22 me is I love to talk, so try to engage those
23 together, so I don't know the details. I'm not --
24 I'm still trying to learn how to work my Palm, so
25 I'm not a techy person, but I'm a person to person

1 and I work with children a lot and they need the
2 connection. And Maui Land & Pine is committed to
3 doing that.

4 They're helping develop a school and they're
5 hiring people like me who are not quiet. We will be
6 sure that they are good stewards, because we will
7 call them on it and go hello.

8 MS. NAKATA: Three minutes.

9 MS. REVILLA: If I'm here, I have to work for something I
10 believe in. I cannot work for people who tell a
11 lie, who promise things and run away. Now, yes,
12 some of the leadership may move on to other things
13 because they're go-getters, but they have employed
14 tons of people that are here for life times.
15 Mr. Wes Nohara, I went on his ditch hike, born again
16 person to see the care that this company has done
17 over generations as the company has changed names
18 and leadership, those ditches are maintained
19 pristine. You could eat off them. When they told
20 me -- I'm all into hiking. When they said get in
21 the hole, I was like, hole? We went in the ground
22 for about seven miles, and I don't like bugs. I
23 didn't see a bug. It was so clean you could eat off
24 of it. Nobody that knows me believes I went down
25 there. You have to go ask Wes. It was the most

1 amazing seven miles and seven hours I've spent in my
2 life. I challenge all of you to try and do that.
3 When they do shut that down --

4 MS. NAKATA: Four minutes.

5 MS. REVILLA: -- we'll see the care. And if they can do
6 that with a ditch, imagine what they can do with
7 people. Thank you.

8 VICE-CHAIR PONTANILLA: Thank you, Debbie.

9 Members, any questions for the testifier?

10 Ms. Anderson.

11 COUNCILMEMBER ANDERSON: Thank you, Chair.

12 Thank you for coming. And I do agree with
13 you, that what we need to give our children is time.
14 Is it your understanding that Kapalua Mauka will
15 provide housing for residents of Maui?

16 MS. REVILLA: Not the -- that subdivision, but it's key to
17 the others that will, yes, as my understanding is,
18 which is very simple.

19 COUNCILMEMBER ANDERSON: Okay, thank you.

20 VICE-CHAIR PONTANILLA: Thank you, Ms. Anderson.

21 Members, any more questions for the
22 testifier? If not, thank you again, Debbie.

23 MS. REVILLA: My pleasure. Thank you.

24 MS. NAKATA: The next testifier is Kyle Scharnhorst.

25 MR. SHARNHORST: Hi. How are you all doing today? I'm

1 nobody. I'm not from Maui Land or nothing, but I've
2 been around these islands for like 1976, and she
3 said the -- my concern is -- my concern is like the
4 water too. If you guys ever hiked up the West Maui
5 Mountains, you'll know there's like hundreds of
6 streams, and it's supposedly the second wettest
7 place in the world, I guess. You know where all
8 those streams are? They're bone dry. You couldn't
9 get a drink of water out of them if you were dying
10 of thirst. When she said something about she likes
11 things quiet at Maui Land & Pineapple, the only
12 thing quiet there is whenever they're stealing land,
13 quiet title in it, that they said -- that or adverse
14 possession. I've never seen them on the land for --
15 only whenever they drove up and claimed it was
16 theirs.

17 You know, and so, you know, all the drama --
18 and like I read the paper every day, three, four
19 months ago you guys were bad mouthing Maui Land &
20 Pineapple, but whoever's hand they greased, they're
21 the greatest thing since fucking the second rising
22 of Jesus, you know. How's that happen, you know?
23 Six months ago they were the enemy in the paper.
24 And now they're the greatest thing. So somebody's
25 hand got greased somewhere. And why are all those

1 streams dry? Why ain't there no water on those
2 streams?

3 I bet you there's many plants of Hawaiian --
4 that are dead that you'll never see again. I'm sure
5 there's a bunch of wildlife. And all this community
6 that they're going to build, they're going to ruin
7 it. They're going to go in there and they're going
8 to dump and wreck and crack and they're going to rob
9 and steal, just like they've done all their lives,
10 because I watched it all over every island, you
11 know, and now Maui, they're going to ruin it too.
12 It's just a shame. I don't know what to do, because
13 I can't beat the system, but I look and I hear all
14 the bullshit. And that's what it is, it's just
15 bullshit coming out of your mouth, and I don't have
16 no reply.

17 VICE-CHAIR PONTANILLA: Sir, for the record, could you
18 state your name for the record.

19 MR. SHARNHORST: Yeah.

20 VICE-CHAIR PONTANILLA: Microphone please. State your
21 name.

22 MR. SHARNHORST: Kyle Scharnhorst.

23 VICE-CHAIR PONTANILLA: Thank you very much.

24 Members, any questions for the testifier? If
25 not, thank you.

1 MS. NAKATA: Mr. Chair, no one else has signed up to
2 testify.

3 VICE-CHAIR PONTANILLA: Thank you very much. For those of
4 you that hadn't had a chance to sign up for
5 testimony at the start of the meeting, if you want
6 to give public testimony now, you can come forward,
7 give your testimony, and provide some information to
8 our staff here. So anyone out there wishing to
9 make -- or give public testimony at this time?
10 Seeing no one. Members, if there's no objection,
11 the Chair would like to close public testimony at
12 this time.

13 COUNCIL MEMBERS: No objections.

14 VICE-CHAIR PONTANILLA: Thank you very much.

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

16 COUNCILMEMBER KANE: Mr. Chair?

17 VICE-CHAIR PONTANILLA: Member Kane.

18 COUNCILMEMBER KANE: May I request just a brief recess,
19 and then we can get right into it?

20 VICE-CHAIR PONTANILLA: Thank you. At this time the Chair
21 will call a ten-minute recess. We'll reconvene at
22 2:40. (Gavel).

23 **RECESS: 2:30 p.m.**

24 **RECONVENE: 2:43 p.m.**

25 VICE-CHAIR PONTANILLA: (Gavel). The Land Use Committee

1 meeting is now back in session.

2 Members, as I stated earlier, today we're
3 here to discuss land issue -- Land Use Item No. 69,
4 which is the Kapalua Mauka project. The last
5 meeting that we had back in August 31st, 2005, we
6 heard presentations by the applicant as well as the
7 various departments giving some comments. We also
8 heard testimony given at that particular meeting.
9 This afternoon, to refresh our memories, we'll have
10 the developer, and we'll give the developer five
11 minutes to give us some presentation in regards to
12 the Kapalua Mauka project. If the applicant is set
13 to go.

14 MR. McNATT: Mr. Chairman, Members of the Committee, good
15 afternoon. I'm Bob McNatt, Executive Vice President
16 with Maui Land & Pineapple Company. Thank you for
17 the opportunity to come here today to talk to you
18 about the future of Kapalua Resort. And I also want
19 to thank all of the people that have come to attend
20 and those speakers before me.

21 Kapalua Resort was once the premiere resort
22 in all of Hawaii, perhaps one of the best in the
23 world. Maui Land & Pineapple Company, the owner of
24 the resort, has struggled financially for many
25 years, and for that reason capital investment for

1 infrastructure and amenities has not been made on
2 the resort. The resort, therefore, has been in
3 decline for sometime and has lost over \$8 million
4 over the past four years. Operational costs are too
5 high for us to survive in a commodity-based resort
6 where customers are looking for bargain prices.

7 To survive, we must move back into the
8 premium market. In order to reposition the resort
9 at the premium end of the market, we must do two
10 things, achieve a critical mass of resort
11 residential products and re-invest in needed
12 services and amenities. Without the amenities, we
13 cannot move up market, and without the critical mass
14 of units, we cannot support the amenities. Kapalua
15 Mauka is the answer to our efforts in both of these
16 critical areas. They will provide critical mass and
17 it will provide the cash flow to help us build an
18 amenity core.

19 The key to all of this is when the resort is
20 completed in the next 15 years or so, it will be a
21 sustainable business, a business that will benefit
22 all of Maui, generating positive cash flow from
23 operations that will be passed on to our employees,
24 the shareholders, and the broader Maui community.

25 Kapalua Mauka has been planned for over 20

1 years, when it was first included in the West Maui
2 Community Plan in 1983. Since the first hearings
3 with you in July, we have addressed the issues
4 raised and discussed appropriate conditions with you
5 and with your Staff. Maui Land & Pine is a small,
6 locally owned company in comparison to our
7 competition, who are based elsewhere. We have over
8 a thousand employees that are working hard to make
9 our company, their company, succeed in agriculture,
10 resort operations, and holistic community building,
11 so we ask for your kokua to help us survive.

12 I wanted to briefly go through the conditions
13 that -- the key conditions and items that we had
14 talked about before and stress what we're going to
15 do as part of this project. First of all, regarding
16 cultural and archeological resources, we're going to
17 preserve all of them. They'll all be preserved.
18 Regarding schools, we've already entered into the
19 agreement with the Department of Education to
20 provide about \$700,000 for the West Maui complex.
21 Regarding roadways, we've agreed with the Department
22 of Transportation to pay for any related
23 improvements to the highway next to Kapalua Mauka.
24 We've also offered in sort of a preemptive way to
25 pay 2 1/2 -- or \$2.4 million for regional road

1 improvements that -- a fund that would be given to
2 the County to administer towards those improvements.
3 That's about \$3,500 per unit, or if the County
4 adopts an additional or different fee from that in
5 the future, we'll pay that fee.

6 Regarding affordable housing, we're also
7 proactive. This is an absolutely critical issue to
8 us in the future. We're having a lot of difficulty
9 in finding employees that will move to West Maui
10 that can move to West Maui, and we certainly don't
11 want to encourage people to drive across the Pali or
12 further congest our roads, so we're very concerned
13 about affordable housing. And because of that, we
14 offered to provide one housing -- affordable housing
15 unit for every four units in Kapalua Mauka. And
16 furthermore, we asked that you consider allowing us
17 to do 40 of those units upfront prior to any of the
18 market rate units being occupied.

19 At the last meeting we also suggested that we
20 would contribute \$250,000 to a first-time home
21 buyers and renters program, and since that time and
22 at the suggestion of Councilmember Kane we have
23 discussed that and increased that proposal to
24 \$500,000. So \$500,000 in a program for first-time
25 home buyers and rental assistance. It's a program

1 that we would like to administer, but we would
2 create a committee with oversight to include
3 representatives of the unions and of the community
4 in providing that fund to the needy. We would also
5 propose to provide you with an annual report on the
6 activities of that fund so that you understand and
7 know where the funds are going.

8 Furthermore, the units that we would create
9 that are affordable we would want to keep into an
10 affordable program for at least 15 years or more,
11 and we would have buy-back restrictions and resale
12 provisions that would restrict those from being sold
13 outside of the affordable requirements. We would
14 hope that you would hold others to the same high
15 standard that we're setting for ourselves.

16 Regarding water management, we're extremely
17 proud of the stewardship that we provided for our
18 resources over the last hundred years. We've
19 provided and taken care of over 20,000 acres in West
20 Maui and the water resources related to those.
21 We're expanding those areas and we've been
22 instrumental in helping to achieve additional NARS
23 funding in the legislature during the last year and
24 have added an additional person to our watershed
25 management staff. So we now have four full-time

1 people that are taking care of the watershed. We
2 would ask that you -- we're complying with the State
3 Water Code and the directives of the State Water
4 Commission and ask that you respect that.

5 There were a couple comments related to water
6 a while ago. One of them was potable water to
7 Honokohau Valley. That is -- that has been
8 established by the County. Potable water is being
9 provided to Honokohau Valley residents by the County
10 of Maui through a line that runs across our
11 property. We granted an easement for that line and
12 allowed that line to be connected to one of our
13 wells.

14 Regarding flow in the stream, no additional
15 water would be diverted from Honokohau Stream for
16 this project. None was ever proposed to be and none
17 will be. There currently is a minimum of 4 to 6
18 million gallons a day going down the stream. The
19 stream is always wet. That wasn't always the case.
20 It's the wettest and the most water going down that
21 stream right now in the last -- more than in the
22 last 100 years. On average over 10 million gallons
23 a day goes down that stream because of the
24 flashiness of the rain storms and so forth and the
25 water that goes over the diversion. So there's

1 plenty of water for taro in that stream, and we make
2 a commitment today that if anybody wants to grow
3 taro in Honokohau Valley, the water will be there
4 for that taro.

5 At the last meeting there was some discussion
6 about park fees for transient vacation units and
7 time-shares. There was some question about the
8 County Code, and a discussion took place afterwards
9 and there was -- is some confusion in the Code about
10 that issue. We're going to commit right now that we
11 will pay the normal park fees for transient and
12 vacation units. Whether it applies in the County
13 Code or not, we'll pay that additional money.

14 At this time or at the appropriate time we'd
15 be happy to answer your questions about the project
16 or the conditions. We have a staff of professionals
17 here that are much more knowledgeable than I am on
18 some of the details, and they're available. And
19 we'll be happy to answer your questions. Thank you
20 very much for your time.

21 VICE-CHAIR PONTANILLA: Thank you, Mr. McNatt.

22 Members, just for your information, what the
23 Chair would like to do is go on to the Planning
24 Department and take each of the individual
25 Departments that are here from the County to provide

1 us with some comments and statement, and we'll go
2 with the Q and A after that. Q and A will be based
3 on -- with the developer, Planning, and while we go
4 through the different various Departments, if you do
5 have questions at that time, please ask them.

6 So at this time, I'd like to call on the
7 Planning Department. Mike Foley.

8 MR. FOLEY: Thank you, Mr. Chairman. The staff report
9 that we presented to the Council some time ago
10 summarized that the project has been recommended for
11 approval by the staff and by the Planning
12 Commission, partially because and I want to remind
13 everyone that there's already a project district
14 approved for this site with 750 units. So the
15 number of units in this project district, the
16 revised project district, would be reduced by 60
17 units to 690 units.

18 At the previous meeting of this Committee we
19 presented the map that's on my right and on the
20 audience left which shows all the development
21 projects in various different review stages in West
22 Maui, and we also distributed to the Council a chart
23 that had the number of housing units represented by
24 those projects, approximately 30 in number.

25 I also wanted to comment on the page that was

1 submitted to the Committee referring to suggested
2 changes to the conditions of zoning, Condition No.
3 11. We have no objections to the first large
4 paragraph or the third paragraph. However, we feel
5 it would be appropriate for the second paragraph
6 regarding affordable housing, the 120-day period, we
7 would ask that Alice Lee be asked to respond
8 regarding that particular portion of the condition.

9 And unless the Committee has any questions
10 for us specifically, we would leave it at that
11 summary.

12 VICE-CHAIR PONTANILLA: Thank you very much, Mr. Foley.

13 Members, any question for the Planning
14 Department at this time? If not, thank you very
15 much.

16 At this time I'd like to call on the Housing
17 and Human Services Director, Ms. Alice Lee.

18 MS. LEE: Good afternoon, Chair and Members.

19 VICE-CHAIR PONTANILLA: Good afternoon. Comments?

20 MS. LEE: We have no objections to that middle paragraph
21 that changes the offering period to 120 days for
22 those to be qualified for that income category.

23 VICE-CHAIR PONTANILLA: Thank you.

24 Members, any questions for the Housing and
25 Human Services Director? Ms. Tavares.

1 COUNCILMEMBER TAVARES: Yes, Alice, is it your
2 understanding that the 120 days would be at each
3 level -- subsequent level or just the initial is 120
4 days?

5 MS. LEE: Well, my understanding is the initial would be
6 120 days. Normally let's say -- let's say our
7 average amount of days would be -- start with 90 and
8 then perhaps 75 for each succeeding level.

9 COUNCILMEMBER TAVARES: Okay.

10 MS. LEE: Something like that. So 120 days is a much
11 longer period initially.

12 COUNCILMEMBER TAVARES: I guess when we get to that,
13 Mr. Chair, we'll probably need to clarify that part
14 of it, with the subsequent offerings at the next
15 highest level.

16 VICE-CHAIR PONTANILLA: The next level.

17 COUNCILMEMBER TAVARES: We need to specify I think the
18 number of days so that it's clear what it is that
19 was intended here.

20 VICE-CHAIR PONTANILLA: Thank you, Ms. Tavares.

21 COUNCILMEMBER TAVARES: Thank you.

22 VICE-CHAIR PONTANILLA: Members, any more questions for
23 the Director? If not --

24 COUNCILMEMBER ANDERSON: I have a question.

25 VICE-CHAIR PONTANILLA: Member Anderson.

1 COUNCILMEMBER ANDERSON: We've been told that it's the
2 intention of Maui Land & Pine to give preference to
3 their employees, and then we've also been told by
4 the ILWU that they're going to be -- their
5 employees -- they actually say that Maui Land & Pine
6 has agreed to put 40 rental units up front in the
7 West Maui project -- I really don't know what
8 project they're talking about. I'm assuming it's
9 the Napili parcel -- which will be earmarked for our
10 members.

11 So how is that equitable that the affordable
12 housing is already earmarked for specific people,
13 rather than just anybody who is qualified under the
14 median income guidelines for HUD?

15 MS. LEE: Council Member, I haven't really -- Mr. Chair,
16 Council Member, I haven't really seen that letter.
17 However, our Department -- I'm not sure about the
18 Council, but our Department was using the
19 requirement of Chapter 2.94, which is a 1 to 4
20 requirement, and that Chapter 2.94 was initially
21 used for employee housing, because hotels, transient
22 accommodations generate the need for employees, and
23 that was the original intent of Chapter 2.94. So I
24 see a connection. I see a nexus there where under a
25 new -- a development like Kapalua Mauka, it would

1 have that same connection of generating new
2 employees and the need for housing. So whether it's
3 for employees or affordable housing, for us it's
4 very similar because many of their employees are
5 from Maui.

6 COUNCILMEMBER ANDERSON: Many of their employees are from
7 Maui?

8 MS. LEE: Yes.

9 COUNCILMEMBER ANDERSON: I hope all their employees are
10 from Maui.

11 MS. LEE: Well, I would imagine one or two may not be, but
12 I'm saying many of their employees are from Maui and
13 that it has been their custom to provide housing for
14 their employees and this is really not so different.

15 Now, my understanding is that that's 40 units
16 to be supplied at the -- in Napili and then the
17 additional units would be applied -- in fact
18 something like 400 units would be applied in
19 Pulelehua, so that's a tremendous amount of housing
20 to be generating and building for Maui County in
21 general.

22 COUNCILMEMBER ANDERSON: Well, first of all, Pulelehua is
23 not an entitled project yet.

24 MS. LEE: Yes.

25 COUNCILMEMBER ANDERSON: And it's really not fair to

1 assume that it will be and that that's where they
2 can provide this affordable housing. And my issue
3 is that this project is for residential housing.
4 It's not for hotel. It's not zoned hotel. So 2.94
5 doesn't apply to this. And we are crafting an
6 affordable housing condition that should be fairly
7 distributed to everybody in Maui County who lives
8 and works on the west side or wants to live and work
9 on the west side who qualifies under the HUD
10 guidelines.

11 And I just don't see how your Department can
12 support this as being a fair application of
13 affordable housing if you're allowing the developer
14 to give their employees preference. And the ILWU,
15 who I assume is going to be doing some building for
16 them, I mean, to me, if they want to make, you know,
17 preferential qualifications on this affordable
18 housing, then they should build that affordable
19 housing strictly for their employees, and then build
20 more affordable housing to offset the impact that
21 the speculative housing they're building will have
22 on our community. That's the purpose and the nexus
23 for building affordable housing.

24 MS. LEE: First, my understanding is this property that
25 you're looking at today is zoned project district

1 resort for resort purposes. So I would --

2 COUNCILMEMBER ANDERSON: Project district resort?

3 MS. LEE: Yeah, resort. Project -- it's a project

4 district and the area that they're developing is for

5 resort use, resort/residential, but the point being

6 we see a connection between resort, hotel

7 development, Chapter 2.94 and the history behind

8 Chapter 2.94. If you don't agree with that

9 thinking, that's your prerogative.

10 COUNCILMEMBER ANDERSON: Well, you know, I don't think

11 it's your prerogative to re-interpret the County

12 Code, Ms. Lee, and I would like to have a legal

13 opinion on that, Mr. Chairman, if they are -- if

14 they are using 2.94, Hotel -- which applies to Hotel

15 zoning, strictly applies to Hotel zoning and they're

16 using that to allow the affordable housing that this

17 project's going to generate to be used specifically

18 for their employees, I would like a legal opinion on

19 that, because I think that's incorrect. I think

20 this affordable housing should be available to

21 everybody who qualifies. So if we could request

22 that from Corp. Counsel.

23 VICE-CHAIR PONTANILLA: Thank you, Ms. Anderson.

24 COUNCILMEMBER ANDERSON: If Mr. Moto could address --

25 VICE-CHAIR PONTANILLA: Mr. Moto, can you respond to

1 Ms. Anderson at this time or do you need time to
2 research?

3 MR. MOTO: Mr. Chairman, if I may have the time, please.

4 VICE-CHAIR PONTANILLA: Okay, thank you.

5 Ms. Anderson, when we do bring up the
6 developer -- the applicant later on, maybe the
7 applicant can explain their affordable housing
8 condition and maybe, you know, we can answer some of
9 the questions that are being asked.

10 At this time the Chair would like to call a
11 five-minute recess to have Mr. Moto research Member
12 Anderson's question. So we'll take a five-minute
13 recess and reconvene at ten after 3:00. (Gavel).

14 **RECESS: 3:04 p.m.**

15 **RECONVENE: 3:18 p.m.**

16 VICE-CHAIR PONTANILLA: (Gavel). Okay, Land Use meeting
17 is now back in session.

18 At this time I'd like to call on Mr. Moto.

19 Mr. Moto?

20 MR. MOTO: Good afternoon, Mr. Chairman and Members. It's
21 my understanding that Councilmember Anderson's
22 question is not so much on how was the number -- the
23 ratio calculated, so I'm not going to get into that
24 issue too much, this ratio of 1 to 4. Ms. Lee has
25 already explained how she derived that figure, and

1 the figure has already been volunteered and agreed
2 to by the applicant. So I'm going to go over that
3 part and go to what I think was the more germane
4 issue that Councilmember Anderson raised, which was
5 why is it that the units are reserved for Maui Pine
6 employees, and where did that come from?

7 And there -- looking at Chapter 2.94, which
8 is the affordable housing policies for hotel-related
9 developments, the ordinance is silent on these kinds
10 of preference policies. It doesn't say -- it
11 doesn't require that any affordable housing units
12 that may be required have to be reserved for
13 employees, but on the other hand, it doesn't
14 prohibit that either. I want to make a footnote
15 here. One must be careful about looking at 2.94,
16 because strictly speaking it applies to the --
17 impose affordable housing units when hotel or motel
18 or apartment/hotel units are being created, and the
19 subject application is a project district that
20 encompasses many different types of uses, not all of
21 which are -- or would fall under the definition of
22 apartment or hotel in the Chapter 2.94.

23 Certainly some of the uses that are proposed
24 in Kapalua Mauka project district would fall under
25 the definition, because as the application states

1 they do anticipate having some transient vacation
2 rental operations, including time-shares. I'll make
3 a more general observation also, and that is from
4 a -- and this is a kind of analysis that will apply
5 to any condition, and it's point of law that -- a
6 bit of constitutional law that's discussed in one of
7 the memos that was submitted to this Committee,
8 where we discuss conditions in general and when
9 reviewing any condition, including ones for
10 affordable housing, one part of the analysis is
11 always to ask yourself will this project -- will
12 this development, this use that we are being -- that
13 the Council is being asked through land use
14 entitlements, will it in any way create or
15 exacerbate a problem, in this case affordable
16 housing, and is the condition that's being imposed
17 related to that problem and proportional to it?

18 It's -- one of the traditional bases for
19 imposing affordable housing conditions on projects
20 is a finding, which legislative bodies often make,
21 that the project will generate employment and that
22 the employees will require homes. So to that
23 extent, a condition that says there will be so many
24 affordable housing units in a certain ratio priority
25 or preference will be given to employees first.

1 While that may not be required, the employee
2 preference, from a constitutional analysis it might
3 be a little easier to defend if ever challenged,
4 which I'm not saying it will be challenged, but I'm
5 just saying that it will be easier to fit in the
6 rationale of saying, well, the reason why this
7 condition exists is because it was a finding based
8 upon the facts and evidence that it would create a
9 need for affordable housing, a major cause of
10 that -- of that need is the employment, et cetera,
11 that's associated with the development. Therefore,
12 it's logical that employees receive that affordable
13 housing.

14 COUNCILMEMBER ANDERSON: Mr. Chair.

15 VICE-CHAIR PONTANILLA: Thank you, Mr. Moto.

16 Ms. Anderson.

17 COUNCILMEMBER ANDERSON: Mr. Moto, the Council is working
18 on an affordable housing policy right now and --
19 Mr. Moto, we're working on an affordable housing
20 policy right now and we don't consider -- we aren't
21 considering that people build housing for their
22 employees. We're considering -- and let me be
23 specific to this project. This project is about
24 million dollar homes that -- that will be bringing
25 people from the mainland to buy these homes, most of

1 which will probably be second homes for these
2 people.

3 And so the rational nexus to require the
4 affordable housing is that the speculative nature of
5 this housing does not address the housing needs of
6 the residents of Maui County. It doesn't address
7 the goal or the objective of our General Plan, which
8 says to build housing for our resident population.
9 So the rational nexus to require them to do
10 affordable housing is to offset the loss that the
11 land that's being used for the speculative housing
12 could provide for resident housing. The resources
13 and the land that is being used for speculative
14 housing for a profit purpose is taken out of the
15 pool of our very finite resources that would
16 otherwise be available for resident housing. And so
17 that's the rational nexus to require affordable
18 housing.

19 And I don't think we want to set a precedent
20 that anybody that builds housing in this -- in this
21 County would then be required to build housing for
22 their employees. We want to have housing --
23 affordable housing requirements so that we can get
24 housing for all the residents of our County that are
25 without housing. And all affordable -- or rather

1 all income levels. So -- and I think it's this
2 Council who sets the percentage of the affordable
3 housing in their condition. They did that with
4 Makena. They've done it with every other project.
5 And so, you know, just to use 2.94 as an excuse for
6 the 25 percent doesn't really hold water for me
7 because this is not a hotel-related development.
8 It's primarily a residential development. The
9 community plan designation for this Project District
10 2 clearly states that, and in fact they are asking
11 us to amend that project district description to
12 allow for the time-shares.

13 So we are asking them to give us affordable
14 housing to offset this high-end residential housing
15 that they're doing, and I just don't see how it is a
16 fair application of the affordable housing
17 requirements that we are developing and that this
18 Council has imposed on past projects to allow
19 whatever affordable housing they may be required to
20 develop to be given preference to their employees
21 and to members of the ILWU.

22 And, you know, just to address another
23 interpretation that we were given according to
24 Ms. Lee, she stated that this is a project
25 district -- project district resort. There's no

1 such classification in our zoning ordinance,
2 Mr. Chairman. It's project district, period.
3 Whatever it might be. So I'm going to leave it at
4 that, because I don't think 2.94 is even really
5 relevant in our discussion.

6 My main concern is that we are allowing -- or
7 not that we're allowing, but that they are
8 requesting that their employees and members of ILWU
9 get preference. I don't know how we can in all good
10 conscience do that. We haven't allowed that for
11 anybody else who's required to give affordable
12 housing. The preference is to anybody in Maui
13 County who meets the income requirements. So that's
14 why I brought it up, and Ms. Lee's response to my
15 question is what started all this. And as Mr. Moto
16 pointed out, there is nothing in 2.94 that
17 specifically states that the housing shall go to the
18 employees of the hotel-related development.

19 VICE-CHAIR PONTANILLA: Thank you, Ms. Anderson.

20 COUNCILMEMBER ANDERSON: Thank you.

21 VICE-CHAIR PONTANILLA: Members, any more questions for
22 Ms. Lee? Member Molina.

23 COUNCILMEMBER MOLINA: Thank you, Mr. Chairman.

24 Good afternoon, Director Lee. Just one
25 question. Earlier you heard the applicant make a

1 formal offer of \$500,000 towards the first-time home
2 buyers fund, as well as the rental assistance fund,
3 and they've offered to oversee the disbursement of the
4 monies from these funds instead of, you know, having
5 us consider, the County. Can I get comment from you
6 on that?

7 VICE-CHAIR PONTANILLA: Ms. Lee.

8 MS. LEE: Thank you. Mr. Molina, so are you asking if --
9 would you prefer that the County oversee this fund?

10 COUNCILMEMBER MOLINA: At this point I'm sort of on the
11 fence. I sort of wanted to get a feel from you,
12 from the Department.

13 MS. LEE: We really have no objection if the company
14 appoints certain people, members of the union,
15 employees, homeowners to -- to be empaneled for this
16 type of committee to over -- to provide oversight
17 for this type of fund.

18 COUNCILMEMBER MOLINA: Okay, thank you.

19 Thank you, Chairman.

20 VICE-CHAIR PONTANILLA: Thank you, Member Molina. Any
21 more questions for Ms. Lee? Ms. Johnson, followed
22 by Ms. Anderson.

23 COUNCILMEMBER JOHNSON: Yes, with regard to the 120-day
24 period, you know, where, you know, these units would
25 be offered let's say for sale and then it would go

1 to whoever on the list, is there any way that we
2 could I guess -- or have you in the past had any
3 leeway with just not saying that there is a time
4 limitation? In other words, if we're going to ask a
5 developer to satisfy an affordable housing agreement
6 or an affordable housing requirement, there
7 shouldn't be an expiration time period set on it.
8 Either you satisfy it or you don't satisfy it. I
9 mean, do you have any comment on that, Alice?

10 VICE-CHAIR PONTANILLA: Ms. Lee.

11 MS. LEE: Thank you. I think this question should be
12 answered by the applicant, mainly because it's
13 important for them to express their own situation.
14 In other words, I don't know what their financing is
15 like. I don't know what their time lines are like.
16 But in general, especially for the smaller
17 developers, they wouldn't be able to hold a unit
18 indefinitely, mainly because they're paying interest
19 on each unit. So it may be different with Maui Land
20 & Pine and they should answer that question.

21 COUNCILMEMBER JOHNSON: Okay, and the only reason I ask
22 that -- and, you know, I guess the developer could
23 answer it, but more specifically, though, we at the
24 Council envision -- or at least I -- I cannot speak
25 for other people, but I envision when we're putting

1 an affordable housing requirement in, that that is
2 generally going to go to someone who is in need, not
3 somebody who's making maybe a management level or,
4 you know, larger income. It's to go to the people,
5 many of whom are here today, that are at that lowest
6 rung.

7 Now, I realize there's difficulties in
8 qualifying sometimes or having sufficient monies set
9 aside for the down and, you know, maybe if interest
10 rates change they might get bumped out, but when I
11 look at putting a requirement in, I don't expect it
12 to go to somebody who's got the big bucks. These
13 should be going to the people who are the greatest
14 in need, not gap people and not people from off
15 island. So, you know, that's my biggest concern,
16 and later on, perhaps if the applicant has other
17 questions, we can ask them to come down and address
18 that.

19 VICE-CHAIR PONTANILLA: Thank you, Member Johnson.

20 Member Anderson.

21 COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman.

22 Ms. Lee, do you have a copy of the letter
23 from the ILWU?

24 MS. LEE: Yes.

25 COUNCILMEMBER ANDERSON: The second paragraph says that --

1 when they say they, they're talking about Kapalua,
2 or Maui Land & Pine, actually, whatever. They use
3 Maui Land & Pine. They have also proposed a rental
4 assistance program for the first-time buyers with a
5 price tag of \$250,000, which has now I guess moved
6 up to 500,000. And maybe this also is a question
7 for Kapalua people, but if Ms. Lee knows, how can it
8 be a rental assistance program for first-time
9 buyers?

10 VICE-CHAIR PONTANILLA: Ms. Lee.

11 MS. LEE: I don't know what they're referring to. I think
12 they've agreed to put 40 -- I would imagine that a
13 part of the money would go for rental assistance and
14 another part of the money would go for first-time
15 home -- the down payments, but I am interpreting
16 what somebody else --

17 COUNCILMEMBER ANDERSON: Right.

18 MS. LEE: -- is conveying.

19 COUNCILMEMBER ANDERSON: I was just wondering if they had
20 discussed it with you.

21 MS. LEE: No, they haven't.

22 COUNCILMEMBER ANDERSON: Okay, thank you.

23 VICE-CHAIR PONTANILLA: So, Ms. Anderson, I think hold the
24 question for the developer when they come up. Thank
25 you.

1 Members, any more questions for the Director?

2 If not, thank you very much, Ms. Lee.

3 We do have Director Arakawa here from the
4 Department of Public Works and Environmental
5 Management. Is Milton here? We'll try to get a
6 hold of Milton. Members, we don't have any
7 representative from the Department of Parks and
8 Recreation, as well as the Fire and Public Safety.
9 We had requested and they were put on call. So if
10 you need to -- yeah, before I call on Milton, do we
11 need to have both the Parks Department as well as
12 the Fire Department here? If I can have any
13 indication so we can give him a call. Member
14 Johnson.

15 COUNCILMEMBER JOHNSON: Because both of them made comments
16 and they both sent us responses, I think it would be
17 appropriate, particularly, you know, I've seen the
18 response for Parks, but also with regard to the Fire
19 Department, because in Mr. McNatt's comments he did
20 not address the specifics of a site which was
21 requested as part of the back and forth between the
22 Fire Department. So I would -- you know, Parks I
23 guess we could, you know, manage without, but I
24 would really like to hear from Fire Department.

25 VICE-CHAIR PONTANILLA: Thank you. Any more requests in

1 regards to both Departments? If not, we'll go ahead
2 and call on the Fire Department. Thank you.

3 This afternoon we do have the Public Works
4 Director Milton Arakawa. Milton, if you can provide
5 us some comments in regards to the project.

6 MR. ARAKAWA: Mr. Chair, I know the Deputy Director had
7 been before the Committee on this project at an
8 earlier meeting. I believe the only issue that may
9 be outstanding in the Committee's mind that he
10 wanted me to raise was the issue of wastewater,
11 wastewater allocation. And if it's okay, I can go
12 over some of the figures.

13 VICE-CHAIR PONTANILLA: Yeah, go ahead.

14 MR. ARAKAWA: With regard to wastewater issues, there was
15 some question as to whether or not Kapalua Mauka
16 would affect the existing capacity at the Lahaina
17 Wastewater Plant. And just to give you some
18 background. The plant was last modified in the
19 1990s, and at the time the modifications provided a
20 plant which had a capacity of 9 million gallons per
21 day, and this particular plant has two separate
22 processing streams. And the original design in the
23 1970s was still active at the time and the second
24 phase of it was built in the 1980s, which is a more
25 modern process stream. The latter improvements had

1 a capacity of 7.4 mgd, while the older side had a
2 capacity of 1.6 mgd.

3 At that time, the 1970's side was not needed
4 or used and fell into disuse, actually, and
5 that's -- actually the original section of the plant
6 was closed down. So there's actually a theoretical
7 capacity of 7.4 million gallons a day -- per day
8 based on the 1990s parameters. Over time the way
9 that stream goes into the plant actually changed in
10 composition. That's primarily due to things like
11 low flow toilets, where you may have more of the
12 organic matter but less actually liquid going into
13 the plant, so it changes the process stream.

14 We have a current study which is examining
15 how those parameters have changed and what effect it
16 has on the plant's capacity. And the current
17 estimate is that the plant has an average dry
18 weather 30-day capacity somewhere close to 5.2
19 million gallons per day. However, with minor
20 changes to the way we actually process the
21 wastewater in the plant, the capacity could be
22 increased to somewhere around 6.0 million gallons
23 per day, and with an additional minor infrastructure
24 modification, the capacity could be increased to
25 somewhere around 7 million gallons per day, but the

1 increase from 6 to 7 would be expected to cost
2 somewhere between \$500,000 to \$1 million. So we
3 would need to request this money as -- in future
4 budgets with the Council.

5 So anyway, that's basically my update on
6 wastewater. I'd be happy to answer your questions
7 which the Committee might have.

8 VICE-CHAIR PONTANILLA: Thank you, Mr. Arakawa. Before I
9 open up to the members, I just have one question.
10 As far as the effluent, the recycled water, how many
11 gallons do we pump daily for Kaanapali as well as,
12 you know, whatever is pumped into the ground?

13 MR. ARAKAWA: Mr. Chair, I don't have that number with me
14 right off the top of my head. Sorry.

15 VICE-CHAIR PONTANILLA: Okay, thank you.

16 Members, any questions for Public Works
17 Director? Member Johnson.

18 COUNCILMEMBER JOHNSON: Yes, Milton, the study that you
19 spoke about, because it seems that you know starting
20 out at a high of 9, then 7.4, now 5.2, we're kind of
21 going down in our capacity, I gather. You know, is
22 that what you're saying or is this in the usage?

23 MR. ARAKAWA: Part of the issue I think has to do with how
24 capacity is defined and it's partly a definition
25 issue I think that needs to be resolved. Whether or

1 not it's going to be, you know, a more conservative
2 or more liberal interpretation, I think the estimate
3 that we came with earlier, the 9.0 mgd was a more
4 liberal estimate. At this point we're evaluating
5 whether or not actually 5.2 is a more accurate
6 limitation as far as the plant capacity, which it's
7 just a matter I think of how the engineers decide
8 what is the usable capacity of the plant.

9 COUNCILMEMBER JOHNSON: And with regard to let's assume
10 for all intents and purposes that it is 5.2 million
11 gallons a day, with the development that has already
12 been approved -- because I know Starwood, our
13 Kaanapali Ocean Resort, they've built or they're in
14 the process of adding all of this new construction.
15 We've already got the other resorts in the area
16 already approved. I don't know of which, you know,
17 we as a Council have any authority over. It's gone
18 to the Planning Department or the Planning
19 Commission for approval. How is that going to play
20 out in the context of what's going to be available?
21 I mean, where we going to get the capacity?

22 MR. ARAKAWA: Councilmember Johnson, let me answer your
23 question in this case. I think the issue here is
24 when the units will be needing to hook up to the
25 plant. If you look at 5.2 million gallons per day

1 and with basically minor changes to how we process
2 the wastewater we can bring it up to 6, that's a
3 difference of 800,000 gallons per day. The average
4 unit would use about 350 gallons per day. If you
5 divide that into that additional capacity, we're
6 looking at 2,285 additional units that could be
7 plugged into that system basically without any
8 capital improvements. So there is some leeway
9 there.

10 However, just to caution, the Department will
11 be requesting additional capital improvement monies
12 in the upcoming budget to upgrade the plant, but
13 there is -- there's a concern, but there is some
14 additional capacity left, but it really depends on
15 how fast the units come on line.

16 COUNCILMEMBER JOHNSON: You know, and I guess, you know,
17 from my perspective, Mr. Arakawa, one of the
18 concerns I have is that if there is limited capacity
19 left and if our West Maui residents are crying out
20 for relief for affordable housing, but all these
21 other resort units come on line first, my primary
22 concern is you're going to do it first come, first
23 serve; is that correct?

24 MR. ARAKAWA: Yes, the allocation is granted upon building
25 permit.

1 COUNCILMEMBER JOHNSON: Okay, so if they've already got
2 their building permits -- and most of these are
3 units that are actually just -- you know, they've
4 been built, but they have not yet been occupied, you
5 know, because Kaanapali Ocean Resort, for example, I
6 mean, it's -- you don't know what impact, and some
7 of those have lock-out features, which could
8 accommodate two families. So I guess until they
9 actually open, you will not know, then, what the
10 actual capacity is; is that correct?

11 MR. ARAKAWA: It would be -- there is an agreement, you
12 know, the past agreements that were effectuated with
13 the former Amfac, as well as Kapalua Land Company,
14 whereby they paid the County certain amounts of
15 money in exchange for reserved allocations. So as
16 those developments come on line, then they will use
17 up that -- their allocation that has been set aside
18 for them.

19 COUNCILMEMBER JOHNSON: Okay, but what if there is no
20 allocation? What if other people who don't have
21 those agreements come in front, are you then saying
22 that you will deny?

23 MR. ARAKAWA: Well, again, I think it's a matter of
24 timing. Like I said, you know, if all of those
25 units that we talked about were asking for a

1 building permit today, then I think that would be a
2 huge issue, but like I said, just to change some of
3 the minor processing issues within the plant itself,
4 we're talking about increasing the capacity of
5 roughly 800,000 gallons per day, which gives us some
6 leeway, but like I said, we're also concerned that
7 we need to upgrade the plant through a systematic
8 capital improvement program.

9 COUNCILMEMBER JOHNSON: What is the current usage or what
10 are we operating at currently? Do you have any
11 idea, just with the units that are already in
12 operation?

13 MR. ARAKAWA: I believe the plant process is somewhere
14 around 5 right now.

15 COUNCILMEMBER JOHNSON: Okay. And then when we have
16 periods of high storm water, particularly in the
17 winter months, does that I guess -- does that change
18 at all or does it have any impact?

19 MR. ARAKAWA: Well, the plant actually -- we would look at
20 flows primarily as an average. And even if one day
21 is fairly high or several days are fairly high, the
22 plant has a capacity to adjust the nets. So we look
23 at the average over like, say, a 30-day period, and
24 we would look at that average, like that 5.2 based
25 on a -- you know, a longer term average. And we

1 think that if it goes much above that, then we could
2 have some problems based on the existing, but like I
3 said, we can make some minor processing changes and
4 the capacity can be increased fairly substantially,
5 800,000 gallons per day with fairly minor process
6 changes.

7 COUNCILMEMBER JOHNSON: Okay and one final question,
8 Mr. Chair.

9 Because DHHL is going to be doing their
10 project at the Villages of Leialii site and possibly
11 some other expansion of housing through HCDCH, if
12 they come forward first and there's a certain amount
13 of I guess capacity that has been pre-allocated
14 because of these agreements that you referred to,
15 how will you treat DHHL?

16 MR. ARAKAWA: DHHL, as far as I know, they have two phases
17 I believe that are on the books. I can't recall the
18 number of units. 357 units. And they would fall
19 under a previous reservation agreement as well with
20 the State, and I don't have the total amount of
21 allocation that they would be required to use, but
22 it certainly looks like we have enough for them.
23 We're committing to give them allocation as well.

24 COUNCILMEMBER JOHNSON: Okay, thank you.

25 VICE-CHAIR PONTANILLA: Thank you, Ms. Johnson.

1 Member Molina.

2 COUNCILMEMBER MOLINA: Thank you, Chairman.

3 Good afternoon, Mr. Arakawa. Staying on the
4 subject of the Lahaina Wastewater Reclamation
5 Facility, in terms of capacity, you mentioned that
6 you're going to come to the Council for upgrades, I
7 guess -- which is, I presume, due, because the last
8 time you did upgrades was back in the early '90s.
9 You have a ballpark figure at this time?

10 MR. ARAKAWA: The minor modifications which would be
11 expected to increase the capacity from 6 to 7
12 million gallons a day would be 500,000 and 1 million
13 dollars. That's basically just to try to maximize
14 the newer portion of the plant. If we want to bring
15 it up to what it was formally, up to 9 million
16 gallons per day, we're looking at a more substantial
17 capital improvement, and that figure hasn't been
18 finalized yet, but it is somewhat more substantial,
19 somewhere between 10 to 20 million. That's in the
20 range that we're looking at.

21 COUNCILMEMBER MOLINA: Okay, and currently the capacity of
22 the -- with the capacity of the amount of wastewater
23 it could take in, we can -- I guess you mentioned
24 2,285 units. With the proposed upgrade, I guess the
25 minor upgrade, if you will, how much more units

1 could be accommodated?

2 MR. ARAKAWA: With between 6 to 7 million?

3 COUNCILMEMBER MOLINA: Uh-huh. If you don't have that

4 answer --

5 MR. ARAKAWA: I'd have to do the calculations.

6 COUNCILMEMBER MOLINA: I could get that later from you,

7 Mr. Arakawa.

8 MR. ARAKAWA: That's an additional 2,857 units.

9 COUNCILMEMBER MOLINA: Okay, thank you. And one more

10 question, Chair, just on the R-1 reclaimed water

11 issue.

12 VICE-CHAIR PONTANILLA: Go ahead.

13 COUNCILMEMBER MOLINA: What is the additional well

14 capacity that you would need to adequately provide

15 R-1 water for the proposed park? Do you have that

16 data for us now today?

17 MR. ARAKAWA: I'm sorry, I don't have that data.

18 COUNCILMEMBER MOLINA: Okay, I'm trying to think back to a

19 letter I guess Mr. Takamine had sent to the

20 Committee back in June of 2005, so, okay, I'll just

21 wait for a later time, Mr. Chair. Thank you.

22 VICE-CHAIR PONTANILLA: Thank you, Mr. Molina.

23 I just have one question for the Director. I

24 understand that we had budgeted some money for

25 the -- in the CIP project for some work at the

1 Lahaina Wastewater Treatment Plant. Can you tell me
2 what the money was used for, what it's going to be
3 used for?

4 MR. ARAKAWA: The line item I believe you're referring to
5 is design money to upgrade the plant. So after that
6 design is completed, we would come forward to the
7 Council to request the construction monies, and the
8 amount, of course, has not been finalized, but
9 that's going to be somewhere, we think, in the
10 neighborhood between 10 and 20 million dollars.
11 That would be for the major upgrade.

12 VICE-CHAIR PONTANILLA: So that would be bringing up the
13 plant to 9 million gallons?

14 MR. ARAKAWA: Yes, that's the intent.

15 VICE-CHAIR PONTANILLA: Thank you. Members, any more
16 questions for the Director? Member Kane.

17 COUNCILMEMBER KANE: Thank you, Mr. Chairman.

18 Good afternoon, Mr. Arakawa.

19 MR. ARAKAWA: Good afternoon.

20 COUNCILMEMBER KANE: Has the purview of what Mr. Molina
21 brought up, reclaimed water or R-1 water, what's the
22 current -- if you know, for the plant, what are you
23 folks generating that's for West Maui out of the
24 facility, the Lahaina Water Treatment Facility --
25 Wastewater Treatment Facility?

1 MR. ARAKAWA: Councilman Kane, I'm sorry, I don't know
2 that figure right off the top of my head. I can get
3 back to the Committee on that.

4 COUNCILMEMBER KANE: Are you aware of any proposal out of
5 this application that incorporates the use of
6 reclaimed water into their proposal?

7 MR. ARAKAWA: Yeah, I don't -- I'm not aware of it.

8 COUNCILMEMBER KANE: As far as transmission lines for
9 reclaimed water, how far north can the -- do
10 existing lines exist from the wastewater treatment
11 facility?

12 MR. ARAKAWA: It's basically -- there's a storage tank
13 above the plant and reclaimed water is used to
14 provide irrigation for a portion of the Kaanapali
15 golf courses. Exactly how much is used, I would
16 have to get back to you. I don't think the
17 reclaimed lines go much further than that. We had
18 talked with Maui Land & Pine about doing some of the
19 use with reclaimed water as far as an interface with
20 their crops. I'm not -- I need to get back to you
21 on that use of the reclaimed water as well.

22 COUNCILMEMBER KANE: Do you see any level of practical use
23 given the -- I guess the geography of the area as
24 far as having lines at some point reach the project
25 district area and be utilized within the subject

1 matter area? Any level of practical requirements
2 that we could consider?

3 MR. ARAKAWA: It would be -- if we do that, it would be
4 very expensive to do so, because we would have to
5 basically have a line from the plant to the site,
6 which is, you know, a good distance away. So in
7 order to maximize the use of R-1 or reclaimed water,
8 we'd prefer to have a fairly large user in close
9 proximity to the plant. That would be the optimum.

10 COUNCILMEMBER KANE: Okay. The other questions I have,
11 Mr. Chair.

12 VICE-CHAIR PONTANILLA: Go ahead, Mr. Kane.

13 COUNCILMEMBER KANE: With respect to the wastewater
14 allocation question that Ms. Johnson was touching
15 on, you've repeatedly mentioned the adjustments from
16 5.2 to 6 and you haven't yet discussed any costs or
17 time frame. Are you able at this point to provide
18 us with details? Do you currently have the money in
19 your existing budget to take care of those
20 improvements for the 800,000 increased capacity?

21 MR. ARAKAWA: No, actually no money is going to be
22 requested for that. This is just a matter of our
23 internal operations -- changing our internal
24 operations and how we process the wastewater there.
25 Just in terms of how we do it could increase the

1 capacity of the plant.

2 COUNCILMEMBER KANE: Do you have a time frame for us of
3 when that is going to be accomplished?

4 MR. ARAKAWA: That I can get back to you. I mean we can
5 get back to you on that as far as a definite time
6 frame.

7 COUNCILMEMBER KANE: Mr. Chair, if we can, under your
8 signature or the Chair's signature request to have
9 that responded to in writing.

10 VICE-CHAIR PONTANILLA: Yeah, we'll forward something to
11 the Department.

12 COUNCILMEMBER KANE: Thank you. And follow up, Mr. Chair,
13 regarding from the 6 to 7 million mgd for the
14 Lahaina Wastewater Facility, you discussed the half
15 a million to a million dollars that's going to be
16 needed in CIP. Do you anticipate that request going
17 up through the chain for the '07 Fiscal Year Budget
18 proposal?

19 MR. ARAKAWA: That's what I would anticipate, yes.

20 COUNCILMEMBER KANE: Okay, so it's just a matter if it
21 gets from the 9th floor down to the 7th and 8th
22 floor March 15th. Are you saying today that that is
23 something that you will be submitting?

24 MR. ARAKAWA: We will be submitting that, yes.

25 COUNCILMEMBER KANE: And it's important that we know what

1 you will be submitting, because perhaps for some
2 people this project rides on understanding what
3 increased capacity. Although we know that this
4 project, I think -- and Mr. Foley can verify or
5 validate that this is a 15-year span as far as this
6 project's full build out; is that correct?

7 MR. ARAKAWA: Yeah.

8 COUNCILMEMBER KANE: Okay, thank you.

9 Mr. Chair, thank you.

10 VICE-CHAIR PONTANILLA: Thank you, Mr. Kane.

11 Members, any more questions for the Public
12 Works Director? Seeing none, thank you very much,
13 Milton. Okay, Members, we do have a representative
14 from the Fire Department. At this time I'd like to
15 call on Captain Val Martin.

16 Mr. Martin, do you have any opening comments
17 that you'd like to make regarding the Kapalua Land
18 project?

19 MR. MARTIN: Good afternoon, Chair. The Department and
20 Fire Chief Kaupalolo has done some written
21 communication to the Planning Department that
22 specifically talks about future development in the
23 area. At this time, with this particular project,
24 we don't have any specific concerns. We do have
25 future concerns if more projects were built in the

1 area, with the Fire Chief giving about a 20-year
2 time line, he's concerned how the district in the
3 area will look in about 20 years, but at this time
4 we don't have any specific concerns on this project.

5 VICE-CHAIR PONTANILLA: Thank you. Member Johnson.

6 COUNCILMEMBER JOHNSON: Yes, and thanks so much, Val,
7 for -- and you may not be able to necessarily
8 clarify this, but it's -- because the way I'm
9 reading the letter, it's saying that Kapalua Mauka
10 right now, the way that it would be, you'd have
11 sufficient I guess staffing and equipment to be able
12 to manage that area, but because we're discussing
13 the affordable component and the applicant has
14 basically indicated that they would be putting the
15 affordable component within their Pulelehua project,
16 which of course falls into that category of being
17 beyond Kapalua Mauka, you know, because of the
18 number of units that we're talking about, do you
19 know if that was taken into consideration when these
20 comments were made?

21 MR. MARTIN: Member Johnson, Pulelehua was considered.

22 Actually we've known about Pulelehua -- for me,
23 personally, I've dealt with Pulelehua prior to
24 Kapalua Mauka. Kapalua Mauka and Pulelehua was
25 considered when these written comments were made to

1 the Planning Department. So the Napili Fire Station
2 specifically, we feel, is capable of handling
3 Pulelehua and Kapalua Mauka at this time.

4 COUNCILMEMBER JOHNSON: Yeah, and that's where my
5 confusion comes in, because I'll just read you what
6 was written by Fire Chief Kaupalolo, and it says --
7 it says, We looked at the proposed project,
8 including -- oh, okay, including the affordable, but
9 feel that our ability to handle -- and that's just
10 the affordable component, handle fire emergency
11 services are sufficient at this time. It says,
12 however, any more large scale future developments in
13 the area after Kapalua Mauka may affect the ability
14 and facilities needed to service this area by our
15 Department.

16 So you're saying, though, that it not only
17 addressed just the affordable component, it
18 addressed all of Pulelehua, the full build out?

19 MR. MARTIN: Member Johnson, that is correct. In this
20 particular instance, they both were taken into
21 consideration. We know about Pulelehua, and the way
22 that it was written, in our thoughts, we were
23 thinking Pulelehua would be built before Kapalua
24 Mauka. So that's why we were saying after Kapalua
25 Mauka. So those two developments were taken into

1 consideration.

2 COUNCILMEMBER JOHNSON: Okay. And then because we've just

3 gotten -- and you may not have a copy of it. We got

4 a list today of a whole slew of projects, many of

5 which have actually received approval. I know we're

6 looking and you're looking at possibility of the

7 Ukumehame subdivision, you're looking at some

8 other -- you know, other end of town, if you will,

9 projects. I realize you've got the Lahaina Station

10 and the Napili Station. Because we have a lot of

11 fires on the Pali, and obviously with more

12 development out in the northern area, you know,

13 towards Honolua, are you seeing any potential

14 problems with regard -- not much the equipment, but

15 your staffing being spread in such a wide ranging

16 area?

17 MR. MARTIN: That is a --

18 VICE-CHAIR PONTANILLA: Captain Martin.

19 MR. MARTIN: That is a concern, and Fire Chief Kaupalolo

20 and his staff, including myself, have had

21 discussions on West Maui and the fire protection

22 issues. One of his main concerns is how West Maui

23 would be isolated if something catastrophic were to

24 happen, specifically a tsunami, hurricane, the road

25 gets washed out, West Maui would basically be on its

1 own other than air and boat. He is concerned about
2 that, and he has expressed that not necessarily a
3 separate Department, but it's almost like our
4 Department needs to almost be self-sustaining up to
5 a certain point where resources from Central Maui
6 could make it there.

7 We are concerned with the build out and some
8 of the projects that are going on. Again, 80
9 percent of our work, and some months it's higher,
10 are medical emergencies, and we know getting to a
11 victim or a patient within the first five minutes is
12 very, very crucial. We've got a lot more fire
13 trucks on the island than ambulance, so a lot of
14 times the fire truck will be at the scene well
15 before an ambulance. If we start stretching these
16 projects out without putting emergency services, the
17 response time increases tremendously. And at least
18 we would like to have a victim or a patient that we
19 can work with, if you know what I mean, and it's
20 very important to us that we get to patients on time
21 so we have something to work with and we can help
22 them. And, again, four to five minutes is the goal.
23 If we're going to start building without putting in
24 the infrastructure, then we're going to increase
25 that time. We're basically going in the wrong

1 direction.

2 COUNCILMEMBER JOHNSON: And so when you address the issue
3 here within the context of the letter that Chief has
4 sent, that was more geared to I think the fire
5 issue, or was it? Because that's the way I'm
6 reading it, it's more geared to fire as opposed to
7 the issue that you're bringing up right now; is that
8 correct?

9 MR. MARTIN: Actually, we look at both, and, again, the
10 medical situation, but of course fire as well. But
11 we look at both.

12 COUNCILMEMBER JOHNSON: Okay, because the hotel units have
13 not yet opened at Kekaa or North Beach, and those
14 are high rises. And InterWest, you know, is going
15 to be coming up, with all of those units in there,
16 and then other development coming on line, how is
17 that going to impact your capabilities? Because
18 you're going to be dramatically increasing, in a
19 relatively short time, the number of people that
20 will actually be in West Maui, the de facto
21 population. Was that taken into consideration also
22 when these comments were made?

23 VICE-CHAIR PONTANILLA: Captain Martin.

24 MR. MARTIN: Yes, Member Johnson, we have taken into
25 consideration, yeah, the increase of the population.

1 Fire Chief Kaupalolo has expressed that he's going
2 to look at the community plan for West Maui a lot
3 closer. Some comments were brought up that we do
4 need to go back in and take a look at it, and I
5 believe he has already, if not very soon, will be
6 working with Mr. Foley on that. We do have some
7 preliminary ideas on how our Department would -- we
8 would like to be structured in West Maui. It would
9 mean possibly, you know, relocating the current
10 Lahaina Station like we've discussed before, adding
11 another one, and of course this is -- this is things
12 that are years away, but we know we need to begin
13 sometime. You know, it costs money, and we still
14 need to approach those to make it happen, and this
15 is from Fire Chief Kaupalolo.

16 We've had meetings with 30-year veterans of
17 the Fire Department who have spent their entire
18 career on the west side that we really consider
19 their advice very valuable. So this is coming from
20 them also. We do plan sometime to add another
21 station, in addition to down the road something at
22 Olowalu. If need be, if it ever occurs, we want to
23 be there to make sure that we can provide services
24 north of Honolua. If it ever occurs, we just want
25 to be there to provide services. We don't -- we

1 can't necessarily control the growth as far as, you
2 know, what would be built up, but we want to make
3 sure that we provide the services if it does happen.

4 COUNCILMEMBER JOHNSON: Okay, and you do have sufficient
5 equipment, then, currently to address high rise
6 either evacuation or also high rise fires? You have
7 the training and the equipment; is that correct?

8 VICE-CHAIR PONTANILLA: Captain Martin.

9 MR. MARTIN: Member Johnson, that is correct. One thing
10 about the high rises currently, many of them have
11 24-hour security, which play a very integral part in
12 evacuation with the Police and Fire Department, and
13 we really appreciate that. But we do currently have
14 the proper equipment at this time.

15 COUNCILMEMBER JOHNSON: Okay, thank you very much.

16 VICE-CHAIR PONTANILLA: Thank you, Member Johnson.

17 Member Mateo.

18 COUNCILMEMBER MATEO: Chairman, thank you very much.

19 Captain, good afternoon and thank you. I just
20 wanted to follow up with your opening comments when
21 you said that you had no comments now but you had
22 concerns about the future. The future concerns that
23 you referenced, these concerns are those concerns
24 you just recognized as being the need for medical
25 services, the potential for isolation in the event

1 of tsunami or other catastrophe, the need for
2 additional fire stations down the line, are these
3 the future concerns that you're referencing?

4 VICE-CHAIR PONTANILLA: Captain Martin.

5 MR. MARTIN: Yes, Member Mateo, those are concerns that
6 Fire Chief Kaupalolo has brought up and is concerned
7 about, and he is looking at it on how we can address
8 those issues. At this point we definitely have the
9 proper resources to provide services to the
10 community. We don't feel at this time that the
11 community's in jeopardy or anything, but then again
12 we always can use more equipment, more manpower to
13 make it even better, but right now we feel that we
14 can provide the services, but with growth we also
15 need to grow as well.

16 COUNCILMEMBER MATEO: Okay, and just a follow-up on Member
17 Johnson's questions regarding your ability in
18 looking at both Kapalua Mauka and as well as the
19 Pulelehua project. In addition to those projects,
20 in determining or coming up with your own position,
21 you've also included taking a look at the other
22 development projects that's also coming on line
23 within this same 20-year period that the scenario
24 you referenced?

25 VICE-CHAIR PONTANILLA: Captain Martin.

1 MR. MARTIN: Right now the only major projects that we've
2 taken into consideration that we see that may
3 possibly be occurring is the Pulelehua, which is a
4 large project, Kapalua Mauka. We have had
5 discussions with the Hawaiian Homelands project. We
6 don't know if that's going to happen. Kaanapali
7 2020, we heard that that is not going to be
8 happening soon. We don't know. We're -- we're just
9 trying to keep up with the projects that come --
10 that we've all witnessed in the past an application
11 comes, project stalls, another application comes,
12 that one's going through, so it's really hard to
13 gauge on what's going to be built. We just try to
14 do our best and try and plan ahead, but Fire Chief
15 Kaupalolo does have a vision. He sees it and he
16 wants to plan ahead and make sure that we do have,
17 you know, proper resources or at least facilities
18 when the time comes.

19 COUNCILMEMBER MATEO: I appreciate your comments because
20 I -- that's specifically our concern as well,
21 because of growth considerations we've got to be
22 sure that the Department is equipped and the
23 Department's ready and there's adequate facilities
24 for your use. So we're not questioning the
25 integrity of the comments. We want to help the

1 Department initially.

2 So thank you, Chairman.

3 Thank you, Captain.

4 VICE-CHAIR PONTANILLA: Thank you, Member Mateo.

5 Members, any more questions for Captain
6 Martin? Member Anderson.

7 COUNCILMEMBER ANDERSON: Thank you, Chair.

8 Captain Martin, the -- I'm having a hard time
9 locating the letter right now, but I do recall and
10 my notes say that the Fire Department has noted that
11 two acres of land in the Honolua area is going to be
12 necessary for a fire department -- or fire station,
13 a substation. Do you want to comment on that? Do
14 you have any comment to make on that?

15 VICE-CHAIR PONTANILLA: Captain Martin.

16 MR. MARTIN: Ms. Anderson, our request was to just set
17 aside a parcel. We have never set any minimum size
18 on what we could work with. We've just left it open
19 on having it set aside. So I don't know, maybe
20 someone else may have suggested the two acres, but I
21 have not heard of any particular size.

22 COUNCILMEMBER ANDERSON: Well, it seems that this would be
23 the appropriate project to condition for that,
24 because it's such a large project and the area that
25 will be served by the substation is this area. And

1 additionally, in our public facilities assessment
2 update that was done for the County, it states that
3 currently there isn't adequate fire service for the
4 resort area of Kapalua. Would you concur with that?

5 MR. MARTIN: Ms. Anderson, I would not concur with that.
6 We have -- the Napili Fire Station, as we all know,
7 is fairly close to the facility -- facilities of
8 Kapalua, and then the Lahaina Station in an
9 emergency could be in Kapalua within four minutes or
10 five minutes to assist, so I definitely -- I
11 wouldn't say that at this time that it's inadequate
12 or anything.

13 COUNCILMEMBER ANDERSON: Napili Station was built before
14 2002, right? It's been there for quite some time,
15 as I recall.

16 MR. MARTIN: That's correct. It's been there about 12
17 years. Excuse me, I think this was like '91.

18 COUNCILMEMBER ANDERSON: Mr. Foley, are you aware of what
19 I'm speaking of, of this report that was prepared
20 for the Planning Department?

21 VICE-CHAIR PONTANILLA: Mr. Foley.

22 MR. FOLEY: The letter that you're referring to?

23 COUNCILMEMBER ANDERSON: No. I'm referring to the public
24 facilities assessment update for the County of Maui
25 prepared for the Planning Department in July of '02.

1 MR. FOLEY: Yeah, we've had considerable more work done
2 since then and we're talking with the Fire
3 Department about all of the projects that are shown
4 on the map here, plus the projects from Lahaina to
5 Maalaea. And I would concur with Captain Martin,
6 that this project is very close to the Napili
7 Station, and I think it's more likely that we may
8 want to talk about enlarging the Napili Station and
9 the Civic Center Station and probably adding a
10 station to the south maybe at Wainee, that project
11 or even south of Lahaina, but we are in discussions
12 with the Department. We are mapping all of the fire
13 stations on the island and talking with them about
14 the alternative growth scenarios.

15 COUNCILMEMBER ANDERSON: Okay, I'll leave it at that,
16 Mr. Chair.

17 VICE-CHAIR PONTANILLA: Thank you, Ms. Anderson.

18 Members, any more questions for the Fire
19 Captain? If not, thank you very much.

20 At this time I'd like to call on the
21 applicant, Mr. McNatt. Member Kane.

22 COUNCILMEMBER KANE: Thank you, Chair. Good afternoon,
23 Mr. McNatt.

24 MR. McNATT: Good afternoon, Member Kane.

25 COUNCILMEMBER KANE: Thank you for making yourself

1 available. I know in your opening comments --
2 actually, I'd like you to provide an explanation or
3 to provide clarity to the revenue stream that you
4 folks expect to get from Kapalua Mauka as it
5 pertains to the sustainability of your agricultural
6 activities, and I want to make sure that there's a
7 correlation. In other words, I'm asking you to
8 explain if Kapalua is so -- such an integral part of
9 the survival of the company, as it's been
10 represented, if you can help us understand what
11 revenue stream or the revenue stream that you
12 receive from this, how is that going to help sustain
13 the other activities within the company and keep
14 them sustainable as well?

15 Because if you're going to be receiving
16 revenue from this project district area up to a
17 certain point, because it's going to be fee simple,
18 it's going to be for sale, so you receive a cash
19 infusion, and at some point it ends because the
20 build out occurs, and yet our concern is the
21 long-term viability of the agricultural component.
22 And you heard my comments earlier, I believe. You
23 can go so far with that. In the meantime, 15 years
24 later you come back to us and say, you know what, or
25 you go back to the community and to your employees

1 and you say, you know what, we can't sustain our
2 agricultural component of our business.

3 MR. McNATT: Yes, that's a great question. We are
4 spending a lot of time right now in looking at the
5 various businesses that are part of our company, and
6 that recurring revenue stream is a key -- a key part
7 of that model. Everything that we do right now is
8 based on what that revenue stream will be once --
9 once we're done with development in Kapalua or
10 anything else that we're doing.

11 So we have businesses that will be
12 established as part of that, including -- including
13 agriculture. Part of the investment we're making
14 from funds that we're creating will be the
15 multi-user/multi-product facility that will replace
16 the cannery. That's an investment of about \$20
17 million that we'll be making over the next year or
18 so. That's part of it. And that piece right there
19 will help to sustain our agricultural operations
20 more than anything else.

21 We'll create huge efficiencies in the
22 cannery. We'll be able to process fresh fruit much
23 more quickly, and other products as well, as we move
24 into diversified products and be able to handle
25 other farmers on the island in that facility. So

1 that's a key component for the agricultural side.

2 We'll also be using profits from development
3 to shore up the ag operations themselves on a yearly
4 basis. We've been losing money in agriculture for
5 quite some time. You heard a testifier earlier that
6 has worked with the company for many, many years.
7 It's a struggle, but we've been working very
8 diligently in turning that around, in changing the
9 focus of our company, our agricultural company from
10 a canned pineapple company to a fresh product
11 company. The key to be able to make this work is to
12 have a great, great fresh product and get that to
13 the market.

14 In the resort itself we're creating revenue
15 streams through the resort operations, activities, a
16 new spa is planned, golf operations. Those kinds of
17 operations need to be augmented by additional people
18 and additional investment to bring them up to the
19 world class standard that we need. So those revenue
20 streams from those kinds of operations will support
21 our ongoing businesses once this development is
22 completed.

23 COUNCILMEMBER KANE: Long-term, you folks anticipate to
24 continue being in the red, be it maybe less red, in
25 the agricultural --

1 MR. McNATT: Yes.

2 COUNCILMEMBER KANE: -- component of your business?

3 MR. McNATT: No question about it. We're on a track right
4 now to turn that into the black within the next
5 couple of years, maybe even sooner than that. The
6 first -- the first crop that our new team has
7 planted will be coming out of the ground in about
8 another year, the Premium Gold product, and we're
9 very confident that that's going to help us turn it
10 around.

11 COUNCILMEMBER KANE: Is your dependency on branding?

12 MR. McNATT: Very much so. The brand is absolutely key.

13 We have the Hawaiian Gold product and we'll soon be
14 unveiling the Kapalua Gold Pineapple with a new
15 label, so branding is key, and also finding the
16 right distributor. The high end distributor on the
17 West Coast, in Hawaii, and getting the product to
18 market.

19 COUNCILMEMBER KANE: And, Mr. Chair, I'd like to continue,
20 and I don't want -- and if anybody feels that I'm
21 drifting too far, I think it's germane to what's
22 being represented as far as what this project is
23 going to be doing, because it ties into the rest of
24 the company's survival. And their claim is that
25 this project is what's going to help them shore up

1 the rest of their company and move forward and be
2 sustainable, so I'm going to --

3 VICE-CHAIR PONTANILLA: Go ahead, Mr. Kane.

4 COUNCILMEMBER KANE: -- kind of take it out, and I might
5 go off on a tangent, and if any other member feels
6 like I'm drifting too far, I have no problem with
7 yielding the floor, but I think it's important for
8 me, anyway, to understand the scope of the
9 connectivity of this project as it relates to the
10 rest of the company and its survival, if you will.

11 VICE-CHAIR PONTANILLA: Okay, Mr. Kane, I'll allow your
12 questioning.

13 COUNCILMEMBER KANE: Thank you, Mr. Chair.

14 Because you folks -- and I'm glad to hear you
15 say that you folks anticipate getting into the black
16 with the agriculture component. I have my -- I'm
17 hesitant to be as optimistic as you, only because,
18 you know -- and help me understand if you folks took
19 into consideration peak oil, you know, other issues,
20 and I know you folks are aware of and have talked
21 about sustainability and alternative fuels, et
22 cetera, et cetera. So things aren't going to get
23 better or aren't going to stay the same. It's going
24 to get worse when it comes to transportation costs,
25 and getting your product from here to there to the

1 market, being in the middle of the ocean, it's not
2 going to get cheaper.

3 MR. McNATT: That's correct.

4 COUNCILMEMBER KANE: So how do you -- I mean how can you
5 justify that you folks would get into the black when
6 you folks have been so in the red for so long? I
7 mean what really -- if you can describe briefly a
8 couple of things that you folks have done, major
9 components of improved efficiency that will provide
10 you folks with the justification of being in the
11 black?

12 MR. McNATT: You know, I know a lot about this, but
13 there's someone in the room that works with us who
14 I'd like to call up to answer that question. Brian
15 Nishida, the President of Maui Pineapple Company.
16 He's the expert in this. So he's here to respond to
17 that question, if we may.

18 VICE-CHAIR PONTANILLA: Mr. Kane.

19 COUNCILMEMBER KANE: And, Mr. Chair, it's only if the body
20 has no objections, as well as I'll ask Mr. Nishida
21 if there's no objection to be -- kind of be succinct
22 with his comments.

23 MR. McNATT: This is extremely important to our company,
24 so I think it would be great if we could answer the
25 question.

1 VICE-CHAIR PONTANILLA: Okay, Members, any objections to
2 having Mr. Nishida answer the question?

3 COUNCIL MEMBERS: No objections.

4 VICE-CHAIR PONTANILLA: Thank you. Mr. Nishida.

5 MR. NISHIDA: Mr. Chair, Council Members, thank you for
6 the opportunity. I love talking about our
7 agricultural business, because we're really as a
8 team turning this thing around dramatically.

9 Councilman Kane, your question about
10 transportation, absolutely right on. I think it
11 speaks to how our pineapple business is changing
12 dramatically. Heretofore, for example, our fresh
13 pineapple, because of our agricultural, post
14 harvest, and marketing techniques, we've had to rely
15 exclusively on air freight, and as we all know,
16 there's a limitation of capacity out of Kahului
17 Airport, but also air freight's very expensive. The
18 fuel component on air freight is tremendously high.
19 Thanks to the know-how and the hard work of our
20 team, we have been able to shift our fresh
21 production to surface transportation, essentially
22 get it out by ocean transport. Cost is
23 significantly lower.

24 Competitive against even foreign producers
25 coming into the East Coast. Obviously it's

1 something that we are vigilant on, but through every
2 aspect of our operations, we're keeping a close eye
3 on competitive advantage. As we are looking
4 forward, something as simple in farming as yield,
5 number of tons of fruit per acre. We have the best
6 pineapple growers on our team worldwide, hands down.
7 I'll give you an example. In the past and in the
8 industry to get a yield of something like 50 -- 45
9 to 50 tons per acre was acceptable. I'm proud to
10 say that out in some of our West Maui fields, albeit
11 very, very early basis, we're getting as much as 72
12 tons an acre. Tremendous improvement. Why?
13 Expertise, dedication, growing the fruit in the
14 right place. So I think we have a great opportunity
15 not simply to survive, but it is our intent to
16 thrive.

17 I'm glad you asked the question about
18 branding. It speaks to the continuing improvement
19 of our business. I'm not sure if all of you have
20 had the opportunity to taste our Maui Gold, our Gold
21 product. It's always been a great variety, but
22 because of the expertise and the hard work we've now
23 cultivated this into truly being a specialty
24 product. So we can position this as opposed to a
25 commodity against the multi-nationals. We were able

1 to position this into very selective, high-end
2 retailers who in turn market our product to the kind
3 of consumers that we want.

4 COUNCILMEMBER KANE: So tie that in -- if I may,
5 Mr. Chair, tie that into the other two components of
6 competitive -- of competition, when you're dealing
7 with the distinct differences between regulatory
8 issues from around the world, third-world countries
9 who are also competing directly with you folks,
10 versus what we're required -- you know, the
11 regulatory issues that we face in the United States
12 as well as economy of scale, what you folks have and
13 compared to what your competition has worldwide as
14 far as volume, sheer volume and acreage available to
15 grow their products. So they may have 30 or 40
16 whatever tons per acre, but they've got ten times
17 more acreage or 20 times more acreage.

18 So briefly, or if you can, and succinctly as
19 possible, because, these -- again, they're improving
20 too. We've got all the experts going to third-world
21 countries on their goodwill missions teaching them
22 how to be agriculturalists. And so to me, it seems
23 that the gap is going to actually get narrower, not
24 wider.

25 MR. NISHIDA: Global competition is always an issue, in

1 not simply pineapple, not simply agriculture, in
2 every aspect. I think we all know that. I think,
3 though, the fact is not simply in the technology,
4 but it also is in knowledge of market and accessing
5 the market, having the better product. Those are
6 matters that having the funds available for us to
7 continue to evolve and improve our business in every
8 aspect, growing, processing, perhaps most
9 importantly in our people the know-how of our
10 people, that's how we stay ahead. That's how we
11 stay ahead.

12 COUNCILMEMBER KANE: Mr. Chair, final question.

13 VICE-CHAIR PONTANILLA: Go ahead, Mr. Kane.

14 COUNCILMEMBER KANE: And final question. So now talk to
15 us about diversification. How are you folks set up
16 to handle what if something does go wrong? A
17 plight, a virus, something that can hit your major
18 crop, pineapple, that would devastate you folks, are
19 you folks prepared to transition quickly enough to,
20 again, anticipate your folk's success in
21 agriculture? Talk to us about what your -- how you
22 folks are going to do that.

23 And this all ties into this project now,
24 because you folks are saying we need this project to
25 get all this working. The worst thing you guys can

1 do is come back 15 years from now and tell us, you
2 know what, not going to work, because then we're
3 stuck with urbanization and ag falling by the
4 wayside and being cut up into little pieces.

5 MR. NISHIDA: Maybe a great example of -- to answer your
6 question -- diversification is the fact that very
7 recently, you know, within the last two years we
8 made the decision to aggressively go back and make
9 West Maui -- the West Maui farm a viable, critical
10 component of our farming business. I believe that
11 that's a change from some of the messaging that the
12 company had done earlier on. How does that help us?
13 Well, having a diverse -- having the crop over a
14 diverse geographical area prevents some of the
15 issues you alluded to. It's also allowed us to tap
16 into a work force that is also diverse, that has
17 different skills, and as a result we're producing
18 darn good product.

19 As far as the other products, we are
20 investing in evaluating manufacturing post-harvest
21 techniques on the pineapple products. That comes
22 first. We've got to take one step at a time, and as
23 well our MC-2 facility is being geared to do
24 outreach to other farming entities, and thereby
25 diversifying not simply what we grow, but how we

1 promote agriculture on Maui.

2 COUNCILMEMBER KANE: Thank you, Mr. Nishida.

3 Thank you, Mr. McNatt.

4 MR. NISHIDA: Thank you.

5 COUNCILMEMBER KANE: And, Mr. Chair, thank you. I yield.

6 VICE-CHAIR PONTANILLA: Thank you, Mr. Kane.

7 Member Johnson.

8 COUNCILMEMBER JOHNSON: Yes, and I do have questions too.

9 MR. NISHIDA: Oh, I'm sorry.

10 COUNCILMEMBER JOHNSON: To pick up on some of the

11 agricultural, I guess, baseline data, because you

12 alluded to, okay, our thrust was we're going to

13 abandon all of our West Maui land, because pretty

14 much that was the message that was in the community

15 is that the jobs were going, the agricultural lands

16 were basically being consolidated into a much

17 smaller area for pineapple in West Maui. What is

18 the acreage that was under farming? Has that

19 decreased at all? What is your anticipated acreage,

20 that with this project going forward would any of

21 that be taken out of production? And what is your

22 work force, you know, over what it has been? What

23 is it now and what do you project it to be,

24 specifically in West Maui?

25 MR. NISHIDA: I'll preface my statements by saying I'm a

1 newcomer to Maui and I'm enjoying myself, and I'm
2 not quite versed on the history, certainly the data
3 of the history. Our approach has been to look at
4 the fundamentals of good farming, looking at the
5 lands that we believe gave us the best opportunity
6 on high yield, consistent delivery of a high quality
7 product, and that's how we've approached our acreage
8 out in West Maui. Number of acres, it's
9 substantial. I don't recall offhand. But every
10 acre that we believe is ideal for growing our Gold
11 product, we are in production.

12 COUNCILMEMBER JOHNSON: Okay, but you don't have
13 projections, then, with regard to agriculture? You
14 know, because what I look at is, bottom line, if
15 you're going to provide jobs, where are the jobs
16 going to be, and, you know, what is your I guess
17 projection for providing jobs within the
18 agricultural industry, if you're going to be
19 replacing those jobs with more resort-oriented jobs
20 and having, I guess, let's say fewer acres,
21 increased production, but fewer workers in the labor
22 force? That's kind of what I'm looking at also.

23 MR. NISHIDA: Well, I'll just share my experience. When I
24 was able to stand up in front of our West Maui
25 plantation team and to say that we're going to be

1 planting acres, we're going to have a viable farm,
2 to see the tears come down their eyes, great
3 gratification on my part. So I don't look it as
4 glass half empty. I look at it as glass half full,
5 and that's where we're going. We are building
6 something. We're not taking away.

7 COUNCILMEMBER JOHNSON: Okay, well, all right. Thank you.
8 I guess the other side -- you know, and sometimes
9 there's a tendency to have a conflict between
10 agriculture and then residential housing. And one
11 of the complaints we always get throughout all of
12 West Maui, pineapple bugs. It's just a reality.
13 You know, pineapple bugs are there. And I want to
14 find out -- because if you're developing a really
15 high-end clientele and you're having outdoor dining
16 and all these wonderful experiences, right next to
17 all of this will be the pineapple fields, and I know
18 because it occurs up at Pineapple Hill, other areas,
19 other resorts, you know, what's going to happen if
20 all of a sudden, you know, your resident population
21 in the resort says, you know, oh, my God, I can't
22 stand -- what about overspray of pesticides? What
23 about conflicts of agriculture? What about I don't
24 want, you know, to have all of these impacts that go
25 along with agriculture affecting my quality of life?

1 Which generally, I mean, you're talking about very,
2 very wealthy people.

3 How do you see that -- or do you not see that
4 as having a potential problem?

5 MR. NISHIDA: Our perspective of agriculture is that it
6 provides a very nice buffer between communities.
7 There are various levels of agriculture, and we are
8 currently focused in on our pineapple business. It
9 is geared towards as low impact as possible. We, as
10 a matter of fact, have our organic pineapple
11 operation started out in West Maui, with the
12 intention of continuing to build our protocols
13 toward low impact.

14 As far as pineapple bugs are concerned, I
15 have to say looking at all of our fields, we don't
16 have pineapple bugs because of the great
17 agricultural practices of our team. Thank you.

18 COUNCILMEMBER JOHNSON: And then my last -- you know,
19 like -- I just want to let you know that recently I
20 had an opportunity to go to Kona and listen to all
21 the concerns of farmers, and in the framing of the
22 2007 Farm Bill, Undersecretary of the U.S.
23 Department of Agriculture was there, Representative
24 Case, also the Assistant to the Undersecretary, and
25 there was farmer after farmer talking about exactly

1 what Councilmember Kane was mentioning, the intense
2 difficulty in making farming viable, transportation,
3 competition on a global scale. And most of the
4 farmers were really concerned about their future
5 here in the State of Hawaii.

6 And I just want to share with you that the
7 future, particularly with the very type of
8 development that you intend to bring in, was
9 described as the biggest threat to agriculture in
10 the eyes of the farmers who came one by one to
11 testify. They did not want the people who were
12 coming from, quote, Newport, next to their farming
13 operations. And you're talking about people that
14 have farming operations going for more than a
15 hundred years on family-owned land. So they were
16 not pleased with the trend. And I just want to
17 share that with you, because the very thing that
18 you're bringing onto the island may spell the end of
19 agriculture. Thank you.

20 VICE-CHAIR PONTANILLA: Thank you, Ms. Johnson.

21 Ms. Anderson.

22 COUNCILMEMBER ANDERSON: Thank you. I'm sorry, I didn't
23 catch your name.

24 MR. NISHIDA: Brian Nishida.

25 COUNCILMEMBER ANDERSON: Mr. Nishida, thank you so much.

1 You're new to the company? How new, two years, did
2 you say?

3 MR. NISHIDA: Just about two years.

4 COUNCILMEMBER ANDERSON: Two years, okay, so in the
5 petition that you folks forwarded to the State Land
6 Use Commission on the same project, and that is --
7 was dated just a little over a year ago, in that
8 petition it does state that 169 acres that are
9 currently in pine is going to be dedicated to this
10 project, but it also states that Maui Pine is in the
11 process of downsizing its pineapple operations by
12 approximately 2,200 acres, including reducing its
13 net pine acres in West Maui to less than 200 acres.

14 It says that the Honolua plantation lands are
15 Maui Pine's highest cost-producing lands and that
16 the company cannot earn a profit cultivating canned
17 pineapple products in this location. Maui Pine is
18 concentrating on pineapple production for the fresh
19 product market, as you just mentioned, and that this
20 variety of fruit grows better in Maui Pine's higher
21 elevation, central Maui fields. Central Maui fields
22 have higher productivity and are closer to Maui
23 Pine's processing plant at Haliimaile.

24 Can you update any of those statements?

25 Because they seem to conflict with what you were

1 telling us earlier.

2 VICE-CHAIR PONTANILLA: Mr. Nishida.

3 COUNCILMEMBER ANDERSON: Do you understand what I'm
4 asking?

5 MR. NISHIDA: Yeah, I think I've not been a part of the
6 submittal, so I would -- Mr. Chair, if it's
7 acceptable, I would rather defer to my colleagues in
8 responding.

9 VICE-CHAIR PONTANILLA: If I --

10 COUNCILMEMBER ANDERSON: Because you just told us,
11 Mr. Nishida, that you guys are now focusing back on
12 the west side for pineapple cultivation, which
13 contradicts what this says.

14 MR. NISHIDA: Again, I'm not familiar with the context,
15 but my statement of bringing the increasing
16 plantings and having the West Maui farm as an active
17 farm is true. Please, if you don't mind.

18 VICE-CHAIR PONTANILLA: Members, there's no objections,
19 Mr. McNatt is going to be answering that particular
20 question.

21 MR. McNATT: Thank you, Mr. Chairman. The fact is that
22 when that report was written two and a half or so,
23 three years ago, the EIS and that agricultural
24 report, the company was in different circumstances
25 than it is today, and the whole way that we looked

1 at pine growing was very different. We brought in a
2 new team since then. They've re-evaluated the
3 entire pineapple operation and have made significant
4 changes to the strategic plan for the operation,
5 which has been described by Mr. Nishida. We were
6 pulling out of pineapple in West Maui at that time
7 and reducing the acreage.

8 Since then we've discovered that
9 concentrating more on the fresh product and getting
10 out of the canned business makes a lot of sense, and
11 keeping it on our best fields for growing Maui Gold
12 Pineapple in West Maui made a lot of sense as well.
13 So businesses change much quicker sometimes than the
14 development and environmental review process.

15 COUNCILMEMBER ANDERSON: Yeah, this report was done two
16 years ago, Mr. McNatt, so that's quite a turnaround,
17 and I'm happy to hear it. So how many acres will
18 there remain in agriculture on the west side?

19 MR. McNATT: I'm once again going to defer to someone
20 who's an expert in farming on the west side, Wes
21 Nohara, if it's all right, Mr. Chairman.

22 VICE-CHAIR PONTANILLA: Any objections?

23 COUNCIL MEMBERS: No objections.

24 VICE-CHAIR PONTANILLA: Okay, Mr. Nohara. Mr. McNatt, I
25 think you should have your team against the wall.

1 Mr. Nohara.

2 MR. NOHARA: My name's Wes Nohara, Vice President of
3 Production Management. In West Maui, in terms of
4 pineapple, we're looking roughly about 2,000 acres
5 in pineapple, with other agricultural activities in
6 diversified agriculture as well.

7 COUNCILMEMBER ANDERSON: So you're going to maintain the
8 2,000 acres?

9 MR. NOHARA: That is our target right now, yes.

10 COUNCILMEMBER ANDERSON: Great. Okay. Thank you very
11 much.

12 VICE-CHAIR PONTANILLA: Thank you, Ms. Anderson.

13 Mr. Molina.

14 COUNCILMEMBER MOLINA: Thank you, Chairman. Question for
15 Mr. McNatt.

16 Mr. McNatt, please state your name, rank and
17 serial number. I'm just kidding.

18 MR. McNATT: Bob McNatt. What's the -- thrifty, brave,
19 clean, and reverent.

20 COUNCILMEMBER MOLINA: Just a little humor at the end of
21 the day. It's been a long one. My questions relate
22 to fire. We received a letter from the Fire Chief,
23 and to just basically summarize the letter, he
24 wanted you, Maui Land & Pine, to consider
25 designating and setting aside land north of Honolua

1 Bay for emergency service usage. And he also stated
2 that a designated parcel would allow emergency
3 services to plan and proceed accordingly. And I
4 presume you've had discussions with the Fire
5 Department, in that you would be working with the
6 Department to determine where a new station would be
7 located. Are you prepared to, I guess -- it would
8 seem like from the tone of the letter the Chief
9 wants to get this matter going right now. Have you
10 already had -- have a site in mind in terms of a
11 specific parcel where a new fire station would go?

12 MR. McNATT: We have had conversations with the Fire
13 Department, and they have told us that there's no
14 need for that site at this time. There's adequate
15 services, as was stated by Captain Martin earlier.
16 So we haven't designated a specific site. We're
17 willing to do that when the need -- when they do ask
18 for a specific site, we'll be happy to sit down and
19 figure that out. We think that's a long-term
20 proposition, but we're more than happy to work with
21 them to determine a site.

22 COUNCILMEMBER MOLINA: Okay, and my other question deals
23 with the Parks. In their letter they indicate that
24 the -- I guess this is more for clarification for
25 me. With the park dedication requirement, does

1 this -- to your understanding, does this mean that
2 park lands would be dedicated and the County will
3 build the park or will you, Maui Land & Pine, build
4 the park and then dedicate it to the County?

5 MR. McNATT: It's really up to the Director of Parks and
6 Recreation to determine whether he wants to accept a
7 fee or park land. So it will be up to him. That's
8 the way the Code reads at this time. We'll be
9 willing to work with him in either -- either way,
10 either fee or park dedication.

11 COUNCILMEMBER MOLINA: Okay. Thank you, Chairman.

12 VICE-CHAIR PONTANILLA: Thank you, Mr. Molina.

13 Member Mateo, followed by Member Johnson,
14 followed by Member Kane.

15 COUNCILMEMBER MATEO: Thank you. Thank you very much,
16 Chair.

17 Mr. McNatt, good afternoon.

18 MR. McNATT: Good afternoon, Mr. Mateo. How are you?

19 COUNCILMEMBER MATEO: I'm fine. Thank you.

20 MR. McNATT: Good.

21 COUNCILMEMBER MATEO: I wanted to just follow up in the
22 same direction that Mr. Kane was going in, and that
23 would be in terms of your initial statements kind of
24 told us that Kapalua Mauka needs to happen, and if
25 it doesn't, there's -- it becomes questionable the

1 survivability of Maui Land & Pine. So I guess I
2 would be real blunt and just ask you, how much money
3 does Maui Land & Pine need to remain, you know,
4 stable or financially stable?

5 MR. McNATT: Wow, that's an interesting question. I can't
6 answer it. I can't give you a finite number of how
7 much money we need to stay in business, because it
8 changes every year. It changes continuously as we
9 react to the market, as things happen, national
10 disasters, for instance. Like 9/11 affected us
11 tremendously. We just don't know. And also, at any
12 given time our business -- one part of our business
13 can be up and another part can be down. We're at a
14 peak right now in real estate prices. Who knows how
15 long the real estate market is going to hang in
16 there. So we have to plan for the long-term, the
17 very long-term, and in fact when our employees got
18 together 18 months ago and re-thought how the
19 company should be, what our core values were, they
20 looked at the next hundred years. So we think
21 long-term. We need to get to a point where we have
22 continuous profits so that we can sustain our
23 employees and the community, but we don't know what
24 that -- what that number is.

25 COUNCILMEMBER MATEO: Thank you. So then in terms of

1 profits, then, that you reference, what is the
2 projected profit from the Kapalua Mauka project?

3 MR. McNATT: We don't have a projected profit. It's --
4 we're asking for zoning right now, so we haven't --
5 we don't know what our costs are going to be to
6 create the product. This is a 15-year project
7 probably, to be able to build the infrastructure
8 over the next few years, then to begin selling homes
9 over a long period of time. So we don't have a
10 projected profit. We hope it will be profitable.
11 Some projects on Maui have been very unprofitable.

12 COUNCILMEMBER MATEO: So if this is a 15-, 20-year build
13 out project, how do you know how much money you need
14 to remain stable?

15 MR. McNATT: We don't. We don't know how much money we
16 need.

17 COUNCILMEMBER MATEO: So why --

18 MR. McNATT: That's why I couldn't give you a number. We
19 really don't have a number of how much -- how much
20 profit we're going to need.

21 COUNCILMEMBER MATEO: Okay.

22 MR. McNATT: So we need to get each of our operations to
23 the point where it's profitable. For instance,
24 agriculture, we need to get that to the point where
25 it's profitable and not supported by development.

1 We need to get our resort operations to a point
2 where it's profitable, where it's not also supported
3 by land sales and development.

4 COUNCILMEMBER MATEO: The only reason I ask is because,
5 you know, it's been prefaced that you need this
6 project in order to take care of the additional
7 projects. Pulelehua, that's already moving
8 apparently, I think. So you've got your additional
9 projects already moving. So your concern of
10 financial responsibility -- being responsible
11 financially, I just don't understand how you can say
12 you need this project when you don't even know, you
13 know, what the financial need is, you don't know
14 what the profit read out from Kapalua Mauka is going
15 to be. So how do we balance your need versus what
16 you say?

17 MR. McNATT: We do have plans. We do have a five-year
18 budget. We do cash flow models that go out about
19 six quarters, a year and a half.

20 COUNCILMEMBER MATEO: So in the next five years, sir --

21 MR. McNATT: And we monitor that over every quarter. We
22 change that and monitor it, depending on what market
23 conditions are. So to answer your question, we do
24 model it. We have an idea of what those numbers
25 are.

1 COUNCILMEMBER MATEO: Are you able to share those ideas
2 for the next five years?

3 MR. McNATT: No, I can't share those numbers. That's
4 proprietary information.

5 COUNCILMEMBER MATEO: Oh, okay. Thank you very much.
6 Chairman, I'm done.

7 VICE-CHAIR PONTANILLA: Thank you, Mr. Mateo.
8 Member Johnson.

9 COUNCILMEMBER JOHNSON: Yes, I guess your back isn't
10 against the wall anymore.

11 MR. McNATT: No, I was kind of pinned there for a while.
12 That's okay.

13 COUNCILMEMBER JOHNSON: Sorry about that. Anyway, this
14 was a question I had written down earlier, and I
15 saved it for now, which it's diverting a little bit
16 from the questions we're on right now. This is in
17 regard to the affordable housing, the 120 days.

18 MR. McNATT: Yes.

19 COUNCILMEMBER JOHNSON: You heard my comments earlier
20 about my concern about when we put in affordable
21 housing requirements and then it doesn't get sold to
22 somebody that's at least close to those income
23 levels. What is your feeling about that particular
24 component or the time limitation for the number of
25 days?

1 MR. McNATT: Well, the current time limitation in the
2 County Code where it does apply to affordable
3 housing is 90 days.

4 COUNCILMEMBER JOHNSON: 90.

5 MR. McNATT: We've increased it to 120 because you had
6 suggested that at an earlier meeting. I'm also
7 concerned about what you are about the -- those
8 units moving out of the affordable range, so we
9 would consider capping that at the 120 percent
10 level, where if we can't sell it to somebody at the
11 100, 120 percent level, then we end up holding it,
12 but we're confident that we'll be able to qualify
13 somebody once it gets to that level. So if somebody
14 is in the 80 to 100 and a unit sits there for 120
15 days and doesn't sell, it can go to the 100 to 120
16 level and it will probably sell in that category,
17 but we'll keep it at that level. We won't sell it
18 to someone that makes over 120 percent.

19 COUNCILMEMBER JOHNSON: Yeah, because I know that, you
20 know -- and you and I had discussed this before
21 about some of your people that were in the Kapua
22 subdivision, you know, not qualifying and then, you
23 know, they got bumped out and someone else got the
24 unit, which was very hard for those people.

25 MR. McNATT: It was extremely frustrating for us as well.

1 COUNCILMEMBER JOHNSON: Okay. The other question I have,
2 Mr. Chair, and I'll just ask, you know, because a
3 time-share component of course is part of this mix
4 with what you're talking about for resort
5 development, I know that in the past with the Ritz,
6 you know, I guess their current operation -- one of
7 the things that I wonder, if you still have under
8 consideration, because of the revenue stream that is
9 I guess gained by going to a time-share conversion,
10 do you still have that as a possible consideration
11 to improve cash flow, the conversion of let's say a
12 portion of the Ritz-Carlton to time-share?

13 MR. McNATT: We don't. We're not -- we don't own the
14 Ritz-Carlton and don't really have any control over
15 it. And don't think that that's being considered at
16 this time. We don't -- in fact, the hotel has been
17 on the market and is in escrow, I believe, or will
18 be soon with a new buyer, so we really don't have
19 any control over the Ritz-Carlton.

20 COUNCILMEMBER JOHNSON: Okay, so that's not even a holding
21 anymore of Maui Land & Pine?

22 MR. McNATT: We own the land underneath the hotel. We own
23 the land, but we don't own the hotel itself, nor do
24 we operate the hotel.

25 COUNCILMEMBER JOHNSON: Okay. Now, with regard to the

1 demolition, then --

2 MR. McNATT: Of the Kapalua Bay --

3 COUNCILMEMBER JOHNSON: -- of the Kapalua Bay Hotel, which

4 will be going to a -- I guess a time-share of sorts.

5 It's not -- you know, it's a member -- club

6 membership reference that's being made.

7 MR. McNATT: Well, there are three components to that, if

8 I may, Mr. Chairman, very quickly.

9 VICE-CHAIR PONTANILLA: Go ahead, Mr. McNatt.

10 MR. McNATT: Even though it's off target a little bit.

11 There's a wholly owned product of about 54, 55

12 units -- actually 84 units, and there's about 28 of

13 those units will be with Exclusive Resorts, a club

14 product, but still wholly owned by that company.

15 And then there's a -- roughly 62 or so units that

16 will be Ritz-Carlton Club units. Those are 1/12

17 fractions, which are technically a time-share.

18 COUNCILMEMBER JOHNSON: And will there be any economic

19 benefit? You know, again, I'm looking towards the

20 stability factor of your whole operation. Is there

21 any potential for revenues to come from that

22 particular operation or that conversion --

23 MR. McNATT: Yes.

24 COUNCILMEMBER JOHNSON: -- that would also help to

25 stabilize your company?

- 1 MR. McNATT: Yes. Yes, there will be. That's our hope.
2 That's our hope that there will be profits from that
3 operation. Currently the hotel loses money, and it
4 pretty much always has since it was built. That's
5 why we're contemplating this painful conversion to a
6 different product, but there should be profits from
7 that -- that project.
- 8 COUNCILMEMBER JOHNSON: Okay, thank you very much.
- 9 MR. McNATT: Thank you.
- 10 VICE-CHAIR PONTANILLA: Member Kane, followed by Member
11 Anderson.
- 12 COUNCILMEMBER KANE: Mr. Chair, I was asking to be
13 recognized to ask you to consider a break, but in
14 light of Member Anderson's wanting to ask questions,
15 and Mr. McNatt already there, I'll yield the request
16 until it's appropriate for your consideration.
- 17 VICE-CHAIR PONTANILLA: Thank you. Ms. Anderson.
- 18 COUNCILMEMBER ANDERSON: Thank you, Member Kane. I'll try
19 to be succinct.
- 20 COUNCILMEMBER KANE: Good word.
- 21 COUNCILMEMBER ANDERSON: It's hard to say, though.
22 Mr. McNatt.
- 23 MR. McNATT: Yes, ma'am.
- 24 COUNCILMEMBER ANDERSON: As a requirement for your
25 petition for a District Boundary Amendment you are

1 required to provide State Land Use Commission
2 various financial information, and one of those is a
3 balance sheet. In August 2003 you stated that
4 Kapalua Land Company had \$184.32 million in assets,
5 \$120.3 million in liabilities, and \$62.7 million in
6 shareholders' equity as of December 31st, 2002. Can
7 you tell us what the shareholders' equity was as of
8 December '04, if you recall?

9 MR. McNATT: No, I don't.

10 COUNCILMEMBER ANDERSON: Shame on you.

11 MR. McNATT: December of '04, the shareholders' equity?

12 COUNCILMEMBER ANDERSON: Yes.

13 MR. McNATT: We can probably come up with that answer, if
14 anybody in the -- anybody have an annual report from
15 2005? We can look it up on the Internet. I'm
16 sorry, we don't have that answer off the top of
17 our --

18 COUNCILMEMBER ANDERSON: Then I will look it up. Thank
19 you.

20 MR. McNATT: Do you have the annual report from 2005?

21 COUNCILMEMBER ANDERSON: No, but if it's on the Internet,
22 I guess I could --

23 MR. McNATT: It should be there. Yes, it's on the
24 Internet.

25 COUNCILMEMBER ANDERSON: I'm not a stockholder. Wish I

1 was.

2 COUNCILMEMBER JOHNSON: Then you couldn't vote on this.

3 COUNCILMEMBER ANDERSON: Oh, then I wouldn't -- then I

4 wouldn't be able to vote, right.

5 MR. McNATT: I'm not going to say anything.

6 COUNCILMEMBER KANE: About ready for that break,

7 Mr. Chair?

8 MR. McNATT: I didn't say -- it was just for levity.

9 COUNCILMEMBER ANDERSON: So what, Bob, you have some penny
10 stocks in your pocket you want to get rid of?

11 MR. McNATT: No, I don't. I'm sorry.

12 COUNCILMEMBER ANDERSON: No, I'm bringing this up because
13 I think -- I think it is very relevant, the profits
14 that you will be realizing from this development,
15 and I think it's rather disingenuous to tell Member
16 Mateo, first, that you don't know the cost, because
17 the cost has been coughed up several times already.

18 MR. McNATT: Can I give you an example of costs?

19 COUNCILMEMBER ANDERSON: Well, you could wait until I'm
20 finished.

21 MR. McNATT: Yes, ma'am.

22 COUNCILMEMBER ANDERSON: And then I'll let you do that.
23 The cost as revealed in the Environmental Assessment
24 states that the total costs for Kapalua Mauka are
25 estimated to be approximately \$470 million. Those

1 costs are, again, reiterated, although the figures
2 are different, in your petition to the State Land
3 Use Commission. And what's more interesting to me,
4 Mr. McNatt -- and, you know, 470 million is good
5 enough for me, even though it contradicts what you
6 have in your petition. Your petition says that --
7 well, your petition says that based on the costs,
8 that the revenues that will be realized by the State
9 should exceed -- and this is in tax revenues for the
10 20-year build out and the sales period -- should
11 exceed \$101.9 million from income and general excise
12 tax and will stabilize at \$5.2 million annually
13 following completion of the construction.

14 It also goes on to say that State costs
15 associated with delivering services to Kapalua Mauka
16 are estimated to be 56.7 million during the 20-year
17 build-out period and \$4.4 million a year -- per year
18 thereafter. Then it goes on to state what the
19 State's net revenue will be. It says that -- if you
20 want to follow me I'm on page 20 of the petition,
21 Mr. McNatt. It says that the County of Maui is
22 anticipated to receive \$72.9 million in real
23 property tax revenue from Kapalua Mauka over the
24 20-year build out and sales period and an estimated
25 \$5.6 million a year thereafter.

1 And there's other more detailed figures, but
2 I'm not going to go into that because the point I'm
3 trying to make is that if you know -- if you can say
4 in general terms -- and, granted, times have
5 changed in the last two years. I don't think
6 anybody's asking you for a very definitive figure.
7 We want a ballpark figure. If you can tell us what
8 the costs -- the anticipated costs of your project
9 are. And it's my understanding when you appeared
10 before the State Land Use Commission you swear to
11 tell the truth, the whole truth, and nothing but the
12 truth. So if that was the truth two years ago, that
13 it's a -- the cost factor in building this is \$470
14 million, that the revenue stream -- or the revenue
15 realized from the build out of this project will
16 afford the State 100-plus million dollars in
17 income -- revenue and the County \$72 million in
18 revenue, you must have some way of figuring that out
19 as to what your profit is going to be, what the
20 sales are going to be from Kapalua Mauka in order to
21 generate these kind of revenues to the State and to
22 the County.

23 MR. McNATT: The -- that study was done at a point in time
24 two and a half, three years ago. So anything that
25 was done that long ago will of course change. So we

1 don't know what our costs are going to be today.
2 For instance, we just recently bid out a project
3 where we had estimated the cost to be -- the first
4 phase of Honolua Village where it's currently under
5 construction. 12,000 square feet of retail space.
6 We bid that project out. After having done detailed
7 cost analysis up to that point telling us it was
8 going to be a \$6 million project, it came in at \$9
9 million. Just in a six-month span costs had gone up
10 50 percent. That's what's happening in the market
11 right now and have been -- has been going on for
12 quite some time.

13 COUNCILMEMBER ANDERSON: I understand, Mr. McNatt.

14 MR. McNATT: We don't have an idea of what the costs are
15 going to be or what the market is going to be
16 long-term, especially over a 15-year period. That's
17 why I say we're not sure.

18 COUNCILMEMBER ANDERSON: Okay, let's take it back to when
19 this was done. You had to have some idea at that
20 time what your profits were going to be in order to
21 come up with these expected revenues to the State
22 and the County for real property taxes and excise
23 tax. Now, certainly times have changed, and as I
24 said I don't expect you to give me a definitive
25 figure, but if we could have the figure that would

1 have been applicable when this petition was filed,
2 then whatever the cost increase is now over this
3 last two-year period, I would venture to guess that
4 those costs are going to be passed on to the buyers
5 anyway. I don't really believe that you're going to
6 take it in the shorts and realize less profit margin
7 because costs have gone up, because you're dealing
8 with a very high-end market. You're dealing with a
9 minimum -- and of course these -- these sales prices
10 have probably gone up too, Mr. McNatt, in the last
11 two years, from a lot being \$500,000 to God knows
12 what.

13 So, you know, I really don't appreciate
14 trying to, you know, get around answering the
15 question. I think it's extremely relevant that
16 we -- that we understand what you're going to be
17 realizing in profits from this. Because it has a
18 lot to do with the -- it has a lot to do with what
19 you're willing to offer the County and the residents
20 of Maui in affordable housing. For me, anyway. And
21 so I think it's a very relevant question, and I
22 would hope that you could give us an answer.

23 MR. McNATT: So, I'm sorry, what's the question?

24 COUNCILMEMBER ANDERSON: The question is when this
25 petition was filed when you appeared before the

1 State Land Use Commission and you swore that the
2 facts in this petition were true, I want to know
3 based on the cost figures you gave in this petition
4 and the revenues that are expected to be realized by
5 the State and the County from real property taxes
6 and excise taxes which would come from the sale of
7 your project, what were the expected -- what was the
8 expected profit at that time?

9 MR. McNATT: I don't know the answer to that.

10 COUNCILMEMBER ANDERSON: Could you find out and get back
11 to us?

12 MR. McNATT: I don't think it's relevant. I don't even
13 think we have the answer to that question. There's
14 revenues --

15 COUNCILMEMBER ANDERSON: How do you come up with revenues
16 if you don't know what that is?

17 VICE-CHAIR PONTANILLA: Ms. Anderson, we can write to Maui
18 Land -- to the applicant and request for that
19 information.

20 COUNCILMEMBER ANDERSON: Well, you can write to them.
21 That doesn't mean you're going to find out. I do
22 think it's relevant. Extremely relevant,
23 Mr. McNatt. And I think it's disingenuous to say it
24 isn't, number one, and to say that you don't know
25 what it is, number two, because nobody goes forward

1 with a \$500 million project and doesn't know what
2 their profit's going to be in the end. So I'm sorry
3 you can't be forthright with that. Very sorry.

4 VICE-CHAIR PONTANILLA: Thank you, Ms. Anderson.

5 COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman.

6 VICE-CHAIR PONTANILLA: But again, we'll follow up with a
7 memo to the applicant requesting that information.

8 Members, if there's no objections, the Chair
9 would like to call a break to -- we'll reconvene at
10 5:15.

11 COUNCILMEMBER KANE: 5:20, Chair.

12 VICE-CHAIR PONTANILLA: Okay, 5:20 we'll reconvene.

13 (Gavel).

14 **RECESS: 5:08 p.m.**

15 **RECONVENE: 5:21 p.m.**

16 VICE-CHAIR PONTANILLA: (Gavel). The Land Use Committee
17 is now back in session.

18 Thank you very much for that break. Noting
19 that we lost a lot of members through these
20 proceedings, if there is no objections, the Chair
21 would like to defer this matter.

22 COUNCIL MEMBERS: No objections.

23 **COUNCIL MEMBERS VOICED NO OBJECTION.** (excused: RC, RH,
24 DM, and CT)

25 **ACTION: DEFER pending further discussion.**

1 VICE-CHAIR PONTANILLA: We'll defer this matter to
2 December the 7th, Tuesday -- Wednesday, December the
3 7th. As far as the time, that will be determined by
4 the Chair, Mr. Carroll. Is there any announcements?
5 If not, this meeting is adjourned. (Gavel).

6 **ADJOURN: 5:23 p.m.**

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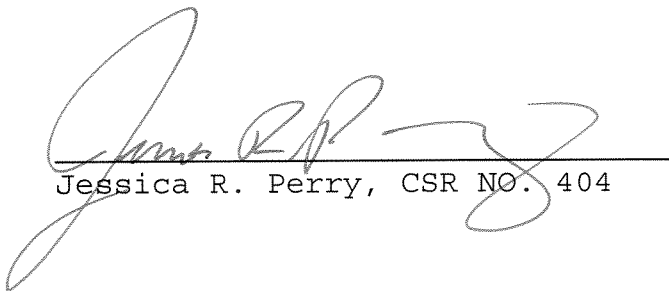
C E R T I F I C A T E

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF MAUI)

I, Jessica R. Perry, Certified Shorthand Reporter for the State of Hawaii, hereby certify that the proceedings were taken down by me in machine shorthand and was thereafter reduced to typewritten form under my supervision; that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 16th day of December, 2005, in Honolulu, Hawaii.



Jessica R. Perry, CSR NO. 404

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

December 7, 2005

Council Chamber

CONVENE: 1:33 p.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Joseph Pontanilla, Vice-Chair
Councilmember Michelle Anderson, Member
Councilmember G. Riki Hokama, Member (In 1:49 p.m.)
Councilmember Jo Anne Johnson, Member (In 1:35 p.m.)
Councilmember Dain P. Kane, Member (Out 5:24 p.m.)
Councilmember Danny A. Mateo, Member
Councilmember Michael J. Molina, Member (In 2:02 p.m.)
Councilmember Charmaine Tavares, Member (In 1:37 p.m.)

STAFF: Carla Nakata, Legislative Analyst
Camille Sakamoto, Substitute Committee Secretary

ADMIN.: Michael W. Foley, Director, Department of Planning (In 1:40 p.m.)
Ann Cua, Planner, Department of Planning
Joseph Alueta, Administrative Planning Officer, Department of Planning (In 4:30 p.m.)
Michael Miyamoto, Deputy Director, Department of Public Works and
Environmental Management
Alice L. Lee, Director, Department of Housing and Human Concerns (In
3:05 p.m.; Out 3:34 p.m.)
John Buck, Deputy Director, Department of Parks and Recreation (In 3:07 p.m.)
James A. Giroux, Deputy Corporation Counsel, Department of the Corporation
Counsel (Out 3:34 p.m.)
Brian T. Moto, Corporation Counsel, Department of the Corporation Counsel
(In 3:10 p.m.)

OTHERS: George Baker, Maui Preparatory Academy
Kimokeo Kapahulehua, Honokohau Restoration Association
Robert McNatt, Executive Vice President, Maui Land and Pineapple Company,
Inc.
Warren Suzuki, Senior Vice President, Maui Land and Pineapple Company, Inc.
Ryan Churchill, Vice President, Maui Land and Pineapple Company, Inc.
Brian Nishida, President, Maui Land and Pineapple Company, Inc.
Wes Nohara, Vice President, Maui Land and Pineapple Company, Inc.

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Pamela English, Development Manager, Maui Land and Pineapple Company, Inc.
Jeffrey Pearson
Stephanie Hall
Yuki Lei Sugimura
Additional attendees (55+)

PRESS: *Akaku: Maui Community Television, Inc.*
Harry Eager, The Maui News

CHAIR CARROLL: . . .*(gavel)*. . . This Land Use Committee meeting of December 7, 2005 is now in session. Good morning, Member--good *afternoon*, Members.

COUNCILMEMBER MATEO and COUNCILMEMBER KANE: Good *afternoon*.

CHAIR CARROLL: I almost said it--"good morning"--again, just for one of our Council Members that keeps track of it.

COUNCILMEMBER KANE: . . .*(laughter)*. . .

CHAIR CARROLL: We have with us this morning, Members Anderson, Kane, Mateo, and Pontanilla. Joining us later will be Tavares, Molina, Johnson, and Hokama. Members, this afternoon, we have only one item on our agenda, Land Use Item No. 69, West Maui Project District, Kapalua Mauka.

**ITEM NO. 69: WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA)
(LAHAINA) (C.C. No. 04-181)**

CHAIR CARROLL: The Committee is in receipt of the following:

County Communication No. 04-181 from the Planning Director, relating to a request from Robert McNatt, on behalf of Maui Land and Pineapple Company, Inc., for a Community Plan Amendment, Change in Zoning, and Project District Phase 1 approval for the West Maui Project District 2 (Kapalua Mauka) and Honokahua, Napili, Lahaina, Maui, Hawaii;

Correspondence dated July 8, 2005, from the Department of the Corporation Counsel, transmitting the following:

A revised proposed bill, "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2476 (1996), THE WEST MAUI COMMUNITY PLAN AND LAND USE MAP, FROM AGRICULTURAL AND OPEN SPACE TO WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA), FOR PROPERTY SITUATED ON THE

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SOUTHEASTERLY SIDE OF HONOAPIILANI HIGHWAY, AT HONOKAHUA, NAPILI, LAHAINA, MAUI, HAWAII.”

The purpose of the revised proposed bill is amend the West Maui Community Plan and Land Use Map for approximately 475 acres from Agricultural to Open Space, respectively, to West Maui Project District 2 (Kapalua Mauka) to facilitate a request from Maui Land and Pineapple Company, Inc. to develop a 690-unit resort development and amenities at Honokahua, Napili, Lahaina, Maui. (TMK: (2) 4-2-001:001 (por.) (now known as (2) 4-2-001:042), (2) 4-3-001:006 (por.), and (2) 4-3-001:008 (por.)).

A revised proposed bill entitled, “A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM COUNTY AGRICULTURAL DISTRICT AND INTERIM DISTRICT TO WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA) (CONDITIONAL ZONING), FOR PROPERTIES SITUATED AT THE SOUTHEASTERLY SIDE OF HONOAPIILANI HIGHWAY, AT HONOKAHUA, NAPILI, LAHAINA, MAUI, HAWAII.”

The purpose of the revised proposed bill is to conditionally change the zoning for approximately 925 acres from County Agricultural District and Interim District, respectively, to West Maui Project District 2 (Kapalua Mauka) to facilitate the proposed development.

A revised proposed bill entitled, “A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA).”

The purpose of the revised proposed bill is to establish the performance standards for the West Maui Project District 2 (Kapalua Mauka).

Correspondence dated August 17, 2005, from Ryan Churchill, Vice President, Maui Land and Pineapple Company, Inc., transmitting Maui Land and Pineapple Company’s proposed revisions to the Change in Zoning conditions.

Correspondence dated November 16, 2005, from the Vice-Chair of the Committee, transmitting three additional proposed Change in Zoning conditions received from Maui Land and Pineapple Company, Inc. on November 15, 2005.

Members, we will begin by having the Applicant give a five-minute presentation, after which we will hear from the Department and Corporation Counsel, following which we will have public testimony. Is the Applicant ready?

NOTE: Mr. McNatt nodded agreement.

CHAIR CARROLL: Proceed.

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NOTE: Pause while Mr. McNatt approached the podium.

MR. McNATT: Mr. Chairman, Members of the Committee, good afternoon. It's good to see you again. We don't have a formal presentation today. We are available--the staff and I and consultants--to answer questions and assist in any way we can, but we don't have a presentation per se. We ask for your support.

CHAIR CARROLL: Thank you. Ms. Cua?

MS. CUA: Mr. Chair, Members of the Council, we have no comments to add at this time beyond the presentation we initially made and comments that we've made at subsequent meetings.

CHAIR CARROLL: Thank you, Ms. Cua. Corporation Counsel?

MR. GIROUX: Chair, I understand there might be some questions as far as some of the conditions proposed.

COUNCILMEMBER KANE: Can you pull that mike down? Thank you.

MR. GIROUX: If you would like me to take up those questions, I'd be happy to try to answer them.

CHAIR CARROLL: Thank you. Are any, Mem--Mr. Kane?

COUNCILMEMBER KANE: I'm sorry, Mr. Chair. Are there, are there questions that we had to Corporation Counsel for them to respond or?

CHAIR CARROLL: Yes. We do have. Would you like to hear those responses before public testimony?

COUNCILMEMBER KANE: And, Chair, I'm just, I think that's what the attorney was asking if you wanted to hear those responses now or you wanted to wait, so he's, he left it open for your discretion. . .(inaudible). . .

CHAIR CARROLL: I'm glad because of the microphone I thought was the only one that couldn't hear over here. Yes. Please proceed.

MR. GIROUX: Mr. Chair, there were, there were a couple of written questions that I had submitted answers to, and I assume that you don't want me to go over those. But it seems like there were new questions that arose at the last hearing regarding the conditions of affordable housing. As far as I understand what the question was, was that it was brought to the Council's attention that Maui Land and Pine were part of their intention of

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processing the affordable housing requirement would be to preference, give a preference to their employees. And the question as framed, I believe, the question was, would, if they were allowed to do that would there be any illegalities?

As far as Corp. Counsel is concerned, we're looking at that if the Council were to remain silent on that and Maui Pine were to go ahead and do that we don't see that they would be violating any law, County Ordinance, State law, or Federal law in doing that. With a caveat that we're not giving legal advice to Maui Land and Pine but saying that if the Council were to remain silent we would not be incurring any liability in that sense.

The other question was, would the Council be prohibited or could the Council, in its powers of conditional zoning, prohibit such a preference? And it would be in our opinion that if the Council in reviewing the standards necessary for creating conditions pursuant to conditional zoning, if it saw that it was necessary to put in prohibitions against such a preference that it could, it would be within its powers to frame such a condition.

The other question that arose was, does Chapter 2.94 apply to the project district? And as far as answering that question goes, as long as there is a creation of some hotel, hotel development that it would be appropriate to apply 2.94 to those situations within the project district.

CHAIR CARROLL: Is that all, Corporation Counsel?

MR. GIROUX: I, I believe so at this time. But those were the questions I was asked to look into.

CHAIR CARROLL: Thank you. And we will explore this further after public testimony. Members, we will now open public testimony to those in the audience. We see we have a full gallery. If anyone has pagers or cell phones, please turn them off or put them on the silent mode. When you come up for testimony, please come to the podium and pronounce your name so we can have it, it's very clear on the record. You will have three minutes, at three minutes you will have one minute to conclude. Ms. Nakata?

MS. NAKATA: Mr. Chair, the first testifier is George Baker, to be followed by Kimokeo Kapahulehua.

...BEGIN PUBLIC TESTIMONY...

MR. BAKER: Good afternoon, Mr. Chairman, and Council Members. As you heard, my name is George Baker. I serve as the Academic Dean and Assistant Head of Maui Preparatory Academy and also as the Co-Chair for the Harvard Graduate School of Education Advisory Board. As you know, Maui Prep is the new independent school located in Napili, which serves all of West Maui.

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I would like to speak in favor of the Kapalua Mauka resort and residential project. As a trained economist and educator, I see the critical importance of the success of this particular project moving forward and the success of the school. Maui Prep is, is not only serving the immediate educational needs of the community by providing a rigorous academic preparation for all its children, and they come from a diverse economic background. That, that background is supported by contributions by numerous donors but primarily from Maui Land and Pine in giving both property and in supporting our financial aid program. But the school is also involved in providing facilities and connecting itself with the larger community.

In the past week alone, the school was, was approached by a scout leader that was seeking both a sponsorship and a location for a boy scout troop, and Maui Prep has been more than welcome to serve in that capacity. Next summer, Maui Prep will be serving as a location for a week-long international music festival and camp with students and faculty from Asia, Los Angeles, and New York. And we are in the process of arranging for 17 full scholarships for West Maui students to attend that particular camp.

The students at Maui Prep are committed to helping the community through community service and learning projects. They currently are collecting food for West Maui Food Banks; regularly contributing to the Salvation Army, raising funds for the UNICEF; having beach clean-ups, and currently assisting in elementary school students in Benjamin Franklin School in New Orleans.

We are in the process of teaching the value of being of service to a larger community, and having that opportunity is really critically important to having a student body that is representative of a larger socioeconomic group, and that is certainly supported by the, the benefit that we have derived from Maui Land and Pine. It is critically important that we go through the process of looking at how the relationship of the school and the venture of the Kapalua Mauka project goes.

This is just a small glimpse into the initial phases of Maui Prep and its impact on West Maui, and I firmly believe the success of Maui Prep, as an important educational option for all children of West Maui, is linked to the financial support and success that is derived from land, Maui Land and Pine and the Kapalua Mauka project. Thank you.

CHAIR CARROLL: Thank you. Questions for the testifier? Hearing none, thank you.

MR. BAKER: Thank you.

CHAIR CARROLL: Ms. Nakata?

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

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MR. KAPAHULEHUA: Good afternoon, Mr. Chairman, Council Members. My name is Kimokeo Kapahulehua. I came today to tell you about I'm a resident and landowner of Honokohau. Last meeting that you had was a statement made about our water in Honokohau that our water was low and that we didn't have any water because of this Kapalua Mauka project.

We have been in the valley for nearly six months right now, and we've been restoring lois. There's about eight families down there are doing lois. I wanted to tell you that we do have our water that flows through the kaha wai and that we have sufficient water for the amount of farming that we do down there.

If, in event there was any more, additional water was requested, Mr. McNatt, who met with me early, during our development stage, about going into the valley and doing a restoration with Honokohau, always agreed with us in getting us more water. So we don't have a problem with having water in Honokohau that's taken from this project per se. We have, also would like to let you know that we have a non-profit Ka Honokohau Restoration Association that is in partnership with Maui Land and Pine. They have given us land to work with the loi and teach the children of the valley and recently brought in equipment to help us to clean the area up and in discussion stages in helping more in the valley.

So we do have a working relationship with them, and we appreciate the partnership we have Maui Land and Pine. So I wanted just to let you know we do have water, Mr. Chairman, and that this Kapalua Mauka project does not take any water from us. Thank you.

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

MR. KAPAHULEHUA: Mahalo.

CHAIR CARROLL: Hearing none, thank you. Is there anyone in the audience that wishes to give public testimony at this time, please come forward. Hearing none, if there is no objection public testimony is now closed.

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: Public testimony is closed.

...END OF PUBLIC TESTIMONY...

CHAIR CARROLL: Members, I am now going to turn the time over. We have gone over this project several times already. I think there are only a few outstanding things that need to

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be discussed. Corporation Counsel has brought up several questions that the Members had. And I'm now going to open the floor to Members. If there are no, I'm--

COUNCILMEMBER TAVARES: Mr. Chairman?

CHAIR CARROLL: Ms. Tavares?

COUNCILMEMBER TAVARES: Yes. Thank you, Mr. Chairman. I would like to have another review of the affordable units: the number; where they're going to be placed; and the build out phases for the entire project.

CHAIR CARROLL: Is there no objection, I will call the Applicant forward.

COUNCILMEMBER MATEO AND VICE-CHAIR PONTANILLA: No objections.

NOTE: Pause while Mr. McNatt reapproached the podium.

CHAIR CARROLL: Do you need to have the question repeated?

MR. McNATT: No, Mr. Chairman. Member Tavares, we are planning to do, as we've suggested or proposed, 25 percent affordable housing for Kapalua Mauka. That's one per every four units will be affordable within the community plan area. So if we build 690 units, which would be the maximum we could build in Kapalua Mauka, that would be 173 total affordable units that would be provided through the length of the project.

Regarding the phasing of Kapalua Mauka, we would hope to start construction upon approval and after initial design work, probably in, sometime in 2007. First units would probably be coming online by 2008, and it will take somewhere between 10 and 15 years, depending on market conditions, to complete the project. So we would be, we would, in any event, not build any more market rates units than, than the one-per-four affordables. In other words, we'll build one affordable unit for every, every four market-rate and, and not get ahead of ourselves there.

We also proposed to do 40 of the affordable units upfront. That would be part of the 173. And those 40 units we had suggested would go on a property that is already zoned in West Maui. It's a project we're calling West Maui Village right across the highway from Napili Plaza. So we would start there almost as soon as we can get them designed, we would start there, probably construction later next year, so those units would precede anything that we do in Kapalua Mauka.

COUNCILMEMBER TAVARES: Do you propose or estimate that with the 40 units upfront that you would build 160 other units in the market range in your first phase? You know if you're doing one-to-four kind of thing and you're going to do 40 upfront, then the next,

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the 100-and, would that be 160 units that would be the market range in Kapalua Mauka?
And would that be within that 2007-2008?

MR. McNATT: No. We wouldn't be building that many in 2007-2008. The, we're projecting that we'll build somewhere around 60-or-so units per year. That, that's why it's going to take about 10 to 15 years to build out the project. That, that's a current estimate based on market conditions, but that could change.

COUNCILMEMBER TAVARES: Okay. And of the balance then, the 133 units that would then be the balance of your affordable requirement, where would those units be located?

MR. McNATT: The balance of our affordable units would be somewhere within the community plan area.

COUNCILMEMBER TAVARES: Okay. And have you decided specifically it's on the same land that Pulelehua would be located?

MR. McNATT: It could go there or it could go somewhere else.

COUNCILMEMBER TAVARES: Okay. So it's not the deal that the balance of the affordable would be in Pulelehua thereby when Pulelehua comes forward we would be in a position to have to approve it in order to get these homes?

MR. McNATT: No. Not at all.

COUNCILMEMBER TAVARES: Okay. Thank you for that clarification.

CHAIR CARROLL: Thank you, Ms. Tavares. Mr. Kane?

COUNCILMEMBER KANE: Just to follow up on, on Member Tavares' line of questioning, Mr. Chair, if I may? So in theory because you're going one-in-four and you're trying to do it concurrent the one-in-four, Member Tavares asked you about those 40 upfront units. So it would correlate with that would be 160 market units, of which you've said you're going to build on a time, on a calendar or projection of 60 per year. So theoretically can we not expect any more affordable houses until you've reached your 160, and then you start proceeding with the correlation of one to four?

MR. McNATT: We would hope to . . . Mr. Chairman.

CHAIR CARROLL: Proceed.

MR. McNATT: We would hope, Member Kane, that we would be able to provide those affordable units as soon as possible. That's our goal, that's, that's why it's so critical for us to be able to provide preferences for our employees. There's just a huge need in West

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Maui. So we would like to get the units provided, built, whatever it takes as soon as possible.

COUNCILMEMBER KANE: Because of the demand for the affordable housing component in the community plan would you folks have objections to . . . you've already submitted to us as a proposal doing the 40 upfront, so we would have 133 remaining, correct?

MR. McNATT: Yes.

COUNCILMEMBER KANE: Would you folks have objections to starting from there on the one-to-four correlation, meaning for every four units you build of market, not including the 40 that you commit to upfront, would you folks commit to doing one for every four starting from the 133? In other words, for every four you build of market, would you commit to, over and above the 40 that you're committed to, building an affordable housing unit?

MR. McNATT: So can you tell me what the, what the math is on that? Add the 40 to the 173--

COUNCILMEMBER KANE: No, no, and let me restate if I may, Mr. Chair? You've committed to 40 upfront.

MR. McNATT: Right.

COUNCILMEMBER KANE: Okay. And that's something that as soon as you get plans, you're going to move, because you have a property that's identified and ready to go. There's going to be 133 of your requirement, the 25 percent requirement that you've proposed. For every four market units that you build, will you be willing and able to provide one affordable housing, not including the 40, that's already upfront and we're. . .(inaudible). . .

MR. McNATT: So one for four, after that 40? Yes.

COUNCILMEMBER KANE: Correct.

MR. McNATT: Yes. We would. Yes. We will commit to that.

COUNCILMEMBER KANE: So for every four markets that you build, which as an example, if you're looking at doing every year 60 market units can you commit to doing 15 affordables on top of that in the first year?

MR. McNATT: Yes. We will.

COUNCILMEMBER KANE: Are you happy or satisfied that we will put that in writing, sir, in one of the conditions--

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MR. McNATT: Yes. We would accept--

COUNCILMEMBER KANE: --for the affordable housing component?

MR. McNATT: --we would accept that condition.

COUNCILMEMBER KANE: Thank you. Thank you, Chair.

CHAIR CARROLL: Thank you, Mr. Kane. And when we get to the zoning bill then we will take that up. Further discussion? Mr. Pontanilla, followed by Ms. Anderson.

VICE-CHAIR PONTANILLA: Thank you, Chair. Is there a possibility of creating more affordabil..., affordable homes going forward after the first 40 units has been satisfied? In other words, rather than wait for 15 units per year, maybe double that to 30 as you go forward on your project.

MR. McNATT: Chairman, Member Pontanilla, as I said before, we want to build these units or provide them as fast as we can. So as soon as we can get other lands entitled or find other entitled lands that, that would accommodate the affordable housing, we will build those units. We have right now on one interest list that's indicated to us there's about 2,000 people interested in affordable housing on West Maui. We have probably 200 and, 200 to 225 employees that currently need housing in West Maui that would qualify for affordable housing. So we're very motivated to create this housing.

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

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

COUNCILMEMBER ANDERSON: Thank you, Chair. Mr. McNatt, if the Council were to make a condition that the affordable housing that your project is conditioned to do could not give preference to your employees would your company go forward and build affordable housing exclusively for your employees separate from, from the conditions of this zoning?

CHAIR CARROLL: Mr. McNatt?

MR. McNATT: Member Anderson, we would probably not accept that condition. We are determined to be able to provide housing for our employees and feel that we should get credit for those, those units. It makes sense. Our employees are, are just people on Maui that are working and trying to make a living, so they really shouldn't be distinguished in the marketplace from anybody else. They need the housing, too, and we need to be able to take care of them. So we wouldn't, we wouldn't accept a condition that is punitive to us because of our employees.

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COUNCILMEMBER ANDERSON: Well, first of all I'd like to clarify from Corp. Counsel. Should the Council find it a nexus for affordable housing, as it often does, for high-end, market-priced housing, is it a prerequisite that the, the Applicant has to accept the condition for us to impose the condition?

CHAIR CARROLL: Corporation Counsel?

MR. GIROUX: Mr. Chair, I think the question goes into whether or not the, whether or not if, if not accepted is there a chance of it being challenged? And, and I think Ms. Anderson framed it correctly and that once, once you do have a nexus and once that, there is, you know, a proportionality, you know, to that legitimate state need that you can feel comfortable going forward and putting that condition in.

It's, I think we've always gone with the, with the effect of at least trying to find an understanding, making, making the conditions as bearable as possible. But once, once all of the constitutional elements have been processed and are comfortable with, then I think the Council then it has to decide if it, it's willing to impose that.

COUNCILMEMBER ANDERSON: Thank you, Mr. Giroux. So basically, what you're saying is you want to build employee housing rather than affordable housing that would be available for everybody in a non-discriminatory fashion?

MR. McNATT: No. That's not what we're saying at all. We want to give our employees preference. We want to provide affordable housing for a wide variety of people that need housing in West Maui, and that's what we're intending to do. However, we want our employees to have first choice for obvious reasons.

COUNCILMEMBER ANDERSON: Then to me, Mr. McNatt, that means that you want to build employee housing. If you have 225 employees who qualify for affordable housing, who are in need of housing, and they get preference over the 40 units that you're going to be building upfront, then I'm hard-pressed to see how anybody else is going to get a shot at it. So I'll just leave it at that. Thank you, Mr. Chairman.

CHAIR CARROLL: Thank you. Ms. Johnson?

COUNCILMEMBER JOHNSON: Yes, Bob. Thank you for, I guess, addressing some of the issues. One of my questions is in regard to something that I read in the newspaper about credits that you already have, I guess, for affordable housing with another project. Are you able to address that, and in the context of what we're looking at right now, do you intend to use those credits in satisfaction of any of the housing requirements with regard to this particular project?

MR. McNATT: Yes, Member Johnson. I think the article was related to the Land Use Commission hearing last week, yes, and there was a mention of 15 credits that we have

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been granted from our Kapua Village project. It was an employee housing project in Kahana, in that Kahana area. That, those credits were granted by the Housing and Human Concerns Department, and we do not intend to use those credits towards the 40 that we're talking about. Forty will be on top of those.

COUNCILMEMBER JOHNSON: Okay. But with regard to the credits being used at any time whether it's regarding the 40 or other units would you be utilizing those credits at some point in time for this project?

MR. McNATT: It, we may, we might ask for that, that opportunity, yes. But we haven't really planned to do that yet. We'll be waiting, we'll be looking for other lands that are entitled and other areas where we can provide affordable housing first before we use those credits.

COUNCILMEMBER JOHNSON: Okay. So there is a potential though that whatever we're projecting could really be slightly less than the number of units that we're actually looking at and that we're discussing here?

MR. McNATT: Well, in reality, we've already provided the 15 affordable units.

COUNCILMEMBER JOHNSON: Well, but what I'm looking at is if we're looking at new units and creating affordable housing opportunity, then those units would not, I guess, they would not be new units, they would be existing units.

MR. McNATT: Yes. I have a clarification from my staff that those 15 credits are restricted to Project District 1, which is the, is the existing core area of the resort. So we could not use them in Kapalua Mauka.

COUNCILMEMBER JOHNSON: Okay. So your original project district area is, is tied to what? I guess I'm trying to understand in the context of the article that I read and also in light of what we're discussing here. Because we are going to be incorporating some components in increasing the size of the project district. None of that is going to be applicable then in this area at all? So those, what you're telling me then--

MR. McNATT: Right.

COUNCILMEMBER JOHNSON: --is the 15 units are for something else?

MR. McNATT: Yes.

COUNCILMEMBER JOHNSON: And what would that something else be?

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MR. McNATT: Project District 1, which is makai of the highway, where the, sort of the existing developments of, of Kapalua is. There are still some land that hasn't been developed in Kapalua that's already zoned that we could use as credits there in the future.

COUNCILMEMBER JOHNSON: Okay. So that would be--

MR. McNATT: So that's what they're intended for.

COUNCILMEMBER JOHNSON: --everything makai. All right. Thank you.

MR. McNATT: Yeah.

CHAIR CARROLL: Mr. Mateo?

COUNCILMEMBER MATEO: Chairman, thank you very, very much. Mr. McNatt, good afternoon.

MR. McNATT: Good afternoon, Member Mateo.

COUNCILMEMBER MATEO: Good afternoon. Just wanted to, to continue or ask, continue on with your response you provided to Member Tavares regarding the balance, the 133 units after you, you produce the first 40. The reference was that it, the, these 133 units. . .(CHANGE TAPE). . .area where Pulelehua could be developed. My question would be whether you would be receptive to add on in the conditions that, that 133 units themselves will not be account in whatever affordables that would be generated from Pulelehua's development?

MR. McNATT: No. We couldn't agree to that condition. That would--

COUNCILMEMBER MATEO: Go ahead.

MR. McNATT: --I'm sorry but we couldn't agree to that.

COUNCILMEMBER MATEO: So then you told Ms. Tavares that Maui Land and Pine will, will owe 173 units from the development of Kapalua Mauka.

MR. McNATT: Right.

COUNCILMEMBER MATEO: You told Member Tavares that the initial 40 would be built immediately as part of the requirement. You also told her that there was a potential for the balance 133 to be built in this general area that Pulelehua will be built at. So the question that Member Tavares did not ask was whether this 133 will not be account towards Pulelehua?

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MR. McNATT: The, the 133 units will be provided in the West Maui Community Plan area. We haven't determined where that's going to go. If we can't, for some reason, either entitle land or, or find entitled land to build those, we won't be able to pull permits to do the rest of the market-rate units in Kapalua Mauka. It's that simple.

Once we've, once we've built 160 units after that we provided the first 40 affordables, we wouldn't be able to continue unless we find either additional entitled land or, or get entitled land. So we'll, we'll, the project would stop at that point.

COUNCILMEMBER MATEO: Okay. I think part of the confusion, Mr. McNatt, is there's been, there's been a lot of talk in-between, between the two projects, Kapalua Mauka and Pulelehua. There's been an insistence that Kapalua Mauka is very much a separate project from Pulelehua. My difficulty is in understanding how for us this body, Pulelehua don't exist yet because it hasn't come to this body yet. And here we are looking at the designation of 133 affordables to this specific development. That development may not or may occur.

There is no guarantees that, that it'll move, and here we are at this particular point with you not wanting to tell us, you know, like, but what is Plan B then? If Pulelehua does not go, what is Plan B to take care of the 133 affordables that would be owed to the County?

MR. McNATT: Well, if I may, we haven't suggested that, that the, at this time in this meeting, that, that these 133 units would go into Pulelehua, I didn't say that. I said they will go in the West Maui Community Plan area on entitled lands that either we acquire or entitle. That may be Pulelehua, it may be somewhere else. So it's not linked to Pulelehua and that's not our intent. These are separate, separate projects, separate application, separate discussions.

So what we're, what we're left with, just, just assume that we don't own Pulelehua, it never existed. We have Kapalua Mauka, we have a zoning request for Kapalua Mauka. We're proposing to provide 173 units that would take, take care of the affordable requirement at one-per-four for Kapalua Mauka, and we as a company, as any, anybody else would have to needs to find where those are going to go. We've said that at least 40 of them will go into this West Maui Village project, the other 133 could go anywhere on lands that we own or somebody else owns in West Maui.

COUNCILMEMBER MATEO: Okay.

MR. McNATT: That's what we're proposing.

COUNCILMEMBER MATEO: Okay. So we, we can put a condition that those units would not be account on whatever affordables Pulelehua would, would generate?

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MR. McNATT: Well, we would not like that condition. We'd not agree with it, but of course you can, you can place whatever condition you, you wish.

COUNCILMEMBER MATEO: And I guess to, to continue on, I wanted to ask you, the information sheet that you provided us a while ago, that, that indicated affordable housing solutions, which was the breakdown of the number of units and the income, the income categories.

MR. McNATT: I'm sorry. Go ahead.

COUNCILMEMBER MATEO: No. I'm, I'm, the question would be, you know, and it's not a technical question, other than because this was initially your breakdown, this is what you gave us, this is your recommendation in terms of meeting the 173 units. These figures do not appear in the conditions that you had provided to us. I'd like to know whether or not it would be receptive to include these numbers into those conditions as well as citing the 173 units that is also not cited in the conditions?

MR. McNATT: Are you referring to the distribution of the units within the, the specific ranges?

COUNCILMEMBER MATEO: Yeah.

MR. McNATT: Yes. We, we would, we would go along with that.

COUNCILMEMBER MATEO: Okay. Thank you. Chairman, at this point, thank you, I'll yield the floor.

CHAIR CARROLL: Mr. Kane?

COUNCILMEMBER KANE: Thank you, Chair. And just for my clarity on Mr. Mateo's line of questioning, I wanted to ask and pose maybe a scenario to help me understand the relationship of the, of what Mr. Mateo was requesting of you, Mr. McNatt. So if you can follow along with me and if you are not following, stop me and I'll try to be clear.

MR. McNATT: I'm kind of slow today, but I'll try.

COUNCILMEMBER KANE: No problem. Let's pretend or hypothetically let's say that Pulelehua is a 300 house project just for the sake of the discussion. And I use 300 because for Kapalua Mauka there's 173 affordable housing units of which 40 are going to be built, so there's 133 units left to build. Now, in the context of the question of Mr. Mateo and in some of us anyway or myself, I'll speak for myself, the understanding that Pulelehua may be a 201G project. No?

MR. McNATT: No.

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COUNCILMEMBER KANE: So there's not going to be a requirement of how many houses you folks want to build in there, 51 percent or anything like that? You folks at Pulelehua are looking at what? What is the current proposal in front of Land Use regarding an affordable housing component?

MR. McNATT: The number of units or affordables?

COUNCILMEMBER KANE: Yes.

MR. McNATT: The total number of units shown in the plan is approximately 880, and 450 of those would be affordable. And we're not intending to go 201G.

COUNCILMEMBER KANE: Okay. So without the 201G, what is the percentage that you folks are using to arrive at your numbers, the market and then of, and how many affordables?

MR. McNATT: About 51 percent.

COUNCILMEMBER KANE: Okay. So that's where I'm trying to get, so forgive me for using the 201G but your intent is to provide 51 percent.

MR. McNATT: Uh-huh.

COUNCILMEMBER KANE: So I'm going to come back to the round number of, let's say it's 300 of which you're going to apply, using the 51 percent, you're going to apply 153 affordables and 147, yeah, a hundred . . . 51, 49(?), so two, three hundred, you times it by three.

In what Mr. Mateo was asking, if you're going, if your intention is to provide 51 percent affordable housing in theory Mr. Mateo is asking you how I'm arriving at this, is that you wouldn't have to build any affordables if you're not including your number of affordables that you're going to build in Pulelehua.

So and forgive me for confusing the matter, so let me make it simple. Pulelehua, 450 units you folks are proposing to build. Mr. Mateo is, I'm, I'm arriving at a conclusion that his question is, would you guys be minus-ing out 133 homes, which is your balance of your requirement for Kapalua Mauka from the 450? Therefore, you would come forward with actually building only 321 houses--

MR. McNATT: Well--

COUNCILMEMBER KANE: --of affordable. Or 300-and-whatever it might look, the one 450 minus the 133, and that's the question I think Mr. Mateo is leading up to and asking you folks to separate the two projects. If you're saying 450 for Kapalua, excuse me, the 133 balance for Kapalua Mauka, if you folks are going to use Pulelehua as an area where

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you have entitlement and/or acquired land to build affordable, are you going to build the 450 plus the 133? Or are you looking at saying, you know what, we're going to go 450, but we already have 133 over here, so we're going to include that in the 450, so therefore, we're actually only going to build, we're going to build 450 total including the 133 from this other project. What's the intent?

MR. McNATT: So hypothetically, if we get Pulelehua approved, I didn't want to connect it but--

COUNCILMEMBER KANE: No, no, that's fine--

MR. McNATT: --if--

COUNCILMEMBER KANE: --for sake of discussion. . .(inaudible). . .

MR. McNATT: --for the sake of your discussion, yes, the 133 would come out of the 450. So we would still be building 450 affordable homes, but 133 of them would be credited to Kapalua Mauka if that ends up being the case unless we find some other place for them. So yes, we would still be at 50 percent in Pulelehua, which is not required because we're not going 201G, so there would still be--

COUNCILMEMBER KANE: So--

MR. McNATT: --35, 35 percent.

COUNCILMEMBER KANE: Okay. So, Mr. McNatt, I'm going to ask you this then. You're coming forward with two separate projects. We have one in front of us today, but because our interest is at some point we're going to be looking at, we're, we're interested in looking at the 173 from Kapalua Mauka. Let me rephrase that. I'm interested in understanding or seeing that we get 450 units from Pulelehua and 173 units from Kapalua Mauka. That's what you folks are representing. We want to do a one-to-four ratio, Kapalua Mauka, and we want to do a 51 percent, 49 percent ratio affordable-to-market in Pulelehua.

Mr. Mateo's question shows us that, that's not actually what's going to happen if both projects get approved. And that what you're ending up with is that you're not going to achieve a 25 percent four-to-one market ratio in the Kapalua Mauka, or you're not going to achieve your 51 percent affordable-to-market ratio in your Pulelehua project if they're combined over a period of time as far as you folks having a requirement to build these units. Is that correct?

MR. McNATT: I don't have the number right in front of me; but if, if we do combine them, I think our percentage is--

MS. ENGLISH, FROM THE AUDIENCE: Thirty-five.

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MR. McNATT: Is it 30 percent? So if we did combine 'em and provide the 450 affordable in Pulelehua, Pulelehua will end up being 30 percent and Kapalua Mauka will be the 25 percent. So we're still providing significant affordable housing.

COUNCILMEMBER KANE: Okay. Thank you.

MR. McNATT: And that's, that's the reason, one of the reasons we're not requesting the 201G, because we knew the percentage would come down.

COUNCILMEMBER KANE: Or you knew the requirement would go up, you mean.

MR. McNATT: Or something like that. Yes.

COUNCILMEMBER KANE: Thank you.

MR. McNATT: Thank you.

COUNCILMEMBER KANE: Thank you, Mr. Chair.

CHAIR CARROLL: Thank you. Ms. Tavares?

COUNCILMEMBER TAVARES: Yeah. Mr. Chairman, I think that the, the housing requirements for Pulelehua are in the future somewhere and depending upon what our housing policy is, as established through Mr. Mateo's Committee, will determine what that affordable housing would be. I think what we're interested in and what point we're trying to get at is we don't want the housing to be double-counted as fulfilling a requirement for two separate projects.

So I think this, you know, this discussion will be lively when we get to whenever Pulelehua comes before us sometime in the future. And at that time I hope that we will have our housing policy, so there's no question about 51 percent, 36 percent or whatever it is. So if they're going to fulfill the housing requirement at 25 percent for Kapalua Mauka, you know, we can handle that part of it. I'm satisfied with the explanation about how the homes are going to be built in relationship to other than the 40 upfront as Mr. Kane was questioning.

So, you know, I think that they're, you know, seriously trying to provide much-needed affordable housing on the west side, and you know their, their employees or related-employees are, they're in that group wanting affordable housing. And whether they qualify or how many of them will qualify is yet to be, to be seen.

So this affordable housing, as I understand -- please correct me if I'm off-base here, Mr. McNatt -- that where you run two lists for your company for employees who want

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housing, you have one list of people that may not qualify for affordable housing, because that's your mid-management, upper-management people. So you're talking about mostly the one list that would qualify for affordable housing? Is that correct?

MR. McNATT: That's correct. We, we do have two lists of people that are interested, and for those who don't qualify for affordable yet still don't make enough money to buy a million-dollar home on West Maui, we're, in Pulelehua, we're going to end up providing some additional gap, gap-priced housing. So we're trying to meet that need as well.

COUNCILMEMBER TAVARES: What was the, what percentage are you using for your employee affordable on the, on the list? Is it 110 percent, 100 percent, a median, 120?

MR. McNATT: No. It's, they're based, it's the same as, as the County, 50 to 140 percent.

COUNCILMEMBER TAVARES: Okay. Thank you.

MR. McNATT: So some of them, some employees will only be able to rent, 'cause they don't, they simply can't afford to purchase. But many of them will be able to purchase.

COUNCILMEMBER TAVARES: Okay. Thank you.

MR. McNATT: Uh-huh.

CHAIR CARROLL: Members, we have three bills before us at this time. We have our community plan and our project--

COUNCILMEMBER KANE: Mr. Chair?

COUNCILMEMBER TAVARES: Mr. Chair?

COUNCILMEMBER JOHNSON: Mr. Chair?

COUNCILMEMBER TAVARES: We have two more. Discussion?

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

CHAIR CARROLL: Oh. I'm sorry. Actually, I was going to go through this before I called on them.

COUNCILMEMBER KANE: Oh, oh, I'm sorry.

CHAIR CARROLL: If you could wait a minute? I'm not going to read these two bills now, if you would be patient. I know Ms. Anderson is always patient with me. Thank you, Ms. Anderson.

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What I was going to say is we have two bills before we hear our zoning bill, and I would just like to call on Committee's attention to that we do have the Community Plan and Land Use Map amendment, and we also have the Project District 2 amendment. When we do get that far, when most of the discussion is concerning zoning and most of the discussion on the floor is concerning possible amendments to zoning, and I would just like to remind the Members that before we can get into making amendments to a zoning bill that we are going to have to do the first two bills. And the reason for this is that it wouldn't be appropriate to proceed on the change of zoning when the Committee hadn't recommended that the project district be established.

So we will continue, but I want you to keep in mind that before we get to the zoning bill we need to pass the other two bills. Thank you. And now, I believe Ms. Anderson was first, then Ms. Johnson? Or Ms.--either way.

COUNCILMEMBER ANDERSON: Thank you, Chair. Mr. McNatt, back in August, I think it was, you provided a breakdown to the Committee for the 173 affordable housing units?

MR. McNATT: Yes.

COUNCILMEMBER ANDERSON: And then I think at my question you also provided a breakdown as to the square footage that you would be providing for each of the various categories. And when you did this originally, of the 173 units, you planned for 125 of them to be for rent and only 48 units to be for sale.

Can you tell, can you tell us in this breakdown that you've given us . . . although it's helpful to some extent you gave us square footage, you, and, and affordable ranges, you didn't tell us what units would be for sale as opposed to rent. So maybe to make it simple, which 48 units will be available for sale?

MR. McNATT: In the income categories, is that what you're talking about? The, we had, in that chart that you were referring to, is this the one that we had presented in August?

COUNCILMEMBER ANDERSON: Yeah. You got the colored copy, I've got the black and white, looks the same to me. And then do you have this one, Mr. McNatt, where you gave a breakdown of the actual square footage? You're going to have 21 bedroom units for 600, at 600 square feet, 25 two-bedroom units at 750 square feet. Oh actually more than that, you're going to have 81 units, 81 two-bedroom units at 750 square feet, and they're broken down to various affordable ranges. Do you have that copy?

MR. McNATT: Yes. I do.

COUNCILMEMBER ANDERSON: Okay. Great. And so forth. So maybe it would be easier since this second attachment and, Members, if you want to try to find it, it's somewhere

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past, somewhere in your binder past this. There is this attachment and it breaks down the units by square footage, by the number of bedrooms and units per square footage, per affordable range. And I think, Mr. McNatt, that would be probably the easiest chart to go on because it's more specific. Could you tell us of these 173 units how many of those are going to be, which one of those, excuse me, will be for sale?

MR. McNATT: It's the, the units from 101 percent to 131 or 140 percent. So if you look at that chart, I'll wait, I'll wait till all the Members have a copy of it.

COUNCILMEMBER ANDERSON: You know the longer I look at this because mine is not colored-copied, color-coded--

MR. McNATT: Can you, can you give--

COUNCILMEMBER ANDERSON: Yeah.

MR. McNATT: --Ms. Anderson a color-coded one?

COUNCILMEMBER ANDERSON: Yeah. She just did.

MR. McNATT: Okay.

COUNCILMEMBER ANDERSON: I see that you have the ones that are color-coded are rental--

MR. McNATT: Yes.

COUNCILMEMBER ANDERSON: --which leaves the rest of them for sale. So the for-sale units are going to be from 101 percent to 140 percent median income?

MR. McNATT: Yes.

COUNCILMEMBER ANDERSON: And you don't know where those units are going to be located? Will they be located with, within the 133 rental units?

MR. McNATT: They'll be, they'll be located within the 173 total package.

COUNCILMEMBER ANDERSON: We already know the 40 , first 40 units--

MR. McNATT: Forty--

COUNCILMEMBER ANDERSON: --will only be rental.

MR. McNATT: Right. Those will be rentals.

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COUNCILMEMBER ANDERSON: So the 133 units will include the for-sale units?

MR. McNATT: Yes. The 48 units that are mentioned in the other chart. And do we know where those are going to go? Not yet.

COUNCILMEMBER ANDERSON: Well, we already know that.

MR. McNATT: Right.

COUNCILMEMBER ANDERSON: And as Mr. Mateo asked you earlier for a Plan B, you don't seem to have a Plan B except that Maui Land and Pine has a lot of money, a lot of money, also a lot of land.

MR. McNATT: Actually, we have more land than money. I did mention--

COUNCILMEMBER ANDERSON: Well, it depends if you talk millions or acres or dollars or acres. Anyway, Mr. McNatt, you must have some kind of Plan B should Pulelehua not become entitled, because after all it is community plan Park and Open Space and Ag land. And you know traditionally this Council has balked at developing that land, because it's so close to the airport.

So I would think that, even though you've gone full-speed ahead on Pulelehua, that you would have some idea of some land that could be utilized for this 133 units. Are you going to tell me, no?

MR. McNATT: We do not.

COUNCILMEMBER ANDERSON: Okay. I'm done, Mr. Chair.

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

COUNCILMEMBER JOHNSON: Yes. And because we're going back and forth here, and I'm trying to understand who is going to be able to get into the units, what their income levels are? And this is broken down. Is there somewhere in our binder or is there somewhere in our information that when we have rental people going into these units. and assuming that you do put your employees in, what would be the salary ranges in terms of these people going into these rentals?

MR. McNATT: Well, that's, the salary range is . . . for instance, if you look at the first chart, this one.

COUNCILMEMBER JOHNSON: Yeah. I know the percentage but--

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MR. McNATT: Okay. The 50 to 80 percent represents the 80, well, less than 80 percent is \$49,880 a year, family income based on the HUD median for Maui County.

COUNCILMEMBER JOHNSON: Okay.

MR. McNATT: So that's that income range. From 81 to 100 percent is 62,350.

COUNCILMEMBER JOHNSON: Okay.

MR. McNATT: From 120 percent to 140 it's 60, it's 74,820. And up to 140 percent is 87,290. So those are the income ranges.

COUNCILMEMBER JOHNSON: Okay. And then because these are rentals that the first, I guess, tier of people would be going into, because there's the 120 day requirement of, I guess, that would be for the for-sale units and not applicable on the rental units, or are you going to apply that same 120 days on the rental side?

MR. McNATT: No. The rentals will be affordable, so only affordable families can go into those units. There's no . . . the 120 day restriction doesn't really apply.

COUNCILMEMBER JOHNSON: Okay.

MR. McNATT: That's just on the for-sale units.

COUNCILMEMBER JOHNSON: So it's just strictly on the--

MR. McNATT: Right.

COUNCILMEMBER JOHNSON: --for-sale units. So--

MR. McNATT: Right, and 120 day restriction doesn't exist actually in, in County Code. It's a 90 day restriction and we've increased it to 120 or recommended that increase.

COUNCILMEMBER TAVARES: It's from the August 2nd transmittal.

COUNCILMEMBER JOHNSON: Right. And then the, the individuals, who you have in your employ who, I guess, would be going into the rental units that would probably, because there is no other than just strictly the income, there's no financing requirement or anything else, you would be immediately able then to put your employees into those rental units?

MR. McNATT: That's correct.

COUNCILMEMBER JOHNSON: And those are going to be rented in perpetuity, affordable?

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MR. McNATT: Well, we have proposed to do 125 ultimately permanent affordable rentals, yes. So those 40, it may not be the exact same 40 units, but there will be 40 units that are always affordable.

COUNCILMEMBER JOHNSON: Okay.

MR. McNATT: Yes.

COUNCILMEMBER JOHNSON: And then those, you would never have a situation where the rents are going to go up then? . . .(inaudible). . .

MR. McNATT: But they could only, they, the rents can only go up based on the HUD guidelines for those units.

COUNCILMEMBER JOHNSON: Yeah. I just was trying to understand where, you know, this was going to come in. And because then you would be putting your employees into that, that housing immediately, then they would ostensibly be able to stay there as long as they were employed with you?

MR. McNATT: That's correct.

COUNCILMEMBER JOHNSON: Okay. Now, let's say that because you're going to be closing the hotel, what happens if you've got somebody that's working for you now that would, let's say, qualify, or at some point in the future maybe there's a downsizing. What would happen to those individuals once they are no longer employed by you? They would be given a certain period of time to vacate the housing then?

MR. McNATT: Well, in the case of a for-sale house, nothing would happen.

COUNCILMEMBER JOHNSON: No, no. I just mean in the rental because--

MR. McNATT: In the rentals--

COUNCILMEMBER JOHNSON: --because obviously you're saying that if your employees are moved into that rental housing. I want to understand that when you downsize or when you close facilities, which would reduce your overall employment, what's going to happen to those individuals who are living in that housing?

MR. McNATT: If they're in, in that housing.

COUNCILMEMBER JOHNSON: Yeah.

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MR. McNATT: But I don't think that we would downsize and then ask people to leave their, their housing.

COUNCILMEMBER JOHNSON: Okay. So--

MR. McNATT: A hypothetical situation then the timing might not quite work there, but we're not, you know, the, the housing will not just be for employees. If an employee can't qualify for that housing, then a non-employee could also go into the housing. So if there's 40 units available and we have 30 employees that qualify, then there will be 30 or 10 non-employees. So at any given time there could be non-employees living in that housing.

COUNCILMEMBER JOHNSON: Okay. 'Cause I, and I'm just equating to the way other affordable housing, in-perpetuity requirements work with other, like let's say the Front Street apartments, for example. When you reach a certain threshold in terms of your income there's a very strict requirement then that you have to move out of that housing, because you no longer satisfy those requirements.

And I'm assuming that you want to reward your employees for longevity and for their loyalty, so if they do get a salary increase or a pay increase that puts them over and above, how will you address that issue?

MR. McNATT: Well, that's, that's a different issue. The, because these units need to be affordable, so if someone all of a sudden makes more money and can't qualify for it that's, that's a real dilemma, that's a dilemma. Because--

COUNCILMEMBER JOHNSON: And--

MR. McNATT: --because we're going to be bound by our agreement with, with you to provide those units, those affordable units. And if someone has, has moved up the ladder of income and no longer qualifies, then they may very well have to find other housing.

COUNCILMEMBER JOHNSON: Yeah. And, and I guess--

MR. McNATT: So we're, we're sort of caught in the middle on that one.

COUNCILMEMBER JOHNSON: That, that, that concerns me, too, because sometimes--

MR. McNATT: Yeah.

COUNCILMEMBER JOHNSON: --even though we have these policies you really want to provide an opportunity--

MR. McNATT: Yes.

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COUNCILMEMBER JOHNSON: --and not lock people into jobs that are just a certain amount of income.

MR. McNATT: Yeah. We don't want to have to go back to our employees and ask them to, to take a pay cut or not get a raise just so they can afford or stay within that, that category of affordable housing. That wouldn't be fair either, but I'd probably get lynched.

COUNCILMEMBER JOHNSON: I'd, I'd be real interested to see, because I know what the other policies are in other housing developments. But particularly we're, we're looking at providing some kind of stability for residents of that area. I can understand if they're no longer living in that area or working for you.

MR. McNATT: Right.

COUNCILMEMBER JOHNSON: But you know it . . . I would really want to know what's going to happen to them if, you know, their combined incomes just--

MR. McNATT: Yeah.

COUNCILMEMBER JOHNSON: --boot them out. I suppose one of the people could always quit their job.

MR. McNATT: The, yeah, the key is providing additional supply. We really have an issue with not enough housing on the west side that's, and, and we don't have enough in those, those categories, the lower categories. That's where we really need it. So the more we can provide, the more opportunity there will be for our employees and others.

COUNCILMEMBER JOHNSON: Okay. Thank you, Mr. Chair.

CHAIR CARROLL: Thank you, Ms. Johnson. Further discussion before the Chair gives his recommendation? Hearing none, the Chair would entertain a motion to pass the revised proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2476 (1996), THE WEST MAUI COMMUNITY PLAN AND LAND USE MAP, FROM AGRICULTURAL AND OPEN SPACE TO WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA), FOR PROPERTY SITUATED ON THE SOUTHEASTERLY SIDE OF HONOAPIILANI HIGHWAY, AT HONOKAHUA, NAPILI, LAHAINA, MAUI, HAWAII."

VICE-CHAIR PONTANILLA: So moved.

COUNCILMEMBER MOLINA: Second.

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CHAIR CARROLL: Been moved by Mr. Pontanilla, seconded by Mr. Molina. Discussion, Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Yield to the floor.

CHAIR CARROLL: Further discussion? Ms. Johnson. . . .(CHANGE TAPE). . .

COUNCILMEMBER JOHNSON: . . .about the project district. Okay. Because there's, there's two key things--

CHAIR CARROLL: Excuse me, not the project district. The--

COUNCILMEMBER JOHNSON: It's a community plan amendment.

CHAIR CARROLL: --yeah well, this is a project district, this, but the other bill Title 19 to establish the West Maui Project District is the next bill.

COUNCILMEMBER JOHNSON: Okay. Okay. Because what I'm, what I'm looking at is, I, I guess, I have some concerns about, you know, all three of the measures. And I'm just going to be very blunt about it, and I know the projects that Maui Land and Pine does are really great. And I think that the, the proposals that they put forward have merit. I really am still concerned though because of some lingering questions that exist with changing this whole entire area right now or at least changing in such a way that the resources that we have are being utilized for people, most of which do not even live in West Maui.

So I have a problem, I guess, with, at this point in time, not knowing about infrastructure, not knowing about whether or not we're going to need some of this land possibly even for other purposes. There's too many, there's too many questions as far as I'm concerned, Mr. Chair.

And you know I know that perhaps some of my comments or some of my concerns are relating to the zoning or some other areas. Right now, with the community plan amendment, that is the first step in going forward. And I do not want to mislead the Applicant that I'm convinced that this is the route that we should go right now. So I, I will not be supporting this measure. Thank you.

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

COUNCILMEMBER ANDERSON: I want to be sure I understand what it is you're moving on, Mr. Chairman. Is it the bill for an ordinance to amend the West Maui Community Plan?

CHAIR CARROLL: Yes.

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COUNCILMEMBER ANDERSON: From, the community plan and the land use map from Ag to Open Space?

CHAIR CARROLL: That is correct.

COUNCILMEMBER ANDERSON: So it's basically changing the community plan project district description?

CHAIR CARROLL: It is changing the description. The next bill is the one that establishes the project district.

COUNCILMEMBER ANDERSON: But for the community plan we're changing the project district description, also?

CHAIR CARROLL: Correct.

COUNCILMEMBER ANDERSON: And so I will speak on this, Mr. Chairman. I'm not going to support this, and the reason is they are increasing the project district from what this Council originally set when they got Kapalua Project District 1, which was intended to be the resort community, the residential/hotel/resort community.

Project District 2 was meant to be completely residential with recreational amenities as it reads in the community plan today. And what they're doing is increasing that project district, they're doubling it in size by 450 acres. They're taking 450 acres, most of which is in pine and dedicating it to this upscale resort development. Now granted they're not increasing the density, which is good, in fact I think they're decreasing the density from 750 units to 690. But yet they are still taking vital ag land out of production to do this.

And when this project district request, this change first went through their Environmental Impact Statement and then also went to the State Land Use Commission to get the district boundary amendment, if you read what their petition stated they were saying that pineapple cultivation on the west side was no longer economically viable. However, we just heard from them a week or so ago, last time we met on this, that yes, pineapple cultivation on the west side is still vital and we found a way to make it economically feasible and we are going to continue with cultivation in the remaining 2,000 acres that, that are currently in pine.

So there's many other reasons that I'll get to when we get to the zoning, but as far as the project district community plan amendment, that's my main reason for not supporting that, Mr. Chairman, because I just don't feel that taking that many acres out of agriculture is a benefit to the community as a whole. Thank you, Mr. Chairman.

CHAIR CARROLL: Thank you, Ms. Anderson. Further discussion on the motion on the floor? Hearing none, all those in favor of the motion, signify by saying "aye".

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COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? So there are three “noes”: Anderson, Johnson, and Mateo.
Motion passes.

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

NOES: Councilmembers Anderson, Johnson, and Mateo.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill entitled “A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2476 (1996), THE WEST MAUI COMMUNITY PLAN AND LAND USE MAP, FROM AGRICULTURAL AND OPEN SPACE TO WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA), FOR PROPERTY SITUATED ON THE SOUTHEASTERLY SIDE OF HONOAPIILANI HIGHWAY, AT HONOKAHUA, NAPILI, LAHAINA, MAUI, HAWAII” (community plan amendment bill).

CHAIR CARROLL: Members, the Chair would entertain a motion to pass the revised proposed bill entitled, “A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA).”

VICE-CHAIR PONTANILLA: So move.

COUNCILMEMBER MOLINA: Second.

CHAIR CARROLL: 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. Discussion? Hearing none--Ms. Johnson?

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COUNCILMEMBER JOHNSON: Now this one is on the project district itself?

CHAIR CARROLL: Correct.

COUNCILMEMBER JOHNSON: Okay. I just want to make sure because when we--

CHAIR CARROLL: This is establishing the project district.

COUNCILMEMBER JOHNSON: Okay. From all the discussion that we've had, basically, about what can be included, and I did appreciate the comments, you know, that we received in writing from our Corporation Counsel, I am still concerned about one serious component within the project district and that is the time share component. The time shares and a lot of the resort amenities, right now, we haven't been able to, I guess, differentiate although I know we've, we've tried to differentiate about time share use and how that's changing the community.

I know also that within this project district there are a multitude of permitted uses. I think that what I'm looking at right now is a use on that land that is slightly different than when the original project district was proposed. We were looking at hotels operating, I guess, in a conventional way, and because we cannot separate that out now even in some of the responses that we got from Corporation Counsel, B&Bs, you know, those kinds of things are legitimate uses within that, I really am concerned because I think we still have work to do in that particular regard.

We have some other things that I think are really important for us to address in core legislation that we need to, I guess, take upon ourselves as Council Members. So it's primarily though because of this conflicted use and some of the intensity. I know that when the original Environmental Impact Statement was done and I read through it, it was basically looked at as kind of a residential component. Residential use was also referred to and throughout a lot of the testimony as, well, these people are not going to have a lot of impact, they're going to be spending a lot of time away and they won't be spending a lot of time here.

So I found that there were conflicts within some of the statements that were made within the Environmental Impact Statement. But when you look at time share use, it is very intense, those units are rented out continuously. So for me, I guess, because that is still a use that's permitted within this project district, I, I have a problem with it. If it didn't contain any time share component, I might feel differently, but because it does I think it dramatically changes the employment opportunities; it changes the movement of the people with, within the resort development and outside the development. I think that is still going to be a problem for me.

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And then the economics, if you look at some of the socionomics, socioeconomic impacts in time shares, they're very different, and the people that will be utilizing these units are going to be there a great deal of the time. So for that primary reason and there are some other reasons, but I, I basically agree with Councilmember Anderson that in a project district, where it increased that dramatically in size and with the component of the time shares, I just see that affecting how the community is really going to be able to function and the employment opportunities that are provided. So I will not be supporting the project district change. Thank you.

CHAIR CARROLL: Thank you, Ms. Johnson. Further discussion to the motion on the floor?

COUNCILMEMBER HOKAMA: Chairman?

CHAIR CARROLL: Mr. Hokama?

COUNCILMEMBER HOKAMA: Just so we are clear, Mr. Chairman, my understanding is that we are looking at the revisions to Chapter 19.2, which is the one that has all of the details of land use categories, purpose, and intent, and that is the bill that you are asking us for consideration at this time.

CHAIR CARROLL: That is correct.

COUNCILMEMBER HOKAMA: All right. Then, if I may speak on, on this proposal, Mr. Chairman?

CHAIR CARROLL: Proceed.

COUNCILMEMBER HOKAMA: Thank you. I think Ms. Johnson, our colleague from West Maui brings up a very pertinent point, Mr. Chairman. I had originally been asked to consider supporting a residential project. If they want hotels and type of hotel use, then I think it should be clear and upfront that, that is what they want and ask for the appropriate zoning category. We are still under discussion in another standing Committee regarding what will be the County's policy on transient vacation rentals or short-term rentals, whatever we want to call it, time shares. That policy has yet to be determined.

I think there is, well, for me, I will just speak bluntly. I don't support this in this proposal. And if there's an amendment to delete, I'll be happy to support it. But the way it is now I have major reservations with this zoning request. And if this is another way to get hotel rooms under a residential consideration, then I don't like it. I'd rather have it be upfront that this is what they're asking for and they want additional hotel rooms, whether it be in a single-family house or a multi-family unit within this land use request property, Mr. Chairman. And if that's another way of how to convince us on the 25 percent,

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because it matches the one-to-four in the existing Maui County Code, then let's speak to this issue as for what it really is, additional hotel rooms.

You know, because if we are paying attention to what's happening in West Maui and the conversions of hotel rooms to other uses and then now this is the other way around it to bring back hotel rooms into the inventory, then be upfront and tell the Council that this is what it is. But don't try and tell me that this is a residential proposal or housing proposal and you want it under this term "vacation rentals" when it's actually, what, a replacement for hotel rooms that's being lost to time share conversions? I for one don't like it, Chairman, and I will consider at the appropriate time to propose an amendment to have that deleted from this consideration. Thank you.

CHAIR CARROLL: Now would be the time, Mr. Hokama.

COUNCILMEMBER HOKAMA: Then I make a motion to have all references to short-term rentals deleted from this ordinance.

CHAIR CARROLL: It's been moved by Mr. Hokama.

COUNCILMEMBER ANDERSON: Second.

CHAIR CARROLL: Seconded by Ms. Anderson. Discussion, Mr. Hokama?

COUNCILMEMBER HOKAMA: I, I think I made my point, Chairman. Thank you.

CHAIR CARROLL: Ms. Anderson?

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. As I stated earlier, the, the intent from the previous Council who developed this project district was not to have resort or transient vacation rental units in this portion of Kapalua. This was meant to be residential, granted resort residential but yet residential. And they are increasing, they're adding 250 time share, transient vacation units to this district.

And I find that this is in direct contradiction to policies and objectives in the West Maui Community Plan, which says that visitor facilities should be limited to the existing planned resorts of Kapalua and Kaanapali as designated on the land use map. Future growth should be coordinated with development of adequate infrastructure capacity and housing for employees. The West Maui Community Plan also encourages the renovation and improvement of existing visitor facilities without a substantial increase in the room count. This is verbatim from the Community Plan.

So I think they're trying to kind of go around the back door in doing this, and you know I lived in Kapalua for some time, when I first moved to Maui, and I had my sister lived with me and a young son. And we lived in a residential condominium complex and it

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was quite disconcerting to have people as neighbors who were vacationers, because even back then, people rented out their condos. And I think either you're residential or you're transient. Either you're a visitor accommodation or you're residential. I don't think the two should mix.

We've got this problem existing right now all over Maui County. I have friends who live in small condominium units, and they're telling me, you know, I'd like to know my neighbors, that's why I live here, because I want to know my neighbors, and I have no sense of community in my own home because my neighbors change every two weeks. The only time my neighbors are in town are during Christmas.

So I think we need to . . . you know, the buck stops here. The decisions that this Council makes are policy decisions, and if we can't uphold the policies that are in our community plans and that previous Councils have enacted into law, then I feel sorry for Maui, because we have no rhyme or reason about the future growth of Maui--if we can just let any developer come through the door and rearrange our code and rearrange our, our community plans to suit their development needs.

So I'm very much in favor of this amendment. I don't think it's an appropriate place. You know they're, they're redoing Kapalua Bay Hotel. That's where the transient vacation units should be, and I don't think it's appropriate in this district. So that's all I'm going to say on the amendment. I have other points I'd like to make, Mr. Chair, at a later time on this main motion. Thank you.

CHAIR CARROLL: Thank you, Ms. Anderson. Mr. Hokama, in clarification, are you referring to both time share and vacation rentals?

COUNCILMEMBER HOKAMA: That is correct, Chairman.

CHAIR CARROLL: Thank you. Ms. Johnson?

COUNCILMEMBER JOHNSON: I have a question, and either Planning or Corporation Counsel may be able to ask it. When you look at residential or long-term rental what is the general period of time, is it 30 days, 60 days, 90 days when it's considered short- or long-term?

CHAIR CARROLL: Ms. Cua?

MS. CUA: I believe long-term is defined as 180 days.

COUNCILMEMBER JOHNSON: Hundred and eighty days. Okay. Thank you. Thank you, Mr. Chairman.

CHAIR CARROLL: Further discussion? Mr. Kane.

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COUNCILMEMBER KANE: Thank you, Mr. Chair. First, point of clarification on the amendment, from a technical standpoint are we looking at deleting Number 2 of Section 19.92.040--

CHAIR CARROLL: I believe--

COUNCILMEMBER KANE: --on Page 3 of the--

CHAIR CARROLL: --Ms. Nakata--

COUNCILMEMBER KANE: --proposed ordinance?

CHAIR CARROLL: If I could refer it to Staff?

COUNCILMEMBER KANE: Thank you.

CHAIR CARROLL: Ms. Nakata?

MS. NAKATA: Staff would note that the term short-term rental uses is in the proposed ordinance at the, at the place that Councilmember Kane pointed out, but I believe it's also referenced in other areas of the proposed ordinance, including the purpose and intent Section 19.92.010 and other areas of the ordinance. If--the Chair would like, Staff could review it and, and give a complete list in, in a little while.

COUNCILMEMBER KANE: Mr. Chair?

CHAIR CARROLL: Mr. Kane?

COUNCILMEMBER KANE: Just, if I can ask maybe Planning Department one or two questions for clarity on the amendment--

CHAIR CARROLL: Proceed.

COUNCILMEMBER KANE: --that's before us? In the purpose and intent component on 19.920.10, it would read relevant to the amendment in the fourth line of that first paragraph, "is to provide for a flexible and creative approach to development that considers physical and environmental factors in a comprehensive manner and that will result in a low-density, primarily residential and recreational development that includes a limited transient vacation rental component."

As the Director, how would you folks interpret that as primary residential, limited transient vacation rental component as far as are you going to be looking at, are, are, do you have like reference point to consider how much of a percentage would be allowed in

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a short-term rental, i.e. transient vacation rental, time share, et cetera? How would you folks be able to determine that based on the purpose and intent that we have before us?

CHAIR CARROLL: Mr. Foley?

MR. FOLEY: My understanding is that the proposed amendment would eliminate that language referring to the limited short-term rental component and time share component entirely--

COUNCILMEMBER KANE: That's correct.

MR. FOLEY: --so there would be a period after recreational development.

COUNCILMEMBER KANE: The reason I'm asking the question is to determine whether or not I'm going to support the amendment.

MR. FOLEY: Okay.

COUNCILMEMBER KANE: So I'm asking so I can understand how you folks, who if this passes as is and the motion fails and we go back and it passes, I want to understand how you, who has the authority to interpret this component as to moving forward with permit processing, how are you folks going to look at the primary residential component and the limited transient vacation rental component? If you're able to answer the question, Mr. Foley, and I understand it's something that just came out of nowhere, I mean from, from me anyway.

MR. FOLEY: When we, when we reviewed this, we were, we were identifying with the Applicant, as I recall, a maximum of 250 units that would be in this category of, of time share or short-term rental. And we recognized that 250 was, you know, I don't know, 30 or 40 percent of 690 and that, that number would be set by the action taken by the Council on this project district. So if you thought that 250 was too large a number, you presumably would change it.

COUNCILMEMBER KANE: Okay.

CHAIR CARROLL: Mr. Kane?

COUNCILMEMBER KANE: Thank you, Mr. Chair. I, I have a different perspective, Mr. Chair, of, of, and I respect the, the maker of the amendment and the discussion in support; however, I do see this as a resort residential area not residential area that is going to be comprised of people who intend to be here for their, for the, for their primary residence but probably second even third homeowners that will be here part-time out of the year. And that's how I'm perceiving this project to be.

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And from a business standpoint, I would think that it would be prudent on their part that if they do have the component of vacation rental or time share in that, that they would separate it out, so that they won't have an unappealing, I guess, setup, if you will, as far as infrastructure.

In other words, they would have separate components of people who are going to have the residential component, and then if they have their time share or this other component that we're discussing in the amendment, that those would be separate areas within the, within the project itself. So that they wouldn't have the negative impacts that we all know about and are familiar with regarding this.

With that being said, Mr. Chair, I will not be supporting the amendment. I do think that the intent of this whole area and with this project in particular is to, as it states in the purpose and intent, that it's going to provide for the flexible and creative approach to have a successful business plan that will provide for a resort community area, and that this area will, as intended, will be primarily for residential but will have components that will provide for additional revenue to help in the sustainability overall of the company. So I will be not, excuse me, I will not be supporting the amendment. Thank you.

CHAIR CARROLL: Thank you, Mr. Kane. Mr. Molina, followed by Ms. Tavares.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman. I'm, I'm on the fence with this proposed amendment. I would like to ask your indulgence if we could have Mr. McNatt come up and respond to this proposal?

CHAIR CARROLL: No objections? Mr. McNatt, please come forward.

NOTE: Pause while Mr. McNatt reapproached the podium.

MR. McNATT: Mr. Chairman?

COUNCILMEMBER MOLINA: Thank you, Mr. McNatt, for coming up to respond to this proposed amendment. We've heard from the Planning Director. Is it the intent to, I guess, look at putting up to 250 TVRs or time share units by, for this Kapalua Mauka project? And give, share it with us your thoughts on the proposed amendment and any impacts it would have on this project should it pass.

MR. McNATT: It's, it's important to understand that there are kind of three kinds of uses in a resort. There's, we like to define it as, as hot beds, warm beds, and cold beds. The hot beds are those shorter-term uses where people come into a resort area like in hotels or time shares or TVRs. And they, they usually stay for about a week; they spend a little bit more money; they do more activities, because they're only here for a short period of time.

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Then you've got the warm beds, they are people who are just here for, they're here for maybe three or four weeks, a month, they come occasionally, they have a second or third home. And then you've got the cold beds where people have like the third or fourth house, and they're here very seldomly [*sic*], maybe once a year they'll come for a couple weeks.

It's those, those hot beds those people that come and go relatively quickly within a week or two that really generate the, the ongoing revenue, the bulk of the revenue to support restaurants, activities, golf, and so forth. So that the, this component is fairly, it's very important to us. We've, we've worked very closely with the Planning Department to define how this would happen, and, and we're restricting it if it, if it is approved to very, to so that all the units within a TVR would be within, within a project area. In other words, if there's going to be a project, it all has to be TVR and it can't be mixed with just residential.

So, so let's say we have a 25 unit project that's approved and allowed within this to be TVR. All 25 units would have to be the same transient vacation units. You couldn't mix in longer-term, the warm beds or the, or the cold beds, so that you wouldn't have that inherent conflict between people who would like it to be a little quieter and not have the tran..., the turnover. So it's very important to us to be able to do this. Does that answer your question?

COUNCILMEMBER MOLINA: Mostly.

MR. McNATT: What's the rest of it? I'm sorry. . .(inaudible). . .

COUNCILMEMBER MOLINA: Is it the intent of your organization to maximize the amount of TVRs, for example if it is 250?

MR. McNATT: Up to 250? Well, we'd like that flexibility. That's, that's the beauty of a project district ordinance, it does give you some flexibility. It, this is a long-term project. There . . . market conditions change very quickly, and we would like to be able to respond to that market, but in any event we, we would not do more than the 250 if that's approved. So we'd, we would like to be able to respond to market conditions over, over that period of time.

COUNCILMEMBER MOLINA: Thank you. Thank you, Chairman.

CHAIR CARROLL: Thank you, Mr. Molina. Ms. Tavares?

COUNCILMEMBER TAVARES: I have no other questions for Mr. McNatt.

CHAIR CARROLL: You can sit down, Mr. McNatt. Thank you.

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MR. McNATT: Thank you.

CHAIR CARROLL: Ms. Tavares?

COUNCILMEMBER TAVARES: Yes. Thank you, Mr. Chair. I was just reflecting a little bit on some past history and when Maui County decided to go after the resort hotel business, so just imagine back when there was no Kapalua, no Kaanapali, no Wailea. That was a huge step that the County made to go after this resort-type destination. That was back in what, the late '80s, early '90s, early '90s?

COUNCILMEMBER HOKAMA: Seventies.

COUNCILMEMBER TAVARES: Seventies. When, I forget when the first hotel was, oh yeah that's right, Sheraton Maui, I think, was the first hotel. But there was a conscious effort made to go in that direction because of the market, because of what we thought, as a County, we could help to infuse an economic base that we needed very badly here. In the '60s, a lot of our people left, a lot of my classmates left as graduates of '61. There was no future here.

So I'm saying, this was a conscious effort back then. As the world changes and the travel, travelers change the taste changes. That's why we're seeing now a need for a mix of accommodations, because not everyone wants to stay in a hotel. Some people want a different experience, some people who have the money just buy another house and that becomes their vacation home, and they have, you know, one, two, three, four wherever. . . (CHANGE TAPE). . . process of change right now. And that's why we see so many transient vacation rentals all over the place in Maui County, and as you know we're dealing with that situation in my Planning Committee at the time.

I understand, you know, what the objections might be and are, but I also see that in a situation like this, where it is a planned development and not something that crops up in-between existing or among existing residential, I think that this is where time shares and transient vacation rentals belong, not so much in the middle of residential neighborhoods. So if we can take or, or consider taking an attitude that this is an extension of resort development, this is the resort residential end of resort hotels. It's the next iteration of the mix of, of travel accommodations. I think that if we can kind of think about that maybe it makes a little more sense.

I, you know, I have, of course, the highest respect for the maker of the motion, and I know he gives considerable thought to, to amendments that he makes or proposals that he has, but I'm, you know, so I'm conflicted about, you know, not supporting the amendment. But I think that in the purpose and intent for this Project District 2, it's, it's there upfront, you know, to me that it's low density, low density, primarily residential and recreational development that includes a limited short-time, short-term rental component and time share component.

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The parts that we have been, make us bristle are the conversions of existing hotel rooms to time share and we have no control over that. And that's 'causing another problem. But this one is, you know, it's like when Worldmark came in here, they proposed to do a time share from the get-go down in Kihei. We knew what it was and we saw a need for it, or we saw that they, it, there could be a demand for it and therefore approved it as a time share from the time before they got the shovel in the ground.

It's a whole lot different when an existing hotel converts to a time share, because then, and that's why we're doing a study, or our study is being done on the impacts, the socioeconomic impacts and other impacts as a result of, of hotels changing over to time shares.

But, Mr. Chair, I, I feel that in this particular development this is the appropriate place to put short-term rentals or the TVRs and the time shares, and we know upfront they're looking at 250 units. You know, I think we should have a condition that limits them to a certain percentage in each development phase or whatever it is to ensure that it's not going to now be the majority when they, when they're looking at, you know, prim..., a limited short-term and time share.

So you know I think we should give this project district a chance to develop, I think it will fill a need, not just an economical need for the company but also fill travel needs and desires of the kind of clientele that come to Maui that we have sought after worldwide. So, Mr. Chairman, I will not, at this point, support the amendment. Thank you.

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

COUNCILMEMBER JOHNSON: And I, I understand, you know, why some people feel that this is an appropriate area for this type of accommodation. This is one-third of all the units that will be built there. At the same time, we've got Kapalua Bay Hotel, which is a time share conversion by the same company. So I agree with Mr. Hokama, if we're going to plan, if we're going to stop just reacting, if we're going to actually plan our use of resources, the single greatest, I guess, critical need for West Maui right now is affordable housing.

There are 750 units. I can guarantee you that none of those units will probably go or let's say 95 percent of those units would not go for Maui residents. That means all the resources that go with them, it means all of the jobs that are associated are a certain type of job that's created to serve the off-island visitor.

And time shares are really, you know, something that we don't know what the impacts are completely, because the study has not yet been completed. But I can tell you what is happening right now, the time share industry it doesn't provide full-time jobs for people,

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it provides some part-time employment. Certain people don't want their rooms cleaned every day because they feel it's an encroachment on their privacy so that's one issue.

But I can guarantee you that the time share visitor, those rooms are almost always booked. If you look at 250 time share units, look at the trip generation--and because I don't really feel that was adequately discussed in the environmental assessment. When you look at just the movement of those people, more than likely they're not going to be flying in to the West Maui Kapalua Airport, they're going to be coming in from the main airport and traveling that road.

And as was stated, okay, those are the people that go to the activities, those are the people that maybe spend a little bit more money, go out to dinner. Already the activity that we have on the west side, as far as I'm concerned and I live there, and Mr. Foley lives there, too, we, we have a hard time sometimes even getting home, now you just add more time share people into that mix. I'm not as concerned about the long-term residential, but right now, folks, we just can't, we can't accommodate that much more growth.

Granted the Kapalua Bay Hotel is going to be closing, God only knows where those people are going to be shifted to. But I'd just like to stop and have the people consider what the ramifications are of actions that we take. And to me 250 time shares is 250 too many when it was supposed to be a residential development. And when you look at the Environmental Impact Statement, it was residential and it was the economic benefit of building the residential stability and the fact that these were the people that were going to go out to dinner, these are the people that are going to do the renovations and need all these services. Instead, we're changing the mix, and while it might be the trend I just don't see, Mr. Chair, how we can accommodate.

We haven't even opened up Kapalua Ocean Resort, it's not even completely open, we've got Intrawest. Look at the cumulative impact, people, look at what we've got. And we have affordable housing that we've identified as a key need. Where are these resources going? What do our local people think of us? Oh yeah, you do everything for the visitor but what do you do for us? I'm not going to support this. Well, I'll support this, this motion that's on the floor right now, but I'm not going to support any more development of this scale for primary visitor industry. Thank you.

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

COUNCILMEMBER ANDERSON: Thank you, Mr. Chair. You know when, when Kapalua was first developed and Colin Cameron -- God rest his soul -- built the Kapalua Bay Hotel, he built it with a lot of sensitivity to the area, a lot of sensitivity to the impact that he would make on the land with this hotel. It was a low-density hotel and as a matter of fact, many people said it was doomed to failure from day one because they didn't build it big enough.

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And the supporting infrastructure to the hotel were all the condominiums. The, the, The Bay Club, The Golf Villas, The Bay Villas, The Ridge. These were all residential condominiums, Mr. Chairman, and for the most part, they were owned and occupied by people who considered themselves residents, many of them part-time residents but residents of Kapalua.

Now that Kapalua has evolved to another stage, when the West Maui Community Plan was done, the Project District 1 and Project District 2 were done in concert. The, the Council who passed the West Maui Community Plan, the West Maui Community Plan Advisory Committee, and Kapalua itself planned that Project District 1 would be the resort, the core resort area for transient or visitor, visitor accommodations, whether it's time share, short-term rental, transient, whatever you want to call it, not meant for long-term residential. And Project District 2 was meant for the recreational amenities to support that, that area, that resort area along with residential units.

And now, they're changing the whole scenario. We don't even know what's going to happen with the Kapalua Bay Hotel, if it would even come to the Council. It probably won't, it'll probably just get an SMA permit. Right, Mr. Foley? So now, we're looking at it in a disconnected way, and I mean many of you may say, well, that's Kapalua's business, it's their land, they can do what they want. But I would argue with that, because it isn't just their land, it's the aina of everybody who lives here.

You know, before it was Kapalua, it was Honolua Ranch, and that was before it was in pineapple, it was a ranch. And it has evolved from, from being a ranch owned by a family to D. T. Fleming turned it into pineapple and, and then Colin Cameron turned it into a resort with great respect for the history of the land. And I would like to see this Council continue that respect, Mr. Chairman.

I think that a lot of thought went into the Community Plan, and Project District 2 was supposed to be 450 acres. It's now 925 acres. The golf course and the open space was supposed to be 261 acres. It's now, excuse me, 385 acres, which mostly is a result of expansion of the golf course. The residential area was planned to be 144 acres. It's now 260 acres.

So as our General Plan and our community plans say that we're supposed to preserve agricultural land and the rural lifestyle that, that land brings to the community, I think in turn we need to respect what the community plan says as far as the planned use for this project district. So I can't support the, the transient use in this project district and for that reason I'm going to be supporting Mr. Hokama's amendment. Thank you, Mr. Chairman.

CHAIR CARROLL: Thank you, Ms. Anderson. Further discussion to the amendment to the main motion? Hearing none--

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COUNCILMEMBER HOKAMA: Mr. Chair? Chairman? Chairman?

CHAIR CARROLL: Excuse me. Mr. Hokama?

COUNCILMEMBER HOKAMA: If I may for my final opportunity on the motion, I, I thank my colleagues for sharing their comments whether they agree or not. I think it's healthy that we at least share our points-of-view. You know, I, I take my colleague from Upcountry, Kula areas comments quite to heart because I did do a bit of reflection. And for those of us like my colleague that grew up in the '50s, we've seen Kaanapali in the early '60s even before the golf course was built, for those of us that can recall.

Yes, the County made a determined effort on which direction we wanted to go in the visitor industry development, Mr. Chairman. But I think we've also come to terms that we have been very successful. At times, I feel we're over-successful in our efforts in, in this major economic engine that provides a lot of different opportunities and revenues for the County.

But I, for one, Mr. Chairman, do not want to see this engine to grow anymore dominant than what it is today. I think it's unhealthy of its . . . you know, we've, we've used it in the past in budget review sessions of that 600 or 800 pound gorilla that sits on our back and the amount of resources we put to maintain this healthy gorilla on our back to provide opportunities, jobs, choices for our residential community.

I have always maintained a consistent policy of trying to help maintain this industry and that we would put our efforts in expanding those other economic engines to give us better diversification and balance in what we provide our residents. So for me, Members, you know, I've come to a point where I don't want more expansion in this economic engine. I will be happy to continue to support maintaining it, but I would rather us be able to give our people more different choices, Chairman, besides the visitor industry.

And one of it is to help them is to provide a range of residential opportunities in housing, and that is what I'm happy to support and share with my fellow colleagues this afternoon. And maybe for some of us, you know, we've reached different points, but I think I've been very consistent with my position regarding TVRs, vacation rentals, and I am maintaining my, my philosophy, my position in the motion that I have presented to you this afternoon for your consideration.

And whether it's approved or not, I still want to thank you, Chairman, for allowing it and I thank the, my colleagues for discussing it, because it needs to be discussed. And our community has discussed it, it's part of the Maui Nui Task Force, Focus Maui Nui report on comments of our community of how they feel about the visitor industry. And so, Mr. Chairman, again, I just thank them for this opportunity and we'll see how it goes. Thank you.

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CHAIR CARROLL: Further discussion? Hearing none, all those in favor of the motion to amend the main motion on the floor, signify by saying "aye". Roll call.

COUNCILMEMBER TAVARES: Mr. Chairman? Mr. Chairman, could you repeat what the amendment is, please?

CHAIR CARROLL: Mr. Hokama or... it is to, the exact wording of the amendment... Mr. Hokama, could you repeat it, please? I didn't write it down.

COUNCILMEMBER HOKAMA: Thank you, Chairman. I believe and of course your Staff can re-verify, but the motion and the intent is to remove all references and any application to short-term transient or vacation rental language in the proposed ordinance. Whether it be in the purpose section, in the, in the land use categories or uses I am asking that it be totally stricken from the entire document.

CHAIR CARROLL: Thank you. Do you have anything to add, Ms. Nakata?

MS. NAKATA: No, Mr. Chair. Just other than that it occurs in at least five places in the ordinance: the purpose and intent section; the description of the village PD-WM/2 district; the description on the short-term rental units; the development standard section; as well as special uses.

CHAIR CARROLL: Thank you. Again, roll call.

COUNCILMEMBER TAVARES: Mr. Chair?

CHAIR CARROLL: Yes?

COUNCILMEMBER TAVARES: For clarification, does it not include the time share component? Or is it only the short-term vacation rental component?

COUNCILMEMBER HOKAMA: It would, Chairman, if I may, please? It would include--

CHAIR CARROLL: Mr. Hokama?

COUNCILMEMBER HOKAMA: --the time share component, also.

COUNCILMEMBER TAVARES: Okay. Thank you for the clarification.

CHAIR CARROLL: Any further discussion?

COUNCILMEMBER _____: Roll call.

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CHAIR CARROLL: And again, we will have a roll call vote. Staff?

MS. NAKATA: Council Chair Hokama?

COUNCILMEMBER HOKAMA: Aye.

MS. NAKATA: Councilmember Anderson?

COUNCILMEMBER ANDERSON: Aye.

MS. NAKATA: Councilmember Johnson?

COUNCILMEMBER JOHNSON: Aye.

MS. NAKATA: Councilmember Kane?

COUNCILMEMBER KANE: No.

MS. NAKATA: Councilmember Mateo?

COUNCILMEMBER MATEO: Aye.

MS. NAKATA: Councilmember Molina?

COUNCILMEMBER MOLINA: No.

MS. NAKATA: Councilmember Pontanilla?

VICE-CHAIR PONTANILLA: No.

MS. NAKATA: Councilmember Tavares?

COUNCILMEMBER TAVARES: No.

MS. NAKATA: Committee Chair Carroll?

CHAIR CARROLL: Aye. Passes, five to four. The motion to amend the main motion has passed.

VOTE: AYES: Councilmembers Anderson, Hokama, Johnson, Mateo, and Chair Carroll.

NOES: Councilmembers Kane, Tavares, Molina and Vice-Chair Pontanilla.

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ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVE Councilmember Hokama's amendment to main motion (delete references to short-term rentals, transient vacation rentals, time shares, etc.).

CHAIR CARROLL: We are back to the main motion as amended. Further discussion? Ms. Anderson.

COUNCILMEMBER ANDERSON: Mr. Chair, I would like to bring up a concern that all through this ordinance where there is a reference to any kind of height, the and there, so far that I can find, there are one, two, three. Mr. Foley, if you would like to follow along on Page 4, I think, Item D, maximum structure height shall not exceed 50 feet above finished grade. There is various references about maximum height shall not exceed so many feet above finished grade, and this is all through the ordinance when it discusses height.

And my concern with this, Mr. Chairman, is that in our County Code when there's any reference to height, it says, not, shall not exceed so many feet above existing or finished grade whichever is lower. So in writing their own ordinance they have taken that language out and just used finished grade.

And the reason this is a concern is because that would allow them to go in and fill the land however high they want to fill it and still have their maximum height to the finished grade. And I don't think that we should allow that kind of flexibility.

I think all of us, excuse me, can recall that what happened at Palauea, Palauea 1, there was no mention of 72,000 tons of fill being put on the land. And we had weeks of trucks hauling dirt down there and filling that land and rising it up above the finished topography, the natural existing topography, which resulted in, some might say, some damage to the ocean because of runoff. And while that is a concern, my main concern, Mr. Chair, is that we are, we're not, we have no control here and we have no finished plans to see, unless Mr. Foley can correct me, as to what the actual topo..., the change in topography might be.

CHAIR CARROLL: Is that a question for Mr. Foley?

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COUNCILMEMBER ANDERSON: Yes.

CHAIR CARROLL: Mr. Foley?

MR. FOLEY: Mr. Chairman, as a requirement of the project district review process, we would be reviewing grading plans and elevations for all of the buildings proposed. But I also want to mention that we currently have an ordinance amendment making its way through our three Planning Commissions towards the Council review, and the purpose of that ordinance change would be to clarify that the defin..., that, that building height does refer to existing or finished grade, whichever is lower. So we wouldn't have any objection to that phrase being added in this case if the Council wants to be sure that, that there isn't fill placed under these buildings.

COUNCILMEMBER ANDERSON: Thank you, Mr. Foley. Mr. Chairman, I would like to move to amend that all references to the current bill that we are discussing -- and I'm sorry, there's no number on this bill, but at any rate -- the, that all references to finished grade be amended to read, finished or existing grade whichever is lower.

COUNCILMEMBER JOHNSON: Second.

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

COUNCILMEMBER ANDERSON: I just think that we can't have this open-ended, Mr. Chairman, because, you know, while there may be a review by the Planning Commission, we've had, we've had several instances where its been a problem of late. And so I think the clearer we can be about the intention, the better.

And you know view plane is a very important thing in Maui County for everyone. Because we live in such a beautiful place everybody deserves to have some piece of the sky, and I think that we should not leave this open-ended. We should actually further define it according to what the Code currently reads and for whatever it is we may end up amending it to be. I'm assuming it's only going to be a clar..., a further clarification. So I would ask for the Members' support.

CHAIR CARROLL: Thank you. Further discussion? Ms. Johnson.

COUNCILMEMBER JOHNSON: I want to thank Councilmember Anderson for focusing on that, because I know a perfect example and that was on the Kapua Subdivision, view plane obstruction to the max. And there was wording that was supposed to have been adhered and it was not. So all of those or a good many of those homes totally now obstruct the view plane from Honoapiilani Highway, and so I am very grateful that she did amend this language, and I also would ask the Members of the Council to support this language.

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CHAIR CARROLL: Thank you, Ms. Johnson. Further discussion to the amendment of the motion on the floor? Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. This is for Director Foley. Is this, the language we're proposing to include, is it similar to the language that we imposed to Sunstone, Kaanapali--

CHAIR CARROLL: Mr. Foley?

VICE-CHAIR PONTANILLA: --regarding building heights?

MR. FOLEY: Mr. Chairman, I believe it was, but I don't have that language in front of me. And it would make sense that we would have used the same language, because it's the language that's in the Code now. And so far, there's support for including this language. We have it approved, recommended for approval by the Maui Planning Commission and the Lanai Planning Commission, but we're at our third meeting with the Molokai Planning Commission.

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

CHAIR CARROLL: Thank you, Mr. Pontanilla. Further discussion to the amendment of the motion on the floor? Seeing none, All those in favor of the motion, signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVE Councilmember Anderson's amendment to main motion (height/finished grade).

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COUNCILMEMBER KANE: Mr. Chair?

COUNCILMEMBER TAVARES: Chair?

CHAIR CARROLL: Back to the, excuse me, back--

COUNCILMEMBER TAVARES: Can we have a break?

CHAIR CARROLL: Mr. Kane is right, and I was hoping to finish this business before we went on break, but it is really late. We will be on break until--

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

CHAIR CARROLL: --3:45. Ten-minute break. We stand in recess. . . .(gavel). . .

RECESS: 3:34 p.m.

RECONVENE: 3:49 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use meeting of December 7, 2005 is now back in session. Members, we have on the floor an amended motion, the, "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA)". Any further discussion on the motion as amended? Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chair. I realize that we are working on a project district, which is a flexible zoning ordinance; however, within this project district ordinance there are actually three different project districts within this one project district. One is village project district with mixed use, I'm assuming that's what that means, WM/2. Then we have rural residential project district, and then we have resort open, or golf course, park, and resort open space. And then there's another section for general standards of development.

And my question to the Planning Department is within these four different permitted uses of which each has its own list of permitted uses, I would like to know how the requested uses that they have in this ordinance are different from what would normally be allowed within the County Code, for instance, for a rural designation?

I know that project districts, you know, vary, and the reason I bring this up, Mr. Chair, and we may have to have the Applicant come down to address this. Under their village project district use, under residential uses, they specifically have along with single-family and multi-family dwellings, condominiums, town houses, and duplexes, they have a provision for senior housing, including but not limited to convalescent and nursing homes

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and assisted living facilities. And I would like to know how this fits in with. . .(CHANGE TAPE). . .the stated use, which is resort residential.

CHAIR CARROLL: Your question for Mr. Foley?

COUNCILMEMBER ANDERSON: Ms. Cua, I think, can probably answer the question. I gave her a heads up earlier.

CHAIR CARROLL: Mr. Foley?

MS. CUA: I, Mr. Chair, if it's okay, I believe I can answer.

CHAIR CARROLL: Ms. Cua, could you begin and then--

MS. CUA: I can start anyway.

CHAIR CARROLL: --when Mr. Foley finishes his call.

MS. CUA: Initially when Member Anderson had asked the question, I started to look at some comparisons between other zoning ordinances, project district ordinances as well as like residential and rural and you know started to look at things like heights and setbacks, and then right before we came back on recess, she clarified that she was a little bit more interested in use, uses, so I didn't spend as much time on that.

But just to, to start maybe just real briefly on, on the height issues, it's, it's pretty comparable to rural district ordinance in the County Code. It's also very comparable to other project district ordinances with regard to residential or heights of residential districts. If you look at the village component, it has two, two heights specified: 30 feet for the residential component, 50 feet for the commercial.

In Project District 1, for instance, it, it includes a 30 foot height for residential component and 45 feet for commercial component. In the just the residential district in Maui County Code that can be anywhere, the height limit is 30 feet.

In terms of uses and I just started to look at, at the Lahaina Project District 1 as you would compare it to this Project District 2, there's many more uses identified in Project District 1. And it appears that when that project district was created, it, it used maybe like the B-2 Community Business District ordinance where there's just many, I think currently in the, in the community business district ordinance there's well over 60 uses. And if you look at the Project District No. 1 ordinance, you know, there's numerous uses permitted. If you look at the current Project District 2 ordinance under the village uses, there's not quite as many, as many identified. In terms of the rural district--and I'll just have to compare that on the floor because I haven't had much time.

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COUNCILMEMBER ANDERSON: Ms. Cua, before you get to that, let's go back to village.

MS. CUA: Okay.

COUNCILMEMBER ANDERSON: How is it that senior housing, including convalescent, nursing homes and assisted living facilities fits within this project district when it's supposed to be resort residential?

MS. CUA: Why, I think in the intent of the, in the intent of the project district description, when it talked about what it was anticipated, if I could go back to that? It talked about a flexible, flexible and creative approach to development that considers physical and environmental factors in a comprehensive manner and that will result in a low-density, primarily residential and recreational development that included the short-term rental component.

I, I think when they envisioned their project district, they looked at a mix of residential-type uses, and they envisioned possibly having a senior housing component to that, which could include a nursing home residential component. And again, when you deal with a project district and especially the project districts that are more recently reviewed, they are looking at specific anticipated uses that would cater to a mixed community that they're looking to, to create.

So that when you look at different project districts in different areas, you're going to see varied uses that are proposed for that particular project district. So it's really hard to compare a residential or commercial component in a project district to a typical residential and commercial zoning district in Title 19.

COUNCILMEMBER ANDERSON: Well, I mean that's my point is that we have many project districts that are, are strictly residential project districts. And this one is particularly a resort residential, so I'm wondering how a nursing home fits in with that as well as . . . well, let me just ask this question.

The, the breakdown for actual allocations for land use says that commercial shall have five acres and they have not changed that. So does that mean that anything within this whole project district that is commercially based must be within this five acres however it might be allocated?

MS. CUA: That's correct.

COUNCILMEMBER ANDERSON: So that even though they have commercial uses listed, which include private clubs, I'm just going to kind of reiterate what it says here, Mr. Chair, so people know what, what I'm talking about. Under commercial uses, they have golf clubhouses with food and beverage service as well as equipment and apparel shops, yada, yada; golf course and equipment maintenance structures; restaurant and

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bars; golf course and other sport and recreational facilities. That would all fit under, I'm sure, would be permitted within their golf course. Is that correct, Ms. Cua?

MS. CUA: The commercial uses identified in the ordinance are limited to five acres, because if you go back to the land use acreages identified, commercial is only limited to five acres.

COUNCILMEMBER ANDERSON: So that means any golf clubhouses would have to be on commercial, on, on land allocated for commercial use, not PK-4 or golf course?

MS. CUA: Well, they . . . yes, I believe so.

COUNCILMEMBER ANDERSON: Okay. And then they have private clubs, community facilities, day care facilities, doctor offices and other medical facilities, health spas and fitness centers. So "A through K" under commercial uses, all of those uses must be within a five-acre maximum land spatial use?

MS. CUA: That's correct.

COUNCILMEMBER ANDERSON: Okay. So when we get to rural, under rural, they have for principal uses, single family dwellings, which we know is a permitted use. But they also have golf courses, kiosks, preservation areas, plant nurseries, horticultural activities, equestrian facilities, growing and harvesting of agricultural crops, home occupations, service areas and structures, utility installations, drainage, accessory uses and structures necessary to facilitate the establishment of those principal uses. I don't believe that golf courses are a permitted use in today's Code under Rural. So how does that, can you, can you comment on that?

MS. CUA: I'm looking at Chapter 19.29, which is the County Rural district. And the principal uses include one single-family dwelling per one half acre in Rural 0.5 and one single-family dwelling per one acre in Rural-1. Second permit..., principal permitted use, growing and harvesting of any agricultural or, or aqua-cultural crop or product. Three, minor utility facilities as defined in 19.04. Four, parks for public use but not including commercial, camping, campgrounds, camp..., camp sites, overnight camps and other similar uses. Fifth permitted use, day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschools, kindergartens, baby-sitting services and other like facilities located in dwelling units used for child care services. And then it goes on to list accessory uses.

COUNCILMEMBER ANDERSON: So then the only permitted use that does not comply with what we have on the Code would be golf course, correct?

MS. CUA: It looks that way.

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COUNCILMEMBER ANDERSON: And the, the, actually, the rural designated land is the, actually, the expanded area of the project district, Mr. Chairman. It's the 450 acres mostly that was expanded from the original project district. And that means that there is an intention to expand the golf course into the rural portion of this project district.

I'm wondering if we could just have a representative come down to answer a question, Mr. Chairman.

CHAIR CARROLL: No objection? I'll call down Mr. McNatt. Mr. McNatt?

NOTE: Pause while Mr. McNatt reapproached the podium.

MR. McNATT: Mr. Chairman?

CHAIR CARROLL: Ms. Anderson?

COUNCILMEMBER ANDERSON: Thank you, Chair. Mr. McNatt, what is your company's intention regarding the long-term care facility in your village project district, and would that be located within the urban core should you choose to do that?

MR. McNATT: It would be located within the village district as described. What we're looking for in the project district ordinance is the flexibility for long-term. As I mentioned before, it's a very long term project. We have had people come to us and say that a senior component might, might be something that, that could work. Right now, we don't, do not intend or have any proposal to do senior housing or convalescent housing or nursing. It's simply a category in the zoning that, that could possibly allow it if it was something that made sense in the future.

COUNCILMEMBER ANDERSON: And do you have any intention of developing a private club that would be exclusive to members only?

MR. McNATT: It's a possibility. Again, it provides us with flexibility in the zoning.

COUNCILMEMBER ANDERSON: And as far as expanding the golf course, do you intend to expand it into the rural area?

MR. McNATT: It's very likely that we would because the golf course is going to be changed, it's going to be redesigned and we could take advantage of some of that, that additional area. The State law just changed recently that allows golf courses to go into the rural designation under State, the State designation. So it's acceptable at the State level and that's one of the reasons we're suggesting that it, that it's a possibility here.

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COUNCILMEMBER ANDERSON: And so what is the actual -- I guess you don't need to give me acres or anything -- but how many golf, how many holes are you going to be expanding?

MR. McNATT: We are planning to just do the 18-hole golf course, revive, we currently have 16 holes on the mauka side of the highway, we're planning to do 18. So--

COUNCILMEMBER ANDERSON: So you're only expanding it by two holes?

MR. McNATT: Right. Originally the, the request was to potentially expand it by another nine holes the entire course so have a 27 hole course, but we have determined that it really doesn't work. There simply isn't enough land to do that. But to do a nice course all in the mauka side of the highway and do 18 holes we do need some of the rural.

COUNCILMEMBER ANDERSON: Okay. Thank you very much.

MR. McNATT: You're welcome.

CHAIR CARROLL: Ms. Johnson?

COUNCILMEMBER JOHNSON: Yes, Mr. McNatt--

CHAIR CARROLL: Mr. McNatt, could you please come back to the podium?

COUNCILMEMBER JOHNSON: --before you leave, I just have one other question, too. It's, you know, a little bit different from what Ms. Anderson was asking. But within the rural residential PD-WM/2, No. F is home occupation shall be a permitted use. Now because we have yet at the Council level to adopt home occupation ordinance, would you be thinking that this would be by Special Use Permit that these individual would be going in, or is this something that you would like for future consideration to have this home occupation considered within this particular designation?

MR. McNATT: No. It's, it's written in here as a permitted use, so there would be no additional use permit or Conditional Use Permit requirements. It's a permitted use as proposed. So it's, again, it speaks to that flexibility and the opportunity for alternative businesses. And we see a lot of our clients who are coming over now and they're working out of their home. They're buying homes in the resort and it doesn't generate any traffic or anything, like that. They're working perhaps on a computer business or, or consulting, but they work out of their home.

COUNCILMEMBER JOHNSON: This, so if I understand you, what types of home occupations would you see being incorporated within this particular component?

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MR. McNATT: That's what we would see: consulting businesses or something that doesn't generate traffic that comes to the unit where they're servicing, servicing clients at the, at the home.

COUNCILMEMBER JOHNSON: And who would be making that determination? You would be, they would have to come before you, I mean if somebody wanted to start up a child care facility in their own home?

MR. McNATT: Well, a child care would be a different story. Who would, who would monitor that?

COUNCILMEMBER JOHNSON: Well, obviously because this is different, it's kind of you're a government onto yourself, you know, because of this wording. You know in here it's a use that is not currently a permitted use here--

MR. McNATT: Right.

COUNCILMEMBER JOHNSON: --in the overall County, so I'm wanting to understand who is going to be allowed to operate a business; how is that business going to be conducted; and who has oversight?

MR. McNATT: Yeah. We may want to defer to Corporation Counsel here, because it'll be, it'll have, these home occupations would have to be within that, that is defined and allowed by the County and those requirements.

MR. FOLEY: Could I just clarify, Mr. Chairman? There is a definition in our Code of home occupations, and we do approve them administratively and have for years. We currently have a Code amendment, being processed through the three Planning Commissions, that would set up a Code section on home occupations. But the, the definition in, in the, in the Code now has a whole set of criteria that have to be met relating to the maximum square footage, no signs, no hazardous materials, et cetera. So it would be possible for them to just comply with these, these criteria that are already in the Code.

COUNCILMEMBER JOHNSON: Okay. And what types of businesses basically are able to utilize this?

MR. FOLEY: The most typical businesses are, are individuals that work at home by themselves such as consultants, lawyers, accountants, architects, engineers--

COUNCILMEMBER ANDERSON: Moms.

MR. FOLEY: Moms. They don't require a permit. Yeah. They can, they can, they can grow, grow produce, they can process or, or manufacture crafts, people do jewelry. But there can't be retail sales that, you know, they can make jewelry and take it to crafts fairs, they

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can go meet clients, you know, in the clients' place of business. So there's restrictions that, that clearly, clearly are related to making sure that the home occupation doesn't appear to be any different than normal activities at a house.

COUNCILMEMBER JOHNSON: Okay but you do currently then oversee what takes place, and so you would ultimately, if there was an applicant that came forward, how would the procedure go? They would have to apply to you, or they would apply or Kapalua Mauka or Maui Land and Pine would be the applicant? How would that work--

MR. FOLEY: We--

COUNCILMEMBER JOHNSON: --because this is a project district?

MR. FOLEY: --yeah. We, we could do it either way, we could review individual applications, or we could have them do it and spot check to make sure that they're following the, the criteria. I am, I'm anticipating that, that question will be answered by the legislation that we're bringing to you, that sets up a procedure for approval and, and appeals.

COUNCILMEMBER JOHNSON: Yeah. And, and I guess that's why even I am a little bit confused, because many times people will come to me and say, oh well, I can't, you know, I'm not a legally-permitted business, or what is the procedure that they have to go through. And I guess what you're saying is there is a procedure, but they would have to initiate it with your Department currently.

MR. FOLEY: Right.

COUNCILMEMBER JOHNSON: Okay. One other thing and I don't know if this would be for you, Mr. McNatt, but I, I guess if there is legislation that would be passed, because I know this question came up a while ago. And it is specific to child care facilities being permitted, I guess, by State law that if you wanted to operate a child care facility or something along those lines how would that operate if State law permits something to take place or legislation is passed that would actually prohibit you, just like antennas being able to be put up in communities?

When any legislation comes forward at a higher level be it State or Federal level, that would allow certain activities to take place. How do you see that working or being incorporated within this portion of your, I guess, your uses? You're just going to have to comply?

MR. McNATT: Yes. We have to comply with the law. And State law will trump County law.

COUNCILMEMBER JOHNSON: Well, I know that sometimes with covenants and restrictions, we have people that are on agricultural land that because of their CC&Rs there's certain restriction that they place on what activities can or cannot take place on that, which seems

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inconsistent. But you know even, even in some situations those occurrences do arise. So you would then, regardless of any covenants or restrictions or anything, you would then say that you have to abide by the laws?

MR. McNATT: That's correct.

COUNCILMEMBER JOHNSON: Okay. Thank you.

CHAIR CARROLL: Thank you, Ms. Johnson. Any further discussion on the motion?

MR. FOLEY: Mr. Chairman, I'm over here.

CHAIR CARROLL: . . .(inaudible). . .Mr. Foley over--

MR. FOLEY: Could I make--

CHAIR CARROLL: --here.

MR. FOLEY: --could I make a clarification to a previous response to a question that was asked by Ms. Anderson--

CHAIR CARROLL: Proceed.

MR. FOLEY: --regarding building height? I didn't go quite far enough in describing the language that's being recommended to the Council. And Joe Alueta, who wrote the ordinance, is here to help me get it right.

The, the language, that's being recommended by the staff and the two of the three Planning Commissions so far, would say that the building height is measured from the top of the structure to the existing or finished grade, whichever is lower unless there has been a review of the, of the site plan or grading plan in conjunction with a public hearing.

And I'm not obviously getting the language exactly right, but basically if the Planning Commission has conducted a public hearing as part of a project district review or an SMA review, and they've reviewed the relationship of the building heights to the neighbors then it's possible for the Commission to approve finish grade and not use the, the previously existing grade.

So in this case, the Planning Commission as part of the Project District 2 review would consider the grading below the proposed buildings and the relationship of the buildings to their neighbors. And, and it would be possible for the Planning Commission to approve building heights based on, on finished grade because it's a project district.

CHAIR CARROLL: Ms. Anderson?

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COUNCILMEMBER ANDERSON: Thank you for that clarification, Mr. Foley; however, that proposal still has to pass the Council.

MR. FOLEY: Right.

COUNCILMEMBER ANDERSON: And I think that we need to stick with what's in the County Code. The, the language is very clear and it's there for a reason, there's a purpose behind it. And I feel very strongly that the amendment that we made supports the existing code, and you know if they need to make any amendments to that there is also an opportunity to do that at a later date.

But at this point, you know, we don't have any detailed plans to go on, and I think we need to be safe rather than sorry so that the Council still has control over this. So I appreciate that clarification, but as I said, it has a long ways to go before it's adopted if it ever is adopted, Mr. Chairman. Thank you.

CHAIR CARROLL: Thank you, Ms. Anderson. Further discussion before I call for the vote?

COUNCILMEMBER HOKAMA: Chairman?

CHAIR CARROLL: Mr. Hokama?

COUNCILMEMBER HOKAMA: May I have just one minute to approach you, please, recess?

CHAIR CARROLL: One-minute recess. . . .(gavel). . .

RECESS: 4:18 p.m.

RECONVENE: 4:20 p.m.

CHAIR CARROLL: This Land Use meeting of December 7, 2005 is now back in session. Members, we have the motion on the floor. Any further discussion the motion as amended? Hearing none, all those in favor of the motion please signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? I see there are two "noes", three "noes". Three "noes" and five "ayes".

COUNCILMEMBER _____: Six.

COUNCILMEMBER ANDERSON: Six.

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CHAIR CARROLL: Mr. Hokama?

NOTE: Pause while Councilmember Hokama approached his seat.

COUNCILMEMBER HOKAMA: I'm on the floor.

CHAIR CARROLL: Four "noes". Four "noes" and five "ayes", motion passes.

COUNCILMEMBER MOLINA: Roll--

COUNCILMEMBER _____: Chairman, I voted "aye".

COUNCILMEMBER MOLINA: Roll call.

CHAIR CARROLL: Roll call, please.

MS. NAKATA: On the main motion as amended, Council Chair Hokama?

COUNCILMEMBER HOKAMA: Aye.

MS. NAKATA: Councilmember Anderson?

COUNCILMEMBER ANDERSON: No.

MS. NAKATA: Councilmember Johnson?

COUNCILMEMBER JOHNSON: No.

MS. NAKATA: Councilmember Kane?

COUNCILMEMBER KANE: Aye.

MS. NAKATA: Councilmember Mateo?

COUNCILMEMBER MATEO: No.

MS. NAKATA: Councilmember Molina?

COUNCILMEMBER MOLINA: Aye.

MS. NAKATA: Councilmember Pontanilla?

VICE-CHAIR PONTANILLA: Aye.

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MS. NAKATA: Councilmember Tavares?

COUNCILMEMBER TAVARES: Aye.

MS. NAKATA: Committee Chair Carroll?

CHAIR CARROLL: Aye. Motion passes.

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

NOES: Councilmembers Anderson, Johnson, and Mateo.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA)".

CHAIR CARROLL: Thank you, Members. The Chair would now entertain a motion to pass the revised proposed bill entitled, "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM COUNTY AGRICULTURAL DISTRICT AND INTERIM DISTRICT TO WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA) (CONDITIONAL ZONING), FOR PROPERTIES SITUATED AT THE SOUTHEASTERLY SIDE OF HONOAPIILANI HIGHWAY, AT HONOKAHUA, NAPILI, LAHAINA, MAUI, HAWAII"--

COUNCILMEMBER _____: So move.

CHAIR CARROLL: --and to file the communication.

VICE-CHAIR PONTANILLA: So move.

COUNCILMEMBER MOLINA: Second.

CHAIR CARROLL: Been moved by Mr. Pontanilla, seconded by Mr. Molina. Discussion, Mr. Pontanilla?

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VICE-CHAIR PONTANILLA: Yield to Member Tavares.

CHAIR CARROLL: Ms. Tavares?

COUNCILMEMBER TAVARES: Point of reference, Mr. Chair. Is that the bill that's attached to the July 8th communication?

CHAIR CARROLL: That is the July, no--

MS. NAKATA: Yes, Mr. Chair, that's the latest version.

COUNCILMEMBER TAVARES: Okay. Thank you for the clarification. Thank you, Mr. Pontanilla.

CHAIR CARROLL: The floor is open for discussion. Ms. Johnson?

COUNCILMEMBER JOHNSON: Mr. Chair, I just have a question. I know that this was transmitted by I think it was Councilmember Pontanilla, and this is November 16, 2005. It's the suggested changes to conditions of zoning, and this was in response, I believe, to some concerns that had been raised. That has not yet been incorporated into any form of amendment. Is that correct?

CHAIR CARROLL: That is correct, Ms. Johnson. And the proposed amendments that were proposed by the Applicant, none of them have been incorporated into the bill. Those need to be done today.

COUNCILMEMBER JOHNSON: Okay. And I guess my only question would be then on, with regard to the second sentence or the second section. This is on the correspondence from Councilmember Pontanilla on November 16th, and on the back side of it is Condition 11 with regard to additions. And I just want to--

COUNCILMEMBER TAVARES: Could you wait?

COUNCILMEMBER JOHNSON: --clarify--

COUNCILMEMBER TAVARES: Mr. Chair, could we wait until we, we identify in our binders where that is--

COUNCILMEMBER JOHNSON: Sure.

COUNCILMEMBER TAVARES: --before she, you go 500?

COUNCILMEMBER JOHNSON: It's towards the end, actually.

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COUNCILMEMBER TAVARES: November 16th?

CHAIR CARROLL: All right. Wait a moment till everyone finds that, please.

COUNCILMEMBER TAVARES: Is it the November 15th?

COUNCILMEMBER KANE: Right after that.

COUNCILMEMBER TAVARES: Right after that one? November 16th.

COUNCILMEMBER JOHNSON: Uh-huh.

COUNCILMEMBER TAVARES: Okay. Thank you.

COUNCILMEMBER JOHNSON: Yes, Mr. Chair. And I don't know if . . . well, I guess, Staff has it there. This second section based on what Mr. McNatt had stated, where it talks about, affordable dwelling units must be offered from minimum period of 120 days to potential renters or purchasers in the designated income bracket. If none qualify to rent or purchase within that time period, the units may be offered to potential renters or purchasers in each of the higher brackets in order, until, in order, until a qualified renter or purchaser is found.

Well, based on what we received from Corporation Counsel, which was the response back about there not being any conflict with regard to the workers or the employees of Maui Land and Pine being . . .(CHANGE TAPE) . . .respective of what was stated by Mr. McNatt today, I wonder if this is still appropriate to leave in renters. And I just would like to have either Corporation Counsel's thoughts on this or something before we entertain this particular amendment.

So my question is, with regard to renters specifically, should this 120 days be applicable if we were to understand what Mr. McNatt was saying was there, there would be no 120 day requirement if they were renting out the units? And I don't know if . . . Mr. Moto was here earlier. Mr. Chair, would it be appropriate to call Mr. McNatt here to clarify that?

CHAIR CARROLL: If there's no objection, we'll call down Mr. McNatt. Mr. McNatt?

NOTE: Pause while Mr. McNatt reapproached the podium.

MR. McNATT: Mr. Chairman, Member Johnson?

COUNCILMEMBER JOHNSON: Yes. And you've got the copy of your transmittal?

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MR. McNATT: Yes. I do.

COUNCILMEMBER JOHNSON: Okay. Because of the questions I asked you earlier about the rentals and the fact that you would not have a time limitation or the, on the, the 120 days, are you agreeable then to just striking the renters portion of it? Or how would you see that it would still achieve the goal and objective that you had outlined for us but not put a time period or constraint on that 120 days?

MR. McNATT: I'm inclined not to, to be too concerned about that, the renter part of that, because I'm pretty confident that we're going to find renters in those categories. I just don't want to eliminate that and, and then have a unit go vacant for some reason because, because we can't find somebody in the affordable category. So it, it just, it gets back to that issue of flexibility again in the, in the ordinance. I prefer to leave it but, but I'm not opposed to taking it out.

COUNCILMEMBER JOHNSON: Well, I guess just the entire subject then of putting a limitation, when we impose conditions, of course, we're hoping that we're going to be able to put the people who are the most needy into those priced units. When it goes beyond the 120-day period, what will end up happening then is that, I guess, anybody could rent at any particular price range or anybody could buy who's in any income bracket? Is that the purpose and intent of this particular section?

MR. McNATT: No. It does go to the next bracket. So if someone can't qualify or we can't find somebody qualified in the lower bracket, then we could put somebody in the next higher bracket into that unit.

COUNCILMEMBER JOHNSON: Okay. Well, let's assume--

MR. McNATT: So--

COUNCILMEMBER JOHNSON: --we're in the highest bracket--

MR. McNATT: Uh-huh.

COUNCILMEMBER JOHNSON: --and in the 120 days, you don't find someone or qualify someone in that bracket. What will happen?

MR. McNATT: We would look for the, somebody who is closest to that bracket that, that we can to qualify.

COUNCILMEMBER JOHNSON: Okay. But there's always the potential then that somebody who's in a higher income bracket or somebody who is just looking for a market-price unit that unit would then track with market or are you saying that--

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MR. McNATT: No. It would, we would try, we're going to do our best to keep it in the affordable categories. And right now, there's, we have information that says there's a two-year waiting list in West Maui for, for assisted rentals. And that's basically what these will be, they'll be below market. So I don't, I don't really see an issue with finding people to qualify in, in that category, you know, in the lower categories.

COUNCILMEMBER JOHNSON: And you're speaking specifically about rentals--

MR. McNATT: About rentals.

COUNCILMEMBER JOHNSON: --about. . .(inaudible). . .purchased.

MR. McNATT: About rentals, yes.

COUNCILMEMBER JOHNSON: Just rentals. Now, if because this has happened in other areas when somebody goes beyond the 120 day or I guess it's 90 days in some situations, when they go beyond that period and they don't find somebody within that bracket, and I know different times markets change. Is it your intent though to find somebody and to totally complete the requirement even if it goes beyond the 120 days? Is that what you're saying?

MR. McNATT: Well, absolutely. We're, we, we're committed to providing affordable housing. So if, if we can we will find someone to fit within those units in those brackets. The current County Code is 90 days. We're, we've already proposed to extend that to 120 days to make sure that we have an opportunity to find somebody that qualifies for those units. So that's what we're proposing to do.

COUNCILMEMBER JOHNSON: Okay. But then--

MR. McNATT: Our intent is to find qualified renters in those categories.

COUNCILMEMBER JOHNSON: --okay. But then if you're looking at rentals or for sale, I'm, I'm just assuming that if the 120 days and your total intent is to put people within those income brackets into those units and fulfill the affordable housing requirements from within that category or that income bracket why would you even want the 120 days? Why didn't you just leave it that however long it takes you, you will find people within those income categories to be able to go into those units in satisfaction of that affordable housing requirement?

MR. McNATT: Because there may be people there, we may not be able to find people in those categories; therefore, we should at least be able to take people in the next category up and put those into those units rather than having the units sit vacant. There's still a need at, in each of the categories.

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COUNCILMEMBER JOHNSON: Okay. Then would--

MR. McNATT: So--

COUNCILMEMBER JOHNSON: --would you, based on your comment that you just made, would you be agreeable to then state that, you know, they could move within the bracket up to the highest bracket, but under no circumstances would somebody who is, you know, within whatever range or maybe the next person on the list . . . I guess what I'm trying to achieve is to say that the people who are in the neediest category or who are within the range that you have outlined that they ultimately get the units, that it doesn't just jump from that end bracket up to a market-price unit. Would you be willing--

MR. McNATT: In the affordable categories? Yes.

COUNCILMEMBER JOHNSON: Yes.

MR. McNATT: Yeah.

COUNCILMEMBER JOHNSON: Okay. So, thank you.

MR. McNATT: Up to the 140 percent.

COUNCILMEMBER JOHNSON: Thank you very much.

MR. McNATT: Yes.

COUNCILMEMBER JOHNSON: Okay. Thank you.

CHAIR CARROLL: Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Chair. I just have one quick question for Mr. McNatt while he's here. In regards to the letter we received last August from the ILWU, from William Kennison, William Kennison, the Maui Division Director. He states that Maui Land and Pine have agreed to put 40 affordable units upfront in the West Maui project, which will be earmarked for our members. Can you clarify that please?

MR. McNATT: Yes. I think it alludes to an agreement for their members that . . . we don't have an agreement with the ILWU to provide housing specific for their members. I think that they sort of bridged between their members and our employees are kind of the same people. And we've been talking to them about preferences for our employees and the opportunity to provide housing for our employees, which are also members of their union. And I think that's what they were alluding to. But we don't have a specific agreement to provide housing specifically for union members.

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COUNCILMEMBER ANDERSON: I see, so all of your members are members of the ILWU?

MR. McNATT: Oh, no. They're not. Some of our employees are.

COUNCILMEMBER ANDERSON: And what percentage would that be? Of the 225 employees you say that you have who need affordable housing, what, and you don't need to be exact but give me a ballpark?

MR. McNATT: I, I can't even give you a ballpark. I don't know the answer to that of how many qualified for affordable housing and are union members. I don't know.

COUNCILMEMBER ANDERSON: And who has to be a union member? What--

MR. McNATT: Some of our golf course--

COUNCILMEMBER ANDERSON: --position?

MR. McNATT: --employees are, are union members. Some of the hotel employees are.

COUNCILMEMBER ANDERSON: It's just by position?

MR. McNATT: Pineapple operations. So it crosses--

COUNCILMEMBER ANDERSON: So does that mean that if you've earmarked 40 units for them, does that mean all 40 units of these first 40 units have to go ILWU members?

MR. McNATT: No. That's not what I said. I said that we have not agreed to provide 40 units to ILWU, specifically. We have, we have suggested and asked you to allow us to provide those for our employees. Some of those employees may be union members, some may not be.

COUNCILMEMBER ANDERSON: Well, that contradicts what Mr. Kennison says in the letter, Mr. McNatt.

MR. McNATT: He says that we have an agreement to provide 40 units, I think, or something to that effect, and we do not have an agreement. What he's, what he's hoping is that we will be able to provide affordable housing for our employees, and many of our employees are in his union. So I think that's how he was thinking.

COUNCILMEMBER ANDERSON: Well, what he, what he thought isn't what he said. He said they will be earmarked for our members. Okay.

MR. McNATT: Well, that, that's incorrect.

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COUNCILMEMBER ANDERSON: Thank you.

CHAIR CARROLL: Thank you, Ms. Anderson. Ms. Tavares, followed by Mr. Pontanilla.

COUNCILMEMBER TAVARES: Oh. No. I have no question for Mr. McNatt.

CHAIR CARROLL: Did anybody have any questions for Mr. McNatt?

VICE-CHAIR PONTANILLA: No.

CHAIR CARROLL: All right. Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. As long as we're looking at this, this particular proposed condition, nobody has made a motion yet to, to add this as a condition. Mr. Chair, I, I recommend that we start with Condition No. 1 that's in the, in the bill and just go right down the line and then when we get to the end then we discuss these other ones--

CHAIR CARROLL: No objections--

COUNCILMEMBER TAVARES: --and I think that we will--

CHAIR CARROLL: --then that's how we will proceed.

COUNCILMEMBER TAVARES: --we won't be jumping all over the place.

CHAIR CARROLL: Very good. That's how we will proceed then.

COUNCILMEMBER MOLINA: No objections.

VICE-CHAIR PONTANILLA: No objection.

CHAIR CARROLL: All right, Condition No. 1. You still have the floor, Ms. Tavares.

COUNCILMEMBER TAVARES: If, you know, if Members don't have a problem, or I can make a motion to, well, I don't have to make a motion, the motion is already on the floor, right? It includes the Conditions 1 through 13. So if anybody wants anything separated and so we can discuss that, that will be fine 'cause this, you know, we don't need to go move to accept the conditions 'cause it's already part of the motion.

CHAIR CARROLL: There is a motion to include Conditions 1 through 13. Is there a second?

COUNCILMEMBER TAVARES: No. No. It's already in the motion, right?

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CHAIR CARROLL: Yes.

COUNCILMEMBER _____: The main.

COUNCILMEMBER TAVARES: There's a motion to accept the bill and this is part of the bill.

CHAIR CARROLL: Let me clarify that, there is a motion and it's part of, we have not, but we have not accepted each individual motion. Yes. We need to look at each one.

COUNCILMEMBER TAVARES: I yield to Mr. Kane.

CHAIR CARROLL: Mr. Kane.

COUNCILMEMBER KANE: And I'm just offering, just a suggestion. Because there's 12 conditions that are already included in the main motion that's on the floor that has been accepted in the first discussion. If there's any, excuse me, 13, I apologize. If there's any Member that would like to have any of the 13 conditions separated out for a separate discussion and voted upon, I think that's what Ms. Tavares is, we're trying to move it along and not jump all over the place. We just kind of want to be orderly.

So as, as one Member, I have no problem with where we're at now. And if there's other over and above the 13, if we can take those on after we've dealt with the 13 conditions that are before us right now.

CHAIR CARROLL: Very good. The Chair concurs. Are there any of the motions that any of the Members would like to discuss? Ms. Johnson.

COUNCILMEMBER JOHNSON: I would just ask for separation of Items 10 and 11, which are, the first one is relating to traffic impact fees, and 11 is relating to Maui, Maui County's affordable housing policy.

CHAIR CARROLL: Are there any others?

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: No objections? All right, Ms. Anderson.

COUNCILMEMBER ANDERSON: So if I follow what we're doing, we're separating out those conditions that Members might want to make amendments to?

CHAIR CARROLL: That we wish to discuss.

COUNCILMEMBER ANDERSON: I would like to add No. 12 to that.

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CHAIR CARROLL: Any objection to withdrawing No. 12?

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: Anything further? If not, we will start with No. 10. Ms. Johnson?

COUNCILMEMBER JOHNSON: Do you want me, do you want me to address No. 10?

CHAIR CARROLL: Yes.

COUNCILMEMBER _____: Yes.

COUNCILMEMBER JOHNSON: Okay. Do you want me to just make a motion or discuss it or?

CHAIR CARROLL: If you make a motion, that would be fine.

COUNCILMEMBER JOHNSON: Okay. I make a motion to amend No. 10 to include wording that would address the traffic impact fees in such a way that the \$3,500 per dwelling unit would be counted towards any subsequent traffic impact fee assessment that may be adopted by Maui, by the County Council.

COUNCILMEMBER ANDERSON: Second.

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

COUNCILMEMBER JOHNSON: Yes. And, and this specifically, Mr. Chair, even though I haven't probably worded it properly, there's one sentence in No. 10, it says this contribution shall satisfy traffic impact assessments or similar assessments, which may be imposed. And for me that's a problem because we're still working on that, we don't know what it's going to be, and there's also the issue that was discussed in the media with regard to even on the affordable units should the imposition be on those affordable units of 3,500.

If the traffic-impact fees that we adopt for West Maui happen to be \$5,000, it's my understanding that, you know, this would not totally satisfy it. And that's why I'm wanting to, at least, include that possibility that if we do adopt an ordinance that this would only, that this would not be in complete satisfaction of it. That's why I'm introducing the amendment.

CHAIR CARROLL: Further discussion on the motion to amend? Mr. Kane.

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COUNCILMEMBER KANE: With respect to the maker I think it's appropriate for us to have an exact language to consider prior to voting on it, so if we can be directed to the language that we're voting on before we're asked to vote.

MS. NAKATA: Mr. Chair, Staff would note that the Applicant has proposed a revision to that condition and its correspondence dated August 17, 2005. There's a suggested revision to Condition No. 10 that would parse the existing language out into two separate sections. And if, if Staff could just switch to that proposed revision and see if that accomplishes what Councilmember Johnson is anticipating.

COUNCILMEMBER JOHNSON: Yeah. 'Cause I didn't have that in front of me.

COUNCILMEMBER TAVARES: Point of clarification. Mr. Chair, point of clarification, please.

CHAIR CARROLL: Yes?

COUNCILMEMBER TAVARES: Where, where are you referring, Ms. Nakata, to what document?

MS. NAKATA: There's correspondence dated August 17, 2005, on Maui Land and Pineapple Company, Inc. letterhead. It's signed by Ryan Churchill--

COUNCILMEMBER TAVARES: August 17th?

MS. NAKATA: --and it attaches suggested condition revisions, August 17th.

COUNCILMEMBER TAVARES: Oh. I see it. Okay.

COUNCILMEMBER KANE: It's about three-quarter way through.

COUNCILMEMBER TAVARES: I'm getting there, hold on.

MS. NAKATA: And it's shown on the, the wall right now.

COUNCILMEMBER KANE: I cannot read it.

COUNCILMEMBER TAVARES: I don't have my binoculars with me, I'm sorry.

ALL: ...*(laughter)*...

COUNCILMEMBER _____: Blurry, it's blurry.

COUNCILMEMBER KANE: You saw No. 10? You're okay with that?

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COUNCILMEMBER TAVARES: Yes. I have it. Thank you.

COUNCILMEMBER JOHNSON: Because I gotta--

COUNCILMEMBER TAVARES: Running out of room here.

CHAIR CARROLL: All right. Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes. And the only problem I still have with the language is, the way it reads, it says, "If traffic impact assessments under Maui County Code are implemented before Maui Land and Pine satisfies Condition 10A, Condition 10A shall no longer be in effect and Maui Land and Pine shall comply with the traffic impact assessments or similar assessments which may be imposed regarding the project."

And it's my understanding and I'm not an attorney and Attorney Moto can correct me if I'm wrong, but I mean simply just upon payment of the 3,500 per unit, if they went ahead and they paid that once the bill would go through second and final reading that, that would be satisfaction of that condition. So I don't think we're going to be able to get to our traffic impact fee ordinance in that short a span of time, you know. Am I correct, Mr. Moto?

CHAIR CARROLL: Mr. Moto.

MR. MOTO: Mr. Chairman, this, besides the alternative version that's been presented in the Maui Pine transmittal. We were discussing amongst ourselves in response to your comments here on the floor how one could change the wording of the condition as it's in the bill now.

COUNCILMEMBER JOHNSON: And, and that's fine. If you have that recommendation, I would--

MR. MOTO: Yes.

COUNCILMEMBER JOHNSON: --like to have that.

MR. MOTO: And it seemed, I'm sorry--

CHAIR CARROLL: Proceed.

MR. MOTO: --it seemed to me, Mr. Chairman, that perhaps it's the word satisfy that is particular, too, because it suggests 100 percent satisfaction where as perhaps if the, looking, yeah I'm looking at Page 2, Paragraph 10 towards the bottom of the page. Okay. It says, with the sentence it says, "This contribution shall satisfy traffic impact

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assessments or similar assessments”, that sentence. If it said instead, “This contribution shall be credited against”.

COUNCILMEMBER JOHNSON: That’s fine.

MR. MOTO: Okay.

COUNCILMEMBER JOHNSON: Mr. Chair, may I amend my motion, then, to--

CHAIR CARROLL: All right, Members, we have a motion on the floor. It is, the wording is on the wall. Further discussion to the motion to amend?

COUNCILMEMBER TAVARES: Mr. Chairman. Mr. Chairman.

CHAIR CARROLL: Ms. Tavares.

COUNCILMEMBER TAVARES: Yes. Thank you. I know it’s getting late, so we’re getting a little blurry-eyed here. You know, I would offer in, in discussion of an amendment to insert after the \$3,500, “or the prevailing rate in effect at the time of final subdivision” and then delete that sentence that says, “This contribution, et cetera.”

COUNCILMEMBER JOHNSON: Hmm. Uh-uh.

COUNCILMEMBER TAVARES: Why not?

COUNCILMEMBER JOHNSON: If we don’t adopt an ordinance, Mr. Chair, it means they pay nothing.

COUNCILMEMBER TAVARES: No.

UNIDENTIFIED SPEAKER: No.

COUNCILMEMBER TAVARES: No. It’s 3,500--

COUNCILMEMBER _____: Yeah.

COUNCILMEMBER TAVARES: --is what they would pay if we don’t adopt the ordinance before they are, before they come in for final subdivision.

COUNCILMEMBER JOHNSON: Mr. Chair, the way I read this is it’s either they pay the 3,500 or the prevailing rate, you know, so to me, I mean, it’s, well, oh, I see what, what Ms. Tavares is saying.

CHAIR CARROLL: Yes.

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COUNCILMEMBER JOHNSON: To the County of Maui. So it would be, pay a minimum of, minimum amount of 3,500 or the prevailing rate in effect at the time of final subdivision, whichever is greater.

CHAIR CARROLL: That seems to satisfy your concern?

COUNCILMEMBER JOHNSON: Yes. And then, if they could amend the language, then, down at the bottom.

COUNCILMEMBER TAVARES: And that would be bracketed. May I ask a question of Planning Department? Is Phase 2 Project District approval a final subdivision? No?

MS. CUA: No.

COUNCILMEMBER TAVARES: Where does it come in? Is preliminary subdivision?

MR. FOLEY: Usually, it's prior to the subdivision coming in. Isn't that?

MS. CUA: No. No they, you can, you can file a subdivision at any time and you can get preliminary final subdivision approval early on. The Project District Phase 2 approval would have to come and Phase 3 approval would have to come before final subdivision approval.

COUNCILMEMBER TAVARES: Before final subdivision.

MS. CUA: Yes.

COUNCILMEMBER TAVARES: So is the wording all right with, with the Planning Department as far as the fee that's in effect at final subdivision, or would you rather we revert back to your Phase 2 approval? Final subdivision approval is, is okay with you folks? Is final subdivision approval okay with Maui Land and Pine? Okay. Mr. McNatt is nodding, for the record, he's nodding, that's okay. I mean just so we get some time period in here. Okay. Thank, thank you, Mr. Chair.

CHAIR CARROLL: All right, Members. We have a motion to amend No. 10 on the floor as you see it on the wall over there. Ms. Johnson.

COUNCILMEMBER JOHNSON: I, I just have a question. What time frame to the Planning Department would we be looking at if this language is adopted? Because I know it's going to take us a little while to even get an interim traffic impact fee imposed.

CHAIR CARROLL: Ms. Cua.

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COUNCILMEMBER JOHNSON: So are we looking at two months, three months, one month?

MS. CUA: From now?

COUNCILMEMBER JOHNSON: From now.

MS. CUA: Oh, that's very optimistic.

ALL: . . .(laughter). . .

MS. CUA: Because they have to, this is only the change in zoning in Project District Phase 1. They have to submit for Project District Phase 2, and they haven't even submitted, yet.

COUNCILMEMBER JOHNSON: Okay.

MS. CUA: So, they submit, we do a cursory review, we send it out for agency comments, which is 30 days. Then, that never happens in 30 days, and then we have to schedule it with Planning Commission, and I mean. And, and then even after that, we have to have phase, Project District Phase 3 approval and then you have compliance report between there, so--

COUNCILMEMBER JOHNSON: So--

MS. CUA: --we have some time.

ALL: . . .(laughter). . .

COUNCILMEMBER JOHNSON: --so we have time. So but it still means, Council Members, that we need to get cracking on this--

MS. CUA: Right.

COUNCILMEMBER JOHNSON: --ordinance.

MS. CUA: Right.

COUNCILMEMBER JOHNSON: Okay. Thank you. That's--

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

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried unanimously.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVE Councilmember Johnson's amendment to main motion (Condition No. 10).

CHAIR CARROLL: Thank you.

COUNCILMEMBER TAVARES: Thank you.

CHAIR CARROLL: We'll now address No. 11.

COUNCILMEMBER JOHNSON: Mr. Chair.

CHAIR CARROLL: Ms. Johnson.

COUNCILMEMBER JOHNSON: On this particular section and I, I didn't look to see, was there any amendment and/or planning on the part of the developer or Staff--

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: Yes.

COUNCILMEMBER JOHNSON: --that they had made to this section? Because I would like to be directed to that before I make any amendment.

COUNCILMEMBER KANE: It's on the same--

COUNCILMEMBER JOHNSON: Oh. It's in the same--

COUNCILMEMBER KANE: --same--

COUNCILMEMBER JOHNSON: --document?

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COUNCILMEMBER KANE: --document. Octo..., August 17th.

COUNCILMEMBER TAVARES: Yeah. It's No. 11, section--

COUNCILMEMBER KANE: Just point of information, Chair.

CHAIR CARROLL: Yes.

COUNCILMEMBER KANE: It's on the same document, the August 17th dated that has suggested revision to condition No. 11 as well as No. 12 and then even goes on to number, a new Condition 14.

CHAIR CARROLL: Thank you.

MS. NAKATA: Mr. Chair. Mr. Chair.

CHAIR CARROLL: Ms. Nakata.

MS. NAKATA: Staff would note that there are also proposed revisions to Condition 11 on a November 16 correspondence.

CHAIR CARROLL: Thank you, Ms. Nakata. All right, Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, Mr. Chair. What I'm looking at, I'm looking at Attachment 1: Suggested Condition Revisions to Condition No. 6, then to Condition No. 10, Condition No. 11, and adding a new Condition No. 14. But I don't see the one that is specific to the affordable housing.

COUNCILMEMBER TAVARES: It's No. 11.

COUNCILMEMBER JOHNSON: There's no, there's no reference, oh wait. Okay. Okay. I have a missing page, Mr. Chair, that's why I'm asking the question. If, if we could have Ms. Anderson go on to her condition, that might enable me time to read through their condition. Thank you. I defer, I defer to, oh, Ms. Anderson at this point in time.

CHAIR CARROLL: Ms. Anderson, you've been deferred to.

COUNCILMEMBER ANDERSON: I've been deferred to.

COUNCILMEMBER TAVARES: Number 12.

COUNCILMEMBER ANDERSON: Isn't the first time.

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COUNCILMEMBER JOHNSON: We're, we're on 12.

COUNCILMEMBER ANDERSON: Okay. Item 12. Okay, Members. This condition, of course, was put in place by the Planning Commission. And I've had my staff work on this in conjunction with the Commission on Water Resource Management on, people who have USGS has done studies on this stream, which should not make it too difficult for Maui Land and Pine to effectuate the amendment that I'm going to put forward.

And that is that a stream restoration program shall be initiated immediately to establish in-stream flow standards for Honokohau and Honolua Streams to be reviewed and approved by the Commission on Water Resource Management as prescribed in the State Water Code.

COUNCILMEMBER JOHNSON: Second.

CHAIR CARROLL: All right. Is that correct?

COUNCILMEMBER ANDERSON: Yes. Thank you very much, Carla.

CHAIR CARROLL: This--

COUNCILMEMBER ANDERSON: Go ahead.

CHAIR CARROLL: --'cause there's no motion?

COUNCILMEMBER ANDERSON: Yeah. I made a motion.

COUNCILMEMBER JOHNSON: She made it and I second. . .(inaudible). . .

CHAIR CARROLL: Oh, it's seconded. All right, very good.

COUNCILMEMBER ANDERSON: Can I speak first?

CHAIR CARROLL: Discussion.

COUNCILMEMBER ANDERSON: Thank you.

CHAIR CARROLL: Ms. Anderson.

COUNCILMEMBER ANDERSON: You know, Maui Land and Pine wanted to strike this condition entirely, because they say we have no jurisdiction and that, you know, this is under State Water Code and the Commission on Water Resource Management. It's their purview, yada, yada. The problem with that, Mr. Chairman, is that DLNR and the State Water Resource Commission have neither the staff nor the money to go forward and

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establish in-stream flow for all the streams in the State, which is a mandate of the State Water Code.

And so the only way we're getting in-stream flows established is if somebody files a petition with the State to get the in-stream flow standards established, and it's generally in conjunction with some kind of conflict that's going on with the use of the water. All of us here know that we have allocated County money to get in-stream flow studies done to establish in-stream standards for the streams on this side of Mauna Kahalawai which would be the . . .(CHANGE TAPE). . .we're using County taxpayer dollars to do that. And USGS is also putting in money to get these studies done so that we can get in-stream standards established.

Now, Maui Land and Pine has been the steward of these streams for many, many years. And so if, if they truly believe that their stewardship is, is meeting the State requirements and the State standards they should have no objection to doing this. There's already data established that could help them in establishing in-stream standards. USGS has done a study, an in-depth study. And if we don't do this, it won't get done.

And, and in-stream standards, the reason it's so important, not only does it restore the streams' biological life, but it addresses the, the appurtenant uses, those people who have rights to the water, because they live adjacent to it or because they grow taro.

So I'm hoping that the Members will, all I'm asking them to do is just follow the State law and to take the initiative to go ahead and do the, the studies; complete whatever studies are done; establish the in-stream standards; and put to rest for once and for all the use of water on Honokohau Stream and Honolua Stream for all people who have a right to those uses. So that's the purpose of this and I ask for Members' support.

CHAIR CARROLL: Thank you. Mr. Kane.

COUNCILMEMBER KANE: Thank you, Chair. Before I take a position on the proposed amendment, I think it's important for us to provide Mr. Moto an opportunity to respond to the specific section of 174C-7 with respects to enforcement. So if we're, and, and I don't know if this is the full context of it, what was cited in the communication from Maui Land and Pine, so and that's why I'm asking that question. And if we have access to the full section of 174C-7, which states that no State or County government agency may enforce any statute, rule, or order affecting the waters of the State, controlled under the provisions.

So my point being is if we put forward a condition that we cannot enforce by State statute, then why would we put it forward? And again, I completely agree with the concept of it, I mean and we're all driving towards water things. But if State Statute is saying that and if Corp. Counsel is going to acknowledge that, then I would have difficulty in putting something that can't be enforced, we can't force them to do that.

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So although I agree, Ms. Anderson, on what she's stating, if it goes beyond what the rules provide for us or the, or the law provides for us, then I can't support something that, you know, does that. So if I can get comment from Mr. Moto?

CHAIR CARROLL: Mr. Moto?

MR. MOTO: Mr. Chairman, first, I don't have the cop...I don't have 174C-7, the section in front of me. As I read the condition that's been drafted and listen to the intent that was stated, I, I'm assuming that the condition is not attempting to usurp the role or, or powers of the Commission on Water Resources Management but rather trying, trying as a condition to require Maui Pine to fund the in-stream flow standard.

So perhaps, as a technical comment, the condition as drafted probably should be modified a bit, because it literally, no, no private person or entity can establish in-stream flow standards. That's done by the Commission on Water Resources Management.

And but what can be done is, especially given in the light of the fact that the Commission has stated publicly that it does not have the staff or money to conduct these studies, is, is for private parties to work with the Commission and to fund the necessary research to develop that, that would be used by the Commission to set those in-stream flow standards.

So the, in that sense the condition would not be taking the place of the Commission or but rather directing resources towards a study that would allow the Commission to accept permanent in-stream flow standards for those two streams.

CHAIR CARROLL: Mr. Kane?

COUNCILMEMBER KANE: Thank you. And I appreciate those comments and I don't know if the maker of the amendment heard the comments that it was suggested that perhaps the amendment be modified to reflect his comments in how we can make it work. And again I reiterate, I support Ms. Anderson's intent in this; however as worded, it doesn't seem like it's the ideal way of wording it.

So I'm just asking for consideration if we need Mr. Moto to repeat to, and Ms. Anderson is here, if she would consider the recommendation of modification to the amendment, I'd be willing to favorably consider that amendment.

CHAIR CARROLL: Ms. Anderson, would you like Mr. Moto to repeat his suggestion?

COUNCILMEMBER ANDERSON: Yeah. I did hear it, I had, had it on in my office. I went to see if I could get the State Water Code, but unfortunately, it's at home. So yeah, I don't mind having, hearing what he has to say.

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I will reiterate that this whole condition is, is qualified by the sentence, by the ending sentence, as prescribed in the State Water Code, so all we're asking them to do is follow the State Water Code. Mr. Moto?

CHAIR CARROLL: Mr. Moto?

MR. MOTO: Yes. Mr. Chairman. I, I think I understand the, the Council Member's intent. I'm sorry if I don't have the precise, you know, wording, but I think basically what the condition is intended to say is that the, the petitioner here, the Applicant will work with the Commission on Water Resources Management and shall either do the, the study or shall cause the study to be done, the research financed and shall submit the study to the Commission for, for review.

COUNCILMEMBER ANDERSON: Well, I don't know that, that's any clearer than what I said, Mr. Moto.

MR. MOTO: Well, I just--

COUNCILMEMBER ANDERSON: Let me--

MR. MOTO: --my, yeah--

COUNCILMEMBER ANDERSON: --let me say what my intent is, okay?

MR. MOTO: Yeah.

CHAIR CARROLL: Do you have any problems with the language, Ms. Anderson?

MR. MOTO: Yeah. It. . .(inaudible). . .

COUNCILMEMBER ANDERSON: Well, I mean I think my language is clearer than what he said, so if he'd like to--

MR. MOTO: Yeah.

COUNCILMEMBER ANDERSON: --re-state it--

MR. MOTO: Yeah.

COUNCILMEMBER ANDERSON: --maybe, I mean.

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MR. MOTO: Mr. Chairman, what I'm trying to get away is I'm trying to make sure that the condition doesn't suggest that it's Maui Pine that's going to be establishing the in-stream flow standards. 'Cause--

COUNCILMEMBER ANDERSON: I don't think it does.

MR. MOTO: --literally I think that's what I says now, to establish.

COUNCILMEMBER ANDERSON: I don't think it does. It says that a stream restoration program shall be initiated immediately to establish in-stream flow standards for Honokohau and Honolua streams to be reviewed and approved by the Commission on Water Resource Management as prescribed by the State Water Code.

That's exactly what the Code says, that you have to, you know, you have to establish what the in-stream standards are because the State doesn't have the money to do it. Private parties are doing it. Maui Land and Pine has control over these streams, so it's really their responsibility to do it.

MR. McNATT, FROM THE AUDIENCE: We don't have a problem with the condition.

CHAIR CARROLL: All right. Mr. Hokama would like to make a comment, then we'll get back.

COUNCILMEMBER ANDERSON: I'm not done, but go ahead.

COUNCILMEMBER HOKAMA: Thank you, Ms. Anderson and Chairman. You know I've been looking at the proposed revision that the Applicant has provided on their August 17th communication to this Committee, Members. And you know I'll just repeat it so that I, there's no interpretation on my part. But I think it still meets the intent and addresses the concern of my colleague from South Maui.

And their proposed language is, "Maui Land and Pineapple Company, Inc. shall" -- it's not, it will be a requirement -- "shall comply with the State Water Code and the directives of the State Commission on Water Resource Management regarding Honokohau and Honolua Streams." And if the Commission directs them to do things, you know, it's, it's going to be enforceable by them.

You know I take Mr. Kane's comments to heart, Chairman. And we are allowing appropriate agency, which is the State Water Commission to direct the Applicant what they want with Honokohau and Honolua Streams. I, I am hoping to have that as, as a favorable consideration, also.

I think Mr. Moto had an opportunity to see this wording in their proposal, but their own proposal states a requirement for them to fulfill that they shall comply. It is not a

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question of compliance on their part. So I just share that with the Members as something that they obviously is agreeable to, Chairman.

CHAIR CARROLL: Thank you. Mr. Moto, you have any comment on the language as on the board before I turn the time back to Ms. Anderson?

MR. MOTO: The condition was drafted by Maui Land and Pineapple Company, so I'm, you know, I am, I can't speak for the writers. It is rather general. I'm not sure what is meant by directives of the State Commission Water, I'm not sure if there are any or there will ever be any such directives. I can't expound on that. And the condition as drafted does not address, as I read it, the issue of the in-stream flow study and its, its preparation and funding, at least not specifically.

COUNCILMEMBER HOKAMA: Chairman, may I ask Mr. Moto a question, please?

CHAIR CARROLL: Proceed.

COUNCILMEMBER HOKAMA: Since he's making a comment on my suggestion. But isn't that the authority that would require an inflow stream initiative if this would be necessary? What if they don't agree with us, Mr. Moto? I mean, let's say, we put a condition that has the in-stream flow and they don't agree, I mean, for whatever reasons, through their document they don't agree, so there's a conflicting position by two different agencies. And as I understand Mr. Kane's point, State Statute is quite clear that we may not interfere with their administration of these waters.

MR. MOTO: Yes. Oh, certainly. The point I'm making is that it's the Commission that will make the final decision as to what is the appropriate in-stream flow standard, the permanent in-stream flow standard for those streams. To get to that decision the Commission requires research and study, which don't exist yet. And, and unless either, either the Commission initiates one itself or someone does it for them, there will probably never be such a study. But it is true, whatever study is produced it's ultimately the Commission will make the final decision.

COUNCILMEMBER HOKAMA: Thank you. I'm done. Thank you, Chair.

CHAIR CARROLL: Ms. Anderson?

COUNCILMEMBER ANDERSON: Thank you, Mr. Chair. And thank you for that, Mr. Moto, 'cause that's, that's the point entirely. The State does not have the money or the staffing to go forward with their mandate, and, and so there's nothing that prohibits us as a condition of zoning to request that the landowner who controls these streams fulfill the mandate of the State Water Code.

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As I read the condition, Mr. McNatt said he has no problem with the condition, and I, I appreciate that because that means they are true stewards and they really want to do the right thing for these stream waters. There is, I would say, a patchy history, some might say, you know, a torrid history for Honokohau Stream. Mr. Nishiki's office has a file very thick on problems with Honokohau Stream in the past. And those problems seem to have been taken care of with the cooperation of Kapalua Land Company and the County Water Department.

But if we truly . . . these are our streams, people, these streams don't belong to the State. You know, the streams are on our land in our island and they affect our people and our near-shore waters. So if we want to get in-stream standards established this is a, a perfect opportunity to do it. Mr. McNatt has said he has no problem with the condition, and I don't see it as overstepping our bounds in any way. It's just a directive to get the job done. If Mr. Moto has better language, I'd be happy to hear it.

CHAIR CARROLL: Mr. Moto, you have any further comment?

MR. MOTO: There are a couple choices, one is we just go with what's there now. So long as people, so long as there's, with the understanding as to what the intent of the measure is and how it would be interpreted. That's one choice available to the Committee, Mr. Chairman. Or if you'd like, we can spend some, I mean, you know, during a recess or some other time, work to revise it to be more specific in terms of paying for a study, for example, et cetera. We can do that, also. Really the choice is to the Committee. . .(inaudible). . .

COUNCILMEMBER ANDERSON: Well, I don't, I don't know that we want to--

COUNCILMEMBER KANE: Excuse me, point of order, Mr. Chair.

CHAIR CARROLL: Yes, Mr. Kane?

COUNCILMEMBER KANE: Yeah. Ms. Anderson doesn't have the floor and I would respectfully ask that we just contain this meeting. You had the floor. Mr. Moto was asked a question, and let's just back up and allow every Member equal opportunity to participate in this discussion.

COUNCILMEMBER ANDERSON: Point of order, Mr. Chairman.

CHAIR CARROLL: Yes, Ms. Anderson?

COUNCILMEMBER ANDERSON: Excuse me, Mr. Kane. Mr. Moto is answering a question of mine.

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COUNCILMEMBER KANE: Point of order, Mr. Chair. Let her talk to you, not me. And I'd like to call for a recess right now, if I may.

CHAIR CARROLL: Short recess, subject to recall of the Chair. . . .(gavel). . .

RECESS: 5:12 p.m.

RECONVENE: 5:13 p.m.

CHAIR CARROLL: . . .(gavel). . . December 7, 2005 is back in session. And as Mr. Kane said, I had asked the question of Mr. Kane, and I did have the floor. And we had several Members that indicated that they wished to speak.

COUNCILMEMBER ANDERSON: Excuse me, Mr. Chair. You're not going to let me respond to the, to the answer that Mr. Moto gave to my question?

CHAIR CARROLL: Ms. Anderson, if I get back to you in a few minutes, would it be all right? We have many Members on the floor, eight others of us, and there are other people that would like to have some comment at this time. And I promise we will get right back to you. All right, I saw Ms. --I don't know if the Members want to still speak -- Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Thank you, Mr. Chair. I'm just looking at this amendment and saying that the sentence doesn't make the sense. The first part of the sentence, the existing part already needs to be changed somehow, because it states that a stream restoration program shall be initiated. Well, that's assuming there's something wrong with the stream, and maybe there's no, not going to be an assumption, so the reference should really be to a study on the stream flow. And then, you know, it, it just doesn't fit together, I know it's kind of like chop-suey'd up and, and that sentence needs to be fixed. But it doesn't read well to me.

The other suggestion that I have is that if Members are available on December 12th, which is, I think, next week Monday at 1:30, Planning Committee is not meeting. If you would like that opportunity to recess the meeting to then and work on some of these other, this amendment and any other conditions that Members might have, it might be more productive than us trying to think, you know, off the top of our heads right now and, and figure out something for these conditions. So I, I just offer that as a, as a possibility, Mr. Chairman, if you or the Committee and the Committee would like to consider that.

CHAIR CARROLL: And we are going to lose quorum very shortly. Before we even go any further and I recognize the next person, is it possible to have the Members, are you able to attend on the 12th--

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COUNCILMEMBER MOLINA: Mr. Chairman?

CHAIR CARROLL: --on a recess? Mr. Molina?

COUNCILMEMBER MOLINA: I'd like to, for me I'd like to request a brief recess to check my schedule, but I would be open to recessing.

CHAIR CARROLL: Okay. I'll recess in just a moment. But first I'm going to get back to Ms. Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chairman. Mr. Moto, I appreciate your response to my question. And as it is, I think we found a solution offered by Maui Land and Pine. So if Ms. Nakata would maybe--

COUNCILMEMBER JOHNSON: Oh. She's gotta take that back from you.

COUNCILMEMBER ANDERSON: No. I'll just read it. This is a rewording of the same intent of, of the condition that I proposed. That Maui Land and Pine shall immediately petition the State Commission on Water Resource Management to establish in-stream flow standards for Honokohau and Honolua Streams in accordance with the State Water Code. Now I want to caution you, if they petition the State that doesn't mean that the data will be there or that they are going to go out and gather the data. As you all know, we've got a petition for the four streams on this side, and it's going to take some time to gather the data and we're paying for it, so, along with USGS. My condition originally puts the onus on them to initiate the study, the stream restoration program.

So is it, is it, is it the intention in this condition that, that Mr. McNatt brought forward that they will pay to have the studies done in order to do that? Okay. Well, I appreciate that, Mr. McNatt. He's nodding his head, yes. So I think that maybe if we changed it to say that Maui Land and Pine shall immediately petition the State -- and that, Members, is the formal process within the Code -- petition the State Commission on Water Resource Management to establish in-stream flow standards for Honokohau and Honolua Streams in accordance with the State Water Code. And then I would add, "Any data necessary to support the petition will be paid for by Maui Land and Pine."

CHAIR CARROLL: All right, Members. You can see the wording on the board, that has been projected on the wall. Any further comment? Mr. Hokama?

COUNCILMEMBER HOKAMA: Quickly, Chairman, as I'm getting very uncomfortable with how we doing this procedure. We're already here, already recognized a motion. We keep adding and subtracting without revising what is actually before this Committee. 'Cause only what is before this Committee is the original motion by Ms. Anderson. Everything else should not be considered to either we revise or make an amendment or

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redo the whole motion, Chairman. Because what she's just brought forward is not even under consideration officially by this body.

CHAIR CARROLL: Thank you, Mr. Hokama. In consideration of that, Ms. Anderson, would you--

COUNCILMEMBER ANDERSON: Thank you, Mr. Carroll. Yes.

CHAIR CARROLL: --like to move amend your motion to include the wording on the board if that is going to be our final wording that is projected?

COUNCILMEMBER ANDERSON: Yeah. I just, I just moved to strike the first wording and amend my amendment with the language that we just put up, that Maui Land and Pineapple Company, Inc. shall immediately petition the State Commission on Water Resource Management to establish in-stream flow standards for Honokohau and Honolua Streams in accordance with the State Water Code. Any data, any data necessary to support the petition will be paid for by Maui Land and Pineapple Company.

CHAIR CARROLL: Is there a second?

COUNCILMEMBER JOHNSON: Second.

CHAIR CARROLL: Okay. A motion to amend the motion. Further discussion. . .(inaudible). . .

COUNCILMEMBER ANDERSON: I think we chewed this over long enough, Mr. Chair. And the fact that this was brought forward by Maui Land and Pine I can't see anybody having a problem with it. And I do appreciate their cooperation. Thank you.

CHAIR CARROLL: Further discussion? Hearing none, all those in favor of the motion, signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR CARROLL: Opposed? Motion carried.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

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EXC.: None.

MOTION CARRIED.

ACTION: APPROVE Councilmember Anderson's revised amendment
(Condition No. 12).

CHAIR CARROLL: Back to the amendment to the main motion. Any further discussion?

COUNCILMEMBER MOLINA: Chairman?

CHAIR CARROLL: Mr. Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you very much, Mr. Chairman. First of all, I would like to state that I do support Member Tavares' suggestion of a possible recess till next week Monday. I do have one proposed amendment for condition No. 11, and I know it's getting close to that hour where some of us do have to leave and we'll lose quorum. I'm making references to the November 16th letter to or from Vice-Chairman Pontanilla--

CHAIR CARROLL: Mr. Molina, we're still haven't voted on this--

COUNCILMEMBER KANE: The amendment.

CHAIR CARROLL: --one on the board yet. We're still, we have yet. . .(inaudible). . .

COUNCILMEMBER MOLINA: Oh. Okay. I apologize, went a little bit ahead of myself.

COUNCILMEMBER ANDERSON: No, Mr. Chairman. We did vote on the amendment.

COUNCILMEMBER JOHNSON: We did vote.

COUNCILMEMBER ANDERSON: It's that she yielded--

COUNCILMEMBER JOHNSON: I yielded.

COUNCILMEMBER ANDERSON: --to me. She had Amendment No. 11 and she yielded to me.

CHAIR CARROLL: All right. It's really getting late.

COUNCILMEMBER HOKAMA: Chairman, short recess. And we can clear this up, Chairman.
Short recess.

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CHAIR CARROLL: Short recess. . . .(gavel). . .

RECESS: 5:21 p.m.

RECONVENE: 5:22 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use Committee meeting of December 7, 2005 is back in session, and there is a motion on the floor. We had amended Councilmember Anderson's main motion. It is on the board. Any further discussion on that? Hearing none, all in favor of the motion, signify by saying "aye".

COUNCIL MEMBERS: Aye.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVE Councilmember Anderson's amendment (as revised) to main motion (Condition No. 12).

CHAIR CARROLL: All right, Members, we have come to the point where we are going to lose quorum in seven minutes. People have prior commitments. We would like to recess so we can address this. We have not that much more to do, but we cannot do it today. Ms. Tavares has suggested that we could use the 12th.

COUNCILMEMBER TAVARES: Mr. Chairman--

CHAIR CARROLL: Ms. Tavares?

COUNCILMEMBER TAVARES: --1:30 on Monday, December 12th.

CHAIR CARROLL: Okay. Monday, September 12th, December 12th, excuse me.

COUNCILMEMBER TAVARES: December. Did I say "September"?

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CHAIR CARROLL: Yes. Mr. Kane?

COUNCILMEMBER TAVARES: Oh. I said "December". Okay.

COUNCILMEMBER KANE: If we can take your recommendation for a few minutes of recess, I think that Mr. Molina asked for, so we that we can check our schedule? I'd like to check my schedule as well.

CHAIR CARROLL: That's very good, I think that's entirely appropriate. I'm going to recess for five minutes and then we will reconvene. Five-minute recess.

COUNCILMEMBER KANE: Thank you.

CHAIR CARROLL: . . .(*gavel*). . .

RECESS: 5:24 p.m.

RECONVENE: 5:29 p.m.

CHAIR CARROLL: . . .(*gavel*). . . This Land Use Meeting of December 7, 2005 is now back in session. Members, I hope that all of us can attend, there's a problem with a few, but we have a Land Use Meeting on Monday, December 12th, at 9:00 a.m., and that is for Maui Lani, and then we will hear this one at 1:30. So I would like to recess this meeting until 1:30 p.m., December 12th, in these chambers. Any objection?

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: This meeting, Committee meeting, Land Use Committee meeting of December 7, 2005 stands in recess until 1:30 p.m., December 12th, in Chambers. Recessed. . . .(*gavel*). . .

RECESS: 5:30 p.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

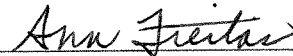
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Transcribed by: Ann Freitas

CERTIFICATE

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

DATED this 4th day of January, 2006, in Kahului, Hawaii



Ann Freitas