

PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

MINUTES

June 19, 2019

Council Chamber, 8th Floor

CONVENE: 9:00 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Kelly T. King
Councilmember Alice L. Lee
Councilmember Michael J. Molina
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Yuki Lei K. Sugimura

STAFF: James Krueger, Legislative Analyst
John Rapacz, Legislative Attorney
Clarita Balala, Committee Secretary

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

Seated in the gallery:

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

Kate Griffiths, Executive Assistant to Councilmember Kelly T. King

ADMIN.: David A. Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel (PSLU-33)
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel (PSLU-30)
Michele McLean, Director, Department of Planning
Tara Furukawa, Planner, Department of Planning (PSLU-33)
Kurt Wollenhaupt, Planner, Department of Planning (PSLU-30)
Stephen Welling, Deputy Director, Department of Public Works
Eric Nakagawa, Director, Department of Environmental Management (PSLU-30)
Karla Peters, Director, Department of Parks and Recreation (PSLU-30)

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Eva Blumenstein, Planning Program Manager, Department of
Water Supply (PSLU-30)

Seated in the gallery:

Linda Munsell, Deputy Director, Department of Housing and
Human Concerns (PSLU-30)

OTHERS: Michael Summers, President, Planning Consultants Hawaii, LLC
(PSLU-30)

Bobby Pahia, Leasee, Waikapu Country Town Project (PSLU-30)

Caroline Killhour, Executive Director, Hui No`eau (PSLU-33)

Ashley Hesjedal, Project Manager, Hui No`eau (PSLU-33)

Albert Perez, Executive Director, Maui Tomorrow Foundation
(PSLU-30)

Travis Polido, Waikapu Country Town Project (PSLU-30)

Robb Cole, Planner, Hawaii Land Use Group (PSLU-33)

Michael Atherton, Waikapu Properties, LLC (PSLU-30)

Albert Boyce, Waikapu Properties, LLC (PSLU-30)

Hokuao Pellegrino, Cultural Specialist (PSLU-30)

Netai Basu, Traffic Engineer, Fehr & Peers (PSLU-30)

Steve Parabicoli, Mana Water, LLC (PSLU-30)

Daniel Lum, Water Resource Associates (PSLU-30)

(20) additional attendees

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

CHAIR PALTIN: ...*(gavel)*... Will the Planning and Sustainable Land Use Committee meeting of June 19th come to order. It's now 9:00 a.m., June 19, 2019. I'd like to ask everybody in the Chambers if they can please silence any cell phone or noisemaking devices. I'm Tamara Paltin, and I'm the Chair of the Planning and Sustainable Land Use Committee. I'd like to introduce my Vice-Chair, Councilmember Shane Sinenci.

VICE-CHAIR SINENCI: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. We have Councilmember Molina.

COUNCILMEMBER MOLINA: Good morning and aloha, Madam Chair.

CHAIR PALTIN: Good morning, aloha. Alice Lee, looks like she's absent. We got Council Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. And we got Council Chair Kelly King.

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COUNCILMEMBER KING: Ohayo gozaimasu.

CHAIR PALTIN: Ohayo gozaimasu. And we have Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good morning.

CHAIR PALTIN: Good morning. Non-Committee Members Riki Hokama and Tasha Kama are welcome to join us at any time if they feel like it. Today, from Corporation Counsel for PSLU-33, we have David Galazin.

MR. GALAZIN: Good morning.

CHAIR PALTIN: Good morning. From the Administration, Department of Planning, for our first item, we have Director Michele McLean.

MS. McLEAN: Aloha, good morning, Chair.

CHAIR PALTIN: Aloha, good morning. And Planner Tara Furukawa.

MS. FURUKAWA: Good morning, Chair.

CHAIR PALTIN: Good morning. Let's see. And from the Department of Public Works in the gallery, we have Deputy Director Stephen Welling. And Committee Staff, Committee Secretary, Clarita Balala.

MS. BALALA: Good morning.

CHAIR PALTIN: Good morning. Legislative Analyst, James Krueger.

MR. KRUEGER: Good morning.

CHAIR PALTIN: Good morning. Legislative Attorney, John Rapacz.

MR. RAPACZ: Good morning.

CHAIR PALTIN: Good morning. For PSLU-33, our first item on the agenda, we have Robb Cole from Hawaii Land Use Group; and representatives from Hui No'eau Visual Arts Center, Caroline Killhour and Ashley Hesjedal. For PSLU-30, we have Michael Atherton of Waikapu Properties, LLC, and Michael Summers of Planning Consultants Hawaii. From our District Office Staff, we have Zhantell Lindo from the Molokai Office; Denise Fernandez from the Lanai Office; and Mavis Oliveira-Medeiros from the Hana Office. Oh, and we have Councilmember Alice Lee joining us this morning as well.

COUNCILMEMBER LEE: Well, I understand my assistant took care of the good morning in the international language. Thank you, Kelly King. Good morning, Madam Chair.

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CHAIR PALTIN: Good morning. We got your back on that. Okay. For the agenda this morning, we have two items, PSLU-33, which is the Community Plan Amendment, District Boundary Amendment, and Change in Zoning for Hui No'eau in Makawao; and PSLU-30, Waikapu Country Town Project. So, at this time, we'll open up public testimony. For individuals testifying in the Chamber, please sign up at the desk just outside the Chamber door. If testifying from one of the remote testimony sites, please sign up with the District Office Staff. Testimony will be limited to the item on the agenda today. Pursuant to the Rules of the Council, each testifier will be allowed three minutes to testify per item. When testifying, please state your name and the name of any organization you may be representing. If you are a paid lobbyist, please inform the Committee. We have established the connection to the Council District Offices. Molokai Office, Ms. Lindo, is there anyone signed up waiting to testify?

MS. LINDO: Good morning, Chair. No, there is no one here waiting to testify.

CHAIR PALTIN: Okay. Thank you. Lanai Office, do you have anyone wishing to testify? Ms. Fernandez?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office and there are no testifiers.

CHAIR PALTIN: Okay. Thank you. And, Hana Office, do you have anyone wishing to testify, Ms. Oliveira-Medeiros?

MS. OLIVEIRA-MEDEIROS: Good morning, Chair. This is Mavis from the Hana Office and there is no one here waiting to testify.

CHAIR PALTIN: Thank you. So, coming back in the Chamber, our first testifier signed up this morning is Mike Summers, testifying on agenda item PSLU-30. And he's testifying on behalf of Waikapu Country Town, and he's a planner. And followed by Mr. Summers will be Mr. Bobby Pahia.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. SUMMERS: Councilmembers, thank you very much for allowing us to be here today. It's a great pleasure. My name is Mike Summers. I'm the Land Use Planner for this project. And this project is...it's been going on in the context of from conceptual to where we are today for about 11 years. I initially became involved in 2008-2009, working with Mr. Atherton and Chris Hart. I used to work at Chris Hart & Partners. And, you know, the...if you go back and you look at the Maui Island Plan, and you look at its directed growth strategy and you read the land use plan in the Maui Island Plan, what that document really did for us was it allowed us to express what we thought would be the public interest in the context of developing new housing in Maui County. So, I think we were pretty blessed because we had a fresh Island Plan with a good directed growth strategy that had gone through several years of community outreach. And quite literally, we just took all that guidance and tried to develop a new

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community. So, it...you know, it's been a very time-consuming process but we understand that projects like this have significant impacts. It's just the nature of development and, you know, we've tried to be very transparent and work with the community. We've been fortunate enough to have a couple of community members help us with this project. And so, we're just very grateful to be here today and we appreciate your interest in this project. And of course, I'm here and we have our consultant team here to address any questions you might have. And with that, I don't really have a whole lot else to say. So, thank you very much.

CHAIR PALTIN: Members, any questions for the testifier? Seeing none, next up we got Mr. Bobby Pahia, testifying on behalf of Waikapu Country Town and he is a lessee, PSLU-30.

MR. PAHIA: Aloha and good morning --

CHAIR PALTIN: Aloha and good morning.

MR. PAHIA: --Chair and fellow colleagues in the Council. I...my name is Bobby Pahia and I am a kalo farmer. I was given an opportunity to lease 310 acres down on the property that is designated in his development plan. And in that development plan, primarily, 900 acres is gonna be set aside for agriculture, and ultimately, we will go forth and put this in a conservation easement. And from a farmer's standpoint, I back this project because of the agricultural component in there. As a farmer, you know, I've bounced all over this island trying to find land that has secure leases, with secure water access. And I believe in promoting agriculture and I believe Michael Atherton, Larry Anderson, Albert Boyce, and the partners of this project is giving the community a huge opportunity. Also, I like the agricultural component because listening to the Waikapu Community Association, they didn't want this massive housing going right across the isthmus. So, by putting this land in agriculture and keeping it in perpetuity, that will never happen. I was also given the liberty to sublease land on my land. And the reason why I went after a large piece of land, you know, in Hawaii's context, a large acreage, was to have the ability to sublease land to young and upcoming farmers because I know the challenges they go through. And I can't leave out Mr. Marzano [sic] because he's a 90-year old gentleman that today has that opportunity to farm his moringa crop and his mango crops. So, yes, it is for the young and upcoming young farmers, but, you know, we cannot leave our kupuna out also. And, you know, I'm excited about this. I'm excited about...I have eight lessees right now that I have given the same amount I pay for my lease and the same amount I pay for my water is the same deal that they get. So, it's not about trying to take advantage of the situation but really helping others be a part of I believe the solution of creating, you know, more food. And my time is up but I thank you for your time --

CHAIR PALTIN: Thank you, Mr. --

MR. PAHIA: --and I --

CHAIR PALTIN: --Pahia.

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MR. PAHIA: --ask you to please push this project through.

CHAIR PALTIN: Thank you. Members, any questions --

MR. PAHIA: Mahalo.

CHAIR PALTIN: --for the testifier? Ms. King?

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Bobby. I just want to clarify your statement about the ag being in the development because it's actually not in the actual development area itself. It's the part that's set aside outside of the development.

MR. PAHIA: Yeah, but when I look at the project in its entirety, the agriculture component is a very important component.

COUNCILMEMBER KING: Right. I just wanted to clarify that because it has to do with, you know, my personal issue of being out there as well and being able to vote on this project. Thank you.

MR. PAHIA: You're welcome. Thank you.

CHAIR PALTIN: Oh, good point. Next up, we have Caroline Killhour, testifying on behalf of Hui No`eau. She is an employee, Executive Director of the organization, and she's testifying on PSLU-33. Thank you.

MS. KILLHOUR: Thank you. Good morning. Good morning, Chair Paltin and Committee Members. Thank you for spending time on this issue. It's very important to us. As most of you know, the Hui No`eau has been dedicated to the arts for decades, and you're well aware that we offer ceramics, glassblowing, Hawaiian arts, metalsmithing, drawing, painting, printmaking, and photography to the community. We offer the grounds and exhibitions free to the public every day of the week. We also provide high quality childhood art programs directly in our schools, our Na Keiki Hui No`eau program is in Makawao, Pukalani, and Paia Elementary Schools. The program brings art-rich learning opportunities to students in their A+ afterschool programs, at a time when they are often sitting and waiting for their parents to pick them up. These are free of charge and provide teaching artist and supplies and instructions weekly at our local public schools. We also have a robust scholarship program at the Hui No`eau for children as well as adults. And we also educate free of charge our public school art teachers so they can have more ideas and tools for when they go back into the classrooms. Providing zoning...the zoning change saves us from getting special use permits. I've been at the Hui since 2007 and I've gone through the process of renewing our permits multiple times. It's expensive and it's stressful, and it causes a lot of uncertainty. It also causes our donors not wanting to invest in our buildings and improvements because they perceive the special use permits as limited in time. And we also compete for grants, and the fact that we operate under special use

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permits kinda is marked against us. And we'd like to bring as much money as we can to our school as well as to Maui. And I...and this kind of counts against us. Lastly, we have a GIA grant, and the timeline to spend it is limited. So, it will help us secure more donor funds and successfully use these GIA monies if we can move through this zoning process. And I'll be here, and I'm a resource if you have any questions. Thank you. Perfect.

CHAIR PALTIN: Thank you, Ms. Killhour. Members, any questions for --

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: --the...Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. Thanks for being here. Nice seeing you. I just...can you explain the connection with the GIA grants, 'cause I know we do grants also, and I just wondered if there's any kind of...what did you mean by that as it affects zoning --

MS. KILLHOUR: Okay.

COUNCILMEMBER SUGIMURA: --and the GIA --

MS. KILLHOUR: Well --

COUNCILMEMBER SUGIMURA: --grant.

MS. KILLHOUR: --there's...okay. The GIA, it's...the...a lot of processes take time, and we are hoping that we can get the zoning process through in time so that we can use the money because it's...it has to do with the other piece of the property. So, we're kind of limited.

COUNCILMEMBER SUGIMURA: Oh, I see. Oh, I see. Okay.

CHAIR PALTIN: I think they'll go more into detail --

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: --on the...in the presentation.

COUNCILMEMBER SUGIMURA: Okay.

MS. KILLHOUR: Yeah.

CHAIR PALTIN: Okay.

COUNCILMEMBER SUGIMURA: Okay.

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CHAIR PALTIN: All right. Any further questions? Seeing none, thank you very much.

MS. KILLHOUR: Thank you. Thank you.

CHAIR PALTIN: And next up, we have Ms. Ashley Hesjedal of Hui No`eau. She's a Project Manager, testifying on PSLU-33, to be followed by Mr. Perez of Maui Tomorrow.

MS. HESJEDAL: Good morning.

CHAIR PALTIN: Good morning.

MS. HESJEDAL: I'm actually here to just testify a little bit on the matter for urgency just on the question that you just asked. So, I'm the Project Manager for the capital campaign, which also includes the State grant contracts that we get. The Hui No`eau was awarded a grant contract from the State of Hawaii for Fiscal Year 2018 to complete its energy efficiency and reinvestment project, continue the preservation of its historic spaces, and add the vital safety and accessibility infrastructure to the campus. This contract is set to expire July 31, 2019. We're on hold for any further improvements until amendments and Change in Zoning have been successfully updated since our building permits are contingent. The Hui has nearly 50 percent of its original Fiscal Year 2018 contract award remaining. If the funds go unused, it would mean around \$40,000 of State-allocated funds that would not enter Maui County. The agenda from today's Committee meeting has been added to the official contract extension request, which will be submitted directly following this meeting. And if accepted, the extension would allow Hui No`eau to access the State grant contract reimbursement award for the rest of the year. It's our understanding that with your help today and the momentum that we've had in helping this move forward that our extension will be granted, and the Hui and subsequently, Maui County can receive its full award that we were promised. So, if you have any questions, just let me know. Thank you for your time.

CHAIR PALTIN: Thank you --

COUNCILMEMBER KING: I have a question.

CHAIR PALTIN: --Ms. Hesjedal. Just a moment. Chair King, you have a question?

COUNCILMEMBER KING: Yes, I do.

MS. HESJEDAL: Yeah.

COUNCILMEMBER KING: Thank you. So, you're saying if it passes today, that's good enough for the grant in aid to...because it still has to go through two Council meetings, but they're okay with it just passing through Committee?

MS. HESJEDAL: Yes. Like as --

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COUNCILMEMBER KING: Okay.

MS. HESJEDAL: --long as we have a good reason and we're showing that the process is moving and it will --

COUNCILMEMBER KING: Okay.

MS. HESJEDAL: --be resolved, it will...they've...we've been ensured from the State Grant Manager of our grant that that should be sufficient with --

COUNCILMEMBER KING: Okay.

MS. HESJEDAL: --the proof of that.

COUNCILMEMBER KING: Okay. Thank you.

MS. HESJEDAL: Thanks.

CHAIR PALTIN: That's kind of why I just slid them on the agenda. So, next up we got Mr. Albert Perez, testifying on behalf of the Maui Tomorrow Foundation. He's a registered lobbyist for the organization and his title is the Executive Director, for PSLU-30, to be followed by Mr. Polido.

MR. PEREZ: Good morning, Chair Paltin, Councilmembers. Albert Perez, Maui Tomorrow. This is a project that we are actually supporting. So, I know you're all sitting down, so. This is a developer who has...he has a different style. He comes to the community and he asks them their opinion. When...now I wasn't here, 'cause initially this was proposed a long time ago, so I was gone, I hadn't come back yet, but my understanding is that Maui Tomorrow at the time said well, there is this proposal and you have houses going all the way up the valley in Waikapu, why not, you know, reduce the density up there and bring it down and how about a like a ag conservation easement. So, I don't know if they were surprised at that time but it's unusual for people to actually take our advice on that scale. So, they agreed to create an 800-acre conservation easement. It turned out that it was more than that. I believe it's 870 acres. And right now, we have regenerative farming there. It used to be chemically-farmed, and now it's moving towards being organic and better than that. So, we're very excited about that. They changed their plans in response to our request. The other day, I was alerted to the fact that there was a possibility that there might be a hotel on the site. And I was very concerned about that because as I stated yesterday in the Tourism Impacts section, we don't need any more hotels on this island. We do not need more hotels. However, when I called the developer, they clarified that that wasn't something that they were really planning on and that they're fine with that being removed from the ordinance. So, I recommend that you ask them about that. One of the conditions in the zoning that I saw, and this may be a requirement of the Hawaiian Islands Land Trust, but I don't think it's a good idea to require that none of the farmers can live on their land. So, working with the Farmers Union, I've learned a few things about farming. And one is that in order to be

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successful, it really helps for a real farmer, not a gentleman's estate farmer, to be able to live on their land and to be there so that their crops don't get stolen at night, their equipment doesn't get stolen at night, and so they don't have to pay rent somewhere else. So, if there's a way to change that as a condition, I would like to see that. I would support that. Thank you very much.

CHAIR PALTIN: Thank you. Members, any questions for the testifier? Seeing none, next up, we have Mr. Travis Polido, testifying on PSLU-30, testifying on behalf of himself as an individual.

MR. POLIDO: Good morning.

CHAIR PALTIN: Good morning.

MR. POLIDO: My name is Travis Polido. I'm a resident of Waikapu, and I support this project as well. And my main concern is as long as we...the community, and Mr. Atherton and his partners has been good about it, but as long as we continue to have that communication on how the developer, private entity, the County, or the State, and the community can work altogether to make it happen. I'm happy that Mr. Perez clarified that thing about the hotel. It was a rumor that I heard. I also heard there's a rumor of a bottling plant and hopefully, we can get that clarified with the developer. For me, as long as I see what the plan is spoken about, Mr. Atherton comes to the meetings and stuff, and he's very transparent about it, and I'm glad about it. So, if we can have that whatever is being spoken on paper, then I'll continue to support this project. So, thank you.

CHAIR PALTIN: Members, any questions for the...Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Nice to see you here. Are you the President of the Waikapu Community Association?

MR. POLIDO: Yes, I am.

COUNCILMEMBER SUGIMURA: You are, yeah. So, are you speaking in their behalf --

MR. POLIDO: No --

COUNCILMEMBER SUGIMURA: --also?

MR. POLIDO: --I'm speaking on --

COUNCILMEMBER SUGIMURA: Only as a --

MR. POLIDO: --just myself.

COUNCILMEMBER SUGIMURA: --individual?

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MR. POLIDO: Yes.

COUNCILMEMBER SUGIMURA: I'm sure you're reflecting their comments though because yeah, they...by the meetings I went to, not on this project but on others, that they had concerns of traffic and other things that it sounds like your community association probably addressed with Mr. Atherton's project --

MR. POLIDO: Yes.

COUNCILMEMBER SUGIMURA: --then. Okay. Thanks for being --

MR. POLIDO: Thank you.

COUNCILMEMBER SUGIMURA: --here.

MR. POLIDO: Thank you.

CHAIR PALTIN: Members, any further questions? I don't have any other slips. Is there anyone else in the Chamber that wishes to testify at this time? Anybody out in Hana, Ms. Mavis Oliveira-Medeiros?

MS. OLIVEIRA-MEDEIROS: Aloha. This is Mavis Oliveira-Medeiros in Hana. There's nobody here waiting to testify.

CHAIR PALTIN: Thank you. Ms. Fernandez in Lanai, do you have anyone wishing to testify at this time?

MS. FERNANDEZ: There is no one waiting to testify at the Lanai Office.

CHAIR PALTIN: Thank you. Ms. Lindo, do you have anyone wishing to testify at the Molokai Office?

MS. LINDO: Aloha, Chair. No one on Molokai wishing to testify.

CHAIR PALTIN: Okay. Thank you. Members, seeing there are no more individuals wishing to testify, without objection, I will now close public testimony.

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay. So, public testimony is closed.

. . .END OF PUBLIC TESTIMONY. . .

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PSLU-33: COMMUNITY PLAN AMENDMENT, DISTRICT BOUNDARY AMENDMENT, AND CHANGE IN ZONING FOR HUI NO`EAU (MAKAWAO) (CC 19-198)

CHAIR PALTIN: First item on our agenda is PSLU-33, Community Plan Amendment, District Boundary Amendment, and Change in Zoning for Hui No`eau, which is the Committee is in receipt of County Communication 19-198, from the Planning Director, transmitted the following, a bill...a proposed bill entitled A Bill for an Ordinance to Amend the State Land Use District Classification from Agricultural to Rural for Property Situated at Makawao, Maui, Hawaii, Tax Map Keys (2) 2-4-002:011 and (2) 2-4-002:006 for a portion. The purpose of the proposed bill is to grant a District Boundary Amendment from Agricultural to Rural for approximately 14.775 acres in Makawao, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 2-4-002:011 and a portion of tax map key (2) 2-4-002:006, for the Hui No`eau Visual Arts Center. There is also A Bill for an Ordinance to Amend the Makawao-Pukalani-Kula Community Plan and Land Use Map from Agricultural to Public/Quasi-Public for Property Situated at Makawao, Maui, Hawaii, Tax Map Key (2) 2-4-002:006, a portion. And one last, Bill for an Ordinance to Change Zoning from Interim and Agricultural Districts to P-1 Public/Quasi-Public District for Property Situated at Makawao, Maui, Hawaii, Tax Map Keys (2) 2-4-002:011 and (2) 2-4-002:006 for a portion. So, the reason that I scheduled this item is because they have grant in aid monies that if they aren't able to get this zoning change, it may lapse. So, they kind of got to jump ahead a little bit of the line. So, the applicant is Hui No`eau, and their consultant is Robb Cole right here with a Planner...a Planner with Hawaii Land Use Group. And because of his knowledge concerning the application before us today, the Chair will ask that Mr. Cole be designated as a resource person, as well as Caroline Killhour and Ashley Hesjedal pursuant to Rule 18(A) of the Rules of the Council, if there are no objections then.

COUNCILMEMBERS: No objections.

CHAIR PALTIN: It sounds like there aren't any. So, Mr. Cole, would you proceed with your presentation, five, ten-minute presentation on the applications?

MR. COLE: Thank you, Committee Chair. My name is Robb Cole, and I'm a consultant assisting the Hui No`eau Visual Arts Center, a nonprofit organization, the landowner in today's action and operator of what is likely the most comprehensive arts facility in the State. Today, we are here because the Council is exercising an option it rarely uses, the...specifically the ability to initiate and grant individual land use entitlements. This is something that's reserved for very special properties. So, on behalf of myself and Hui No`eau, I want to express my gratitude to the Councilmembers, past and present, who have undertaken this action. And I want to thank Committee Chair Paltin and her Staff for assisting us today and for putting us on the agenda. This project started in October 2017, with the action of the Council forwarding it to the Planning Department.

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CHAIR PALTIN: Mr. Cole, do you mind speaking a little closer to the microphone?

MR. COLE: Sure. In 2018, we worked with the Planning Department to come up with a project assessment, which was distributed and reviewed by various agencies. The Planning Department created a recommendation to approve all the land use entitlements and forwarded that to the Planning Commission. And this January, the Planning Commission reviewed our application, had a public hearing, and unanimously approved the recommendation as is and forwarded it back to you. We know you've been provided a lot of technical information. So, the...in the brief presentation today, I will go over generally some of the land use uses of the property, and then illustrate for you the land use entitlement changes. On screen, we are looking at the last portions of the Kaluanui Estate, a 102-year-old residential estate built by Harry and Ethel Baldwin. The Estate was designed by Harry's cousin, renowned architect, C.W. Dickey. Harry was a State Senator and plantation manager and Ethel was a community activist and absolute advocate of the arts. Ethel and her daughter, Frances, created the Hui No`eau Visual Arts Society in 1934. And for many decades, the Kaluanui Estate was the default home of Hui No`eau. Today, the Estate is 25 acres, comprised of 2 parcels, Parcel 6 and Parcel 11. Use of the grounds includes about a little over 10 acres that was historically pasture for Harry's horses, and today once again, is horse pasture, and approximately 15 acres that serves as the art center. The art center includes all of Parcel 11 and approximately 4 acres of Parcel 6. Today's action is limited only to the art center. The pasture area has entitlements for agricultural use on the State, County, and community level, and those will not change. The development of the Hui or the Kaluanui Estate grounds occurred in approximately four different periods. Represented in yellow are the ruins of the East Maui Plantation Mill, dating back to 1850. In the red is the Kaluanui Estate development including the iconic Mediterranean villa, a matching garage, and guest house, later supplemented by a caretaker's house and stables. They were all built between the years 1916 and approximately 1925. In green, moving down the property, are the modern developments. Early developments when the Hui came in formally in the 1970s were limited to interior renovation and readaptation or adaptation of the historic buildings for art use. For example, the stables were renovated to include pottery throwing wheels, drawing racks, and a kiln. But starting in approximately 1990, several specific artistic studios were erected including those for glassblowing, a dedicated children studio, metalsmithing, and jewelry making, and a new ceramic studio. Additionally, there was a central restroom facility. And in the recent decade, Waldorf...Haleakala Waldorf School came in and built two new classrooms on the former tennis court of the old estate. In the lavender color are future developments, which include a woodworking building. We mentioned a little bit earlier that this building is currently in being reviewed for building permits and will require the Council's approval prior to the Planning Department approving that building permit. A future event pavilion, reconstruction of the aging stables, and relocation of parking, and construction of several accessibility improvements including walkways around the campus, and new ADA parking. All these developments support various art programs at the Hui. Many of them are designed for our keiki as was mentioned by Ms. Killhour and Ms. Hesjedal. We have programs providing art education to children offsite and onsite. DOE students come in on fieldtrips and learn

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about different art methods. They visit to the gallery and see what exhibitions are going on. In addition, as was mentioned, DOE and private school teachers are allowed to come take classes at the Hui, and the Hui will provide them at no cost and fund them through scholarships. Additionally, the Hui works with other organizations such as private home school associations, special needs students, preschools, and bring those students in for arts education. Classical programs such as painting, drawing, printmaking, and photography, ceramics are offered at the Hui. You wouldn't think it but some of the most advanced, formidable printmaking tools in the State and possibly in the country are located in the renovated garage of the Kaluanui Estate. There's a darkroom created out of the subterranean milk storage portion of the kitchen in the Hui, one of the few publicly available darkrooms. Others...other purpose-built studios include those for metalsmithing and jewelry making, glassblowing, and these studios contain the right kilns, equipment, mechanical grinding devices and such. Special programs occasionally are presented at the Hui including those in the cultural arts. Some previous programs include weaving, lei making, and providing instruction on the multiple disciplines of kapa making. And lastly, the Hui is host to numerous special events throughout the year from we-don't-need-an-occasion-family-days where the public is invited for free entertainment and educational classes to several public-juried art exhibitions every year, two collaborations with other nonprofit groups such as the East Maui Watershed Partnership, who has an annual fundraiser, which not only brings money to the East Maui Watershed Partnership but also brings awareness to the community through art of Maui's endangered species. Lastly, there's a incredible program that's probably 80 to 90 years old, started by Ethel Baldwin, called the Artist in Residence program, where artists from around the world will be invited to the Hui. Ethel would bring these artists, invite them to stay at the Hui, and in exchange, they would share their skills and mediums with the Maui artists. The Hui has continued this tradition and continues to bring in artists from around the world. One of the last artists was really impressive, a talented muralist, Mazatl from Mexico City, came and spent I think over a month, part of it with the Auwahi Forest Restoration Project, and then came and shared his experience artistically by painting a mural encompassing the entire art history room at the Hui. It's a beautiful exhibit and it's still up. Getting to the meat of the matter, this action includes entitlements, changing the land use district zoning and community plan. Here's a map depicting the existing State land use. Both parcels are in Agricultural...in the State Agricultural District. And as a background, in the 5 to 15 years after Statehood, the State began dividing the lands of Hawaii into 4 categories, Urban, Conservation, Rural, and Agriculture. Agriculture was the default zoning. And the Kaluanui Estate being where it was in a remote area, received the default zoning of Agriculture. It and all the properties around it are in the State Agricultural District. This was applied generally not specifically, and it applied to properties that were not in Agriculture and had not been in Agriculture for many decades. The proposed land use change will change approximately 15 acres to Rural. The reason this change is important is because it is the State Land Use District that requires the Hui to go through the special use permit process. A State special use permit requires the applicant to prepare an assessment, consultant studies, go through agency review and a public hearing, and usually results in a temporary permit possibly with conditions. The Hui has been getting these special permits since

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1990 and has had to do so seven times. It is a considerable expense. The two zones that support community and school use are Rural and Urban. In a very similar project that the Council saw last year with Seabury Hall, Seabury opted to go to Urban. The Hui has opted to go to Rural. Partially, because it's in a rural area. It didn't want to alarm its neighbors and there are no plans for any high-density development or changes of use. Regarding zoning, I'll start out by saying the Hui property has never been individually zoned. It still retains the placeholder zoning of Interim on its main parcel. The section in Agriculture was done through the 1998 Agricultural Ordinance, which automatically zoned all properties in Maui County that had the State Conservation or sorry, the State District of Agriculture and the community plan designation of Agriculture. It did not zone properties based on their ability to produce ag. The proposed change will be to change the zoning designation of Parcel 11 and the portion of Parcel 6 to the P1 Public/Quasi-Public District. This is the appropriate school...district for schools and public uses. Regarding the community plan, we're actually two-thirds of the way there. About 25 years ago, the Citizens Advisory Committee, the Planning Department, and the Council began reviewing the 1980's version of the Upcountry Community Plan, which had the property designated Rural. In their review, they decided that the appropriate change would be to take it out of Rural and put it into Public/Quasi-Public. In the statement of the plan, the target objective was to change approximately 15 acres to Public/Quasi-Public. But for some unknown reason, it resulted only in Parcel 11 being redesignated to Public/Quasi-Public. So, the action before you today will correct that mistake and bring an additional 4.3 acres into Public/Quasi-Public, coincident with the boundaries of the Visual Arts Center. Yeah. Changing these three entitlements together will undo the mismatch of zoning that the property currently has. It will also create an incredible amount of benefit for Hui No'eau. And to kind of reiterate what Caroline and Ashley have told you, there are some major benefits. One is the ability to get away from special use permits. And the special use permit process, it's kind of akin to training wheels, you know. It serves as an evaluation period in which a property can...a use can be evaluated on a property prior to getting entitlements. The Hui has been there for 43 years officially, and decades before that unofficially. It is time for them to change their entitlements. It will facilitate appropriate planning of the site. One question was about the upcoming...Councilmember Sugimura had a question about the upcoming construction and how it's tied to the GIA grant. In particular, the zoning of the property will allow the Hui to have a little bit more flexibility in where they place their new buildings. The Hui has always strived to place the new development away from the central historic core and out of sight of the historic core. In addition, this will allow them to have some breathing room in what's their lower campus and enhance the courtyard aspect of that lower campus. It's also a game changer in terms of funding. As was brought up by Caroline, they are at a competitive disadvantage for not only local but national grants because they don't have the permanence of entitlements. Imagine you are a donor or a person wanting to put an endowment or a lender, would you, you know, want to provide the Hui with this valuable funding if in ten years, their permit could be taken away?

CHAIR PALTIN: Thank you, Mr. Cole.

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MR. COLE: Yeah.

CHAIR PALTIN: Is that about it?

MR. COLE: And that was it. Thank you --

CHAIR PALTIN: Okay.

MR. COLE: --very much.

CHAIR PALTIN: Thank you. At this time, Director McLean, did you have any comments that you wanted to add about this application?

MS. McLEAN: Only that the Planning Department is supportive and we appreciate the Council initiating the entitlement process. Thank you, Chair.

CHAIR PALTIN: Thank you. Mr. Welling, any comments from the Department of Public Works on this application? You can come down if you like. I mean please do come down. Sometimes there's concerns, you know, when you change the zoning if that triggers any kind of thing. So, just if you had any comment about that?

MR. WELLING: Oh, thank you. We don't have any concerns with the Change of Zoning.

CHAIR PALTIN: Okay. Thank you. Members, are there any questions? Mr. Molina?

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. And good morning, Mr. Cole, and thank you for the presentation. My questions will focus on the use of Parcel 11. Now, I believe one of the main reasons you're looking at having this District Boundary Amendment is...includes the improvements for Parcel 11, which I, looking at your application, includes the addition of an outdoor pavilion. I don't know if maybe you're the one to answer this question or maybe the Executive Director, but what is the future intent of this pavilion? Is it to have large concerts, to host weddings, fundraising events? The reason I bring this up, you know, Makawao is generally a tranquil place, and noise travels and sounds. And if this is the intent of this use, what are your mitigation efforts for noise and potentially traffic, you know, if you have a large event?

MR. COLE: Thank you, Councilmember Molina. The...just to clarify, the pavilion will be located on the outskirts of Parcel 11, I'm sorry, Parcel 6, not 11. And the purpose of creating an event pavilion would be to relieve the stress of existing events on the historic residence. Traditionally, events occur at the residence and the surrounding reflecting pool. And this would allow them to move those events to a different area, take advantage of the beautiful sunset views that was never done in the original design of the project. At the same time, it allows the operations to decouple the gallery from an event, which sometimes is beneficial. And to answer regarding mitigation measures, the Hui has a very strict contract whenever they have an event. They have

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a very early bedtime and they're very selective about the type of events that they host. So, you're not gonna have a rave at the Hui. Typically, what we see are weddings primarily of people of the Upcountry region. And we also have, you know, they also offer their facilities for, you know, retirement parties, anniversaries. They've warned people at the Hui. There are a number of community interactions that happen. The outer pavilion would be somewhat purpose-built instead of having to erect on a temporary basis tents. It's...there's a lot of labor for a small nonprofit to constantly bring up and put down, you know, equipment and lighting.

COUNCILMEMBER MOLINA: Okay. Well, thank you --

MR. COLE: Yeah.

COUNCILMEMBER MOLINA: --for that clarification. I was just wondering with the addition of a pavilion, if the direction was going to change and the type of events. 'Cause I know historically, you had very quiet events and/or maybe just softer music. So, I just wanted to get that assurances for many members of the community who may question the pavilion structure. And the last question with regard to parking stalls, now, will you have to...with the addition of the pavilion, will that eliminate some parking stalls that are or area for, space for parking that's currently there?

MR. COLE: I would say it might have to be determined. If the pavilion is located as was shown on the site plan, which is in the middle of a parking lot, then yes, the parking would be relocated. The Hui also has an upper parking lot, which has never been legalized with the County. In other words, there's a lot of reserved parking that will become available once it becomes approved as what they call required parking, and which means we've sent the plans to the Department and they verified the stall dimensions and shade trees and such. So, there is a lot of parking at the Hui. If there will be additional parking, it would be kind of below the new woodworking studio and events pavilion --

COUNCILMEMBER MOLINA: Okay.

MR. COLE: --and kind of away and out of sight of the historic core.

COUNCILMEMBER MOLINA: Okay. All right. Thank you. Thank you, Madam Chair.

COUNCILMEMBER LEE: Madam Chair?

CHAIR PALTIN: Member Lee, followed by Chair King.

COUNCILMEMBER LEE: Thank you. I have a question for the Planning Director. Good morning, Michele. Based on the available information, this...I'm reading from a letter from SHPD, Department of...yeah. Anyway, request the following documents to be submitted for review and acceptance prior to issuance of any permits. Are you familiar with this letter?

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MS. McLEAN: Yes, I am.

COUNCILMEMBER LEE: Okay. So, what they're requiring is a revised Archaeological Inventory Survey and updating, I guess the survey from 2009, and then an archaeological preservation plan meeting the standards of HAR 13-278. Your comments?

MS. McLEAN: The...as the imagery showed, there's a lot of existing development on the site. And so, when building permits come in for the pavilion, for example, or for the new ADA walkways and so forth, we wouldn't be able to sign off on those until this archaeological work has been completed and accepted by SHPD.

COUNCILMEMBER LEE: So, you have no problem if the Committee recommends passage of the various bills on first reading today?

MS. McLEAN: Correct.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Thank you, Chair. That was one of my questions. So, thank you, Councilmember Lee. My other question was, you know, if we do these zoning changes to Public/Quasi-Public, is this, and this is for Planning Director, is this just for Hui No`eau if the property...are there any unintended consequences if the property sells and something else goes in there at some point?

CHAIR PALTIN: Director?

MS. McLEAN: Any future owner would still be subject to the uses allowed by the Public/Quasi-Public zoning district. And if any conditions are placed on the zoning, that those would run with the land. So, we could look in the Public/Quasi-Public District and see all the uses that are allowed and any of those uses would be lawful on that site --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --regardless of who owns it.

COUNCILMEMBER KING: Okay. So, that...I just want to, you know, because I fully support Hui No`eau but, you know, at some point if that whole property sold and something went in there that the community didn't want, is there a checkpoint where, you know, or is it just...is it then free and clear to be developed into whatever the new owner wants as long as it's on that list?

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CHAIR PALTIN: Chair King, if I may, I think this might be a good time for me to bring up that I have drafted a revised conditions of zoning to try and address these issues that are --

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: --being brought up, and James is distributing it now. But basically, it mimics the conditions in the State's special use permit. We changed it...we changed the wording around a little bit so that it's clear that Hui No'eau or whoever the future owner or lessee must solicit comments to be provided to the Planning Department on plans for any new building from the Urban Design Review Board and the State Historic Preservation Division prior to the Planning Department recommending approval of a building permit for the new building. And condition number two would say Hui No'eau and any future owner or lessee must only develop the property in substantial compliance with the submittals and presentations made to the Maui County Council and the Council's Planning and Sustainable Land Use Committee. So, it kind of limits it to what is being presented here and not all the uses that are described under Public/Quasi-Public use.

COUNCILMEMBER KING: Okay. I appreciate...I really appreciate this 'cause that was my only concern with this. And maybe we could get comments from the Planning Director on these amendments? Have you seen them?

MS. McLEAN: This is the first time that we've seen them.

COUNCILMEMBER KING: Okay.

MS. McLEAN: On the first one, I have no issue with that first condition of getting Urban Design Review Board comments. The second one, in concept, I wouldn't have any concerns with administering this. And we actually just had a similar discussion with staff when you talk about representations made or substantial compliance. If there is any particular issue that stands out, it would be good to specify that because we understand today what we're talking about but five years from now, ten years from now, we go back to look at this, it's not clear to us what substantial compliance means. So, if we're talking about the uses being confined to arts education and to the school or special events, you know, it's what stands out to the Council about substantial compliance and representations made. So, if there is anything --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --in specific that can go in this condition, that would be helpful to the Planning Department long term to enforce this requirement.

COUNCILMEMBER KING: Okay. Because I, you know, I like the idea of basically what we saw today, and I understand there may be some tweaks in that if you end up having to move parking around or whatever. But actually, what this tells me by... 'cause at first when I first looked at this, I thought well there is like not really...not a...maybe we

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should add a date. But if we don't add a date, then what it says is that if there's...if there are major changes, then it just...it needs to come back to this Committee. It's...so, if it's in compliance with a new submittal that comes to this Committee that gets approved, then that's not a problem. But I, yeah, I understand that maybe substantial compliance needs to...I don't know, in the past, haven't we kind of let that...left that up to the Planning Director, those kinds of terminology so that you would determine what substantial compliance is?

MS. McLEAN: And in general, we see that often. We see that in a lot of SMA permits. That's not an uncommon term.

COUNCILMEMBER KING: Okay.

MS. McLEAN: We did just have the discussion with staff though that if there is anything that really stands out, it would be good to identify that so that it isn't open to anyone's interpretation 5 or 10 or 20 years from --

COUNCILMEMBER KING: Right.

MS. McLEAN: --now.

COUNCILMEMBER KING: Okay. Yeah, for me, personally, it's the types of classes and education that they're offering. You know, the configuration of the buildings but the...also, the discussion that we've had on limitations on activities that could disrupt, you know, the neighboring area and the homeowners that live...that, you know, where the noise carries to. So, those are my big issues, and I think they've been covered by Councilmembers' questions and concerns.

MS. McLEAN: This discussion is helpful because if in the future we're trying to understand what substantial compliance means, we can look back on the minutes and see the issues that were raised --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --so that would give us an understanding of what the Council's intent is.

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

CHAIR PALTIN: Sure thing. Member Lee?

COUNCILMEMBER LEE: Thank you, Madam Chair. Ms. McLean, I'm going to suggest that a date is, you know, inserted somewhere in here in the ordinance. Because ordinarily, any conditions run with the land in a Change of Zoning process, but there may be times when the applicant comes back to the Council couple of times. So, I think specifically, we need to reference the date of the ordinance or the ordinance number, or something that confines these particular conditions to this instance. And

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nowadays for your information, verbatim minutes are not taken to my knowledge. It's only general minutes.

CHAIR PALTIN: Oh no, we --

COUNCILMEMBER LEE: So...

CHAIR PALTIN: --kept the funding for that. We still get verbatim.

COUNCILMEMBER LEE: We still do?

CHAIR PALTIN: Yeah.

COUNCILMEMBER LEE: I thought they stopped it?

COUNCILMEMBER SUGIMURA: No.

CHAIR PALTIN: Almost but we saved --

COUNCILMEMBER LEE: Oh --

CHAIR PALTIN: --it.

COUNCILMEMBER LEE: --almost stopped it. Oh --

CHAIR PALTIN: We saved it.

COUNCILMEMBER LEE: --I'm glad you caught it.

COUNCILMEMBER SUGIMURA: They meaning us, yeah?

COUNCILMEMBER LEE: But just in case the next Council doesn't stop it, we all in the past as you know always relied on minutes for legislative intent. Now, if the...those minutes don't carry, are not verbatim, then we're in trouble. So, we...that's why I'm saying that we need to make sure that everybody knows which date we're talking about, which conditions we're talking about, yeah? Thank you.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Ms. Sugimura, followed by --

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: --Mr. Sinenci.

COUNCILMEMBER SUGIMURA: Thank you. So, I guess the most important thing is based on your presentation and what has happened over a lifetime of the Ethel Baldwin

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family as well as the current...and the board, they have a really awesome board. One of my favorites was John Hoxie who passed away but his legacy still lives. And I think that through this kind of community commitment, I don't think the...I don't think this Council will have to worry five or ten years from now because the legacies and the historical aspects of it will still live on. But I guess, Director, do you think that we need to add in like based upon the presentation, the elements of this, you know, that would make it easier for you so that it's more precise and not having to rely on going back to verbatim minutes or the...even the Committee report, which will come out of this after passage. So, what would you prefer?

CHAIR PALTIN: If Mr. Galazin may just interject for a --

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: --sec.

COUNCILMEMBER SUGIMURA: Thanks.

MR. GALAZIN: Thank you, Chair. And this would go partly to your question, which is why I wanted to put it in just to make sure, and this might help the Planning Director or any Planning Director in the future. But any conditions that are imposed need to be based on mitigating certain factors. And I've heard a couple of them mentioned, you know, noise specifically to the neighboring parcels, but it would help determine what the representations are and what was trying to be avoided if it's really specific about what is trying to be...what is going to be mitigated by the conditions that are put in place. So, to the extent that those can be specified that would also provide some guidance. Thank you.

COUNCILMEMBER KING: Chair, just a point of order. I just wondered if we wanted to get a motion on the floor because we seem to be debating the amendments and we haven't had a motion to propose these amendments yet. So, if we make a motion, and then we make a motion to amend, then we can...the discussion is a little more pertinent.

CHAIR PALTIN: Sure. This condition was meant to be for the third bill. So, we can say...I just didn't want to spring it on you when you guys were voting, and it seemed like that's the line, where the line of questioning was going.

COUNCILMEMBER KING: Are you intending to take all three of these bills in one motion or each one separately?

CHAIR PALTIN: I was going to do them separately.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: But --

COUNCILMEMBER KING: Because --

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CHAIR PALTIN: --I...

COUNCILMEMBER KING: --we can take one motion...we can make one motion for all three bills and then make an amendment to one of them as amendment motion.

CHAIR PALTIN: We could, yeah.

COUNCILMEMBER SUGIMURA: Your call.

CHAIR PALTIN: Did...Mr. Sinenci, did you still have a question?

VICE-CHAIR SINENCI: I just had a clarification question for the Director. In the SHPD letter, it says on the bottom of Page 1, the permit also covered a request to extend an existing permit for 20...by 20 years. Is this a regular thing in the permits or is this new that you're asking an existing permit to be extended another 20 years? Is that what it means?

MS. McLEAN: The Hui currently has temporary permits to operate. And so, they have been making sure that those get extended so that they're still valid and active at the same time this process was initiated to change the entitlements permanently. So, the two overlap. So, that's what SHPD was referencing, their existing permits that they've kept active.

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

CHAIR PALTIN: And I...we just got this SHPD letter just now. So, we didn't have any homework on it. But I was just wondering too, is weddings require a special permit in Public/Quasi-Public, Director McLean, if you know?

MS. McLEAN: Weddings and special events that are truly a subordinate part of the primary operation would be allowed. You see that across the country at, you know, at museums and historic libraries. There are numerous facilities that are genuine Public/Quasi-Public facilities that do host events to help support them. So, if those events are conducted again as a truly subordinate part of their operation, then we wouldn't be concerned about it. If it seems to take over the primary function of the property and it becomes the principal use, then we would have concerns about that and we would address that appropriately. But if the fundamental purpose is for the arts education and the school, then that is a, as a subordinate use would be acceptable.

CHAIR PALTIN: Okay. Any further discussion from the Members on this?

COUNCILMEMBER SUGIMURA: Let's vote.

CHAIR PALTIN: Okay.

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COUNCILMEMBER KING: We need a motion first.

CHAIR PALTIN: Okay. So, Members, I'll entertain a motion to recommend passage on first reading of the proposed bill entitled A Bill for an Ordinance to Amend the State Land Use District Classification from Agricultural to Rural for Property Situated at Makawao, Maui, Hawaii, Tax Map Keys (2) 2-4-002:011 and (2) -4-002:006 [sic] portion; incorporating any nonsubstantive revisions.

COUNCILMEMBER KING: So moved.

COUNCILMEMBER SUGIMURA: Second.

CHAIR PALTIN: Moved by Chair King and seconded by Councilmember Sugimura. Any discussion or amendments on this part? Seeing none, all those in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: All those opposed? The measure passes seven-zero.

**VOTE: AYES: Chair Paltin, Vice-Chair Sinenci, and
 Councilmembers King, Lee, Molina,
 Rawlins-Fernandez, and Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

**ACTION: Recommending FIRST READING of bill to amend the
 State Land Use District Classification from
 Agricultural to Rural.**

COUNCILMEMBER KING: That's right.

COUNCILMEMBER SUGIMURA: There's...only seven-Member --

CHAIR PALTIN: Seven-zero.

COUNCILMEMBER SUGIMURA: --Committee.

COUNCILMEMBER KING: That's right.

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CHAIR PALTIN: The Chair will next entertain a motion to recommend passage on first reading of the proposed bill entitled A Bill for an Ordinance to Amend the Makawao-Pukalani-Kula Community Plan and Land Use Map from Agricultural to Public/Quasi-Public for Property Situated at Makawao, Maui, Hawaii, Tax Map Key (2) 2-4-002:006, portion; incorporating any nonsubstantive revisions.

COUNCILMEMBER KING: So moved.

COUNCILMEMBER SUGIMURA: Second.

CHAIR PALTIN: Moved by Chair King and seconded by Councilmember Yuki Lei Sugimura. Any discussion or amendments on this portion? Seeing none, all those in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? Measure passes seven to zero.

**VOTE: AYES: Chair Paltin, Vice-Chair Sinenci, and
 Councilmembers King, Lee, Molina,
 Rawlins-Fernandez, and Sugimura.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

**ACTION: Recommending FIRST READING of bill to amend the
 Makawao-Pukalani-Kula Community Plan and Land
 Use Map from Agriculture to Public/Quasi-Public.**

CHAIR PALTIN: And lastly, the Chair will entertain a motion to recommend passage on the first reading of the proposed bill entitled A Bill for an Ordinance to Change Zoning from Interim and Agricultural Districts to P-1 Public/Quasi-Public District for Property Situated at Makawao, Maui, Hawaii, Tax Map Keys (2) 2-4-002:011 and (2) 2-4-002:006, portion; incorporating any nonsubstantive revisions --

COUNCILMEMBER KING: So moved.

COUNCILMEMBER SUGIMURA: Second.

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CHAIR PALTIN: --recording of the unilateral agreement; and filing of County Communication 19-198. Moved by Chair King and seconded by Councilmember Yuki Lei Sugimura. So, at this time --

COUNCILMEMBER SUGIMURA: This is where your amendment comes in.

CHAIR PALTIN: --this is where the amendment comes in. Would anyone propose amending --

COUNCILMEMBER SUGIMURA: Chair?

CHAIR PALTIN: --the bill? Yes . . .*(inaudible)*. . .

COUNCILMEMBER SUGIMURA: So, I'm wondering since Corp. Counsel had relevant information, I wonder if they could recommend what language would be put in here that would be appropriate.

CHAIR PALTIN: Into the revised --

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: --conditions?

COUNCILMEMBER KING: Exhibit "C."

MR. GALAZIN: Chair?

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: Yes, Mr. Galazin?

MR. GALAZIN: Thank you. Yeah, I only just got this when you folks did. So, you know, I don't want to necessarily put what the impacts are for you. I would just suggest that as long as you identify them on the record, you got the Committee report, you know, I know there's some discussion about the minutes, summary minutes are fine as long as a verbatim recording is kept. So, there's got to be some way to look at the actual words. But if you put on the record what you're trying to do, then I think that would be sufficient to say these are what...these are why these conditions are on here. So, you wouldn't necessarily need to say in the conditions of zoning, we are doing this to prevent, you know, undue noise impacts. So, if that...that doesn't really help. But, you know, again, I don't want to necessarily decide for you what you think you're doing.

COUNCILMEMBER SUGIMURA: So, in other words, like if we were...if they wanted to have a wedding, which is not a big concert, the wedding would be okay. But then if we left it

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too subjective, then there may be a future Council that says you can't have a wedding there although it's definitely not a abuse of use of the property.

CHAIR PALTIN: Mr. Galazin?

MR. GALAZIN: Yeah, and that would again, you know, if we're talking about what the representations made by the applicant at this Committee meeting are, then if you've been informed they only have small events that are subordinate to the actual, you know, use as an art center, then you put in there, okay, that's what you want to have as conditions that, you know, substantial compliance such as, yeah, so if you want to specify, you can do it that way.

COUNCILMEMBER SUGIMURA: Okay.

MR. GALAZIN: Thank you.

COUNCILMEMBER MOLINA: Chair?

CHAIR PALTIN: Yes --

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: --Mr. Molina?

COUNCILMEMBER MOLINA: Yeah, just a question for either Corp. Counsel or the Planning Director. Under this zoning that we're considering, those types of uses are already allowable, am I correct? For example, like weddings, what the applicant is looking at?

MS. McLEAN: Under the temporary permits that they have now, yes.

COUNCILMEMBER MOLINA: Okay. Okay. So, with this, we're just adding these or with the adding these two additional conditions so there...would there be a need to specify what the applicant is looking? Because...is looking to have since it is already under temporary events, it's already good. So, we basically, then we...would we need to add additional clarity to these conditions since it already allows for these events to occur under Public/Quasi [sic]?

MS. McLEAN: I think with the record that's being established, we would have a very good idea of what the --

COUNCILMEMBER MOLINA: Okay.

MS. McLEAN: --Council's intent is without going into more detail.

COUNCILMEMBER MOLINA: Detail. Okay. Chair --

CHAIR PALTIN: Yeah.

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COUNCILMEMBER MOLINA: --thank you.

CHAIR PALTIN: For me, it was kind of like, you know, in Quasi-Public, you can have a high school or maybe a church or something like that. And we just wanted it to be kind of in line with Hui No`eau, what they do, and just like some Members were saying if the property gets sold in the future or things like that. Did you have a question or a --

COUNCILMEMBER KING: No --

CHAIR PALTIN: --comment?

COUNCILMEMBER KING: --I wanted to propose an amendment to the motion.

CHAIR PALTIN: Okay. Chair King, amendment --

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: --to the motion?

COUNCILMEMBER KING: So, I would like to propose amendment to the motion per Exhibit "C." I don't know if you want me to read the whole thing.

CHAIR PALTIN: The revised conditions? It...

COUNCILMEMBER KING: The revised conditions but then adding on to number two at the end of it the words "on June 19, 2019." And basically, that brings us back to the discussion we're having today. Because in the future, if this does come back before the Council for major changes, I think it will negate that date. So, if we put that date in there today. And also, we may in the future have different names of the committees. So, this specifically refers to this year, the Planning and Sustainable Land Use Committee.

CHAIR PALTIN: Okay. So, we have a motion.

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

CHAIR PALTIN: And a second. Discussion? Member Lee?

COUNCILMEMBER LEE: Thank you. I agree with that amendment. Putting the date down gives you a reference on which minutes to look at, and the main thing is that our concern was expressed about excessive noise. So, and it says here that the applicant must be in substantial compliance with all of its submittals and presentations. So, the Director, you the Director, will know that substantial compliance means no excessive noise, yeah. Thank you.

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CHAIR PALTIN: Thank you, Member Lee. And just to make note, that motion was made by Chair King and seconded by Vice-Chair Rawlins-Fernandez. Ms. Rawlins-Fernandez, you had something to add?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I came up with the language based on a discussion and the recommendation from Corp. Counsel that maybe can be discussed, but to include language that says that continues to protect the Rural and Agricultural character of the area and supports arts and cultural education and schooling.

CHAIR PALTIN: Okay. So, is that an amendment to the amendment or should we withdraw and do we want to vote on the amendment on the floor?

COUNCILMEMBER LEE: You're making an amendment?

COUNCILMEMBER RAWLINS-FERNANDEZ: I can.

COUNCILMEMBER KING: You can make the amendment to the amendment?

COUNCILMEMBER LEE: No, if you were, I was going to second it for discussion.

COUNCILMEMBER KING: If you want to make an amendment to the amendment, you can just support...you can put that phrase in the second one --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

COUNCILMEMBER KING: --after compliance, make a --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

COUNCILMEMBER KING: --comma and then put that phrase in.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, that's where I was going to --

CHAIR PALTIN: Like a --

COUNCILMEMBER RAWLINS-FERNANDEZ: --put it.

CHAIR PALTIN: --friendly amendment.

COUNCILMEMBER RAWLINS-FERNANDEZ: But I wasn't sure --

COUNCILMEMBER KING: I...

COUNCILMEMBER RAWLINS-FERNANDEZ: --where to put the date --

COUNCILMEMBER KING: Yeah.

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COUNCILMEMBER RAWLINS-FERNANDEZ: --after that 'cause...

COUNCILMEMBER KING: Well, the date is at the end.

COUNCILMEMBER RAWLINS-FERNANDEZ: At the end? Okay.

COUNCILMEMBER KING: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, Hui...the condition number two, Hui No'eau and any future owner or lessee must only develop property in substantial compliance that continues to protect the Rural and Agricultural area of the...character of the area and supports art and cultural education and schooling, with the submittals and representations made to the Maui County Council and the Council's Planning and Sustainable Land Use Committee on June 19, 2019.

COUNCILMEMBER KING: And maybe just as a friendly amendment to that, we can just put the word, per the submittals and representations. I think that makes more sense.

COUNCILMEMBER RAWLINS-FERNANDEZ: Per?

COUNCILMEMBER KING: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR PALTIN: Any objections --

COUNCILMEMBER RAWLINS-FERNANDEZ: So, I move and...

CHAIR PALTIN: --to those friendly amendments?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, friendly amendment? Okay.

COUNCILMEMBER SUGIMURA: Mister...you want to say something?

CHAIR PALTIN: Mr. Cole?

COUNCILMEMBER SUGIMURA: Yeah.

MR. COLE: Sure. If appropriate and we're in the discussion phase, I just wanted to clarify that with this amendment, is it the intent that it would allow all the uses that we've provided the Planning Department and Council in our record including --

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COUNCILMEMBER KING: Yeah.

MR. COLE: --you know, activities, event rental, and there's other things that, you know, are small but have been mentioned in the record such as, you know, they do tours of historic site. We want to make sure that everything we've represented as uses to the Council, to the government, is allowed.

CHAIR PALTIN: Yes, Chair King?

COUNCILMEMBER KING: Yeah, I think that's...the...it's in the record but I think the key part of it...of the compliance is not excessive, that the focus is on, you know, the arts and cultural education and classes. And I also wanted just for the record ascertain that we...that you're not intending to put any zip lines on that property. Could you give us a...

MR. COLE: Sure. You know, just...

MS. McLEAN: Say no.

MR. COLE: Say...no.

COUNCILMEMBER KING: Okay.

MR. COLE: And if it helps, in October 3rd of 2017, we actually presented a laundry list of uses to the Council for what the Hui has been operating as for the last 40 years. And I can go through it or we can just --

COUNCILMEMBER KING: I think --

MR. COLE: --rely . . .*(inaudible)*. . .

COUNCILMEMBER KING: --you went through it in the presentation. So --

MR. COLE: Not everything --

COUNCILMEMBER KING: --that was...

MR. COLE: --was --

COUNCILMEMBER KING: Yeah, that was --

MR. COLE: --in the presentation.

COUNCILMEMBER KING: --the representation that we're --

MR. COLE: Yeah.

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COUNCILMEMBER KING: --talking about.

MR. COLE: Okay.

COUNCILMEMBER KING: So, I don't want to go through another laundry --

MR. COLE: Would --

COUNCILMEMBER KING: --list.

MR. COLE: --it be helpful now if I just went through this list that was provided earlier?

COUNCILMEMBER SUGIMURA: Sure.

COUNCILMEMBER KING: . . .*(inaudible)*. . .

MR. COLE: Yeah. So, it's entered --

COUNCILMEMBER KING: I'd...

MR. COLE: --into the record.

COUNCILMEMBER KING: Yeah, I'd rather...

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR PALTIN: Yeah, let's just --

COUNCILMEMBER SUGIMURA: And have it . . .*(inaudible)*. . .

CHAIR PALTIN: --enter that --

COUNCILMEMBER RAWLINS-FERNANDEZ: Part of the record.

CHAIR PALTIN: --into the record.

COUNCILMEMBER KING: Okay.

MR. COLE: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. COLE: Okay. So, once again, this is from a letter submitted to the Council on October 3, 2017, I listed the current uses of the property. Uses supporting historic preservation and enjoyment of the Kaluanui Estate include the history museum, free self-guided tours, for-fee-guided site tours, Hui-administrated fundraisers and events, site rental of house and grounds. Uses supporting special arts education include

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Hui-staffed art programs for children, adults, and teachers; Hui-coordinated community-staffed classes; special instruction and open hours for equipment-dependent arts such as photographic darkroom, print studio, ceramics, glassblowing, kiln workshop, 3D printing, et cetera; Hui-administered art exhibitions; Hui-curated art gallery; gift shop; the Artist in Residence program, which is the residential teaching program initiated by Ethel Baldwin. Next category is uses supporting high school education include the Waldorf pilot program classrooms and the Waldorf administrative office. And then there are administrative uses such as the Hui administrative offices and grounds and maintenance facilities.

COUNCILMEMBER SUGIMURA: Okay. Very good.

MR. COLE: And that's the end of the list.

CHAIR PALTIN: Member Lee?

COUNCILMEMBER LEE: Okay. The reason why we didn't need to hear that is because our main concern is that you are in substantial compliance with your submittals and representations. So, you don't have to mention yoga classes, pounding mochi, I mean, you know, those are incidental, yeah, activities. All we're concerned is that you try and avoid the excessive noisemaking and excessive disruption of the community. That's all we're concerned about. Thank you.

COUNCILMEMBER KING: Okay. Call for the question.

COUNCILMEMBER SUGIMURA: Yeah, call for the question.

CHAIR PALTIN: All those in favor of the condition...the revised conditions as amended, say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? All right. Cool. So, we passed that seven --

COUNCILMEMBER KING: That was for the amendment --

COUNCILMEMBER SUGIMURA: Amendment.

COUNCILMEMBER KING: --and then we're --

CHAIR PALTIN: --zero.

COUNCILMEMBER KING: --back to the main motion.

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VOTE: **AYES:** Chair Paltin, Vice-Chair Sinenci, and
 Councilmembers King, Lee, Molina,
 Rawlins-Fernandez, and Sugimura.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: Approved amendment to add conditions of zoning.

CHAIR PALTIN: Back to the main motion, all those in favor?

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed?

COUNCILMEMBER RAWLINS-FERNANDEZ: Of the motion as amended?

CHAIR PALTIN: Of the motion as amended?

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Seeing none, motion...the main motion passes seven-zero.

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VOTE: **AYES:** **Chair Paltin, Vice-Chair Sinenci, and**
 Councilmembers King, Lee, Molina,
 Rawlins-Fernandez, and Sugimura.

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **None.**

MOTION CARRIED.

ACTION: **Recommending FIRST READING of revised bill for**
 change in zoning, RECORDATION of unilateral
 agreement, and FILING of communication.

CHAIR PALTIN: Members --

COUNCILMEMBER KING: Go get your money.

CHAIR PALTIN: --the Chair will --

COUNCILMEMBER SUGIMURA: Let's take a recess.

CHAIR PALTIN: --entertain a motion to recommend the filing of
County Communication 19-95.

VICE-CHAIR SINENCI: So moved.

COUNCILMEMBER RAWLINS-FERNANDEZ: So moved.

COUNCILMEMBER KING: So moved.

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

CHAIR PALTIN: Moved by Vice-Chair Sinenci and seconded by Council Vice-Chair
Rawlins-Fernandez. All those in favor?

COUNCILMEMBERS: Aye.

MR. KRUEGER: Chair? Chair? Excuse me. Sorry to interrupt. I believe County
Communication 19-95 relates to the Waikapu Country Town --

CHAIR PALTIN: Oh --

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MR. KRUEGER: --item.

CHAIR PALTIN: --shoot.

COUNCILMEMBER KING: Communication 19-198.

CHAIR PALTIN: Yeah.

COUNCILMEMBER LEE: Can we pass that too?

COUNCILMEMBER SUGIMURA: We can pass that now too.

CHAIR PALTIN: Sorry, 19-198. Sorry about that.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Yes?

COUNCILMEMBER KING: Good catch --

COUNCILMEMBER SUGIMURA: So moved?

COUNCILMEMBER KING: --James.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is that just assumed to be corrected or do we
revote?

MR. KRUEGER: Furthermore, for clarification, I believe, Chair, the filing of County
Communication 19-198 was included with the motion to --

CHAIR PALTIN: Oh.

MR. KRUEGER: --pass on first reading, the Change in Zoning bill, along with recordation of
the unilateral agreement.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Okay. So, take back that whole vote. Sorry about that, guys.

COUNCILMEMBER KING: We're already done. Okay. We're done.

CHAIR PALTIN: Let's have a quick morning recess and we can come back with Waikapu
Country Town.

COUNCILMEMBER KING: Okay. What time? Ten thirty?

CHAIR PALTIN: All right. So, we'll be in recess 'till 10:30.

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UNIDENTIFIED SPEAKER: Okay.

CHAIR PALTIN: No objections?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: All good. . . .*(gavel)*. . .

RECESS: 10:20 a.m.

RECONVENE: 10:37 a.m.

CHAIR PALTIN: . . .*(gavel)*. . . Will the Planning and Sustainable Land Use Committee meeting of June 19th return to order. The time is 10:37, and next up on the agenda, we have PSLU-30, Waikapu Country Town Project.

PSLU-30: WAIKAPU COUNTRY TOWN PROJECT (CC 19-95)

CHAIR PALTIN: The Committee is in receipt of the following: County Communication 19-95 from me, Tamara Paltin, relating to a new zoning district for the proposed 495.905-acre Waikapu Country Town project in Waikapu, Maui, Hawaii, including related land use entitlements. Members, in summary, what is before the Committee today is a request for a community plan amendment and amendment to Title 19 of the Maui County Code to establish a new zoning district called the Waikapu Country Town District and a Change in Zoning to facilitate the proposed Waikapu Country Town project. Before proceeding, I would like to inform the Committee that we have been working with the applicant on a revised proposed Zoning Code for Waikapu Country Town. What we're doing with this project is we're essentially creating a brand new form code that hasn't been done before by the County. And so, for me, I feel like we're kind of setting the precedent in how it goes, and we wanted to make sure that it was clear and easily understandable for everyone. So, the revised bill is not complete yet but we have scheduled a special meeting for June 26th, at which time I hope to introduce it to the Committee. So, we won't be voting today, just finding out more information and gathering if there's additional conditions that need to be placed on the project. I'd like to introduce Michael Atherton of Waikapu Properties, LLC. And --

COUNCILMEMBER SUGIMURA: Chair?

CHAIR PALTIN: --right in the gallery --

COUNCILMEMBER SUGIMURA: Chair?

CHAIR PALTIN: --and Michael Summers...yes?

COUNCILMEMBER SUGIMURA: Can I ask you a question before you move forward?

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CHAIR PALTIN: Sure.

COUNCILMEMBER SUGIMURA: So, on the new bill is what you're proposing the...is the content of it same, identical to what we have, you're just putting it in some kind of logical order? What was the purpose of that? Just curious.

CHAIR PALTIN: It was a...it's a brand new form-based code. So, we're kind of setting up the precedent of how form-based code zoning is done in Maui County. There's a portion on here that I want to talk about that will cover that coming down a little bit more if...

COUNCILMEMBER SUGIMURA: Okay.

COUNCILMEMBER KING: Chair, just point of order. Because there...it doesn't say on the notice that there will be no legislative action, so I think we have to leave the possibility that the body may want to take legislative action.

CHAIR PALTIN: Okay. If you want to, we can.

COUNCILMEMBER KING: Yeah. And then just also I have a question about if you're using a new...are you creating a new County Code ordinance with this? I'm not sure what's going on here. So, maybe the --

CHAIR PALTIN: Okay. I...

COUNCILMEMBER KING: --Director...'cause I'm not...

CHAIR PALTIN: . . .*(inaudible)*. . .

COUNCILMEMBER KING: Because if we do...if we are doing that, then that's a different proposal type. And so, maybe the --

CHAIR PALTIN: This is a --

COUNCILMEMBER KING: --Director could...

CHAIR PALTIN: --different type of proposal.

COUNCILMEMBER KING: Yeah.

CHAIR PALTIN: . . .*(inaudible)*. . .

COUNCILMEMBER KING: So, maybe the Director can speak to that, Planning Director?

CHAIR PALTIN: Sure.

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MS. McLEAN: Thank you, Chair. This is a Change in Zoning but it's changing a zoning to a brand new zoning district that doesn't exist right now similar to a project district. So, the Council's action today, there's also community plan changes. So, rather than a community plan amendment and a Change in Zoning like you just saw with the Hui No'eau, you have the community plan amendment then you create the new zoning district and then you change the zoning to this new zoning district.

COUNCILMEMBER KING: Okay. But is that something we can do under what's posted today?

MS. McLEAN: That's been the --

COUNCILMEMBER KING: Creating...

MS. McLEAN: --proposal all along.

COUNCILMEMBER KING: Creating --

MS. McLEAN: So...

COUNCILMEMBER KING: --a new zoning district?

MS. McLEAN: Yes. Yes.

COUNCILMEMBER KING: Okay.

MS. McLEAN: That's been the proposal from the beginning through Planning Commission and as transmitted to you.

COUNCILMEMBER KING: Oh, okay. I didn't see that. Where is that specified in the --

MS. McLEAN: On the agenda --

COUNCILMEMBER KING: --agenda?

MS. McLEAN: --it's the...it's item 2.b., A Bill for an Ordinance Amending Title 19, Relating to Waikapu Country Town. And the purpose of the bill is to amend Title 19 by adding a new chapter.

COUNCILMEMBER KING: Okay. And is there some reason that we can't do both today, add the new chapter and then change the zoning?

MS. McLEAN: I...in terms of how the agenda is posted, I, as you mentioned, I think that's possible but it's the Chair's...whatever the Chair's intent --

COUNCILMEMBER KING: Okay.

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MS. McLEAN: --may be.

COUNCILMEMBER KING: Okay.

MS. McLEAN: The agenda allows for that and --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --all that information is properly before you.

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

CHAIR PALTIN: Member Lee, you had a question?

COUNCILMEMBER LEE: Yes. Thank you, Madam Chair. And this may be a question for Corp. Counsel and for the Director. Unless things have changed, creating a new zoning would require review by the planning commissions, all of them, before coming back to the Council for final approval. So, is this one of those cases or this is some kind of hybrid I never heard of?

CHAIR PALTIN: Mr. Rapacz, if you wanted to...

MR. HOPPER: Yeah. Okay.

COUNCILMEMBER LEE: Yeah.

MR. HOPPER: I can --

CHAIR PALTIN: Oh.

MR. HOPPER: --comment too, or if Mr. Rapacz had a comment. But yeah, the Planning...the Maui Planning Commission did review this. The zoning district specifically applies only on Maui. So, for this zoning district, similar to the Maui Research and Technology Park expansion, which happened several years ago, that was reviewed by the Maui Planning Commission as the appropriate planning commission because it was similar to a project district related to land that only exists in Maui. And so, similar to a project district, you create a custom zoning in Title 19 of the Code. But this is a bit different because there were some issues I believe that the Planning Department had with the project district processing in the past. But you will...you would have a record of the Planning Commission, its recommendations that it sent to you as part of this. So, if you needed to reference that, you could. But the Maui Planning Commission has reviewed this and provided its recommendation and comments to you.

COUNCILMEMBER LEE: My understanding is that any new chapter to zoning, yeah, was that Title 19, would require review of all planning commissions, not just the Maui Planning Commission.

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MR. HOPPER: Not if it's...applies specifically to land that is only in Maui County. This is a custom zoning district...

MS. MCLEAN: Maui Island.

MR. HOPPER: Or Maui Island, sorry. So, in this case, similar to a project district, which in those cases are not reviewed by every planning commission even though that is a change to the Maui County Code, Title 19, that is reviewed by only the Maui Planning Commission if it relates to land in Maui County only.

COUNCILMEMBER LEE: Is this new planning --

MR. HOPPER: In Maui --

COUNCILMEMBER LEE: --zone...

MR. HOPPER: --Island, sorry.

COUNCILMEMBER LEE: Okay. Is this required in order to pass the other part of the application?

MR. HOPPER: Absolutely, because the Change in Zoning is to this zoning district. So, if this district doesn't exist yet, the Change in Zoning can't go here. This would be a zoning district that doesn't exist yet.

COUNCILMEMBER LEE: Okay. So...and this is on the agenda? Not on the agenda?

CHAIR PALTIN: I --

MR. HOPPER: Yeah.

CHAIR PALTIN: --wasn't finished but I guess everybody wanted to know. It's basically a new way to format the bill because it's this project, form-based planning code, which we haven't done before. And the way that the bills came to us, it wasn't clear. And so, because we have now John Rapacz as our Legislative Attorney who's very familiar with this, he's working with the applicant to make it more clear and understandable for us. But coming off the Budget and the HSAC, we weren't able to get it ready for today. We just got the cultural plan last night. I'm not sure if you've read all the books.

COUNCILMEMBER LEE: Oh, of course, I did, yeah.

CHAIR PALTIN: I know each Member only got the disc copy. And so, we've asked for the hard copies for all the Members. Because, you know, in my precursory review of just book one, Long Range Division, project database submitted March 6, 2018, for me, I came across, you know, hotels. And I've been to many presentations of this project and I've gotten many feedback that people support this project. And then when I

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asked what about the hotel, nobody knew about the hotel. So, you know, I'm just saying that this is a very serious project. We're setting a precedent with this new format. And I think that we need to take it serious as a new Council. There's 500 acres that are being urbanized, thousands of people going to be living here, and I think we really need to do the due diligence and read through the materials. If there's just questions that what this format is, what this new project-based zoning code is, I'm not certain that Members are ready to vote today because I mean, have we read the agenda?

COUNCILMEMBER LEE: Well, I think, Madam Chair, we were ready to vote on the project itself and not any new mechanism that we just heard of now. And I'm not sure how this works where we review the project for the second time, but for many of us, we've seen presentations like 10 and 12 times, and then we go to discuss the enabling legislation for this application. Normally, you do the review of the enabling legislation first, then the review of the application as it fits with the new enabling legislation. What my understanding is, the hotel has been removed from the project. And so, if that was the concern, we no longer have a need for this other enabling legislation. Is that correct, John?

MR. RAPACZ: Thank you, Madam Chair. No, that's not my understanding, and I would agree with Corporation Counsel and Planning Director that I think it's probably easiest to think of this as being similar to a project district. And first you need to or at least in this case, create the new chapter so that there will be such a code, such a chapter in the Code for Waikapu Town, and then do a Change in Zoning from the existing zoning districts to that new zoning. So, I think that would be the proper procedure for this.

COUNCILMEMBER LEE: Well, didn't I just say...give you that order, enabling legislation first and then the application? So, you're saying it's the reverse? We review the application first --

MR. RAPACZ: Well...

COUNCILMEMBER LEE: --and then we review the enabling legislation?

MR. RAPACZ: Right. I think if we're talking about application for the Change in Zoning, that has to happen second. First, you have to create that type of zoning, then you review the application to change from the existing to the new type. I think you've been discussing so far the project itself, not the actual language of the Zoning Code that will apply to this project. And that's the phase that we're at now and we're looking at the specific language, meeting with the applicant later this week and hoping to propose or have language that is a little more user-friendly is what we're looking for especially since this is a form-based type of zoning code, which is a new concept for us. We wanted to be sure that it is user-friendly and easily understood.

COUNCILMEMBER LEE: Okay. I still don't understand that. One last comment, one last comment --

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CHAIR PALTIN: Yes.

COUNCILMEMBER LEE: --Madam Chair. Is...I don't believe that all of us need to read every single page of the application, meaning the Environmental Impact Statement or Assessment, or any of the studies, the traffic studies and so forth in order to make a decision on this project. And that is...

CHAIR PALTIN: Yeah, we're not ordering the hard copy of the Environmental Impact Statements, just the applications.

COUNCILMEMBER LEE: Okay. And a lot of us rely on the summaries to the applications and the expertise of our directors of every department. It's their job to have a clear and comprehensive understanding of their portion of the application. And that is why we rely on their expertise. I hope you don't fault any of us or me in particular for not reading every single page of that application. Because if we did, we'd still have to come back to the departments for clarification. So, I just needed to say that. Thank you.

CHAIR PALTIN: Sure thing. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I think many of us are very supportive of this project and would like to see it happen, you know, as soon as possible. But I know, I mean for me, I know you've done the most work out of all of us. And as our Chair, I would follow your lead particularly since this new form code is new and it doesn't sound like all of us have reviewed it. And I know that the devil sometimes can be in the details and I know you have been reading every page. And so, I would like to follow your lead as Chair. And if the decision is to hold off the vote today because we already have a meeting scheduled for next week --

CHAIR PALTIN: Twenty-six.

COUNCILMEMBER RAWLINS-FERNANDEZ: --Wednesday, that that's the intention and that's the plan that I would, you know, stick with as our Chair. Mahalo.

CHAIR PALTIN: Yeah, so my intention, I think the Water and Wastewater can't be here next week, so I wanted to go over that. My issue is, you know, if we just go off of what all the presentations the community have been, then we would have never known about the hotel being included as a zoning part of this project district. And after all of the testimony that we heard yesterday, I don't think that's part of what it was. And so, you know, I mean if you don't want to read it all...I...you don't have to, I'm not your boss. But I think that it's important for us and the scale of the development and the newness of the code that we...our public deserves to feel safe that what was represented in presentations throughout the community is written down and the two match. So, that's my concern. Also that all questions and issues have been exhausted. I don't feel comfortable voting today being that I just received the cultural plan yesterday, last night. And, you know, I feel that as part of our due diligence, we

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should know exactly what we're voting on here because of the size and magnitude. And I don't mean to say that I don't think it's a good project, I think it's a good project. I just, you know, maybe have some nightmares that we passed this, this big hotel gets built, and then the public is all like, hey, what happened, why are...why is there a hotel in Waikapu now, you know. So, I'm just saying that we need to make sure that everything that was represented orally and presented is what's written down, and the two match each other. And everybody likes what was presented orally to the community. So, I think it's our responsibility to make sure that what was presented orally is also presented in writing. That's pretty much it. Yes --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo --

CHAIR PALTIN: --Member --

COUNCILMEMBER RAWLINS-FERNANDEZ: --Chair.

CHAIR PALTIN: --Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Also, I think it's a really good point 'cause the cultural plan, which was submitted last night, I did get an opportunity to review it, and I think it's fabulous, and I'd like to see it as a condition of this project as well.

CHAIR PALTIN: Yeah, I think that's a good idea. Member Molina?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. I appreciate that well one, first, you've established a potential recess date for this matter. But I'm like some of my colleagues, I'm open to taking action today. And as we all know, Committee is just one of three steps. During my previous tenure on the Council, we've taken action on a particular project in committee, then prior to first reading, then we...if a flaw has been discovered, then it's recommitted back to committee for further review. So, we have that flexibility as well to what, you know, upon this revelation of now we want to take a different approach with this new chapter that we're looking at and rewriting of the bill, you know, that does come at somewhat of a surprise. But, you know, the applicant has been waiting for some time now and, you know, time is money for all developers with any particular project. So, I'm hoping that things don't get prolonged too much if say we don't take action. But I'm hoping that at the very least, we take action by next week Tuesday [sic] because, you know, I...from what I see of the project, I'm okay with it. But again, you know, the Committee is just the first of three steps. So, if we did take action today or next week, then, you know, we have some time to review any potential flaws and if we have to send it back to Committee, so be it, but which I hope it does...that doesn't occur. So, okay --

CHAIR PALTIN: Yeah, I...

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COUNCILMEMBER MOLINA: --we'll see --

CHAIR PALTIN: It wasn't...

COUNCILMEMBER MOLINA: --how it proceed --

CHAIR PALTIN: I...

COUNCILMEMBER MOLINA: --today.

CHAIR PALTIN: I...the last thing I want to do is get to the Council level and send it back to Committee. I think that would be like a big waste of time. And so, that --

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: --that's not my intent whatsoever.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER KING: Thank you. So, I just...I heard from the Planning Director that this...that the Planning Commission recommendation was to change the zoning to this new zone code. We don't...I don't see anything on Granicus from the Planning Commission. Do we have the Planning Commission's report that talks about this new code and why would they refer to the new code if hadn't been written yet? I mean because the Planning Commission meetings happened a while ago, and some of us, you know, I appreciate all the work that our Committee Chair has done but some of us have been working on this for a couple of years now. We've been looking at it for the last couple of years and reading the plan and meeting with various people about different aspects of it. So, if the...if it passed through Planning Commission previously with the recommendation that the zoning get changed per a new code, where was that recommendation? I mean this is the first time hearing about having a different zoning code.

CHAIR PALTIN: Director?

MS. McLEAN: Again, this has been the applicant's proposal from the beginning. And actually, if I could just make a correction, the Maui Research and Technology Park also now has a form-based code. So, a similar thing happened a few years ago where a new zoning district was created for the Maui R&T Park with a form-based as its foundation, and then the zoning was changed to that new zoning district. And that's what this applicant has proposed all along. Rather than a project district, which you're a lot more familiar with, they created this new zoning district instead. It's not a project district but it is tailor-made to this project.

COUNCILMEMBER KING: Okay. But --

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MS. McLEAN: And so --

COUNCILMEMBER KING: --we're hearing --

MS. McLEAN: --that went...

COUNCILMEMBER KING: --that this is a new process and it's apparently been done before.
So...

MS. McLEAN: It has --

COUNCILMEMBER KING: But --

MS. McLEAN: --been done --

COUNCILMEMBER KING: --why is it --

MS. McLEAN: --before.

COUNCILMEMBER KING: --so difficult to get a revised...the revision for the form-based code for this...I'm just wondering why we're just looking at this form-based code change now because if they asked for it and they've been working on this project for 11 years?

MS. McLEAN: This is what has always been in front of the Committee. This has been in the transmittal from the beginning. The Planning Commission did review it and that transmittal should be in Granicus that created the item in Committee when we transmitted the Planning Commission's recommendation to the Council on the --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --Committee...

COUNCILMEMBER KING: But we are hearing that we're not ready to do that, but you're saying that this has been the request from the beginning. So, I'm...there's a little bit of a disconnect between, you know, why our Chair is just...is not...had the revisions for this form-based planning code for this project before now and we're still working on that.

MS. McLEAN: Well, this is...it is a very complex process. Creating a new zoning district is a big deal, and a form-based code on top of that makes it a lot more complicated. It's not something we're used to seeing. As far as the process goes, the process went the way it's supposed to go. So, everything was sent to the Council and that's before you and is ready for your action. I don't want to speak for the Chair but I think because this is a big project and it is an atypical zoning district, the Chair wanted to spend more time going through it to make sure that I's were dotted and T's were crossed and all that. So --

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COUNCILMEMBER KING: Okay. No, I appreciate...

MS. McLEAN: --what was...

COUNCILMEMBER KING: Yeah, I appreciate that and I appreciate the attention to the detail. But I heard from our Chair that we're not ready to take action on this and you're saying that everything is in here to take action. So, which is it?

MS. McLEAN: From the Planning Department's perspective procedurally, the Committee could take action today. But I think from the Chair's perspective and perhaps the Committee Staff's perspective, they want more time paid to the new zoning district and --

COUNCILMEMBER KING: Okay. So, you have --

MS. McLEAN: --they may not be ready to recommend.

COUNCILMEMBER KING: --a document with the new zoning district but there's some revisions that need to happen to it. Is that where we're at or --

MS. McLEAN: That's --

COUNCILMEMBER KING: --today...is that...

MS. McLEAN: --what I understand --

COUNCILMEMBER KING: Is that where we're --

MS. McLEAN: --the Chair's --

COUNCILMEMBER KING: --at, Chair?

CHAIR PALTIN: Yeah --

MS. McLEAN: --intent is.

CHAIR PALTIN: --basically, we received this huge box of EA, EIS, and...or applications the week before the Budget started. So, we did a quick and dirty look at it in that one week, and then we switched gears to the Budget for couple months, then when the Budget came out, we started looking back at this. And so, we had presentations and we're looking at...through the books, looking through the books, then we had HSAC. And so, now that we felt confident that we went through the books and we understand the project, then we're bringing it to you. Because of the form-based zoning and the structure that it was in, we felt it wasn't as clear as it could be, and we're working with the applicant to make it clear because it sets a precedent as far as residential uses with this form-based code. I mean if...the Research and Technology Park isn't exactly

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a living subdivision. So, you know, I think the main thing is like now that the hotel issue has been identified, when we come back with the revised form-based code, we can just leave the hotel out if that's something that has been agreed on, but we haven't even gotten there 'cause we're still discussing what form-based code means.

COUNCILMEMBER KING: Well, no, I think I understand what form-based code is but if this has been the request from the beginning, I'm just...I don't understand what revisions that we're waiting on. So, maybe you can explain what your revisions to the new zoning district that was proposed by the Planning Commission and to the specific form-based planning code that this project is going to, you know, has been asking for. So, what are the revisions that we're waiting on to take action?

CHAIR PALTIN: I'll defer to John Rapacz at this time.

MR. RAPACZ: Thank you, Chair. The revisions are primarily structural. There are no substantive changes to the content of the code. If you folks have looked at it and spent any time with it, I think you may find that it takes quite a while to understand how it works. That's the situation I found myself in in reviewing it, having to reread it several times to understand how the code works, how individual subdivisions and/or building permits would be approved through this code. And so, I thought that if I was having difficulty with it, other folks might be as well, and that it was worth spending the time to restructure it in a way that it's much easier for everyone to follow, for the public to follow, for the Councilmembers to understand it, for the folks who are going to have to process subdivisions and building permits to understand it. It introduces some new concepts like a lot type concept that don't exist in our Zoning Code and I still...Staff still has questions about how that works. And that's why we had arranged to meet with the applicant, with Mr. Summers, and walk through to be sure we understand what it does and resolve some other particular issues with the language about the applicant's intent. How do they want this to work? 'Cause there were areas that were, some specifics were unclear in addition to the just sort of general need for more user-friendliness. But I agree, procedurally, it's on the table before you and could be voted on.

COUNCILMEMBER KING: Okay. Chair, maybe we could have Mr. Summers come down and just kind of from his...from the developer's perspective, how, you know, how the...

CHAIR PALTIN: Basically, you know, the applicant has said that the Water and the Wastewater folks won't be available next week, and then we have one hour left in this meeting time. So, if we don't make use of their time, then we won't be doing it and I will not recommend it, for us to vote on it if we can't ask the questions that need to be asked of those parts. So, I mean we can talk about this form-based code...

COUNCILMEMBER SUGIMURA: Let's proceed.

CHAIR PALTIN: Yeah --

COUNCILMEMBER SUGIMURA: Yeah --

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CHAIR PALTIN: --I --

COUNCILMEMBER SUGIMURA: --let's proceed.

CHAIR PALTIN: --basically, I'd like to proceed --

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: --with the meeting. Yes, Member Lee?

COUNCILMEMBER LEE: I'll make it really fast. So, the Planning Commission, Director, passed this for a recommendation for approval with the form-based code included in the application and discussion, and they got it, they understood it?

MS. McLEAN: They did pass it forward. I assume they understood it but they, yes, they considered the whole package that's in front of you and --

COUNCILMEMBER LEE: Okay.

MS. McLEAN: --recommended approval.

COUNCILMEMBER LEE: So, the problem here is that our Staff doesn't understand it?

CHAIR PALTIN: In my opinion, the problem is that there is too much left up to individual interpretation. And just from the past few meetings I've had in the last six months I've been here, I think that's a big problem when there is too much left up to individual interpretation. So, we want everything to be real clear. Similar to what the applicant did, he did all his work in the upfront. I want to do all our work in the Committee so that it sails through the Council. I don't want there to be anything left up to subjective interpretation.

COUNCILMEMBER SUGIMURA: Let's proceed.

CHAIR PALTIN: Ms. --

COUNCILMEMBER RAWLINS-FERNANDEZ: Let's move forward.

CHAIR PALTIN: --Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, it's your meeting, and I'll...let's move forward with meeting with Wastewater and the Water today.

CHAIR PALTIN: Okay. Thank you. So, at this time, I guess skipping ahead with all that, I'd like to invite Director Eric Nakagawa and Deputy...if the Deputy is here, Shayne Agawa, to the floor and ask them to give any opening comments, and then I will entertain questions and discussions for Environmental Management.

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MR. NAKAGAWA: Aloha, Chair. Aloha, Members. Opening comments, we've had the privilege of meeting with the wastewater consultants and design engineers for this project. We feel that, I mean it's a private treatment plant for their...they plan to, my understanding, is they plan to reuse all the water. They have 800 acres of greenery area. Their technology is pretty much the same as what we have except for their activated or their biological process. They utilize plants and that kind of stuff. So, it's a combination of kinda what we like to call future technology with older technology, combined it. And...but other than that, I mean I think it's in a way no different than what we have now except for the aesthetical...aesthetics, I guess. As far as the plants, they utilize plants to help with their biological process. So, I mean I've...I know the Chair has requested some questions of pros and cons, which we've provided for her, and the...I mean other than that, it's kind of more operational, kind of looking at it as far as if we were, the County, was to take, kind of take over it, that's kind of the concerns we might have where there's operational maintenance, that kind of stuff. But overall, I mean I don't think it's bad or worse, or good or better than what we have now.

CHAIR PALTIN: And sorry, would and...the wastewater folks from the applicant like to come down on the floor to answer questions as well? Mr. Parabicoli?

MR. PARABICOLI: Good morning, Chair and Councilmembers. Steve Parabicoli from Mana Water. Some of you may remember I worked for the County for over 30 years with Eric and in the Wastewater Reclamation Division. I joined Mana Water in 2015 after retiring. So, I'd be happy to answer any questions you have about the system or provide a brief description of the process if you'd like.

CHAIR PALTIN: Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. Nice to see you. I...just curious. So, the project will keep this wastewater system private? It's not going to be turned over to the County at all?

MR. PARABICOLI: That's the plan, yes.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR PALTIN: Ms. King?

COUNCILMEMBER KING: Thank you. Thanks for being here, Mr. Parabicoli. So, can you just maybe give a brief description...I mean I looked at...I saw some of the models that you were trying to replicate as far as the biological process. And to me, it did look different from what the County is doing. It looks a lot better because of the, you know, the natural processes you...I thought it looked almost more like a greenhouse than a wastewater treatment facility. But maybe you could just briefly go over the differences and why you chose the process that you chose.

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MR. PARABICOLI: Well, essentially, the preliminary treatment is pretty much the same where you have screening and grit removal, you know, remove that material upfront. The main difference is in the biological treatment or the secondary treatment. It's essentially a hybrid system. The County currently uses activated sludge, which is basins that have aeration on the bottom, and fine bubbles migrate up and mix the incoming wastewater with the biological microbes that treat the wastewater, the bacteria, the protozoa. And also the aeration provides dissolved oxygen to keep everything aerobic. With the system we have, it's developed by a company called Organica Water from Europe. It's a...you have a basin with aeration on the bottom. The difference is you have tropical plants that are rooted on the top in planters, the roots extend down into the wastewater and primarily to provide habitat for beneficial microorganisms to attach and grow. And below the roots and in between the roots, you also have an engineered media, which provides additional habitat for beneficial microbes to grow. So, essentially, you have about four times as many microorganisms as you would have in a conventional activated sludge system. This means you can make the treatment plants a lot smaller. So, you... 'cause you have a much more intensified treatment experience going on. Additionally, because of the very loose spatial matrix of the roots and the engineered media, the oxygen transfer is much, much more efficient. This allows about 30 percent reduction in power cost. And you mentioned the greenhouse effect, it's... that's exactly what it looks when you're walking through these systems, there's really no odor. You feel like you're walking through an arboretum. And aesthetically, you know, when I was with the County, I was the Water Recycling Program Coordinator, I gave countless tours and education to the community. And this is... this yuck factor, people just look at this brown water and they just get grossed out quite frankly. In the Organica system, you don't get that feeling. You feel like you're in a greenhouse or an arboretum. And aesthetically, I feel it's superior. So, you can basically place these systems just about anywhere. There's about 110 installations worldwide now, mostly in Europe and Asia. And they place these treatment plants right next to subdivisions, in the middle of intersections. They blend in very, very nicely with the urban environment, and produce a high-quality effluent, you know, where our goal is to make R-1 water --

COUNCILMEMBER KING: Okay.

MR. PARABICOLI: --and, you know, reuse all this water for agricultural irrigation.

COUNCILMEMBER KING: Okay. Thank you for that explanation.

MR. PARABICOLI: You're welcome.

COUNCILMEMBER KING: Great. Thanks.

CHAIR PALTIN: So, I have a couple questions if Members are through.
Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Quick question.

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CHAIR PALTIN: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: I was wondering if either you or the Director would be able to comment on the facility being relocated more toward the TMK boundary?

MR. PARABICOLI: I think that's being considered. There is potential that the developer could partner with the County perhaps in the future to accept flows, wastewater flows, from other areas. And I think the developer has met with the Mayor to discuss that possibility, yeah.

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

CHAIR PALTIN: Sure. Any further questions from the Members? Okay. I got a couple. So, it looks like the design relies on extensive automation, DO sensors, SCADA system, et cetera, which over time if not properly maintained could result in system failures. Is there anything set up so that there will be maintenance even like say if they contract out operations of this facility?

MR. PARABICOLI: Well, yeah, what you're talking about is a SCADA system, which is routinely a system that most treatment plants utilize. The County utilize these systems. So, certainly, there will be qualified contractors available to maintain the system. But Organica Water actually remotely supervises all of their facilities on a continuous basis and provides their expertise to ensure that the monitoring systems operate as designed.

CHAIR PALTIN: And then I understand that these tanks are deeper and that the cartridges need to be removed. So, you have like a crane to remove the cartridges that --

MR. PARABICOLI: Well --

CHAIR PALTIN: . . . *(inaudible)* . . .

MR. PARABICOLI: --the cartridges that you're talking about are the engineered media. They are a little bit deeper than conventional activated sludge plants. They don't routinely need to be removed. They last about 20 years, and then after that, you would replace them. And, you know, typically, a crane would probably be the best way to do it. You know, and in some cases, if you just need to lift them, you can just use what's called a gantry. But for total removal, I would suggest a crane would probably be the best way to go, correct.

CHAIR PALTIN: And so, is that necessarily to when you situate the plant so that the crane would have access to those cartridges?

MR. PARABICOLI: Right. The plants are arranged in a way to allow easy removal of the cassettes, I guess you'd call them, yeah.

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CHAIR PALTIN: Okay. And it sounds like the plant growth will be rigorous and require operators to spend much more time trimming and replacing plants than a typical facility...will there be a need to frequently haul green waste offsite?

MR. PARABICOLI: Well, there will be occasional pruning of plants. I wouldn't consider it rigorous. But just like any garden, you need to remove all growth. And it's not something that needs to be done every single day. It's probably every couple weeks, three weeks or so. You just trim them back as needed. And certainly, there'll be some green waste. You know, but it's kind of an exchange, you know, that's a pro and a con. What...you look at all the pros associated with this system, and I think there are many, the energy sustainability in particular, the ease of operation. I think from what I have seen, you know, I went to Hungary twice now and talked to the operators, and the operators are seasoned veterans in this field. They've worked with both activated sludge and this system. And they told me that the Organica systems are much easier to operate than activated sludge.

CHAIR PALTIN: And...

MR. PARABICOLI: So, it's a trade-off. Yeah, that you do have to trim the plants. That would be part of operational duties but not excessive.

CHAIR PALTIN: What if all the plants were to die off, would there need to be a source of new plants or would that be a problem if the plants die?

MR. PARABICOLI: It's not something that normally happens. There would be an occasional need to replace plants from time to time but they're...the plants we will be using are all locally available. So, when I went to Europe, you know, they grow them in greenhouses 'cause it's colder there, you know, in the winter. But here in Hawaii and other tropical climates that use this technology, they just have shading structures. But the plants that I noticed were things that, you know, I've got growing in my property in Haiku. They're all local, stuff that we've already got. So, they're readily available plants. And we have an established relationship with a local plant vendor here in...on Maui to be a source of plants if we need them.

CHAIR PALTIN: So, there is no concern that the facility might produce off-spec water while the plants are changed out or anything?

MR. PARABICOLI: Well, most of the biological mass that treats the wastewater is actually locked up in the engineered media. The plants, the root zones probably provide about maybe 20 to 25 percent at most of the biological treatment, whereas the engineered media has most of the growth on it itself. So, a change again on occasional plant or two will have really no impact on treatment.

CHAIR PALTIN: And my last question, I was uncertain if these facilities are designed to accommodate peak wet weather flows when large storm events occur?

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MR. PARABICOLI: Actually, they're very well-suited because unlike activated sludge where if you had a big inrush of flow, a lot of your sludge will wash through the aeration basins, and then into the clarifiers and possibly overflow the secondary clarifiers and out with the effluent. An advantage of this system is that most of the biological matter is actually locked on to the plant roots and the engineered media and actually withstands peak wet weather flows quite well.

CHAIR PALTIN: Okay. Cool. Any further questions? No? And you think it's the right size for this development? Would other developments in the area be able to hook up to your system?

MR. PARABICOLI: Well, this plant is being designed for 650,000 gallons a day to handle the wastewater flow from Waikapu Country Town; however, it is modular. So, if additional developments were to tie in, then we would just need to add some more reactors. And then, you know, just, you know, add as needed.

CHAIR PALTIN: Okay.

MR. PARABICOLI: Yeah.

CHAIR PALTIN: Thank you very much.

MR. PARABICOLI: Okay. You're welcome. Thank you.

CHAIR PALTIN: Thank you, Director Nakagawa.

MR. NAKAGAWA: Thank you, Chair.

CHAIR PALTIN: So, I think, you know, being that the Water person won't be able to make it next time, I'll bring down Ms. Eva Blumenstein. And, Mr. Summers, I'm not sure who your corresponding water consultant is.

MR. LUM: Good morning, Madam Chair --

CHAIR PALTIN: Good morning.

MR. LUM: --and Members of the Committee.

MR. ATHERTON: I'll say something, Dan. Excuse me, Dan. When we get to the water here, there's three aspects of water on this project. We have potable water. I am proposing a dual water system. So, we'll have ag water or ditch water or water we use for all our landscaping and the agricultural component, and then we have the water we draw from the actual ditch, the Waihee Ditch. And those are the three different components of water. Dan is my hydrologist who did the potable water where we drilled three wells in the Waikapu Aquifer, and we'll be using potable water only for potable uses, and the ditch water and well water, ag well water, will be mixed with the effluent blended

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together at the plant, and we will use that on all our landscaping and our agriculture area. Dan?

MR. LUM: Thank you, Mike. I'm a consulting geologist and hydrologist since 1989. Prior to that, I retired with 29 years of experience with the Water Commission and the Department...State Department of Land and Natural Resources as the head hydrologist and geologist. The water, as Mike said, is taken...will be taken from the Waikapu Aquifer system. That system has been established with a sustainable yield of 3 million gallons per day by the State Water Commission. The two wells, Wells 1 and 2, were drilled into the basalt aquifer. And the geology of that area is you have...as you look toward the interior of the area, that's all basalt, and that's the so-called flank flows, very permeable and they yield water readily to wells. And Wells 1 and 2 were drilled into that. In the lower slope, gently sloping coastal plains, that's all alluvial material, eroded material from the basalt area that got deposited in essentially a delta form, which you have pretty much everywhere on the mainland. The alluvium is less permeable. It actually forms a cap rock in many instances, and it does so here. And Wailuku Stream is cut into the top of this alluvial material. And so, the Waikapu Stream is not affected by the development or will not be affected by the development of the wells, which is basal water that stands 8 to 15 feet above sea level while the Waikapu Stream, when you go to the interior, it's more than a 1,000 feet elevation, and by the time it reaches the highway, it's still about 3 to 400 feet above sea level. So, there's complete separation between the two, the basal wells and Waikapu Stream.

CHAIR PALTIN: Thank you. Ms. Blumenstein, did you have any comment off the top? Has dual water systems been used that you know of in the County?

MS. BLUMENSTEIN: Thank you, Chair. No, we had asked that the system be developed to Department's standards even though it's going to be operating as a private system in case there'll be some dedication to the County in the future. That is a dual system, it has benefits because it would offset some of the non-potable . . . *(inaudible)*. . . using alternative sources. So, we're in favor of that.

CHAIR PALTIN: Okay. And you guys have experienced dual systems here in Maui County?

MS. BLUMENSTEIN: There's a few, rare, but we have a few examples, yes.

CHAIR PALTIN: Okay. Members, I'll open it up to questions. Mr. Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. You mentioned something about the Waihee Ditch. Does that have anything to do with diversions from existing water sources?

MR. LUM: I was not involved in the surface water development, and Mike Atherton could answer that question. I was strictly involved with the basal wells.

VICE-CHAIR SINENCI: The ditch system, Mr. Atherton?

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MR. ATHERTON: Okay. Dan was our hydrologist and worked on Wells 1, 2, and 3, which is the Waikapu Aquifer and potable water. He took care all the quantity and the quality and all the testing and everything we did there. The Waihee Ditch is water we use for our ag component, and that is our primary source for water now. And --

VICE-CHAIR SINENCI: Existing.

MR. ATHERTON: --I've been working with the Na Wai Eha and Hokuao for many years, and we have an understanding on how we will go forward with Waikapu Town and with the condition of the ditch. And then we have a backup where I have groundwater rights in the old Kahului Aquifer, which is semi brackish water but good for ag, and then we can blend that with the effluent from the plant. So, to answer your question is we still use the ditch water and --

VICE-CHAIR SINENCI: Okay.

MR. ATHERTON: --primarily we don't draw off the Waikapu Stream. I had an understanding with Na Wai Eha that we would draw only on the Waihee side, which has a lot more water.

VICE-CHAIR SINENCI: Okay. Thank you. A follow-up, Chair.

CHAIR PALTIN: Sure.

VICE-CHAIR SINENCI: One of the testifiers mentioned something about possibly bottling water. Is --

MR. ATHERTON: No.

VICE-CHAIR SINENCI: --that part of the plans to have a bottling water --

MR. ATHERTON: No.

VICE-CHAIR SINENCI: --operation?

MR. ATHERTON: No, I'd say that's another rumor like the hotel. I've never talked about bottled water or bottle watering plant. We have no plans for that.

VICE-CHAIR SINENCI: Okay. Thank you.

CHAIR PALTIN: And just a follow-up to that, you would be willing to have that in writing in the...

MR. ATHERTON: No problem.

CHAIR PALTIN: Okay. Right on. Thanks. Members? Ms. Sugimura?

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COUNCILMEMBER SUGIMURA: So, I'm just curious, is then your neighboring system, the Wailuku Water Company, when you...as you put this together, the Wailuku Water Company is completely separate from what you're doing with your town...Waikapu Town project?

MR. ATHERTON: Yeah, we currently buy our ditch water from the Wailuku Water Company.

COUNCILMEMBER SUGIMURA: Oh, you do.

MR. ATHERTON: And they give us a rate of 55 cents per thousand gallons which has been locked in for quite a few years, which helps us substantially make the agriculture component work. That's a good price for water in today's world. So, if that system does get acquired by the County and I hope it does, I support that idea 100 percent, then we will be buying ditch water from the County and working with Maui County if that transaction takes place. So, in the meantime, we're Wailuku Water.

COUNCILMEMBER SUGIMURA: Okay. In the meantime --

CHAIR PALTIN: Member...

COUNCILMEMBER SUGIMURA: --you're...I'm sorry.

CHAIR PALTIN: Oh, yeah.

COUNCILMEMBER SUGIMURA: In the meantime, you're...what did you say, you're Waihee Water or did you say Wailuku Water?

CHAIR PALTIN: In the meantime, he's using from Wailuku --

MR. ATHERTON: Yes.

CHAIR PALTIN: --Water Company.

COUNCILMEMBER SUGIMURA: Okay.

MR. ATHERTON: Well, there's a lot more water in Waihee than Iao than there is in Waikapu. So, I have an understanding with the Na Wai Eha folks that we only draw just enough water from the Waikapu Stream for our cattle, and it's a small amount. And the bulk of our water, we draw from the ditch, and it comes from Waihee and from Iao. We're the largest users on the system I believe.

COUNCILMEMBER SUGIMURA: For Wailuku Water Company.

CHAIR PALTIN: Okay. And I just had a few questions based on my reading. Will there be a monitor well?

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MR. ATHERTON: There was a monitoring well but we abandoned the monitoring wells. In the beginning, we had an idea to put...to get the ag water from the Waikapu Aquifer, and the Water Commission didn't agree. So, we went for our ag water to the Kahului Aquifer, which is across the highway and down a ways, and we abandoned those wells that we used for experimentation and for monitoring when we did our testing.

CHAIR PALTIN: Okay. So, is that the March 24, 2016 letter from OHA where it says how will the wells affect Waikapu Aquifer and surface water stream wells? Those wells have been abandoned is what you're saying?

MR. ATHERTON: Yeah, the ones we were...we drilled Wells number 4, 5, and 6, we abandoned those. And we only kept Wells 1, 2, and 3. And Wells 1 and 2 are the ones we use for potable water, and Well 3 is a backup well.

CHAIR PALTIN: Okay. So, two more questions, in book three of four of the application, January 7, 2016 letter to Joanna Seto of DOH, it says three wells for potable use approved by CWRM, total pumping capacity of 2,300 gallons per minute. I was wondering how do we ensure the potable wells are not over pumped, that 2,300 gallons per minute?

MR. ATHERTON: Well, we have to monitor and do a well report every month, and then the Water Commission would be the one sent...Dan will speak --

MR. LUM: Yes.

MR. ATHERTON: --about it.

MR. LUM: The Water Commission will be monitoring the water use. They have to report it every month. And not until the water use in the whole Waikapu Aquifer system, which include other wells to...in...toward Maalaea, when it reaches 80 percent of the 3 million gallons a day, then they could step in on their own or they could step in upon request.

CHAIR PALTIN: So, it's kind of like an average that they're looking at?

MR. LUM: Oh, it's always the --

CHAIR PALTIN: You don't want to go over the average?

MR. LUM: --averages --

CHAIR PALTIN: Oh, okay.

MR. LUM: --that you deal with when you talk about sustainable yield.

CHAIR PALTIN: And then --

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MR. LUM: It's the average.

CHAIR PALTIN: --I was wondering, can the non-potable wells be over pumped or...

MR. LUM: Well, the non...the two non-potable...well, three non-potable wells are not going to be used. Two of them were sealed in accordance with the Water Commission.

CHAIR PALTIN: Okay.

MR. LUM: So, there's only Wells 1 and 2 that --

CHAIR PALTIN: Okay.

MR. LUM: --are going to be used that have pumps in them right now.

CHAIR PALTIN: So, you're not using any non-potable wells?

MR. LUM: No.

CHAIR PALTIN: Okay.

MR. LUM: Not at all.

CHAIR PALTIN: And then I'm referencing December 12, 2016 letter to Scott Enright regarding the Waikapu Country Town draft EIS. It's...and I was wondering, has surface and groundwater permits been issued? 'Cause it says ditch is going to have 5.82 million gallons a day.

MR. LUM: Well, as far as the groundwater concern, the Water Commission does not issue permits until they designate the aquifer system for groundwater control and management. And that doesn't occur as I mentioned earlier, until the water use reaches 80 percent of the 3 million gallons per day sustainable yield that they have set for the Waikapu Aquifer.

CHAIR PALTIN: Okay.

MR. LUM: Is that clear?

CHAIR PALTIN: Pretty much. I was wondering maybe Mr. Pellegrino, if you wanted to try provide an...a water overview for us?

MR. PELLEGRINO: Aloha, Chair. Aloha --

CHAIR PALTIN: Aloha.

MR. PELLEGRINO: --Councilmembers. If you had the chance, I'm not sure if you have a printed copy of the integrated cultural and natural cultural resources plan. If you

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folks could turn to Page 17. There's a schematic, Waikapu surface and groundwater distribution schematic map or diagram. And so, that's kind of the complete overview of the water resources within Waikapu, users, sources. And so, the Waihee Ditch water that you had mentioned just, I'm thinking there might have been a little bit of confusion about that. So, the Waihee Ditch is a diversion system that originates in the Waihee Ahupuaa but it collects water from both Waihee Stream, Waiehu Stream, Wailuku River, as well as Waikapu Stream. And you can see that's just above Honoapiilani Highway. If you can look on the lower part of the diagram, you can see the...there's a intake on the Waikapu Stream that collects Waikapu Stream water. So, part of this particular plan that at some point we may or may not share over, but if you have the chance to read it over, it will talk about a potential mitigation measure in regards to the Waikapu Stream use at the Waihee diversion intake as part of the agricultural use, the Waikapu Country Town ag parcel. So, there are three wells in the mauka area that were explained by Mr. Lum. And then there's two proposed ag wells or ag wells in the Kahului Aquifer, which are...which is in the Waikapu Ahupuaa. It's just a little confusing because if you look at the ahupuaa lines, all of the wells are located in Waikapu per se but the distribution lines for the hydrology for groundwater is very different. In fact, if you were on the north side of Waikapu Stream, some of the wells that have been developed there, some run privately, some by the County, even though they're adjacent to Waikapu or they're in the Waikapu Ahupuaa, they're actually in the Wailuku Aquifer. And the same goes for these two proposed agricultural wells that are just makai of Honoapiilani Highway. While they're close and within the project area adjacent to the park that's being proposed for this project, they're actually located within the Kahului Aquifer. So, not part of the overall Waikapu Aquifer, which has a sustainable yield of 3 million gallons per day. The Waikapu Stream as Mr. Atherton had noted does have some off-stream use, and the off-stream use is specifically for cattle, for, you know, water for cattle in the mauka area above the rural lots that's being proposed in this project. There is water that does enter the Waihee Ditch intake on Waikapu Stream that as part of this plan, is looking to potentially be closed, and whereby the only water taken off-stream...for off-stream use would be for cattle and the other in-stream uses would be for traditional customary rights for kuleana landowners in both the south and Waikapu side of...south and north of Waikapu Stream. If that helps clarify.

CHAIR PALTIN: Any questions on the water overview? Seeing none, so, are we finished with water at this point?

UNIDENTIFIED SPEAKER: Yeah.

CHAIR PALTIN: Okay. Let's see. Thank you, Ms. Blumenstein. Any specific area that the Members want to see next? It was important that we got the Water and the Wastewater out of the way because those consultants can't be here next week. We can do...we can go into agriculture, Public Works. I had...maybe I had a quick question about the educational contribution agreement if that's been finalized.

MR. BOYCE: Good morning. My name --

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CHAIR PALTIN: Good morning.

MR. BOYCE: --is Albert Boyce, one of the partners of Waikapu Properties. It's been a couple years but I believe, yes, the agreement has been finalized with the State a couple years ago.

CHAIR PALTIN: Would we be able to see the agreement?

MR. BOYCE: Sure. If it wasn't an exhibit to our presentation, yeah, we can easily provide it.

CHAIR PALTIN: Okay. Cool. Members, you want to go into Public Works or you want to save that for next time? Public Works? Okay. Deputy Director Wellington [sic], any comments to share with the Committee?

MR. WELLING: Is it on now? There we go. Thank you. No, I don't think we have any comments per se that, you know, any concerns to speak of. Just here to answer questions.

CHAIR PALTIN: Okay. Cool. Members, I think Public Works, it would be a lot about, you know, kind of traffic and multimodal transportation kind of stuff. For me, I saw on the March 24, 2016 OEQC letter, that there would be a ten-foot pedestrian bikeway. And I wasn't clear who would be building the pedestrian bikeway if that's like a plan or it's actually something that was going to be built as part of this project. Mr. Summers, or whoever you think is the right person to answer the...those types of questions?

MR. SUMMERS: Thank you very much. And just for information, we do have our traffic consultant so if you have questions, feel free to answer or ask those questions. So, we do have a, quite a infrastructure for pedestrian and bicycle transportation in our project. That infrastructure would be built out with each phase of the development. And, you know, it comprises sidewalks and separated pedestrian trails and bike trails and things like that. I think we estimated that we had approximately eight miles of pedestrian mobility incorporated into the project. So, the...essentially, it will be part of the development just like you would see a roadway or a streetlight, you will see separated trails. They've been incorporated into the conceptual subdivision plans that we've done and they would be built out with each phase of the development, so.

CHAIR PALTIN: By the developer?

MR. SUMMERS: By the developer, yeah.

CHAIR PALTIN: Okay. And I had a question about the east-west roads. I think in the December 12, 2016 letter to the Department of Transportation, it talks about like specifically Intersection number 11, being a right turn in, right turn out, is that still part of the plans to make it be only right in, right out?

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MR. SUMMERS: I'm going to ask our traffic consultant to come up and address that question. Netai, would you mind?

MR. BASU: Hi, good morning. I'm Netai Basu with Fehr & Peers, traffic consultant to the applicant. And you're asking about Intersection 11 as named or numbered in the TIAR. That location has been requested to be removed from the development.

CHAIR PALTIN: Oh.

MR. BASU: So, that...this is the one in between east...or Main Street as it had been called, and the southernmost end of the Honoapiilani Highway and Waiale Bypass Road. So, that has been removed, that would...so the question is moot. It has been deleted from the project.

CHAIR PALTIN: Maybe...could you just give us an overview? I know at one point, there were like three crossings of the highway. I was wondering if you could just give us a overview of what the final traffic portion of this looks like. 'Cause in reading the EA, the EIS, and the application, I think it went through a lot of different configurations, and I was wondering if you could just update everyone what the final plan...traffic plans were for this project or point us in the right direction.

MR. BASU: In the draft EIS and then in the final EIS, there's analysis of the project as it had been originally proposed with three points of access along Honoapiilani Highway, yeah, Intersections 5, or I'm sorry, 9, 11, and 13. One of the requests...comments, requests from State DOT was to remove one of those intersections. So, that had been deleted. There was also a planned pedestrian crossing sort of midblock. And also at the request, after consultation with them, that has been deleted from the project too. The bicycle-pedestrian path you're speaking of, I think you were talking with Mike a moment ago, is along Honoapiilani Highway, as well as the extensive network that would be within the development itself. So, along the highway, there would be this facility. There would be two points of crossing, one at the main east-west road, whatever it ends up being called as a name, and then at the southernmost end of the project where Waiale Road extension would end. The plan to get people across the road and to support safe and orderly movement of people whether they're on foot, on bicycles, in vehicles, however folks travel, is with at-grade intersections signalized. This is consistent with how the treatment has been made further north, further south, and this applicant is committed to working with your Staff and DOT to come to most appropriate configuration of those intersections. There are a lot of treatments that can be added such as reduced curb radii, of course, signalization but high-visibility crosswalks, potentially leading pedestrian indicators where the walk signal goes first, then the green ball comes. So, there are a lot of treatments that can be done to enhance pedestrian safety and safe movement for all.

CHAIR PALTIN: But they haven't been finalized yet?

MR. BASU: That is correct. One of the conditions requested by Planning Commission, following the Land Use Commission's discussions as well, was to enter into an MOA

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with State DOT regarding the offsite improvements, and these are among those. We see that as part of that, I won't say negotiation, but process of coming to the appropriate design of each of these intersections. So, we have the concept, we have the lane configurations, we have the capacities worked out but the detailed intersection design has not been completed yet. That's a subsequent phase and that would routinely be subsequent.

CHAIR PALTIN: So, that would be after you get these entitlements, then you go through the details of the intersection?

MR. BASU: And that's most common.

CHAIR PALTIN: Okay. And then I'm wondering about the Waiale Road improvements and conditions. How...do you have any proposal of how those are to be handled?

MR. BASU: In that same letter from, I guess it was before us all, in February or March, these are conditions 3A and 3B, and they relate to calculating the pro-rata share for the Waiale Road extension, design, and construction. And in fulfillment of an earlier requirement from the LUC to do the same thing for the offsite intersection improvements. We've gone through the calculation first in the original TIAR for each of the intersections, looking at the morning and the afternoon peak hour, calculating the fair-share contribution to the traffic added, and then came up with the percentage. Since then, we've done that for the near term that is phase one, also phase one and two full build out, and subsequently, without and with the bypass in place. So, we've done all those calculations to look at what percentage of project traffic is added, at what locations, which are impacted, under which scenarios. There are a whole lot of study of that. Our plan is to take that basic knowledge and redo those calculations based on that information to fulfill the condition 3A and 3B, to calculate that fair share or pro-rata share contribution.

CHAIR PALTIN: And was the plan for the County to set up a fund to accept the pro-rata share or were you going to do like a CFD?

MR. BASU: That would be a question I think for others on the team. We're here to...we are the technical experts to make those calculations to advise on what the pro-rata share is, the responsibility in terms of the volume of traffic added, and to identify fairly what the allocation would be in terms of the mechanics of how that money is collected or with who the bank is. I don't know the answer to that. Perhaps, somebody else on the...on our team does.

CHAIR PALTIN: Okay. Before we go to that, is it your understanding that the other...there's three, four, five other developments in the area like 201Hs and things like that, was it your understanding that they were also going to contribute their pro-rata share?

MR. BASU: This condition asks this developer to calculate this project's pro-rata share, the balance is by other. One of the conversation items back in March when we were all here was, correct me if I'm wrong, but I think Staff was going to look into what

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commitments have been made by other developers over time. I don't know what the outcome of that is if it happened. But we...I don't know the answer to that question.

CHAIR PALTIN: Mr. Welling, do you know the answer to that question?

MR. WELLING: It was my understanding that yes, the study was taking place currently to determine what the pro-rata share was for each of the different developers.

CHAIR PALTIN: And do you know if a fund has been set up to collect the pro-rata share? Would the County be the one to collect the monies?

MR. WELLING: I don't know the answer to that. I can get that for you.

CHAIR PALTIN: Yes, Chair King?

COUNCILMEMBER KING: I don't think...I think the pro-rata share would be charged to the other developers, but I don't think it's the responsibility of this developer to gather that information for everybody else. That's really what we've...we were...we spent the last two years on this project talking about that quite frankly, and that's why it kept getting put off. But I think it's the responsibility of our County departments to work with the other developers to determine what the pro-rata shares are and collect those fees, if there are fees. But I don't believe there is any kind of fund that that money goes into, and then gets distributed. I think it just goes directly to the...either the Department or the General Fund, but maybe Director McLean can talk about those types of fees and where, you know, where they go, how they're collected, is it directly, is it indirectly. But I don't know if we want to take up the time of the developer because I really don't see this as their responsibility. We've been trying to make sure that happens on a scale of...to...looking at the entire area. But this...I mean they're taking their responsibility, and that, frankly that this project really hasn't asked for a lot of entitlements. And so, they're willing to do, you know, over and above. We've seen a lot of developments that have asked for exemptions to wastewater treatment facility, and this one is actually building their own where...and without asking the County to take it over. So, I just worry about, you know, putting too much on this one project because that issue of Waiale Road was the...and the County has property on Waiale Road as well. So, we're part of the pro-rata share. Thank you.

CHAIR PALTIN: Yeah, I'm just concerned with our own County history of deferral agreements and exemptions that it actually gets done. It's not so much the developer situation. It's internal County situation that we're gonna ensure that thousands of people aren't stuck without a road --

COUNCILMEMBER KING: Right.

CHAIR PALTIN: --. . .(inaudible). . .

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COUNCILMEMBER KING: No, I understand that but I just...having them answer the question, I don't think is appropriate because I think that's really a question for our departments to answer.

CHAIR PALTIN: Director McLean, did you have an idea?

MS. McLEAN: Thank you, Chair. Proposed conditions 3A and 3B speak to this. So, the first thing is that the applicant conducts the pro-rata share study for the extension. So, it says this applicant is responsible for X percentage of the cost, and then all these other users would be responsible for these portions of the cost. And that has to be accepted by Public Works. And then the second part of that condition is that the applicant enters into an agreement with Public Works to contribute their share based on that study, and then Public Works would have to look at entitlements or agreements for other projects --

COUNCILMEMBER KING: Right.

MS. McLEAN: --that contribute, and when and if and how to collect that funding. I'm not familiar on the funding side if it's a special account that's created. Those details I don't know. You'd need to check with Public Works on that. But it's two parts to it is figuring out what their share is, and then entering into an agreement to in fact contribute --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --their share.

COUNCILMEMBER KING: But it's not their responsibility to figure out everybody else's share, is it? Or is that what you're saying?

MS. McLEAN: No, that is what the share study is --

COUNCILMEMBER KING: So, they have to --

MS. McLEAN: --will conclude.

COUNCILMEMBER KING: --figure out everybody else's pro-rata share on that part of the road?

MS. McLEAN: It's like a...

CHAIR PALTIN: Formula.

MS. McLEAN: Similar to a traffic study, where is the traffic being generated from and what their share of that traffic will be. So, it's something that they've agreed to do to do that study. They're not responsible for collecting the money or assessing it but they're saying the extension of this road, we will contribute whatever percentage of traffic to it.

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COUNCILMEMBER KING: For their share.

MS. McLEAN: And for their share and --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --you know, the others contribute the rest.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR PALTIN: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, just before he leaves, so can you give us an update of the roundabout, which is on the February 28th letter. It talks about applicant number under Transportation, item C. It talks about applicant shall conduct an analysis of the suitability of a roundabout and propose Honoapiilani Highway and Main Street intersection. Was that the intersection that was being deleted? Is that 11?

MR. BASU: It is not. That's number nine --

COUNCILMEMBER SUGIMURA: Nine.

MR. BASU: --as they're numbered. So, that's a request from the State for a roundabout feasibility study at that location. There are...the State has a policy on roundabouts suitability. There are a number of factors that go into that, roadway classification, the topography, the projected volume of various users, the balance of volumes and all the entering approaches. So, there are 11 or 12 different factors that need to be considered, and we see that as completing just such a feasibility study going through that checklist, not checklist, but that rubric, yes, to look and see how well or not this location is suitable for such a treatment.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR PALTIN: Just to follow up on Ms. Sugimura, that's a two-lane roundabout, is that correct? Or is that not detailed yet?

MR. BASU: The road is a one-lane highway today. Ultimately, it's planned in long-term to become a four-lane road. And the State's policy, as it's currently written, discourages or precludes consideration of four or two-lane roundabouts. I need to go back and see exactly what the language is in that regard, but it strongly discourages them. It's intended for single-lane roundabouts such as you have one of in South Kihei on the County system.

CHAIR PALTIN: Okay. Any further questions to...for Misses or Mr. Netai at this time? No? Mr. Welling, I was wondering if when we come back next week, if you could do some look into that 3A, 3B conditions and let us know like if we need to set up a special

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fund maybe with the EDB Committee to eventually at the right time collect the pro-rata shares from all the different entities, and maybe the order in which that needs to get done if we can pass this out first with the understanding that that fund will be set up if that's how it goes.

MR. WELLING: Yes, of course.

CHAIR PALTIN: Right on. Thanks. So, I see it's getting close to 12 o'clock. Is there any particular area that you folks want to start off with next week? Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Quick question for you. How many more departments need to come before this project? Or are you done with the departments?

CHAIR PALTIN: Well, I have Ms. Peters with Parks and Rec. I did want to have some questions about agriculture. Ms. Munsell is here, Department of Housing and Human Concerns. And then I did want a little bit more time to go over Mr. Pellegrino's study. But if there is additional things, archaeology probably, but that's all that I can think of. If you folks have more departments that you would like to go through? Ms. King?

COUNCILMEMBER KING: Can we ask the...since Ms. Peters is here, can we ask the Director to just give any comment she has?

CHAIR PALTIN: Sure.

COUNCILMEMBER KING: I'm not sure how much agriculture, what...I mean the agriculture doesn't have anything to do with it...directly with the development. So, what are we looking at as far as agriculture?

CHAIR PALTIN: I think...so, part of the agreement of the development was the agricultural easement, and if the development goes through, I'm not sure the easement goes through.

COUNCILMEMBER KING: The easement I think has already gone through. So, I'm not sure why we are looking at that.

CHAIR PALTIN: I had some questions about the solar farm, the size of the acreage, the location. Then Mr. Perez also talked a little bit about farm dwellings.

COUNCILMEMBER KING: On the...or on the project or on the easement? Okay.

CHAIR PALTIN: I'm not sure.

COUNCILMEMBER KING: Oh, okay.

CHAIR PALTIN: I didn't ask him questions when he was on the --

COUNCILMEMBER KING: Okay.

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CHAIR PALTIN: --testifier's stand, but I'm sure he'll answer your calls. Thank you, Ms. Peters. Thank you. Any...have you...are you familiar with the project and do you have any comments that you can share with us today?

MS. PETERS: Yes, Chair, thank you. Thank you, Committee, for having me. So, we...our Department did review the draft Environmental Impact Statement, as well as met with the applicant. And they're proposing to satisfy their park dedication requirement with a 23-acre park. Included in the Code is grassing...lot grading, grassing, automatic irrigation, restrooms and comforts, parking. So, if you have any questions, I can answer them or the applicant can also provide you with some information.

CHAIR PALTIN: Members, any questions for Ms. Peters? Ms. Lee?

COUNCILMEMBER LEE: I know you keep looking at me for questions but like I said, I saw this presentation so many times and I saw her presentation on this project last Monday. So, I have no questions. Thank you.

CHAIR PALTIN: Members, any further questions for Ms. Peters? No? Okay. Thank you. Is the preference of the body to recess at this time or adjourn?

COUNCILMEMBER KING: Recess.

COUNCILMEMBER SUGIMURA: Recess so we can continue.

COUNCILMEMBER MOLINA: Yeah --

CHAIR PALTIN: Yes?

COUNCILMEMBER MOLINA: --Madam Chair, when you say recess and not adjourn, are we going to recess into I guess the 26th, the...

CHAIR PALTIN: The 26th --

COUNCILMEMBER MOLINA: Yeah. Okay.

CHAIR PALTIN: --yeah.

COUNCILMEMBER MOLINA: Okay. I just want to get clarity on that.

CHAIR PALTIN: Yes, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: The question is whether we want to recess or adjourn today?

CHAIR PALTIN: Yeah, 'cause it's 12 o'clock.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. Yeah, whatever the will of the body. I just...I wanted to quickly add perspective and something for the Members to think about before we come back next week Wednesday, if you don't mind, Chair?

CHAIR PALTIN: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. While this project has been ongoing for over a decade and previous Councils have received presentations and deliberated on it, since it's this Council and Councilmember Paltin as the Committee Chair of this subject matter, and it's Councilmember Paltin and this Council that will have...that will take the final vote for approval, it's this Council that will be held accountable for all oversight and preventing preventable consequences. So, I fully support our Chair's thorough vetting process. While we have been told information about this project and all its hopes and intentions, ultimately, what matters is what's written down on paper. As I mentioned earlier, I would like to add the cultural plans' recommendations as conditions. But since we only received it last night, Members likely did not review it and wouldn't be able to vote one way or the other. Also, if we would like to consider the farm dwellings proposed by Mr. Perez, which would be on the ag conservation easement, because I asked him for clarification on that, and it is on the ag conservation easement. It's something we'd have to discuss with the Hawaiian Island Land Trust because prohibiting housing structures was a condition HILT imposed for that easement. So, I just wanted to make mention of these two potential amendments so that we're more prepared to vote on them next week Wednesday. Mahalo --

CHAIR PALTIN: Thank --

COUNCILMEMBER RAWLINS-FERNANDEZ: --Chair.

CHAIR PALTIN: --you. Thank you for the heads-up. I just had one question I thought of, and maybe, Ms. Lee, since you saw the presentation, you can answer it, and if not, I got Ms. Peters still here. Did you know if the parks were going to be dedicated to the County of Maui to maintain?

COUNCILMEMBER LEE: Yes.

CHAIR PALTIN: It's going to be dedicated?

COUNCILMEMBER LEE: Yes.

CHAIR PALTIN: Oh. And we're okay with that?

COUNCILMEMBER KING: That's the requirement.

COUNCILMEMBER SUGIMURA: They always do.

CHAIR PALTIN: Sorry. I'm sorry to make you come back, Ms. Peters, just kind of popped in my head.

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MS. PETERS: Thank you, Chair. So, we actually are...when we met with the applicant, we did discuss that they may be willing to do a privately-owned and maintained...well, actually, publicly...privately-owned and maintained but open to the public, or we could do a public, dedicated to the County and they would maintain for maybe the first ten years. So, that we saw would be advantageous for the Department because then it would give us the opportunity to get the resources and the employees to be able to maintain this 23-acre parcel. So, that's still in discussion.

CHAIR PALTIN: Okay.

MS. PETERS: Yeah.

CHAIR PALTIN: So, maybe that's another thing that we can consider over the week like which direction we want to go with that. That does sound pretty advantageous.

MS. PETERS: Thank you, Chair. Yes, and also part of the Code does require the applicant to come up with a park assessment agreement that does get approved by this Council via resolution.

CHAIR PALTIN: And that hasn't been created yet?

MS. PETERS: No, not yet. We met initially once, and we are working with them on getting that together.

CHAIR PALTIN: And do you know if that's usually done...it can be done after the entitlements are granted, or is it part of like the conditions generally speaking?

MS. PETERS: It's after and it's prior to subdivision approval.

CHAIR PALTIN: Okay. Cool. Thank you. Yes, Mr. Hopper?

MR. HOPPER: Just a note, as with most of the departments you're talking about, there are corresponding conditions. So, there's a proposed Parks condition, and I think it's important for, you know, to...there to be an understanding that we're talking about with each department is actually reflected in the condition and that, you know, the body be comfortable to each condition as set forth is sufficient or is not inconsistent with the body believes will happen with those...each of those aspects. So, reviewing those, those are attached to the Zoning Ordinance. There's a number of them. There's 24 of them, and they each are...they each have a title that corresponds to the subject area. So, I just wanted to note that for the record.

CHAIR PALTIN: Thank you. I totally agree. And yeah, so that's something we can go and take a deeper dive into next week. So, if there's no objections, I'll adjourn --

COUNCILMEMBER LEE: Madam --

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CHAIR PALTIN: --this --

COUNCILMEMBER LEE: --Chair?

CHAIR PALTIN: --meeting. Yes?

COUNCILMEMBER LEE: Madam Chair?

CHAIR PALTIN: Ms. --

COUNCILMEMBER LEE: I just --

CHAIR PALTIN: --Lee?

COUNCILMEMBER LEE: --wanted to say it is really preliminary on the Parks' issue, because the...and the association and the community members are not even close to an agreement at this time. There's a lot of discussion going back and forth. And I would hate to see us impose a restriction on that project if the community doesn't want it.

CHAIR PALTIN: The community that's going to move in there.

COUNCILMEMBER LEE: The committee [sic] that surrounds it right now, which is the Waikapu, you know, residents who would be most impacted by what kind of park and what kind of features are in the park. So, they...I don't think that the...any consensus has been reached at this point, but I'd hate to see the Council impose something that ultimately they don't want. Okay. Thank you.

CHAIR PALTIN: Yeah, that's a good point. I might just adjourn it so that they can have the opportunity to provide further testimony next meeting, and then we'll have the same subject matter again.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER KING: I have the same concerns. I think that we're talking about bigger issues with the Parks Department. I don't think those should be imposed on this project. And I think also for agriculture, we've been discussing this for a couple of years now since I've been on the Council, of the bigger issue of allowing dwellings on farms, which I think is...should come up in our Agricultural Committee, and address all farms on the island, not just this project. So, I would hate to see these bigger issues hold up this one project when they're really...it's an ongoing discussion. And we have some legislation that came before us on ag subdivisions that we set aside, and we have some...and this issue of having farm dwellings on ag land has been ongoing. And I know it's certain types of ag lands that are...we're really concerned about. But imposing that as a prescription for this project, I think...I don't think...when the ag is separate, the ag lands are separate from the actual project, I don't think that would be

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appropriate because we have to have a...I think that's a bigger discussion than just this project. I think having farm dwellings is something that we need to actually look at in the Ag Committee. Thank you.

CHAIR PALTIN: Okay. Thank you. And so, if there is no objection, I'll adjourn, and we'll be --

COUNCILMEMBER KING: I thought --

CHAIR PALTIN: --back --

COUNCILMEMBER KING: --we were --

CHAIR PALTIN: --here on...

COUNCILMEMBER KING: --gonna recess.

CHAIR PALTIN: Oh, I just wanted to give...if folks had comments on the newly added cultural preservation plan. I didn't want to like stop anyone from...

COUNCILMEMBER KING: Chair, we can take written testimony anytime. And we can also have folks, you know, if you're concerned about it go out and talk to the community, but, you know, this, the proposal to add this Committee on for next week was a, you know, was a recess of this actual meeting originally. So, I think that's what the body is...has asked for.

CHAIR PALTIN: Okay. So, everybody wants a recess then?

COUNCILMEMBERS: Yes.

COUNCILMEMBER MOLINA: No objections to recess, yeah.

CHAIR PALTIN: All right.

COUNCILMEMBER MOLINA: At what time, 9:00 a.m., Madam --

CHAIR PALTIN: Nine --

COUNCILMEMBER MOLINA: --Chair?

CHAIR PALTIN: --a.m., yeah.

COUNCILMEMBER MOLINA: The 26th.

CHAIR PALTIN: Okay. So, this concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much. We'll be...the Chair has polled for the PSLU Committee to meet again, June 26th. I'm intending to recess this meeting to that

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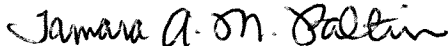
date. Members, the reconvening meeting may not conclude by lunchtime. If there is...if that is the case, are you all available to continue that meeting into the afternoon?

COUNCILMEMBERS: Yes.

CHAIR PALTIN: Yes. Okay. Cool. So, everybody is available? Thank you, Members. As a reminder, the application for the project was distributed to you all on CDs. Hard copies will be forthcoming at the next meeting for you as well. The PSLU Committee stands in recess and will reconvene Wednesday, June 26, 2019, at 9:00 a.m., here in the Council Chambers. . . .*(gavel)*. . .

RECESS: 12:10 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

pslu:min:190619:acqp

Transcribed by: Ann Carmel Q. Pugh

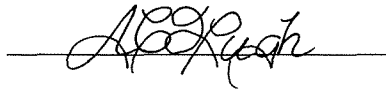
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CERTIFICATE

I, Ann Carmel Q. Pugh, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 10th day of July, 2019, in Kihei, Hawaii

A handwritten signature in cursive script, appearing to read 'A.C. Pugh', is written over a horizontal line.

Ann Carmel Q. Pugh