

**LANA'I PLANNING COMMISSION
REGULAR MEETING
AUGUST 16, 2023**

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Mr. Reynold Gima, Chair, at approximately 5:00 p.m., Wednesday, August 16, 2023, online via BlueJeans videoconferencing platform, Meeting No. **849 745 451**; and at the Current Planning Conference Room, One Main Plaza, 2200 Main Street, Wailuku, Hawaii, 96793; and at the Maui County Council, Lanai District Office, 814 Fraser Avenue (entrance on Gay Street), Lanai City, Hawaii 96763.

A quorum of the Commission was present. (See Record of Attendance)

Mr. Reynold Gima: Alright. Good evening, everyone. I want to welcome everyone to the August 16, 2023 meeting of the Lanai Planning Commission. Let the record show that we have quorum with Commissioners Rabaca, Atacador, Manna, de la Cruz, Kaye and Gima present. Just some real quick housekeeping. Sandi, is there anybody in the room with you? Okay. Sally, anybody in the room with you?

Ms. Sally Kaye: No.

Mr. Gima: Okay. Erin?

Ms. Erin Atacador: No, I'm alone.

Mr. Gima: Okay. Negus?

Mr. Negus Manna: I'm alone.

Mr. Gima: Okay. Zane?

Mr. Zane de la Cruz: There's no one else here with me.

Mr. Gima: Okay. And I am alone. We're still waiting for Michelle. Nikki Alboro is ill. Had the stomach flu the last couple of days, so she won't be in the meeting. And Lisa Grove, may or may not make the meeting. Okay. Just a reminder on housekeeping. All the Commissioners must be on camera throughout the meeting. All votes will be done by a show of hands. I can see everybody on my screen, so I should be able to recognize when someone wants to speak. In terms of testimony, those in attendance if you wish to testify on an agenda item, please sign up with Leilani in the chat. Include your name and the agenda item. And until such time that you do testify, please mute your audio and video. We will receive testimony online from the County Planning Conference Room and the Gabe Johnson's office here on Lanai.

That being said, we will go straight to Item B, public hearing, Change in Zoning and County Special Use Permit, Lanai Resorts LLC, a Hawaii limited liability company doing business as Pulama Lanai requesting a Change of Zoning from Agricultural and Interim to M1 Light

Industrial and M2 Heavy Industrial on 200 acres of land, and a County Special Use Permit to relocate an existing asphalt plant and rock crushing facility on 27 acres, which is part of the 200 acres, at the Miki Basin Industrial Park located at Lanai, Hawaii. So at this time I will turn this over to Kurt to provide the Department's staff report and then we'll take public testimony. Following that, the Commissioners can comment and ask questions on this item. Okay, Kurt? Oh, wait. One, one thing before --. No, that's okay. I'll let you, let you make the presentation. Thank you Kurt.

B. PUBLIC HEARING (Action to be taken after public hearing.)

1. CHANGE IN ZONING AND COUNTY SPECIAL USE PERMIT

LANAI RESORTS LLC, A HAWAII LIMITED LIABILITY COMPANY doing business as PULAMA LANAI, requesting a Change of Zoning from Agricultural and Interim to M-1 Light Industrial and M-2 Heavy Industrial on 200 acres of Land, and a County Special Use Permit to relocate an existing asphalt plant and rock crushing facility on 27 acres (part of the 200 acres) at the Miki Basin Industrial Park located at Lanai, Hawaii. TMK (2) 4-9-002:061(por.) (ZPA2022-00005 and CSUP2023-00002) (K. Wollenhaupt)

Change in Zoning (ZPA 2022-0005):

Mr. Kurt Wollenhaupt: Good afternoon, Commissioners. And it's been a terrible week. Anyway, we hope that we can get through this. So anyway, okay, in front of you tonight is the Miki Basin Industrial Park project. And this is for a Change of Zoning and a County Special Use Permit on 200 acres of land in Lanai.

Since you haven't had your training, I hope you'll bear with me, and if I go into too much detail, please tell me that we don't need this, we understand this. But for the new people, I thought it might be helpful if I would briefly go through what a Change in Zoning and County Special Use permit entails. If you think that would be helpful, I can do that or I'll just go into the report itself. Is there any preference one way or another? It would be brief.

Mr. Gima: Yeah, I think that would be helpful, Kurt. Thank you.

Mr. Wollenhaupt: Okay. So in Hawaii, we have a number of levels of zoning and district boundary. We have in the whole State of Hawaii, there is something called the District Boundary and there's four different districts: Agricultural, Conservation, Rural and Urban. And then there's the County zoning, and that's what we're looking at this evening. And the current zoning for this property is primarily Agricultural, and it's being considered for a change to M1 and M2 Industrial. So we have two points of this chair, if you will; the State zoning, which is called a district boundary. We have the County zoning. And then we also have the Community Plan. So each of the districts has a community plan. For instance, Lanai has the community plan, Molokai, Hana, Kahului, etcetera. So in order for a project to lock down all three, they need to, they need to really coordinate with each other. So by way of history, this project really

started with the Lanai Community Plan. When it was updated, this area became Heavy Industrial and Light Industrial. So the first leg of the chair is now set.

Then what happened was because there is the use of County land -- the use of County lands in the sense that there's a highway that's going to be visited in this application, there was the necessity to do an environmental review. So the environmental review was done. The Lanai Planning Commission was consulted for that and they made their comments. And the State Land Use Commission, it was the accepting authority. So this was all to click into place the second leg of the chair, which is the district boundary. So remembering we now have the community plan is industrial. We now need to look at the district boundary from the State Land Use Commission perspective. And they then did a deliberation with an environmental assessment as to whether or not these agricultural lands were appropriate for urbanization. They unanimously, under Chair Scheuer decided that these lands were appropriate for urbanization, and the State Land Use Commission then set these lands for the urban designation. So now we have the Community Plan and we have the State District Boundary incongruency.

So now what we have to look at is tonight's review is the County's zoning districts. And right now, the zoning is primarily agricultural, with a little bit of interim, but agriculture for the most part. And it's being considered to change that designation from Agricultural to M1 and M2. M1 being Light Industrial, and that is again to the Community Plan of Light Industrial, and M2 being Heavy Industrial, which is again to that which is already in the Community Plan and designated as Heavy Industrial.

So the role of the Lanai Planning Commission this evening is to determine whether or not this is an appropriate Change of Zoning, and to make a recommendation to the Maui County Council, who will be the final authority as to whether or not this Change of Zoning is granted.

Now there's something called Conditional Zoning, and that's what we're advocating this evening is that it's not just a Change in Zoning to Industrial, but it's a Change in Zoning to Industrial with a set of conditions, and we'll get into that later on.

In addition, not to throw too much at you, but this is also a request for the review of a County Special Use permit. So within the zoning district of Heavy Industrial, there are many uses that are outright permitted. You can just do that. But there are some uses that are considered to be necessary to have a higher level of review. And this evening, we're going to look at two of those uses, the two being the asphalt plant and also the rock crushing facility. Now both of these facilities are in existence on the Lanai, but it would appear that it's appropriate to consolidate them on this appropriately zoned land.

So what we have tonight is we have the final piece of the chair, the third leg of the Change of Zoning to Industrial. And then assuming that that will happen, then a County Special Use permit, if that's also approved, that would click in at the time the County Council would approve the Change in Zoning.

So that's really the matter for us tonight. We have 200 acres; 100 of which are which are being considered for the Heavy Industrial, M2, and the Light Industrial, M1. And on those 200 acres of land and the applicant, Pulama Lanai along with their consultants, is going to give a much more detailed review of the project's specifics itself. But I'll just do an overview.

On the 200 acres of land, there are going to be about 20 of this for infrastructure purposes, roads, et cetera. And importantly, 127 acres are going to be reserved for the Renewable Energy Project of a photovoltaic and battery energy storage facility. And this was debated in considerable length at the State Land Use Commission. So exhibit number five, which is the Decision and Order from the State Land Use Commission outlines one of those conditions being that those 127 acres are to be used for this photovoltaic renewable energy project. Then, as stated previously, we will need to find room, of course, for the relocation of the concrete recycling and rock crushing operation, the 14 ½ acres. And then the relocation of asphalt plant of 12 ½ acres.

So the timelines of this project is outlined in your packet. It is going to be considerably a long process from the drafting of an initial EA, the drafting of the second EA, reviewed by the Environmental Assessment by the Lanai Planning Commission, acceptance of the Final EA by the State Land Use Commission, an application for a petition for a District Boundary Amendment, and then the decision and order that was approved on February 8th, 2023 to move this into the Urban District.

We will, we'll be getting into the nuts and bolts of the project, but that that should provide an overview of why we're here tonight. Change of Zoning and that's going to be the final decision by the Council. The County Special Use Permit for the asphalt plant and for the concrete recycling facility; that will be determined by the Lanai Planning Commission. But it would not go into effect until such time as the Council would approve the Change in Zoning. And that is what we are going to be reviewing in depth this evening. So that wraps it up for the overview of the Planning Department's initial go with the project this evening. Thanks. And Danny Dias is also on the line. He's the supervisor. He's, he's also on the line this evening. And Ann Cua was here, but I know she was not scheduled to be here for this meeting this evening. So Danny is the manager this evening. Thank you.

Mr. Gima: So Kurt, did you say that Pulama Lanai was going to make a presentation?

Mr. Wollenhaupt: Yes, Dr. Dancil has a presentation that will outline history, what exactly the project is going to entail.

Mr. Gima: Okay. Before we move on to that, some procedural issues. So Commissioners, so tonight we will not be approving or disapproving from what Kurt you were saying, we're either going to adopt or not adopt the recommendations of the Planning Department to the County Council. Is that accurate?

Mr. Wollenhaupt: For the, for the Change of Zoning you'll have the option to either recommend approval to the Council on the Change of Zoning, recommended denial, defer it for another meeting, or to recommend approval with conditional zoning. Now that's for the Change of Zoning.

For the County Special Use Permit, you would be approving or denying it, but that's all -- but there would be in the recommendation it notes that were you to approve this, were you to approve the County Special Use Permit, it would not become viable and valid until such time as the Change in Zoning was approved by the Council.

So you're actually, you would be approving with conditions the County Special Use Permit, you would be giving recommendations to the Council on the Change in zoning. So there are two distinct actions on those items. And we've done this for the . . . (inaudible) . . .

Mr. Gima: Excuse me. I mean, the reason I asked is because in . . . in, in the recommendations section of the packet, I mean, the, the, the wording that you provided it says in consideration of the foregoing the Planning Department recommends that the Lanai Planning Commission adopts the Planning Department's recommendation. So are we adopting the recommendation or are we approving the Change in Zoning requests and are we approving the County Special Use Permit?

Mr. Wollenhaupt: On page --

Mr. Gima: Because I just want that clarified.

Mr. Wollenhaupt: Yeah, on page 37, it shows the alternatives. So for the Change in Zoning, you can defer the matter, you can recommend approval with no conditions, recommend approval with conditions, or deny it, recommend denial. So those are your options. So when we say recommend approval, the Department --. Well, the Department recommends approval with conditions of the Change in Zoning, but then that is recommending approval to the Council. Whereas with the County Special Use Permit, the Lanai Planning Commission takes action to approve the request as you are the final authority on that permit.

Mr. Gima: Okay. Um, second procedural issue, um, do, do we vote on the Change in Zoning and the County Special Use Permit separately? And do we have the option of recommending one but disapproving the other?

Mr. Wollenhaupt: You would be, you would be making two decisions. Yes, and you can, again, you have those four options. They're outlined on page 37 so I won't repeat them. But conceivably, yes. Yes. Danny's also on the -- I see he's on the screen if he has any other comments to make, but there's two different decisions here to be made. And I can, again, and tell you that some of the possible alternatives, but I won't since they're on page 37. Okay.

Mr. Danny Dias: Yeah. Just to add, you, we would recommend that you take those two items separately because they are separate items. I guess from a practical standpoint, it -- I'm trying to think if it would make sense though to, you know, say approve one or recommend approve of one and then deny the other, though. But I, yeah --. Because I think they, at least for what Pulama Lanai wants, I think, you know, they would need both of them.

Mr. Gima: So would it make a difference if we do the Change in Zoning first or is it better to do the County Special Use permit first?

Mr. Wollenhaupt: Oh, I would recommend discussing the Change in Zoning because that incorporates the entire 200 acres of which the County Special Use Permit for the asphalt plants and for the concrete recycling are in those 200 acres. So I think it could be critical to determine whether or not you even believe this Change in Zoning is appropriate for these lands. And then we can drill down as to what's going to happen on the different locations. And if you think that those are good places or admittedly necessary activities that go on, on any community, it's always difficult to find a place for what we might term more noxious activities, or trying to locate them in the central area close to services, but far enough away from homes is what we hope that we could come to a conclusion. Because it's important to have a place that is appropriately zoned, but also mitigates the noise pollution that can come from some of these activities. Thanks.

Mr. Gima: Okay. So before we go to Keiki-Pua, Commissioners, you guys have any questions or comments on procedure only, not the content of the requests, but any comments or questions on procedure?

Ms. Atacador: No.

Mr. Gima: Okay. Hearing, hearing none, why don't we move on to, uh, Keiki-Pua. And Keiki-Pua, could you make your presentation specific to the Change in Zoning request? You're on mute, Keiki-Pua.

Dr. Keiki-Pua Dancil: Thank you. Aloha Commissioners. Chair Gima, would you like to recognize, we had a new commissioner joined during the discussion?

Mr. Gima: Yes. Thank you, Michelle Fujie is on camera now.

Dr. Dancil: Aloha Commissioners. Chair, may I share my screen?

Mr. Gima: By all means.

Dr. Dancil: Thank you. Can I get a thumbs up if you guys can see my screen, please? Thank you. Thank you, Kurt, for that overview of the project. Before we dive in, I want to just build on the foundation that Kurt provided to you. We'll walk you through a little more details on the history of the entitlement process for this application. The information in your packet and what

you'll see tonight may look familiar to some of you. Those of whom have been on the Commission for a few years recognize the material. It is the same information that was presented to this body in the Environmental Review Assessment.

The project area was identified by the community, not by Pulama Lanai. Led by the Planning Department, the project area was discussed extensively during the Lanai Community Plan that was adopted in 2016. These discussions took place over many years between 2013 and 2016. The Community Plan identified 225 acres of light and heavy industrial use in the Miki Basin area. In order for us as a land owner to implement the Community Plan, we embarked on the entitlement process, which has taken years.

On the screen I outlined the milestones and I'm going to just touch on a little bit more detail than what Kurt had already provided. In the first step was the Environmental Assessment. What we did was we sought approval and acceptance from the Land Use Commission of a Finding of No Significant Impact (FONSI) on the project area. We filed two drafts; one draft in 2019, and one draft in 2021. The second draft EA . . . (inaudible) . . . more detail, in particular the solar or photovoltaic battery energy storage project. The link to the Final EA was included in your materials. It is quite voluminous. The Final EA is comprised of many studies conducted by professionals that are technical experts. They hold professional degrees in the area of expertise and have years of experience in their field of study. On the screen, you'll see a list of all of the studies that were completed as part of the EA; water, wastewater, traffic and archaeology, to name a few. These experts have evaluated existing conditions, potential impacts, and provided mitigation measures in their reports. Comments were solicited on the Draft EA from the public, agencies, departments, including this body, the Lanai Planning Commission. Comments and responses were included in the Final EA. The Land Use Commission reviewed our Final EA application. There are criteria that we needed to meet in order for the Land Use Commission to issue a Finding of No Significant Impact or FONSI. These criteria are set forth in Hawaii Administrative Rules, and I'm sharing them on screen here. There are many of them. And the Land Use Commission issued a Finding of No Significant Impact in February of 2022.

This brings us to this milestone. We came before this body for approval for State Land Use Special Use Permit for interim uses in March of 2022. This is a 14.5 acres within the 200 acres, and we are here, that we are here for tonight. Going forward, if this application, the Change in Zoning is approved and the land is rezoned to Heavy Industrial and Light Industrial, this Special Use Permit is moot and will be removed. It will no longer be necessary.

In November of 2022, the Land Use Commission reviewed our District Boundary Amendment that Kurt went over. Again, they reviewed our application against criteria that is clearly set forth in the Hawaii Revised Statutes and the Hawaii Administrative Rules to determine if our application met the criteria for approval of our application. All of these here. In March, the Land Use Commission issued a Decision and Order to redistrict 200 acres of agricultural land to urban, subject to 21 conditions. Which brings me here tonight; the next step in the entitlement process.

Chair Gima, I included in this slide both of them, but I'm going to concentrate just on the Change in Zoning. We're here tonight to respectfully request your recommendation and concurrence with the Planning Department for approval of the Change in Zoning. Our application is implementing the Community Plan, which was adopted in 2016. It is an essential step to a more resilient economy on Lanai, and we have addressed the criteria for the Change in Zoning. This is your job here tonight, to determine whether we have addressed the criteria for Change in Zoning. Tessa Munekiyo, our planning consultant, is with me tonight, and will go over these criteria later in the presentation.

The project area is outlined here in red on the screen. As Kurt mentioned at the State level, 200 acres are now Urban. We went through that process. We're here tonight for the Change in Zoning, majority of which is Agricultural with just a small sliver that's Interim. And Community Plan has already set the course for it. It's already Heavy and Light Industrial. The airport borders the northwest side of the project area. The other surrounding areas are fallow, formerly used for pineapple production. In the interior, you have the HECO power plant and the Miki 20 industrial condo, which is shaded in orange and then a Miki – I mean, the MECO or HECO fossil fuel facility is in green. I also call out in blue the Special Use Permit that this body approved last year in March, the interim industrial uses.

The rezoning will relocate existing and direct new light and heavy industrial uses nearby other similar uses. The Community Plan identified light magenta as Light Industrial, and the dark magenta as Heavy Industrial. There are 100 acres that are light industrial and 100 acres that are heavy industrial for this project here. So let's go into specifics of the actual project area.

The proposed development plans are outlined on the screen: ten percent for infrastructure; 127 acres for a renewable energy project, which is solar or photovoltaic and battery energy storage; 14.5 for concrete crushing and recycling; 12.5 for an asphalt plant; and 26 acres for other industrial uses totaling 200 acres. Greater than 85 percent of the land use has been identified for specific use that I just went over. We believe these can be executed in the next five years pending on foreseen circumstances. In the Heavy Industrial use, we have relocating the existing industrial uses on island, primarily the concrete recycling and rock crushing operation and the existing asphalt plant. In the Heavy and Light Industrial use, you have the Renewable Energy Project, which is the photovoltaic or solar plus battery energy storage project and other new industrial uses. In years 11 through 20, we believe we will continue as needed, developing the other new industrial uses. Those have not been specifically identified at this time.

I'm going to turn the camera over to Tessa and she's going to walk you through just the Change in Zoning at this time. And then we will come back for the Special Uses.

Ms. Tessa Munekiyo Ng: Thank you, Dr. Dancil, and good evening, Commissioners. My name is Tessa Munekiyo Ng from Munekiyo Hiraga. And I'll continue with the presentation to address the Change In Zoning components of the application. So there are five criteria

established in Maui County Code that guides approval of Change in Zonings, and those are shown here on the screen. It's also detailed on Page 20 of the staff report, as well as in the application. But we have a detailed analysis of the project's compliance with, with each of these five criteria in the staff report and summarized here on the screen. You can see that the first two criteria speak to the consistency with the General Plan and the Community Planning. And as has been discussed already tonight, the Lanai Community Plan calls for the uses to be Light Industrial and Heavy Industrial, so there is consistency there. The proposed request does meet the intent and purpose of the, the districts which are being requested, which is Light and Heavy Industrial Uses. And if granted, there would be no adverse effects to services, social, cultural, environmental characteristics. And all of those impacts were thoroughly analyzed through the Environmental Review process that Dr. Dancil went through earlier. The environmental review process included review by numerous agencies, members of the public, as well as the Lanai Planning Commission, and it culminated with the issuance of the Finding of No Significant Impact, which indicates that the project will not have significant adverse impacts. So the Change in Zoning criteria are met for the project.

The applicant has worked with the Planning Department to establish the allowable uses within the Miki Basin Industrial Park. And what's shown here on this screen are the proposed uses within the M1 Light Industrial portion of the industrial park. These are also shown on page-39 of your staff report and also included as condition one of the conditions of approval recommended by the Department. And so these are the uses that would be allowed in the 100 acre M1 zoned portion of the industrial park.

We go to the next slide. These are the uses that would be allowed in the M2 zoned portion of the Miki Basin Industrial Park. And these are also listed on page-40 of the staff report and as condition two of the recommended in CIZ approval.

Dr. Dancil: Chair, the -- we'll stop here. The next section is the Special Use Permit. So if you want to take that up later, we can stop here just for the Change in Zoning.

Mr. Gima: Okay, thank you, Keiki-Pua. At this time, I will open it up for public testimony and then Commissioners can comment and question after that. Leilani, anybody in the chat or in the County Planning Conference Room?

Ms. Leilani Ramoran-Quemado: Thank you, Chair. This is Leilani. There is no one in the Planning Conference Room and no one on chat signed up to testify. Thank you.

Mr. Gima: Okay, Roxanne, I assume you're in Lanai District Office. Any testifiers?

Ms. Roxanne Morita: Hi Chair. No, there's no one here to testify.

Mr. Gima: Okay. Thank you, Roxanne. So at this time, I will close public testimony specific to the Change in Zoning requests. Okay, Commissioners comments, questions for either Kurt from the Planning Department or Pulama Lanai. Negus?

Mr. Manna: Yes, thank you. Keiki-Pua, thank you for your explanation. I just had one question to clarify. You -- for the renewables, you gave an example of photovoltaic. Have you determined that is the route you're going to go or is there an option that the renewables may be a different source? Thank you.

Dr. Dancil: Thank you, Commissioner Manna, for that question. It is --. Let me back up. The District Boundary Amendment set forth a condition that the renewable energy project can only be solar, photovoltaic and battery energy storage because that is what was studied and presented in all of the studies. All of the impacts were evaluated based on photovoltaic battery energy storage, and so that is the only use that can be put in there. If we did decide to change, we would have to go back to the Land Use Commission and redo the studies for the impact. And, you know, say if it's, making up something, geothermal, we'd have to go back and do all of these studies considering geothermal. So the impacts were studied for photovoltaic and battery energy storage.

Mr. Manna: Thank you.

Dr. Dancil: Thank you for your question.

Mr. Gima: Go ahead Erin.

Ms. Atacador: Thank you, Chair. I did have a few questions. If it's all right, can I start with a couple of questions for Kurt from the Planning Department?

Mr. Gima: Sure.

Ms. Atacador: Okay, I'll go ahead.

Mr. Gima: Yeah, go ahead.

Ms. Atacador: Thanks, Kurt. Sorry, I didn't see where he was. First off, thank you, Kurt, for being here. As you mentioned, it's a difficult week, so I appreciate, you know, you still making yourself and your team available to, to meet with us to go over this. In no particular order here. I'm just trying to see what makes the most sense. So I guess first off, you know, in the packet there, um, when reviewing the Community Plan, I noticed that the responses had a lot of mays and possibilities in them. Um, is, at one point, as the project, if approved, gets continued, would the applicant still be responsible for delivering those mays or impossibilities? Or would those, like, how do we hold that accountable, you know, if this gets approved?

Mr. Wollenhaupt: Well, there's been an environmental review that's been done on this, and the accountability comes from well, conditions that you put on it, that we're talking about the Change in Zoning here. So the Change in Zoning does allow for certain activities. And I guess the accountability is going to be coming from when you look at the proposed activities that

you would allow a Change in Zoning, which we call Conditional Zoning, then you do essentially agree that those uses are going to be allowed in this area. So there is a level of when I, when I look at some of the uses here, plumbing shops, production facilities, manufacturing with pottery, manufacturing compounding, there's going to be a certain level of environmental impact that has already been studied through the Environment Assessment. So you're saying, how do we, how to keep them responsible? Well, we have a zoning enforcement division. We, of course, have all of the conditions that go with the District Boundary Amendment, of which there are 21, and those go into details such as preserving water resources, storm water management, the CRWM water audit, federal aviation notice because of the proposed solar, a review of hazards to airport operations, highway impact mitigation in regards to Miki Road, conditions on the endangered . . . (inaudible) . . . , impacts to seabirds with downward lighting, issues regarding invasive species and how it would be minimized between worksites --

Ms. Atacador: Sure and I apologize, I don't need . . . (inaudible) . . . So more so, I guess what I was focusing on is the Community Plan that brings up the diversifying the economy and, you know, encouraging local entrepreneurship and local economy. And so there's, you know, different areas in there in the, um, that says, you know, may include, you know, this for residents to expand their own business. You know, so that, that kind of, to me, is an important one because if it's going to be something that our residents would be involved in and have the opportunity to potentially rent industrial space and it, you know, that's definitely all positive stuff, but it says may and possible. So I just, you know, I mean would that take into consideration anything when approving or conditioning it?

Mr. Wollenhaupt: Well, I think on who is going to be using it, I think, it probably best ask the applicant, Pulama Lanai. Of course, the Community Plan is broad based goals, and it does use kind of higher level aspirations. Conditional Zoning is just that, that you can recommend conditions as you see fit. So with regards to who might benefit from the renting of the specific area or parcel of land, that's probably best to ask of the applicant on their policies, goals, hopes on that. And I know that you can find the Community Plan a bit aspirational, if I do say. A stable, sustainable, diverse economy that is consistent and compatible with Lanai's rural lifestyle. So how do you get there and how you different in a concrete batch, not just aspiration?

Ms. Atacador: Right.

Mr. Wollenhaupt: It's probably always a . . . (inaudible) . . .

Ms. Atacador: Right.

Mr. Wollenhaupt: We have the applicant here to ask that question also.

Ms. Atacador: Sure. Thank you. And then also one more question for you. Um, I noticed, unfortunately, there are a lot of no responses received from the reviewing agencies. Is that

typical? I mean, I hate to say it, but it kind of feels like, you know, the typical Lanai out of sight, out of mind, that so many agencies, no response from them when regarding this. You know, is that taken as they approve it or it --?

Mr. Wollenhaupt: It's oftentimes taken as they, they don't have any concerns. If they don't have any specific conditions they would want to put in. We do, we do get, um --. That's really rather frequent in the sense of their comments. If definitely if it says no comment that means that they didn't have any concerns that would require conditions. So with MEMA, Parks & Recreation, Environmental Management, Solid Waste, Waste Wastewater, those just simply didn't have any comment. And that's, that's actually can be considered relatively positive in the sense that there's not any grave concerns. If they did comment, they may have this very simple hope or condition, or they're just simply saying yes, we understand the project and we are commenting that we essentially don't have too many comments. No responses are pretty typical from some organizations. If we didn't get a response say from a, we didn't get a clearance from SHPD or we didn't get a clearance or a response from Fire, that would be concerning. In this case, not getting a response from the Department of Finance, well, they, they will see that the tax rules will change if this gets approved. Some of these organizations may have responded within the Environmental Assessment. There was a lot of review there. So we try, we try to, we try and send it out to as many agencies as we think are applicable, and we oftentimes don't get a response. But we also send a 45-day notice. We send another notice and if we've not heard from them after two notices, then we have to assume that they're not going to comment.

Ms. Atacador: Thank you. That, that clears that up. Um, notice of public hearing, is that the Planning, the Planning Department's responsibility or would that be the applicants?

Mr. Wollenhaupt: Well, it's kind of twofold. We have the notice of the hearing that's in the newspaper. That's published by the County. But then the applicant also sends out the notice of the hearing to all of the property owners within 500 feet of the property line of the parcel. So that's the responsibility of the applicant. The responsibility in the newspaper is that of the County for their public hearing notice. And then there's also a notice, a notice that begins, there's a notice of the application. That precedes this whole process. So the application when it comes, there's a notice that it's even been applied for. Then, as the public hearing gets closer then there's a notice that the public hearing and this is the date, and the time, and the place.

Ms. Atacador: And the newspaper is the only source, though, that it's, it's posted?

Mr. Wollenhaupt: It's posted on the website.

Ms. Atacador: Okay.

Mr. Wollenhaupt: On the agenda. And then everyone within 500 feet is getting a certified mailing of the notice of the hearing.

Ms. Atacador: Got it.

Mr. Gima: Erin, Erin, let me just jump in real quick here. Kurt, could you comment on that 500 feet and the email that I questioned that I sent to you about that?

Mr. Wollenhaupt: Some people may think that 500 feet is from the project site, but it's actually from the project boundary border. So this is 200 acres out of a very, very large parcel. So people would be getting notified that would be miles essentially from this. But we use not the project site of the 200 acres. We use the large TMK which it's a part. So that's why people might have been getting notices when they were -- this isn't anywhere near, I don't think, were near Miki Basin. No, but if you do live within 500 feet of the boundary, of the TMK, in which the 200 acres are located.

Ms. Atacador: Yeah. I have a comment.

Mr. Gima: Thank you, Kurt.

Ms. Atacador: I'm two houses away from that. Because I didn't get a notification, I'm two houses over this. Ah, all right, thanks so much, Kurt. I think that that was kind of all the questions that I had from the planning, planning side.

Mr. Gima: And for the applicant, Erin?

Ms. Atacador: Um, yeah, if, if that's okay with everyone if I keep going.

Mr. Gima: Yeah. Go ahead. Go ahead.

Ms. Atacador: Okay, thank you. So I guess since I kind of brought it up with Kurt, yeah, just addressing a lot of the may and possible, you know, statements that were made regarding the plans of other industrial uses. And you know, it being available to different local businesses if they're operating out of their homes, or vehicles, or whatever, you know, if that's -- how concrete is that maybe and possibility?

Dr. Dancil: Thank you Commissioner Vice-Chair Atacador for the question. So we have about -- I call it the mauka side. So you know if the project area is split by Miki Road, and the mauka parcel that's where we identified, specific identified uses haven't been called out. The other side, the makai side of Miki Road, has, we've identified specific uses. Relocating existing urban uses and constructing the new photovoltaic and battery energy storage project. And the reason why there is a lot of mays, et cetera, is because we don't know exactly what is needed. However, if a resident has something that they're interested, that is of industrial, light industrial, they can come to us and put a proposal together. So that's why I said a lot of, you know, it will be developed over time. It's going to -- that's the area that's going to take longest to build out. We're not going to build out something if we don't know what the exact uses. We

gave some examples in the application, but we're not bound to those. So that's why it was very ambiguous. If you look at what we're going in for, the Change in Zoning, that area mauka of the road is light industrial. So if you look on page, I believe, 39 and 40 on the permitted uses within light industrial, those are the types of uses that can take place on the mauka side. So that's why we want it to be generic enough. So that's why the may, the use of the word, word may.

Ms. Atacador: Thank you. For the renewable energy, is that for supply to Lanai only or is potentially to outer island as well?

Dr. Dancil: Lanai only. There is no cable.

Ms. Atacador: Thank you. Um, I think that that was it. I went through and had questions. But as the presentation went on, I was trying to cross out my questions I had as they are answered.

Dr. Dancil: Thank you, Vice-Chair Atacador. If you would allow me to expand a little bit on the answer in which Kurt provided a response on the different types of agencies that, you know, may have not been commenting in the Change in Zoning application. But as I mentioned during my introduction, this is the same material that went through the EA and the DBA process. Tessa's going to outline some of the key agencies that have gone through and reviewed this just so that other Commissioners that weren't here during that process can understand who, what agencies, departments did respond so I'm going to turn it over to Tessa.

Ms. Muneikiyo Ng: Yeah, thank you Dr. Dancil. So as was described in the early parts of the presentation, there's actually been three opportunities for agencies and members of the public to provide comment. The first two were during the Environmental Assessment process because there were two Draft EAs; 2019 and 2021. And then also during the District Boundary Amendment process, there was also an opportunity for comment. But the second Draft EA was probably the most extensive review process in which --. And so I should back up to say that the Final EA addressed comments that were received both on the first Draft EA and the second Draft EA. But a lot of the agencies that were receiving the Change of Zoning application for review and comment had already previously commented on the EA and, or perhaps also the District Boundary Amendment. So, for example, the Office of Planning and Sustainable Development had no comment on the CIZ, but that is because they did provide extensive comments during the Draft EA, as well as provided testimony in support for the District Boundary Amendment. Some of the other agencies that provided comments during the Draft EA process included State Department and Transportation, the U.S. Fish and Wildlife Service, Department of Housing and Human Concerns, the County Planning Department, State DLNR, Department of Health, Clean Air Branch, Department of Water Supply and agencies like that. So there has been quite a few comments, opportunities for comments and responses provided.

Ms. Atacador: Thank you. I guess it's more of a misunderstanding on my part because they had the option to put no, right, but instead a no response seems a little bit, you know, even if they were part of the process they, they could have responded no, not with no response. But again, that's my personal, personal comment.

Ms. Munekiyo Ng: Yeah.

Ms. Atacador: Thank you.

Ms. Munekiyo Ng: Thank you for the opportunity to clarify.

Mr. Gima: Thanks, Erin. Michelle?

Ms. Fujie-Kaauamo: Aloha, Chair. Thank you for allowing me to speak. I had a question then in regards to the comment of the departments that did have a chance to comment, specifically the Department of Transportation in the final, I guess, the final on page 142. So the Airports Division and the Highway Division did submit comments. I wanted to know with the -- I guess they provided the following comments and I wanted to know what. So now that the, these departments have provided the comments, is it now the responsibility of the developer or the, the requester to fulfill these comments or respond to those comments? I think, I mean, in light of everything that is going on, there are some that are of particular concern, I think, to some or to Lanai. One of which is the Department of Transportation, the Airports Division, speaking about how close to the proximity to the airport would be. And so if there was some kind of fire or that there is, you know, the potential for fumes or smoke that could result in interfering with aircraft operations. And as the airport is one of our major lifelines to our island, I was curious what, now that these departments have actually said this, what would be the response in regards to these comments?

Mr. Wollenhaupt: Well, I'll be very brief but then I'll let Pulama answer. The conditions specific to hazards to aircraft operations and then also to impact on highways, those have been memorialized in our conditions that they have to, the applicant has to comply with. And the County is the, is the agency that enforces them. And on page 57 and 58 of the District Boundary Amendment, which is Exhibit-5 in the staff report, those are specific conditions that outline what the applicant has to do with regards to hazards around the airport and also highway impact mitigation. So they have, they're bound by those. And those conditions came from the responses from the different agencies. But I shall let Pulama and Tessa comment more in detail. Thank you.

Ms. Munekiyo Ng: Yeah, we have nothing further to add. Thank you very much. The condition six and seven of the District Boundaries Amendment incorporates the Department's comments.

Mr. Gima: Any other questions, Michelle?

Ms. Fujie-Kaauamo: No, that answer to my question. I was just trying to find out where that statement was, so thank you for clarifying. Page 57 and 58, Exhibit-5, is that what you said?

Mr. Wollenhaupt: Right. It's a pretty big exhibit, but it's Exhibit-5 and it's the decision and order by the State Land Use Commission.

Ms. Fujie-Kaauamo: And you said it's enforceable by the County?

Mr. Wollenhaupt: Well, that, that, that leads to another debate of which I guess we're probably not going to get into. But the Land Use Commission is a, is a group of nine people, some appointed by the Governor and I believe the State House. And they, they look at district boundaries greater than 15 acres. If it's greater than 15 acres, it goes to the State Land Commission. If it's under 15 acres, then it's our County that reviews it. So this being greater than 15 acres, it goes to the State LUC. They, um, craft what is called the Decision and Order which is Exhibit-5. But the enforcement is left to the Counties. So it's up to the Counties to figure out how to enforce these conditions put on by a body which is outside of the County. So it does leave us sometimes which -- we have to find a way to enforce them. There have been projects that have been notable in recent times about enforcing conditions of the LUC, but that's what we have to do. So someone else may comment more on that.

Ms. Munekiyo Ng: Thank you Kurt --

Mr. Gima: Okay, thanks.

Ms. Munekiyo Ng: -- if I may add to the Commissioner's question. Condition three of proposed CIZ's conditions of approval includes that the conditions associated with the Decision and Order for the District Boundary Amendment be applicable to the project so it does kind of incorporate those conditions. And there is a requirement as part of the State Land Use District's decision and order for annual reports so that compliance will be ongoing.

Mr. Gima: Okay. Thanks, Tessa. Michelle, question answered?

Ms. Fujie-Kaauamo: No. Yes, thank you. Thank you very much.

Mr. Gima: Okay. Zane, Sally, Sandi, any questions for the Planning Department or the applicant? Ah, go ahead Zane.

Mr. de la Cruz: Um, so in the FEA, Reference 20, talks about the TIAR, making recommendations for, I think, like a turn lane on Kaumalapau Highway. I just want to know like who, if that rec -- does the recommendation have to be fulfilled and if it, or if it is fulfilled, who's responsible for that construction?

Ms. Munekiyo Ng: The applicant is responsible for the improvements. That's also a, that's condition seven of the District Boundary Amendment as well. Thank you for the question.

Mr. Gima: Any other questions, Zane?

Mr. de la Cruz: Yeah, just for some clarifications. When they're talking about, you know, the site was going to have its own wastewater treatment facilities. So is that part of the, is that allocated in like the infrastructure, like the, I think, it's a 10 percent or 20 percent of the 200 acres is for infrastructure and is the part of wastewater treatment facilities part of that or do they have to be like on their own separate industrial, light industrial parcel? And which, and which category is that allotted?

Dr. Dancil: Thank you, Commissioner de la Cruz. I am going to call up Ken Kawahara from Akinaka and Associates. He's -- his firm worked on the waste water plan, and I'm going to share my screen so that we can put up a graphic on where those are located. It's also found in the Final EA, in the wastewater master plan, and there's a map and it's not located on a separate. It will be within the . . . (inaudible) . . . I'm going to find that graphic, I'm going to put it up on screen, and then if you have further questions, I have Ken here to answer. Bear with me. I'm going to put it up on screen right now. So it's on page FEA, Ref 605; the map on screen. And so you'll see the dots for the wastewater master plan. So it's located within the industrial park.

Mr. Gima: That answer your question, Zane, or any comments?

Mr. de la Cruz: Potentially. So all of the wastewater treatment is going on the mauka side of the road. Does that imply that the makai side won't have, I guess, like restrooms or anything like that?

Mr. Ken Kawahara: Good evening, Commissioners. Ken Kawahara with Akinaka and Associates. To answer your question, the future wastewater for the mauka side is outlined, and I know it's a little bit difficult to see. But those red circles represent manholes for a collection system. And then that rectangular in the right corner is what we considered the larger wastewater treatment system. But if, if you look where it says concrete crushing facility, there's a small red square or rectangle. So to answer your question and what it says on the text on the left hand side, it's going to be treated by onsite individual wastewater systems until we determine exactly what the wastewater requirements is for the future. So there is some flexibility and wastewater will be treated on an individual basis. Hopefully, I answered your question.

Mr. Gima: Any more questions, Zane? And if not, I'm going to go to Michelle.

Mr. de la Cruz: Yeah, I've got another one. And just kind of, I guess, piggyback on with Erin's earlier question. Um, or like, I guess I'm looking at the priorities of the build out of the Miki Industrial. I know we have that infographic about the power plant and the existing rock crusher and asphalt plant, and then other new uses. So are these all going to be trying and built

simultaneously, built out simultaneously? Or are they going to be, is there going to be more priority towards one over the other?

Dr. Dancil: Thank you, Commissioner de la Cruz for that question. I'm going to share my screen again and I went over briefly, but I'll just put it back up on screen so you can see. Within the first five years we believe that we will be relocating. And again, it's five years from all approvals. So, you know, we have many, you have committee hearings, Council hearings. There's — it's not from this decision today. The relocation of existing industrial users will be relocated; the concrete recycling and rock crushing operation and the existing asphalt plant. Then the Renewable Energy Project, when that starts moving forward, will likely come in. And then other new industrial uses will start depending on needs. And then that area would continue on. But we believe over 85 percent will likely be in the first five years.

Mr. Gima: Is your question answered, Zane? Or do you need further clarification?

Mr. de la Cruz: I guess some --. Sorry, I'm having trouble wording my question. We, we can move on to someone else.

Mr. Gima: Okay. We can come back to you. Go ahead, Michelle.

Ms. Fujie-Kaauamo: I'm sorry. Can you hear me? This, this might be a silly question, but when Zane posed his question about having the wastewater treatment or a new wastewater treatment facility, I was curious if there was a difference in terms of the capacity needed for that area versus the current capacity. I know that it says it's not within the vicinity, but does it take like a specialized type of water treatment in that area because of the type of industrialized, I guess, material being made? Or is it just that just because of the location of it? Because we have two current wastewater treatment plants on island already and it's far away from that site. So is it the need just because of the location or is it because there are additional type of, I guess, wastewater treatments that need to happen because of the different operations down there? Because I mean, like currently our concrete plant that is in existence, like, is functioning then without wastewater treatment. So is -- I sorry I don't know if that's the, but I was just kind of curious about what additional type of water treatment needs to happen out there. Is it because of the type of industry in that area? Or is it just to not put pressure on our current existing waste plants? I don't know if that makes sense, but I was just --. Maybe, maybe you could help clarify.

Mr. Kawahara: Thank you, Commissioner Fujie. A very good question. So the facility or the area is not connected to the, to the County wastewater treatment plant or any. So each individual use would be having their own treatment system. We've just worked on our private wastewater system, and every wastewater system has to be reviewed and approved by the State Department of Health. They have permitting requirements.

But to specifically answer your question is most of the waste is from, you know, your, your regular restroom facilities. So it's not per se industrial waste, you know, you know, the people working there need to use the restroom so it's providing those type of facilities.

Ms. Fujie-Kaauamo: Okay, thank you. That answered my question.

Mr. Kawahara: You're welcome.

Mr. Gima: Zane, you ready?

Mr. de la Cruz: I guess the, the -- I understand that the, like the your one to ten plan is to build out the PV farm, the relocate or just reincorporate the asphalt and the rock crusher, and build new industrial use areas. But, I guess, my question was is there going to be -- I'm assuming that it's limited manpower availability. So is it going to be prioritizing, like, we're not going to start building out the new industrial uses until we're done with the power plant? Or are all three going to try, try to happen simultaneously if there is a need for the, the new unspecified industrial?

Dr. Dancil: Thank you, Commissioner de la Cruz for that question. It doesn't have to happen serially. So the Renewable Energy Project, that is a project that will be developed by independent power producer. It will not be developed by Pulama Lanai. That independent power producer will need to engage with Hawaiian Electric. And that power is going to be fed into the Lanai grid and that renewable energy is going to be provided to all residents. They will see all residents on Lanai will see the benefits of that renewable energy project. At the same time that that's happening we can relocate the concrete crushing facilities as well as the asphalt plant. If there is a need, a resident comes to us or a business comes to us and says I have this idea to do, for example, a slaughterhouse and provides a business plan and there is a need and then we could start building out the mauka side of the road to accommodate that use. It doesn't have to happen serially. It can happen concurrently. And that's why I have the other industrial uses spanning the entire spectrum. At this time, we just don't know. We just need to zone the land and whatever it is in the light industrial permitted uses that you all are reviewing this evening will be allowed.

Mr. Gima: Okay, you're good, Zane? Do you have any more questions?

Mr. de la Cruz: That answers my question.

Mr. Gima: Okay. Negus?

Mr. Manna: Ah, yes, thank you. My question is for Pulama Lanai. Have -- can you confirm or have you had any requests from the community or have you accepted any deposits for use in the industrial area as of yet?

Dr. Dancil: Thank you, Commissioner Manna, for that question. We have not accepted any deposits. People are always coming to us with ideas, and that's why some of those ideas were listed as examples in our application.

Mr. Manna: Thank you.

Mr. Gima: Okay, Sandi, Sally, any questions?

Ms. Kaye: I, I have one. I have one for just clarification. And I, and I apologize if this was not made clear or I didn't get it before. The difference between heavy industrial and light industrial. The mauka section is the acreage that you're setting aside for future light industrial uses, correct?

Dr. Dancil: Aloha, Commissioner Kaye. Is that directed to us or Planning?

Ms. Kaye: It doesn't matter. Whoever wants to take it.

Dr. Dancil: Okay. That mauka is in the community plan designated as light industrial.

Ms. Kaye: Okay, so then the, the other part of it, that's not the, the renewable, that's heavy industrial where you're going to also ask for Special Use Permits, to put your existing uses. Does that preclude any other heavy industrial uses coming into that area? Is that all used up then?

Dr. Dancil: Thank you, Commissioner Kaye. So it is correct. In regards to the 100 acres that is in this Change in Zoning, those uses have been identified and will be relocated and constructed.

Ms. Kaye: Well, then you're your, your visual had actually under heavy industrial, other heavy industrial uses, as if there was room for more. That's what confused me.

Dr. Dancil: Sorry. It should be other industrial uses, and that's light industrial.

Ms. Kaye: Okay. Thank you.

Mr. Gima: Sandi, you had a question?

Ms. Rabaca: No, no questions.

Mr. Gima: Okay. Let's see. I got, I got a couple of questions. In the packet, the renewable energy project is referenced over 20 times. So, PD and Pulama can respond to this. So what, what is this, number one, what is the status of the renewable energy project? And the second part of the question is, does its status affect the Change in Zoning? Is it predicated? Is a

change in zoning and what's been requested predicated on the renewable energy project coming online?

Dr. Dancil: Thank you, Commissioner Gima, Chair Gima, for that question. So the status as of today, the project has been awarded and the independent power producer is engaged with Hawaiian Electric to bring that project before the Public Utilities Commission. That step has not happened yet.

In regards to it being predicated. In the District Boundary Amendment, it stated that no other uses besides the solar and photovoltaic energy could take place on that 127 acres. So that was part of the District Boundary Amendment. So this -- those 127 acres can only be used for solar and battery energy storage.

Mr. Gima: Thanks. One of the reasons why I asked is because, and it's referenced in the Land Use Commission hearings is that there has, there has been prior discussions about Pulama Lanai taking the hotels off grid and there's some conditions related to that. But if you, if Pulama takes the Project Districts off the grid and then the developer of the Renewable Energy Project might say there's no more demand, so we'll then pull out. So Pulama and Planning Department, if that would happen, how does that affect this Change in Zoning, if any at all?

Dr. Dancil: Thank you, Chair Gima. If you look at the specific condition in which you are referencing in the Land Use Commission's Decision an Order regarding the renewable energy project, if we do take the resorts off grid, HECO would have to go out and resize the project, and it could be less than 127 acres, or it could not. It just depends on the technology. If they use fixed angle, it, it could, it could be the same size. So it just depends on the technology. Technology has to be photovoltaic and battery energy storage. But it's very specific conditions on that. So you are correct, it would have to go back to market, and it could potentially be smaller than the 127 acres.

Mr. Gima: Planning Department, but does, would that affect the Change in Zoning request?

Mr. Wollenhaupt: I don't know if it would affect the Change in Zoning request because the Change in Zoning request is for the conditions that you would put on it this evening. And if you were to have a 127 acres required by the State Land Commission to be in photovoltaic but only, let's say 27 acres were used, there would be 100 acres that essentially would --. They'd have to go back to the State Land Use Commission to have this changed because as I understand it, those 100 acres that now can only be used for photovoltaic, but they don't need the 100 acres they now would just be sitting there. So that would be an odd thing, but they'd have to go back to the State Land Use. They have to do a review on the impacts and make a request that they would like to have this changed and here's why.

Dr. Dancil: I also want to add to that -- thank you, Kurt -- is that the State has a goal to get to 100 percent renewable energy by 2045, so it does leave room for future expansion. I just want to put that out there.

Mr. Gima: Okay. Thanks to the both of you for clarifying that. I was a bit confused about drainage and I would have liked to have seen a more definitive statement specific to the airport property. So can a definitive statement be made that drainage off of these 200 acres would not affect the airport property?

Dr. Dancil: Commissioner Chair Gima, you give us a moment. We're going to try to locate the drainage report. I believe it is in the FEA and the areas in which the drainage is identified is not located at the airport property area.

Mr. Gima: So while you're looking, the other thing there was a bit confusing for me was currently three parts to this question. Currently, where, currently where is the asphalt plan? Two, where currently is the concrete batch plan? And three, where currently is the concrete recycling area?

Dr. Dancil: I'm going to hand it over to Tessa to just walk you through the drainage report first and answer that one first.

Mr. Gima: Okay, thank you.

Ms. Munekiyo Ng: Thank you, Chair Gima. So this is, if you happen to have the EA in front of you, the drainage report is starting on FEA Ref 606, and the drainage maps are on FEA Ref 610 and 611. But we also have a summary of the drainage in the body of the EA itself and the offsite runoff will be intercepted by ditches before entering the project site. And then with respect to the onsite runoff, the, there will be --. Sorry I'm just looking for the statement here. Yeah, the existing drainage ditches will be sized. There will be drainage ditches sized to accommodate the peak flow, runoff flows from the 100 year 24-hour storm and the 10 year one hour storm.

Mr. Gima: Yeah, I'm just, I mean, I read that part, but I'm just looking for a definitive statement that those culverts or drainage pipes are not going to exit out onto the airport property. Can, can Pulama make a definitive statement that it won't?

Ms. Munekiyo Ng: The flows are --

Mr. Gima: Because if it --

Ms. Munekiyo Ng: Right. Yeah, the flows go away from the airport.

Mr. Gima: Okay.

Dr. Dancil: Thank you, Tessa. For your second question, Chair Gima, if I think I got all the parts right, but I'm sure you'll correct me if I'm wrong. So the existing asphalt plant is located at the old plant one. It's still located there right off of Kaumalapau going down to the harbor,

Kaumalapau Harbor. The Concrete Plant is located in Miki 20, which is on heavy industrial. And concrete recycle is located in Miki 20, which is zoned heavy industrial as well as urban. So it is a permitted use in those two areas.

Mr. Gima: So the only thing that will be physically relocated is the asphalt batch plant.

Dr. Dancil: No, that is incorrect. We will be relocated those activities that are currently in Miki 20, the concrete batch plant and recycling into the Miki 200. So it literally is going to pop the property line.

Mr. Gima: Oh, okay, okay. That was not clear in the packet. I could not tell. Okay. So the concrete, the two concrete operations is just going to move kind of next door. Asphalt is going to come down from above the harbor. Okay, thank you.

Dr. Dancil: That is correct. Thank you.

Mr. Gima: Let's see what else? Um, I think you know, going, going way back to when this was before the Community Plan, I think everybody was in concurrence that they wanted to see the light industrial in the Miki Basin area so that certain operations could move down, down there. What Pulama activities or facilities are you guys planning to move down to M1 or M2 in anticipation of this being approved by the County Council?

Dr. Dancil: Thank you, Chair Gima. We don't have any specific uses at this time besides what I just went through in the response to the last question.

Mr. Gima: Okay. And are there any non Pulama businesses and facilities that are expressing interest in the M1, M2 areas?

Mr. Kurt Matsumoto: So in, it's not necessarily going to be in M1 or M2. We're going to absorb some of the existing uses in the Miki 20. So, for example, Hawaii Gas, Maui Oil, those types of activities would move into Miki 20.

Mr. Gima: Okay. Thank you. And there are references in the documents that there, there is a lot of interest in this project and being able to move facilities or businesses down there. Has Pulama or any of your consultants surveyed Lanai's businesses about their interest in relocating or starting a business down in the Miki Basin M1, M2 or the existing, um, industrial area?

Dr. Dancil: There was no specific survey. However, in the economic analysis, there was aerial, as well as drive by within Lanai City identifying activities that are being conducted within the residential area that's, you know, should be relocated to a permitted area like a light industrial area.

Mr. Gima: And has Pulama Lanai discussed or made preliminary proposals on maybe incentivizing local businesses or organizations to move down there?

Mr. Matsumoto: So not as yet, but if the zoning is approved, then we can start making those types of plans.

Mr. Gima: Okay, thank you. Is Ken still there? I had some questions about the water master plan. Hi Ken. The report was somewhat confusing to me in the sense that on one hand, you made, there are representations made that there's enough water, that it's nowhere close to the trigger of 4.3 million gallons a day. And yet, on the other hand, there is the recommendation that it's going to require a new well. Can, can you further explain that so I'm not as confused.

Dr. Dancil: Chair, I'm going to share my screen again to help with the visuals.

Mr. Kawahara: Yeah, Chair Gima, hopefully you can see that on the screen. So I think there's, there's two things that, that we're talking about here. One is the actual resource or what we call, you know, the aquifer. So there's this, if you can see the screen, the red line is the number six is the sustainable yield for the aquifer that's been identified by the Water Commission.

And as far as on water masterplan, we look at the existing infrastructure, we look at the demands and we identify if there's enough source, storage and transmission capacity. So that's a little bit different than, you know, maybe what's under the ground.

So hopefully that kind of answer your question that we looked in the water master plan on what is the forecasted demand for the project.

Mr. Gima: No, that didn't answer my question because like I said, you made representations or the report made representations that there's a lot of water because it's nowhere close to the 4.3 million gallons a day trigger yet the recommendation is being made that it's going to require a new well to accommodate full buildout out of this project.

Mr. Kawahara: Yeah, so in our water master plan, we look at, there is actually well number two and well number four. And when we talk about capacity and we're, you know, very conservative when we do this type of water master plans. So for a well number two, it has a smaller pump capacity than, well number four. So what we do is we look at the smallest pump and we look at if well number four was out of operation, how much water would well number two be able to provide. And looking at that, and we did have that graphic there, that might be helpful. And if you don't mind, we're going to share screen again. So the current demand is 1.517. And then the next bar over, the incremental demand, is 0.159. So, and other approved projects in the area. So the forecasted demand is 55 percent below the trigger set by the Water Commission, the state agency, which manages the water resources, and they also commented on the Draft EA and the DBA as it says in the title.

So basically, there is a lot of water under the ground, but this project and looking at the demand, the current pumpage again, hypothetically, if well number four were to go down that well number two would not be able to supply the full buildout. And as we can see in another graphic that in the near term it will. But under the full buildout, then there may be a need for another well as the project goes along.

Mr. Gima: That's still didn't clear, clarify. I'm sure you're well aware that during the LUC hearings there were, there was testimony submitted that all the wells in the current system is in the Leeward Aquifer. The Leeward Aquifer sustainable yield is three million gallons a day. And the trigger for the three million gallons a day is 2.1 million. And so at full build out at 1.9 million, you are very close to that trigger on the Leeward Aquifer. So I guess -- I mean, I'm glad you guys are looking at putting in another well. There's no concerns about that. I was just confused because on one hand, you're talking to plenty of water, but then you're, you're recommending building a new well. So I guess, I guess what I'd like for you to acknowledge is the fact that the 1.9 million gallons is all on the Leeward Aquifer and that it's close to the trigger at full build out.

Mr. Kawahara: Yes, I understand what you're saying. Maybe, maybe it's not the best metaphor or analogy. It's that let's say if you have a bank account and you have so much funds in your savings account, but you have a checking account, which is actually the infrastructure. If you need more from your savings account, then you transfer over to your checking account. So in this case, the bank account is the aquifer, and the, the checking account is what the current infrastructure is there. So when the time comes and you need and you need to write a bigger check, then you transfer more funds into your checking account. So understanding what you're saying about the Leeward Aquifer, citing the well would be looked at. And also in our water master plan, if you take a look at it, we do mention that interconnecting the Lanai, Lanai City Water System is another way of moving water where you need it.

Mr. Gima: Okay, thank you, Ken. I won't belabor the point. In future, in future applications regarding the six million gallons a day sustainable yield, will you please add that it is predicated on the recharge rate. I've brought, I've brought this up so many times before and you guys failed to do that every time. It's important to include the recharge rate in there. I don't need a response from that. Let's see if I have any more questions on the Change in Zoning. No, I'll stop there for now. So Commissioners, any other comments or questions for the Planning Department or Pulama Lanai regarding the Change in Zoning application? Okay, hearing seeing none.

So our alternatives are we can defer. We can recommend approval with no conditions. We can recommend approval with conditions. Or we can deny. I believe the Planning Department for the Change in Zoning Application has three conditions. Is that accurate, Kurt?

Mr. Wollenhaupt: Yes, that's correct. Our recommended then it is conditional zoning. So there are M1 Light Industrial specific uses, the M2 Heavy Industrial, along with the Special Uses,

and then that, of course, the conditions associated with the State Land Use Commission's Decision and Order shall be applicable to this project area, which then incorporates the 127 acres of the photovoltaic. So that's correct; three conditions.

Mr. Gima: Okay, so before I entertain a motion, Commissioners are there -- do you guys want to discuss or do you have any possible additional conditions that you'd like to add? Sally?

Ms. Kaye: Yes, I would like us to think about two conditions. I don't think they're particularly onerous to address. I think Negus and Erin's concern, we could ask the applicant to give us an annual report on the number of users or residents that have applied or have shown interest, just a progress report. I noticed that the LUC had a, had a condition of an annual report, but it didn't include that kind of granular detail. And that might provide a little satisfaction to residents, you know, that, that progress is being made.

The other one would be a semi-annual water use report as we've, as we've discussed and talked about for other projects. That would -- well, just like we've done with other projects, the source of the water that's used, and I don't know whether it would be granular enough to just say for heavy industrial or light industrial or, you know, broken down by, by the three different uses. I'm not sure, but I think a water use, a semi-annual water use report would be really useful.

Mr. Gima: Okay, thanks Sally. Kurt, any comments on how to phrase that as condition four and five?

Mr. Wollenhaupt: Well probably the comments would be similar to other times that the applicant should provide an annual report regarding, regarding interests, leases, users for the light industrial condominium area. We can word that a little better. But just have to drill down on what specific information you want to see; a number of inquiries, where they might be emanating from, whether that's a local business person, or whether it's Hawaii, or whether it's off islands, out of the State. And then the water use, that's pretty common that the applicant should provide a semi-annual water use report indicating the source of water, use of water. We could look in another, I can look at another older one to get that crafted properly. But the idea behind it is common. As Commissioner Kaye had said that this has been done before, especially with water reports. You just have to remember that we get lots, and sometimes we get an awful lot of reports and we have to keep them off straight so the tracking system of the of all these reports hopefully can over time it can be improved.

Mr. Gima: Okay, thanks, Kurt.

Mr. Wollenhaupt: Yeah. Thanks.

Mr. Gima: So, um, does this meet your satisfaction, Negus and Erin?

Ms. Atacador: Yeah, definitely. I appreciate the suggestion, Commissioner Kaye. That's a great, great solution.

Mr. Manna: Yeah, I agree with the water report. I'm not sure if it's necessary, but I wouldn't disagree with the, with the community report.

Mr. Gima: Okay. Any other conditions, Commissioners, that you'd like to add? Okay. If not, I will entertain a motion that the Lanai Planning Commission adopt or approve the Planning Department's report and recommendation for the Change in Zoning prepared for the August 16, 2023 meeting as the Findings of Facts, Conclusion of Law, and Decision and Order and authorize the Director of Planning to submit, transmit said written Decision Order to the Maui County Council on behalf of the Lanai Planning Commission, and that this report include conditions four and five that was submitted by Commissioner Kaye.

Mr. Manna: Are you asking for a second?

Ms. Atacador: Do we say so moved?

Mr. Manna: I second it.

Mr. Gima: Okay, it's been moved by Commissioner Atacador, seconded by Commissioner Manna that the Lanai Planning Commission adopt approve the Planning Department's report and recommendation for the Change in Zoning prepared for the August 16, 2023 meeting as the Findings of Fact, Conclusion of Law, and Decision and Order, and authorize the Director of Planning to transmit said written Decision and Order to the Maui County Council on behalf of the Lanai Planning Commission, and that report includes conditions number four and five that was submitted by Commissioner Kaye. Okay, any further discussion? Hearing none, all in favor raise your hands. Two, three, four, five, six. Okay, all opposed raise your hand? Okay, motion is approved unanimously.

It was moved by Ms. Erin Atacador, seconded by Mr. Negus Manna, then unanimously

VOTED: To adopt/approve and transmit the Department's report and recommendation for the Change in Zoning, with the amendments as discussed, to the Maui County Council.

(Assenting: E. Atacador, Z. de la Cruz, M. Fujie-Kaauamo, S. Kaye, N. Manna, S. Rabaca)
(Excused: N. Alboro, E. Grove)

Mr. Gima: Thank you. So at this time, let's take a ten minute break. Be back here at 6:56 p.m. and we'll take up the County Special Use Permit application.

(Lanai Planning Commission recessed at 6:46 p.m., and reconvened at 6:56 p.m.)

County Special Use Permit (CSUP 2023-0002):

Mr. Gima: We are back on record. Waiting for Sandi to come on camera. All right, quorum is back. Turn this over back to you, Kurt.

Mr. Wollenhaupt: You're looking tonight is what we call a County Special Use Permit. This permit would only activate in the sense that should the Council approve your recommendation for the Change in Zoning. The areas under the M2 Heavy Industrial have certain permitted uses. But then there also uses which are of a special nature that they need to be separately approved by the Lanai Planning Commission. The two uses that are under consideration are for an asphalt plant and also for a rock crushing facility. That being said, the County Special Use Permit is a time limited permit. The Change in Zoning is essentially forever unless they decide to do another Change in Zoning. However, the Special Permit is time limited for a period of time, often, five, ten years, depending upon the project. And it then is subject to renewal requests and review as to how the operations have worked over time as to whether or not their Director may approve and renew that, or whether it required another public hearing in the future.

Also with such a permit does come conditions regarding hours of operation; what actually can be done with a specific activity; what's going to happen after that activity may close; how are you going to button it up, remediate the site. It has certain requirements about in this one, rock, rock haulers and monitoring the leakage of materials, exterior illumination, and I shan't read all the conditions. But there are conditions associated with this that govern the operation. And as the applicant has stated, this evening, it's their intent to move the asphalt plant to this perhaps newly zoned area. And also to move their rock crushing facility to this newly zoned area from different areas on Lanai including essentially those next door and then those relatively close by.

So that's what's under consideration, and the Lanai Planning Commission is the deciding authority on this one. This is not a recommendation to the Council. But it would not go into effect unless the Council approves the Change in Zoning. So I believe that the applicant now would continue on with their presentation of their request for a Special Uses in the M2 Heavy Industrial District. And there they are.

Dr. Dancil: Thank you, Kurt. So thank you, Commissioners. We are here tonight. And as Kurt mentioned, for the second permit before you, which is the Special Uses within the M2 Heavy Industrial area.

I am going to call them out in particular. So in Area B, that's where the asphalt plant will be located. And in Area C, that is where the rock crushing distribution concrete batch plant, all of those things will be located in C. So C is 14.5 acres, and B is 12.5 acres. So, collectively, it's 27 acres and that's where we are asking for Special Uses within those 27 acres. I'm going to hand it over to Tessa and fast forward to that section of the presentation.

Ms. Munekiyo Ng: Thank you, Dr. Dancil. So on the screen here are the eight criteria that guides approval for Special Use Permits, County Special Use Permits. And as Kurt mentioned, Special Uses are uses that do meet the intent of the particular zoning districts. So in this case, the M2 Heavy Industrial Zoning Districts, that requires review and approval of the Planning Commission to ensure that adverse impacts are mitigated. So there are eight criteria for approval, for approval. And again, we do have detailed analysis of this in the staff report and the application, and we summarize it here on the screen.

So first, it discusses a couple of criteria related to consistency with the General Plan and Community Plan. And so as we've been discussing this evening, the Lanai Community Plan does designate the area for heavy industrial use, and it meets the intent and purpose of the district. Again, you know, heavy industrial uses and these are specific Special Uses called out in the M2 Heavy Industrial District. And the final five criteria are related to ensuring that there are no adverse impacts. And as we've talked about, there's been extensive environmental review of this that culminated in the Finding of No Significant Impact that was issued by the Land Use Commission. And so all of these impact area criteria have been adequately addressed as well. And the eighth criteria is particular to uses in the State Agricultural or Rural districts, so that's not applicable here because we're in the Urban district.

So if we go to the next slide, as Dr. Dancil talked about we are requesting special uses for two specific sites; the asphalt manufacturer plant and the rock and concrete crushing and distribution facility. The uses that you see on the top right of the screen, the terminology there is verbatim taken from the Maui County Code 19.26.40. And so that's why the use might not sound exactly like what we've been describing today. But the proposal is as has been described tonight and as is described in the application, but the terminology is just a function of how the uses are listed in the, in the Zoning Code.

And so, as Kurt mentioned there are some conditions for the County Special Use Permit, there is actually 12 that are, and the recommendations. It is contingent upon the Change in Zoning approval, and there are limitations in terms of time. In this case, ten years. And hours of operation and other conditions related to mitigation and operations and things like that. So those are located in the staff report on page-41 and 42, the 12 conditions. But that kind of summarizes that request for the County Special Use Permit.

Mr. Gima: Alright, thank you, Tessa and Keiki-Pua. Anything else to add Keiki-Pua?

Dr. Dancil: Nothing, Commissioner.

Mr. Gima: Okay. At this time I will open it up for public testimony. Leilani, anything in the chat or in the planning conference room?

Ms. Ramoran-Quemado: Thank you, Chair. I don't see anyone signed in the chat as well as there's no on in the conference room. Thank you.

Mr. Gima: Okay. Thanks. Roxanne, anyone in the Lanai District Office wanting to testify?

Ms. Morita: Hi Chair, no, there's no one here to testify.

Mr. Gima: Alrighty. So at this time, I will close public testimony on the County Special Use Permit request. So Commissioners, comments, questions, concerns? Sally?

Ms. Kaye: Yeah, sorry. I just want to -- notice that I would like Kurt actually to address that condition number one. Has the Planning Director approving the timely request and I'm wondering why that can't be, why can't it come back to the planning commission? It will be ten years from now if an extension is requested, all of us will be gone and no one will be present on the Commission that has any idea about this. So I think if that's possible; one thing to consider.

And then 90 days. That came up before in a couple of years ago in a permit that, and the Planning Department acknowledge that they were no longer requiring 90 days because a permit extension had lapsed because they hadn't applied early enough. Have they gone back to requiring the 90 days prior to the expiration? Or is that kind of just, you know, ad hoc?

Mr. Wollenhaupt: Well, a couple of things. Can, can, can you -- you can make that condition to whatever you believe, and vote on, and passes. So should you wish that a renewal must go back to the Planning Director for a public hearing, I mean, the Planning Commission for public hearing, that is your prerogative for debate and review. And if it's approved, then it's a condition of the project.

With regards to the 90 days, well, we changed the short-term home rental and the bed and breakfast. That's now very specific. You must apply 60 days before. It's, it's expiration or you do not have a permit. And then we have six months to get that bed and breakfast or short-term home rental renewed officially with an official permit.

The 90 days that's within this is what seemingly is just, it's the language that seems to be common on most permits, so I'm not aware of any code change.

Ms. Kaye: Well, okay, fine. That -- you were not on this project, Kurt. It was, it was another planner, but was an AT&T permit extension, and they didn't apply in time. And so we called, called it out at a meeting. And at the time, Jordan was still on in the Deputy Director position, and he said they kind of have let that go. And they were letting people apply, even though they hadn't met the 90 day deadline, so that's why I asked.

Mr. Wollenhaupt: Well there's, I mean, Danny's on, I think he's on the, on the line here. It has been common practice that that should you apply two days before the permit expired, we would still take the application.

Ms. Kaye: Right. That's, that's what happened.

Mr. Wollenhaupt: I, I'm not entirely sure what we would do in this case.

Mr. Dias: Yeah, I can add. I'll just add to that. So that, the 90 days, is more of a courtesy for the Department to give us some time to, you know, receive it and process it. The only example I can think of where there is a hard date in the Code would be, as Kurt mentioned, in the short-term rental code where it states if it doesn't come in within 60 days, then the Department quote shall not accept it. But other than that, it's just more of, you know, getting people to, to submit these on time and not coming in, you know, the day before it expires.

Ms. Kaye: Okay, then I'm going to recommend that that condition say the request for extension filed within 90 days, not at least because that's, that's kind of a legal requirement. If you don't meet the at least 90 days, then there's issue for discussion. And I don't, I don't know why you wouldn't just say filed within 90 days. I mean, that might be a headache for you, but I think it's more appropriate for the way you've been letting things slide and we read them and say, oh, they did meet the 90 day deadline, we have a problem so.

Mr. Wollenhaupt: Great. Was that --? I guess when you get to the conditions you're discussing now, so at the time that you discuss amendments and conditions we can work on -- I guess you'll talk about that.

Mr. Gima: Anything else, Sal?

Ms. Kaye: Um, can I just ask? I, I know this is going back but it went so fast the last one. When, when Kurt talked about, and I'm talking Mr. Matsumoto now, the Miki 20, he was referring to the 20 acres that have been on the books since what 1998 Community Plan to sell 50 percent acreage to residents. And I think what what's going on for the new guys on the Commission is the stuff that's in that 20 acres, Miki 20, is now going to get move to the heavy industrial, which frees up some of that area for what use it. I'm not really sure what that could be -- I guess that could be heavy industrial. But I just want to clarify what Miki 20 was because that kind of came out of the blue. And if I'm wrong, I'm, I stand corrected.

Mr. Matsumoto: Um, yeah, Commissioner Kaye, you're correct. When we have the ability to move the activities like the concrete plant, then we can address the, the, the lots that are in the 20 acre site and we would be able to then proceed with things like putting it on the market for sale.

Ms. Kaye: Okay, thank you.

Mr. Gima: Okay, Commissioners, any other questions? Oh, let's see. I think I have a few. Um, Pulama, can, can you remind us what Airports Division had to say, if anything at all, about any possible concerns about dust when you're excavating, crushing and or storing materials in that site?

Dr. Dancil: Thank you, Commissioner Gima. We did, I believe it was some of these things were discussed in the Final EA and we have to file with the Department of Health and . . . (inaudible) . . . to ensure that we are compliant with all of their requirements for operation. So those comments are addressed there. It wasn't necessarily us -- State Department of Health also commented on that as well.

Mr. Gima: Airports Division didn't have any specific concerns about potential dust or their aircraft flying in or flying out around that area?

Dr. Dancil: Subject to check, I believe they didn't have specific things to dust.

Mr. Gima: Okay. In, in both applications there were several references to number of employees and it made some reference to sharing of employees. So if all three operations are going on at once, what's the minimum number of employees and what's the maximum number of employees you'll have down there?

Dr. Dancil: I don't have that information in front of me, but I believe in the application Exhibit -
-

Ms. Munekiyo Ng: Exhibit-4.

Dr. Dancil: Exhibit-4. Okay, so the top of page-3, on Exhibit-4, six to eight, concrete batching, up to nine, that could be sharing. So I guess the maximum going to be nine . . . would be the maximum. And I can't find on what would be minimum for operations. So I guess that would be six according to just the rock crushing operation alone.

Mr. Gima: Thank you, Keiki-Pua. Um, Planning Department, and this is somewhat of a carryover in the last couple of meetings regarding water use. If the project required, or the project demand demanded 1.1 million gallons a day of water use in the project, what would the Planning Department do or do differently with regard to this application?

Mr. Wollenhaupt: Well, that's probably, that's probably the subject in our experts that they're dealing with the water. But if you're looking at 1.1 million, which is for much more than this activity would, then as you've been stating, you would be looking the, the 2.1 critical number that's coming up. We're getting a little -- that that's what I learned this evening anyway. So we would be having greater discussion on the water side of this if this was going to be using 1.1 million gallons for the asphalt plant and the concrete plant. That would probably be addressed in the EA as we're looking through. I'm not sure where we're going with this question in the sense of we would look at whatever reports were coming in. Again, we're not experts in solving the critical water issues over there. We do have to rely on those people who have a little bit more understanding of that. But with that number, that would require a greater analysis.

Mr. Gima: Well, the reason why I brought it up and then I challenged both the applicant and the Planning Department is there is no upper limit or an allocation. Million gallons. Would you

bring the application to the Planning Commission as is? Or would you have discussions with the, the applicant?

Mr. Wollenhaupt: Well, we have discussions with the applicant throughout the whole project and that would . . . (inaudible) . . . would be reviewing that critical number in a, in a professional way. I don't know what more to say on this. That hopefully would be a red flag that you got to bring in the Director and the supervisor and the head of the Current Division that, okay, we now have, we now have a critical issue here that's more than these projects have been taking.

Mr. Gima: Yes you are --

Mr. Wollenhaupt: So that would be a red light that we've better take another review and looks a little deeper into this.

Mr. Gima: Yes, you are right. I am putting you on the spot and rightfully so because there is no upper limit. You cannot say that's too much water because there is no standard that the applicant, nor the Planning Department is using. Okay ask and answer.

Um, Pulama Lanai, can you talk -- I was a bit confused about your outreach efforts in terms of engaging the community through this process. Can you talk about how you engage the community in going over this...both?

Ms. Munekiyo Ng: Yeah, yeah. Thank you, Chair Gima, for the question. In the Final EA, this Final EA, Ref-128, we have a discussion about the consultation that was conducted. And so, you know, as has been discussed, this goes back to the Lanai Community Plan process . . . (inaudible) . . . Community Plan Advisory Committee meetings for Planning Commission, Lanai Planning Commission meetings, and three Council meetings, as well as a public community meeting subsequent to that held on October 22nd, 2018. So those were kind of all of the actions surrounding the Community Plan. And the October 2018 meeting was, you know, subsequent to that completion and more specific to the project. And then as the project continued through the planning process, there were opportunities for public involvement and comment during that two Draft EAs and as well as the DBA.

Mr. Gima: Okay. So there were -- but there were no Pulama specific community meetings on, on this endeavor. I, I hear what you're saying about the LUC and, and Planning Commission opportunities. I, um, I was confused because you guys made reference to the community plan meetings, and, and for Commissioners, the community plan meetings covered a wide array of subjects. So it wasn't, it wasn't specific to this project. So, okay, thank you, Tessa, for, for clarifying, clarifying that. Let's see. Okay, I'll jump over to Michelle; go ahead.

Ms. Fujie-Kaauamo: Thank you, Chair Gima. I had a question regarding when you were talking about the airport, Chair, specifically that kind of gave me an idea about the air quality in terms of like the dust and the impact that it could potentially have at the airport. So I kind of dove a little bit deeper into the document and I noticed that on page-54 of the, what is this,

of the Final EA. It's the PDF version of the page number version. It says that the State Department of Health, Clean Air Branch, maintains air quality monitoring stations throughout the State. However, no monitoring stations are located on the island of Lanai, and, and I know that there was a comment in the conditions that spoke about just kind of the long term effects that that might potentially be an issue in the, like the, for long term perspective activities in which -- so this is going back up to page-20 -- air quality impacts may be regulated by the State Department of Health. So I was a little bit concerned because I mean, they say it's good because of trade winds, but with the kind of increase amount of, potentially increase the amount of activity down in that area and near the airport, I was curious if -- I don't know if that -- it says that it's a Department of Health, that there would be the ones required to monitor it. But if there's no monitoring device or like station then how would they know whether or not the air quality is bad? So I was curious if maybe we could put in any --. And we're talking about approving a long term zoning, right? So is there a way that it could be where, like, we do have some kind of monitoring system put in place on the island of Lanai for air quality? Because currently it doesn't have.

Ms. Munekiyo Ng: Thank you, Commissioner Fujie for the question. So the Department of Health does monitor these uses. And specific uses, although there isn't a kind of like a community wide monitoring station in Lanai, specific uses are monitored. And so uses like the asphalt plant and the concrete plant are, or concrete crushing, are uses that are monitored. And so the existing facilities do have the Department of Health Air Permits, and those permits would be transferred with the facility. So the monitoring and review is there.

Ms. Fujie-Kaauamo: Okay, thank you very much.

Ms. Munekiyo Ng: Thank you.

Mr. Gima: All right. Sandi? Negus? Erin? Zane? Questions? Comments? Sally?

Ms. Kaye: Yeah, I just have --. I want to follow up on, on Michelle's question. That was, that was, that was a great question. So if the Department of Health is already monitoring, how is it happening and how often?

Mr. Matsumoto: I can't speak to the frequency, but they do surprise inspections, and we also get surprise inspections from OSHA specifically to check on how the plants are being operated. And we also, for the concrete plant, it's, it's all new equipment. So we invested a lot in getting technology up to date. And there's a lot of attention paid in that industry in terms of the type of emissions, dust, and all that because it has a lot to do with that immediate workplace. So you're concerned about the impact at the airport. A lot of focus is placed by OSHA on the immediate site, so there's a lot of attention paid to that by those two different agencies. And like I said, it's just, these are all surprise inspections. They just show up and then they measure what's happening.

Dr. Dancil: So we cannot operate without those permits in place.

Ms. Kaye: How many surprise inspections have you had in the last five years?

Mr. Matsumoto: Every year, there's at least two or more inspections. Yeah, so if we're in violation, we get cited. It's publicly listed. So we have to do a lot in order to make sure that the operation is safe.

Ms. Kaye: Okay, thank you.

Mr. Gima: So I have one last question. And for those of you who are unaware how sensitive I am about water, during the Land Use Commission proceedings there was a statement made to the effect of the project's water use conforms to the water, Lanai's Water Use and Development Plan. So Pulama, Tessa, and or Ken, can you specifically explain or comment on how the project's water use conforms to the Water Use and Development Plan?

Ms. Munekiyo Ng: Yeah, in the Final EA we have some discussion about it. And, you know, the Water Use and Development Plan was adopted by CWRM back in 2012, so over ten years ago now. And the, Pulama Lanai acquired the assets during 2012, so they were not part of those stakeholder discussions, and the planning sessions, the many planning sessions for the Water Use Development Plan. But and as a result, many of the proposed projects that were included have either changed or are no longer being considered. So the discussion that's presented in the EA and in the Water Master Plan is considered to be the more realistic projected water demand for the project and for the island.

Dr. Dancil: To build on that as well, water, Department of Water Supply did some of that comment, talking about how incorporating conservation measures, and that part of conforming with the Water Use and Development Plan. Chair Gima, as you know, the allocation tables were not included in the Water Use and Development Plan and that's why those were not discussed in these applications or in any of our applications.

Mr. Gima: Okay. All right, thank you. Asked and answered. Commissioners, any further comments, questions? All right, hearing none. Besides what Sally offered as an amendment to condition number one, any other conditions, Commissioners, you want to include?

All right. So again, we have the similar alternatives with the Change in Zoning request. We can defer, we can approve with no conditions, we can approve with conditions, or we can deny. And then, as Kurt mentioned earlier, we're the final authority on the, on this request. That being said --

Mr. Wollenhaupt: Question just to confirm, Commissioner Kaye. So that the County's Special Use Permit shall be valid until August 31, 2033 subject to an extension by the Lanai Planning Commission upon a timely request for extension filed within 90 days prior to its expiration.

Ms. Kaye: Actually, that's up to you. The first part, yes, I would love to and I will always say this, I've said it for years, please bring it back to us, the planning commission. The 90 days, that's, that's your issue.

Mr. Wollenhaupt: Right.

Ms. Kaye: I just wanted to clarify that I really I don't care if you want to leave it like that, that's fine. But then we're going to hold you to it. If they don't do it within 90 days, there's going to be an issue. Okay. So I'm only going to stand on the Lanai Planning Commission amendment to that condition.

Mr. Gima: But you have no preference, Sally, to, to change it, to change, at least to within?

Ms. Kaye: That was just a recommendation that they consider clarifying what their processes, so they don't drive us all crazy.

Mr. Gima: Okay, any objections from the Commissioners or the Planning Department to change, at least to the word within?

Mr. Wollenhaupt: No objections from the Planning Department.

Mr. Gima: Okay, so we'll, we'll amend condition one as, as you stated earlier, Kurt. Okay, so -- . Go ahead Sally.

Ms. Kaye: Yeah, I'm sorry. I'm going to clarify that. My question was about the 90 days. My recommendation for change in the condition is simply to make it from the Planning Director to the Planning Commission. I, I -- the 90 day, if it's written that way, that's the Planning Department's decision. They can leave it like that. That's all. Just the Planning Commission from Planning Director.

Mr. Gima: Okay. Alright, so if there are no other discussions, questions, or additional conditions, I will entertain --

Mr. Manna: Sorry to interrupt Kurt, Chair, but could we have Kurt just go over the wording again please?

Mr. Wollenhaupt: Well I understand it, that the County Special Use Permit shall be valid until August 31, 2033, subject to extension by the Lanai Planning Commission on a timely request for extension filed at least 90 days prior to its expiration. Because that's what we originally had put. And if they file it 89 days, then that's -- hopefully there will be a concrete decision made in ten years on this subject. But it is worth, it is worth pursuing to get a final answer.

Mr. Manna: Thank you, Kurt. Thank you, Chairman.

Mr. Wollenhaupt: Thanks.

Mr. Gima: Wait. I thought there were no objections to changing at least to the word within.

Mr. Wollenhaupt: There's no objection from -- you can do whatever you wish. I think it's an unclear, it's an unclear matter as to what we will do if they -- if you said at least and they filed 89 nine days, I believe the practice has been that we will still accept it. But I do not, I don't have any clear answer as to the definitive practice that we do at the moment if you file 89 days.

Ms. Kaye: Okay, let me clarify, Chair Gima. My recommendation is that we only change condition one from Planning Director to Lanai Planning Commission, period. What they do with the rest of it is up to them. That's their kuleana.

Mr. Gima: Okay. Okay. We'll follow, we'll follow your lead and then just leave the language as at least then. Okay. All right. Is that clear as mud for everybody? Okay. So I will now entertain a motion that the Lanai Planning Commission adopt the Planning Department's report and recommendation for the County Special Use Permit prepared for the August 16th, 2023 meeting as its Findings of Fact, Conclusions of Law, and Decision and Order approve the County Special Use permit contingent upon the County Council passage of the associated, associated Change in Zoning, and to authorize the Director of Planning to transmit said written Decision and Order on behalf of the Lanai Planning Commission, and as a condition one is amended.

Ms. Kaye: So move.

Ms. Atacador: Second.

Mr. Gima: Okay, it's been moved by Commissioner Kaye, seconded by Commissioner Atacador that the Lanai Planning Commission adopt the Planning Department's report and recommendation for the County Special Use Permit prepared for the August 16th, 2023 meeting as its Findings of Fact, Conclusions of Law, and Decision and Order. Approve the County Special Use Permit contingent upon the County Council passage of the associated Change in Zoning, and to authorize the Director of Planning to transmit said written decision and order on behalf of the Lanai Planning Commission, and have the condition one as amended. Okay, any further discussion on the motion? Hearing none, all in favor raise your hands.

It was moved by Ms. Sally Kaye, seconded by Ms. Erin Atacador, then unanimously

VOTED: To adopt/approve the Department's report and recommendation for the County Special Use Permit, with the amendments as discussed, contingent to the Maui County Council's passage of the associated Change in Zoning.

(Assenting: E. Atacador, Z. de la Cruz, M. Fujie-Kaauamo, S. Kaye, N. Manna, S. Rabaca)
(Excused: N. Alboro, E. Grove)

Mr. Gima: Okay, all opposed? All right, motion is carried.

Dr. Dancil: Thank you.

Mr. Matsumoto: Thank you.

C. DIRECTOR'S REPORT

1. Completed Lanai Applications Report as distributed by the Planning Department with the August 16, 2023 agenda.

Mr. Gima: Okay, moving on to the Director's Report. Who's going to cover the approved projects for Lanai?

Mr. Danny Dias: Chair, we don't have any projects. What we do have is some requests for comments. And so, yeah, so those aren't permits. It's you know, yeah, requests for comments.

Mr. Gima: Could you explain both of them specifically?

Mr. Dias: Uh, let me see here. I -- hold on. I'm going to have to pull up some more information so if you can give me about a minute or so.

Okay, I'm going to attempt to share screen here. So this is a request for consultation from the Department of Environmental Management. Let me see here. Okay, can you folks see that?

Mr. Gima: Yes.

Mr. Dias: Okay. So it's basically the Director of the Department of Environmental Management stating that they intend to issue a declaration of exemption from the preparation of an Environmental Assessment. And the work, I'm scrolling down here, is for the installation of mechanical aerators at an existing waste stabilization pond. And so, you know, as you folks know there is a list of exempted items that was vetted from environmental review. And so essentially, the Department of Environmental Management is notifying the Department that they are exempting this, this, what appears to be essentially a maintenance project. I'm going to stop sharing. And if you can give me another minute to find the other project; hold on here.

Ms. Kaye: While you're doing that, can I ask a question, please, Danny?

Mr. Dias: Sure.

Ms. Kaye: So, okay, there's a request for a consultation to declare an exemption Lanai Wastewater. Who made the request and what is the work that's to be done?

Mr. Dias: Okay, let me share screen again.

Ms. Kaye: Yes, I'm sorry. It's very small. I can't read it.

Mr. Dias: Okay. Okay, is that better?

Ms. Kaye: Okay, so, so the County is, is asking the County. One County agency is asking the other County agency to be exempt from --?

Mr. Dias: Well, this is, this appears --. I'm sorry. Let me, let me look at this real quick. One moment.

Ms. Kaye: If you want to just tell us next month, I don't mean to put you on the spot.

Mr. Dias: Yeah, to be honest, I didn't, I didn't like read this in detail, and it is written kind of strange because it says requests for consultation. But essentially, as you folks know, a trigger for environmental review is amongst other things, the use of County land or funds. So any time there's a County project, it automatically triggers an Environmental Assessment. However, you know, a County project could be, you know, re-striping a crosswalk, right? Because you're using County funds. So there is a list of things that are exempt that went through, you know, sort of like the project that you folks reviewed that went through the EA process. And so essentially, whenever the County has a project, they notify us that, by the way, we're doing something. This technically triggers environmental review. However, it's exempt. And then this is where they show us what the project is, is exempt under. And that would be here, exemption class two, exemption item number three, which is, you know, utility services including sewer, water, drainage, electrical, communications, irrigation, etc. So, you know, if you can just imagine all the County projects, big or small, having to do an EA, you know, that would just be extremely costly. So I hope that, you know, that that kind of clarify it.

Ms. Kaye: Could you just back up a little bit on that screen? Page up.

Mr. Dias: Let me share screen again. Here?

Ms. Kaye: Okay, aerators, okay. So you're talking about aerators. Um, I thought that was always done. Is this something that they have to apply for all the time? Or what?

Mr. Dias: Like I stated, whenever the County does a project it, it technically triggers environmental review. But you know, obviously that's not practical, right? And I mean, there's so much things that the County does. You know, this repaving roads, putting up signs. So we can imagine having to do an EA for every single thing. So --

Ms. Kaye: Okay, wait, wait. It says upgrades to pond system to improve wastewater process. Yeah, just if you could let us know. I'm sorry. I don't mean to put you on the spot.

Mr. Dias: Okay, so, so, I'm sorry. What is your, what is your question? Do you want Department of Environmental Management to explain their project then?

Ms. Kaye: No, I just want to know what, what upgrades. What is this about? Is this a one-time thing? Is this something they do all the time? What caused it to be filed in the first place? Do we have a problem with our wastewater treatment plant, pond?

Mr. Dias: Okay. I'll, I'll try to find out more information.

Ms. Kaye: Okay, thank you. Sorry.

Mr. Gima: Yeah, Danny, it probably would be helpful to ask if this is a capacity issue, whether the upgrades and stuff is a capacity issue, or is it just repair and maintenance and that kind of stuff, because those are two separate, two separate issues, yeah?

Mr. Dias: Okay, I'll ask wastewater for basically a project description, and then I will also ask them if there is any capacity issues. Anything else?

Mr. Gima: Michelle?

Ms. Fujie-Kaauamo: For a consultation and this is being brought to us for what purpose? Like I guess is it just information? I don't understand what the word consultation means when it's being brought. I don't see that document in our, in our packet either. So is that something that --? Yeah. So where did that packet come from?

Mr. Dias: So essentially, any project that the Department touches, you know, we send to you folks for, you know, just, just as a heads up. So the wording request for consultation, I'm kind of stumped on that, too, because that's almost like they're just saying we're declaring this project exempt. I don't know why they would call it a request for consultation because I don't think they are. The only thing I can think of is if, you know, the Director of Public Works or the Director of Planning disagreed with them exempting their projects. So that's the only thing just looking at this for the first time tonight, that's the only thing I can think of is they're saying, this is our project, we're declaring it exempt. But if you disagree, then you know, then give us consulting as to why you disagree.

Ms. Fujie-Kaauamo: So this is just more informational then on our part for now.

Mr. Dias: This is more informational. This isn't, you know, like a, like a permit that you would make a decision on.

Ms. Fujie-Kaauamo: Okay, thank you.

Mr. Dias: Okay, let me look for the other one. So the other request for comment was just a bunch of questions that an architect was asking of the Department. Let me kind of blow this up and then share screen. So I, if you folks want to read it. It's basically Marni Tam asking all these questions and I'll just leave it up there and let me know when you folks want me to take it down. And just keep in mind that this doesn't necessarily mean they're coming in for a project. They're just asking questions.

Mr. Gima: So again, Danny, it's just an FYI for us, right?

Mr. Dias: Correct. Correct. I am going to stop sharing screen now unless somebody is still reading. Okay, so those are, those are the two items on the closed project list for Lanai right now.

Mr. Gima: All right. Anything else from the Commissioners on the two items we just discussed? All right. Thanks, Danny.

Mr. Dias: You're welcome.

2. Agenda Items for the September 20, 2023

Mr. Gima: So next, next meeting is September 20th. Any of you will not be able to make the meeting? Okay --

Mr. Dias: And Chair can I --? Oh, sorry, at some point, can I interject regarding that meeting date, please?

Mr. Gima: Sure. Okay, Negus?

Mr. Manna: I just wanted to make you aware that I would be traveling in Maui so I would make my best attempt to --. I'm traveling for work for that week from the 18th to the 21st, just to make you aware, but I will do my best to attend.

Mr. Gima: Okay, thank you. All right Danny.

Mr. Dias: Okay, that's actually a perfect segue way to what I was going to say. Just so you folks are aware of all the boards and commissions that we have, Corp Counsel, Corporation Counsel has advised us to cancel all the meetings for the month of August, and that may extend into the month of September. This Commission is the only one that we still held the meeting. And the reason why amongst, you know, the obvious thing is as we move forward due to the Sunshine Law, we have to make sure that everybody in Maui County has an opportunity to attend these meetings. So although, you know, generally speaking, it's usually only Lanai people that attend these commission meetings, we still have to have it available for everybody else. And right now with, you know, just the amount of people displaced with

electricity not necessarily being available, internet, et cetera, as a precaution, we may have to extend, you know, meeting cancellations into September, maybe even beyond that. So we don't have any items or we, we didn't have any items scheduled for September 20th. You know, we were thinking about maybe doing some sort of training or something, but if we can have it, we will. But just be aware that we might not be able to. And that's all Chair.

Mr. Gima: All right. Thanks, Danny. You kind of answered my question. Commissioners, comments about what Danny just shared?

Ms. Atacador: Ah, I do Chair, if that's okay.

Ms. Gima: Go ahead.

Ms. Atacador: This is just, just food for thought. Two months ago, our, Gabe Johnson's office wasn't available for testifiers to testify in person, but there was a location in Maui that testifiers could go to and with sunshine laws in mind, I understand that we're an outer island, but I think it's, it's not right to say that if you want to testify in person, you can go to Maui and spend the night and do it. But we still had the meeting even though there was no place on Lanai for people to testify in person. So with that called out, that's just, you know, my personal comment that if we couldn't hold our meetings because Maui County people couldn't attend, I think that that's to be considered both ways, right? Like how on Lanai, we didn't have a place for people to testify in person, but we could still conduct the meetings. So that's, that's, that's my comment.

Mr. Gima: Good point, Erin. Thank you. Okay, Mariana, did you want to comment?

Ms. Mariana Lowy-Gerstmar: Hi, yes. Nice meeting, everyone. My name is Mariana. I'm just covering today, today's hearing. I talked to Mimi and we may also switch to just online, so there wouldn't be a problem with this local, like in-person testifying option. So I don't foresee that we will cancel the meeting next month, to be honest. But we won't have a physical location, that will be the change.

Ms. Atacador: Because like for me it's more important to secure a physical location on Lanai for people to come in.

Ms. Lowy-Gerstmar: Absolutely. And if that's the case --. Yeah, absolutely, and I'll talk to her. And if that's the case, then there shouldn't be any need to cancel this meeting at all. Okay, I just, I just would like to tell you that to just to be patient with us. We are dealing with a lot of things besides assisting and advising these meetings. There's a lot going on, but we are, you know, we're trying to make things happen and that's why I'm here today. Everything went very smooth so thank you all. But yeah, if we can, we will totally try to make the meetings happen.

Ms. Atacador: Thank you. And yeah, we do understand what you guys are going through and we appreciate you still taking the time to be a part of our meeting so we can conduct it. We

really do appreciate it and recognize that you guys, you know, are doing, going above and beyond right now to let us conduct our meeting.

Ms. Lowy-Gerstmar: Yeah, we will, we will, we'll be in touch. So no, it wouldn't be just a decision last minute just to cancel on this. We -- there's something else happening. Okay. Thank you.

D. NEXT REGULAR MEETING DATE: September 20, 2023

E. ADJOURNMENT

Mr. Gima: Thank you, Mariana. Okay, if there is no meeting next month then yeah --. Well, let me take that back. Do any of the Commissioners have any agenda items they would want if and, if we have a meeting next month? Go ahead Zane.

Mr. de la Cruz: I'm not sure if this falls into an agenda item or, or not. But we do often have the conversation about water, water availability, and I know we always get mired down into there are new allocations and things of that matter. Well, I, I guess what I've noticed is that as far as water availability goes, we have really good documentation on output, like, how much we're taking from the aquifer. But as far as I know there is zero documentation on inputs, like, I don't know if there are any rain gauges because that's what's based on, right? Like, I think it's nine million gallons a day of infiltration in the aquifer that needs to happen for the six million gallon daily outputs. And so is there some way that we can, I don't know, like make that a necessity? Is there, is there --? Do we have the authority? Is there a mechanism we can use to say that, you know, if we are going to be using the six million gallons a day bench line, then based on that same document, we need to know that nine million gallons a day on average are going into? Is that, like, yeah, do we have any authority or is there a mechanism we can utilize to get that report?

Mr. Gima: Excellent question, Zane. Um, County, would you like to respond to, to that and whether or not this can be an agenda item?

Mr. Dias: Yeah, it can definitely be an agenda item. We'd have to figure out. I mean, you know, obviously, as you folks know, we're not water experts, so we would have to reach out to find out, you know, like what other agency, I guess maybe CWRM or somebody would have that information or at least be able to speak about the, you know, the methodology of how you would get that info and so forth. So, yeah, I can run this up the ladder and then just kind of get some input on, on how we would provide that information. Because obviously we, as a department, wouldn't be able to provide that info.

Mr. Gima: Okay, thank you. Sally, it looks like you're poised to say something.

Ms. Kaye: Nope.

Mr. Gima: Okay, if there are no other potential agenda items and if there are no objections, meeting is adjourned for today. Thank you, everybody. Thank you for Pulama and their consultants and Planning Department; appreciate it.

There being no further discussion brought forward to the Commission, the meeting ended at 8:00 p.m.

Respectfully submitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

PRESENT:

Erin Atacador, Vice-Chair
Zane de la Cruz
Michelle Fujie-Kaauamo (present at 5:08 p.m.)
Reynold Gima, Chair
Sally Kaye
Negus Manna
Sandi Rabaca

EXCUSED:

Nicole Alboro
Elisabeth Grove

OTHERS:

Danny Dias, Planning Supervisor, Current Planning Division
Kurt Wollenhaupt, Staff Planner, Current Planning Division
Mariana Lowy-Gerstmar, Deputy Corporation Counsel
Roxanne Morita, Executive Assistant, Maui County Council, Lanai District Office
Leilani Ramoran-Quemado, Secretary to Boards and Commissions II, Current Planning Division