

HOUSING AND LAND USE COMMITTEE

Council of the County of Maui

MINUTES

March 11, 2026

Online Only via Teams

CONVENE: 9:03 a.m.

PRESENT: Councilmember Nohelani U‘u-Hodgins, Chair
Councilmember K. Kauanoë Batangan, Vice-Chair
Councilmember Tom Cook, Member
Councilmember Gabe Johnson, Member
Councilmember Alice L. Lee, Member
Councilmember Tamara Paltin, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member (In 9:05 a.m.)
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member

STAFF: James Krueger, Senior Legislative Analyst
Ellen McKinley, Legislative Analyst
Carla Nakata, Legislative Attorney
Jennifer Yamashita, Committee Secretary
Lei Dinneen, Council Services Assistant Clerk
Ryan Martins, Council Ambassador

Residency Area Office (RAO):

Keomailani Hirata, Council Aide, Molokai Residency Area Office
Roxanne Morita, Council Aide, Lāna‘i Residency Area Office
Mavis Oliveira, Council Aide, East Maui Residency Area Office
Chaelin Ryu, Council Aide, South Maui Residency Area Office

ADMIN.: Nāhulu Nunokawa, Deputy Corporation Counsel, Department of the Corporation
Counsel
Ana Lillis, Deputy Director, Department of Planning
Jordan Molina, Director, Department of Public Works
John Stufflebean, Director, Department of Water Supply

OTHERS: Resource Personnel
Rory Frampton, Planning Consultant, Rory Frampton Consulting, Inc.
Andrea Kaio, Applicant

Others (50)

PRESS: *Akakū: Maui Community Television, Inc.*

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CHAIR U‘U-HODGINS: . . .*(gavel)*. . . Good morning, everyone. Will the Housing, Land Use Committee of March 11, 2026, please come to order. It is 9:03 a.m. Thank you very much. I’m the Chair of this Committee, Nohelani U‘u-Hodgins. Members, in accordance with the Sunshine Law, please identify by name who, if anyone, is in the room, vehicle, or workspace with you today. Minors do not need to be identified. Let’s begin with Committee Vice-Chair Kauanoë Batangan. Good morning.

VICE-CHAIR BATANGAN: Aloha kakahiaka kākou.

CHAIR U‘U-HODGINS: Councilmember Tom Cook, good morning.

COUNCILMEMBER COOK: Aloha. Good morning.

CHAIR U‘U-HODGINS: Member Gabe Johnson, good morning.

COUNCILMEMBER JOHNSON: Good morning, Chair, Councilmembers, community members. There’s no testifiers at the Lāna‘i District Office, and I’m alone in my workspace here and ready to work. Thank you.

CHAIR U‘U-HODGINS: Thank you. Chair Lee, good morning.

COUNCILMEMBER LEE: Good morning, and kahee from the Indian Nation of the Crows in Montana. I’m here alone in my workspace, looking forward to your meeting. Thank you.

CHAIR U‘U-HODGINS: Thank you, Chair. Kahee. Councilmember Paltin, good morning and kahee.

COUNCILMEMBER PALTIN: Aloha kakahiaka and kahee kākou. Streaming live and direct from the Council Chambers.

CHAIR U‘U-HODGINS: I was waiting for that. Councilmember Rawlins-Fernandez will be joining us shortly. Councilmember Shane Sinenci, good morning and kahee.

COUNCILMEMBER SINENCI: Aloha, Chair, and kahee. No testifiers in Hāna.

CHAIR U‘U-HODGINS: Thank you. Councilmember Yuki Lei Sugimura, good morning and kahee.

COUNCILMEMBER SUGIMURA: Good morning and kahee. Looking forward to a productive meeting. Nice seeing you here, Rory. Talk to you soon.

CHAIR U‘U-HODGINS: I just saw Member Rawlins-Fernandez join, so I’m going to announce the people we have from Administration, give her a minute, and then I’ll recognize her shortly. From Administration, we should have Deputy Director Ana Lillis with us. I saw the Director of Water Supply, John Stufflebean, sign in. We have Deputy Corporation Counsel Nunokawa, and someone from Public Works, hopefully, maybe will join us. We have our HLU Committee Staff...and typically, their names were written down, but I

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guess we're just going to be HLU Committee Staff. Member Rawlins-Fernandez, are you with us?

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair. Aloha kakahiaka kākou. Mahalo for that minute to get settled in so that my mic is working, and I'll get my camera on in just a second.

CHAIR U'U-HODGINS: Sounds good.

COUNCILMEMBER RAWLINS-FERNANDEZ: I am currently at my private residence, alone today. Both kids went to the...to school, and there are currently no testifiers at the Molokai District Office. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you. I'm glad your daughter is feeling better.

COUNCILMEMBER RAWLINS-FERNANDEZ: Me too. Mahalo.

CHAIR U'U-HODGINS: Thank you. We also have Rory Frampton, the planning consultant, representing the Kaio 'ohana for today's agenda item. If there are no objections, I would like to designate Mr. Frampton as a resource person under Rule 18(A) of Rules of the Council because of the expertise he's [sic] possesses as a consultant working on this project.

COUNCILMEMBERS: No objections.

CHAIR U'U-HODGINS: Thank you.

COUNCILMEMBER LEE: No objections.

CHAIR U'U-HODGINS: Thank you. Please see the last page of the agenda for information on meeting connectivity.

ITEM 9: BILL 28 (2026), GRANTING APPROVAL TO ANDREA M. KAIO, AS TRUSTEE FOR SPECIFIED TRUSTS, TO CREATE ADDITIONAL LOTS ON PROPERTY IN THE AGRICULTURAL DISTRICT AT 201 HE'AHE'A PLACE, WAILUKU, HAWAI'I, TAX MAP KEY (2) 3-2-008:067 (HLU-9)

CHAIR U'U-HODGINS: Members, we have one item on the agenda today, which is Bill 28 (2026). This bill would grant Andrea M. Kaio as the trustee for two trusts to create additional lots at the 201 He'ahe'a--I hope I'm saying that right--He'ahe'a Place in Wailuku. Their property is in the Ag District and was previously subdivided into the maximum--maybe, I think? Is that the...was it the maximum? Okay--number of lots allowed under Code Section 19.30A.3...030. However, with Council's approval, the property can be further subdivided into more lots if the lots are for family members under the Code Subsection 19.30A.040(F). Mr. Frampton is here as a representative for the Kaio 'ohana, and has a brief presentation on...to...to share with us. And after his

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presentation, we're going to have some opening comments from Planning, and then we can take testimony and go into discussion. *(pause)*

MR. FRAMPTON: Good morning, Chair.

CHAIR U'U-HODGINS: Good morning.

MR. FRAMPTON: And thank you for having us here today. I'm Rory...excuse me...I'm Rory Frampton, a planning consultant for Andrea Kaio and Galvin Kaala Kaio and their trusts. And I thank you all for the opportunity to present this request to you. So, the...as the Chair mentioned, the...the purpose of the meeting is to request this Committee's recommendation for approval of a four-lot family subdivision pursuant to Section 19.30A.040(F), Maui County Code. And I'll get into what that section says in just a second here. The property is located in Waihe'e. It's near St. Ann's Church. It's actually off of a street called He'ahe'a. He'ahe'a Street [*sic*] was created as part of a seven-lot subdivision in 2007. And I'll go into that a little bit better. And you access He'ahe'a off of Kuhinia Street, which is a street that goes right past St. Ann's Church. So, from a regulatory background, as many of you may know, the agricultural ordinance in 1998 created a...what's called a sliding scale. Prior...prior to that, all parcels...there was no density control in the Ag District. The only des...density control was that there was a two-acre minimum lot size. So, if you had a...a 20-acre lot, you might be able to squeeze ten or maybe nine lots out of it. If you had a 300-acre lot, you could do like 150 lots. In 1998, when the plantations were selling off their properties, the Council said, you know, we'd better put some density controls on this, and they came up with the sliding scale. It had a dramatic impact on the density...the potential density for larger parcels, not as much for smaller parcels. But the number of lots is...is determined by a formula. And the bigger and bigger your lots get...the...the acreage gets, the fewer additional lots you get per increment of...of acres. That's why they call it the sliding scale. Anyways, it...so, it...it set the maximum number of lots that you could have from a parcel as of 1998. The lot...the...what...it was based on the lot size as of 1998. But there was a provision that they added when they created that sliding scale that said if the original lot has been subdivided into the maximum number of lots, additional lots may be created for family members as described in the subdivision code 18.20.280(B)(1) and (B)(2) with the approval of the Council. So...so, they said, hey, we recognize that we might want to give...there might be opportunities to provide family members with additional lots, but we want to come and review it on a case-by-case basis. And they wanted...the Council back then wanted the...any such request to come before this body. So, that's why we're here today. The...those two paragraphs in the subdivision code that we need to call...you need to meet is number one, the applicant must be an owner of real property who is a parent who intends to transfer property to a spouse or child, and that's where we are in this case. The other condition, number 2, is that the transfer of the lots shall be immediate and shall be limited to the following persons who are related to the applicant by blood, adoption, or marriage, and that includes children. So, the intended transfer shall be designated by the...oh, transferee, so the recipient shall be designated by the applicant at the time of the application for subdivision, and the proof of the relationship shall be required by the Director. So, that...that just means that you have to have a qualified family member, and when you do your final subdivision, the lots get immediately transferred to the...to these...to those family

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members. So, the Na Mala O Waihe'e Subdivision, in June...that was finalized in June 2007, the original lot was 26 acres. So, that...that was the original lot that occurred in 1998, and based on that, there was a...maximum number of lots was seven, with a two-acre minimum lot size. So, they developed it like...like this. They did six two-acre lots, and they put the remaining acreage into lot seven, which is about a 12-acre parcel. But this is...this...so this maxed out the...the ag lot allocation, so you couldn't go any further than this. The Kaio's--and we'll get into a little bit about their family background--they had an opportunity to purchase this lot, and they're...they'd like to try to subdivide lot seven, which again is 12 acres, into a total of four lots, so three additional lots beyond what they could do right now. Just in terms of some...where the property's located, again, it's...He'ahe'a is off of Kuhinia. He'ahe'a was created for this subdivision, and it has, you know, up-to-date utilities and waterlines and, you know, underground utilities. The subject parcel cons...there's a lot of macadamia nut trees on it, and it's still being farmed for macadamia nuts. This is looking down Kuhinia, and to the right is He'ahe'a Place, that's the intersection that they created off of Kuhinia. And this is looking south from the intersection of Kuhinia, down He'ahe'a Place, so down the...it's basically a typical ag subdivision access road. This is still looking south at the cul-de-sac at the end of He'ahe'a, and the property is to the left, 201 He'ahe'a. This is in the cul-de-sac looking across He'ahe'a, and then this is from the cul-de-sac looking back towards Kuhinia. The proposed project would be a...a four-lot subdivision with access and utilities off of He'ahe'a, and we're exploring the opportunity to get access off of Kahekili Highway. There is an existing easement. So, this is what we're representing to the Council, although I...I need to clarify that these lot lines...we're still tinkering with the lot lines and the access ways. So, conceptually, this is very close to what we're doing, although the lot lines and access points will be adjusted slightly. Okay. So, the...the purpose and need is really to provide housing opportunities for the Kaio's three children, and obviously, the need is exac...exacerbated by Maui's high hous...housing costs. Andrea and Kaala have three girls, Anuheha, Jenna (*phonetic*), and Lihau. They're all teachers, by the way, and...and Andrea has been a teacher now for over 30 years on Maui. So, we have a family of teachers here, which is kind of nice. My mom was a teacher, so it's close to my heart. But I wanted to provide an opportunity for Andrea just to come down and just to talk a little bit about the...their family's intentions and their...and their background a little bit...a little bit more than...and better than I could. Andrea? (*pause*)

MS. KAIO: Is this on?

MR. FRAMPTON: Yeah.

MS. KAIO: So, good morning. Thank you for having us. So, my name is Andrea. My husband, Kaala, is up here, and my daughter, Lihau, and Gina Kaala, and my other daughter, Anuheha, in...she's online right now watching, but she's in Texas. And we came into possession of this property through a settlement from his stroke in 2018, which was devastating for our family. We've always been a super close family. And so, because of that, he wasn't able to walk upstairs. We were living in a two-story house, and we couldn't live up there anymore, so we had to move into our little studio rental down below, and we were hoping to move into someplace that would be more accessible for him. So, when we were looking for a property, we came across this macadamia nut

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farm, and my daughter, Lihau, actually was the one who said we should look for a place where we can have a family compound where we can all live together. And that got me really excited that my...all my daughters want to be with us still and support their dad, which doesn't surprise me, but that's the way they've always been. And so, we were able to purchase the property, but now we've actually just built...just moved in. A couple weeks ago, my youngest daughter, she's with us. She's been caregiving for her dad, helping me for the last five years. And...but it's just us. It's just her and her two daughters and me on the property, and we'd love to be able to get Lihau and her husband up there, so there's a man there with us, and also my other daughter, bring her home from the...the mainland, and...and then we've got grandchildren. We've got eight grandchildren, so real...this is his legacy to pass down to his daughters so that they can indeed stay on Maui and raise their kids and grandkids here. Yeah.

CHAIR U'U-HODGINS: Thank you very much. Rory, do you have anything else to complete?

MR. FRAMPTON: Yes, Chair. Just --

CHAIR U'U-HODGINS: Okay.

MR. FRAMPTON: -- one more slide, I think. So, just to...to sum up the rationale and support, this is allowed for by the County's ordinance, and it's...it's consistent with the intent and purpose, which is to allow additional ag lots for family members. It's compatible with existing uses in the area, the other ag lots, as well as residential uses nearby. It's a relatively small project with minimal impacts to the surrounding area, and we're basically talking about addition of three...three lots, and the infrastructure is readily available from He'ahe'a Place. The next steps, once we get, hopefully, Council approval, we would go through the regular subdivision process. Right now, we couldn't apply because they would say, hey, you...you don't have any lots available. You've maxed out your lots. So, once we have this ordinance, we can go make preliminary subdivision app...application, and we will go through the typical Title 8...Title 18 subdivision process and requirements. So, we won't be asking for any waivers of fees or any of that stuff. We'll have to comply with all the requirements. So, that concludes my presentation, Chair. Thank you very much.

CHAIR U'U-HODGINS: Thank you. We will go into testimony now, and then start discussion. Do we have any testifiers wanting to testify?

MS. MCKINLEY: Chair, no one has signed up to testify. We can do a last call.

CHAIR U'U-HODGINS: Sure, please. Thank you.

MS. MCKINLEY: If anyone would like to testify, please come up to the podium or raise your hand on Teams. The countdown is three...two...one. Seeing no one. Chair, no one has indicated they would like to testify.

CHAIR U'U-HODGINS: Thank you. Members, seeing there are no individuals wishing to testify, without objection, I will now close oral testimony.

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COUNCILMEMBERS: No objections.

CHAIR U‘U-HODGINS: Thank you. As...

COUNCILMEMBER LEE: No objections.

CHAIR U‘U-HODGINS: Thank you.

. . . CLOSE PUBLIC TESTIMONY . . .

CHAIR U‘U-HODGINS: As a reminder, written testimony will continue to be accepted. So, let’s begin discussion, Members. We will limit our discussion to three minutes each. And if you have a question, please raise your hand. We do have Jordan Molina, Ana Lillis, and Director of Water. But actually, before we begin discussion, if I...I forgot to actually ask Ana to provide us with some opening comments. But let’s do that now, and then we can go into discussion so we can hear Planning’s thoughts. Thank you, Deputy Director Lillis.

MS. LILLIS: Thank you, Chair. Good morning, Councilmembers and distinguished OCS Staff as well. I’m here representing the Department for this project. It’s a more unusual project than we normally see. This isn’t a Code section that’s used often. This is processed as a conditional permit, but is not a conditional permit, which was definitely an interesting for our MAPPS permitting process to get through. So, that’s why you’ll see CP at the start of this application. But this is just for processing purposes only. This is not a conditional purpose...or conditional permit. Other than that, we did have...we did receive your correspondence asking a few questions. And Chair, at the appropriate time, I can read off our responses. But it’s making its way through the Mayor’s Office now. So, that’s my opening comments.

CHAIR U‘U-HODGINS: Thank you. Members, do you want to hear their responses? Okay. Do you mind sharing that now?

MS. LILLIS: You got it.

CHAIR U‘U-HODGINS: Thank you.

MS. LILLIS: One second. Let me pull up my screen here. Okay. Great. And we did include an exhibit on this because your first question that I’ll read is the Department’s report and recommendation to the Maui Planning Commission on this application to subdivide the property contains two versions of page 7. One designates the property as important agricultural lands, while the other version does not. Which version of page 7 is correct? The...our response is, the correct language on page 7 is that the subject property is not designated as important agricultural lands, or IAL, as shown in the attached Statewide important agricultural lands map. This TMK is not within the adopted IAL designation area, and we included that exhibit. So, not IAL lands. So, sorry about that administrative error there. Any question? Or...okay. I can move on to the second question. Several County departments provided comments on the application. For

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example, the Department of Public...the Department of Water Supply recommended best management practices to conserve water for future development. And the Department of Parks and Recreation requested the developer to provide a cash contribution to satisfy parks dedication requirements. Should any comments from the departments be included as conditions of Bill 28? Our response is no. Departmental comments, including those from the Departments of Water Supply and Parks and Recreation are implemented through existing Code requirements and subsequent subdivision and permit processing. The proposed bill requires compliance with all applicable government requirements. Therefore, separate inclusion of those comments as conditions in Bill 28 is not necessary. And finally, for your third question, on page 11 of the Department's report, the Department recommended the commission recommend approval of the application to Council with four conditions. Based on July 8th, 2025 meeting minutes, the Maui Planning Commission approved the first and third conditions. However, the third condition, to require the applicant to develop the property in substantial compliance with the representations made to Council in obtaining the project's approval, is not included in Bill 28. Should this condition be incorporated? Yes, the condition 3 should be incorporated into Bill 28 to align with the Maui Planning Commission's report and recommendations. So, thank you for letting me be a little bit long-winded there, but those are our answers.

CHAIR U'U-HODGINS: Thank you, Deputy Director. Members...Kauanoë, you want...let's begin discussion.

VICE-CHAIR BATANGAN: Oh, I had a question for the --

CHAIR U'U-HODGINS: Oh, okay.

VICE-CHAIR BATANGAN: -- Administration.

CHAIR U'U-HODGINS: Okay. Great. Well, let's begin discussion by having a question for Administration.

VICE-CHAIR BATANGAN: Thank you, Ms. Lillis, for being here with us. Can you...was there an explanation for why the commission's recommendations were not included in the report...or in the bill that was submitted to Council?

MS. LILLIS: I think that we are...there...there...no, it should have been included, and we are working on tightening that up.

COUNCILMEMBER PALTIN: Oh.

CHAIR U'U-HODGINS: Member Paltin?

COUNCILMEMBER PALTIN: We...we kind of, when we were in PSLU/HLU, were saying that if it's a recommendation, it's a recommendation. And Planning Department has limited Staff, and so we're not sure if the Council is going to take the recommendation or not. So, why have them rewrite a whole bill incorporating the recommendation if we're not sure that the Council is going to incorporate it? So, sometimes there's the deadline of

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coming back to us fast. So, we were of the understanding, like in all our dealings with the Planning Department, that they send it over as a recommendation. And then if the Council wants to incorporate the recommendation, we, with the legislative expertise, would do it because we know that the Planning Department is short-staffed, vacancies, and on a timeline.

CHAIR U‘U-HODGINS: Thank you, Member Paltin. Does that answer your question?

VICE-CHAIR BATANGAN: Yes. Okay. So, are we in our rounds of deliberation?

CHAIR U‘U-HODGINS: Yeah.

VICE-CHAIR BATANGAN: Oh, okay. So, then I have a question for the Administration.

CHAIR U‘U-HODGINS: Yeah.

VICE-CHAIR BATANGAN: I guess I’ll start off by saying that, you know, I support the application. As somebody who moved home from the mainland to be with family, this really resonates with me. And I agree that the proposal before us is consistent with the intent and purpose of the Code. But I do have one question. I don’t know if this is for Mr. Frampton or Corporation Counsel, but it has to do with the section of the Code that allows for the additional subdivision. So, it’s...I read on the screen that it could be for a parent to transfer property to a child. Since the owner of the property is a trust, does that constitute a parent?

MR. NUNOKAWA: That is a good question. So, this section is interesting, in that it is a section in 19.30A that refers to a number of other sections. And so, it is not clearly definitive on what some of these things mean. I...I think that interpretation of that can be done by this body.

VICE-CHAIR BATANGAN: Thank you, Chair. That was my only question.

CHAIR U‘U-HODGINS: I appreciate that question. I will say the fact that it is a trust actually gives me a bit more confidence, in that it will continue to be as it’s shown today because it is a family trust. And so, with the trust, I know...you know, the language is different, but with the trust, there’s parameters in which most trusts can operate, as I have...we have a family trust, and we’re not allowed to operate outside of that trust regardless of whatever the law may give us power to do, our trust limits us in what we can do. So, the...I...that’s a good question. But the fact that it is a trust, I think for me, only aids in my support. Anybody else have any other questions? Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. One quick one. So, the Parks’ fee that is required to be paid, does somebody here from Parks? Oh, yeah. So, it sounds substantial to me, \$27,000, and...and why do...why do they have to pay?

CHAIR U‘U-HODGINS: Maybe Rory can answer that question.

MR. FRAMPTON: Chair...

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CHAIR U‘U-HODGINS: Wait, can you turn on your mic? Sorry. Thank you. For the Members online.

MR. FRAMPTON: Thank you, Chair. It’s a requirement of the subdivision process, and the fees are determined on a...by a community plan basis, and it changes every year a little bit. But they give you an exemption for the first three lots, but because this subdivision has already occurred, and they’ve already utilized those three, they’re subject to the Parks fee.

COUNCILMEMBER SUGIMURA: So, are we required to impose that, or do we have...oh, is it a legal question? Or do you know the answer?

MR. FRAMPTON: Well, I’m sorry, Chair, but --

CHAIR U‘U-HODGINS: Please.

MR. FRAMPTON: -- if...is the question, do you have the ability to waive that fee?

COUNCILMEMBER SUGIMURA: Waive it. It’s a lot. I mean, it looks like it’s a big park anyway because there’s so much land. It’s not like a tiny little, you know, subdivision with many homes that’s going to need a park in the middle or...but I don’t live there, or they might have a...a different opinion.

MR. FRAMPTON: That’s a good question that...I know...the only way I know that you could waive the ordinance is through a variance process, but I don’t know if they...if through this ordinance, they could supersede the...the requirements to pay the park fee, unless...Corp. Counsel, Chair?

CHAIR U‘U-HODGINS: Yes, please. Thank you.

MR. NUNOKAWA: I would have to look into that more. I’m not sure at this time. I...but you’re looking to process this as a regular subdivision, right? Yeah, I’d...I’d have to look more. I can’t think of anything off the top of my head, but let me research that and get back to you.

COUNCILMEMBER SUGIMURA: So, are you going to get back to us now, or is it at first reading?

MR. NUNOKAWA: If I can connect to Internet.

MR. FRAMPTON: Right now.

UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

UNIDENTIFIED SPEAKER: You have an hour, Nāhulu. No, we’re just joking.

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COUNCILMEMBER SUGIMURA: Okay. I guess the other fee I think I saw was the...is it to DOE? There's another one, right, DOE?

CHAIR U'U-HODGINS: I believe they canceled that, though, didn't they, last session? There's no longer school fees being assessed.

MR. FRAMPTON: That's my understanding, is that the school fees are on their way out. Because Wailuku was one of the few places on the island that actually had fees, and apparently they weren't spending the fees. So, we're hoping that by the time we come up for building permit, is I think when they assess it, that that fee program will be gone.

COUNCILMEMBER SUGIMURA: So, can...because it's...I think the Legislature was trying to...what...what I read is that they're trying to support projects to be...to come forward and to move forward without having additional fees, which adds then to the cost of housing. So, do we need to add something in this once we approve so that when that does happen, we can say to waive those fees . . .*(timer sounds)*. . . and in compliance with what was happening at the Legislature, or you think it's not necessary?

MR. FRAMPTON: Chair, my --

CHAIR U'U-HODGINS: Go ahead.

MR. FRAMPTON: -- understanding is that the...it would...it would be basically automatic, and it would apply to everybody.

COUNCILMEMBER SUGIMURA: Okay.

MR. FRAMPTON: Yeah.

COUNCILMEMBER SUGIMURA: It's automatic.

MR. FRAMPTON: Yeah.

COUNCILMEMBER SUGIMURA: That's all. Thank you.

CHAIR U'U-HODGINS: Thank you. Good question. Member Paltin, do you have any questions?

COUNCILMEMBER PALTIN: Oh, yes.

CHAIR U'U-HODGINS: Oh, yes.

COUNCILMEMBER PALTIN: I wanted to start off with that I'm supportive because I don't want my questions to like make people worried or anything. I'm supportive. My first quest...it's just because we don't do this all the time.

CHAIR U'U-HODGINS: For sure.

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COUNCILMEMBER PALTIN: My first question, I guess, would be for Direc...Deputy Lillis on recommendation number 2. So, that wasn't recommended by the Planning Commission approval, approve...nontransferable unless Council approves transfer by ordinance. Did the Planning Commission not want to include that? And what...what does that mean?

MS. LILLIS: Sorry about that. Yes, thank you. So, unfortunately, I was not in attendance at this Maui Planning Commission meeting. But, you know, I...I trust that our Staff recorded what the Maui Planning Commission's recommendations were. And so, they chose not to incorporate that. That doesn't mean that Council can't incorporate that, but they...

COUNCILMEMBER PALTIN: I mean what does it mean if the Council would want to incorporate it? Like the approval to make a subdivision is not transferable. Like if they were to sell the whole property, it would be sold as one lot instead of four lots? Like I don't...I don't understand what the recommendation was for us to accept it or reject it. The other question I had is, was there a reason the lots are different sizes, like 2 acres, 3.947, 4.21, 2.776? And then would they want to make two of them four acres so in the future like grandkids could subdivide? Or what...was there a reason that the acreage was divided...subdivided in that way?

MS. LILLIS: I'd have to defer to the applicant on the acreages selected.

COUNCILMEMBER PALTIN: Oh, yeah. I was...I was wait...waiting...letting you figure out the answer to the first question while I asked Mr. Frampton the second question.

MS. LILLIS: Okay. Thank you, Councilmember.

MR. FRAMPTON: Thank you for that question. No, we've been kind of playing around with the lines. We've gone through a couple iterations. It largely has to do with providing access.

COUNCILMEMBER PALTIN: Okay. And then number 3, condition number 3 that created for family members, what...does this mean that it can never be sold outside the family? I mean, I...I love that idea that this family will always have this place over here...and with eight grandkids, I...I imagine there'd always be, hopefully.

MR. FRAMPTON: My understanding is that applies to the...the transfer at the time of final subdivision. So, those...those two sections of the subdivision ordinance requires--and that's what I referred to earlier--is that it requires that the lots be transferred to the family members at the time of final . . .(timer sounds). . . subdivision.

COUNCILMEMBER PALTIN: Okay. I think I asked the same question when they came before us to go to the Planning Commission, what's to stop once they get this transfer sale on the open market, and I think they said that wasn't their intention. But I...I'd like to memorialize it beyond just the final subdivision, that that wasn't their intention.

MR. FRAMPTON: That...that's certainly a good question, and...and you're correct, that's definitely not their intention. And in fact, they're talking about maybe doing an internal

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family agreement amongst themselves. But, you know, we met with Council Chair Lee's office, and we met with you...because this...this process had never been done before. And then we met with Councilmember Kama. And after meeting with you, we talked to her about those conditions, and she said, do not put any conditions on these that are established in the Code and the ordinance because you never know what's going to happen three generations, four generations from now. So, we've...we followed her advice. I...I've recommended to them to try not to have anything in the ordinance that limits it, but they certainly want to abide by that. And their...all intents are...is that it would be in their family forever. That's their intent. But, you know, you never know what's going to happen, again, three generations, four generations. So, we certainly appreciate your question and...and concur with your sentiments, but would rather not have any conditions attached to it that would limit the sales.

COUNCILMEMBER PALTIN: I heard the bell.

CHAIR U'U-HODGINS: Thank you. Let me remove this from my screen. Members online, do you folks have any questions? Member Rawlins-Fernandez, Member Johnson, Chair Lee. Okay. We'll go with Chair Lee, and then Member Johnson.

COUNCILMEMBER LEE: Thank you. I support this project, and I also support the idea of not having special conditions that are not necessary because it might affect their ability to get financing or anything like that. And, you know, I think this is a good local family with good intentions, and...and we are...should honor that. I...I just wondered, Rory, did the State have any kind of requirements as a result of possible impacts to Kahekili?

MR. FRAMPTON: If we do access Kahekili, it'll just be a driveway similar to the several other driveways right along that stretch of highway, and we would have to follow their driveway standards and improve the apron. But my understanding with this level of traffic just being one home, or possibly two, that there wouldn't be concerns regarding impacts to the highway. We will have to go through them. We will have to go to the Highways Division to get a driveway permit approval if we do have the official access coming off of that highway. There is a driveway --

COUNCILMEMBER LEE: Okay. So...

MR. FRAMPTON: -- there is a driveway there right now.

COUNCILMEMBER LEE: Okay. So, the location, if you're going toward Waihe'e, is it directly across the Caldito Park, or is it before you get to the park, on the mauka side?

MR. FRAMPTON: It's...it's a little before you get to the park on the mauka side, right next to the first residence. So, there's a...there's a --

COUNCILMEMBER LEE: Oh, okay.

MR. FRAMPTON: -- there's a bunch of single-family homes that...that start from before the park, and then runs all the way through the park and to...to that road that goes up to

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St. Ann's Church. So, there's a...there's like a line of residential properties, and this...this driveway would be right next to the...the one closest to Wailuku.

COUNCILMEMBER LEE: I think that's good. Because I go to Waiehu Golf Course every Friday and...I mean, Saturday and Sunday, and so I'm very familiar with that area. And sometimes people use that road as the Indianapolis 500. So, I think that, you know, having additional homes in that area will actually slow traffic down, and I think that's a great idea. Okay. Thank you.

MR. FRAMPTON: Thank you.

CHAIR U'U-HODGINS: Thanks, Chair. Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. This question's going to be for Deputy Director Lillis. In her opening presentation or opening remarks, she...you mentioned that this is a kind of unusual process, don't really do this very often, and it's very curious to me, but you...the way you described it, you said it was processed like a conditional permit, but it's not a conditional permit. Okay. That's...maybe you could explain that a little bit more first off. What does that actually mean?

MS. LILLIS: Sure thing. This approval is really quite narrow to just the approval of more lots than what the Code would normally allow. That's all this is. Typically, when we look at a conditional permit that is for uses and on properties that the use would not normally be allowable, there's --

COUNCILMEMBER JOHNSON: Right.

MS. LILLIS: -- an expiration, there's other --

COUNCILMEMBER JOHNSON: Yeah.

MS. LILLIS: -- factors that go into it, and so this is really narrow, just wanting to clarify that this is just for an approval of additional lots.

COUNCILMEMBER JOHNSON: Okay. My follow-up question to that is, is there an administrative fee attached to this that we're...that we're doing for this family?

MS. LILLIS: I believe so. I believe that we did charge a fee, and I can check what that numb...amount was in MAPPS.

COUNCILMEMBER JOHNSON: Okay. So, that's my only question. I'm just curious if...how much it was, and you...if you can get back to me, and those are the end of my questions.

CHAIR U'U-HODGINS: Thank you, Member Johnson. Member Rawlins-Fernandez, did you have any questions?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Mahalo, Chair.

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CHAIR U‘U-HODGINS: Of course.

COUNCILMEMBER RAWLINS-FERNANDEZ: I drive this. I drive Kahekili all the time. That’s where I stay. So, thankfully, you cannot drive that highway like --

UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

COUONCILMEMBER RAWLINS-FERNANDEZ: -- Indianapolis 500 anymore because of the speed bumps every 100 yards.

COUNCILMEMBER LEE: They still do.

UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Not really, but anyway. So, I...I wanted to follow up on Member Paltin’s question. I’m trying to...I’m trying to understand if...so I...I understand all the intentions, and I’m supportive of this, and I think we’re all supportive of this because it’s a family, and it’s a family trust, and it’s not like a private equity firm or LLC, corporation doing this. And so, my question is, like if it was sold to an LLC, and individual owners wanted to own each of the houses on...on the multiple lots on this 12-acre parcel, could...could that happen? Deputy Director Lillis?

MS. LILLIS: Thank you for the question. So, I’m going to answer your question, but I will...going to go slightly backwards and also --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MS. LILLIS: -- address Councilmember --

COUNCILMEMBER RAWLINS-FERNANDEZ: Please.

MS. LILLIS: -- Paltin’s question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MS. LILLIS: So, it does appear, according to the record, that the Staff planner that took this to commission inherited this report from another Staff planner that’s no longer with the Department. But it did...it does appear, though, when the nontransferability condition was brought up, that Corporation Counsel that staffs the Maui Planning Commission had legal concerns over Council’s ability to adopt that recommendation as part of this application. So, I think I misspoke in terms of my first statement to Councilmember Paltin saying that, you know, Council could adopt this. It does appear as though Corporation Counsel does have some legal concerns. I...I shouldn’t speak to what those are about the nontransferability aspect as part of this application. But for your question, that kind of has those greater implications of, if this was transferred to an LLC, what does that mean for this approval? And it does appear as though if there are concerns from Corporation Counsel on the Council’s ability to not limit

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not...transferability, that it does appear as though that that would be possible. But I would want Corporation Counsel to speak more to that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes, please. I'd like that too. Corporation Counsel?

MR. NUNOKAWA: Hello. Yes. So, I'm not exactly sure about the concerns that Director Lillis...Deputy Director Lillis is speaking about. I think that might have been Mike who was at Planning Commission. But if I were to venture a guess, I think that it would be related to transferability of title after the property was subdivided. I think that if the transferability was limited to the permission to subdivide for family members, that's something that could be added. But transferability of this...this lots when subdivided, I also would have concerns on the...the limits of our authority without having some sort of tie from the County to the property, either through funding or the other normal ...*(timer sounds)*... ways that the government is able to put impediment...conditions and impediments on properties.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm going to have to marinate on that a little bit. ...*(laughing)*...

CHAIR U'U-HODGINS: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Or maybe if it could be said in a...in another way again, one more time for me, hana hou, same song. Or if Deputy Nunokawa, you want to like take a moment? I don't...I...I don't know if it was just me, I just...it was a lot of words.

MR. NUNOKAWA: So, sure, I'll...I'll try to rephrase. So, normally, for restrictions on transferability placed by the government, it is related to some sort of governmental interest, usually like fi...a financial interest where the government has funds tied to the property, which is how they are able to put on restrictions of tran...on the transferability of that property. In this case, it's...it's not clear where that authority would come from. And so, I would be concerned with putting such a condition on the sub...the property when subdivided.

COUNCILMEMBER RAWLINS-FERNANDEZ: I got it. Okay. So, then in my hypothetical, the...the answer would be yes, that a corporation could hypothetically buy it and then sell each lot because we wouldn't be able to put that condition on it, you're saying, because there's no financial interest or government interest?

CHAIR U'U-HODGINS: If I can, Nāhulu, real quick.

COUNCILMEMBER RAWLINS-FERNANDEZ: Go ahead, Chair.

CHAIR U'U-HODGINS: Thank you. So, the reason why this extra subdivision is allowed, because it is being transferred amongst family. And so, the subdivision needs to be completed amongst the family. So, until such time, it could not be sold to a nonfamily member. I think in your hypothetical, if I'm understanding you correctly,

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post-subdivision, you know, without family, is that your concern, yeah?
Post-subdivision.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, correct.

CHAIR U‘U-HODGINS: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: After everything is built out.

CHAIR U‘U-HODGINS: Yeah. Yeah, I hear you.

MS. LILLIS: Chair, if I may?

CHAIR U‘U-HODGINS: Uh-huh.

MS. LILLIS: It does...appears, though, Public Works might have a comment.

CHAIR U‘U-HODGINS: Oh, great. Do we have Director Molina on with us? Aloha.

MR. MOLINA: Hi. Good morning, Chair.

CHAIR U‘U-HODGINS: Good morning.

MR. MOLINA: Hi. I’m Jordan Molina, Director with Public Works. Just...I guess, not necessarily within the purview of Public Works, but I mean, the intent of the family subdivision is to accommodate that fam...you know, the...the transfer within the family for estate matters. When it comes to the heirs and what they do with their inheritance is really what you guys are contemplating. And I mean, just speaking from my personal experience, you just don’t know how family matters shake out. And to encumber or burden the heirs with matters that are out of their control, I don’t think is necessarily the intent of the subdivision provision. Thank you.

CHAIR U‘U-HODGINS: Thank you, Director Molina.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, I...I did hear the timer.

CHAIR U‘U-HODGINS: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: But basically, what I’m understanding is...you know, like I...I understand the family’s intention and everything. But we don’t have a crystal ball. We don’t...you know, like years from now. And ba...basically, you know, we’re...we’re...I hear support for, you know, like the intention of what the family is saying. Post-total build-out, and then what happens later is, if it were to be sold to a private entity, and then the lots all are, you know, individually owned by private entities not associated with the family trust, there isn’t really any way to stop that. And therefore, it would circumvent the intention of the...of the law. Yeah. Okay.

CHAIR U‘U-HODGINS: Okay.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay.

CHAIR U‘U-HODGINS: I hear you.

COUNCILMEMBER RAWLINS-FERNANDEZ: All right.

CHAIR U‘U-HODGINS: Thank you, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: And then...oh. And then, Chair...Chair Lee...Chair Lee, I get it. You...you turn off to go to golf course, so you don't hit all the...the speed bumps like past the golf course, like I do.

CHAIR U‘U-HODGINS: Oh, you're muted, Chair. But she's agreeing with you.

UNIDENTIFIED SPEAKERS: . . .*(laughing)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: I see her agreeing with me.

COUNCILMEMBER LEE: No, but may I respond? May I respond? I've been traveling that road --

CHAIR U‘U-HODGINS: Member Sinenci had his hand up --

COUNCILMEMBER LEE: -- since before you were born.

CHAIR U‘U-HODGINS: -- before I called, and then I'll go from him to you. Thank you. Member Sinenci, you had your hand up earlier.

COUNCILMEMBER SINENCI: Thank you, Chair. I just had some clarifying questions for Mr. Frampton. So, it looks like lot seven was part of the larger Na Mala O Waihe'e subdivision. And it...and it looks --

MR. FRAMPTON: That's correct. Yeah.

COUNCILMEMBER SINENCI: -- and it looks like it's much larger than all the other ones. Was this...like this wasn't designated as the park or...or part of that subdivision?

MR. FRAMPTON: No. Thank you, Councilmember. This was a strategy by the developer. I've seen it before, where they try to do as many small lots as possible so that the infrastructure and the road can be as short as possible. And if you notice, the large lot is at the end. If they were to make...if they were to make all the lots of equal size, it would have been larger average lot width, and the road would have had to have been longer. And so, I think it was really just financial concerns and efficiency concerns. And I...like I said, I've seen other ag subdivisions do similar things, where they try to concentrate all the two-acre lots as much as they can together, and then have the...the remaining acreage in one large lot.

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COUNCILMEMBER SINENCI: But...okay. But there's no recommendation to do a...a park if they're subdividing? Or...

MR. FRAMPTON: No, there was no...this went through the standard subdivision process. It didn't go through Council or any kind of --

COUNCILMEMBER SINENCI: Oh, okay.

MR. FRAMPTON: -- or planning commission or anything where they could have added stuff to it. And in terms of the parks requirement, they just paid the parks fees.

COUNCILMEMBER SINENCI: Okay. And then the proposal just looks like it's dividing up the...the lot four into four equal, or near equal lots, yeah?

MR. FRAMPTON: That's the idea, yes.

COUNCILMEMBER SINENCI: Okay.

MR. FRAMPTON: Lot seven. Sorry for the --

COUNCILMEMBER SINENCI: Lot seven, yeah.

MR. FRAMPTON: -- clarification, but lot seven would be...

COUNCILMEMBER SINENCI: A, B, C, and D. Yeah.

MR. FRAMPTON: Yeah. And it'll be four lots, it won't be more than that, it won't be less, and like I said earlier, we're just kind of doing the final configuration of the lines.

COUNCILMEMBER SINENCI: Okay.

MR. FRAMPTON: Yeah.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

CHAIR U'U-HODGINS: Of course, Member Sinenci.

MR. FRAMPTON: Thank you.

CHAIR U'U-HODGINS: Member Cook?

COUNCILMEMBER COOK: Thank you, Chair. Thank you for the presentation. It's refreshing to see a family who's doing this type of planning and has this opportunity to stay together and take care of their family, so I'm very supportive of it. Also, I feel that the discussion about...it...it doesn't seem like it would be sold in any other way in the future, except individually [*sic*] lots. Once they are subdivided and it's directly transferred to a family member, then that family member owns it. In the event that whenever down the road, another generation, that particular family member decided to sell to a family

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member or not, it wouldn't affect any of the other lots; is that correct? It's...so, it's four lots...then it's going to be four single lots, they're all family, and then this...the determination of what happens, the family trust helps. So, I just wanted to clarify that. Under no circumstances could this be flipped or changed; is that correct?

MR. FRAMPTON: Yes, Councilmember, that would...at the time of final subdivision, it would go to each of the three daughters, the three heirs, if you will, and in the future, it would be up to them individually to...to determine how that lot is going to be handled or...or developed or --

COUNCILMEMBER COOK: It would either be a...

MR. FRAMPTON: -- farmed or whatever. But it...it's an individual decision, it's not...they're not all tied together.

COUNCILMEMBER COOK: Yeah, so it would be to that child who has it, or their children or their grandchildren.

MR. FRAMPTON: Yes.

COUNCILMEMBER COOK: Thank you.

MR. FRAMPTON: Yeah.

COUNCILMEMBER COOK: I have a question for Deputy Director.

CHAIR U'U-HODGINS: Deputy Director Lillis? Thank you.

COUNCILMEMBER COOK: Thank you for bringing your expertise. I have a question...why isn't this done more often? It seems like there's a lot of local families who have property, and...I guess my question is this. Upcountry, I know a lot of local families have discussed over the years who really want to subdivide their property and have their fam...their kids have it before they pass away. I think possibly the water issue has been an impediment to that. Could you clarify, could this be used so that they could get...elim...they can get title, whatever? That's my question. I don't want to confuse it myself more.

MS. LILLIS: I'll answer the first part of that, and we can talk about water separately. And I do understand that this subdivision will be privately serviced, is my understanding, from private water supply. But I would say that part of the reason why this isn't used more often is likely the...the permit fee is \$2,978. And I would also say that the conditional permit application process is one of our most difficult permit applications to get through. And I would also say, you know, having to go to the Maui Pla...the relevant island commission and then to Council adds a lot of administrative time, and it's a discretionary approval. And so, it adds uncertainty to . . .(timer sounds). . . this where people, when they are subdividing, typically, if you hit the criteria that's needed, you get approved. It's an administrative approval. It's very objective. And so, this is a more

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subjective approval process that creates uncertainty for families that they may not want to have that time burden and not be sure of what the outcome may be.

COUNCILMEMBER COOK: Thank you for that clarification. Thank you, Chair. I hear the bell.

CHAIR U‘U-HODGINS: Thank you. Members, any other questions? Did you have something you wanted to correct the record on? Go ahead, Member Fram...Mr. Frampton.

MR. FRAMPTON: Yes, Chair, thank you. Just a comment. There is a private agricultural water system, but the lot seven is currently served by the County water meter, and we’ve reached an agreement with the Department of Water Supply to get three additional County meters for po...potable purposes. So, we do...we have executed an agreement with the Department of Water Supply, too. So, it’ll be a...a mixed system. The drinking water will be via meters, and then there’s ag water available. Thank you.

CHAIR U‘U-HODGINS: Thank you.

MR. FRAMPTON: Yeah.

CHAIR U‘U-HODGINS: Member Paltin?

COUNCILMEMBER PALTIN: Thank you. My question might be for the Water Department or possibly...I forget who it was that says that the best management practices doesn’t need to be incorporated in the ordinances. I thought that the recommendations were good, like the size of the toilet and all of those things. But how is that enforced or ensured that the BMPs are done?

CHAIR U‘U-HODGINS: We do have Water here. During the subdivision process and the building permit process, which all the...the house will have to go through, and then the subdivision process, which after we give them the green light, they’re a...if we do give them the green light, they’re able to do. At that time, that’s when that’s...the BMPs are discussed and required. But I can have Director Stufflebean confirm, or answer that question for you.

COUNCILMEMBER PALTIN: Sure. So, kind of like to paraphrase is that after a subdivision is done and they apply for permits, the Water Department wouldn’t approve the permits if it wasn’t in line with their BMP recommendations? Is that...

CHAIR U‘U-HODGINS: Director Stufflebean?

MR. STUFFLEBEAN: Yeah, that...that’s correct...that’s correct. We would...that would be the time in which we would apply any...any of the BMP recommendations or requirements. That’s correct. And of course, with the new conservation ordinance, we have some additional ones that we have...that we would have that are available as well, which . . .*(inaudible)* . . .

CHAIR U‘U-HODGINS: Um-hum.

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COUNCILMEMBER PALTIN: Okay. And then my other question, going back to the conditions, like I think it might be a Corp. Counsel question. Knowing the representations made when they first came to us before it went to the Planning Commission and what it is now, I...I can believe this family. But does that take away...like this is the first one that we've done in any of the workers' recent memory. Does that take away our ability to say set conditions in the future if a family applicant doesn't seem like their representation is to the point? Like, oh, I want to subdivide this. I'm working with...I'm a realtor. I'm working with this person, and that's my livelihood. And it seems like kind of...I mean, like teachers, I can believe it, you know? And...and I...my greatest hope is that this is a place for their whole family to live in in perpetuity. Somebody from the family will always live there. But because this is kind of precedent setting, nobody remembers ever doing this process, would that prevent us or preclude us in the future of candidates who aren't, I guess, as believable or something?

CHAIR U'U-HODGINS: Nāhulu?

MR. NUNOKAWA: Thank you for the question. No, it shouldn't. Each application is reviewed . . .(timer sounds). . . on its merits as they come in. So, it...approval of this shouldn't affect your ability to review and assess future applications.

COUNCILMEMBER PALTIN: Shoot, I had one more question. But I'll wait until the next round.

CHAIR U'U-HODGINS: Okay. Let's see if anybody else has their hand up. If not, you can continue to ask your questions. Ques...Member Johnson, go ahead. Thank you, Member Cook.

COUNCILMEMBER JOHNSON: Thank you, Chair. Just to follow up with Deputy Director Lillis, if she found the price of it on MAPPS, the conditional permit.

CHAIR U'U-HODGINS: I think she said it was 2,000 something.

MS. LILLIS: Yes. Yeah, 2,900.

COUNCILMEMBER JOHNSON: 2,900? Okay. That was the number?

MS. LILLIS: 2,978. Yep.

COUNCILMEMBER JOHNSON: Got it. Okay. Thank you so much. Thank you, Chair.

CHAIR U'U-HODGINS: Thank you. Member Johnson, if I can, that's the cost to go through this process. And then they're going to have to pay another fee to go through the subdivision process. And then if they have parks assessment, they'll have to pay that \$27,000 to do that as well. And then they'll have building permit fees when they do eventually build their homes. So, lots of fees will be assessed.

COUNCILMEMBER JOHNSON: Yeah, it adds up.

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CHAIR U‘U-HODGINS: Yes, it does --

COUNCILMEMBER JOHNSON: Thank you.

CHAIR U‘U-HODGINS: -- really quickly. Thank you for that question, Member Johnson. Anybody else have any questions? If not, I’m going to allow Member Paltin another opportunity. Member Paltin?

COUNCILMEMBER PALTIN: Thank you. My question was on the park fees. Have they been paid already? And I...I kind of would like to waive the park fees. I mean, teachers, essential workers.

CHAIR U‘U-HODGINS: There’s a park across the street.

COUNCILMEMBER PALTIN: If that helps them to keep it in their family forever, like I want to give them every chance to keep it in their family. So, I guess the question is for Corp. Counsel, can you find a way for us to do that?

MR. NUNOKAWA: I’m not sure in this bill. It do...there doesn’t seem to be a mechanism. And so, it doesn’t seem like something that would have been contemplated as this was being processed. But I can review it more bef...before it goes to first reading. At the moment, I...I’m not seeing anything. But there’s also, as it’s being processed, the directors can make determinations on how to apply. So, that’s potentially somewhere down the line.

COUNCILMEMBER PALTIN: So, just a side question. If...if we made 18.20.280(B)(1) or (B)(2), say, like, unless it’s a subdivision for essential workers, like teachers, police, fire, they’re exempt from parks fees, we could do it that way...like change the whole Code and say essential worker waiver or something like that?

MR. NUNOKAWA: Yeah, that...that would be much more applicable. It wouldn’t need some sort of work-in to get it to go. That’s something that you could do --

CHAIR U‘U-HODGINS: We do...

MR. NUNOKAWA: -- within your authority.

COUNCILMEMBER PALTIN: And that’s not...

CHAIR U‘U-HODGINS: We do have Jordan Molina with his hand up if you want him to answer your question.

COUNCILMEMBER PALTIN: Oh, okay. Yeah. Go ahead, Director.

CHAIR U‘U-HODGINS: Director Molina?

MR. MOLINA: You guys making Nāhulu work.

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CHAIR U‘U-HODGINS: I know. And you know what? I was going to take a five-minute break so I could give him some time to give us a nice answer.

MR. MOLINA: Well, he no rep Public Works, so he’s definitely speaking out of his expertise. But yeah, subdivision code provides for variances. There is no exemp...administrative exemption. And so, as Member Paltin was alluding to, that would require an amendment to Title 18 to create those exemption mechanisms for those special interests. Thank you, Chair.

CHAIR U‘U-HODGINS: Thank you.

COUNCILMEMBER PALTIN: Would you say...be supportive of that?

MR. MOLINA: You know, specific to parks, I think that conversation needs to be had with the Parks Director to understand the ramifications of those fees and how critical they might be.

COUNCILMEMBER PALTIN: Thank you.

CHAIR U‘U-HODGINS: Thank you, Director Molina. Member Paltin, I’m assuming that answered your question.

COUNCILMEMBER PALTIN: Yeah. I don’t know if it was an answer I liked, but it was an answer.

CHAIR U‘U-HODGINS: For real. Members, any other questions? Let me double-check online. Any other questions? Questions, questions? Okay. Then I’m ready to move on if you folks are. Great. Members, I will entertain a motion to recommend the passage of first reading of Bill 28 (2026), incorporating...incorporating, I’m sorry, any nonsubstantive revisions. I have a move...movement by...I have a motion made, sorry, by Member Sugimura, and a second by Member Cook. Any discussion? Member Paltin?

COUNCILMEMBER PALTIN: Oh, I was going to move to amend Section 2 of Bill 28 (2026), by adding a new condition to read as follows. 4, the property must be developed in substantial compliance with the representations made to the Council in obtaining this approval.

CHAIR U‘U-HODGINS: Thank you. I do have that ASF. Yeah. Okay. So, I have a recommendation to...do you want to...referencing the ASF to amend Section 2 of the bill --

COUNCILMEMBER PALTIN: Yes.

CHAIR U‘U-HODGINS: -- by adding that condition as Member Paltin read, number 4. So, I have a motion made by Member Paltin and a second by Member Sinenci. Do we have any discussion?

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COUNCILMEMBER PALTIN: Sure. The Maui Planning Commission recommended the condition be included, and so now we're including it based on their recommendation. And I'm...I'm okay with that process where we include their recommendation instead of them handing it to us with their recommendation so we can make the call.

CHAIR U'U-HODGINS: Thank you.

COUNCILMEMBER PALTIN: And then we'll only need five votes, right, at full Council.

CHAIR U'U-HODGINS: Um-hum. Thank you. Members, any other discussion? No. Okay. Great. All those in favor, please...

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, sorry, Chair.

CHAIR U'U-HODGINS: Oh, I'm sorry. Member Rawlins-Fernandez, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm...I'm supporting the motion, as I said I had planned to...I guess, understanding that in...in 50 years, it...after full build-out, it could potentially not be this way. But we're supporting this family now, and hoping that it can continue on the way that was...that the family intended. I...I ha...I do have a question for Deputy Corp. Counsel.

CHAIR U'U-HODGINS: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: It's been a while since I've been in law school. The...the...what is it called, the rule...the law against perpetuities, would that apply here?

MR. NUNOKAWA: In...in which...which way? On transferability after?

COUNCILMEMBER RAWLINS-FERNANDEZ: Like after. Yeah. Uh-huh.

MR. NUNOKAWA: I mean, probably, but what...what are you looking for rule against perpetuities to apply to?

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, I mean, we're talking about the intention going as long as it can, but after so many years, right, that it...it...

MR. NUNOKAWA: Oh. So, would be...

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. NUNOKAWA: I mean --

COUNCILMEMBER RAWLINS-FERNANDEZ: You've been practicing law.

MR. NUNOKAWA: -- if...if there...if there was a restriction related to...if there was a restriction placed on the descendent, maybe, but...

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COUNCILMEMBER RAWLINS-FERNANDEZ: So, this wouldn't apply?

MR. NUNOKAWA: Not necessarily. . . .*(laughing)*. . . It's...it's hard to know...know without having a more specific fact pattern.

COUNCILMEMBER RAWLINS-FERNANDEZ: All right. I'll...I'll chat with you later.

MR. NUNOKAWA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. Okay. Mahalo, Chair.

CHAIR U'U-HODGINS: Thank you. I know we're talking about how to, you know, have a crystal ball for years into the future, but I would like to hope, and I know that's what we're doing today, that this family will do everything they say they will do and keep it amongst their families. I know Auntie said she has eight grandchildren and families only grow exponentially. So, eventually, they'll need all this land and probably more. And personally, I don't want us, which we represent the government, to really continue to meddle in how our local families and our Hawaiian families deal with our family land. Again, as I described earlier, I...I'm part of a family trust, and our trust is quite specific in what we can and cannot do with our land. And my big grandma, a couple generations ago, decided that nobody can sell it. Each family has an heir that represents their family. I'm blessed to be one of mine. And if I ever decide to sell it, all of a sudden my interest goes to zero dollars. It is only worth everything that it is, but not anything financially. So, I believe that their trust will do everything they say they need to do. Land is finite, but people are not, and we keep growing. So, best of luck. You will absolutely need it. I'm so happy for you folks. And furthermore, I think this specific family shows us why it's very difficult to put conditions. They are able to purchase it because of a settlement...because of a medical settlement. And so, it is unfortunate that they're here today, but fortunate that they were able to buy it. And it does just go to show how delicate and fragile life can be. But I...I completely understand where Member Rawlins-Fernandez, you're coming from, because I would hate to see this be exploited, for sure. And I understand your point. But I do thank all the Members for getting us this far. If we could, though, if we could vote on the amendment, and then we're going to take the final vote. So, Member Paltin read off the amendment, which is in that ASF number 4, with the condition that this property will be...be developed in substantial compliance. So, all those in favor for that amendment, please raise your hand and say "aye."

COUNCILMEMBERS: Aye.

MR. KRUEGER: Chair, you have nine "ayes," zero "noes," motion carries.

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VOTE: **AYES:** **Chair U‘u-Hodgins, Vice-Chair Batangan, and Councilmembers Cook, Johnson, Lee, Paltin, Rawlins-Fernandez, Sinenci, and Sugimura.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **None.**

MOTION CARRIED.

ACTION: **APPROVE amendment.**

CHAIR U‘U-HODGINS: Thank you very much. Members, hana hou, on the final...oh, did you have discussion?

COUNCILMEMBER PALTIN: I..I did have discussion.

CHAIR U‘U-HODGINS: Please, go ahead, Member Paltin.

COUNCILMEMBER PALTIN: I’m...I’m happy that we can do this for this family, and I’m even happier that they’re a family of teachers because that’s one of our most essential workers.

CHAIR U‘U-HODGINS: Absolutely.

COUNCILMEMBER PALTIN: As has been discussed by Member Rawlins and yourself, I...my greatest hope, wish, dream, is that this land provides for their family and their heirs into the future indefinitely, and that they will always have a place to call home in Waihe‘e. Even if they decide to leave and go to school or whatever, maybe they can rent it out long-term for...to other teachers or something like that. I know that we are not putting conditions on them, and to me, that’s mainly because of their believability. And as Corp. Counsel said, that we can take each case based on its own merits. This isn’t a precedent-setting case. I believe them, and I wish them the best, and hopefully, they can be fruitful and multiply.

UNIDENTIFIED SPEAKER: . . .*(laughing)*. . .

CHAIR U‘U-HODGINS: Thank you, Member Paltin. Member Batangan?

VICE-CHAIR BATANGAN: Thank you, Chair. I also want to speak up in support of this motion. I also just want to apologize to the family if I caused any heartache by bringing up the question regarding the trust versus a person. I...I didn’t want you to think I was going to be hung up on a technicality. I really do believe that everything presented to us aligns

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with the intent and purpose of this law. And I don't think I quite got the assurances that I was looking for from Corporation Counsel's explanation, but it is enough for me, and I...I will be voting in support of this. Thank you.

CHAIR U'U-HODGINS: . . .*(inaudible)*. . . Member Sinenci?

COUNCILMEMBER SINENCI: Mahalo, Chair. I, too, would like to support the 'ohana in their endeavors. I've been a teacher for 20 years, so good...good on them. And Chair, thank you for sharing your 'ohana story. We have very similar stories in East Maui, and we're happy that our kūpuna had provided us with property. For those of our family members that cannot always afford today's prices, at least they have an...an option, or at least a place, a safe place for them to...to go and hang out should they...should they have the need. So, hopefully, that continues with the Kaio family. Mahalo.

CHAIR U'U-HODGINS: Absolutely. We're watching them create their legacy today, so this is exciting. Any further discussion? Member Cook?

COUNCILMEMBER COOK: I'm really supportive of this, and I think this is a wonderful day for this body to be able to vote positively on this, and to enable this to happen for this family. Thank you.

CHAIR U'U-HODGINS: It is. It's a good day to have a good day. Any other...Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah. So, I would love to also figure out how to get rid of that park fees. I...I'm serious. My friend lives above this lot, and to me, it just looks like macadamia nuts. I didn't realize there were that many homes in there. And I don't think...well, I don't know what Parks would do with the parks fee, but that's a lot of money, \$27,000, that could be used, you know, for the family to...other things. So, that's the only thing I want to say. However we need to do it, Corp. Counsel, help us get there. And I think we do need to talk to Parks. I value what...you know, all the input that we got from Public Works also, so...on this project. We are going to do this. So, I'm going to vote yes. Thank you.

CHAIR U'U-HODGINS: Thank you, Member Sugimura. All right. Members, any other discussion? If not, I'm going to call for the vote. Seeing no further discussion, all those in favor, please raise your hand and say "aye."

COUNCILMEMBERS: Aye.

MR. KRUEGER: Chair, you have nine "ayes," no "noes," motion carries.

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VOTE: **AYES:** **Chair U‘u-Hodgins, Vice-Chair Batangan, and Councilmembers Cook, Johnson, Lee, Paltin, Rawlins-Fernandez, Sinenci, and Sugimura.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **None.**

MOTION CARRIED.

ACTION: **Recommending FIRST READING of Bill 28, CD1 (2026).**

COUNCILMEMBER SUGIMURA: Yay.

CHAIR U‘U-HODGINS: Yay. Thank you very much, Members. And that is it for today. So, this concludes our HLU meeting. Thank you again. Stay safe and stay dry. It is now 10:14, and this HLU Committee meeting is adjourned. . . .*(gavel)*. . .

ADJOURN: 10:14 a.m.

hlu:min:260311min:ds

Transcribed by: Daniel Schoenbeck


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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 29 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 8th day of April 2026, in Wailuku, Hawai'i



Daniel Schoenbeck