

HOUSING AND LAND USE COMMITTEE
Council of the County of Maui

M I N U T E S

March 2, 2023

Online via BlueJeans Link and Council Chamber

CONVENE: 9:02 a.m.

PRESENT: Councilmember Tasha Kama, Chair
Councilmember Tom Cook, Vice-Chair
Councilmember Gabe Johnson, Member (out 1:34 p.m.; in 3:49 p.m.)
Councilmember Alice L. Lee, Member (out 2:17 p.m.; in 2:20 p.m.)
Councilmember Tamara Paltin, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member (out 9:38 a.m.; in 9:43 a.m.)
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member (out 3:06 p.m.; in 3:20 p.m.)
Councilmember Nohelani U‘u-Hodgins, Member (out 9:25 a.m.; in 9:28 a.m.; out 11:13 a.m.)

STAFF: Ana Lillis, Legislative Analyst
Paige Greco, Legislative Analyst
Richard E. Mitchell, Legislative Attorney
Stacey Vinoray, Committee Secretary
Jean Pokipala, Council Services Assistant Clerk
Lenora “Lei” Dinneen, Council Services Assistant Clerk
Nalani M. Fujihara, Communications Specialist

Evan Dust, Executive Assistant to Councilmember Kama
Lois Whitney, Executive Assistant to Councilmember Kama
Davideane Kama-Sickels, Executive Assistant to Councilmember Kama
Stacy N. Takahashi, Executive Assistant to Councilmember Cook
Jared Sam P. Agtunong, Executive Assistant Councilmember Cook
Michele McLean, Executive Assistant to Councilmember Lee
Susan Clements, Executive Assistant to Councilmember U‘u-Hodgins
Laura McDowell, Executive Assistant, Councilmember U‘u-Hodgins
Sarah Sexton, Executive Assistant to Councilmember U‘u-Hodgins
Kate Griffiths, Executive Assistant, to Councilmember Johnson
Roxanne Morita, Executive Assistant to Councilmember Johnson
Axel Beers, Executive Assistant to Councilmember Johnson
Braedon Wilkerson, Executive Assistant to Councilmember Rawlins-Fernandez
Noelani Ahia, Executive Assistant to Councilmember Rawlins-Fernandez
Dawn Lono, Executive Assistant to Councilmember Sinenci
Gina Young, Executive Assistant to Councilmember Sinenci

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Mavis Oliveira-Medeiros, Council Aide, Hāna Regional Area Office
Denise Fernandez, Council Aide, Lāna‘i Regional Area Office
Jade Rojas-Letisi, Makawao-Ha‘ikū-Pā‘ia Regional Area Office
Zhantell Lindo, Council Aide, Moloka‘i Regional Area Office
Bill Snipes, Council Aide, South Maui Regional Area Office
Christian Balagso, Council Aide, West Maui District Office

ADMIN.: Mimi DesJardins, Deputy Corporation Counsel, Department of Corporation Counsel
Saumalu Mataafa, Deputy Director, Department of Housing and Human Concerns
Linda Munsell, Housing Administrator, Department of Housing and Human Concerns
Clyde “Buddy” Almeida, Assistant Housing Administrator, Department of Housing and Human Concerns
Dr. Janet Six, Archaeologist, Department of the Managing Director
Jordan Molina, Acting Director, Department of Public Works
Wendy Taomoto, Deputy Director, Department of Public Works
Maria Zeilinski, Budget Director, Office of the Mayor
Kathleen Aoki, Acting Planning Director, Department of Planning
Anne Cua, Planning Program Administrator, Department of Planning
Tara Furukawa, Planner V, Department of Planning
Tammy Yeh, Civil Engineer VI, Department of Water Supply
Shayne Agawa, Acting Director, Department of Environmental Management

OTHERS: Grant Chun, Executive Director, Hale Mahaolu
Debbie Cabebe, Executive Director, Maui Economic Opportunity, Inc. (MEO)
Chris Sugidono, Senior Associate, Munekiyo-Hiraga
Katheren Hall, Attorney, Carlsmith Ball
Ashley Otomo, Civil Engineer, Otomo Engineering Inc.
Trevor Yucha, Cultural Surveys Hawaii
Monte Headen, HighRidge Costa Development
Kelcee Fujimoto, Austin Tsutsumi & Associates, Inc.
David Sereda, President & Landscape Architect, Chris Hart & Partners
Mark Roy, Vice-President, Munekiyo Hiraga
Craig Nakamura, Carlsmith Ball
Mohannad “Moe” Mohanna, President, HighRidge Costa
Peter Horovitz, Board Member, Maui Economic Opportunity
Lena Tamashiro, Architect, Design Partners Incorporated
Jeyan Thirugnanam, Transportation Alternatives, State of Hawaii, Department of Transportation
Andrew McCallister, Maui Lead Archaeologist, State Historic Preservation

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Division

Additional attendees: 76

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

CHAIR KAMA: . . . *(gavel)*. . . The Housing and Land Use Committee will now...meeting of February 28, 2023, will now reconvene. It is March 2nd, and it is now 9:02 a.m. I am Tasha Kama, I am the Chair of the Housing and Land Use Committee. Good morning to each and every one of you, and thank you for coming back. We're going to do roll call right now, and we're going to begin with our illustrious Chair Lee to give us the...the greeting of the morning.

COUNCILMEMBER LEE: Thank you, Madam Chair. Namaste to everyone, from India.

MS. LILLIS: Vice-Chair Tom Cook.

VICE-CHAIR COOK: Good morning, namaste.

MS. LILLIS: Councilmember Johnson.

COUNCILMEMBER JOHNSON: Good morning, Chair, Councilmembers, Committee members, namaste to you all. I hope you had your power overnight and everybody was safe. Mahalo.

MS. LILLIS: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aloha kakahiaka kakou. Broadcasting live and direct from the Council Chambers. We got no testifiers at the Lāhainā District Office.

MS. LILLIS: Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka mai Moloka'i nui a Hina. I'm at the Moloka'i District Office alone on my side of the office. And we have our Community Outreach Specialist Zhantell Lindo on the other side of the office. It looks like I need to change my Internet. We...oh, testimony is closed. Okay. Mahalo, Chair.

MS. LILLIS: Councilmember Sinenci.

COUNCILMEMBER SINENCI: *(Audio interference)* District Staff Mavis Medeiros and *(audio interference)*. Aloha kakahiaka from the Hāna District Office. I'm here with District Staff Mavis Medeiros and Dawn Lono. Aloha.

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MS. LILLIS: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Namaste. Good morning, everybody. Looking forward to a productive day here in the Council Chambers.

MS. LILLIS: Councilmember U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: Good morning and namaste, gang.

MS. LILLIS: Chair...

CHAIR KAMA: Yes? We have quorum?

MS. LILLIS: Yes, we have quorum.

CHAIR KAMA: Thank you. So, good morning. And we have with us today from the Department of Corporation Counsel the Deputy Corp. Counsel Mimi DesJardins and Mr. Mike Hopper. So...

MS. DESJARDINS: Good morning, everyone. Mr. Hopper won't be with --

CHAIR KAMA: Okay.

MS. DESJARDINS: -- joining us today, but I'm here. So, good morning.

CHAIR KAMA: Good morning. Thank you so very much. And we have from the Department of Human Concerns the Deputy Director, Saumalu Mataafa. Do you have Buddy with you today too, or just you?

MR. MATAAFA: Thank you, Chair. I believe Buddy should be on today.

CHAIR KAMA: Okay.

MR. MATAAFA: Thank you.

CHAIR KAMA: Good morning. And we have from the Department of Public Works, Jordan Molina, Acting Director, and I'm sure he'll be on soon also. We also have from the Planning Department, Kathleen Aoki, the Acting Director, and with her, her Deputy Director, Garrett Smith. Hopefully that they're on too. We also have our resources here from Maui Economic Opportunity. So...

MS. LILLIS: Yes. If you would kindly join us.

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CHAIR KAMA: So...thank you. So, we have Ms. Debbie Cabebe, the Executive Director of MEO. We have Mr. Grant Chun, who is the management company for the project, and Chris Sugidono from Munekiyo Hiraga. So...and I think we had other resources that day too. Are they here with you folks today or no? Yes? Okay. Okay. Thank you. So, they were resources at the last meeting. Do they continue to stay resources?

MS. LILLIS: Correct.

CHAIR KAMA: Okay.

MS. LILLIS: We did not formally recognize them, so I can...we can ask MEO to read their names into the record.

CHAIR KAMA: Okay. So, could you read their names just for the record please, Chris?

MS. LILLIS: The additional resource persons.

MR. SUGIDONO: Yes, Chair. We have...in the gallery we have Katheren Hall from Carlsmith Ball, Trevor Yucha of Cultural Surveys Hawai'i, Monte Headen of HighRidge Costa, Kelcee Fujimoto of ATA, David Sereda of CHP Maui, and Mark Roy of Munekiyo Hiraga. We also have online Lena Tamashiro of DPI, and Craig Nakamura of Carlsmith Ball, as well as Moe Mohanna of HighRidge Costa.

CHAIR KAMA: Thank you. I also forgot to mention that we have the departments on-call. The Budget Office, the Managing Director's Office, Environmental Management, Fire, Parks and Recreation, Police, Transportation, and Water Supply. And I just...yes, Chris?

MR. SUGIDONO: I'm sorry, I thought I should also add Peter Horovitz can also be available as a --

CHAIR KAMA: Okay.

MR. SUGIDONO: -- resource person from yesterday.

CHAIR KAMA: Okay. Thank you. We also have our Committee Staff with us, Ms. Ana Lillis, our Legislative Analyst. Good morning.

MS. LILLIS: Good morning, Chair.

CHAIR KAMA: And we have with her Paige Greco, our other Legislative Analyst. Good morning.

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MS. GRECO: Good morning, Chair. Good morning, Members.

CHAIR KAMA: And we have our Committee Secretary, Stacey Vinoray.

MS. VINORAY: Good morning, Chair. And good morning, Members.

CHAIR KAMA: And we have our Legislative Attorney, Mr. Remi Mitchell. Good morning, Remi.

MR. MITCHELL: Good morning, Chair and Members.

CHAIR KAMA: So, thank you, Members, for attending today's HLU reconvened meeting.

HLU-2(1): HOUSING PROJECTS UNDER CHAPTER 2.97, MAUI COUNTY CODE: RESOLUTIONS 23-78, 23-79, AND 23-80, RELATING TO THE HALE MAHAOLU KE KAHUA RENTAL HOUSING PROJECT (WAILUKU)

CHAIR KAMA: And so, we left off at our last meeting after we had talked with and asked questions of the Department of Housing and Human Concerns. But before we begin our questioning of our project direct...our project management, I'd like to be able to let you know that at our last testimony...at our last meeting, during testimony, there was a member of the public who raised the issue of my participation in these deliberations, given my role as a member of the Board of Directors of MEO. So, out of the abundance of caution, I have asked the Maui County Board of Ethics for a formal opinion on whether I can vote on the matter before us. I expect that I will receive at least a draft opinion and response to my question before we act on this matter on March 22nd. But until I receive that opinion, I will continue to Chair this meeting, participate in the discussion, and cast my vote. Yes, Mr. Johnson?

COUNCILMEMBER JOHNSON: Chair, if I may? I too...

CHAIR KAMA: Absolutely.

COUNCILMEMBER JOHNSON: Thank you so much. I too sit on the board of MEO. And after a long night sleep, I...I looked back on the...some of the rulings of the...of the Board of Ethics. And I think it'd be important for me to let everybody know that I will recuse myself on any of the votes coming up, but I will participate in the --

CHAIR KAMA: Absolutely.

COUNCILMEMBER JOHNSON: -- *(audio interference)* conversation. Thank you so

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much, Chair.

CHAIR KAMA: And you're welcome. Do we have any other questions? Okay. Thank you. Also, on a separate note, Acting Planning Director Aoki has limited availability to join us in this meeting, but Anne Cua, the Planning Program Administrator for the Current Division, and Tara Furukawa, Planner V, will be on-call if we have any planning or land use questions. So, Members, do you have any questions? Okay. Seeing none. Shall we continue? So, we started off with our Deputy Director from the Housing answering the question that was asked of him. So, if you all would like, we're going to continue to ask the questions, and we're going to begin with Member Cook.

MS. LILLIS: Chair, before you begin --

CHAIR KAMA: Yes.

MS. LILLIS: -- Dr. Six has also been connected to the meeting, and she's also available as a person to answer questions from the Administration. That's all.

CHAIR KAMA: Okay. So, we don't need to make her a resource, right, because she's part of the...okay.

MS. LILLIS: You've got it, Chair. Thank you.

CHAIR KAMA: Okay. Got it. Thank you. Mr. Cook, questions for the Administration or the project? Your mic.

VICE-CHAIR COOK: Thank you. I have no questions at this time. Thank you.

CHAIR KAMA: Okay. So, we're going to go over to Chair.

COUNCILMEMBER LEE: I have no questions. Thank you.

CHAIR KAMA: And going down the line, we're going to continue with Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Thank you very much. At the time I wanted to just ask Saumalu Mataafa to explain further. You were very concise in your answers. So, I think you could...I...I got asked by a constituent what does it mean that it...it passes this, you know, is complying to 2.97? If you could explain it a little...a little bit more in detail for the general public.

MR. MATAAFA: Thank you. Chair? Yes. So, I would just say that we have the 2.97 process which relates to incentives and exemptions for workforce housing projects. What happens is, there's a checklist in 2.97 that any applicant who has

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a 100 percent workforce housing project looks at that checklist and they check off all the items on the checklist. And if they check off all the items on the checklist and they indicate that they're ready to bring the project forward, our Staff will go ahead and review the...the application and is made...determined that...by the Staff that it does meet the requirements of that application and Chapter 2.97. So, if it does meet those requirements, we bring it before the Council to consider for approval or disapproval. Thank you.

COUNCILMEMBER SUGIMURA: Thank you. And the checklist is? You have it in front of you?

MR. MATAAFA: Yeah. So, it's an extensive checklist. It's in the Maui County Code. There's certain requirements that the applicant has to meet. So, if you go in Chapter 2.97...I won't read them all, but I can make that available to the public, and it is available online for them to read through all the requirements that an applicant needs to go through before they can submit it to the Department for transmittal to the Council. So, thank you, Chair.

COUNCILMEMBER SUGIMURA: Okay.

MR. MATAAFA: Or thank you, Councilmember.

COUNCILMEMBER SUGIMURA: Thank you. Thank you.

CHAIR KAMA: Okay.

COUNCILMEMBER SUGIMURA: I'll...I'll...I'll bring it up and I'll read it because I think that's what they're interested --

CHAIR KAMA: Okay.

COUNCILMEMBER SUGIMURA: -- in is more details, not go read it yourself kind of thing. So, thank you.

CHAIR KAMA: You're welcome. Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Before I start, can I clarify, this is the portion we're only asking for the Administration, or is it open?

CHAIR KAMA: Both, both.

COUNCILMEMBER PALTIN: Oh, anyone?

CHAIR KAMA: Yes, yes.

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COUNCILMEMBER PALTIN: Okay. My first question would be, do you folks have a tenant selection plan? And can you give...provide us in writing with the financial requirement qualifiers at this time? Both of those in writing if you have it.

MR. CHUN: I don't have it with me, but I can submit it to the Committee, Ms. Paltin.

COUNCILMEMBER PALTIN: Thank you. Another thing I had asked for and it wasn't readily available was the value of each exemption requested. And I was wondering if it was something that we could...you know, for the ones with special funds like Water, Sewer, Highways, exemptions, if we could use affordable housing funds so that...just because this is a low-income project that they still have those things and...and the departments remain whole. Do you have any objection to that?

MR. CHUN: No, Ms. Paltin, no objection.

COUNCILMEMBER PALTIN: So, like if...if the curb, gutter, sidewalk money came out of the Affordable Housing Fund, would you still be able to do a bus stop?

MR. CHUN: Would you like to address that? Or I can. We would like to do a bus stop, yes. Some of the questions that are being asked as far as, you know, drilling down to specific locations, and what there's space for, and that sort of thing are a little bit preliminary just because at this stage of the game, you know, we're working on the...basically the...the foundation of the project, which is the entitlements. You know, subsequent to this, of course, building drawing sets are prepared, and we interface on an ongoing basis with the Administration's various working departments to...to accommodate for as much as we can in the way of, you know, items like bus stops and that sort of thing. Just to...just to put it out there that, you know, we are very early in the process. Some of these questions are a little bit more specific than we're able to really definitively address.

COUNCILMEMBER PALTIN: Okay. Can you clarify why the answer was that if you didn't require curbs and gutters that then a bus stop was more likely? Is it because there's not enough space, or is it because of money?

MR. CHUN: Yeah, Chris can answer that.

MR. SUGIDONO: Yeah, in speaking with the design team, I mean I think the intention, we...we would like to put a bus stop. And I think having the exemption for curbs, gutters, and sidewalks would improve the feasibility of that. But I think because...like as Grant mentioned, the...you know, drawing the...the . . . *(timer sounds)* . . . as the project plans are more refined. and when you go through the building permit process, you start to really see what is feasible and what isn't. But I think the curbs, gutter, and sidewalk exemption helps with the

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feasibility of that.

COUNCILMEMBER PALTIN: In terms of finances or space?

MR. SUGIDONO: Space and design constraints.

COUNCILMEMBER PALTIN: Thank you. My time's up.

CHAIR KAMA: Thank you, Member Paltin. Member Johnson?

COUNCILMEMBER JOHNSON: Thank you, Chair. Okay. So, I have a few questions. First for Deputy Director. I have a question in regards to Bill 111. Will...will there be a residential preference for this project?

MR. MATAAFA: Chair, I'm not sure if...may I answer this question?

CHAIR KAMA: Go ahead.

MR. MATAAFA: I am not sure in the context of this project if it's appropriate to talk about this during this time. Bill 111?

CHAIR KAMA: He's asking if some of the...the requirements from Bill 111 will be applied to the project.

MR. MATAAFA: I don't believe so at this time.

COUNCILMEMBER JOHNSON: Okay. And then...thank you. My next question is for Mr. Chun. Are you folks receiving LIHTC funding?

MR. CHUN: We're going to apply for LIHTC funding, yes.

COUNCILMEMBER JOHNSON: When we will know if you receive it?

MR. CHUN: Well, the review process occurs once a year, so normally the projects are notified during the summer/fall --

COUNCILMEMBER JOHNSON: Okay.

MR. CHUN: -- time frame.

COUNCILMEMBER JOHNSON: Okay. Thank you. I'm going to switch gears here, it's...my next question is for Director Molina if he's on the call from Public Works.

CHAIR KAMA: Director Molina?

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MS. LILLIS: Chair, we do not see Director Molina on the call; however, we can give him a call if...

CHAIR KAMA: Okay.

MS. LILLIS: Thank you.

CHAIR KAMA: Yeah. Give him a call. And then, Mr. Johnson, you want to continue with your questions?

COUNCILMEMBER JOHNSON: We can move on to the next Councilmember.

CHAIR KAMA: Okay.

COUNCILMEMBER JOHNSON: Thank you, Chair.

CHAIR KAMA: Okay. You're welcome. Do you have questions?

VICE-CHAIR COOK: Yes.

CHAIR KAMA: Go ahead, Mr. Cook.

VICE-CHAIR COOK: Chair...Chair, with your permission?

CHAIR KAMA: Yes.

VICE-CHAIR COOK: To MEO, could you describe the...the tenant review process? Give me some ideas of, you know, what kind of outreach there is, who you expect the clients to be. Are there MEO clients that are...would qualify for this? Just kind of give me an idea of who you envision seeing being the residents of this neighborhood. Thank you.

MR. CHUN: So, typically...so, we've been through a number of these initial openings of properties. So, the outreach is extensive, but it's local. So, we keep all of our communications on island. And we meet all requirements of outreach by, you know, keeping our communications Maui-centric through the newspapers, through the nonprofit agencies, through churches, through...you know, of course, Maui Economic Opportunity. And what that results in normally is that initial lease up of these properties is primarily Maui-centric, almost exclusively actually. Occasionally there are folks from other islands in Hawai'i who apply, but that's very occasional. Another requirement for initial lease up of properties is that the applicants actually pick up their applications in person. So, to answer your question, for the most part the initial lease up of these properties is to our local

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community. Less so with family properties like this, but in the senior context, we do see that over time, you know, a waitlist is...is built up and...because anybody can apply and put their names on a waitlist. And through attrition as vacancies occur, you know, sometimes people on the waitlist are not from Hawai'i or not from on island. And to the extent that their name comes up on the waitlist and they actually are in a position at that time, which could be years and years on the waitlist to make a move, they...they can, they can do so, and some have. I will say though that with our family sites, that is extremely unusual. It's more common with the senior citizen sites. With the family sites, we...we don't have much turnover, to be honest, and so vacancies occur very infrequently. And...yeah, so it's a pretty stable community. . . .*(timer sounds)*. . .

MS. CABEBE: I just wanted to follow up to that. I had Grant answer that question because they're going to be managing the project, we...we will not. We are just the...the landowners. But I did want to say that many of our clients, the majority of our clients, would definitely qualify, as would many of our Staff, particularly those working in early childhood education and some of the entry-level positions. So, thank you for the question.

CHAIR KAMA: Well, you're going to have to wait for the next round, Mr. Cook. I know you want to go again.

VICE-CHAIR COOK: May I have a follow-up question?

CHAIR KAMA: Yeah, go ahead.

VICE-CHAIR COOK: Okay. What's the procedure for transition? So, if someone qualifies, and they're living in the unit and they pass away, or they have to move, do you...you just go to the waiting list?

MR. CHUN: Yeah, that's correct. Yeah, so there's a waitlist that's maintained.

CHAIR KAMA: You're welcome. So, we're going to go back to Mr. Johnson because Mr. Molina is on the call. Mr. Molina?

MR. MOLINA: Hi. Good morning.

CHAIR KAMA: Good morning. Mr. Johnson had a question for you, Mr. Molina.

COUNCILMEMBER JOHNSON: *(Audio interference)* Chair. Good morning, Director. Good to see you. My question is about the Imi Kala expansion and the road, the bridge. Can you give us an update on that? Is it a priority for this Administration in regards to this project? Thank you.

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MR. MOLINA: Thank you, Chair, and Member Johnson, for the question. For the record, Jordan Molina, Director with Public Works. So, Imi Kala extension, in FY'23, funding was appropriated to begin planning and design for that extension road which will ultimately connect Lower Main Street above Saint Anthony School to Kahekili Highway in the vicinity of Wailuku Country Estates. And so, that effort is currently underway, we are moving forward with that project.

COUNCILMEMBER JOHNSON: Thank you, Director. So, you said planning and design, but not construction. So, can you tell me how much is in for planning and design? And if you have an estimate for construction, I don't know if you have that, but can you tell us the cost?

MR. MOLINA: We don't have an estimate yet, but based on our Waiale Road extension, we're probably in the neighborhood of 20 to \$40 million.

COUNCILMEMBER JOHNSON: Okay. 20 to 40 million. And when...I know this is a very honest...or often question is, when is it going to happen? When do we plan to put in money for construction? When do you think it'll start? When do you think it'll end?

MR. MOLINA: So, with this kind of road, which is a brand new road, we estimate two to three years for the design, permitting, entitlements, environmental reviews, et cetera, and roughly about three years as well. So, best case, a five to six-year timeline for the road to be in place, barring any unforeseen complications.

COUNCILMEMBER JOHNSON: Famous last words. Okay. So, five to six years, and then...for completion, 20 to \$40 million in costs. Do...is that...so can you kind of give me like the...the background knowledge on why you guys want to...wanted to do the Imi Kala extension and put the money in now? Is it...is it because of these upcoming projects, or is it because of what exists now?

MR. MOLINA: Both. I mean probably more so because of these projects. So, you know, we...we recognize Imi Kala extension is backing up, you know, between what's been proposed recently, you know, over...over 1,000 units between the Piikahana Project District, this project, and the one across the street at the former Hale Mua site. Additionally, the Imi Kala extension is kind of really the only other . . . *(timer sounds)* . . . planned corridor to get us across Wailuku River to create that additional corridor.

COUNCILMEMBER JOHNSON: Okay. Thank you. That was my time. Thank you, Chair.

CHAIR KAMA: You're welcome. Thank you. Member Sinenci? You're muted, Member Sinenci.

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COUNCILMEMBER SINENCI: Can you hear me?

CHAIR KAMA: Yes, we can. Thank you.

COUNCILMEMBER SINENCI: Okay. Mahalo, Chair. Sorry, our Internet is down today so we're on the phone joining this meeting. And I too wanted to request, Chair, the cost of the exemptions. I understand that you had proposed some additional exemptions, so maybe the cost for those...for those exemptions as well. My first question was for...while we have Jordan on here. The UDRB recommended working with geotechnical engineers to address potential problems with the sand in the southern portion of the property. Does this concern...is this under your purview, Jordan?

MR. MOLINA: The UDRB is not under our purview, they oversee my Planning Department.

COUNCILMEMBER SINENCI: Oh, okay. And then just continuation on the...the sidewalks. The Department of Transportation says they want to create a bus stop. So, you mentioned...did you...did you mention the bus stop that they're proposing?

MR. MOLINA: Yeah. So, the bus stop wouldn't be us, but in regards to exemptions, as I've said before, I do not support exempting public infrastructure requirements. In lieu, I would recommend allocating funding from the Affordable Housing Fund to get these improvements built for this community.

COUNCILMEMBER SINENCI: Okay. So, some of these exemptions here, you're going to...we're going to require the...the cost of them so that we could add that to the Affordable Housing Fund?

MR. MOLINA: . . .*(nodding head)*. . .

COUNCILMEMBER SINENCI: Yeah. And what's an unsignalized intersection with stop control?

MR. MOLINA: So, generally speaking, you're talking...that's basically just a stop sign at an intersection in lieu of a traffic signal.

COUNCILMEMBER SINENCI: Okay. Thank you. And then for the Archaeologist, does OHA...does the OHA database have any info on the property's history or any ownership records?

MS. SIX: Can you hear me? . . .*(timer sounds)*. . . I'm sorry, are you talking to Trevor,

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or are you talking to me? I'm sorry, Shane. This is Janet Six. Sorry.

COUNCILMEMBER SINENCI: Yes, to you. The OHA database, does it have any additional information on this property or ownership records?

MS. SIX: I took a look at the Kipuka Database, and it has a disclaimer that says it's not, you know, legally, you know, viable. So, I don't want to comment, other than it...it shows Lunalilo as the owner, and then the next owner as MEO. But I...that can be...I can't speak to the...how accurate that is, because they have a disclaimer on their website, but that's what it shows on the Kipuka Database.

COUNCILMEMBER SINENCI: Okay. Thank you. Thank you, Chair. I'll wait for the second round.

CHAIR KAMA: Thank you, Mr. Sinenci. We're going to go back to Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And before my time starts, I just wanted to clarify. Because in the past when we've taken up housing projects, sometimes we...we take it section by section so that our department knows when to be on and knows when to anticipate questions. But we're not...we're not doing that...that way today, we're just whatever question we have for anybody?

CHAIR KAMA: Yes, Member Rawlins-Fernandez, that's it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And then we're going to continue to ask questions and have rounds until everyone's asked all their questions?

CHAIR KAMA: Pretty much, yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification on the process, Chair. So, my --

CHAIR KAMA: You're welcome.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- first set of questions is for...for Mr. Horovitz. *(Audio interference)* by a mic? I'm sorry, I can't see, I'm not there.

MR. SUGIDONO: Councilmember Rawlins-Fernandez, I think Kathy might be able to...if it's...depending on what your question is, Kathy Hall or Katheren Hall might be able to address it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is that Chris Sugidono speaking?

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MR. SUGIDONO: Yeah, sorry, this is Chris.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Okay. Now I see you on the TV. Mahalo. My questions are for Mr. Horovitz.

MR. SUGIDONO: Unfortunately...

COUNCILMEMBER RAWLINS-FERNANDEZ: He presented, and so my questions are for him.

MR. SUGIDONO: Oh, unfortunately, Mr. Horovitz is traveling out of State. He's...he's on the East Coast. We...we can try to get ahold of him if it's, you know, specifically for him and...and can't be addressed by Ms. Hall. But if...if...you know, if...if the question is...you know, if he's the only one who can answer it, we can relay your questions to him and have him be available if needed.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I will try. And then I'll ask the questions, and if Ms. Hall can't, then we'll try to get those from Mr. Horovitz. Aloha, Ms. Hall. Mahalo for being here to answer questions. Will you please explain in what capacity you're here?

MS. HALL: Good morning, Councilmember Rawlins-Fernandez. I am an attorney here practicing on Maui. I'm with the law firm...partner with the firm law firm Carlsmith Ball, and we service the attorneys for Maui Economic Opportunity, Inc. And we represented them in litigation that's been the subject of discussion in this application.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Was that in the trespassing case that you represented MEO?

MS. HALL: Correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification. So, my questions that were for Mr. Horovitz was regarding his presentation. And my first question was, in what capacity did he present at Tuesday's meeting? Because as you just explained, you're the attorney representing MEO. So, in what capacity did he present?

MS. HALL: I may not be the proper person to answer that question, but as I recall, he did represent that he's a board member of Maui Economic Opportunity, Inc.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, he presented as a board member.

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MS. HALL: That's my understanding.

COUNCILMEMBER RAWLINS-FERNANDEZ: Since he...since he presented as a board member, and not as MEO's attorney, shouldn't he have provided the disclaimer to this Council and to the public watching that nothing that he said should be construed as giving legal advice because he is not the attorney?

MS. HALL: I believe that Mr. Horovitz disclosed his representation as a board member of Maui Economic Opportunity, Inc. I'm not sure how to answer your question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, so we...went to law school together. So, Ms. Hall, you know, I know, that when we were in law school, we were told that any time we are giving anything that could be construed as legal advice, we must provide the disclaimer that nothing we're saying should be construed as legal advice, right?

MS. HALL: I'm not sure I'm the proper person to answer that question. I'm here in a limited capacity to discuss the litigation.

COUNCILMEMBER RAWLINS-FERNANDEZ: When you're not representing a client and you give legal advice to someone, do you say I'm not giving you legal advice?

MS. HALL: Generally I don't give legal advice unless I'm giving legal advice to a client.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. Why? . . .*(timer sounds)*. . . Why not?

MS. HALL: Why I don't give legal advice to someone that is not a client? Because...

COUNCILMEMBER RAWLINS-FERNANDEZ: And would you give a disclaimer that you're not giving legal advice?

MS. HALL: I would normally...if I give a disclaimer that I'm not giving legal advice, it's because I want to make clear that I'm not acting in the capacity as someone's attorney.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. So, Mr. Horovitz should have given us that disclaimer?

MS. HALL: I'm not sure that's...only because he did disclose --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

MS. HALL: -- that he was...he was testifying as a board member of Maui Economic

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Opportunity, Inc.

COUNCILMEMBER RAWLINS-FERNANDEZ: But you know that's not sufficient, you know that we're required to say that. That this is not...this should not be construed as legal advice.

CHAIR KAMA: Member Rawlins-Fernandez...

COUNCILMEMBER RAWLINS-FERNANDEZ: You know that.

CHAIR KAMA: Member Rawlins-Fernandez...

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: Thank you. Thank you. Member U'u-Hodgins?

COUNCILMEMBER U'U-HODGINS: Hi. Okay. I do have a couple questions. Considering this property is labeled flood zone X...I don't know if this is for you guys or somebody, but...and then we see photos that there is flooding. Do we have any further mitigation for flooding, considering these homes are slab on grade?

MR. SUGIDONO: Thank you for the question, Councilmember. I apologize, Chair, I...I forgot to also add that Ashley Otomo, the engineer for the project, is also available online. She's...she's feeling a little under the weather, so --

CHAIR KAMA: Okay.

MR. SUGIDONO: -- she had to participate online.

CHAIR KAMA: Thank you.

COUNCILMEMBER U'U-HODGINS: Thank you.

MS. OTOMO: Chris, do you want me to take this question?

MR. SUGIDONO: Yes, please, Ashley. Thank you.

COUNCILMEMBER U'U-HODGINS: Hi.

MS. OTOMO: Thank you for the question --

COUNCILMEMBER U'U-HODGINS: Thank you.

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MS. OTOMO: -- Councilmember. So, I...we believe that once the property is developed and we have our catch basins installed within the paved parking areas and landscaped areas, that will provide better collection points, whereas now everything is just sheet flowing to one specific point. And our drainage plan is to have perforated pipes installed beneath the paved parking areas for retention, stormwater retention.

COUNCILMEMBER U'U-HODGINS: Thank you. I have another question too. Okay. So, as discussed the other day, this is considered prime ag land. Your request is to switch it to Residential. Is there going to be any space for like a community garden or anything so that we could have some ag usage?

MR. CHUN: So, the landscaped areas will include potential space for community gardens if that is of interest to the...the tenants. As Mr. Sereda had indicated in his presentation as well, there are fruit trees and native species also included in the plan.

COUNCILMEMBER U'U-HODGINS: Okay. You guys have a direct quote, which is limited graded when we were discussing grading and grubbing. How would you describe limited grading? I think this question is also probably for Ms. Otomo. I do know that --

MS. OTOMO: Thank you, Councilmember.

COUNCILMEMBER U'U-HODGINS: -- it's been previously graded considering its previous use, but further...what do you guys consider limited grading? Thank you.

MS. OTOMO: Right. So, usually when we consider limited grading, we're trying to keep everything as close to existing grade as possible. . . .*(timer sounds)*. . . Within the topography, there will be grading to get the slabs flat and to make sure that the parking lot properly drains, but to the greatest extent practicable, we try not to alter the existing grades.

COUNCILMEMBER U'U-HODGINS: Thank you.

CHAIR KAMA: Thank you. Chair Lee?

COUNCILMEMBER LEE: No questions right now. Thank you.

CHAIR KAMA: Member Sugimura?

COUNCILMEMBER SUGIMURA: No questions at this time.

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CHAIR KAMA: Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. My questions would be for Dr. Six. I was wondering if you had a chance to review the archaeological assessment. I do see that it...that you were contacted as part of the cultural impact assessment in page 82. Email letter and figures on 9 June 2020, but they didn't receive a response. And I wondered also if you had a chance to review the archaeological monitoring plan, as well as the cultural impact assessment?

MS. SIX: Thanks for those questions. That was right after I came on with the County, so I don't remember ever seeing that. I'm sure they sent it to me. I don't know if I had been onboarded yet by that time. I started on the 1st of June 2020. So, I reviewed the AIS that was done for a different project back in 2008. I also reviewed the SHPD correspondence letter from Dr. Downer asking for the monitoring plan. And I know that Cultural Surveys Hawai'i did the monitoring plan. I have not had a chance to review it, but if SHPD accepted it, they're very competent. But I did review the AIS in 2008, and it was done by Scientific Consulting Services. It does mention the possibility of impacting iwi. I did a quick search on HICRIS and did see that the closest known burial site is about 60 feet away towards the coast. Other than that, I have not been on the parcel. So, does that answer your question?

COUNCILMEMBER PALTIN: Yeah, thank you. I was wondering if this kind of substrate, I think it was like ũao silty clay, pu'uone sand and one other would be appropriate for GPR monitoring?

MS. SIX: I know that the sand is the...the pu'uone sand is like number two type of soil that is good for GPR. It also depends on the topography, it depends on the vegetation. As to the ũao silty clay, that could have iron in it, I think you could still do it. I do know that Cultural Surveys Hawai'i is one of the only firms with ground penetrating radar capabilities. So, I would...I would defer to Trevor, who is the principal investigator, as to the possibility. Like I said, I...I did a lot of work across the street when I was at the college in . . . *(inaudible)*. . . I did some work for Public Works for drainage, I did a monitoring plan. I'm familiar with the area, but this particular parcel, I have not walked...or seen in person, other than probably from a car and not known what it was, so...

COUNCILMEMBER PALTIN: Okay. I guess then I would go on to Trevor U-something [sic]. If there's plans to do GPR for this project?

MR. YUCHA: Hello. Trevor Yucha from Cultural Surveys Hawai'i. At this point in time there are no plans for ground penetrating . . . *(timer sounds)*. . . radar for this project site. I offered a very long explanation in my response. And the reasons revolve around mostly the amount of...of previous ground disturbance that

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occurred on the parcel in the project site. It was used for sugar cane agriculture, a macadamia nut farm. The 17 test excavations that were conducted as part of the inventory survey, all of those excavations are going to show up as anomalies in GPR, creating a lot of...of false...false anomalies throughout the project site. So, because of the amount of ground disturbance on the...the actual area of project-related ground disturbance, it wouldn't be something we would recommend, but it is something that we do as a company.

COUNCILMEMBER PALTIN: What's...what's the cost of something like that for a parcel of that size?

MR. YUCHA: A lot of it depends on accessibility, vegetation coverage. I know there are open areas. GPR involves us actually pushing a cart . . . *(timer sounds)* . . . across the surface of the parcel. So, we...we...we can't go on...necessarily on slopes and vegetated areas. So, with the parcel, it's probably something in the range of...of 10 to \$20,000 to do a study like that.

COUNCILMEMBER PALTIN: Thank you.

MR. YUCHA: Thank you.

CHAIR KAMA: Thank you. Mr. Johnson?

COUNCILMEMBER JOHNSON: Okay. Chair, thank you. This is...I'm trying to think if this question would be appropriate for Finance. But I wonder about the idea of the...the...the sidewalks where Director Molina recommended we use Affordable Housing to pay off the sidewalks, whereas we...we have the capability to use bond money for 100 percent affordable housing project, so...

CHAIR KAMA: Do you want to ask that of the Budget Director?

COUNCILMEMBER JOHNSON: I...

CHAIR KAMA: You could.

COUNCILMEMBER JOHNSON: Whoever would. I...I thought...

CHAIR KAMA: Okay.

COUNCILMEMBER JOHNSON: Yeah, sure. Budget Director, if you're on.

CHAIR KAMA: Okay. Is the Budget Director on?

MS. LILLIS: We can give her a call, Chair. Thank you.

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CHAIR KAMA: Okay. Mr. Johnson, we're going to come back again.

COUNCILMEMBER JOHNSON: Okay.

CHAIR KAMA: So, go ahead.

COUNCILMEMBER JOHNSON: So, then can I ask --

CHAIR KAMA: Sure.

COUNCILMEMBER JOHNSON: -- Director Molina if...if possible --

CHAIR KAMA: Sure.

COUNCILMEMBER JOHNSON: -- for a question? Good morning, Director Molina. Sorry to keep calling you up here, but this is in regards to the drainage. Okay. The...the...what I read was, is that the State is in control of the drainage, I guess, culverts, and that's not a County thing. So, can you speak on the idea of, you know, moving forward, if this gets built, are...is the County going to do anything to help with the drainage? Because we saw when those culverts get full of debris, it floods. Is there anything that we can do as the County as opposed to just the State?

MR. MOLINA: Thank you, Member Johnson. Thank you, Chair, for the question. So, what...what...the County's role in this oversight would be through our drainage report review. Part of that review entails them identifying all drainageways affecting the property and all drainage conditions, both existing and proposed. So, if there is flooding potential shown with the drainageway and with those culverts, the project will have to mitigate that so the properties are not...are not affected. So, the short answer, we wouldn't necessarily require them to upsize the culvert if their project can be...can accommodate the room it needed...it needs so when it does flood that the properties aren't at risk. If they cannot, then they would be required to upsize those culverts as an alternative solution for the flooding problem.

COUNCILMEMBER JOHNSON: What's your professional opinion now, is...are the culverts big enough for this additional?

MR. MOLINA: I haven't seen the details of the drainage analysis on those culverts, so we'll have to review that when the drainage reports get produced.

COUNCILMEMBER JOHNSON: Can drainage reports be produced?

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MR. MOLINA: Generally those accompany the grading permits.

COUNCILMEMBER JOHNSON: Okay. Okay. Thank you so much, Director. Thank you, Chair. No further questions.

CHAIR KAMA: Thank you, Mr. Johnson. I'm going to continue on with Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I guess I'll call back Ms. Hall.

MS. HALL: Hello, Councilmember.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha, Ms. Hall. Mahalo. Okay. So, to finish off, under Hawai'i rules of professional conduct, should any attorney that is not representing a client be providing legal advice to a body like this Council without explaining that none of what sounds like legal advice should be construed as legal advice?

MS. HALL: Thank you for the question. I believe that Council Services or Corporation Counsel would be the appropriate person for you to be consulting on that question.

CHAIR KAMA: Member Rawlins-Fernandez, I just want to remind you that if you have a question regarding the project, feel free to ask the question, but I think a couple of your --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, yeah. It's regarding the project.

CHAIR KAMA: -- *(audio interference)*.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: *(Audio interference)*.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes. Mahalo, Chair. This is about the project, and about the credibility of people who are serving as resources for us. So, it...it is directly about this project. Ms. Hall represents MEO, and Mr. Horovitz is on MEO's board. So, that's why it's appropriate for me to ask Ms. Hall the questions. Is Mr. Horovitz an expert in Native Hawaiian law?

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MS. HALL: I'm sorry, is this a question --

COUNCILMEMBER RAWLINS-FERNANDEZ: Ms. Hall.

MS. HALL: -- for me?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

MS. HALL: And what was the question? I didn't hear you, I'm sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is Mr. Horovitz or yourself an expert in Native Hawaiian law?

MS. HALL: I can only speak for myself, and I would not consider myself an expert in Native Hawaiian law, although I do practice in that area.

CHAIR KAMA: I think...Member Rawlins-Fernandez, I think if you want, we probably try to see if we can get Mr. Horovitz on the phone so that you can ask him the questions that really are for him. And to be able to ask Ms. Hall those questions are really inappropriate. So, if you have a question regarding the project and her legal advice regarding that, then I think that's okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahlo, Chair. Well, if Mr. Horovitz wasn't going to be available then perhaps he shouldn't have been the one to present. Because now that puts me in a bind if we're wanting to take action today for me to be able to ask him questions, particularly since he should not have been the one to present because he's not the attorney representing MEO giving this Council legal advice.

CHAIR KAMA: So, we're going to allow MEO to respond to your questions. Do you want to do that, Debbie, or do you want Grant to do it?

MS. CABEBE: Yes, if I...if I could respond. So, when Mr. Horovitz testified, or provided information, he...he declared that he was testifying as a board member. He is a land use attorney (*audio interference*) which he did follow up. And I think the reason that he is the one that presented is, he did the original research and sent a letter to the heirs on our behalf. Ms. Hall represented us in court. Mr. Horovitz had a trip planned. I will contact him and ask him to be available to answer your questions, but . . . (*timer sounds*). . . Ms. Hall would not be able to answer those kinds of questions. She could answer questions specific to the lawsuit and what was presented and what were the findings in court. So, I'll be happy to reach out to him and see how quickly we can get him available. Thank you.

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CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. Cabebe. Mahalo, Chair.

CHAIR KAMA: You're welcome.

COUNCILMEMBER LEE: Chair?

CHAIR KAMA: Yes? Mr. Sinenci?

COUNCILMEMBER SINENCI: Chair.

CHAIR KAMA: Yes. Mr. Sinenci, go ahead.

COUNCILMEMBER SINENCI: Oh, thank you, Chair, for my second line of questioning. I guess for...I guess for Mr. Andrew [sic] Yucha. The project says that no archaeological sites were identified during the inventory survey. However, it does mention SHPD, a small rock mound interpreted as potential burial site near the southeast corner of the project. Can you...can you explain the...saying that there are no archaeological sites identified?

MR. YUCHA: Yes. This is Trevor Yucha from Cultural Surveys Hawai'i. The possible burial site that you're describing was identified, I believe, in a 1986 archaeological survey for a separate land parcel. It...we've confirmed that it is outside of the boundaries of this current project site, but we do discuss it throughout the report. I believe it's a stack of stones on the top of the...the Pu'uone dune that was interpreted as a...as a possible burial with no confirmation of iwi kupuna at that location. However, outside of the project --

COUNCILMEMBER SINENCI: Okay.

MR. YUCHA: -- site. Thank you.

COUNCILMEMBER SINENCI: Okay. And then my second question was the...the 17 excavated trenches, does that...that's...that's not a guarantee that you will find cultural sites?

MR. YUCHA: That's correct. As part of our standard process we do sampling excavations throughout whatever area we're studying. In this case there were 17 excavations with no findings, but that does not represent a guarantee in any way that there...there could not be findings during ground disturbance outside of the footprint of those sample excavations.

COUNCILMEMBER SINENCI: Okay. And then you mentioned to Member Paltin that

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you're...you're not going to be using any ground penetrating radar?

MR. YUCHA: So, at this time, the project has gone through the historic preservation process with SHPD. It started with that 2008 archaeological assessment. Again, they were consulted in 2020. Throughout that process, the SHPD could have requested that study, and it's...it's a study that...that could be done, but at this point not recommending it because of the amount of previous ground disturbance in the parcel related to former agricultural use.

COUNCILMEMBER SINENCI: Okay. And then in...in the AIS, it says in 1978 they found two coffin burials in the Waiehu Heights...Waiehu Heights grading project. And then in 1979, they uncovered 77 . . .*(timer sounds)*. . . coffin burials. So, should you find burials during construction, whose...does the Maui Burial Council become involved if you hit any?

MR. YUCHA: So, when...when iwi kupuna are discovered during construction, it's...it's the archaeologists' responsibility to stop all work, make notifications to the State Historic Preservation Division and the Maui Police Department. So, the...the first agency or department involved is the SHPD. The SHPD then contacts recognized descendants and a...the...the matter is agendized before the Maui-Lānaʻi Burial Council for discussion.

COUNCILMEMBER SINENCI: Okay. Thank you, Mr. Yucha. Thank you, Chair.

MR. YUCHA: Thank you.

CHAIR KAMA: Mr. Cook?

VICE-CHAIR COOK: No further questions. Thank you, Chair.

CHAIR KAMA: Thank you. Ms. Uʻu-Hodgins?

COUNCILMEMBER UʻU-HODGINS: Hi again. Can I steal you for some more time? Thank you. Thanks. I see you got your...your CIA was completed in April of 2021, and you had the list of the 73 individuals that you guys contacted. Thank you for that. I'm wondering, at that time when you contacted those 73 individuals, did any of the heirs of Pehuino step forward, or any of the people you contacted maybe suggest you guys go talk to the heirs of Pehuino?

MR. YUCHA: Unfortunately no, not at that time during the study.

COUNCILMEMBER UʻU-HODGINS: Okay. Okay. Thank you. That's all I have for you. Thank you so much.

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MR. YUCHA: Thank you.

COUNCILMEMBER U'U-HODGINS: I do have another question regarding some of the exemptions. I know Member Paltin asked you guys a lot of very good detailed questions about all your exemptions, but I just have a question about one of them, which is your number one exemption on the list, which is your disposal permit. I'm wondering how much construction waste or green waste are you guys expecting from this project? And what is the cost of maybe the permit and the disposal charges?

MR. CHUN: Ms. Otomo, are you able to address the disposal of construction waste?

MS. OTOMO: So, I'm not able --

COUNCILMEMBER U'U-HODGINS: Thank you.

MS. OTOMO: -- to answer that question. I'm sorry.

MR. CHUN: Yeah. We'll...we'll check with Moe Mohanna --

COUNCILMEMBER U'U-HODGINS: Okay.

MR. CHUN: -- to get you a response, Ms. U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: Thank you.

MR. CHUN: Moe, are you on the line and did you hear the question?

MR. MOHANNA: Yes, I am on the line. This is Moe Mohanna with HighRidge Costa. That question probably would have to best answered by our construction company because it's about construction waste disposal. So, they would have to (*audio interference*) the materials and disposal, so that's something we need to refer to our proposed general contractor, and we can get you an answer if you they can guesstimate that for you.

COUNCILMEMBER U'U-HODGINS: Thank you.

MR. MOHANNA: Thank you.

COUNCILMEMBER U'U-HODGINS: While I have you on the computer screen, I guess, Moe, considering you guys are requesting County funding, I'm wondering if you guys are going to be paying prevailing wages for your construction?

MR. MOHANNA: The intended general contractor at this point for this community, as

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well as the other community we have in Maui, is Hawaiian Dredging. Hawaiian Dredging is a union signatory. And we, as HighRidge Costa, are also union signatories, so we do intend to use union, which is, you know . . . *(inaudible)*. . . and the like. So, both our general contractor and ourselves are union signatories.

COUNCILMEMBER U'U-HODGINS: Thank you. I have more questions, but I'll save them for the next round. Thank you.

CHAIR KAMA: Thank you. So, we're going to reverse and go back to Member Johnson because the Budget Director is here.

COUNCILMEMBER JOHNSON: Thank you, Chair. Thank you, Director Zeilinski, for coming. Sorry. I know your busy schedule, but thanks for joining us today. Okay. Well, my...my first question is, is how much money is left in the Affordable Housing Fund?

MS. ZEILINSKI: Actually, I apologize, I don't have that balance with me --

COUNCILMEMBER JOHNSON: Okay.

MS. ZEILINSKI: -- right now.

COUNCILMEMBER JOHNSON: Okay.

MS. ZEILINSKI: I should have taken it with me, but I can certainly get it to you.

COUNCILMEMBER JOHNSON: Okay.

MS. ZEILINSKI: I have it upstairs.

COUNCILMEMBER JOHNSON: So, I guess to back up the question is, is we can use affordable housing funds for sidewalks on...on this project. But I'm curious, first off, is how much the...the...the sidewalk additional cost would be, and then the thing is, we...was curious if you could use bonds and have the Affordable Housing Fund pay off the bonds for...for this project, if that would be something that the Department would be interested in doing.

MS. ZEILINSKI: I would have to probably talk to Corp. Counsel on that. I'm not really sure of that. I'm not sure that's ever...that's been done before, but I...I just don't know, I'd have to...I'd have to look into it.

COUNCILMEMBER JOHNSON: Okay.

MS. ZEILINSKI: Oh, okay. So, I just got the information. The...I guess the cost is about

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24 million what we're looking at; is that correct?

MR. MATAAFA: Chair, if I may?

CHAIR KAMA: Go ahead.

MR. MATAAFA: So, the latest estimate that we have from the Housing Division is about 24 million in the Affordable Housing (*audio interference*)

MS. ZEILINSKI: Oh, in the...in the...okay. Got you. Oh, that's not the project. I got nervous there for a second. Okay.

COUNCILMEMBER JOHNSON: I'm sorry, can you clarify, 24 million is what?

MR. MATAAFA: You asked what the estimate was in the Affordable Housing Fund. From our --

COUNCILMEMBER JOHNSON: Oh.

MR. MATAAFA: -- our Housing Division's estimates, it's a little over 24 million --

COUNCILMEMBER JOHNSON: Thank you.

MR. MATAAFA: -- right now.

COUNCILMEMBER JOHNSON: Thank you.

MS. ZEILINSKI: We have...we have...I do have an updated one that just came in yesterday, so I...I can look and see what that is. But yeah, I'm not really sure about using bond...bonds for it. I'd have to...I'd have to look into it. I'm not sure if Corp. Counsel might have any information on that or we can --

COUNCILMEMBER JOHNSON: Okay.

MS. ZEILINSKI: -- we can certainly look into that.

COUNCILMEMBER JOHNSON: Okay. Thank you. And I appreciate if you looking into it. And I think --

MS. ZEILINSKI: Yeah.

COUNCILMEMBER JOHNSON: -- I should be clear on the idea of not the sidewalk, but the frontage where we were talking about putting in a bus stop, and that's kind of the thing I'm...I'm concerned. And maybe the County can help with the

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infrastructure along this...the main...the main frontage. And if we can help, I don't want to drain our funds if we can't use some bonds for that kind of thing.

MS. ZEILINSKI: I'm just curious, would you know...do you we have any idea...I know you said you're not sure about the cost, I mean is there a ballpark what we're talking about?

COUNCILMEMBER JOHNSON: That's...I'm...I'm so glad because I was going to lead into that next question --

MS. ZEILINSKI: Oh, okay.

COUNCILMEMBER JOHNSON: -- and maybe somebody over here could tell us the...the cost of what that would be.

MR. CHUN: Ashley, would you be able to address that?

MS. OTOMO: Yeah. So, there's approximately 2,200 linear feet of frontage improvements. So, if we're talking about curb, gutter, and sidewalk, we're looking at rough estimates of over \$180,000. If you're talking about just the sidewalk, we're north of probably \$70,000.

COUNCILMEMBER JOHNSON: Okay. Oh, that's much less than I thought. I mean...
...*(timer sounds)*...

MS. ZEILINSKI: Yeah, it wouldn't really make sense to --

COUNCILMEMBER JOHNSON: Right.

MS. ZEILINSKI: -- consider --

COUNCILMEMBER JOHNSON: Okay.

MS. ZEILINSKI: -- the bonds. Yeah.

COUNCILMEMBER JOHNSON: Thanks for that.

MS. ZEILINSKI: Sounds like maybe more of a moot point, but I'll --

COUNCILMEMBER JOHNSON: So...

MS. ZEILINSKI: -- still look into it because it is...it is...I don't know the answer.

COUNCILMEMBER JOHNSON: Well, we...we expanded the uses of the fund, and that's

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one...one of the things I'm curious on it. You know --

MS. ZEILINSKI: Okay.

COUNCILMEMBER JOHNSON: -- we...the same question could be posed for the...the coverage of the...the parking lot, with the ivy, some of kind of --

MS. ZEILINSKI: Oh, okay.

COUNCILMEMBER JOHNSON: -- you know, like that I assume would be a little bit, you know, more substantial in cost. But could we use affordable housing funds and bonding and...to...to kind of put the shaded area above the parking with ivy, you know, the...the solar panels. So, and I...my time's up, but I think that's going to be the next question for you guys if you would be...if you would consider something like that. Thank you, Chair.

CHAIR KAMA: You're welcome --

MS. DESJARDINS: Chair?

CHAIR KAMA: -- Mr. Johnson. Mimi?

MS. DESJARDINS: Chair? Hi, this is Mimi.

CHAIR KAMA: Yes?

MS. DESJARDINS: Hi. Just to...to add a little bit of clarity. On November 1st, 2022, the amendments did go into effect, and one of the amendments to the Affordable Housing Fund was to provide funds for . . .*(timer sounds)*. . . payment of principal and interest on bonds issued.

MS. ZEILINSKI: Oh, okay. Thank you.

CHAIR KAMA: Thank you --

MR. CHUN: Madam --

CHAIR KAMA: -- Ms. DesJardins.

MR. CHUN: -- Madam Chair, if I could?

CHAIR KAMA: Yes, Mr. Chun.

MR. CHUN: Oh, thank you, Madam Chair. I know it's not my turn to talk or anything,

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but just...just to kind of lay the groundwork for this ongoing conversation pertaining to infrastructure and potential Affordable Housing Fund or bond participation in infrastructure. Again, we just want to make sure that we all have a common understanding as far as the...the ongoing design of the project that's occurring, right. So, we...we'll need to have a continuing dialogue with the Administration to ensure that whatever infrastructure could generously be supported by the...by the community and the Council could actually fit, right. Because what we don't want to do is lose buildings and lose housing units because we decide to build a super beautiful sidewalk and curb and gutter. So, I mean this is a good discussion and good to understand what might be available, but let's...just keeping it all in context, I just wanted to put it out there that, you know, there's still ongoing design and discussions with...with the County agencies to make sure everything can work together in sync. We don't want to do a good thing and then lose what we're actually trying to achieve in the first place, right, so...

COUNCILMEMBER JOHNSON: Yeah, it comes down to bedrooms and putting people in houses --

MR. CHUN: Yeah, agreed.

COUNCILMEMBER JOHNSON: -- at that point. Thank you so much.

MR. CHUN: Thank you.

COUNCILMEMBER JOHNSON: Thank you, Director...or thank you, Chair.

CHAIR KAMA: You're welcome. So, we're going to go pivot back to Member Rawlins-Fernandez because Mr. Horovitz is on the phone for a limited amount of time. So, Mr. Horovitz, are you there?

MR. HOROVITZ: I am here. I'm here, Chair. Thank you.

CHAIR KAMA: Thank you. Member Rawlins-Fernandez, you had a question for Mr. Horovitz?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo...mahalo, Chair. Aloha, Mr. Horovitz. Mahalo for joining us even though you weren't planning to. So, my question is regarding your presentation. In...in what capacity did you present at Tuesday's meeting?

MR. HOROVITZ: I was presenting as a board member of MEO, given my experience as a land use attorney for the past 27-odd years.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Were you...so, you were

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presenting as a board member and not representing MEO as their attorney. And in your presentation, shouldn't you have given the Council the disclaimer under the Hawai'i rules of professional conduct that none of what you presented should be construed as legal advice because you are not the attorney representing MEO?

MR. HOROVITZ: Well, I...I believe we...I disclosed I was a board member. I am on the ODC board, Office of Disciplinary Counsel that enforces the professional rules. And I don't believe that I would have that obligation to...to state anything further than that. I think in our...if I recall correctly, on Tuesday we did note that Carlsmith Ball was the attorneys who had represented MEO in the court case itself. And I did, you know, state that I was a board member of MEO and had been for about nine years, and I think I had mentioned that a few weeks prior before the...the Council. So, I...I don't believe I had an...an obligation. I'm happy to check with ODC staff, and anyone can if they'd...if they'd like, but I...in my eight years or, you know, six years now on ODC board, I don't believe that that has been an issue before.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, in presenting your legal analysis, in giving your legal opinion of the land title dispute, you expected nonattorneys to understand that you were just a board member and not the attorney providing that legal advice?

MR. HOROVITZ: I'm not going to presume what someone understood of what I...what I said. I was just trying to provide advice as to...or not advice, I should say, information as to what I had determined based on my...my research and expertise. And frankly, that's why you have people on boards is to provide...is to bring their...their independent expertise and advice to those boards. I've...I've served, like I said, on the MEO board for nine years. I have served on nonprofit boards in Hawai'i in various capacities for about 25, 26 years, and the reason you have people on boards is so that they can bring their expertise and advice to the board. . . .(timer sounds). . . And I was simply relaying what I had researched, what I had found, what I had brought to the board, and what I had then relayed. And then as, you know, the court case that we...represented by...by MEO...or sorry, by Carlsmith, basically played out exactly along the same lines as what I had initially, you know, drawn...what my conclusion was.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Horovitz. Chair, I did hear the timer. I do have a few more questions. I do see Member Sinenci's hand up as well, but I'm sure Mr. Horovitz (*audio interference*) had planned to attend today's meeting. I would...I would like the consideration, or your consideration in finishing off any questions that anyone has for Mr. Horovitz, and that way he can go about his day.

CHAIR KAMA: I agree. So, does any other Member have any questions for Mr. Horovitz

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while he's on the phone?

COUNCILMEMBER SINENCI: Chair?

CHAIR KAMA: Yes, Mr. Sinenci, go right ahead.

COUNCILMEMBER SINENCI: Thank you, Chair. Yes, I do have a couple questions for Mr. Horovitz. First one, did he research the OHA database for this particular property?

MR. HOROVITZ: Yes, I did. That was actually my starting point. They have a very well indexed database where you can actually...you know, pretty much any...any parcel in the State, you can dig down and find the original grants and they have imaged copies of all...all the...the Land Commission awards or...or royal patent grants, et cetera. And so that --

COUNCILMEMBER SINENCI: Okay.

MR. HOROVITZ: -- that was my starting point, yes.

COUNCILMEMBER SINENCI: Oh, okay. Was that the...the attachments that you included in the AIS? At the end of your letter you include. And the Land Commission Award 8559, RP, royal patent grant to Claus Spreckels. Can you explain all of the attachments that you included in this AIS?

MR. HOROVITZ: Well, I can only speak to...to...to my letter, which I believe was one of the attachments to that. And I...my apologies, I don't have it right in front of me. But essentially what...what I had attached to...to my letter, as I was trying to explain to the...the...Mr. Johnson, who I addressed it to originally and...and the heirs, was sort of a mapping that showed where the MEO property was in relation to the three apanas that were awarded to Pehuino.

COUNCILMEMBER SINENCI: Yeah.

MR. HOROVITZ: And then I had pulled the original Land Commission award to King Lunalilo, and then the royal patent grant to Claus Spreckels. I can't recall whether...I...I believe I...no, I did also attach the...the...the apana awards to Pehuino, which not only contained a description, but also contained a surveyor's drawing...or I presume it was a surveyor, but who...it was done back in the 1800s, of the awards to Pehuino that were included within those materials. And they match up with the current, you know, property...you know, parcel descriptions that still exist today. So, you can --

COUNCILMEMBER SINENCI: Okay.

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MR. HOROVITZ: -- very easily see where they are. Yes.

COUNCILMEMBER SINENCI: Okay. Thank you. And then, Mr. Horovitz, I know this...some of these is in Hawaiian. Did you...did you confer with like a Hawaiian speaking specialist to...to kind of get the information off of the these...these records?

MR. HOROVITZ: I...I did not have...as part of my work, I did not have those...those separately translated. I...I would defer to...to the...Carlsmith...to Kathy Hall, who I believe is there, as to whether they translated for any part of the...the court case. But I did not translate them for the purposes of my letter. . . .*(timer sounds)*. . .

COUNCILMEMBER SINENCI: Oh, okay. All right. Chair, I...I know Member Paltin had more...I mean excuse me, Member Rawlins-Fernandez had more questions for Mr. Horovitz. I...I probably have a few more too, if...if you...when we come back to him. Thank you.

CHAIR KAMA: Mr. Horovitz, how much time do we have with you?

MR. HOROVITZ: I am available for a couple of hours. I'm...I'm on the East Coast, and my apologies for not being there in person, but I...I can stay on for a couple of hours if...if it would help.

CHAIR KAMA: Okay. Well, thank you so very much. Okay. Members, it is now 10:14. The Chair is calling for a recess until 10:25 a.m. The Housing and Land Use Committee is now in recess. . . .*(gavel)*. . .

RECESS: 10:14 a.m.

RECONVENE: 10:27 a.m.

CHAIR KAMA: . . .*(gavel)*. . . The Housing and Land Use Committee of...recessed meeting of February 28th, 2023 will now reconvene. It is March 2nd, and it is 10:27 a.m. So, we left off with Mr. Horovitz. So, we're going to continue with Mr. Horovitz, but we're going to go start with Chair Lee and work our way back down to you, Mr. Sinenci. So, Chair Lee, any questions for Mr. Horovitz?

COUNCILMEMBER LEE: No, Chair. Actually I had a question for DHHC, Saumalu, but I can wait.

CHAIR KAMA: Thank you. I appreciate that. Member Paltin, any questions for Mr. Horovitz?

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COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Horowitz...Horovitz, for your attendance. I just was wondering, earlier in the Committee, before you joined us, Dr. Six had said that the Kipuka Database would...was not correct to be used for legal determinations. Did...did you know that?

MR. HOROVITZ: I...whether a court will rely on it is a different question as to whether it's a starting point. I view it as a...as a good resource place to start my work, and you know, I...I...they have certain primary source documents, which are the actual Land Commission awards and royal patent grants.

COUNCILMEMBER PALTIN: Excuse me.

MR. HOROVITZ: I'm sorry. I'm sorry.

COUNCILMEMBER PALTIN: *(Audio interference)* question. I...I'm on a time and...and I...

MR. HOROVITZ: Oh, I'm sorry. Can...can you...can I ask for the question again just so I can make sure I answer it correctly?

COUNCILMEMBER PALTIN: Yeah. Were you aware that Kipuka Database was not supposed to be used for legal determinations?

MR. HOROVITZ: I don't think that is fully accurate, so I don't think I can answer that yes or no.

COUNCILMEMBER PALTIN: Okay. And then have you dealt with Lunalilo's probate before? Oh, shoot, I see Ms. DesJardins. Did you...

MS. DESJARDINS: Yeah, just real quick, Member Paltin, if you don't mind. What I believe Janet Six was referring to is a disclaimer on the website that just was a disclaimer about the possible accuracy of the information. I don't think that...it said that you couldn't use it legally. But I just wanted to just throw that in there just for clarity.

COUNCILMEMBER PALTIN: Thanks, Ms. DesJardins. Are you aware of the disclaimer on the Kipuka website about the accuracy of the database?

MR. HOROVITZ: Yes, it's a fairly standard disclaimer. It's right on their front page.

COUNCILMEMBER PALTIN: Okay. And then my question was, have you dealt with Lunalilo's probate before and the huis of families that had rights under his...I...I think it's...I'm not sure of the terminology, but I'm going to go with LCA.

MR. HOROVITZ: I have not been involved in his probate matters.

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COUNCILMEMBER PALTIN: Okay. Thank you. (*Audio interference*) questions, Chair. Thank you, Mr. Horovitz. Thank you, Chair. Horovitz. Thank you, Chair.

MR. HOROVITZ: Thank you.

CHAIR KAMA: Mr. Johnson?

COUNCILMEMBER JOHNSON: I have no questions for Mr. Horovitz now. Thank you, Chair.

CHAIR KAMA: We're going to go back now to Member Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Concerning Mr. Horovitz, and I guess members of a board that speaks on behalf like what was...what was presented to us. Not...yeah, us. Could Corp. Counsel have a opinion about that?

CHAIR KAMA: Ms. DesJardins?

MS. DESJARDINS: I'm sorry, what was the question, Member Sugimura?

COUNCILMEMBER SUGIMURA: So, I...I...it happens often where members disclaim that they are members of a board and they speak, you know, in...in behalf of their expertise. So, earlier there were questions about...I'm...I'm not too sure, I don't want to put words into the mouth of another Councilmember, but is there a problem with that? I guess I...I wondered, and maybe the Councilmember can ask the question, but more accurate...

MS. DESJARDINS: I...I think I get the gist of where you're going with this, and I don't have an opinion about that. That would be outside of the scope, I think, of...of the kind of information that I would provide is to comment on whether it's appropriate for a board member (*audio interference*). I don't think that's really in my wheel (*audio interference*).

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KAMA: So, you don't have any questions for Mr. Horovitz? Okay. Thank you. So, we're going to go...jump back to Mister...Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And I think what Member Sugimura was trying to do was ask, after receiving advice from Ms. Hall, to ask our attorneys if it was appropriate for someone on the board. So, it's...it's different when you're an attorney giving legal advice. And I know that Mr. Horovitz said that he's on ODC, but we...you know, law enforcement officers also break the law,

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so it doesn't insulate you from violating laws that you enforce. So, that's why I asked the question. Mr. Horovitz, are...so, I think (*audio interference*) database says the maps and map data are not provided as is, and are not legal surveys or legal descriptions. The Office of Hawaiian Affairs explicitly disclaims any representations and warranties as to the accuracy, timeliness, or completeness of maps and data. And Mr. Horovitz said that he used the Kipuka Database as a starting point, but if it was only used as a starting point that would be one thing, but it was included in his conclusion for...in his presentation on Tuesday, which is why that's something that I was planning to bring up as well. Is there any mention of the fourth apana anywhere in the award?

MR. HOROVITZ: Not to my knowledge.

COUNCILMEMBER RAWLINS-FERNANDEZ: Are you an expert in oral grants?

MR. HOROVITZ: I'm sorry, could you...I...I...you broke up there, could you repeat that please?

COUNCILMEMBER RAWLINS-FERNANDEZ: Are...are you an expert in Native Hawaiian oral grant?

MR. HOROVITZ: I would not...

COUNCILMEMBER RAWLINS-FERNANDEZ: Or oral grants? Sorry.

MR. HOROVITZ: I...I don't have any separate expertise or degree in that. I have been a practicing land use lawyer for 20-some odd years.

COUNCILMEMBER RAWLINS-FERNANDEZ: Would it be appropriate or necessary in...in presenting any of your clients who would benefit from the presentation, such as Wailuku Agribusiness, Wailuku Water Company, who also would benefit from a legal analysis in Native Hawaiian lands being taken from kuleana awards?

MR. HOROVITZ: I'm sorry, I don't understand what the question is.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, the...the purpose of your presentation on Tuesday was to persuade the Council that there...there is no land title disputes, correct?

MR. HOROVITZ: No, I wouldn't characterize it at that. The purpose of --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MR. HOROVITZ: -- my presentation was to inform the Council as to what my initial

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conclusions were, and then answer . . .*(timer sounds)*. . . some questions about what the court ultimately decided independent of whatever I...conclusion I ever drew.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. But this Council doesn't have the skillset, or it's not really...it's not the appropriate place for us to decide, make a determination on land title, it would be the courts?

MR. HOROVITZ: Well, the court did, and I was...I'm sorry, I didn't mean to speak over you. I couldn't...

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, no, you didn't.

MR. HOROVITZ: Sorry. The...the...the court did make a decision, and I was simply informing the Council what that decision was.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, but that decision was a land...was a trespass case, and the legal standards and elements of that law, trespass law, is different from a quiet title *(audio interference)*.

MR. HOROVITZ: Not...not in all situations. I...I believe I explained based on...the difference between, you know, why a quiet . . .*(timer sounds)*. . . title wasn't necessary, and the court did make findings, which are in the record, that there were no grants to Pehuino, oral or written, within the MEO property. And that's simply in the court's record.

COUNCILMEMBER RAWLINS-FERNANDEZ: I heard the timer. I just...I just have like maybe two more questions. Mahalo, Chair.

CHAIR KAMA: Thank you. We're going to come back to you and go on to Member Cook now. Questions for Mr. Horovitz?

VICE-CHAIR COOK: Thank you, Chair. I have a question for the Administration.

COUNCILMEMBER SINENCI: Chair? I had a question for Mr. Horovitz.

CHAIR KAMA: Everybody who has questions for everybody else, we want to take Mr. Horovitz so we can let him go. So, if you don't mind.

VICE-CHAIR COOK: *(Audio interference)*.

CHAIR KAMA: Okay. So, Mr. Sinenci, if you would hold on, I'm going to go to Member U'u-Hodgins, and then I'll come to you. Member Hodgins, do you have --

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COUNCILMEMBER SINENCI: Okay.

CHAIR KAMA: -- questions for Mr. Horovitz?

COUNCILMEMBER U'U-HODGINS: Thank you so much, Chair. I do not have any questions for him.

CHAIR KAMA: Okay. Thank you. Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. And just following along the lines of Member Rawlins-Fernandez, as well as my meeting previously with Mr. Horovitz. But to Member Rawlins-Fernandez's point, this was just this specific court case with two of the...the Pehuino heirs, correct, that the court had spoken to?

MR. HOROVITZ: There were two defendants, yes. I think the...but it is now the...the law of the case that there was no...there was no evidence of any grant to Pehuino within the MEO property, and I think that would be, you know, relied upon by...by future courts if it ever came up. But...

COUNCILMEMBER SINENCI: Oh, okay. It looks like under 21 of that...the records presented by MEO to assert its possessory interest, however, are not sufficient to entitle MEO to a quiet title against all potential claimants even if they had been named as parties. So, unnamed parties still can come...

MR. HOROVITZ: I'll...if it's okay with...with...Member Sinenci, I --

CHAIR KAMA: Yes.

MR. HOROVITZ: -- I would defer that to Kathy Hall, who represented MEO in the court case, and so she --

COUNCILMEMBER SINENCI: Oh, okay.

MR. HOROVITZ: -- would be better able to answer the procedural questions of...of that.

COUNCILMEMBER SINENCI: I'll get Ms. Hall on the next round, while I still you have on the line. And again, who donated the property to MEO?

MR. HOROVITZ: I'd have to go back and look at the deed. I can't remember exactly which entity it was.

CHAIR KAMA: Debbie, do you know?

MR. HOROVITZ: It was one of the Stanford Carr entities. They had purchased the

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properties from...from Wailuku Agribusiness, and then had subdivided it.

COUNCILMEMBER SINENCI: And is it true that it was done by a quit claim deed?

MR. HOROVITZ: Yeah, they gave a quit claim, which is pretty typical.

COUNCILMEMBER SINENCI: Oh, okay. The quit claim, and you mentioned earlier about having quit claim versus a warranty deed. Can you explain the difference?

MR. HOROVITZ: Sure. The difference is simply your remedies against the person who is transferring the property to you. So, if I gave someone...if I give someone a warranty deed, if there's some...something I haven't disclosed to them, then I have to fix it for them. With a quit claim you don't, it doesn't have anything to do whether...whether you have good title or not. If you think about it, oftentimes when parents give their children property, they'll quit claim it to them and they're not...they're not saying they don't own it, they're just...here's a gift.

COUNCILMEMBER SINENCI: Oh, I see. So, the quit claim is just the...could be just the interest of the property that's being transferred --

MR. HOROVITZ: Yeah. They're...

COUNCILMEMBER SINENCI: -- not their...

MR. HOROVITZ: They're simply saying whatever I have is now yours.

COUNCILMEMBER SINENCI: Okay. And then, Mr. Horovitz, is there a title report for the 2006 transfer?

MR. HOROVITZ: I...I know that it...there were title reports done. I don't whether one was done for that...that transaction because the property was subdivided right at that...just before . . . *(timer sounds)* . . . it was transferred. And as part of the County subdivision process, the County requires that title reports be provided, or be obtained. And so it was part...as part of the County's subdivision, they couldn't have subdivided it without it.

COUNCILMEMBER SINENCI: Oh, I see. So, subdivided from a larger parcel?

MR. HOROVITZ: Correct.

COUNCILMEMBER SINENCI: Okay. I think that's where...okay. Thank you. Thank you, Chair.

CHAIR KAMA: You're welcome, Mr. --

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COUNCILMEMBER SINENCI: I'll yield.

CHAIR KAMA: -- Sinenci. So, is there any other Members that have questions for Mr. Horovitz? Ms. Rawlins-Fernandez, you have three minutes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, my last line of questions are regarding the document from Lunalilo. So, the LCA document includes approximately 2,000 acres of land in Waiehu. However, it doesn't specify definitive boundaries or land use for that apana. Were...did you see any metes and bounds in the document that you presented to us on Tuesday from Lunalilo?

MR. HOROVITZ: I'm sorry, from...from which grantee? From Pehuino?

COUNCILMEMBER RAWLINS-FERNANDEZ: Lunalilo.

MR. HOROVITZ: Oh, Lunalilo. I...I would have to go back and refer to that. Whatever was in my letter is what I had initially seen. I know that...that his...what he was granted, or as part of his LCA, was a very...you know, extremely large amount of land, as one could expect.

COUNCILMEMBER RAWLINS-FERNANDEZ: But you cannot definitively say that the metes and bounds included that parcel? The parcel that...

MR. HOROVITZ: I...I'm not a surveyor, so it would be outside of my area of expertise.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, then it...it could be misleading then to present that if there aren't legal surveys?

MR. HOROVITZ: I...I...I don't believe I was misleading. I...I presented what I presented for a purpose, and the...the point that the Pehuino properties were very clearly elsewhere.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right, but you said that you're not an expert in oral grants, and the Lunalilo document doesn't have metes and bounds, and so the...the...the purpose of the presentation was for you to present your findings that determine that MEO had clear title.

MR. HOROVITZ: No, the purpose of my presentation was to state what I had originally uncovered through my research, and that ultimately was later litigated and...and found basically along the same lines by a court, by others, you know, by the judge whose job it is to...to make that determination. I was simply presenting what...what I had found and what the court ultimately did.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Right. So, as Member Sinenci read *(audio interference)* findings of facts, the record presented by MEO to assert its possessory interests, however, are not sufficient to entitle MEO to a quiet title against all potential claimants, even if they had been named as parties.

MR. HOROVITZ: Well, we didn't...again, you'll need to maybe address that to Ms. Hall, but we didn't file a quiet title action because there was no break in title, so it really wasn't before the court, so...I...I think --

COUNCILMEMBER RAWLINS-FERNANDEZ: *(Audio interference)*.

MR. HOROVITZ: -- it was actually the...I believe it was actually the defendants in that case who were arguing that we needed to bring a quiet title action, and our point was no, we didn't . . .*(timer sounds)*. . . so...

COUNCILMEMBER RAWLINS-FERNANDEZ: Your...your conclusion of there was no break in title, isn't...isn't that a...a legal conclusion?

MR. HOROVITZ: The judge makes the conclusion. I...I researched the title, and I could not find any break, and I have not seen any break in any title report that I've ever seen for the property.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. So, it would be...more appropriate for a judge to make that determination, which is why the plaintiffs were asking that question.

MR. HOROVITZ: Again, this was not a quiet title action, it was never needed to be one.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Horovitz.

MR. HOROVITZ: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: That concludes my questions, so if...if there aren't any more questions, I think we can let Mr. Horovitz go.

CHAIR KAMA: Thank you very much, Mr. Horovitz.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Ms. Cabebe --

CHAIR KAMA: And thank you, Ms. Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- for...for contacting him and asking...asking for him to participate. Mahalo, Ms. Cabebe. Mahalo, Mr. Horovitz. Mahalo, Chair.

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CHAIR KAMA: Aloha.

MR. HOROVITZ: Thank you.

CHAIR KAMA: Okay. We're going to go back now to Chair Lee, and you had a question for...

COUNCILMEMBER LEE: For DHHC.

CHAIR KAMA: Okay. Mr. Mataafa.

COUNCILMEMBER LEE: Yes. I was going to ask him if he could walk us through the process of applying for a grant from the housing fund.

MR. MATAAFA: Chair?

CHAIR KAMA: Mr. Mataafa, please.

MR. MATAAFA: Thank you, Council Chair Lee. Yes, DHHC and the County Code in...in Chapter 3.35 is the administrator of the Affordable Housing Fund. And we do have an existing process that does occur. Allocations made for 2.97 process, we are working currently on administrative rules to address allocations that are made outside of the existing process. And if it's appropriate, I can give you just a brief rundown of what that process is for the Members' knowledge.

CHAIR KAMA: Absolutely.

MR. MATAAFA: Thank you. So, we have a...every year around summertime we submit an RFP for those in the community that have affordable housing projects or projects that could directly benefit affordable housing projects come to apply for affordable housing funds. Those affordable housing funds are made through an application. Those applications are then assembled by our Housing Division, and we put a selection committee together. The selection committee is made up of affordable housing stakeholders. They review those applications and those projects, and they rank them in terms of priorities through a rubric. And those applications are then assembled in a project plan and sent to the Mayor's Office for transmittal to the Council for consideration in the next budget. So, that's generally the process. What we've seen with 2.97 projects is allocations from certain projects regarding the affordable housing funds, there's no current process for that with the Administration, and so, we are working on those administrative rules currently to address those allocations. So, thank you for the question, Chair Lee.

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COUNCILMEMBER LEE: Thank you. A follow-up question would be, with regard to this project, just applying for the funds doesn't necessarily mean that an applicant would be able to secure the funds. It all depends on your approval or disapproval, right?

MR. MATAAFA: Correct. So, under the existing process, the applicant would need to fill out an application, and that application with project details would provide the framework for the...the Department to review and monitor the grant if a grant was to be made to the...to the applicant. So...so, yes, it doesn't necessarily mean that if they go through the application process, an existing process, that they would get the funding. It would all be subject to selection committee, and then ultimately the Mayor and then you folks to determine whether those funds get disbursed to the...the project.

COUNCILMEMBER LEE: Thank you. Thank you, Chair.

CHAIR KAMA: You're welcome. Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, thank you. I wonder if Carlsmith or Kathy Hall would...if you would allow her to maybe continue on with the legal questions that have come up. I think they're important. And maybe she can tag team with what Mr. Horovitz has said. So, I...I...Carlsmith was the legal entity that represented MEO, correct? And I wonder if you could just kind of wrap up or say what you think is important based upon what you've been hearing.

MS. HALL: Sure. Thank you, Councilmember. I guess to address the previous discussion with Councilmember Rawlins-Fernandez, I will make clear to everybody here in the room I am not your attorney, I represent MEO, and I represented MEO in the underlying lawsuit that was brought by MEO against two individuals, Kahala Johnson and Laura Johnson. And the reason the lawsuit was brought was back in 2021, there were some people that were not authorized to be on the property that were...you know, that were there on the property and...and trespass notices were provided to those individuals. And at that time...and also, that time period was when the EA was going through the Council, and it became...at that time, we became aware, or MEO became aware that there were some individuals claiming to be heirs of Pehuino, and they had written a letter stating that they thought they had some interest in the property that MEO owned out there. So, to address those concerns, and to make clear that MEO had the right to exclude any trespassers from their property, we did file a lawsuit, and the lawsuit was a lawsuit related to trespassing, nuisance. We sought a declaratory judgment and injunctive relief. And at that time, defendants in the case, Kahala Johnson and Laura Johnson came forward, and they did claim title to the property. They claimed to be owners of the property through an ancestor named Pehuino. And those were the same...as Mr. Horovitz had...had said, those were

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the same people that he wrote back to, he explained to them in his letter that the Pehuino land grants were not...or Land Commission awards were not within the MEO property. That was his initial conclusion in doing his own research. In the case we were able to bring forward all of the evidence. Everybody got to present their evidence. MEO got to present all of the original Land Commission awards which, to address Councilmember...Councilmember Sineki's [sic] question, were translated. We did all of those original documents translated into English. You know, we had the translator in the courtroom as a witness. The defendants in the case also brought forward all of their documents and all of their witnesses, and we continued on an evidentiary hearing that lasted over three days in front of Judge Peter Cahill. And during that proceeding, both sides had an opportunity to present all of the evidence, all of the witnesses, and all of the documents that they thought were relevant to these claims. And those included documents going back to King Lunalilo, original land grants for the property, to king...Land Commission award to...a portion of the property that was awarded to King Lunalilo. It also included the original royal patent grant to Claus Spreckels. It also included discussions from the surveyor who had surveyed the parcel on several different occasions, once before subdivision and once after subdivision. That surveyor testified as to the boundaries and the portions of land that were included within the 11.4-some acres that MEO owns. In the end, the court did make findings of fact, conclusions of law . . .(timer sounds). . . decision, and then an order. And I...I'm happy to go over or continue on with the next question to talk about my understanding of those matters.

CHAIR KAMA: To continue, Member Sugimura?

COUNCILMEMBER SUGIMURA: So, I ran out of time, so it's your call, Chair.

CHAIR KAMA: Yeah, go ahead.

MS. HALL: Okay. So, in the end, the court's findings of facts, conclusions of...conclusions of law, decision and order did affirm several things. To be clear, this was not a quiet title case, and it was discussed in the three days of trial or...or hearings that this was not a quiet title case. MEO did not have the burden to quiet its title. There was no demonstrated break in the chain of title. The title report that MEO had obtained was provided as evidence in the case. It did not indicate any break in the chain of title. There...the only known claims at the time the lawsuit was brought were the claims brought by the defendants, and those were that they owned the property through Pehuino either as a lost grant, some sort of misplaced or lost kuleana, or through adverse possession. The defendants did not prevail on any of their claims. Their claims were dismissed with prejudice, they cannot be brought again. There was one claim that the court reserved jurisdiction on initially, and that was the defendants' claims for some sort of cultural rights. And the court wanted to have a . . .(timer sounds). . . separate...an

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opportunity to let the parties either mediate that or have a separate hearing...a completely separate trial of evidentiary hearing on that one particular issue related to iwi kupuna or cultural rights. So, at a later date, the court set a hearing date for that, and then discussions were held between the plaintiff's attorney and the defendants' attorney, and in the end the defendants dismissed those claims, those cultural claims, with prejudice. There was a stipulation and dismissal entered following the original order. So, there are two orders in the case. Following the conclusion of that second order being entered, there are absolutely no remaining claims related to those defendants. All of the claims in the lawsuit have been dismissed with prejudice.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KAMA: Okay. Thank you. Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I was going to do Director Molina, but since Ms. Hall is already up there, I don't want to switch around. I just was wondering. So, specifically, it was for Lala Johnson and Kahala Johnson. If other Pehuino heirs come with their own information that's separate from those two people, then it could be reopened for other heirs with their own specific information?

MS. HALL: Thank you for your question. Generally speaking, anybody can go into the courts at any time and make any claims that they want. Anybody can come forward at any time claiming to own any property. So, the...the courtroom doors are always open to anyone.

COUNCILMEMBER PALTIN: Thank you.

MS. HALL: There are some specific findings in the case that I think would probably be really important if somebody else from...an heir of Pehuino came forward. And I can...I can quote some of the findings that would be relevant to your question. For instance, finding number 36, Land Commission Award 3386 awarded to Pehuino three apana parcels on the Waiehu side of the mouth of the Wailuku River. This is from the court's findings. Also, finding number 41 says apanas one, two, and three of Land Commission Award 3386 are not located within the property. When...when we say property, we're referring to the MEO property there. And lastly, finding 51, the court finds that defendants failed to establish by preponderance of the evidence that they have an ownership or possessory interest in Lot 1C.

COUNCILMEMBER PALTIN: Excuse me?

MS. HALL: I think that answers your question.

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COUNCILMEMBER PALTIN: Yeah, you're talking about those defendants, I'm talking about like an unknown one, and you said anyone at any time, which I've been told as well.

MS. HALL: I do understand your question. I was just referring to those findings because if the court has already found that the Pehuino Land Commission awards are not within the property, I...I wouldn't anticipate that anyone else would be able to come forward and prove otherwise.

COUNCILMEMBER PALTIN: And you have experience with Lunalilo's Land Commission awards and the hui partitions and things along those lines?

MS. HALL: So, my experience in this case with the Lunalilo Land Commission award is that there was no questions raised along the lines of what I've heard discussed today regarding probates. There were no questions raised in this lawsuit about that. However, it was part of the evidence presented in the case that a portion...a small portion of the MEO property is a portion of a Land Commission award to King Lunalilo.

COUNCILMEMBER PALTIN: Okay. Thank you. If I still have time I have questions for Director Molina.

CHAIR KAMA: Okay. Mr. Molina? Mr. Molina, are you still on?

MS. LILLIS: Chair, it does appear --

CHAIR KAMA: Yeah. Okay.

MS. LILLIS: -- as though Public Works is connected to the meeting.

CHAIR KAMA: Okay. So, we're going to reserve Member Paltin's time, and continue on to Member Johnson.

COUNCILMEMBER JOHNSON: Okay. We have a lot of resources, so I'm just going to ask the question and whoever is the resource can tell me the best answer. I read in the application that it mentioned that the...not the full property was surveyed for...for cultural artifacts and iwi kupuna. Is there a plan to do more?

MR. SUGIDONO: Thank you for the question, Councilmember. I believe Trevor Yucha can address them.

MR. YUCHA: Yes. As part of the 2008 archaeological inventory survey, termed an archaeological assessment because of negative findings, that study covered the

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entire parcel. During the 6E consultation we uncovered the entire parcel and our monitoring plan covers the...the entire parcel, so...

COUNCILMEMBER JOHNSON: So, can you clarify the...the term swale. In...in...in there, it often mentions that the swale. Is that the...the sand dune, right, that's the sand dune that's...that's in...is that the term that they're using for the sand dune?

MR. YUCHA: I believe so, the...the swale.

COUNCILMEMBER JOHNSON: Okay.

MR. YUCHA: That's correct.

COUNCILMEMBER JOHNSON: The swale. So, then I guess this might not be for you, but I'll just put it out there. Is there going to be a retention wall to keep any kind of erosion from the sand dune swale?

MR. SUGIDONO: I apologize, I'm having trouble with the button. I believe Ashley Otomo could address that question for you, Councilmember.

MS. OTOMO: Yeah. In terms of the swale, we're not planning to grade in the swale or on the adjoining bank that borders...I believe that is Waiehu Heights. So, there will be a fence. I'm not sure if there's any portion of that fence that will require a wall to create a barrier between the residences and the swale and adjoining bank.

COUNCILMEMBER JOHNSON: Okay. Fence. All right. So, I also read in the application that they'll have observers, one observer per vehicle, when they do any kind of grading. Is that...is that the...how does that process work? Do they walk alongside? Can you kind of clarify how that works?

MR. YUCHA: So, as part of the...the SHPD accepted archaeological monitoring plan, the SHPD has been recently imposing that requirement that there is one archaeologist per piece of ground-disturbing equipment. Not necessarily every equipment on site, but whatever equipment is actually disturbing the ground. In those instances, we have our staff of archaeologists, one or more, on site directly observing this work. And with the...the ability, as described in the...in the monitoring plan, to stop at any moment, or slow work, so that things can be investigated and identified.

COUNCILMEMBER JOHNSON: And...and you said that's a new...a new process that SHPD is asking you guys to do?

MR. YUCHA: Not necessarily a new . . . *(timer sounds)*. . . process, but it is terminology that they've been requesting over the last few years.

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COUNCILMEMBER JOHNSON: So, what's your take on it in the past few years, has it been working out, is it you finding more of a more responsive process, is it working...you know, there's a theory and there's a practice, so in practice, how's it working?

MR. YUCHA: It can be very challenging at times, just because of the staff needs for especially large projects. There...there are a limited amount of archaeologists just on Maui in general, so...

COUNCILMEMBER JOHNSON: Okay. So, for this particular project do you expect any challenges to...to meet that requirement?

MR. YUCHA: Just based on the size of this project, no. I...I think between probably one and three archaeologists would probably cover all ground-disturbing activity. Yeah.

COUNCILMEMBER JOHNSON: Thank you so much. Thank you, Chair. I'm out of time.

CHAIR KAMA: Thank you, Mr. Johnson. We're going to go to Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'll call up Ms. Hall again. I'm sorry, Ms. Hall, that you have to keep walking back and forth to the podium. Mahalo, Ms. Hall. So, my question is, you...you responded to Member Paltin's question about determination of title. And this trespass case is a criminal case, and so, this was not land court, right?

MS. HALL: Thank you for the question, Councilmember. To clarify, this was not a criminal case, this was a civil trespass case, not a criminal trespass case. It was brought in the Circuit Court of the State of Hawai'i. This property in question is regular system property, it is not Land Court property, so there would never be a proceeding for this property that would be appropriate for Land Court. So, however, the Circuit Court does have jurisdiction...did have jurisdiction to hear the civil trespassing in this case, and also had jurisdiction to consider the defendants' claims to ownership.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, in this civil trespass case, the...oh. It centers on who has possession of the land, and not land title?

MS. HALL: There...this was not a quiet (*audio interference*) case. As I mentioned earlier, this was originally the plaintiffs brought the...brought the claims for trespass, nuisance, declaratory judgment, and injunctive relief. However, the

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counterclaims raised by the defendants in their answer and counterclaim were for title, they did claim ownership through various theories.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. In the findings of fact that 43, Pehuino received the responsibility to be kahu, meaning a steward or a custodian of iwi kupuna in the extensive area of the sand hills land encompassing the Na Wai 'Eha or four great waters from the Waihe'e River south to Mā'alaea. That the property is within the area that Pehuino cared for iwi kupuna. That...that's part of the record.

MS. HALL: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Ms. Hall. And I don't think I'm going to have time to call up (*audio interference*). I'll just yield at this time. Mahalo, Chair.

CHAIR KAMA: Thank you. So, we're going to circle back to Member Paltin because Deputy [*sic*] Director Molina is on the...is on the call. Mr. Molina?

MR. MOLINA: Thank you, Chair.

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Director. In my question to Munekiyo and [*sic*] Hiraga, they said that a stop-controlled intersection is generally appropriate unless a signal warrant is met, and a signal warrant is not met at any of the three project driveways, and that you and DO...Hawaii DOT reviewed the TARR [*sic*] with the stop-controlled access driveways and did not have comments regarding the intersection control. So, you know, given that that TIAR data in some cases was up to seven years old, I just was wondering if you or anyone in the Department have gone there recently and checked the traffic in real time, in real life, and see if it meets with what...what you analyzed from the TIAR?

MR. MOLINA: Yeah, so, this...this one is tricky. So, from the Department's standpoint, we strive to make sure our corridors flow. The...the need for stop to control to accommodate a private property usually...like usually we default to keeping the corridor functioning as opposed to accommodating private property needs. So, in this case, if we wanted to deviate from that warrant to put something beyond a stop control for the people coming in and out of the property, we can consider that and discuss that. But generally, what would trigger the warrant is the left turns off the highway into the property backing up so large that it creates a problem on Kahekili Highway, which we don't anticipate that to be the problem. The problem's going to be people coming out of the private property having to wait a long time potentially to make their left turn which, from operation of the system standpoint, we'll live with that because it's not an impact to the system, the impact to that one property. Thank you, Chair and (*audio interference*).

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COUNCILMEMBER PALTIN: So, I would...I would conclude the same would be your reasoning for not wanting speed tables or speed bumps as traffic-calming measures, and to rather go with the enforcement of 30 miles per hour by police?

MR. MOLINA: Yeah, so, you know, enforcement is a key part. We can look at speed tables here. Generally try not to put speed tables on collector roads, but I know the State's been doing it all over the place, so that's something, you know, we...we can consider. Every time we do, Police and Fire get upset with us, but you know, it's not out of the question.

COUNCILMEMBER PALTIN: Okay. I don't know if you're able to answer. This question might actually be for the State DOT. I wasn't sure, this one-time subsidy of \$104 towards the . . . *(timer sounds)*. . . Should I come back, Chair?

CHAIR KAMA: Continue, Member Paltin.

COUNCILMEMBER PALTIN: Oh, okay. For the first month rent to the first tenant occupying each of the 120 units is from the State DOT. And I'm...I'm not understanding, how does providing a subsidy to new tenants mitigate traffic control to the community? Have...I know this was coming from the State DOT, but they're not here, and I just was wondering if you had any insight, and...and how does the subsidy promote housing affordability? Or...oh, I don't know if that State guy just came on.

CHAIR KAMA: Do we have State DOT here?

MR. THIRUGNANAM: This is Jeyan from Highways.

COUNCILMEMBER PALTIN: Oh, perfect timing, Mr. Jeyan.

MR. THIRUGNANAM: Yeah.

COUNCILMEMBER PALTIN: Did you have...it says if I have questions to ask you, so, thank you for coming on.

MR. THIRUGNANAM: Sure, yeah.

COUNCILMEMBER PALTIN: Oh, did you *(audio interference)* question?

MR. THIRUGNANAM: Yeah, sorry, I didn't hear the question. I just got on. So, yeah, if you could please repeat the question.

COUNCILMEMBER PALTIN: I'm...I'm referring to your February 7th, 2022 letter to

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Mr. Mohanna about providing a subsidy to the first tenants' first-month rent. And I just was wondering, how does providing a subsidy to new tenants mitigate traffic impacts to the community, and how it promotes housing affordability? If...if...I just wasn't seeing the correlation there from the State DOT.

MR. THIRUGNANAM: Yeah, yeah, yeah. So, you know, basically, you know, DOT...the State Highways DOT, you know, now is, you know, trying to help the community with, you know, in addition to mobility and access, to promote affordable housing. You know, that's one of the, you know, overall mandates of the State DOT to...to partner with the community, partner with the counties, you know, not only for...for roads, but also with respect to affordable housing. So, with this particular project, you know, the...the impact to State highways was, you know, essentially so small, was, you know, essentially de minimis. You know, the total cost...you know, impact mitigation cost was about, you know, in the range of \$100,000. So, you know, it didn't make sense to put in any traffic impact mitigation because, you know, the cost of doing a study, to hire an engineer, and...and doing something, you know, would...would have basically, you know...basically, you know, eaten up all that \$100,000. But, you know, the idea here is, you know, if we can, you know, provide subsidy for affordable housing, you know, it helps the community, but you know, hopefully the...the community members can, you know, purchase a bicycle with that extra, you know, savings. So...and...and those are the kind of things that...you know, that State DOT is...is getting involved in trying to, you know, assist the community with...with traffic, housing, and...and mobility all...all at one time.

COUNCILMEMBER PALTIN: Thank you, Mr. *(audio interference)*. I appreciate your answer. I did have more questions, but my time is up for this round, but more Members may have questions for you now that you're on the call. Thank you so much, Chair. Thank you, Mr. Jeyan.

CHAIR KAMA: Mr. Jeyan --

MR. THIRUGNANAM: Thank you.

CHAIR KAMA: -- how long are you able to stay --

MR. THIRUGNANAM: Yes.

CHAIR KAMA: -- with us?

MR. THIRUGNANAM: I can stay as long as necessary.

CHAIR KAMA: That could be a long time.

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MR. THIRUGNANAM: Oh, that's fine.

CHAIR KAMA: Okay, okay. Well, thank you.

MR. THIRUGNANAM: Yeah.

CHAIR KAMA: Thank you. Okay. We're going to continue with our questioning with...let me see, where did we leave off? Oh, Mr. Cook. Yes, thank you so very much.

VICE-CHAIR COOK: Thank you, Chair. I have two questions for Director Molina if he's available.

CHAIR KAMA: He is. Mr. Molina?

MR. MOLINA: Yeah *(audio interference)*.

VICE-CHAIR COOK: Thank you, Director. I...I have two questions. One, I've seen the new traffic calming Pulehu and Hansen Road. Is that being used anywhere else as...in lieu of speed tables? It's very effective in getting people to be aware...slowing down and aware of the fact that something's coming up.

MR. MOLINA: Yeah, so, those were installed intentionally to support the change of that stop control there. So, as you may recall, Hansen used to be a through street. We installed those new stops to help improve the safety there. And so, those rumble strips were brought in to help alert the motorists of that changed conditions, so they're not --

VICE-CHAIR COOK: Very effective.

MR. MOLINA: -- they're not typically used *(audio interference)*

VICE-CHAIR COOK: *(audio interference)* go slow sign with that, it's...sorry to interrupt you, but they're pretty effective. May I ask a second question, Chair? And this is for all the departments, but I'd like to ask you because I think you're point man on it. For the requested exemptions for permitting and whatnot, the project will still be required to comply with the grading ordinance and with what's allowable and not allowable to be taken to the landfill; is that correct? It's simply the fees and charges, but not eliminating the requirements of compliance during construction?

MR. MOLINA: That's correct.

VICE-CHAIR COOK: Thank you.

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CHAIR KAMA: You're welcome. Okay. We're going to continue on. Member U'u-Hodgins had to leave early but she will rejoin us later on after our lunch. Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I just have a couple questions for the MEO administration, maybe Mr. Sugidono. The first one was, did MEO consult with the Paukukalo Hawaiian Homestead Community Association and the Waiehu Kou community associations about cultural resources as requested by Department of Hawaiian Home Lands?

MR. SUGIDONO: Thank you, Councilmember, for the question. I can say that we did consult with the Waiehu Kou Phase 3 Community Association. In our research, we...I had also asked members of that community association, Mr. Ornellas and Roy Oliveira, if they could provide our information to the other phases of Waiehu Kou because we could not find specific contact information for them available. But in terms of the cultural resources, I think Trevor may be able to speak to who was specifically consulted as part of the CIA if you'd like him to speak on that.

COUNCILMEMBER SINENCI: No. If you guys are going to be reaching out to those other community associations, that's fine. My second question is, what is the status of the HHFDC application? Is there...and...and its deadline.

MR. CHUN: Thank you for the question, Mr. Sinenci. This is Grant Chun. So, the HHFDC process kicks...kicks off in February of each year, and as I had mentioned earlier, their decision-making process takes most of the year, and decisions are made normally in the summer or the fall. So, this year, because of the timing of this review, we will be teed up for consideration in the next round of funding. So, we will --

COUNCILMEMBER SINENCI: *(Audio interference)*.

MR. CHUN: -- *(audio interference)*.

COUNCILMEMBER SINENCI: For next February?

MR. CHUN: Correct.

COUNCILMEMBER SINENCI: Okay. So...so MEO could technically, you know, kind of...I think that you guys are still working on, can still go ahead and reach out to some of these community associations and...and follow up on some of our questions?

MR. SUGIDONO: The intention for the project is always to...you know, in terms of the...before development occurs, HighRidge Costa can also speak to this, but community outreach is ongoing. It's...you know, as I had mentioned previously,

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we began in 2020, and we've continued to reach out to the associations and the community. . . .*(timer sounds)*. . .

COUNCILMEMBER SINENCI: Okay. Thank you. My time's up. Thank you, Chair.

CHAIR KAMA: You're welcome. Okay. We're going to come back now to...who . . .*(inaudible)*. . . Member...Chair Lee.

COUNCILMEMBER LEE: No questions. Thank you.

CHAIR KAMA: Member Sugimura?

COUNCILMEMBER SUGIMURA: So, something is happening with our video because earlier, Chair Lee was...we...we couldn't see her, now we can't see Keani Rawlins-Fernandez. Could OCS check?

CHAIR KAMA: Okay. You want to check that out please?

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm here.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm here. I'm here.

CHAIR KAMA: Yeah, we...we see a blurry you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, I think...I think I might have been skipped too. Oh, you can't see me?

COUNCILMEMBER SUGIMURA: No.

CHAIR KAMA: There's a blurry you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, my Internet might not be very good.

COUNCILMEMBER PALTIN: *(Audio interference)* see you on the BlueJeans but not on the *Akakū* television.

MS. LILLIS: Chair, perhaps a two-minute recess?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR KAMA: Okay. Let's take a five-minute recess until 11:25. . . .*(gavel)*. . .

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RECESS: 11:19 a.m.

RECONVENE: 11:27 a.m. (Excused: SMS, NUH)

CHAIR KAMA: . . .(*gavel*). . . The Housing and Land Use Committee meeting...recessed meeting of February 28, 2023 will now reconvene at...on March 2nd, 2023 at 11:27 a.m. So, Members, I want to be able to call on our analyst Ana Lillis for an announcement.

MS. LILLIS: Aloha, Chair. Thank you. Members of the public that are connected to this meeting, we highly encourage you to disconnect and rewatch on *Akakū* Channel 53. Staff has sent the link to Channel 53 on the meeting chat as well. So, if you could do that, that might help our meeting connectivity. So, if you want to view the meeting, please watch via *Akakū* Channel 53 or online on akaku.com/channel53. Mahalo, Chair.

CHAIR KAMA: Thank you very much for that intermission. Okay. So, Members, it is the Chair's desire to take an early lunch. We lost Member U'u-Hodgins. We're...and we're going to lose Mr. Johnson later on this afternoon. So, I want to call lunch at 11:30, we'll reconvene at 1:30, and continue with our questionings. Ms. Paltin, yes?

COUNCILMEMBER PALTIN: Thanks. Just requesting that Mr. Jayen --

CHAIR KAMA: Yes.

COUNCILMEMBER PALTIN: -- Thirugnanam --

CHAIR KAMA: Yes.

COUNCILMEMBER PALTIN: -- would --

CHAIR KAMA: Continue.

COUNCILMEMBER PALTIN: -- come back as well.

CHAIR KAMA: Yes. Oh, yes. And everybody out there, please come back, especially if you're a resource for us today. So, thank you very, very much everyone. So, it is now 11:28 a.m....

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair? Chair?

CHAIR KAMA: Yes?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: I hear you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Thank you. Okay. Sorry, sorry. Mahalo, Chair. Mahalo for recognizing me. I just had a quick question before we break. It's 11:29, so we're not at 11:30 yet. What time does Member Johnson leave? And I would hate to deprive him of the opportunity to be able to ask questions. And are there any resource people that we will not have this afternoon when we reconvene after lunch?

CHAIR KAMA: Member Johnson, would you like to respond please?

COUNCILMEMBER JOHNSON: Thank you, Chair. Yeah, I have a meeting with the Mayor, I think, at around 2:00, so I think...to prep for that meeting, I might not come back. So, that's...that's what I was thinking. And I asked a lot of questions knowing that, so I'm pretty...pretty confident with my questions. Maybe I have one more clarification, but that's all.

CHAIR KAMA: Okay. We'll still be here, Mr. Johnson.

MS. LILLIS: And Chair?

CHAIR KAMA: Yes?

MS. LILLIS: For Councilmember Rawlins-Fernandez, we requested the departments for the all-day meeting, so no one has indicated to us that they would not be available. Past 4:30 is questionable, but you know, we can check in with them if the meeting runs over time.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Ms. Lillis. And then, Chair, so, because like I...I didn't know that Mr. Horovitz weren't...wasn't going to be here. Is there anyone on the developer's side that won't be available?

MR. CHUN: Madam Chair? Madam Chair, this is Grant Chun. No, we're all available.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Chun.

MR. SUGIDONO: I can...

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COUNCILMEMBER RAWLINS-FERNANDEZ: And then...oh, go ahead.

MR. SUGIDONO: Sorry, Councilmember. We all are available. I think the only potential people that might have to leave early is Trevor, our archaeologist, at around 4:15, I think. And then we do have our design architect, Lena, on, who...who I believe will be leaving around 3:30-ish.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Sugidono. Okay. Mahalo for letting me know that, and then I'll prioritize my questions for Mr. Trevor. And then, Chair, you know, Member Johnson said that he just has that one more question. Can we just let him ask that one more question? Would...would Members object to that?

CHAIR KAMA: *(Audio interference)* Mr. Johnson have his one clarifying question because we will not see him to probably later on in the afternoon. So, one clarifying question. Go ahead, Mr. Johnson.

COUNCILMEMBER JOHNSON: Certainly, thank you. I...I appreciate everyone for...

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

COUNCILMEMBER JOHNSON: Thank you so much for allowing me this. So, Deputy Director, just to clarify with Bill 111 and the residential preference, could you speak on that?

MR. MATAAFA: Yeah. Sorry, earlier I misspoke, but for Bill 111, the provisions of that ordinance would apply to this project. Thank you.

COUNCILMEMBER JOHNSON: Thank you so much. Thank you, Chair. No further questions.

CHAIR KAMA: You're very welcome, Mr. Johnson. And now it is 11:31 and the Housing and Land Use Committee is now on lunch until 1:30. . . .*(gavel)*. . .

RECESS: 11:31 a.m.

RECONVENE: 1:34 p.m. (Excused: GJ)

CHAIR KAMA: . . .*(gavel)*. . . Will the Housing and Land Use Committee of...recessed Committee meeting of February 28th, 2023 now come to order. It is now March 2nd, and it is...2023, it is now 1:34 p.m. Welcome back, Members. Glad to see all of you returned. Member Johnson is excused because he has another commitment. I see Member Sinenci, and I see Member Rawlins-Fernandez. So, thank you all for being here. Okay. Now I've got to figure out where did we leave

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off at. Oh, questions. So, we...we left off with questions, and I think...Chair Lee, we'll start with you. Questions for the project or the departments?

COUNCILMEMBER LEE: I'll skip my first round.

CHAIR KAMA: Okay.

COUNCILMEMBER LEE: Thank you.

CHAIR KAMA: Thank you. Member Sugimura?

COUNCILMEMBER SUGIMURA: No questions at this time.

CHAIR KAMA: Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I was wondering if Jeyan Thirugnanam was still on the line?

CHAIR KAMA: State DOT.

COUNCILMEMBER PALTIN: State DOT.

MR. THIRUGNANAM: Yes, I'm here.

COUNCILMEMBER PALTIN: Oh, thank you so much. Some of my questions were...so, in the reading, it says that State DOT is responsible for the maintenance and clearing of the culvert, I believe, at the intersection of Kahekili and the adjacent road. Is that...do you agree?

MR. THIRUGNANAM: Yeah. So, typically if...yeah, typically if the culvert is in a State road or under the State road and what's, you know, within the right-of-way, you know, that would be, you know, generally under the State's responsibility.

COUNCILMEMBER PALTIN: Okay. Thank you. And...

MR. THIRUGNANAM: Yeah, yeah. Yeah. Generally, yeah.

COUNCILMEMBER PALTIN: So, there seems to be some flooding. And in the response that I got from Munekiyo, it says MEO has reached out to Hawai'i Department of Transportation to coordinate clearing the culvert and will continue reporting maintenance issues. Can you tell me when the last time the culvert was cleared? Because one of the testifiers had photos from late January where it was overflowing and...and ponding on this property.

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MR. THIRUGNANAM: So, you know, I can't tell you exactly when the culvert was last cleared, but I can check and get back to you.

COUNCILMEMBER PALTIN: Do you think if you can get back to me too if you folks have the capacity to clear it regularly so that if this construction moves forward that it won't have this regular flood out type of incident?

MR. THIRUGNANAM: Can you give me the intersection name again so I can write it down and...and get someone to respond?

COUNCILMEMBER PALTIN: I think it's Kahekili and Waiehu Beach Road. W-A-I-E-H-U Beach Road.

MR. THIRUGNANAM: Okay. Yeah. Thank you.

COUNCILMEMBER PALTIN: Thank you. And then the other question I had, it says that DOT, HDOT, and DPW accepted the TIAR which had data, I think, from 2015 or 2016 through 2019 because COVID numbers would not be accurate. And I know they use some sort of formula. I just was wondering if...if you ever had an onsite visit, it seems counterintuitive. You know, the project plans for 274 parking stalls, the nearest grocery store is like ten miles away, there's no schools within walking distance, there's no jobs and things within walking distance, but they...and...and they did present in their presentation . . .*(timer sounds)*. . . that these are work...workers, workers would be living there. So, I...I...I question how it would only create 64 additional trips during the morning hours and 79 additional trips in the afternoon peak hours. Also, I think DOE only estimated 26 students, when there's like 32 three-bedroom units and 58 two-bedroom units. So, I...I...I kind of feel like these numbers are not realistic. And I just was wondering, what went into your acceptance of their kind of outdated data TIAR?

MR. THIRUGNANAM: So...so generally...I guess first question is, you know, adjustments during the COVID period. You know, typically a project would go out and do traffic counts, but during COVID, because the numbers were skewed . . .*(timer sounds)*. . . you know, generally, you know, all practitioners used, you know, previous numbers and adjusted it to...based on...on, you know, different formulas to account for what could be the, you know, numbers at...at say, you know, in 2023 without...in...in what we call the new normal. So, that was, you know, standard adjustments done. With respect to...

COUNCILMEMBER PALTIN: So, just to clarify, if it wasn't *(audio interference)* you wouldn't be allowing seven-year-old data?

MR. THIRUGNANAM: Yeah, so if it wasn't COVID, you know, typically they would go out and...and do traffic counts.

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COUNCILMEMBER PALTIN: Okay. My *(audio interference)*. Maybe I'll see you on the next round...or hear you, sorry. Thank you, Mr. --

MR. THIRUGNANAM: Okay.

COUNCILMEMBER PALTIN: -- State DOT. Thank you, Chair.

CHAIR KAMA: You're welcome. We're going to go to Member Keani Rawlins-Fernandez next.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, my questions will be for Mr. Yucha, Trevor.

CHAIR KAMA: Trevor?

COUNCILMEMBER RAWLINS-FERNANDEZ: Since he has to leave early. Oh, there we go. Thank you for turning on the...the video for the podium. All right. Aloha, Mr. Yucha. Okay.

MR. YUCHA: Aloha.

COUNCILMEMBER RAWLINS-FERNANDEZ: Can you hear me okay?

MR. YUCHA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Perfect. Okay. In response to an earlier question, so you said that if burials are...are found, if iwi kupuna are found that it would go to the Burial Council. What...would you explain *(audio interference)* on what decision making would be like for inadvertent finds, which is what that would be if it's found...when it's found, if...if construction happens versus previously identified?

MR. YUCHA: Absolutely. So, for previously identified finds during construction, it's the authority of the SHPD to make a determination on burial treatment; although, they always consult with recognized descendants, and the item is always presented before the Burial Council for discussion. As opposed to previously identified burial sites, which are typically found during the inventory phase of...of the historic preservation process, this would be the inventory...archaeological inventory survey. For previously identified burials, the determination rests with the Burial Council itself to make a treatment determination on preserve in place or relocate.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. So...I'm sorry, I...I may

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have missed it. Did you say that they (*audio interference*) to decide versus 60 days?

MR. YUCHA: I didn't include time frames, but for inadvertent finds, once the SHPD is requested to make a determination, I believe they have a very short period of time, 48 hours approximately. As opposed to the previously identified burial treatment process, which is, you know, at a minimum a two...a two-meeting process, so a minimum of two months in front of the Burial Council.

COUNCILMEMBER RAWLINS-FERNANDEZ: And so for what would be considered inadvertent finds, in 48 hours there isn't...that's not really sufficient time to think through how to potentially preserve in place. So a lot of times, what happens? . . .(*timer sounds*). . .

MR. YUCHA: So, the...one of the key factors is it's...it's 48 hours from when SHPD is requested, not...not necessarily when the find is...is reported. In most cases, the...the...the development team, the construction team, the archaeologists, and any other stakeholders, including recognized descendants, work together immediately once the find is...is reported, and before the request is made for determination to SHPD. So, in my experience --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo (*audio interference*).

MR. YUCHA: -- most...most of the time the...

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, go ahead.

MR. YUCHA: Sorry. In my experience, most of the time these decisions are over a lot longer period than a 48-hour period.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Yucha. I think that was my timer.

MR. YUCHA: Mahalo.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: No?

CHAIR KAMA: So, we're going to...yeah.

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

CHAIR KAMA: You're very welcome. We're going to continue with Member Cook.

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VICE-CHAIR COOK: No further questions at this time, Chair.

CHAIR KAMA: Thank you. Member Hodgins?

COUNCILMEMBER U'U-HODGINS: Hi. Thank you. I have a question for Corp. Counsel if they're still on the line.

CHAIR KAMA: Mimi, are you still here?

MS. DESJARDINS: I'm still here.

CHAIR KAMA: Okay.

COUNCILMEMBER U'U-HODGINS: Hi, Mimi.

CHAIR KAMA: Go ahead.

COUNCILMEMBER U'U-HODGINS: Thank you so much. So, my question is hypothetically, if this project gets approved, and then hypothetically, if this goes back to court and MEO does not have sole ownership, then what happens? And then as a previous testifier said, we could be personally held responsible, is that true as well?

MS. DESJARDINS: So, hypothetically speaking, 2.97 does state clearly that the County is not a party to any of these projects. So, I would say that the County is not liable. I know there was testimony that you're all going to be held personally liable if you approve this project and it turns out they don't have ownership. I suspect that if MEO legally doesn't have ownership, it turns out, then they wouldn't be able to build this project. So, the project...if you approve the project, you're not conveying on them some legal right to build the project. You're approving the project, it still has to go through the permit process...obviously, still, they have to have ownership.

COUNCILMEMBER U'U-HODGINS: Okay. Thank you.

CHAIR KAMA: Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. For...it looks like one of the exemptions was for wastewater assessment fees for facility expansion for the Wailuku-Kahului wastewater treatment system. Was there a...is Mr. Agawa available to speak to...to this exemption?

CHAIR KAMA: Mr. Agawa, are you on the line?

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MR. AGAWA: Yes, Chair, I'm here.

CHAIR KAMA: Thank you.

MR. AGAWA: Yeah. The assessment fee for that, it qualifies to be waived. It's under Code 2.97.150. It's in the County Code.

COUNCILMEMBER SINENCI: And is that...I...I know that the Department has a revolving fund. Does...so does this tap into that fund, or do we need to pay into it...into your budget for this exemption?

MR. AGAWA: No. No. So, what the exemption...well, what the fee is, is when we construct the new facility, users of the new facility would pay in until the facility is paid off. But the Wailuku-Kahului facility is already paid off long ago, so that's why there's a waiver for the assessment fee.

COUNCILMEMBER SINENCI: Oh, okay. Mahalo, Mr. Agawa. Is there anything else that is exempted from the Department of Environmental Management?

MR. AGAWA: There's a...I believe they're asking for a disposal permit fee waiver. That's only \$25, but if they're utilizing a commercial hauler for disposal of waste, then they should already have a permit. And there's also a waiver for the tipping fees, I believe, for the construction...the C&D disposal. That is also qualified to be waived, but they need to submit a landfill waiver tipping fee application, and as part of that application, they need to fill out the recycling information on the form to qualify.

COUNCILMEMBER SINENCI: Oh, okay. So, there is a process for them to qualify for these exemptions.

MR. AGAWA: Yes, Member Sinenci.

COUNCILMEMBER SINENCI: Okay. Thank you, Mr. Agawa. And then for zoning, Ms. Aoki, there's an exemption for off-street parking and loading. Or is that Mister...number 8, requirements for the number of parking stalls and number of sizes of loading areas for off-street parking and loading. Would that be Ms. Aoki? Director Aoki?

CHAIR KAMA: Ms. Aoki, are you on the line?

MS. LILLIS: Chair, we have Anne Cua from the Planning Department.

CHAIR KAMA: Oh, that's right. That's right.

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COUNCILMEMBER SINENCI: Oh, okay.

CHAIR KAMA: That's right. Ms. Cua?

MS. LILLIS: Chair, she might be multitasking. We can get in touch with her.

CHAIR KAMA: Okay.

MS. CUA: Right here.

CHAIR KAMA: Oh, there she is. Thank you for being here, Ms. Cua.

MS. CUA: And sorry, I was working on something. Could we have the question repeated again please?

COUNCILMEMBER SINENCI: Oh, yeah.

CHAIR KAMA: Surely.

COUNCILMEMBER SINENCI: Hi, Ms. Cua. Member Sinenci. Yeah, so, just speaking to some of the exemptions of the Department. One is from County Code 19.36B, off-street parking and loading. I understand there won't be any parking for, I...I guess, guests if they wanted to come upon the property? . . .*(timer sounds)*. . .

MS. CUA: Okay. I'm...I don't have the exemption request in front of me, but if the exemption request is to delete that portion, then that would be a correct statement. But normally, the parking ordinance does require for guest parking as well. It accommodates the users of the facilities as well as guests, any part of parking requirement.

COUNCILMEMBER SINENCI: Oh, okay. Because this exemption from 19.36B.020 for the proposed...oh, clubhouse, which will only be used by onsite residents and is not open to the public. So, it looks like...like if people wanted to come, if they had any family parties at the clubhouse, there wouldn't be available parking for guests? . . .*(timer sounds)*. . .

MS. CUA: Oh, it sounds like that's the request that is being made.

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

CHAIR KAMA: You're welcome. Chris, did you want to respond to Mr. Sinenci's question?

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MR. SUGIDONO: Yes, I can. And we have our design architect also on the line who can further add after I provide my...or at least our request. And so, Councilmember Sinenci is correct that the clubhouse...the purpose of the clubhouse is for the community residents. I believe, though, the project does accommodate some parking for it, although I will have to defer to Lena how much parking that specifically is. But there is parking that is designated for...you know, for the clubhouse itself in the total number of stalls that will be provided at the project site. But Lena, could you speak to that as well?

MS. TAMASHIRO: Yes. Can you all hear me?

CHAIR KAMA: Yes, we can.

MS. TAMASHIRO: Okay. Yeah, so, our intention is to have two stalls per unit for all the two-bedrooms and three-bedroom units, and one stall for the one-bedroom units that were assigned. And we also do have some stalls additional for...for guests that could flexible, you know, or assigned to the one-bedroom unit if...if needed. And also...and so 274 stalls is what we have on the parcel right now, and that also includes some stalls for the...the nonprofit building.

CHAIR KAMA: Yes, Mr. Chun?

MR. CHUN: Thank you, Madam Chair. I can provide some additional clarification, just for context. So, there are 274 stalls, there are 120 units. For the most part, two stalls per unit is more than adequate, so even if we were to allocate two stalls per unit, that's 240, there's still 34 extra stalls. There is a nonprofit building, which will be utilized primarily during the day. So, for...to the extent that the clubhouse for whatever reason has a gathering in the evening, you know, there's...I guess the bottom line is, there's...there's adequate stalls on this property. And actually, what's accommodated for here is more than what we're able to provide on most of our other properties.

COUNCILMEMBER SINENCI: Oh, okay. So...so people would only have two cars allowed, yeah? Not more than two. Okay. Thank you.

MR. CHUN: Actually...

COUNCILMEMBER SINENCI: Oh.

MR. CHUN: Yeah. Actually, there's flexibility because there's a pool of...of stalls that can be made available. Frequently, households with one bedrooms will frequently have just one vehicle, which gives flexibility for management to allocate an additional stall to maybe an unusual circumstance where a family in a three-bedroom might have more than two vehicles. But again, that's very

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unusual, we don't see that.

COUNCILMEMBER SINENCI: And this would be allowable under the Code?

MR. CHUN: Yeah, this is...

COUNCILMEMBER SINENCI: Or...or how many...would you be losing any with this exemption?

MR. SUGIDONO: I think the...the goal of the exemption is to provide flexibility, but I think as...I think your...your question could be directed to Anne Cua to clarify. But I...I believe it is under...this exemption, you know, is available for the Council, and would help the flexibility for parking as Grant had spoken to and how the property management can handle the parking stalls and allocation of them.

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

CHAIR KAMA: You're welcome. So, we're going to come back to questions from Chair Lee.

COUNCILMEMBER LEE: Couple simple questions for the applicant. Mr. Chun, I was wondering about the laundry facilities. You think that's adequate, only two? I mean and...and then I...I don't know that you have any special accommodations for the handicapped.

MR. CHUN: All of our facilities, including this one, are handicap...can be refined to accommodate handicapped users. Yeah, and in our experience, the...the laundry facilities that are planned for this site are...are more than adequate. They won't be...it won't be just one laundry room, there'll be two separated on...in separate locations on the property, and we always make sure there's adequate, you know, washers and dryers and that sort of thing.

COUNCILMEMBER LEE: Thank you.

CHAIR KAMA: Member Sugimura?

COUNCILMEMBER SUGIMURA: No questions at this time.

CHAIR KAMA: Member Paltin?

COUNCILMEMBER PALTIN: Thank you. Is Mr. Agawa still on the line?

CHAIR KAMA: Mr. Agawa, are you still there? Yeah.

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MR. AGAWA: Yes, I'm still here.

COUNCILMEMBER PALTIN: Hey, Director Agawa. I just was wondering, so your understanding of reading these plans is, they're going to have to install their own lift station, and then once it gets to there, does it connect to the Hawaiian Home Lands sewer line that ties into the Kahului wastewater...Wailuku-Kahului Wastewater Treatment Facility? Is that your understanding?

MR. AGAWA: Thank you for the question. My apologies, I...I didn't have time to look into the construction plans in detail. Maybe the civil engineer resource person can elaborate more on that.

COUNCILMEMBER PALTIN: Okay. And before we get to Ms. Otomo, do you have any awareness of the Hawaiian Home Land...homes sewer lines being deficient?

MR. AGAWA: At this time I'm unaware if they are deficient or not.

COUNCILMEMBER PALTIN: Okay. Ms. Otomo, if you could confirm that my understanding is correct, that you...the project is going to do its own lift station, and then it'll tie into the Hawaiian Home Lands sewer line to the Wailuku-Kahului Wastewater Treatment Facility?

MS. OTOMO: Sure. So, we will have to have our own lift station on the project site. The nearest gravity sewer connection that we need to connect to is approximately 1,500 feet away on Waiehu Beach Road. I'm not too sure if that's the DHHL...if that's the sewer line that you're referring to, but that's the nearest County gravity sewer main is about 1,500 feet away on Waiehu Beach Road. So, from our lift station, we'll have to construct those improvements to connect to their system at that point.

COUNCILMEMBER PALTIN: And as far as you know, the sewer line is not deficient in any way?

MS. OTOMO: Not that we're aware of.

COUNCILMEMBER PALTIN: Okay. Thank you. My next question, I just seen Ms. Taomoto on the line and I know that she's currently with DPW, but I had a question regarding number 3 on Exhibit A, and I didn't notice anyone from Water on the call, so I was wondering if Ms. Taomoto doesn't mind me asking her.

MS. LILLIS: Chair, I do believe we have a representative from *(audio interference)* on the call.

CHAIR KAMA: Okay. Who is it?

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MS. LILLIS: Ms. Tammy Yeh.

COUNCILMEMBER PALTIN: Oh, shoot. Okay. Okay. Whomever would like to answer --

MS. YEH: Yeah, this is...

COUNCILMEMBER PALTIN: -- the question.

MS. YEH: Yeah, this is Tammy Yeh representing the Department of Water Supply.

COUNCILMEMBER PALTIN: Thanks.

CHAIR KAMA: Thank you, Tammy.

COUNCILMEMBER PALTIN: My bad, I...I didn't know who you were. My question on number 3 is, an exemption from water system development fees, exemption from the requirement to pay the water system development fees and would advance the affordability objectives of the project. The last time I believe we had a 2.97, that's just the only reason I remember Ms. Taomoto, was that Water Department is self-funded and we needed to tap affordable housing funds to make them whole. Is that a similar situation, or has that situation been rectified since the last time we had a 2.97 . . .*(timer sounds)*. . . thing?

MS. YEH: Yes, to my knowledge, the last I believe was the Hale Pilina project that was put onto to the Affordable Housing Fund. It is listed on the FY2023 Council adopted. And I believe that...yeah, this...I...I believe this should be treated similar to that since I'm not aware of any exemptions from that Section 14.070.30.

COUNCILMEMBER PALTIN: So, saying do not provide the exemption, have them pay it but reimburse the developer from the Affordable Housing Fund, is that...is that the way we handled it?

MS. YEH: Yeah, that would...yes.

COUNCILMEMBER PALTIN: Okay. So...

MS. YEH: That would...that would be the suggestion of the Department.

COUNCILMEMBER PALTIN: Okay. So, your...your suggestion is to not grant number 3, and go about it that other way?

MS. YEH: Yeah, that would be...that would be what we would want to see done.

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COUNCILMEMBER PALTIN: Okay. Maybe we can put something in motion where we don't have to go over this . . . *(timer sounds)*. . . every time we do a 2.97, but just a suggestion. Thank you --

CHAIR KAMA: So, I'm going to refer this...

COUNCILMEMBER PALTIN: -- Ms. Yeh. Thank you, Chair.

CHAIR KAMA: Thank you, Ms. Yeh. Thank you, Member Paltin. We're going to go to Mr. Mataafa now.

MR. MATAAFA: Thank you, Chair. Yes, as it...as it was described, the last 2.97 was utilizing the Affordable Housing Fund. What we would just ask is if that is the Committee's preference to...for the applicant to also go through the formal process that the Department has every summer to actually apply for the funds and not just being taken out of. So, we would just make that suggestion.

COUNCILMEMBER PALTIN: To clarify, you want us to apply for the funds or them --

MR. MATAAFA: No --

COUNCILMEMBER PALTIN: -- to apply?

MR. MATAAFA: -- the applicant. If...if that's your prerogative, it's the Council's prerogative is for them to apply in the normal process that we have currently.

COUNCILMEMBER PALTIN: Okay. I mean I don't want to make the Water Department not whole is where I'm coming from. So, whatever magic stuff you guys do is cool with me.

CHAIR KAMA: Member Paltin, were you done asking questions, or your time is up?

COUNCILMEMBER PALTIN: Oh, no, but my time is up. Thank you, Chair.

CHAIR KAMA: Okay. Okay. Okay. So, we're going to go back to Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I...I have more questions for Mr. Yucha. And in the meantime, I wanted to ask Ms. DesJardins just a follow-up question or clarifying, I may have missed it, when Member U'u-Hodgins asked about liability. So, I know that we don't own the project, and 2.97 states there would be no or limited liability because we don't own the project, but if we're funding a substantial amount of the project, or I think it's...it was \$6 million that was requested, and then...but that doesn't include all the exemptions like the one

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that Member Paltin was asking clarification on for the exemptions that the departments would rely on us to ensure that they're made whole by providing funding out of the Affordable Housing Fund. So, how does liability change if the County is using taxpayer dollars to fund this project?

MS. DESJARDINS: So, I guess I have to think of this hypothetically. If, in fact, in the future MEO is found not to be entitled to develop on this property, then I guess we wouldn't be putting out that money because they wouldn't be developing it. So, we wouldn't be granting those exemptions, et cetera. Now, if MEO builds this project, and we put all this money into it, all this taxpayers' exemptions, et cetera, and 10, 15 years down the road MEO is found not to be the owner of the property, say for example, and the deed is done, let's say, I still don't see any clear path to liability on the part of the County for simply approving the project, or approving building permits. Because as it stands right now, from what I'm hearing from Ms. Hall, there isn't currently any court order, any court finding that clearly states that they do not have clear title. There isn't any dispute on the table that I can see from listening to the presentation that I heard this morning and from the questions that were being asked. So, I don't know...I don't know how we would be liable. I don't know that's...in what scenario...under what scenario we would be liable simply for approving the project...like, it's not a County property. So, that...that...that might make it more --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo...

MS. DESJARDINS: -- sticky (*audio interference*). Does that help at all?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes. Mahalo, Ms. DesJardins.

MS. DESJARDINS: Okay. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Questions for Mr. Yucha. Do you know what the original AIS from the 2008 AIS was conducted for...what project?

MR. YUCHA: I'm not entirely sure. I believe it...it...at that time MEO owned the property, so I would defer to possibly them on that question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. Ms. Cabebe?

MS. CABEBE: I believe the original assessment was in connection with a potential farm dwelling on the property to house persons coming out of prison.
... (*timer sounds*) ...

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I think that was my timer. Mahalo, Chair.

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CHAIR KAMA: Thank you. Thank you. We're going to continue with Mr. Cook.

VICE-CHAIR COOK: Thank you, Chair. Question for MEO, two easy questions. I...I assume the project is bonded, the original contractor will have a bond for the project. And is there going to be like an OSIP, a wrap policy because it's a multifamily structure, and will MEO be the beneficiary of that?

MS. CABEBE: I'm going to let Grant Chun answer that because again, MEO is the landowner, but Grant Chun will be --

VICE-CHAIR COOK: Okay.

MS. CABEBE: -- the person managing it. Thank you.

VICE-CHAIR COOK: Thank you.

MR. CHUN: Thank you for the question, Councilmember. So, yeah, you are correct, the...the project will be bonded and have all appropriate insurance coverage. The...the project developer is not MEO, the project landowner is MEO, so...yeah, so we'll...so the contractor will be working for the developer Hale Mahaolu and HighRidge Costa. and we will be...yeah, we'll ensure that all of those coverages are in place.

VICE-CHAIR COOK: Thank you. That's all.

MR. MOHANNA: This is Moe Mohanna. May I add please?

CHAIR KAMA: Yes, Moe, go ahead.

MR. CHUN: Yes, please.

MR. MOHANNA: Just to be clear, bonding yes; a wrap, no. A wrap is typically with condominium projects, this is not a condominium project. So, this will have a bonding, given a performance bond by the general contractor, general liability insurance, and what's called fire (*phonetic*), which is building insurance. But wrap will not be insurance applied here since this is not a condominium. Thank you.

VICE-CHAIR COOK: Thank you.

CHAIR KAMA: Okay. Thank you. Member U'u-Hodgins?

COUNCILMEMBER U'U-HODGINS: I have no more questions right now. Thank you.

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CHAIR KAMA: Thank you. Coming back to Member Lee.

COUNCILMEMBER LEE: None for me, Chair.

CHAIR KAMA: Member Sugimura?

COUNCILMEMBER SUGIMURA: I would like to hear more from the general contractor who was just...

CHAIR KAMA: Moe, are you still there?

COUNCILMEMBER SUGIMURA: Moe, are you...

MR. CHUN: Moe Mohanna is on the line.

CHAIR KAMA: Okay.

COUNCILMEMBER SUGIMURA: Yeah. So...

MR. MOHANNA: Just for clarification, I'm not the general contractor, I'm the...we're the codeveloper with Hale Mahaolu, Mr. Grant Chun, but I'd be more than glad to answer that question, that I can answer them. Please go ahead.

COUNCILMEMBER SUGIMURA: You are widely respected with the projects that you have done, and I...I wonder if you could share with us some of the things that we could do to make it easier to develop here on...in Maui County so we can possibly attract more projects.

MR. MOHANNA: I would love to, but I'm afraid that Chair Tasha Kama may ask me to leave if I start talking that long.

COUNCILMEMBER SUGIMURA: I think it would be important to hear.

MR. MOHANNA: I mean I'll start with a few (*audio interference*) and I would be more than glad, you know, next...to meet and have a workshop session in person. Probably could address a whole slew of questions because there's...there's a variety of things that can be done. But I'll start with a couple of high...high...high level pictures. In order to develop affordable housing, the key is leveraging, and I understand that Maui County has affordable housing funds, which is a great help, but that is a fraction of the total cost in order to develop these affordable housing communities. What is critical and important is the resources available at the State level at HHFDC, specifically 9 percent tax-exempt bonds, along with conventional financing, and 4 percent tax...4 percent tax credits, along with tax-exempt bonds. So, there's 9 percent credits and 4...the 9 percent credits,

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unfortunately, due to the population of the State of Hawai'i, are very limited, and as a result it's a limited number of projects, and also the size of the projects are limited and have to be phased. The bulk of the production of affordable housing in the State of Hawai'i comes from the...from the tax-exempt bond program in conjunction with 4 percent credits, Federal credits, and at the State level, revolving housing rental funds. In addition to that, a portion--and a small portion relative to the total--comes from the County funds. These programs currently are oversubscribed, and have been oversubscribed over the last two years. Mr. Chun previously mentioned another affordable housing community that is now being permitted in Maui out in Kihei. That project had to submit twice to HHFDC in order to get an allocation. So, what is happening here is between the counties, they are competing to get those resources. Tax-exempt bonds is a Federal resource that does not come from the State or come from the County. Federal tax credits, which is a critical component for these affordable housing projects because it converts to equity, is a Federal source, not . . .*(timer sounds)*. . . Should I continue or you want me to stop?

CHAIR KAMA: Are you okay, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Can you wrap it up in 30 seconds? Or maybe --

MR. MOHANNA: *(Audio interference)*.

COUNCILMEMBER SUGIMURA: -- maybe I should call you.

MR. MOHANNA: We will...we --

COUNCILMEMBER SUGIMURA: Thank you.

MR. MOHANNA: -- are competing together as a public-private partnership for those funds, and it's how do you get the project and the applications to be competitive, and it's driven by cost efficiency and as per unit. The higher the as per unit, the less the competitive process, and the less the chances of the project receiving an allocation. Thank you.

COUNCILMEMBER SUGIMURA: . . .*(inaudible)*. . . I think then we need to work to help...help get to those goals. I appreciate you sharing your thoughts with us. Thank you.

CHAIR KAMA: Thank you, Member Sugimura. Member Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. I guess this question would be for Mr. Chun. I'm assuming that Mr. Jeyan Thirugnanam isn't the right person, but do you know when you last asked the State DOT to clear the culvert? And if you

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had received the culvert being cleared?

MS. CABEBE: Thank you for the question. The State actually was out there this morning. So, we had reached out to them early in January and asked them to come out, and then I guess were having some staffing shortages and equipment. So, they rescheduled, and then we had to call a couple more times. But they were out there this morning, and then they told us that it probably would take them through Saturday to finish clearing the culvert. To your question that you asked earlier, is on a regular schedule, it doesn't appear to be, and that's probably something that we need to shore up. Thank you.

COUNCILMEMBER PALTIN: And what...I don't know if you're the expertise, but what would a regular maintenance schedule look like to you, or if anybody knows?

MS. CABEBE: Probably if...ideally if they could do it at least every other month during the wet season, and then maybe quarterly during, you know, the drier months. But that's where the...you know, the foliage grows very quickly. And then in the past, sometimes the culvert was cleared, but it...the debris wasn't taken away, and that compounded some of the problems.

COUNCILMEMBER PALTIN: Okay. And then my next question would be, what is the capacity that you anticipate for the nonprofit building? Will this be housing workers daily, or what...what...what is the envisioned usage for the nonprofit building?

MR. CHUN: I...I can speak to that. So, at this point, the...the usage of the nonprofit building is to be determined by MEO depending upon the needs of the community and the neighborhood once it gets established. So, it's...at this point, it's a...it's kind of a dream space for them to allocate as they deem appropriate, you know.

COUNCILMEMBER PALTIN: So, you don't know the capacity of workers it could potentially house?

MR. CHUN: Not at this time, no.

COUNCILMEMBER PALTIN: And then since the supposed tie...tier...TIAR anticipates only 64/79 peak-hour traffic, would you envision then staggering any workers that work there to not come during...or leave during peak hours?

MS. CABEBE: Again, I think it's going to depend on what the use of the building is, and we didn't really want to commit to what that will be. We would like to work with the residents of that community to find out if it's...do they need supportive services out of that facility, do they need a afterschool center for the youth . . . *(timer sounds)* . . . to hang out, do they need a preschool, Head Start. So,

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depending on the use, that will depend on when the...when the staff have to be there. But we would definitely...you know, like right now, for example, we have Head Start centers in some of these community housing areas and, you know, people were in and out, they're not staying, so it's...it's not extremely disruptive. And normally there's, you know, one or two...two to three staff that are assigned.

COUNCILMEMBER PALTIN: And, you know, to reduce the traffic load, would you envision hiring folks that live in that project, or no because it would mess up their AMI stuff?

MS. CABEBE: No, that's actually a lot of the people we do hire. Many of our employees were clients at one time, so that...that would be a perfect fit. So, if we could hire people that live on the property and work on the property, that would be a win-win for everybody. . . .*(timer sounds)*. . .

COUNCILMEMBER PALTIN: Okay. My time's up. Thank you.

MS. CABEBE: Thank you.

CHAIR KAMA: Okay. We're going to now go back to Member Rawlins-Fernandez.

COUNCILMEMBER SINENCI: Chair?

CHAIR KAMA: Member Sinenci?

COUNCILMEMBER SINENCI: Just...I thought I...I...but I can go after Member Rawlins-Fernandez.

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Where...where does Member Sinenci fit in the order? I know I'm after Member Paltin, but I can't remember...

CHAIR KAMA: According to how you're seated, Member Paltin then Member Johnson, Member Rawlins-Fernandez, Member Cook, and then Member U'u-Hodgins, and then Member Sinenci. That's the order that I've been calling everyone. Except that we get out of order --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

CHAIR KAMA: -- when we have to go back because the resource wasn't available, and then we go back to...and then I think that's how come I get mixed up sometimes.

COUNCILMEMBER SINENCI: Yeah, I got skipped after Member U'u-Hodgins.

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CHAIR KAMA: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: I...I can yield, Member...Member Sinenci and Chair. I can wait until after Member Sinenci.

CHAIR KAMA: I think Member Cook was going to allow Mr. Sinenci to go first, so I mean if you're all okay with all being okay, then we're still back to you, Rawlins-Fernandez.

COUNCILMEMBER SINENCI: Okay. Again, I...I've got...

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Because...

COUNCILMEMBER SINENCI: My round was just for Director Molina for the exemption number 9. From the Maui County Code 18.20.040, 070 and 080, existing streets, sidewalks, curbs, and gutters.

MS. TAOMOTO: Hi, Chair. This is Wendy. Oh, sorry, my camera. Hi, Chair. This is Wendy Taomoto.

CHAIR KAMA: Yeah. Yes.

MS. TAOMOTO: Director Molina...

COUNCILMEMBER SINENCI: *(Audio interference)*.

MS. TAOMOTO: Hi. Director Molina's tied up and I had to jump into the meeting. Let me see, number 9.

COUNCILMEMBER SINENCI: Yeah, my question was, Ms. Taomoto, what...what would road improvements required along Kahekili? Are there any road improvements that are required that are being asked to be exempted?

MS. TAOMOTO: I...let me...I would have to review the requirements letter, which I believe is in the environmental *(audio interference)* and get back to you.

COUNCILMEMBER SINENCI: Oh, okay. And then other question, Ms. Taomoto, was can we use the affordable housing funds for road improvements on Kahekili?

MS. TAOMOTO: I believe that would be a question for Deputy Mataafa, but I believe you can use it for anything as it...if it's for an affordable housing project. Like pay for sidewalks, pay for roads, but perhaps Deputy Mataafa can clarify while I look for this requirements letter.

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CHAIR KAMA: Mr. Mataafa?

MR. MATAAFA: Thank you, Councilmember Sinenci. Again, I would just reiterate that if that's the preference of the Council, that the applicant go through our existing process for now until we get admin rules that deal with the 2.97 process. Thank you.

COUNCILMEMBER SINENCI: Okay. Thank you. And then my other question was for Ms. Yeh with Department of Water Supply. The application says that they'll be using reclaimed water for nonpotable needs, like irrigation. And was just wondering where are they getting that water from?

CHAIR KAMA: Ms. Yeh?

MS. YEH: Yes. One...one second. So...so based off of the information that was in the EA, it did state about an...it did mention an irrigation well for landscaping for the project. I don't know how much detail beyond that there was. Maybe Ashley Otomo could answer that, their consultant, their civil engineer.

MS. OTOMO: Sure. Yeah, there's not a reclaimed waterline fronting the property, the County's reclaimed waterline, but there is an irrigation well on the site that we hope we can utilize. It has to undergo some testing to make sure that it has capacity and that it is in good working order, but we haven't had the chance to test the well yet. But if we can use it, we will use it for irrigation purposes.

COUNCILMEMBER SINENCI: Okay. Thank you, Ms. Otomo and Ms. Yeh. And then for the...the sidewalks, I know that...I wasn't sure if the County had any plans on creating more sidewalks as the...or...or the State was since they want...the Department of Transportation was requesting a bus stop along Kahekili.

MS. TAOMOTO: Sorry, I had my thing on mute. I'm...I'm...found what appears to be a letter, and it may not be sufficient for me to answer your question, but generally speaking, I mean if there is a bus stop, I would say that the developer should consider sidewalks from the project site to the bus...bus stop. But in terms of the frontage of the entire project, I...I...unless I can find the requirements letter, and maybe Ms. Otomo can point me where in the EA. I'm on...I see a letter, but it doesn't specifically address requirements. And if Ms. Otomo can clarify if the Engineering Division has concluded its preview of the project plans to provide that level of comments regarding sidewalk requirements. . . .(timer sounds). . .

CHAIR KAMA: Ms. Otomo?

MS. OTOMO: Yes, they did provide comments. I...I'm sorry, I don't know which page

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number it is. I think Chris Sugidono could probably give you a page in the EA document to reference. But DPW Engineering did provide comments on the frontage improvements, and I think Director Molina also mentioned that they do not support our request for exemption from sidewalks.

COUNCILMEMBER SINENCI: Oh, okay. Thank you, Ms. Otomo. Thank you, Chair.

CHAIR KAMA: Okay. So, now we're going to revert back to Ms. Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. For Mr. Yucha. Okay. So, before the timer sounded the last time, I asked if the AIS was for a different project. And so, the AIS was for a farm dwelling that was from 2008. And my understanding is that AISs should...or should be done for whatever the project is, and are project...and is project specific. So, this wasn't done for...the AIS was not conducted for this 120-unit project. And so, in the AIS, it also didn't include number 43 and 44, finding of fact (*audio interference*) earlier that the property is within the area that Pehuino cared for iwi kupuna. (*Audio interference*) your folks (*audio interference*) the 2008 AIS and that it was a different firm. So, had your firm conducted the AIS, what would you have done differently?

MR. YUCHA: A good question. I guess I would start by saying when we got involved in the project in 2020, we had some of the same questions in terms of...of where we're at with the historic preservation review process. So, we...in...in addition to all of the project information and that 2008 AIS, we sent all of that to the SHPD, the...the authority in making these decisions, and they determined that monitoring was the appropriate next step. What...what would I have done differently in that case? You know, I...I've reviewed the AIS, it seems like their trenching really targets that same flat area that's being proposed for development. Had they had findings during that testing, then I probably would have recommended more...more trenches and more testing and additional work. But in this case, after 17 sample excavations, they...there were no findings, and that more or less concluded the study, and that...that seems appropriate to me.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, 17 sample tests in 11-1/2 acres is...is sufficient? That...that's the standard you use?

MR. YUCHA: So, within the administrative rules there are no spelled-out standards for testing, it really comes down to SHPD is the authority accepting that the testing was adequate. In this case, I think the...the 11 acres is a little larger than the actual area of development because of the swale, or the sand dune . . .(*timer sounds*). . . which...which accounts for some of that acreage.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, I'm sorry, Chair. I didn't get an answer to my question. So, the 17 test sites for the project area is a standard that you

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would use?

MR. YUCHA: In terms of standards, we always defer to the authority, which is SHPD, and in this case they accepted in 2008 it was appropriate, and again, in 2020, they accepted that the...that was an appropriate amount of testing with monitoring as the next step.

COUNCILMEMBER RAWLINS-FERNANDEZ: I...I...I see that you're not really wanting to answer that question because it's not your AIS that was done, and that's not your credibility on line here. Because I don't think 17 tests would be sufficient for you if you were doing it, but I understand you not answering my question. Mahalo, Mr. Yucha. Mahalo, Chair. . . .*(timer sounds)*. . .

MR. YUCHA: Mahalo.

CHAIR KAMA: I thought he answered your question, Member Rawlins-Fernandez, when we had that HSPD *[sic]* was okay in 2008, and they were in okay in 2021 *[sic]*.

COUNCILMEMBER RAWLINS-FERNANDEZ: That wasn't my question. My question is if he would have done 17...because I believe, and my understanding is, he has a reputation of having much more integrity in his work. Mahalo, Chair.

CHAIR KAMA: *(Audio interference)* SHPD. Thank you. Okay. We're going to come back *(audio interference)* to...

COUNCILMEMBER RAWLINS-FERNANDEZ: That wasn't my question though.

CHAIR KAMA: Okay. Come back down to Chair Lee.

COUNCILMEMBER LEE: No questions at this time. Thank you.

CHAIR KAMA: Thank you. Member Sugimura?

COUNCILMEMBER SUGIMURA: So, I'm going to follow Shane Sinenci. So, the item number 10 exemption, I see you're diligently going down the numbers. So, can you speak to that item number 10? Requirement for State land use district boundary amendment for agriculture portions of subject property.

MR. SUGIDONO: I apologize, Councilmember. Could you read...repeat the question?

COUNCILMEMBER SUGIMURA: Oh, so, item number 10 on your exemption. Oh, Exhibit A, exemption list. Requirement for State land use district boundary amendment for agriculture portion of subject property. And under the last column for rationale, this project site is 11.476 acres and located within the State Urban

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and Agriculture districts. This exemption would expedite the delivery of affordable workforce housing.

MR. SUGIDONO: Yeah, it's speaking to the DBA process --

COUNCILMEMBER SUGIMURA: Yeah.

MR. SUGIDONO: -- *(audio interference)* I think my understanding, and I think Mimi DesJardins might be able to --

COUNCILMEMBER SUGIMURA: Oh, okay. Can I have...

MR. SUGIDONO: -- to specifically speak to it.

COUNCILMEMBER SUGIMURA: Thank you.

MR. SUGIDONO: But we understand that we...we'll have to go separately to Maui Planning Commission for the recommendation.

COUNCILMEMBER SUGIMURA: Thank you. Mimi DesJardins, Corp. Counsel, Chair, would you allow her to speak to this?

CHAIR KAMA: Yes. Miss...Ms. DesJardins?

MS. DESJARDINS: So, I understand there was a new version of Exhibit A that was introduced and was posted on Granicus, and it does not have number 10 because you can't waive the Charter requirement. So, this DBA will be coming to you folks for referral to the Maui Planning Commission. So, number 10, I think, is removed from your version --

COUNCILMEMBER SUGIMURA: Okay.

MS. DESJARDINS: -- Chair, of the...of --

CHAIR KAMA: Yeah.

MS. DESJARDINS: -- the Exhibit A.

CHAIR KAMA: Yeah.

COUNCILMEMBER SUGIMURA: Thank you very much for the clarification. Thank you.

CHAIR KAMA: I think now we're back to Member Paltin.

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COUNCILMEMBER PALTIN: Thank you, Chair. This one I know...or I don't know, but I think it's Ms. Taomoto. If she's available.

CHAIR KAMA: Ms. Taomoto, are you still here with us? I think she may be multitasking someplace else.

COUNCILMEMBER PALTIN: Okay. In the meantime, for the developer group, can you tell us the total dollars and total time investment in this specific project? Not when it was going to be a farm thing, but once you decided to make it be a low-income housing project and started moving forward, if you could let us know the total time and money invested thus far.

MR. CHUN: We'll let Moe Mohanna address this question.

MR. MOHANNA: Thank you, Member Paltin. I believe we've been working on this for about two years, including all the consultants, some of which you see in the room, and not everybody that had to do with it. I don't have the exact figure of studies and plans spent to date. I believe...and I...I will say the following, I would like to verify this with our accounting department, but I believe there's at least about \$500,000 spent to date. Again, I need to verify that number, so I would...I would like to verify that number before it's accepted.

COUNCILMEMBER PALTIN: Sure thing. I...I'll take it before first reading or --

CHAIR KAMA: Yeah.

COUNCILMEMBER PALTIN: -- if sooner, it would be cool. My email is tamara.paltin@mauicounty.us or hers is hlu --

CHAIR KAMA: HLU...

COUNCILMEMBER PALTIN: -- .committee@mauicounty.us.

MR. MOHANNA: I'll email our accounting department right now, see if I can get you an answer.

CHAIR KAMA: Oh, thank you.

COUNCILMEMBER PALTIN: Thank you. No Ms. Taomoto yet?

MS. LILLIS: We're...we're working on that.

COUNCILMEMBER PALTIN: Oh, okay.

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MS. TAOMOTO: Hi.

COUNCILMEMBER PALTIN: Oh.

MS. TAOMOTO: Hi, I'm here.

COUNCILMEMBER PALTIN: Oh, right on.

MR. MOHANNA: Sorry, I did get...I got an answer.

COUNCILMEMBER PALTIN: Oh, sweet. Wow, you're fast.

MR. MOHANNA: Well, it's in the system. Three years, I was corrected, 600,000 (*audio interference*)

COUNCILMEMBER PALTIN: 600,000. Thank you.

MR. MOHANNA: (*Audio interference*). Thank you.

COUNCILMEMBER PALTIN: And then my next question for Ms. Taomoto. It was asserted at one point, and I don't remember when, who or what, that the Imi Kala phase one and phase two extensions would be completed in six years. And I just was wondering if...if that's accurate in your view? And if...if we, as the Council, need to do something to ensure that that six-year mark gets it completed by, if that's correct?

MS. TAOMOTO: Yeah. We discussed this recently, and the Imi Kala estimated time is correct. It's an estimate, but based on the permits . . .(*timer sounds*). . . based on the permits required to construct that significant extension, that's a good estimate. As...in terms of what the Council can...

COUNCILMEMBER PALTIN: And just to clarify, for...estimate for phase one and two, or just phase one?

MS. TAOMOTO: Both --

COUNCILMEMBER PALTIN: Okay.

MS. TAOMOTO: -- at this time. Yeah. But as to what Council can do at this times, I don't...at this time, I don't know if there's anything you can do. We're working with our consultant to come up with a conceptual design, and then we'll start the comment...comment period with the public and the agencies. And then the (*audio interference*).

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COUNCILMEMBER PALTIN: Do you know if it's on the *(audio interference)* need to be because it's a County project?

MS. TAOMOTO: I'm not sure about that specifically. Sorry.

COUNCILMEMBER PALTIN: And then, you know, with...

MS. TAOMOTO: But if it qualifies...but if it qualifies it will...it will be put on the STIP.

COUNCILMEMBER PALTIN: And I guess, you know *(audio interference)* any time anybody on this . . .*(timer sounds)*. . . Council tries to take it off, if you can remind us this is needed for all this low income that we're putting places and don't take it off. That would be awesome. Thank you, Ms. Taomoto. Thank you, Chair.

MS. TAOMOTO: Yes. Chair?

CHAIR KAMA: Yes?

MS. TAOMOTO: I have one comment. As to the question about the sidewalks, I did find the letter from Public Works and --

CHAIR KAMA: Okay.

MS. TAOMOTO: -- I'm not sure...I couldn't find it in the EA, so I didn't know how you wanted me to handle this, providing this letter to the Council. It's a November 5th, 2021 letter.

CHAIR KAMA: Just send it to the Committee.

MR. SUGIDONO: Chair?

MS. TAOMOTO: Thank you.

CHAIR KAMA: Yes, please.

MR. SUGIDONO: Chair, if I might?

CHAIR KAMA: Yeah.

MR. SUGIDONO: I...I believe we do have it in the EA. It appears to be page 330 to 332 in the final EA, which is also included in the Chapter 2.97 application, volume one.

CHAIR KAMA: Oh, how nice all those other Members are looking through their 300

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pages.

MR. SUGIDONO: Wendy, you were talking about November 5th letter, I think it was?

CHAIR KAMA: Is that the November 5th *(audio interference)*.

MS. TAOMOTO: On November 5th, 2020...

MR. SUGIDONO: 2021, yeah?

MS. TAOMOTO: Yes, the November 5th, 2021.

MR. SUGIDONO: Oh, okay. Yeah, so it looks --

MS. TAOMOTO: *(Audio interference)*.

MR. SUGIDONO: -- it looks...yeah, it looks like it's in there now. I...

MS. TAOMOTO: Thank you.

MR. SUGIDONO: Thank you too, Wendy. And Grant, I...I...if...sorry --

CHAIR KAMA: Go ahead.

MR. SUGIDONO: -- if you'll allow it, Chair, I think Grant had just one clarification in terms of the curbs, gutters, and sidewalks.

MR. CHUN: Yeah. Thank you. Just to kind of harken back to my earlier comments, I know Ms. Taomoto wasn't on the line when we were talking earlier with Councilmember Johnson concerning the questions pertaining to potential construction of curbs, gutters, and sidewalks. But what I just had...what I just said is that, you know, because of the...the early nature of...that we are in the process, and the fact that actual, you know, building sets have not yet been prepared, there's going to be...there's going to need to be some iterative discussion on what can actually fit within the space without losing any units, right? Because the bottom line is, we're trying to get as many housing units on this property as we can, and it's a long narrow strip of land. And so, what we don't want to do is sacrifice, you know, a bus stop in favor of a sidewalk, or a right turn or a left...a left turn, you know, movement lane in favor of a sidewalk. So, we just want to make sure that we're all, you know, kind of working towards the same goal here, understanding that we...we just have to be a little bit flexible in terms of what actually can...can happen within the space we have to work with.

CHAIR KAMA: Member Paltin, were you...no, were you done asking the questions that

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you needed answered?

COUNCILMEMBER PALTIN: Oh, yeah, for this round, I'm...I'm --

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: -- done. My time is up.

CHAIR KAMA: Okay. Thank you. We're going to continue on with Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I have a few more questions for Mr. Yucha, and a question for Dr. Six if she's still on. Is Dr. Six...Six still on?

MS. LILLIS: Yes, it does appear as though she's connected to the meeting.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay. I'll start with Mr. Yucha. Okay. For the archaeological monitoring plan, it...it says that it'll be utilized for identification, which is supposed to be done during an AIS. The AMPs, the archaeological monitor plans, are for mitigation. So, it...it kind of seems like one should be done before the other; is that correct?

MR. YUCHA: The way the administrative rules are written for monitoring plans, they can be done...monitoring can be done for identification, mitigation, or post-mitigation measures. In this case, the SHPD requested archaeological monitoring for identification purposes because there were no findings during previous studies; however, there's still sensitivity and potential for...for discovery. So, it was the SHPD's call to request monitoring for identification purposes, which is within the administrative rules.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. For the...okay, so you stated in the CIA that this LCA document includes approximately 2,000 acres of land in Waiehu; however, it does not specify definitive boundaries or land use for this apana. Is there any way of knowing, from the LCA document to Lunalilo that you reference, if this parcel is definitively within this LCA?

MR. YUCHA: So, taking this from a archaeological cultural side, not a legal land property side, you know, we base our locations mostly on historic maps. There are a number of historic maps that show this land grant in...in the location that includes our project site, and these are historic maps from the mid to late 1800s, which should be in our report as well.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Yucha. And so you don't find it problematic that there aren't metes and bounds listed on the LCA?

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MR. YUCHA: *(Audio interference)* information from our archaeological cultural perspective, we're really looking at land use, and not...determining what the land was actually used for as opposed to land ownership. I don't pay too much attention to metes and bounds and those types of documents. I want to see what was actually being practiced, being grown, how the land was used.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. Is it possible that this award went around . . .*(timer sounds)*. . . native *(audio interference)* parcels and didn't...and didn't envelope them? And is it possible that this award was on the other side of the Waiehu River?

MR. YUCHA: If you're referring to the Lunalilo award, again, I...we're basing it off of historic maps. All of the resources we have in place show it all in the same location, and...and that it's inclusive of the project site.

COUNCILMEMBER RAWLINS-FERNANDEZ: That was my timer. Mahalo, Staff, for getting in touch with Dr. Six for me. My next round, I'll ask. Mahalo, Chair.

CHAIR KAMA: Yeah. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Yucha.

CHAIR KAMA: So, we're going to continue with Member Cook.

VICE-CHAIR COOK: I have no *(audio interference)*.

CHAIR KAMA: Thank you. Member U'u-Hodgins?

COUNCILMEMBER U'U-HODGINS: Hi. Okay. I have two pretty simple questions. So, the total acreage is 11-something acres. To accommodate for the swale, what is our usable acreage here, about what?

MR. SUGIDONO: Thank...thank you for the question, Councilmember. If...Ashley, would you be able to answer this question, please?

MS. OTOMO: Can we come back to it? I can get you a pretty good measurement, but it'll take a few minutes, so I...if we could back to this in a little bit, I can get you an answer.

COUNCILMEMBER U'U-HODGINS: Sure. Thank you. Super easy, but I don't want to assume. Tot lot, that's a children's...like a small kid playground in the beginning of your map? That's a tot lot?

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MR. CHUN: Yes, that's correct.

COUNCILMEMBER U'U-HODGINS: Awesome. That's awesome. Thank you so much.
(Audio interference).

CHAIR KAMA: Okay. So, we'll come back to you as soon as Ms. Otomo is ready to come back and respond. So, we're going to go right back to Chair Lee. Member Sugimura?

COUNCILMEMBER SUGIMURA: No questions.

CHAIR KAMA: Member Paltin?

COUNCILMEMBER PALTIN: Thank you. Just a few more questions. In one of the readings, I saw that somebody wanted flashing crosswalks or something, and I'm assuming it's across Kahekili Highway. What is across the street...or what is across Kahekili Highway from this development? Is there something that people would want to cross the street to get to?

MR. SUGIDONO: Ash...Ashley, would you be able to answer that question? But my understanding is that it's essentially overgrown...you know, it's ag land essentially, but it's not...it's undeveloped land.

COUNCILMEMBER PALTIN: So, you wouldn't really --

MS. OTOMO: I'm sorry, I missed the question.

COUNCILMEMBER PALTIN: -- need a crosswalk?

MR. SUGIDONO: So, the...the question was, there was a comment about accommodating a lighted crosswalk across Kahekili Highway to the...

COUNCILMEMBER PALTIN: I was assuming that they meant Kahekili Highway. I'm...I'm not...it didn't say specifically, but that's what my assumption was. And so I was wondering what was across the street you would need a lighted crosswalk to get to, but Mr. Sugidono said it's just somebody else's ag land. You agree?

MS. OTOMO: That's correct. I believe there is a project. I'm not sure if the project across the street is...I think there must be some kind of crossing point between our project and the project that's proposed across the street. Maybe that's what they were referring to.

COUNCILMEMBER PALTIN: And we could put that requirement on the one that's across the street whenever it comes before us if it comes before us?

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MS. OTOMO: That's correct. But at the time, there's nothing that it would lead to.

COUNCILMEMBER PALTIN: Okay. And then my next question is for Mr. Yucha. We...we love seeing you walk up and down. Thank you. I was wondering...I'm a little bit confused because I got mixed up between Scientific Consultant Surveys [sic] and the cultural impact assessment is through Cultural Surveys Hawai'i. So, you work for Cultural Surveys Hawai'i, but you're also an archaeologist, but you're interpreting Scientific Consultant Surveys' [sic] archaeological assessment? Is that what's going on?

MR. YUCHA: We...we got involved in 2020 with the 6E process and the cultural impact assessment. We're Cultural Surveys Hawai'i. Previously a separate company, Scientific Consultant Services conducted an archaeological assessment in 2008. So, I leave the...the interpretation review of that study mostly to SHPD, the authority, but yes.

COUNCILMEMBER PALTIN: So, you...you said you got involved in 2020?

MR. YUCHA: Correct.

COUNCILMEMBER PALTIN: Okay. And . . .*(timer sounds)*. . . there's nobody here from Scientific Consultant Services to talk about their archaeological assessment?

MR. YUCHA: No.

COUNCILMEMBER PALTIN: Okay. I think my time ran out. So, we're going to see you walk up and down some more. Thanks.

MR. YUCHA: Okay. Thank you.

CHAIR KAMA: *(Audio interference)* we don't sit so far away. We're going...

MS. OTOMO: Chair, if I may, I have an answer --

CHAIR KAMA: Okay. Great.

MS. OTOMO: -- Councilmember U'u-Hodgins' question.

CHAIR KAMA: Yes, by all means. Thanks.

MS. OTOMO: Okay. So, our project site, with taking out the area that's in the swale and the bank, and also taking out our ten-foot-wide road-widening lot, will come out to nearly 7.7 acres.

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COUNCILMEMBER U'U-HODGINS: Thank you.

CHAIR KAMA: And now we'll continue with Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. For Mr. Yucha. Okay. So, the AIS didn't include any consultation with lineal descendants or any of the heirs of Pehuino. Did...did your CIA include any consultations of the descendants of the...of the area or the heirs of Pehuino?

MR. YUCHA: It certainly included consultation with descendants of the area. One of the first things we do is start doing our background research. In this case, we showed that it...the...the project site is within that grant to Lunailo with no documentation of the Pehuino LCA within our project site that we could find. Our consultation starts out with known community groups, cultural groups, cultural practitioners of the area. And we invite referrals always from...from those initial groups. In this case, I don't think that we connected with the Pehuino ohana, but I think we...we were very close. We...we consulted with many, many folks that testified two days ago here, and I think we...we got pretty close to the...the family and...and others in the community through that process, but did not get...receive a referral.

COUNCILMEMBER RAWLINS-FERNANDEZ: You said many folks. I...I...I thought when we asked them...because I asked a few of them, they said that they didn't...they weren't consulted with or invited to be consulted with. I think it was the one that talked about throwing the football.

MR. YUCHA: Yeah, as consultation, there are a few people that...that aren't part of that process, at least for the cultural impact assessment. But having seen the testifiers, listened to all the testifiers, there were several...several people that participated in our CIA, or at least were a part of the outreach. And of course, the cultural impact assessment is only one avenue for consultation for this project. There have been many other opportunities and...and that...that are still ongoing.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Yucha. So, the CIA said that you consulted with five people?

MR. YUCHA: Our outreach was to 73 individuals, groups, et cetera. From that list and follow-ups, only five people participated in the study.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So...all right. Thank you for confirming that. Okay. Okay. I'll conclude there, Mr. Yucha. . . .*(timer sounds)*. . . I don't think I'll be asking you to come back on anymore. And then I don't think we were able to get ahold of Dr. Six yet, yeah?

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MS. SIX: I'm...I'm right here.

MS. LILLIS: Chair, that's...

UNIDENTIFIED SPEAKER: Fantastic.

MS. SIX: I'm here.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh.

MS. SIX: Yeah, I never left. Sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, sorry. I...okay. Dr. Six, I *(audio interference)* to ask what your typical number of tests per acre when you do sampling or a survey.

MS. SIX: As principal investigator, Trevor--I'm probably butchering his last name--Yucha said, there's...unfortunately, there's no standard with the State. Generally like to have a 10 percent sampling strategy, but that often is not the case. Also, I'm a little perplexed because generally, the AIS runs with the project, not the parcel, and I got that information from Dr. Lebo when I was working with Mayor Victorino on the Waiale acquisition. So, it seems as though . . . *(timer sounds)* . . . the testing strategy would have been for the original project in 2008, and generally, the SHPD more recently hasn't been letting old AISs be used, they're having them supplement because we have better testing strategies now, we have things like GPR. So, I did see the letter from Dr. Downer signing off, and as Trevor has said, they are the authority. So, I...when I first saw that it was a 2008 AIS for a different project, I assumed there would be additional testing. And I spoke to Andrew McCallister about that, it was when I was first contacted about this project, and then...then we went through all the documents and found out that it had indeed been signed off and they were just asking for archaeological monitoring. When I had my private company, I put...I put 11 trenches in a half an acre in Honokōwai. So, it depends on the individual. How deep are the trenches, how long are the trenches. Are the trenching...is the trenching in an area where the construction's going to be. And so that's why it's important that when you have a new project, that the testing strategy would be to sample where the most ground altering activities might be. And so, in this case, it was a little surprising to me, but again, as Trevor said, the authority is with Dr. Downer, and he did sign off on just an archaeological monitoring. Also, as Trevor mentioned, they are now asking for one monitor per piece of ground altering equipment in...in activity on the site, which is, I think, a step up because it's hard for one person to monitor several machines going. So, that's my opinion. And it depends on the individual, it depends on...it's...it's situational, right. If you're in a place that has

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a lot of cultural remains, like as...as Trevor mentioned, this place was plowed by the sugar plantations, we know there was lots of military activity across the street at Kaehu. There was macadamia nuts, so there's lots of ground altering. And also, the 17 test trenches that were put in would also kind of show false anomalies with the ground penetrating radar. So, I don't know why SHPD chose to go this route. Again, they're the authority, but if there is no standard, it would be how much ground altering, how deep you're going, where you are, and what we know about the area, and then you would make an archaeological inventory survey plan and increasingly, SHPD is asking for those before they start the AIS because we have seen historically people try to avoid areas that might have things they don't want to find. And so, unfortunately, you know, that's then a problem, so they have changed it recently. But again, I...I was surprised to see the letter from Dr. Downer.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Dr. Six. I have some follow-up questions, but I'll have to wait until my next round. Mahalo. Mahalo (*audio interference*).

MS. SIX: (*Audio interference*) I must have been just out like feeding the dog, so sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR KAMA: So, we're back to Chair Lee. Member Sugimura?

COUNCILMEMBER SUGIMURA: Member Sinenci had a...

CHAIR KAMA: Oh, I'm...I'm so sorry, Members. Go ahead, Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. And mahalo, Member Sugimura. I just have a couple more questions, Chair, for the designers, the architects. My first question was, were you able to add any windows above the kitchen sinks as recommended by the Urban Design and [sic] Review Board?

MS. TAMASHIRO: Yes, we did. Those were actually unintentional deletions on those, so, yes, we will have windows above the kitchen sink.

COUNCILMEMBER SINENCI: Okay. And then the other recommendation was, were you able to increase the lanai size of the two-bedroom units as recommended by the Urban Design and [sic] Review Board?

MS. TAMASHIRO: We have not gone through another round of design yet, but we will keep that in my mind as we move forward with the design.

COUNCILMEMBER SINENCI: Oh, okay. So, you're still in the conceptual stage. And

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then what does...what about extending the awning or eaves to protect the building from afternoon rains, as suggested by the Maui Planning Commission?

MS. TAMASHIRO: Currently right now, we do have hip roofs with eaves around, you know, the...the total perimeter of the building. There may be opportunity to put some shading for the first-floor windows, but that would need to be looked at as we go through the design.

COUNCILMEMBER SINENCI: Okay. All right. Thank you, Ms. Tamashiro. Thank you, Chair.

MS. TAMASHIRO: Thank you.

CHAIR KAMA: Okay. Now, we are back...did I miss you, Member U'u-Hodgins? Want to make sure I don't miss anybody. Okay. Oh, yes, Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. So, after going through all these questions and learning more and more about your project, if we were to approve your project, I want to say today...maybe this is a question for the...for HighRidge Costa, but how many months would it take, or how soon can you break ground? And I know we have to cooperate, the County has to issue permits, and it's probably a long road ahead, but I'm just wondering how much time before we break ground? And what...what do you see maybe some challenges that we can help with, or what can we do to support this, and how soon?

MR. CHUN: Thank you for the question, Councilmember Sugimura. I'll take a stab at it, and I know Moe is listening, and I'm sure he'll have some additional thoughts to flesh...flesh out what I...what my thoughts are. But in terms of your first question, yeah, we have a long road ahead of us. Ideally, we'll...we'll achieve funding and get through the building permit process and kick off construction sometime in 2025.

COUNCILMEMBER SUGIMURA: 2025.

MR. CHUN: Yeah, it takes...it takes...it's going to take a while, this is a long road, and so, that's why it's important to take the first step, yeah. In terms of how you can make it easier, well, number one, getting through this process is important. I did hear some conversations occurring amongst the departments as far as how they could make...be made "whole" for exemptions, and I mean ideally, from an applicant's perspective, I mean that is a worthwhile conversation to have. Ideally it wouldn't be a conversation the applicant would be involved with, but to the extent, you know, different departments can arrive at a mutual understanding as far as what is being accommodated for so as to provide for this, you know, community-wide need for housing, that...that's a fine discussion to have in

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another arena. So, to the extent that conditions...I mean exemptions could be...could be simply granted without requiring applicant to then turn around and ask one department to basically allocate funds to pay another department, I mean that seems to me something that hopefully could occur internally without our participation. But whatever, of course, the Council deems appropriate is going to work for us. Moe...Moe, did you have anything else you'd like to add?

MR. MOHANNA: Couldn't have said it any better. Thank you.

COUNCILMEMBER SUGIMURA: I have one.

CHAIR KAMA: Go ahead, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you very much, Mr. Chun, for your honesty because...I mean that's seeing it from the broad perspective of the project and the development. So, Department . . . *(timer sounds)*. . . oh, I...I hope the Department would help us bridge those gaps between the departments. Just want to say that.

MR. MATAAFA: Absolutely. Thank you.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR KAMA: Okay. Getting back to Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. Hey, Mr. Yucha, thanks for all that exercise you're doing. We had heard earlier that, you know, not everything is complete, and they're still, you know, working on adjusting things and like that. And I just was wondering if that also applies to the cultural impact assessment, if you're still continuing on to gather more information, or after today, you're pau, or how does that work out?

MR. YUCHA: So, the cultural impact assessment is a document prepared for the EA process. It is finalized, as is the EA, but I think everyone on the project team is open to keeping, you know, the dialogue open and consulting. Maybe not as part of a cultural impact assessment, but...but just as part of the project as we move forward.

COUNCILMEMBER PALTIN: Okay. That's cool. And then, you know, as the testifiers came up, and some of them said that they were lineal descendants of that property, did you get their contact information to follow up?

MR. YUCHA: I personally didn't get their contact information, no.

COUNCILMEMBER PALTIN: So, then how...how is that going to occur, what you just

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said previously?

MR. YUCHA: It'll be the work of our...our entire team to...to work on that. I believe that many of the people that testified as part of that ohana were part of the court case, and so we're familiar with...with the people involved.

COUNCILMEMBER PALTIN: Okay. I would just comment that I've known Harry Brown since before I...I got on this Council. I don't think he's lying. He said he was raised by his tutu, and his tutu is buried there. Do you folks plan to follow up to where his tutu exactly is buried so he doesn't have his tutu's bones desecrated?

MR. YUCHA: So, one thing I would recommend is...you know, there is a process through the SHPD for registering burial sites outside of archaeological surveys, and I would point anyone there that has any concern about a specific burial site that wasn't previously documented by archaeologists or in a different context. It's something that we'll, you know, continue to think about how we can address beyond that.

COUNCILMEMBER PALTIN: So, if he knows where his tutu is buried, which...I mean I imagine he does, he would just go to SHPD to register it, and then they'll...they'll respect it?

MR. YUCHA: So, through the burial sites program there is opportunities to register burial sites, yeah. The individuals can do personally, confidentially without archaeological surveys involved.

COUNCILMEMBER PALTIN: And how long would that take . . . *(timer sounds)*. . . about?

MR. YUCHA: I've...I've never personally gone through the process, so I'm not entirely clear on that.

COUNCILMEMBER PALTIN: Okay. I hear the timer, and I personally was going to pause for the cause anyway. So, thanks so much for coming on down.

MR. YUCHA: Thank you.

CHAIR KAMA: Members, it is now 3:06, and the Chair is going to call for a recess until 3:16. Recess. . . *(gavel)*. . .

RECESS: 3:06 p.m.

RECONVENE: 3:18 p.m. (Excused: GJ, YLS)

CHAIR KAMA: . . . *(gavel)*. . . The Housing and Land Use recessed meeting of February 28th, 2023 will now reconvene on March 2nd, 2023 at 3:18 p.m. And

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at this time we're going to go to our analyst Ana Lillis.

MS. LILLIS: Thank you, Chair. We had the State Historic Preservation Division representative join the call, his name is Andrew McCallister. And if the Members would like to ask him questions, they can do so with your approval.

CHAIR KAMA: Absolutely. So, I think we're going to begin with...I think was Member Rawlins-Fernandez; is that correct, team? Thank you for helping me keep track. Member Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. I do have questions for Mr. McCallister. Mahalo for joining us at today's meeting. Before we recessed, there was a question asked of Mr. Yucha regarding a previously identified or a...or a known...a known burial, it's not registered, I don't think. We had a testifier, Mr. Brown, say that their...that his tutu is...is buried on that parcel. Mr. Yucha said that Mr. Brown could register that area...that burial as a...as a known burial, a previously identified, and then was asked what the...how long would that process take. Do you...do you have a response to that question, Mr. McCallister, how long something like that would take? And if it is registered, what that process would look like? And if it would even matter at this point because this project is *(audio interference)*.

MR. MCCALLISTER: Okay. I don't have any specific information about the project in question, but I can tell you generally there is a process for identifying burial sites, doing independent identification of a burial site, and it would go through the Burial Council. But that's something that usually is handled by the History and Culture Branch, unfortunately, I'm the archaeologist. We do have a burial site specialist who would be more qualified to tell you the exact steps to go through. So, just for...just for an idea, the Burial Council meetings are once a month, so you have that limit around your time frame. And then as well, you would have to work with the burial site specialist. You know, he has a large workload as well in terms of getting the burial site registered, as well as the treatment plan for that burial site through the process as well. You have basically two categories, you have previously identified inadvertent discovery, previously identified, specifically what we're talking about when we're talking about a burial site that's identified from an archaeological inventory survey.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. McCallister. So, Mr. Brown said that his tutu is buried there, and that's where the project is going to be constructed. And so, if in...during this process it is confirmed that his tutu's iwi are there, then...what then happens?

MR. MCCALLISTER: So, if we have a suspicion or we have reports that there are burial sites on...within this project area, SHPD would typically . . .*(timer sounds)*. . . ask

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for an AIS. So, we do an inventory survey, and part of the inventory survey is to identify burial sites or possible burial sites. So, that process would be...I think you're talking about Cultural Surveys Hawai'i, they would be surveying, produce a report, SHPD...I would review the report, accept the report, and then from that point, they could call it a previously identified burial site and develop the burial treatment for it. Preferably you would want all that identification, mitigation step to proceed before the permitting process is completed, that way the mitigation is in place before the project proponent has their permits in hand to start ground disturbance work.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. McCallister. That was the timer. Mahalo for your response. Mahalo, Chair.

CHAIR KAMA: You're very welcome. Are there any other persons that would like to ask Mr. McCallister a question? And let's start with you, Chair Lee, and then work down.

COUNCILMEMBER LEE: None.

CHAIR KAMA: Okay. Oh, Member Sinenci, did you have a question for Mr. McCallister?

COUNCILMEMBER SINENCI: Yes, Chair.

CHAIR KAMA: Okay.

COUNCILMEMBER SINENCI: Thank you.

CHAIR KAMA: Go with you.

COUNCILMEMBER SINENCI: Yeah, and just following up on Member Rawlins-Fernandez's lines of questions. Mr. McCallister, in case of inadvertent finds during the project, is SHPD required to act upon the recommendations made during the Burial Council discussions?

MR. MCCALLISTER: You know, like I said, the burial site specialist will...would be better to give you the details on that, but I...I believe that they do. They take into considerations of descendants, identified descendants, recognized descendants, both lineal and cultural, when they prepare a burial treatment plan. The difference is the determination preserve...between preserve in place and relocate. That responsibility gets shifted over to the Burial Council when it's...when a burial site is identified during an AIS. And then also, the treatment plan, they have a larger role in identifying the treatment plan and accepting it.

COUNCILMEMBER SINENCI: And this burial treatment plan, is it made after the finds,

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or prior to potential finds?

MR. MCCALLISTER: Certainly the process will work after the AIS is completed. So, you have your archaeological inventory survey report accepted, and then from there you proceed with your mitigation, which would be the burial treatment plan, and then also maybe a preservation plan or a data recovery plan for any archaeological sites there. So, that would come as a different step than the identification step.

COUNCILMEMBER SINENCI: Okay. And then Mr. Brown has said that he is a recognized lineal descendant for this property. Is...is this recorded anywhere with SHPD? It would have to be...

MR. MCCALLISTER: Yeah. So, they...when they make those determinations, there is a government correspondence letter that would...that would be available. They would have that determination from the State.

COUNCILMEMBER SINENCI: Then is SHPD present at the Maui Burial Council meetings?

MR. MCCALLISTER: They are. So, the...the History and Culture Branch helps facilitate the meetings, so they're always there.

COUNCILMEMBER SINENCI: Okay. All right. Thank you, Chair. Thank you, Mr. McCallister.

CHAIR KAMA: Let's go back to Member Cook. Member Cook, any questions for Mr. McCallister?

VICE-CHAIR COOK: No questions. Thank you.

CHAIR KAMA: Member U'u-Hodgins?

COUNCILMEMBER U'U-HODGINS: I don't have any questions for him. Thank you, Chair.

CHAIR KAMA: Thank you. And we're going to go back to, I think, Member Lee.

COUNCILMEMBER LEE: No questions, Chair.

CHAIR KAMA: Member Sugimura?

COUNCILMEMBER SUGIMURA: No questions for him. Thank you.

CHAIR KAMA: Okay. Member Paltin?

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COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. McCallister, for joining us today. My question was, a previous resource had told us that it was kind of unusual to use an archaeological assessment that was done for what was a previous project that wasn't this project. And I was wondering if you could comment on if that's unusual or standard? Like sometimes, you know, Change in Zoning runs with the property, not with the owner. Do archaeological assessments run with the property, and not the project?

MR. MCCALLISTER: So, I believe the...the way that I interpret the rules is it's meant to be project based if you're talking about a project area that you're surveying. The approach has definitely changed over the years. In the past there was an approach where they would go out and do a survey without necessarily having a project or a permit application or anything applied for, and then later they...once their AIS was accepted, they would come in for a permit. So, that was kind of the old practice. You know, you could...you could...just thinking about that, you could think of a lot of ways where things can...can go bad, or you're not...if you're not...you don't have the scope of work for...for the...for the project, you may not...might not be testing in the correct areas. So, we will...if there is an older AIS that was done on the property, you're saying archaeological assessment, which typically means that no resources were found. When resources are found they title it an AIS, an archeological inventory survey. So, if we have one that's been done on the property, we will look at it in terms of the current project's scope of work, and if we feel like a new...new AIS is needed, so if they didn't adequately cover the scope of work for the new project in the old AIS, we have the ability to ask for a new one. And sometimes I'll get members of the community coming to me, and they'll point out this is an old AIS, and they would like a new AIS, and they would like an opportunity to do consultation during the new AIS. And that's definitely something I take into consideration when looking at the old reports as...in forwarding them over to newer projects.

COUNCILMEMBER PALTIN: Thank you. So, my understanding is the archaeological assessment is from about 15 years ago, and it was for a farm labor dwellings, not this current project. Have you seen instances where lawsuits had been brought because the archaeological assessment is from like 15 years ago, and it's not specifically towards this type of project that's being proposed, but it was originally intended for some other different project?

MR. MCCALLISTER: Certainly been threatened many times, but I can't think of any specific instances off the top of my head. I know in general . . . *(timer sounds)*. . . you know, the project proponents are not happy when that happens. They think they have all their boxes checked, and now they have to do another survey, it's definitely not a happy thing to do, but we can alleviate some of that burden if there's early consultation so that way they're not having to do a new AIS at the

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time when they're going in for a grading permit or building permit. You know, if they're having communication with us, we could help work with their timeline in that regard.

COUNCILMEMBER PALTIN: Forgive me, do you know if that sort of situation happened with the rail?

MR. MCCALLISTER: On O'ahu?

COUNCILMEMBER PALTIN: Yeah.

MR. MCCALLISTER: I...I'm not...I'm not sure. I...I've not been the main reviewer for the rail. I was the O'ahu archaeologist for a year, and that was not my...my main workload or my section of review.

CHAIR KAMA: And rail is not on the *(audio interference)* today, but it was a nice question.

COUNCILMEMBER PALTIN: Okay. I guess my time is up for this round. Thank you.

CHAIR KAMA: Okay. Members, any...yes. Okay. Member Sugimura?

COUNCILMEMBER SUGIMURA: I was just wondering, we're so fortunate to have Dr. Six employed here for Maui County, and I just wonder if Mr. McCallister can let us know if he interacts with Dr. Six, or the...what is the impact of us having her on Staff as far as SHPD? Thank you.

MR. MCCALLISTER: I think it's critical to have, you know, somebody who's qualified and permitted with the State within these various agencies. The Federal...Federal Government's been doing this for a long time. They have archaeologists with the Park Service and, you know, different branches of government. But the County, they haven't had one and, you know, just putting somebody there as a point of contact, communicate...for communication with me and SHPD, it's...it's been...certainly been helpful for me. If you want, I can burden you with all...I could talk about all the struggles I have with the County permitting, but there's just not a whole lot of coordination. They're sending me a lot of stuff that maybe somebody who is professionally qualified can look at it and say, why does Andrew have to review this, to better focus my attention. I have two people, myself and one other archaeologist that review all...all the projects within Maui County, including the outer islands. So, as you can imagine, it's...it's a huge workload. And just getting somebody to look at something professionally before it comes to my desk for review is basically priceless. And then also, the...the early consultation component of it, you have an internal project, or you have a project that might be controversial that you're permitting, they can help with the early consultation part of it. So, that way when you get to SHPD there's not all these

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surprises, you have somebody looking at it objectively within the...the...the agency, and help shepherd those projects through the review process. You know, it's better for me to have, you know, a two-way...you know, two...two professionals talking instead of me trying to deal with 50 permitting staff reviewers all trying to come at me and figure out what's going on with their submission. Just in terms of communication flow, very helpful.

COUNCILMEMBER SUGIMURA: So, one...one last comment. I'm glad to hear that, and if there's a way that we need to, in terms of policy-wise helping it so that the workflow can get to you with a way that we can communicate to you better, please do let us know. Thank you.

MR. MCCALLISTER: Definitely have ideas. I will...I'll work with Janet to get something prepared.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KAMA: Members, is there anyone else that has any questions for Mr. McCallister? Mr. Sinenci?

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

COUNCILMEMBER SINENCI: Thank you, Chair. Now, my question was if a cultural overlay would have helped. I'm kind of being facetious, but would that have streamlined this process?

MR. MCCALLISTER: I...like I said, the...the early consultation component of these types of like planning, development of a project, and coming...knowing when to come to SHPD and do the consultation, and also informing like just private landowners coming in for permits, it's the way to go. Because the way we've been operating in the past where you have to...you just don't know what's going to happen until you get that letter back from SHPD asking for an AIS, and then you have to sort of plan around that, it has just been...it's not...you know, it's not productive, especially when there's only two reviewers. So, like I said, if the...if the County has a professional in place, and they have this tool to at least give people an idea of what to expect when they're coming in to develop in this area, or they're planning, you know, to do some sort of development...and also, managing your properties along the coastline, it's very important to figure out where within your landscape you have these sensitive areas that are sensitive to erosion or sea level rise so that way you can start to get an understanding of how to manage these sites into the future. So, even if it's not something that has some sort of legal backing or...or process backing, I think it's a great tool for...for the County to develop and use in that sense in terms of helping early consultation or informing projects before they get to my desk. I think it's something that's needed, and

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should be integrated into sort of all the counties' planning...development plans so you can see where stuff is before you commit too much in any one direction, you know.

COUNCILMEMBER SINENCI: Perhaps a map. Okay. Thank you, Mr. McCallister. Thank you, Chair.

CHAIR KAMA: You're welcome. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. For Mr. McCallister. So, during this (*audio interference*) process, we've...we've learned a lot of what the AIS has missed. Mr. Brown's tutus, the heirs of Pehuino, that Pehuino cared for iwi kupuna in that area, that the 17 tests, if done correctly, should be per half acre and not for an entire project area. So, at what point does the AIS become in...insufficient or invalidated?

MR. MCCALLISTER: So, if you're...sorry, did I...not to cut you off. Was that the end of your question? Yeah. So...so, if you're looking at an AIS, in terms of a project you have an AIS, and then if you proceed with the project from there and you start finding inadvertent discoveries, there is an inadvertent discovery process. If we're at the point where they've done an AIS and they're coming in for a permit for a new project, or a project that was not necessarily associated with that first AIS, and we know that there's sites that still have not been identified, then we'd need to ask for a new AIS. And, you know, they go and they do it...do...do it, get the report done, and that's how it should proceed generally. It shouldn't be like we have an old AIS, but we know there's a bunch of sites that weren't recorded in here, but you can go ahead and proceed with your projects and we'll deal with the inadvertent discoveries. That's generally not the approach I would take. Like I said, I don't know too much about the specific project here or the background, but yeah, an AIS would not be, you know, retroactively unapproved. So, like once it's approved it's there, and if we need a new AIS we'll just ask for a new one, or an addendum or, you know, data recovery, whatever type of work that needs to be done...or maybe more mitigation, something like that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. So, would SHPD then...like what would that process of ordering a new AIS look like?

MR. MCCALLISTER: So, if they're coming in for a permit for a project, and it has no government oversight other than some sort of permitting or approval, then it would get triggered for 6E review. They come to us, they tell us their scope of work, they'd give us all the information about the previous AIS and the previous sites that have been identified, and from there we would look at it and see if it's adequate for the current project or not. And then from there, we would make a comment to the County. If it's a government project, then the government can say

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we want to do a new AIS, they can proactively do that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo . . . *(timer sounds)* . . . Mr. McCallister. My...my last question for Mr. McCallister, Chair, was just...he responded about my last line of questioning *(audio interference)* Mr. Brown's tutu. So, what would that mitigation look like? Just like preserve in place and pave over?

MR. MCCALLISTER: Can you say that again? You cut out right in the middle of the question.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, Mr. Brown told us that his tutu was buried where they are proposing the project. And in that process of registering, or if when they're doing earth-moving activity they find Mr. Brown's tutu's bones, what...what would...I mean I...I'm...I'm sure there's like different ways to...different things that would happen, either...I don't know if his tutu's bones would be removed and relocated, or if it would be capped and...and paved over, or...like are those the . . . *(timer sounds)* . . . what would happen?

MR. MCCALLISTER: So...so, if it's mitigation for burial sites, or even archaeological sites that are, you know, significant for their value to Native Hawaiians or the ethnic community, they...they have to go through a consultation process. They can't just say I'm going to proactively go and do this or do that, especially when you're talking about a burial treatment plan. There is a consultation process. And like I said, you'll have to talk to the history and culture people about specific details, but there are recommendations on where...when they should be preserving in place and when they should be relocating. And so, when you...when you produce a burial treatment plan there's a buffer zone, and it can be vertical, so it can be...you can't build over it. And it can be horizontal, like we have...we need five-meter buffer zone for the burial site, and it'll include treatment plans and all...all of that information, which will be done in consultation with the descendants. But they should not be getting to the point where they're digging up somebody's bones if we know they're there. That's just...that's not appropriate. So, they will need...they...they should register the burial site before we get to that point. Nobody wants to see that happen, and it's...it's really not...that's not how the process works.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mister...Mr. McCallister. Mahalo for that leeway, Chair.

CHAIR KAMA: You're welcome. So, Mr. McCallister, this is Chair of the Housing and Land Use Committee Tasha Kama. I want to thank you very much for answering the phone and for spending your time with us this afternoon.

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MR. MCCALLISTER: Aloha.

CHAIR KAMA: Aloha. Members, do you have any further questions for the Administration or for the project design team? Yes, Member Paltin?

COUNCILMEMBER PALTIN: Thank you. This one would be for the project design team. Do you have any estimate or knowledge of how deep you need to dig for your project? Like would it be deeper than sugar cane operations?

MR. SUGIDONO: Thank you for the question, Councilmember. Ashely Otomo, if you're on, would you be able to address the Councilmember's question?

MS. OTOMO: I'm not sure what kind of trenching is done in a sugar cane operation, but for this kind of project, I would think that our deepest trenching would be for utilities, which would be either the drain line or sewer line through the project site. But we're just not at that level of detail in our construction plans at this time to give you an actual depth.

COUNCILMEMBER PALTIN: Just clarifying, the drain line or the sewer line would be the deepest trenching, but you don't know right now how deep that would be in feet or meters or anything?

MS. OTOMO: That's correct.

COUNCILMEMBER PALTIN: Do you know any kind of range like on the high end and low end?

MS. OTOMO: Well, we're...we're proposing a five-foot diameter drain line, so that would be seven-feet deep at the very least. And sewer really depends on what is coming out of the building, which a mechanical engineer would tell us, and then that would inform the sewer line running through the property.

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

CHAIR KAMA: You're welcome. Members, any other questions? Yes, Member U'u-Hodgins?

COUNCILMEMBER U'U-HODGINS: Thank you, Chair. I do have a question for Mr. Yucha. Thank you so much. In your CIA, I notice your list of the people you contacted. I think earlier I said it's 73, but I misspoke, I think that was another project and...or another assessment, and you had contacted 50 people, and then 5 responded. Do you email or mail all these people, and then you have them contact you back and you work with them from there, so the reason the other 45 people didn't participate is because they didn't contact you, or how does that

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work?

MR. YUCHA: That's correct. We always start our process off with a consultation letter mailout to that list --

COUNCILMEMBER U'U-HODGINS: Okay.

MR. YUCHA: -- and then from there, we follow up with other forms of contact--email, phone calls. We try our best, a good-faith effort to...to make contact, and when we get no responses, that's why they...they haven't participated.

COUNCILMEMBER U'U-HODGINS: Okay. That's all I wanted to know. Thank you.

MR. YUCHA: Thanks.

CHAIR KAMA: Members, any other questions for our Administration or the design team? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Public Works.

CHAIR KAMA: Mr. Molina?

COUNCILMEMBER RAWLINS-FERNANDEZ: *(Audio interference)* still...yeah.

CHAIR KAMA: Or...

COUNCILMEMBER RAWLINS-FERNANDEZ: If it's Director Molina or Ms. Taomoto.

CHAIR KAMA: Ms. Taomoto.

MS. TAOMOTO: Hi. Sorry, Jordan might be Zooming in, but can I have the question? Sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

MS. TAOMOTO: He was just letting me know now he's available.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, the question is regarding the Imi Kala extension bridge. So, in that area where Imi Kala is, there's a lot of...oh, I think there may be some deferral agreements in that area or...okay. I guess I should put in the question. Are there deferral agreements in that area, and if so, what...what would it look like in having the extension go with the deferral agreements in the area?

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MS. TAOMOTO: Okay. Hang on. I'm waiting to see if he got a chance to Zoom in. Jordan?

MR. MOLINA: Hi. I'm back.

MS. TAOMOTO: Thank you.

MR. MOLINA: Sorry, Member. Can you repeat the question?

COUNCILMEMBER RAWLINS-FERNANDEZ: *(Audio interference)* hear the question? Okay. Okay. Okay. So, where the Imi Kala Bridge/extension is going to be, are there deferral agreements in the area? And if so, is there any kind of impact to anything because of those?

MR. MOLINA: We have to research about the deferral agreements, but the nature of the deferral agreements is to collect on improvements. So, better than a deferral agreement, we have the project district conditions which require the developer of the Piihana Project District to do all the improvements for the road. And so that's a conversation we need to have with Council about if the County's going to build this facility, what is that obligation for the Piihana Project District look like...if we continue to expect them to pay for the whole thing, or if we're going to make some concessions on it. And I...I put that out there because to date, they've been unsuccessful in trying to build that road *(audio interference)*. So, and a lot of people have recognized that that condition is basically a deal killer.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And so, we were going to take that up later even though we plan to build that in six years, regardless of --

MR. MOLINA: Yeah, so, how we're going to resolve...

COUNCILMEMBER RAWLINS-FERNANDEZ: -- *(audio interference)* on the Piihana project?

MR. MOLINA: Yeah. So, you know, the past Administration, this Administration and...you know, recognizes the need for that road for these housing projects. We also recognize the inability of the Piihana owners over the years to get that facility built. So, we're going to confront that conflict by moving forward with facilitating this road. And we...through this process we're going to have to resolve how we're going to recoup our costs, and the extent to which we're going to recoup our costs from Piihana, so that they can satisfy their zoning.

COUNCILMEMBER RAWLINS-FERNANDEZ: Got it. Mahalo for explaining that, Director Molina. Mahalo, Chair.

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CHAIR KAMA: Mr. Cook?

VICE-CHAIR COOK: Director Molina, what's the estimated cost for that bridge? It's not designed, but what is the projected budgetary cost?

MR. MOLINA: The bridge itself is probably in the \$5 million range, but the entire road from Lower Main to Kahekili Highway, inclusive of all the underground utilities associated with the roadway, is the ballpark of 20 to 40 million.

CHAIR KAMA: Member Cook, are you done? Did you have another question?

VICE-CHAIR COOK: I apologize. That's the end of my question. Thank you.

CHAIR KAMA: Member Johnson, welcome back. Do you have any questions for our Administration or our...the design team here?

COUNCILMEMBER JOHNSON: Thank you, Chair. Happy to be back, I have no questions at this time. Mahalo.

CHAIR KAMA: Good to see you. Any other Members have questions for either the design team or the Administration? Mr. Sinenci?

COUNCILMEMBER SINENCI: Mahalo, Chair. And while we have Jordan back, I just wanted to ask him about the road improvements needed to...to be made to Kahekili Highway.

MR. MOLINA: Yeah, thank you, Chair. So, for this...the development in front of you, it is a typical requirement, is just the frontage improvements. So, that includes widening the pavement width if it's substandard, which I don't believe it is, and then providing the curb, gutter, sidewalk on the *(audio interference)*.

COUNCILMEMBER SINENCI: And then we can use the affordable housing funds for these road...road improvements?

MR. MOLINA: I believe so, and I would happily request you guys to do so, so it doesn't become another CIP project *(audio interference)*.

COUNCILMEMBER SINENCI: Oh, okay. And then does the project building...building permit get sent to SHPD for review?

MR. MOLINA: Yes, but it'll likely get resolved with the grading permit review because the grading permit will have the more extensive ground disturbing activity. It'll be the first permit they come and get. So, generally, the extensive review will go into the grading permit review and then *(audio interference)* sent it'll be more routine at

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that *(audio interference)*.

COUNCILMEMBER SINENCI: And just for clarification, it's...it's not the actual permit that's being asked to be exempted, it's just the...the payment, the grading and grubbing fees, permit fees, yeah?

MR. MOLINA: Correct, that's what I understand.

COUNCILMEMBER SINENCI: Okay. Thank you, Director Molina. Thank you, Chair.

CHAIR KAMA: Any other questions, Members? Member Paltin?

COUNCILMEMBER PALTIN: Thank you. I just was wondering if Director Molina was aware about how deep sugar operations go down, is it more or less than five to seven feet?

MR. MOLINA: I don't have direct experience, but I have limited experience with irrigation. Typically your water mains have a three-foot cover. So, I don't...I wouldn't suspect that any of the past ag activities would have gone deeper than what will be needed for the underground drainage facilities and the sewer lines being generally the deepest utilities you have to excavate for.

COUNCILMEMBER PALTIN: Okay. Thanks. And my next one would be for Mr. Yucha because we love seeing you walk down that ramp. Thanks. Just following up on Councilmember U'u-Hodgins question about the 73 contacted and the 5 respondents. Did you designate, or would any of the 5 respondents, or any of the 73 that reached out to you, would they be classified by...as lineal descendants, or do you classify them as lineal descendants, or does only the Burial Council classify them as lineal descendants? Like can you let us know how that works a little bit?

MR. YUCHA: Sure. So, it's...terms mean different things to different people, for sure, so I go by what the administrative rules and...and the SHPD defines a difference between lineal and cultural descendancy. And it's...it's mostly related to a burial site. A lineal descendant is a descendant that can identify a person buried at a location and has documentation to...to prove that. And a cultural descendancy is a little bit more broad. They...they show that they had family members living in an ahupua'a, and they tie their descendancy to that. So, I know that there are other...other definitions for those terms, and it's...it's very sensitive, but that's the definitions that we operate with.

COUNCILMEMBER PALTIN: And so, did any of the 73 or the 5 meet either of those definitions, in your knowledge?

MR. YUCHA: Yes, I believe in...in both cases. Some of the actual people that were

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interviewed would be, at minimum, cultural descendants to that area, and many of the 73 that were interviewed or were, at minimum, cultural descendants, if not, you know, of a greater claim.

COUNCILMEMBER PALTIN: And just seeing if...under Section 106, if a cultural descendant asks for a new archaeological survey, is that allowed, or is it only lineal descendants?

MR. YUCHA: So, I...I think realistically, anyone could ask for new studies. They could direct those questions to SHPD, and they're really the authority to determine that. In this case we did ask that question in . . . *(timer sounds)*. . . 2020, and we received concurrence with archaeological monitoring after their review of that 2008 study.

COUNCILMEMBER PALTIN: And so, if none of them were identified as lineal descendants, but possibly cultural descendants, what would be the process for someone to go through? Is it that burial registration that you spoke of before to become designated as a State definition of lineal descendant?

MR. YUCHA: It's a slightly separate process, but through the...the same SHPD burial sites program where they can apply to be recognized as a descendant. The SHPD first vets that paperwork, and then makes a recommendation to the Burial Council, which confirms that descendancy.

COUNCILMEMBER PALTIN: Okay. Thank you, Mr. Yucha. Thank you, Chair.

MR. YUCHA: Thank you.

CHAIR KAMA: You're welcome. Any other questions, Members? Yes, you may, Mr. Cook.

VICE-CHAIR COOK: Thank you, sir, for your expertise and your patience. I'm curious, when you said trenches, is there a depth, a width, a length, and do they vary? I'm just trying to...trying to understand, 17 trenches would be...you know, are they...could you explain what the definition of a trench is and if they vary?

MR. YUCHA: Sure. In...in this instance, our company didn't conduct the trenching, but according to the report the trenches extended to depths of approximately six feet where they encountered bedrock at that depth. To circle back to previous questions, from my experience, the agricultural plow zone for sugar cane is approximately three, maximum of four feet. And other dimensions of the trench really vary by project and by company. In general, our trenches are 20 feet long by 3 feet wide, and extend to depths that...that...to bedrock or to undisturbed soil.

VICE-CHAIR COOK: Thank you, sir.

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MR. YUCHA: Thank you.

CHAIR KAMA: Thank you. Members, any other questions?

COUNCILMEMBER SUGIMURA: Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER SUGIMURA: Oh --

CHAIR KAMA: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: -- but...but not for you. I want to ask, if I could, Jordan Molina a question (*audio interference*).

CHAIR KAMA: Oh, Mr. Molina.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR KAMA: Okay.

COUNCILMEMBER SUGIMURA: If he's still on the call.

CHAIR KAMA: Yes.

COUNCILMEMBER SUGIMURA: If he's still on with us. Thank you, Mr. Molina. I just wanted to circle back with your comment, I'm sorry I didn't get to him soon enough, but when you were talking about Kahekili Highway, and you said that it...it would be better not to be a CIP project, then who...how would this get done? So...

MR. MOLINA: Thank you for (*audio interference*). By...it would get done not granting the exemption to the developer, and holding them responsible to implement their obligations for the frontage improvement.

COUNCILMEMBER SUGIMURA: So, you're saying you want the developer to build the road and not the County?

MR. MOLINA: Just the frontage improvements along the project...so, the curb, gutter, sidewalk.

COUNCILMEMBER SUGIMURA: Oh. So, you would want us to take it out of the Affordable Housing Fund. I think we did something similar with --

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UNIDENTIFIED SPEAKER: Yeah.

COUNCILMEMBER SUGIMURA: -- Keawa...

MR. MOLINA: With the...and the Kuikahi project, where you guys helped fund the intersection improvement for the entry to the project.

CHAIR KAMA: Thank you.

COUNCILMEMBER SUGIMURA: Question for the developer then. Are they --

CHAIR KAMA: Yes.

COUNCILMEMBER SUGIMURA: -- willing to do that?

MR. CHUN: So, kind of harkening back to my earlier comments, we're not unwilling to do it, I think it's all going to depend on what can actually fit in the space and what the priorities are in terms of traffic flow, turning lanes, storage lanes, bus stop. You know, what can be actually accommodated will be determined as the design fleshes out further.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KAMA: Okay. Members, it is 4:00. It is my intent to end this meeting at 4:30 and continue on March 8th with all of our amendments and our modifications and et cetera, et cetera. So, Members, if you don't mind, I would like to recess today's meeting until March 8th at 9:00 a.m.

COUNCILMEMBERS VOICED NO OBJECTIONS.

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CHAIR KAMA: Thank you. This meeting is now in recess until March 8th, 9:00 a.m.
...*(gavel)*...

RECESS: 4:00 p.m.

APPROVED:

TASHA KAMA, Chair
Housing and Land Use Committee

hlu:min:230302-d:slv:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 115 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 7th day of April 2023, in Kula, Hawai'i



Daniel Schoenbeck