

# PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

## MINUTES

October 16, 2019

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 9:04 a.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Tamara Paltin, Chair  
Councilmember Shane M. Sinenci, Vice-Chair  
Councilmember Kelly T. King  
Councilmember Alice L. Lee (in 9:21 a.m.)  
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)

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

**ADMIN.:** David A. Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel  
Jordan Hart, Deputy Director, Department of Planning (in 9:12 a.m.)  
Paul Fasi, Planner, Department of Planning (PSLU-41)

**OTHERS:** Lynn Britton, President, Maalaea Village Association  
Mark Spencer  
Vince Bagoyo, President, V. Bagoyo Development Group, LLC  
Stacy Otomo, President, Otomo Engineering Inc.  
(2) additional attendees

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

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CHAIR PALTIN: ...*(gavel)*... Aloha kakou. The time is 9:04 on October 16<sup>th</sup>. Will the Planning and Sustainable Land Use Committee meeting come to order. At this time I'd like to ask all Members to silence their cell phones or everyone in the gallery actually

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

silence their cell phones and any other noise-making devices. My name is Tamara Paltin and I'm the Chair of the Planning and Sustainable Land Use Committee. And with us today we have my Vice-Chair Shane Sinenci.

VICE-CHAIR SINENCI: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. We have Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Aloha kakahiaka, Madam Chair.

CHAIR PALTIN: Aloha kakahiaka. Alice Lee will be a little bit late. And we have Council Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. Riki Hokama is a non-voting Member but welcome to join at any time. We have Council Chair Kelly King.

COUNCILMEMBER KING: Aloha kakahiaka.

CHAIR PALTIN: Aloha kakahiaka. And we also have Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good morning, Chair.

CHAIR PALTIN: Good morning. And also Tasha Kama is a non-voting Member but welcome to join at any time. Today, with us we have Deputy Corporation Counsel David Galazin.

MR. GALAZIN: Good morning.

CHAIR PALTIN: Good morning. And Planner Paul Fasi.

MR. FASI: Good morning, Chair.

CHAIR PALTIN: Good morning. Let's see, in the gallery we also have Vince Bagoyo from V. Bagoyo Development Consultant Group, LLC; Mark Spencer of, the landowner of MVI, LLC. Committee Staff, we have Committee Secretary Clarita Balala. Good morning.

MS. BALALA: Good morning.

CHAIR PALTIN: Legislative Analyst James Krueger. Good morning.

MR. KRUEGER: Good morning.

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

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MR. RAPACZ: Good morning.

CHAIR PALTIN: For our District Office Staff we have Zhantell Lindo from Molokai, Denise Fernandez from Lanai Office, and Mavis Oliveira-Medeiros from the Hana Office. At this...oh, we have three items on the agenda today. PSLU-41, Community Plan Amendment and Change in Zoning for Maalaea Agricultural Subdivision; PSLU-26, Renewals for Conditional, Bed and Breakfast Home, Short-Term Rental Home, and Special Use Permits...and conditional permits. PSLU-1(4), West Maui Community Plan Update. So, at this time I'd like to open 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 District Office Staff. Testimony will be limited to the item on the...items on the agenda today. Pursuant to the Rules of the Council, each testifier will be allowed to testify for up to three minutes 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 a connection to the Council District Offices. Ms. Lindo, is there anyone on Molokai waiting to testify?

MR. KRUEGER: Ms. Lindo?

MS. LINDO: Hi, this is the Molokai District Office--sorry--and there is no one here to testify. Good morning.

CHAIR PALTIN: Good morning. Thank you. Ms. Fernandez, is there anyone waiting to testify on Lanai?

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

CHAIR PALTIN: Thank you. Ms. Mavis Oliveira-Medeiros, is there anyone wishing to testify in Hana?

MS. OLIVEIRA-MEDEIROS: Good morning, Chair. This is Mavis Oliveira-Medeiros from the Hana Office and there's nobody here waiting to testify.

CHAIR PALTIN: Thank you. We have one testifier signed up in the Chamber at this time. Testifier is Lynn Britton and she's testifying on behalf of the Maalaea Village Association. She's the president of this organization.

**...BEGIN PUBLIC TESTIMONY...**

MS. BRITTON: Aloha, Chair and Members. It's been a long time since I was behind the podium so you'll have to bear with me. I did submit written testimony for today's meeting as well as the previous meeting. Maalaea Village Association was formed in 2017, because the community of Maalaea even though the previous organization ceased to exist, the community felt that there were very pressing issues that needed to

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

be taken care of. So, for the last two years we have been operating as MVA and we have over 160 members. We appreciate the deferral of the issue from the last meeting. And the day of the meeting, 4,600 acres of conservation land was burned. You could not get to Lahaina for the entire day and until ten o'clock that night. That has a major impact on the visitor industry as well as the residents and businesses that couldn't go back and forth across the island. In my previous testimony I talked about the support for ag designation if nothing else was available, but at this point, we do not support the Change in Zoning for the conservation or for the road reserve. The project district originally when submitted by Brewer in 1992, for the Kihei-Makena Community Plan, it was for 169 acres and I do have a copy. You can tell I've been here for a long time. I have a copy of that original coverage from 1992. Somehow it went from 169 acres to 257 for the project district. And that's something that you might want to keep in mind in making your deliberations. If you are going to go ahead with the project district which I hope you will find other means and keep the entire area in open space, if not, we do ask that you keep at least the front portion of the parcel open for future planning needs: transit corridor to allow for firebreaks and drainage issues; the Lahaina trail parking access. And also as we can see repeatedly with the fires that we don't have any control over until Maui Nui Marine Resource Council spends over 700,000 to address the drainage and fire issues. We do need a wayside park in the area. And suggested intersections would be across from the North Kihei Road intersection or across from the Kapoli Street entrance. I do ask for you to consider the Pohakea Drainage Study recommendations if you are going to make any deliberations on the property. I think that's about it other than saying that the Kihei-Makena Community Plan comes up next year for review, and if any...if it's possible, relay...hold off on your decision making until that time. Thanks so much.

CHAIR PALTIN: Thank you, Ms. Britton. I think this testimony is also on Granicus for Members. Any questions for the testifier? Mr. Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. Thank you, Ms. Britton, for being here.

MS. BRITTON: Yes.

VICE-CHAIR SINENCI: Always good to see you.

MS. BRITTON: Thank you, sir.

VICE-CHAIR SINENCI: So, the parcel zoned Conservation and Open Road Reserve closest to the ocean, is this the one on the far...

MS. BRITTON: Yes. That's above the harbor.

VICE-CHAIR SINENCI: In the red?

MS. BRITTON: Yeah.

VICE-CHAIR SINENCI: Okay. And...

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MS. BRITTON: There are petroglyphs up there and, you know...

VICE-CHAIR SINENCI: Some cultural sites.

MS. BRITTON: Special cultural sites.

VICE-CHAIR SINENCI: I remember you saying that. And then the drainage way by passive park, does that...is that a natural stream area where I guess...

MS. BRITTON: I don't really know the source of the sediment, but in the original proposal for the Maalaea development that Mike Atherton submitted many years ago before he bought the plantation, their original plan was to address the drainage issues from the State conservation land above the area. So, it's known that there are major problems up there from the mountain...mauka side.

VICE-CHAIR SINENCI: And I think where the conservation area, there's a lot of flooding that comes out through...towards Maalaea Road.

MS. BRITTON: The flooding comes from the mountain down and enters into...go...a lot of it goes into the culvert on Hauoli Street, and even when they put the million dollars into the Budget last year to do the third repair on the culvert, the County engineer that we were working with when we were asking if they could address the drainage issues at the time, she said we know that this isn't going to solve all the problem but at least it will help. So, we...there is known facts that drainage does come. And actually there used to be a stream under the bridge in the harbor across from the shopping area, there used to be a stream that went into the harbor there.

VICE-CHAIR SINENCI: Okay. All right, thank you.

MS. BRITTON: Okay, thank you.

VICE-CHAIR SINENCI: Thank you, Chair.

CHAIR PALTIN: Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Ms. Britton.

MS. BRITTON: Aloha.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for your testimony.

MS. BRITTON: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: I just wanted to clarify your last statement. There used to be a stream, is that a perennial?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MS. BRITTON: As far as I know.

COUNCILMEMBER RAWLINS-FERNANDEZ: A perennial stream, like it used to...

MS. BRITTON: It used to enter into the harbor. I remember I did the Lyons Naone training when we first opened the Maui Ocean Center, and Lyons talked about the fact that there used to be a stream that came through and feed into the harbor.

COUNCILMEMBER RAWLINS-FERNANDEZ: Do you know if that information is on the Pohakea Watershed Drainage Study?

MS. BRITTON: I do not know but --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

MS. BRITTON: --that would be a great question. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo.

MS. BRITTON: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Council Chair Kelly King?

COUNCILMEMBER KING: Thank you, Miss...Chair. Thanks for being here, Lynn.

MS. BRITTON: Aloha.

COUNCILMEMBER KING: Aloha. And thank you for your updated testimony. I just wanted to verify, so the Maui...so the Maalaea Village Association does not support the change in the community plan amendment that's being proposed at this point for this piece?

MS. BRITTON: We look at the Ag designation as better than the project district so if nothing else is possible we would support that, but not for the two parcels that are not...apparently there's three different items that are under review so we would certainly ask that you keep the conservation in Conservation. And I think the other item was Open Road Reserve, so.

COUNCILMEMBER KING: Okay. But your testimony asked us to wait until the community plan...

MS. BRITTON: Well, if at all possible, yes.

COUNCILMEMBER KING: Okay.

MS. BRITTON: Thank you.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBER KING: And then do you...and I guess you sort of answered but the, you know, we're asking for...I have a request in to get a copy of the Maui Nui Marine Resource Council Plan for the area 'cause I understand they did sort of a master plan. And has the...has your community association reviewed the whole master plan?

MS. BRITTON: We met with Amy Hodges when it first...before it was actually published. She went through the major issues with us, and a lot of the items have to do with drainage and alternatives that developers can use to fight the water and the sedimentation from going into the ocean.

COUNCILMEMBER KING: Okay. So, you support their plan?

MS. BRITTON: Yes, absolutely.

COUNCILMEMBER KING: Okay.

MS. BRITTON: And we have written letters to their major funders, MVA has written supportive letters --

COUNCILMEMBER KING: Oh, okay.

MS. BRITTON: --for their grant applications.

COUNCILMEMBER KING: Okay, great. All right, thank you. Thank you, Chair.

CHAIR PALTIN: Member Sugimura?

COUNCILMEMBER SUGIMURA: Thank you, Chair. Nice seeing you here, Lynn.

MS. BRITTON: Aloha, Yuki Lei.

COUNCILMEMBER SUGIMURA: I know this...you used to sit in one of these chairs --

MS. BRITTON: Yes, right over --

COUNCILMEMBER SUGIMURA: --many years...

MS. BRITTON: --there between Pat Kawano and Kimo.

COUNCILMEMBER SUGIMURA: Oh, bring back memories.

MS. BRITTON: Oh, yeah.

COUNCILMEMBER SUGIMURA: Thank you for your continued involvement with the community and I'm glad to see you here.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MS. BRITTON: Thank you, Yuki Lei.

COUNCILMEMBER SUGIMURA: So, I'm guessing that your organization would support this project as it's taken this property from the Spencer's, from...to be instead of I think it was 1,100 homes at one time to 21, right? What the plans are right now is for 21 homes and keep the open space and the protection on the highway. They're having this access for biking and walkability. I think they've tried to adjust being the...under the current climate for development to activate this property in a way that, you know, it would be...the agriculture could be used in this way. Does...your community supports that?

MS. BRITTON: As the last alternative.

COUNCILMEMBER SUGIMURA: Yeah.

MS. BRITTON: As the last alternative. Ideally, we would like to see the whole property preserved for the future, because we have no idea how the Honoapiilani Highway is going to be expanded in the future. We have all of these needs that if it's at all possible we would like to ask the County to consider.

COUNCILMEMBER SUGIMURA: So, your first choice you're saying is no development?

MS. BRITTON: Yes.

COUNCILMEMBER SUGIMURA: Is that what you're saying? Okay. So, the alternative, I guess what they've come to is probably better than the original --

MS. BRITTON: That's true.

COUNCILMEMBER SUGIMURA: --original --

MS. BRITTON: That's true.

COUNCILMEMBER SUGIMURA: --plans I guess. Okay. So, I'll wait to hear more in discussion. But nice seeing you here, Lynn.

MS. BRITTON: Thank you, Yuki Lei. Aloha.

CHAIR PALTIN: Oh, Ms. Britton, may I ask you a question?

MS. BRITTON: Yes.

CHAIR PALTIN: So, I guess in reading your testimony and I don't need the textbook definition but just what you intended when you wrote explore opportunities for conservation subdivision design as a compromise between developer and County community interests. Like what was your intention in writing that?



**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MS. BRITTON: In reviewing the Maui Island Plan and trying to really do some due diligence about what's possible for the site, we've always...in the past I was involved in Maalaea Community Association before through many different discussions with the developer. At one time they agreed to leave the front parcel open and then do cluster development in the back. My understanding from the Maui...reading the Maui Island Plan is that there is current legislation in the Island Plan to actually cluster development to leave more open space available. So, that's certainly something that we would ask you to consider.

CHAIR PALTIN: So, you're talking about cluster as opposed to the sliding scale of what the current plan is like?

MS. BRITTON: Well, and I don't...and that would have to be, you know, discussed with the developer what's possible, but it would be, you know, leaving as much open space as possible and allowing the development at a higher elevation.

CHAIR PALTIN: And you were imagining that cluster to be on the, more the Waikapu side of the parcel?

MS. BRITTON: Yes. Not at the...well, they need an SMA to do the one above the harbor anyway, the conservation property. But you have two accesses, you have the North Kihei Road intersection and you have the Kapoli Street across from Carl's Jr. So, one of the things that I think would be really important would be to try to leave some area there so that you could turn around cars so that they're not all stuck on the Pali and allow emergency...I was reading that emergency vehicles had a hard time getting over for fighting fires and accidents and things like that. So, somehow because of the delicate nature of the property these things, if at all possible, should be considered.

CHAIR PALTIN: Thank you so much --

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: --for coming, and thank you for your testifying.

MS. BRITTON: Aloha.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry, one last question.

CHAIR PALTIN: Oh, Miss...sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: There just seemed to be a little confusion earlier. I just wanted to clarify in your written testimony as President of the Maalaea Village Association, the association's position is that this is not much needed housing

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

for Maui's people. Luxury homes and estates, possibly gated communities, do not serve Maui's housing problem and that the preferred approach would be to hold off until the Kihei-Makena Community Plan is updated?

MS. BRITTON: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Was that correct?

MS. BRITTON: That's correct.

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

MS. BRITTON: Thank you.

CHAIR PALTIN: Thank you, Member Rawlins-Fernandez. Thank you, Ms. Britton --

MS. BRITTON: Thank you.

CHAIR PALTIN: --for your testimony. At this time I would like to welcome Councilmember Alice Lee.

COUNCILMEMBER LEE: Hola --

CHAIR PALTIN: Hola.

COUNCILMEMBER LEE: --Madam Chair and mi amigos.

CHAIR PALTIN: Thank you for joining us, amigo. And I'd also like to welcome Deputy Director Jordan Hart as well.

MR. HART: Thank you, Chair.

CHAIR PALTIN: Aloha. Okay, is there anyone else at this time wishing to provide public testimony? Seeing that there's nobody else wishing to testify, without objection I will now close public testimony.

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay.

**. . .END OF PUBLIC TESTIMONY. . .**

**PSLU-41: COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR  
MAALAEA AGRICULTURAL SUBDIVISION (CC 19-347)**

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: Okay, so the first item on our agenda is Community Plan Amendment and Change in Zoning for Maalaea Agricultural Subdivision, PSLU-41. The Committee is in receipt of County Communication 19-347, from the Planning Director, transmitting the following: A proposed bill entitled A Bill for an Ordinance to Amend the Kihei-Makena Community Plan and Land Use Map from Project District 12 to Agriculture for Property Situated at Maalaea, Wailuku, Maui, Hawaii, Tax Map Key (2) 3-6-001:018. The purpose of the proposed bill is to grant a community plan amendment to Agriculture for 257 acres located in Maalaea, Wailuku, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 3-6-001:018, for the proposed Maalaea Agricultural Subdivision project. A proposed bill entitled A Bill for an Ordinance to Change Zoning from Open Space Zone, R-3 Residential and Road/Street Reserve Zone to Agriculture for Property Situated at Maalaea, Wailuku, Maui, Hawaii, being Portions of Tax Map Key (2) 3-6-001:018. The purpose of the proposed bill is to grant Changes in Zoning to Agricultural District for 14.7 acres, .06 acres, and .08 acre, respectively, located in Maalaea, Wailuku, Maui, Hawaii, identified for real property tax purposes as three portions of tax map key (2) 3-6-001:018, for the proposed Maalaea Agricultural Subdivision project. So, the Committee may consider whether to recommend passage of the proposed bills on first reading, with or without revisions. The Committee may also consider filing of County Communication 19-347 and other related action, I guess which would include deferral. Okay, Members, I'd kind of like to pick up where we left off. We worked on some conditions...we were working on some conditions and there was some revision based on the Planning Director's input so what is being distributed right now first is an aerial photo of the property. And there's areas to the area that would be considered for Change in Zoning, the Open zone, the Road/Street Reserve zone, the R-3 zone, and then I think the other bigger portion of the parcel is being considered for a community plan change to Agricultural from Project District 12. And then the second sheet that's being handed out is the revised conditions of zoning that we had worked on in response to what was...what the discussion was during our last meeting on the subject. And, you know, this is basically a continuation of last meeting. And also, what will be coming around next is just the definition on what is allowed under Project District 12 which is the current...I don't know if you call it zoning but it's currently on the Kihei-Makena Community Plan for this area. So, Members, I think one and two of our conditions of zoning is pretty similar to last time. Number 3 was modified in response to statements made by Deputy Director Hart. Does anyone have any trouble with those modifications on 3(a) through (d)? Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, I wonder if we could also hear from the developer as we go along?

CHAIR PALTIN: Sure. I don't see a problem with that.

COUNCILMEMBER SUGIMURA: Yeah, so that we can kind of --

CHAIR PALTIN: As far as I know --

COUNCILMEMBER SUGIMURA: --have a unified...

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: --they didn't have objection to these. I don't know, but yeah.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR PALTIN: Miss...did you want to hear from the applicant landowner --

COUNCILMEMBER SUGIMURA: Yeah, as we go along.

CHAIR PALTIN: --or Mr. Bagoyo?

COUNCILMEMBER SUGIMURA: Whoever on their side.

CHAIR PALTIN: Oh, whoever.

COUNCILMEMBER SUGIMURA: But yeah --

CHAIR PALTIN: Okay.

COUNCILMEMBER SUGIMURA: --if we could have also --

CHAIR PALTIN: I guess you can --

COUNCILMEMBER SUGIMURA: --their participation.

CHAIR PALTIN: --decide who would like to be the speaker on behalf of this application.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR PALTIN: And so, at this point you just wanted to know if the applicant was okay with 3, number 3(a) through (d)?

COUNCILMEMBER SUGIMURA: Yeah. Well --

CHAIR PALTIN: Is that...

COUNCILMEMBER SUGIMURA: --as we go along, yeah.

CHAIR PALTIN: Okay.

COUNCILMEMBER SUGIMURA: One, two, three and...

CHAIR PALTIN: Any comment, Mr. Bagoyo, on number 3(a) through (d)?

MR. BAGOYO: I just got this so let me just...

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: Oh, my apologies. It's pretty much what Deputy Director Hart had spoken about I believe.

COUNCILMEMBER SUGIMURA: Oh, thank you.

CHAIR PALTIN: Okay, this was what was in the comments prior.

MR. BAGOYO: Yes. Thank you, Madam Chair and Members of the Committee. Yes, the applicant and the owner is in support of the proposed conditions 3(a) to (d).

CHAIR PALTIN: Thank you. Members, any problems with 3(a) through (d)?

COUNCILMEMBER KING: I just have a question.

CHAIR PALTIN: Yes, question?

COUNCILMEMBER KING: Thank you, Chair. Thanks for being here, Vince, I appreciate it. Since the last meeting, we've learned that the property is under contract for sale and so I'm not sure what the conditions mean to this developer. Is this developer working off of plans for the potential buyer for the project, the plans that we were looking at for the subdivision?

MR. BAGOYO: Yes. I think my understanding according to the owner is they also, the property is under contract with a potential buyer, and they will have to be aware of all of the conditions that are being imposed.

COUNCILMEMBER KING: Okay. So...

CHAIR PALTIN: Yeah, it's my understanding the conditions will run with the land.

COUNCILMEMBER KING: No, I know they will but every time we put conditions on we ask the developer if they're okay with them, and we don't know that because we don't know who the developer might be if the property changes hands. So, you know, there's...that's why I think it's kind of moot point to ask are you okay with this, because we don't know who's actually going to own the land by the time this happens.

CHAIR PALTIN: Okay. Well, I mean I guess it's Member Sugimura's right to ask questions.

COUNCILMEMBER KING: No, no, I know, I'm just...that's just my comments.

CHAIR PALTIN: Okay.

COUNCILMEMBER KING: I appreciate her questions as well. I mean I think everybody has a right to ask whatever questions they want.

CHAIR PALTIN: Yeah, okay.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBER KING: Thank you.

CHAIR PALTIN: And I think number 4 was similar to before, A and B. Any questions from anybody on those? Yes, Member Molina?

COUNCILMEMBER MOLINA: Yeah, Madam Chair, just for the record so we're working off of the ones you...the...I know there was a list of conditions dated October 2<sup>nd</sup> from the previous meeting so we're just going to discard that one and just work off today's one, the 16<sup>th</sup>?

CHAIR PALTIN: Yeah.

COUNCILMEMBER MOLINA: Okay, just want to make sure I find my place.

CHAIR PALTIN: Member...

COUNCILMEMBER MOLINA: I have --

CHAIR PALTIN: Oh.

COUNCILMEMBER MOLINA: --when you deem it appropriate I have some conditions to consider for the Committee --

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: --at a later point when you're done with this one.

CHAIR PALTIN: All right, thank you.

COUNCILMEMBER MOLINA: Thank you.

CHAIR PALTIN: Member Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. So, B...A to D [*sic*] is just some of the Planning Department's...they also submitted those requested new conditions, those are part of...is that part of the...those are the same ones, yeah?

CHAIR PALTIN: Yeah.

VICE-CHAIR SINENCI: Okay.

CHAIR PALTIN: Yeah.

VICE-CHAIR SINENCI: All right.

CHAIR PALTIN: And you're talking about number 3(a) through (d)?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

VICE-CHAIR SINENCI: Okay, thank you.

CHAIR PALTIN: Yeah, okay. All right, and then moving on to number 5, so for me on number 5, I did have a concern and it got left out. But I think it was comments from the Planning Department that didn't have a date certain on when the future owner or leasee would be responsible to have roadway improvements necessary to mitigate the project impacts. It just says when it should be done. Usually it's...I think it's by final subdivision approval, but it was my understanding that the Planning Department wasn't for that. So, Deputy Director Hart, did you want to comment on that?

MR. HART: Sure, Chair. I think that we are fine with final subdivision approval. My understanding of the subdivision process is basically that the infrastructure improvements need to be identified as part of the construction plans that are going along with the subdivision, and then those are essentially bonded prior to final subdivision approval.

CHAIR PALTIN: Okay. I guess then, Mr. Bagoyo, are you okay with the improvements being completed before, prior to final subdivision approval, or do you think more time is needed?

MR. BAGOYO: I think we have reviewed the proposed condition that was sent to us by the Planning Department earlier and we are okay with that condition.

CHAIR PALTIN: Okay. Any objection, Members, to adding that improvements must be completed prior to final subdivision approval? No objections?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay. Improvements...you got that, James? Okay, cool. Number 6, any issues with number 6 from anyone? Seeing none, moving on to number 7. Anyone have issues with number 7? And I realize that this isn't a binding thing but it just goes to the intention of this Council.

COUNCILMEMBER SUGIMURA: So, you're saying...Chair? Sorry.

CHAIR PALTIN: Uh-huh.

COUNCILMEMBER SUGIMURA: So, you're saying no 201H?

CHAIR PALTIN: No...yeah.

COUNCILMEMBER SUGIMURA: No future 201H.

CHAIR PALTIN: Uh-huh.

COUNCILMEMBER SUGIMURA: Okay.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MR. BAGOYO: And the applicant is okay with that as well.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: Thank you. Yes?

COUNCILMEMBER KING: What do you mean by this is not binding?

CHAIR PALTIN: Because the process of 201H doesn't...exempts.

COUNCILMEMBER SUGIMURA: Go with the land.

CHAIR PALTIN: Yeah. It just is...

COUNCILMEMBER RAWLINS-FERNANDEZ: The 201H process allows for exemption of rules and agreements like we've seen in the previous applications.

COUNCILMEMBER KING: Okay. But I thought...

COUNCILMEMBER RAWLINS-FERNANDEZ: So, this isn't necessary.

COUNCILMEMBER KING: But I thought you were saying the condition is that they would not ask for a 201H, is that what we're trying to do?

CHAIR PALTIN: It's to memorialize our feelings today for future Councils' actions.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: And moving on to number...yes, Mr. Galazin?

MR. GALAZIN: Thank you, Chair. Just I had a question just looking through number 7, when we're talking about the future owner not pursuing approvals under Chapter 201H, is this just going to be pertaining to the portion of the property that's subject to the Change in Zoning? Because you obviously can't bind an owner to property that's not involved in the Change in Zoning. It just seems sort of unclear the way it's written. It could maybe be tightened up a little bit, because otherwise somebody might argue that it's...it would be inapplicable or it could be void by the fact that it's too ambiguous. So, I don't know what the...I wasn't here when it was crafted so I'm not sure what the intent is. But that would be my comment just to think about that if you want to perhaps amend the language a little bit.

CHAIR PALTIN: Mr. Rapacz, would you care to comment on that?

MR. RAPACZ: Thank you, Chair. My understanding is that, and as illustrated in the Waikapu Country Town Change in Zoning, that the Council has imposed conditions on properties that are not specifically having their zoning changed but are part of an overall proposal that needs the zoning change.



**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: Yeah.

MR. RAPACZ: And I believe that was done in Waikapu Country Town.

CHAIR PALTIN: Yeah, so there is past precedence on that. Okay. Moving on to number 8.

VICE-CHAIR SINENCI: Chair?

CHAIR PALTIN: Yes?

VICE-CHAIR SINENCI: I just had a clarification question. So, going back to the zone change. Are we just speaking about the, on the south end changes to the 14.7, the 0.6 [sic], and the 0.9 [sic] I believe? So, all these conditions will be just on those sections, we're not doing any of these conditions on the entire 200-some acreage?

CHAIR PALTIN: So, to clarify, the intent is to change the community plan designation for the larger portion, and the proposal is to change the zoning for those three areas. One would be the Open Space, the R-3 portion which is that little...

VICE-CHAIR SINENCI: Little point.

CHAIR PALTIN: If you look at your aerial map, the three portions that are specifically called out, the R-3 zone, the Road/Street Reserve zone, and the Open zone. Changing those...one or any of those zonings is what allows for the conditions to be implemented.

VICE-CHAIR SINENCI: On the larger...on the entire...

CHAIR PALTIN: On the whole project.

VICE-CHAIR SINENCI: Okay.

CHAIR PALTIN: Simply changing the community plan designation does not allow for conditions, it's the changing in zoning of one or all of these that allow for conditions.

VICE-CHAIR SINENCI: To the larger 200-some acres?

CHAIR PALTIN: As we've done in the past --

VICE-CHAIR SINENCI: Okay.

CHAIR PALTIN: --with Waikapu Country Town.

VICE-CHAIR SINENCI: Thank you for that clarification, Chair.

CHAIR PALTIN: Sure.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBER KING: Can I just get a point of clarification?

CHAIR PALTIN: Sure. Chair King?

COUNCILMEMBER KING: And just to be upfront, I'm not for this community plan change, because our community has come out against it, our two major community associations, Maalaea and Kihei. But the statement that you made that community plan changes aren't subject to conditions, I wonder if we could get a...because we've done that before where we've put conditions on community plan changes. We did that with that Keawekapu parcel where we put a condition when we changed the community plan to match the zoning, we put a condition that the hotel could not expand beyond a certain size or impact. So, maybe we can get clarification on that.

CHAIR PALTIN: Sure. Mr. Galazin, would you care to comment on that clarification?

MR. GALAZIN: Thank you, Chair. And I'll probably let Planning speak to this also. When we're talking about conditions, you know, typically we have in our Code the ability to do conditional zoning specifically and put those specific kind of caveats on there and have a unilateral agreement executed. We don't have anything necessarily that is something we would specifically call conditional community plan amendments; however, when you're amending a community plan, you can...you amend other portions of it and I'll, as I said I'll probably let Planning talk about how that might be implemented.

MR. HART: Chair, this might be a little complicated. So, I participated in the Keawekapu project that I believe you're talking about --

COUNCILMEMBER KING: Right.

MR. HART: --but I was also...

COUNCILMEMBER KING: You were on the other...you were the...

MR. HART: Well, but I was also out of State when the final action took place where I believe the adjustment that you might be talking about happened. But regardless, I shouldn't...I can't talk about that scenario so we might need a little bit more time to work out what --

COUNCILMEMBER KING: Okay, you have a conflict.

MR. HART: --the discussion is here. I do have a conflict on that Keawekapu project.

COUNCILMEMBER KING: Okay, I appreciate that. I appreciate you bringing that up. I forgot that you were their consultant on that project. But I do recall that we put that condition on because the community was worried about changing the community plan even though the zoning was already there, because they thought that might allow the

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

hotel to expand. And so, we put in conditions that the hotel and restaurant couldn't expand beyond their current footprint or size or capacity or density, and we put all that in there into the community plan.

CHAIR PALTIN: So, this might have been my fault. I may have like misspoke. You can put conditions on community plan amendments, the point that I was trying to make but I guess I didn't make is that community plan amendment conditions are not permanent and they're not recorded on the land like Change in Zoning conditions are. So...

COUNCILMEMBER KING: They're recorded in the community plan.

CHAIR PALTIN: Yeah. Mr. Rapacz, would you care to comment?

MR. RAPACZ: Thank you, Chair. The community plans as the Members probably know consist of two major parts, one being the map where it shows the community plan map designation or the land use designation. The other part is the text of the plans themselves. And so, I agree with David, with Corp. Counsel that it's not technically a community plan or a conditional community plan amendment, but it would involve changing the designation on the map but also inserting language in the community plan with the restrictions or limitations or requirements for a particular location.

COUNCILMEMBER KING: Okay. So, it's not considered a condition, it's just considered a...that goes along as part of the change in the community plan?

MR. RAPACZ: That's my understanding.

COUNCILMEMBER KING: Okay. So, it becomes part of the amendment.

CHAIR PALTIN: Everyone clear on that at this point? Okay. All right, so moving on to number 8. We did briefly talk with the Director of Transportation from Maui County, and he's not sure if this...I mean it wasn't really on his radar but he does appreciate it, you know, being that first right of refusal within 90 days, and we did talk at length with the applicant and they're also okay with it. Any problems from the Members on number 8? No? Okay, and number 9, anyone? Mr. Bagoyo?

MR. BAGOYO: We're okay with those conditions.

CHAIR PALTIN: All right. So, having gone through that, I...at this time maybe, Mr. Molina, did you have anything for us? Yes.

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair. I have about 25...no I'm just kidding. No, just maybe about five. And some of these proposed conditions were similar to what was added to previous projects. The first one is the, maybe to get comment from the applicant. The water supply for this project subdivision will be through private wells and will not draw water from any water source that will diminish water availability to any other project or development. I don't know if Staff needs me

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

to repeat it. And I'll provide this in writing later on for...make it easier. So, do you need me to repeat that, Madam Chair?

CHAIR PALTIN: I think I got it and if you're going to provide it in writing for Staff just if any of the Members want that repeated?

COUNCILMEMBER SUGIMURA: How many amendments does he have and can we have it in writing so we can go along with it?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, I'd like it in writing.

COUNCILMEMBER MOLINA: Yeah, that's what I just said. Yeah, well if you want to take a break now --

COUNCILMEMBER SUGIMURA: Can we have it now?

COUNCILMEMBER MOLINA: --I could...

COUNCILMEMBER KING: Recess.

COUNCILMEMBER RAWLINS-FERNANDEZ: Recess.

COUNCILMEMBER MOLINA: Recess.

CHAIR PALTIN: Well, maybe you can have those made, copies. I had some other comments maybe while the copies are being made that I can go on that, and then if somebody can make copies of his proposed amendments while we discuss the other issues. Thank you, Members, for your flexibility. So, you know, I feel like we worked pretty hard on the conditions over the past couple weeks, and then yesterday we got Ms. Britton's testimony, and on her recommendations, I feel like we did address one, two, three, and four. Four with the County's first right of refusal for the Lot 21 which is the 40-acre parcel. The areas that we did not address in the conditions were the two bullet points, take this once-in-a-lifetime opportunity to address stormwater runoff into Maalaea Bay, and Maui Nui Marine Resource Council now has over 730,000 in grant funding to address wildfires and runoff from mauka lands into Maalaea Bay. The parcel in question is a major contributor to the problem. Include recommendations from the MNMRC Pohakea Watershed Drainage Study in the Council's deliberations on the site. So, I mean I did know about their plan but I didn't take that into consideration in the conditions and I did not explore opportunities for conservation subdivision design as compromise between developer and County community interests. I did have a couple other questions kind of based on Ms. Britton's testimony for the applicant. And Ms. Britton had mentioned that the 1992 community plan proposal was for a 169-acre project district and is asking how it became 257 acres. I was wondering if you knew how that happened, Mr. Bagoyo?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MR. BAGOYO: No, I'm not familiar with the increased acreage on the community plan. We know what the Kihei-Makena Community Plan was approved in 1998, if I'm not mistaken, which a total of 2, approximately 257 acres, yeah.

CHAIR PALTIN: Okay. And then I guess my other question...

MR. BAGOYO: I think it was...I'm sorry. Yeah, I think it was C. Brewer application's, the 1992 community plan approval for possibly the additional acreage, I'm not sure.

CHAIR PALTIN: So, like maybe C. Brewer only owned 169 acres or something?

MR. BAGOYO: No, it was all C. Brewer property, yeah, the entire area, project district, that's known, Project District 12, and then subsequent to that, it was sold to Mike Atherton's company, so.

CHAIR PALTIN: And then to Jesse Spencer.

MR. BAGOYO: Then Mr. Spencer bought it.

CHAIR PALTIN: Okay. And then my other question is it's my understanding that 2.96 does apply and --

MR. BAGOYO: Yes.

CHAIR PALTIN: --so is...are six of the houses intended to be affordable?

MR. BAGOYO: It's...they're going to have to meet that condition. It's not a discretion, it's a condition. So, either they're going to have to pay for it or they're going to have to use some of the credits that are allowed under the law to accommodate that.

CHAIR PALTIN: So, you don't know right now --

MR. BAGOYO: Yeah.

CHAIR PALTIN: --how they'll...

MR. BAGOYO: But they will comply. Yeah, they will comply.

CHAIR PALTIN: Okay, all right.

MR. BAGOYO: Similarly with the park assessment fee.

CHAIR PALTIN: Oh, okay.

MR. BAGOYO: Those are non-negotiable.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: Right on. Okay, so that was good, I got my questions out. And then now we have the additional amendments from Mr. Molina.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes...

COUNCILMEMBER KING: Before we move on, could we get...could you send a letter to Planning to find out how that change happened? Because we're doing a lot of conjecturing and how we went from the 169 to 257 acres in that parcel. Can we get an official...somebody research that and find out why that happened?

CHAIR PALTIN: Okay. James, do you think you can send a letter asking what happened to the 88 extra acres, how that happened?

COUNCILMEMBER KING: How that...

CHAIR PALTIN: Okay. And then --

COUNCILMEMBER KING: Thank you.

CHAIR PALTIN: --Member Molina?

COUNCILMEMBER MOLINA: Thank you very much, Madam Chair. Yeah, I went over the first proposed condition which had to do with the water supply have to be private wells and not allowed to draw water from other water sources that could diminish the availability to any other project or development. The second one says the developer must receive from the Department of Water Supply a "will serve" letter from the developer to confirm a long-term reliable water supply for the project. Again, that was something that was attached as a condition for a project we recently dealt with. The third proposed condition is, well, according to the DLNR there's a portion of the Lahaina Pali Trail that runs through the proposed project site that is not commonly used for access to the trail. The proposed condition is this area shall be maintained as open space to preserve its historical and cultural value to the community. That may kind of be part of your condition, I'm not sure, but...

CHAIR PALTIN: Mr. Hart, for number 3, do you think that is...did you get a copy of Councilmember Molina's? Do you think that would be covered by condition three that I proposed?

MR. HART: We would prefer the longer version in the Chair's...

UNIDENTIFIED SPEAKER: ...*(inaudible)*...

MR. HART: We would prefer the Chair's version distributed this morning.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: So, is it okay with the Members if we strike Member Molina's version three, I mean number 3 in his version?

COUNCILMEMBER MOLINA: No objections from me, yeah.

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: Yeah, that's fine as long as that aspect --

CHAIR PALTIN: Is addressed.

COUNCILMEMBER MOLINA: --is covered then...

MR. HART: Thank you.

COUNCILMEMBER MOLINA: Yeah. Okay. And number 4, there should be two buffer zones of 500 feet on either side of the trail access road and a second 500-foot buffer should be established along the highway to be preserved for agricultural activities and act as a firebreak.

CHAIR PALTIN: So, for this one, Member Molina, are you saying a buffer --

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: --in addition to the safe...the corridor?

COUNCILMEMBER MOLINA: I don't know how specific, you know, the footage or as it...I guess with the State historical, I guess, or State Land Use Commission as part of their conditions of zoning it's kind of broad, yeah. I don't know if that specifies any specific buffer zone size or footage.

CHAIR PALTIN: Yeah. So, for...

COUNCILMEMBER MOLINA: Maybe we could get a comment from Mr. Hart.

CHAIR PALTIN: For number 4(a) I think, I guess my question is there's a 10-foot-wide bikeway pedestrian lot starting at end of subdivision roadway lot near the mauka end of the lot line, and you'd like 500 feet in addition to that 10-foot-wide bikeway pedestrian lot?

COUNCILMEMBER MOLINA: I guess either or, I mean if you want to maybe...well, you have 10-foot for the...

CHAIR PALTIN: You just want 490 more feet?

COUNCILMEMBER MOLINA: Yeah, another 490, yeah.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: Okay, got it.

COUNCILMEMBER MOLINA: To total 500, yeah.

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: That should be fine, sufficient.

CHAIR PALTIN: Mr. Hart, comments on that?

MR. HART: Thank you, Chair. The...we provided a diagram of our proposed...the result of our proposed condition language. It's in the County's Communication 19-347, I believe it's nearly at the end. It's Exhibit B. Anyway...

CHAIR PALTIN: And that should be on Members' Granicus I believe.

MR. HART: We, in consultation with the DLNR Forestry Division, we believe that we're accommodating their needs by what we're proposing. I think that, you know, what the Councilmember is describing is very nice, but it may be pretty significant impact on lots that are lined out and things like that. So, I'm not...it's very nice, I'm not certain how reasonable it is to the applicant and things like that, and so there might be some consultation there.

COUNCILMEMBER MOLINA: Okay. Maybe if we could hear from the applicant how they feel about it. Again, the intent of this is just to create this buffer so there's...and the firebreak, since a lot if it has been happening there of late, well, maybe not there but within the vicinity yeah, so --

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: --anyway.

CHAIR PALTIN: I'm not...oh, Member Lee?

COUNCILMEMBER LEE: So, are we saying we're going from right now 10 feet to 500 feet?

CHAIR PALTIN: That's the discussion.

COUNCILMEMBER MOLINA: That would be the proposed...yeah.

COUNCILMEMBER LEE: Ten feet on each side and...to 500 feet on each side?

CHAIR PALTIN: Well, I don't think it can be on each side, because one of the sides is the highway. So, it would just be...

COUNCILMEMBER LEE: Okay. No, but when you meant...when you said either side, what did you mean?



**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBER MOLINA: Well, you know, the highway and then another 500 on the other side. Yeah. So, yeah. Yeah.

MR. BAGOYO: Madam Chair, if I may? Oh, I'm sorry.

CHAIR PALTIN: Yes, Mr. Bagoyo?

MR. BAGOYO: Yeah, I think...I'll thank you, Councilman Molina, for the proposed condition, but 500-foot is really taking pretty much all of the property fronting Honoapiilani Highway. We are providing an open area, about a 100-foot buffer on the Honoapiilani side. Yeah, 'cause otherwise 500-foot it basically makes those lots, the 15 acres, 40 acres, it takes up most of the property.

COUNCILMEMBER MOLINA: Okay. So...

MR. BAGOYO: Maybe a more reasonable...I think we're already providing a 100-foot buffer, if you may.

COUNCILMEMBER MOLINA: Okay. So, it would have an effect on the...

MR. BAGOYO: Yes.

COUNCILMEMBER MOLINA: You'd lose some lots basically. Okay.

MR. BAGOYO: Thank you.

COUNCILMEMBER MOLINA: I just put that out for consideration, and again it was more to create a bigger buffer between the highway and the...

MR. BAGOYO: On the makai side, you have the State land property that also needs to provide some buffer. In fact, in the past the, Spencer did provide some buffer on the State land area. I know Mr. Jesse Spencer did some kind of clearing on the makai side of the property. So, I just wanted to make sure that we're not going to be losing any more lots.

COUNCILMEMBER MOLINA: Okay. Yeah.

CHAIR PALTIN: Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just, I wanted to speak in support of Member Molina's intent here. Our responsibility as the Council is to ensure public safety and not...our responsibility is not to make sure that developers maximize their profits. Our job is to make sure that our people are safe and the environment is safe and healthy, and so the intent behind this, you know, I would be supportive of. I appreciate Member Molina having that foresight. Mahalo.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBER MOLINA: Okay. Madam Chair, I'll just leave it up to the body as far as the conditions. Well, maybe we can reach a compromise, if not 500, maybe something in between 100 and 500, but...

CHAIR PALTIN: Member Sinenci, did you have a comment on that?

VICE-CHAIR SINENCI: Just clarification, so the 500 feet is mauka of the Honoapiilani Highway?

CHAIR PALTIN: Member Molina --

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: --your intention for that?

COUNCILMEMBER MOLINA: It says on either side of the trail, yeah, fronting in.

CHAIR PALTIN: And so, the trail you're talking about is the Lahaina Pali...

COUNCILMEMBER MOLINA: Yes.

CHAIR PALTIN: Okay. Lahaina Pali Trail --

COUNCILMEMBER MOLINA: Access road, yeah.

CHAIR PALTIN: --as well as the mauka portion of the highway?

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: Okay. For the sake of efficiency, I'd like to move that till the end and --

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: --continue on.

COUNCILMEMBER MOLINA: Yeah, if we can look that at a later point.

CHAIR PALTIN: Take the discussion on that to the bottom.

COUNCILMEMBER MOLINA: Okay. Okay.

CHAIR PALTIN: And then, okay, moving on to number 5.

COUNCILMEMBER MOLINA: And number 5 as a condition of reclassification by the State Land Use Commission, they required that the 20.644 acres continue in agriculture use. So basically, it's something that's already there, but I, you know, for the sake of memorializing it as part of the conditions, normal conditions of zoning, you know, to

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

reinforce it as a condition of zoning. So, but it might be redundant because looking at number 6, well, I won't go through all six remaining conditions of approval with the State Land Use Commission, just attaching those six conditions to these condition of zoning. And it has it in there that the 20.644 acres continue in agriculture use.

CHAIR PALTIN: For me, I'm not clear which 20.644 acres that you're intending.

COUNCILMEMBER MOLINA: Whichever ones that was designated by the State Land Use Commission. Maybe Mr. Bagoyo can...

MR. BAGOYO: I think I believe that's the mauka property of the land, and we have no objections to that condition.

COUNCILMEMBER MOLINA: Okay. Yeah.

MR. BAGOYO: Yeah. 'Cause it's in the State Land Use Commission conditions.

COUNCILMEMBER MOLINA: Yeah.

MR. BAGOYO: Including reporting's and so forth, yeah.

COUNCILMEMBER MOLINA: Yeah. Yeah, and that --

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: --number 6 would be just to attach the, those State Land Use Commission conditions to the conditions of zoning.

CHAIR PALTIN: Okay. So, the developer is okay with five --

MR. BAGOYO: Yes.

CHAIR PALTIN: --and six. Everybody else okay with five and six? Okay, so I guess that brings us back to number 4. Member Lee?

COUNCILMEMBER LEE: Madam Chair, I think I expressed already that I think the 500-foot is excessive, but I would like to hear from the developer what your thoughts are on this matter.

CHAIR PALTIN: And, Member Molina, if you don't mind for number 4 if you can clarify based on my number 3 which ones you're intending to apply the buffer to. Your number 4 on my 3(a), (b), (c) or...

COUNCILMEMBER MOLINA: Okay. Madam Chair, if you wouldn't mind if I could...whenever you call a recess, I could kind of look, take a deeper look into this.

CHAIR PALTIN: Sure thing. Any objection to taking our morning recess at this time?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay. Let's take a what, 10, 15? Ten? Okay, 10-minute recess and let's return at 10:12. . . .(gavel). . .

**RECESS: 10:02 a.m.**

**RECONVENE: 10:17 a.m.**

CHAIR PALTIN: . . .(gavel). . . Will the Planning and Sustainable Land Use Committee meeting of October 16<sup>th</sup> return to order. The time is now 10:17. And, Members, what's being distributed for your...just to get a better idea or visual of what we're talking about. And this is kind of the document that Deputy Director Hart was referring to. And once you get this Exhibit B or I guess on one point it says Exhibit 12, the Lahaina Pali Trail Road is this orange line if you guys can see that. And the green I guess like Marsh pen line is the vehicular access to the Lahaina Pali Trail, and these are things that have already been established that the community will have access. And I believe Councilmember Molina's number 4 he was intending to be...and correct me if I'm wrong, to be a 500-foot on either side of that orange line, is that what you're talking about? And it's also a benefit for the homeowner like maybe they don't want to have all these people walking close to their house or something. I...is that what your intention was?

COUNCILMEMBER MOLINA: Yeah, more for safety reasons --

CHAIR PALTIN: And then --

COUNCILMEMBER MOLINA: --in the event of a fire breaking out.

CHAIR PALTIN: --you're okay with the 100-foot buffer along the highway, and you didn't realize that when you put the second 500-foot buffer established along the highway to be preserved for agricultural activities and act as a firebreak?

COUNCILMEMBER MOLINA: Yeah. Well, yeah, I was unaware of the 100-foot buffer that already was existing there, but I was looking at maybe a higher number but again it's your...I'll follow your lead on this, Madam Chair, if you feel --

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: --otherwise, you know. But I just throw it out there as a proposal.

CHAIR PALTIN: Okay. I'm guessing we probably don't have consensus on number 4 from Member Molina. Yes, Member Lee?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBER LEE: Yeah, I don't have...I don't give my consensus on this one, but I'm open to and sounds like he is too, to discussing other lengths.

CHAIR PALTIN: Other lengths, okay.

COUNCILMEMBER LEE: Yeah. So, that's the reason why I asked the developer like...

CHAIR PALTIN: And you're talking about the Lahaina Pali Trail portion?

COUNCILMEMBER LEE: Right.

CHAIR PALTIN: Or both?

COUNCILMEMBER LEE: Well, his proposal.

CHAIR PALTIN: Number 4.

COUNCILMEMBER LEE: Condition. Yeah.

CHAIR PALTIN: His number 4. Okay.

COUNCILMEMBER LEE: What is their reaction to that? And is there a compromise...

CHAIR PALTIN: The applicant's reaction?

COUNCILMEMBER LEE: Yeah.

CHAIR PALTIN: Okay. And he's coming up to the podium.

MR. SPENCER: Hi, Mark Spencer, we're the landowner. Yeah, I...as far as the highway buffer, I mean that was given to us by the County and the State that they wanted...I mean I don't think there's any possibility somebody is going to build a structure there, but I mean I don't mind increasing that a little bit, but maybe another 50, 100 feet. As far as the Pali Trail, I was trying to figure out the reason for it. I know you mentioned safety, but I can't really visualize that but I would be willing to something like a 50-foot just so a house is not right there overlooking the trail. I'd hate to restrict that much more than that when we're already giving them the trail.

CHAIR PALTIN: And for my clarification, are you talking about 50 feet total or 50 feet on either side of the trail?

MR. SPENCER: I'm not sure, is there a specified width...what is the specified width of the trail right now? Does --

CHAIR PALTIN: I believe it's...

MR. SPENCER: --Planning have that?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: It says this is, this 10-foot-wide trail lot...10-foot-wide...on my 3(b) and...sorry, 3(a) says a 24-foot-wide trail roadway lot between proposed Lots 5 and 6 depicted on the map, and then (b) is a 10-foot-wide trail lot adjoining a subdivision roadway lot at Honoapiilani Highway and ending at the makai end of the 24-foot-wide trail roadway lot described in 3(a). Ten-foot-wide trail lot must be improved with a multiuse path paved with asphalt, concrete, or any other material approved by DLNR.

MR. SPENCER: Okay, so yeah, I'm looking at this now from this map you guys have, and I would say it would be an additional 50 feet buffer from the edge of that roadway lot before any structure could be...

CHAIR PALTIN: So, 50-foot total, not on either side?

MR. SPENCER: I believe it's on either side still, on either side is fine.

CHAIR PALTIN: So, that would be a total of 100-foot buffer.

MR. SPENCER: In addition to the width of the roadway lot right?

CHAIR PALTIN: Right.

MR. SPENCER: Right.

CHAIR PALTIN: Okay. So, Members, do we have consensus for a 50-foot on either side for a total of 100-foot buffer in regards to, I guess --

COUNCILMEMBER MOLINA: Trail access road, yeah.

CHAIR PALTIN: --it would be on like my condition three, is that correct, Mr. Hart?

MR. HART: Yes, that's what we're discussing.

CHAIR PALTIN: Yeah. So, any...is there consensus on that?

COUNCILMEMBER SUGIMURA: I had a question.

CHAIR PALTIN: Yes?

COUNCILMEMBER SUGIMURA: So, because this was asked of the County from DLNR, do we have to go back to DLNR to talk to them about this? Is there a concern about that?

MR. HART: Chair, if I may?

CHAIR PALTIN: Member Hart...or sorry, Mr. Hart?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MR. HART: We reached an agreement with DLNR before presenting the conditions that we presented, and so this being in addition to that...to above and beyond that, I don't think that they would have any concern provided we meet their, the minimum that they needed, I think that they would be...it would be a nice benefit.

COUNCILMEMBER SUGIMURA: So, they saw what they asked for as being sufficient. So, what we're doing now, we're expanding it?

MR. HART: That's correct. Yeah, what we initially presented in County Communication 19-347 is what they felt was necessary to preserve the existing trail that is depicted by the orange line which is the existing alignment of the State-owned trail. And there's an addition to that which would be basically roadway access in order to get to their area where there used to be the old parking lot was mauka of this parcel. Currently, it's kind of in this parcel makai they would like to be able to have roadway access to their trailhead. So, that's kind of an addition that's made in this request.

COUNCILMEMBER SUGIMURA: So, DLNR is fine with everything?

MR. HART: They're fine with what was presented initially.

COUNCILMEMBER SUGIMURA: Okay. So, does Mr. Molina then need more, you're still feeling like you need more?

COUNCILMEMBER MOLINA: Well, I initially asked for 500 but, you know, I'm open to compromise, and at the will of the Committee Chair, we'll follow your lead and we'll...

CHAIR PALTIN: I'm...

COUNCILMEMBER MOLINA: I'm sure we can work out...I mean...

CHAIR PALTIN: I think 100 foot is good if that's the...what the applicant is willing. I'm okay with that. So, a 50-foot buffer on either side for a total of 100 feet is okay with me if we have consensus.

COUNCILMEMBER LEE: Okay.

CHAIR PALTIN: No consensus? Okay.

COUNCILMEMBER SUGIMURA: Consensus.

CHAIR PALTIN: Shall we take a vote on it then?

VICE-CHAIR SINENCI: Clarifi. . .

CHAIR PALTIN: Oh, clarification?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

VICE-CHAIR SINENCI: Those 50 feet, you're talking about is just alongside the Lahaina Pali Trail --

CHAIR PALTIN: Yes.

VICE-CHAIR SINENCI: --that's going back up on either side?

CHAIR PALTIN: Yeah.

VICE-CHAIR SINENCI: And so, it will be a total of 110 feet width, the trail?

CHAIR PALTIN: Yes.

VICE-CHAIR SINENCI: Okay, thank you.

CHAIR PALTIN: Shall we vote on this condition?

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

COUNCILMEMBER KING: Is that that straight orange line? 'Cause it looks like there's two. Maybe I'm colorblind.

COUNCILMEMBER SUGIMURA: Mr. Hart.

MR. HART: Chair, if I may?

CHAIR PALTIN: Mr. Hart?

MR. HART: The orange line is what legally exists as being owned by DLNR. They own that alignment of the trail and so basically what they said is we're not...we don't have any problem with you guys proposing a subdivision, but we do need a final resting place established in order to realign the ownership of our land which is the, shown as the green line on our diagram. And the green line is basically running parallel to the proposed roadway subdivision road or subdivision roadway. The blue line at the mauka extent is basically a proposed addition, because there was...there's no space between those lots so that would basically provide the final leg of vehicular access for DLNR to get up to their trailhead between those two lots.

COUNCILMEMBER KING: Okay. But if you're talking...so the green line that kind of goes like this, that's what you're talking about? So, you're talking about a buffer around all of that, does that mean that eliminates those two lots on either side of the blue line?



**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MR. HART: Well, those had been my comments when there was the discussion of 500 feet and so, you know, I would turn all the comments regarding that over to the applicant as far as measurements.

COUNCILMEMBER KING: Okay, so I'm not sure...

CHAIR PALTIN: So, the buffer would be along the green and blue lines.

COUNCILMEMBER KING: I guess that would eliminate those two lots then.

CHAIR PALTIN: Well, I mean those two lots are 3 acres each and we're talking about 50 feet on either side so I don't know if it would eliminate it. I mean 50 feet in 30 [sic] acres is...

COUNCILMEMBER KING: Okay, so not...it's not the...you're not talking about that green area that you've...

CHAIR PALTIN: Not the green area, like the green and blue lines.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Not the green area.

COUNCILMEMBER KING: Okay.

MR. HART: For clarification, Chair, the green clouded area is just to indicate what our changes...we just wanted to make sure that people saw what we were showing, you know, like...

COUNCILMEMBER KING: Oh, okay.

MR. HART: That's all the clouded area is.

COUNCILMEMBER KING: I thought that was the buffer.

CHAIR PALTIN: Oh no. So, the green...it looks like a Marsh pen line or something, that's the vehicular access, and the blue. So, I believe...Mr. Rapacz, would you like to comment?

MR. RAPACZ: Thank you, Chair. Just so that the map will...or the...yeah, we can see what on the map corresponds to which condition, the dark-green line on the map corresponds to condition 3(b), that's the 10-foot-wide trail that adjoins the roadway. The dark...the blue line on the map between Lots 5 and 6 corresponds to condition 3(a), that's the 24-foot-wide trail roadway lot between Lots 5 and 6. Condition 3(c) is a roadway access easement over a subdivision roadway, so the roadway that the green line is next to, that's the subdivision roadway and it extends from the highway up, all the way up to the blue line. So, there would be an access easement over that roadway under condition 3(c). So, vehicles would be able to travel on that roadway to get to the

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

trail through the green line and then the blue line. Condition 3(d) you'll see is just a small end of the green line that crosses the highway, that's the crosswalk across the highway listed in condition 3(d). Over on the left of the map, the red line corresponds to conditions 4(a) which is the bike and pedestrian way starting at the end of the subdivision roadway. You'll see the cul-de-sac at the end of the subdivision roadway mauka, upwards on the map, and that would run down to the highway. That's condition 4(a). And condition 4(b) is where the pedestrian crosswalk goes across the highway, just that little red tail on that red line. So, my understanding is that the 50-foot or what is now being considered for a 50-foot buffer on either side would be on the green line and the blue line which are conditions 3(b) and 3(a). And as Mr. Hart said, in essence that green line and blue line are replacing the orange trail line.

CHAIR PALTIN: Thank you for the clarification, Mr. Rapacz. Members, any questions on that?

COUNCILMEMBER KING: So, Chair? Okay, I'm still confused because so that means that we're doing away with the trail, Mr. Rapacz?

CHAIR PALTIN: We're substituting the trail for the green and the blue.

COUNCILMEMBER KING: So, the green and the blue is a vehicular --

CHAIR PALTIN: As well as...

COUNCILMEMBER KING: --thoroughfare.

CHAIR PALTIN: As well as...

COUNCILMEMBER KING: Are people going to be hiking on the roadway, is that what the intention is?

MR. HART: Chair, maybe I'll try and take another --

CHAIR PALTIN: Mr. Hart?

MR. HART: --crack at this. The green line is an off-road trail that runs parallel to the roadway. And then the blue line is a very short distance and it's a road and trail...

COUNCILMEMBER KING: Okay. So, you won't be able to just do that straight shot on the walking trail that's shown here on the orange line, that's going to be gone?

MR. HART: And the reason that's going to be gone is because now there's...you would be walking through people's subdivided lots, and so DLNR is saying we recognize you want to move forward with the changes with your project, we just need to ensure that this existing State trail is accounted for --

COUNCILMEMBER KING: Okay.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MR. HART: --which they're content with the configuration that's being proposed.

COUNCILMEMBER KING: Okay. Do you know the additional, like if you have to go on this green line versus that straight shot, do you know the difference, the amount of linear --

MR. HART: No, we don't know the...

COUNCILMEMBER KING: --feet or miles or...

MR. HART: And we don't know the distance but basically what we tried to do is say okay, you've already laid out your subdivision, rather than trying to interfere with your existing subdivision, we'll just follow the alignment of your proposed roadway which will be satisfactory. Just the primary intent is to get from the origin of the orange line which is shown on the northeast side of North Kihei Road and Honoapiilani Highway to the trailhead.

COUNCILMEMBER KING: Okay.

MR. HART: And so, this realignment accomplishes that.

COUNCILMEMBER KING: Okay. And then on the other side this is a public bikeway so the public can ride up through there and through the subdivision?

MR. HART: That's what's proposed and really, you know, the thought was that the people who are up in the subdivision have a practical way of getting down to the nearest commercial...

COUNCILMEMBER KING: Okay, but it's public? So, it would be...

MR. HART: That's our intent or...

COUNCILMEMBER KING: Okay. And then when you get up there, I just want to make clear because when you get up there, you're going to be riding through the subdivision, biking through the subdivision if you're biking.

MR. HART: Sure. Yes. And again, you know, the primary intent was to provide pedestrian and bike connectivity for the development itself. Basically not create a situation where the people who are down at the end of the cul-de-sac, their only way to get to the nearest convenience store or other amenities near them is to drive all the way down to the end of the cul-de-sac to the North Kihei Road intersection and then drive back when it's, you know, it's a short walk essentially.

COUNCILMEMBER KING: Okay. But they're not going to have issues with...I mean 'cause this comes up all the time, you know, people in...biking down the road going up that bikeway.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MR. HART: Well, I mean it is also...there's a State trail at the end of there too, so I mean it's logical if that somebody was biking from...well and not biking, it would be...I don't think you can really bike up the Pali Trail, but anyway, our thought was that it was going to be open access.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Vice-Chair Rawlins-Fernandez, did you have a comment?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. I was trying to follow along with this. So, the proposal is that this bike and walking path would be alongside a vehicular, paved with asphalt road?

CHAIR PALTIN: Deputy Director Hart?

MR. HART: Yes, I believe that we are requesting a surface on the off-road trail as well.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, the green would also be paved?

MR. HART: Yeah, with a multiuse...yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, this is the location where there's like a pull-off area and a gate where people park alongside the gate and then they walk up that trail yeah?

MR. HART: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: So that pull-off area is no longer going to exist after this. So, where people like to park and then they go up the trail, that...there will not be space for that.

MR. HART: So, DLNR is basically...the trailhead used to be at the mauka extent of the blue line, then it was moved down...more recently let's say within the past 12 years approximately was moved down towards the highway where it is now. DLNR is fine putting any sort of parking area and the trailhead on their property mauka of the blue line. What they would just like to ensure is access to it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, I see. Okay. So, basically the entrance of the trail which used to be right off of the highway will now be off of the subdivision area, and people would drive through that blue line and then park mauka of it and then go up the trail there?

MR. HART: Yes. And before that, it was...the trailhead was also there anyway. It has been there before and the proposal is it'll be there again.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo for that clarification. Okay. What I was going to bring up earlier is that Mr. Spencer said that he had...he would be

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

open to either a 50 or a 100-foot, I would be supportive of the 100-foot on either side of the trail. Mahalo, Chair.

CHAIR PALTIN: Okay, Mr. Galazin, any comments?

MR. GALAZIN: Thank you, Chair. I just wanted to add something for the, maybe to help the Members. If you look at the Department's County communication, Exhibit B which is blown up and handed out which shows the green line and the blue line, has everything we're talking about. But Exhibit A which in the County communication is the page before that actually shows both of those areas but it shows where the approximate location of the old Pali Trail parking lot was and it is just mauka of the subdivision, and it's sort of at the end of the blue line. So, I believe that the parking was traditionally up there and then was moved down closer to the highway recently, but as I understand it from DLNR they would...they're okay with having the parking being back mauka again. And then the, as far as looking at a buffer, the question I would have would be what is meant by a buffer, is it going to be just no structures or no foliage, so some clarity as to what would be requested there. And then just to keep in mind the, both the nexus and the proportionality between what's being requested if you've already got roadway of certain width and then you've got a trail of certain width, how much more width do you need and what's the rationale behind that to make sure you get a clear record for that. Even if somebody agrees to it, if you're asking it upfront, that's different from somebody offering it, from a developer offering it as a suggestion. So, thank you.

CHAIR PALTIN: What page was that that you're referring to of the 193-page document? Sorry.

UNIDENTIFIED SPEAKER: One ninety.

CHAIR PALTIN: One ninety.

MR. GALAZIN: Yeah, I think it's 190 or 193.

CHAIR PALTIN: Ninety. Okay, I see it. Thank you.

COUNCILMEMBER KING: What document in Granicus?

CHAIR PALTIN: Page 190 on Granicus of County communication.

COUNCILMEMBER KING: One ninety of the County communication?

CHAIR PALTIN: Okay. So, on that exhibit you see the approximate location of the existing Pali Trail parking lot, which is above and slightly to the right of the blue line on your paper. So, in reference to Mr. Galazin's comments, Mr. Molina, did you have plans for what the buffer should look like?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBER MOLINA: Not at this time. I, my intent was just more open space in between, you know, nothing specific. I mean unless the developer would consider...

CHAIR PALTIN: Like native plants, water-resistant or drought tolerant --

COUNCILMEMBER MOLINA: I mean I just kind of...yeah.

CHAIR PALTIN: --native plants.

COUNCILMEMBER MOLINA: Yeah, and again, the whole intent is just to create additional space.

CHAIR PALTIN: Mr. Spencer, did you have some comments?

MR. SPENCER: Yeah, hi. And to clarify, we were talking about an additional 100-foot buffer down at the State highway and a 50-foot on either side of the trail. As far as the buffer, my understanding on your reading is that it could still be used for agriculture. We're talking about basically structures not being built. So, I would offer that in the buffer it could be agriculture or some type of open fencing, you know, if there was somebody that had livestock. But I would be okay with restricting any structures.

CHAIR PALTIN: Okay, restriction of structures.

COUNCILMEMBER MOLINA: Yeah, yeah, no structures but just --

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: --yeah, fencing as Mr. Spencer said or some form of agriculture.

CHAIR PALTIN: Okay. So, and 100 foot total. All right. So, Members, are we ready to take a vote on that condition? Member Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. I just had...on the last meeting one we had CPRs included in number six of the conditions and I didn't see that in the new...

CHAIR PALTIN: Do you mind if we take that matter up after this vote?

VICE-CHAIR SINENCI: Oh, okay.

CHAIR PALTIN: Okay, thanks. So, voting on, I believe yes or no on a 50-foot buffer on either side. All those in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: All those opposed. So, measure or condition passes unanimously.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

**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: APPROVE 50-foot buffer on either side of the trail.**

CHAIR PALTIN: And now, Member Sinenci, you wanted to propose no CPRs on the project subdivision?

VICE-CHAIR SINENCI: Yeah, CPRs at the last meeting we put it under what was your six, and so the new one would be, I guess with the 201H it will be in the seven.

CHAIR PALTIN: Oh, yeah. Yeah, now I recall, yeah. Okay, so I think on the last meeting, number six was number seven and no CPRs on that. My apologies for not carrying that forward with the revised conditions.

VICE-CHAIR SINENCI: Thank you, Chair.

CHAIR PALTIN: And everybody recalls that now that Member Sinenci brought it up? We're okay? All right. So, Members, at this time...

COUNCILMEMBER MOLINA: Madam Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER MOLINA: Sorry, just for clarification. You know for the buffer from the highway that was initially put at 100 feet, Mr. Spencer had mentioned that they could go up to another 100 feet so making it 200. Did we take action on that part of the condition?

CHAIR PALTIN: Oh, I'm sorry, no, we didn't.

COUNCILMEMBER MOLINA: I know we did the 50-foot earlier.

CHAIR PALTIN: Yeah.

COUNCILMEMBER MOLINA: Yeah.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: So, is there consensus on a 200-foot buffer along the highway?

COUNCILMEMBERS: Consensus.

CHAIR PALTIN: Yeah? Okay.

COUNCILMEMBER MOLINA: Okay, thank you.

CHAIR PALTIN: James, you got that? Okay. So, at this time I'll entertain a motion and I really have no recommendation. I'm undecided at this point. So, I'll entertain a motion, whatever it may be.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER KING: I move to defer the item for now. And if I get a second I will --

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

COUNCILMEMBER KING: --explain why. Because we're asking for a major community plan amendment which the community has...the two community associations have weighed in against, and I think it needs to go back to the community. I'd like to see...this year there's money in the Planning Department to farm out the South Maui Community Plan so we're hoping we can do that simultaneously with the West Maui Community Plan and get more input. But I think specifically on this piece of property, we have open questions, the open question about why it went from...why it added another 88 acres on from the original community plan. We have...I mean I would love to see a review of the Maui Nui Marine Resource Council's plan, watershed plan for that area and how this potential subdivision would affect it. I know there's a contract right now for the purchase of the land and so, you know, I'm not sure how that...this affects that or, you know, how it affects our decision if that goes through. I would personally like to see the County make a bid on this land and then buy it for open space. But we...the hiking trails, we haven't had any community input on the change of hiking trails and so I think they need to be able to input on that. And plus, you know, on top of all of that is there was going to be a discussion I think also...and I don't know when, between the developer, the applicant, and the County, the Mayor, to see if he's on board with actually purchasing it as well. So, I have all these concerns about it and I'd like to get some of those answered before we move forward with it.

CHAIR PALTIN: Okay. So, I have a motion to defer that's been moved by Council Chair King and seconded by Vice-Chair, Council Vice-Chair Rawlins-Fernandez, and I'll take that as your...the movant's...or did you have additional comments at this...

COUNCILMEMBER KING: No, that's my...those are my comments --



**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: That's your comments.

COUNCILMEMBER KING: --is basically, you know, we've got...we're asking for a community plan amendment without talking to the community. So, and the input that we have had is not supportive of that.

CHAIR PALTIN: Okay, I'll take Council Vice-Chair Rawlins-Fernandez followed by Member Sugimura.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I support what the area Councilmember's comments are. I support having this discussion in the district that's going to be directly impacted, especially after hearing from both the Kihei Community Association and the Maalaea Village Association, both who are in opposition to this action. I think it's important that this type of discussion happens in that community in the evening so that more people are available and can participate and provide feedback to us. I do see the presidents of the associations as representing their membership, but I know there are more people in the area that may not be in the associations and would like to provide their individual testimony.

CHAIR PALTIN: I was...just --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, go ahead.

CHAIR PALTIN: --clarification. Were you suggesting an evening meeting in Kihei or an evening meeting in Maalaea?

COUNCILMEMBER RAWLINS-FERNANDEZ: Either, just in that --

CHAIR PALTIN: Either one.

COUNCILMEMBER RAWLINS-FERNANDEZ: --the community plan district area 'cause I think it includes both, yeah?

UNIDENTIFIED SPEAKER: Uh-huh.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR PALTIN: Just for my clarification, thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, yeah. So, wherever, you know, in that community plan area that makes sense that can accommodate, you know, the...whatever number of the community members want to participate. And I echo a lot of the concerns that Chair King shared about the amendment to the, or the change to the trail and how that'll affect people. And the sale, I'd like to hear more about this proposed, you know, sale that's happening and possibly speaking with our Mayor, and just this is the first time I'm hearing of some of the information so I'd, you know, if possible I'd like to hear about that even before we have our next meeting since the

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

developer and consultant are here today. And if they have that information, if they can share that with us, I'd like to hear...

CHAIR PALTIN: At this time?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR PALTIN: I believe Mr. Spencer had attempted to meet with the Mayor. Did you want to update us at all on that process or no? Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: And there's a sale that's happening?

CHAIR PALTIN: As I know they're under contract to sell this land. I'm not sure if the applicant wants to share more at this time. Not at this time? Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Well, I hope they would be a little more transparent when we have a second meeting in the community so that the community can know what the plans are.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Thank you. I'll take Member Sugimura followed by Member Lee.

COUNCILMEMBER SUGIMURA: You know this is really interesting discussion to me because in comparison to other projects where this Council sat in opposition to developing market homes and, you know, the zoning being, you know, allowed to build more construction and we're opposed to it. And now we have a developer coming before us and wanting to have 21 lots for...and open space basically, these huge parcels, and we're sitting here going oh, we don't know if we want this either. I am...and to have DLNR ask us for this walking trail, we accommodate it, I think it's better than what I see today. I don't use it myself but just by driving back and forth. I think we've...not we, 'cause you really have, but the developer has accommodated the wish of the State and all of us know that State supersedes any of what we plan. And we're...the developer is even willing to do more, right. So, we sit here in our chairs and I'm a little bit confused maybe or disgusted is maybe a better word of the Council taking a project that potentially can be good for the community. We heard from Fire talk to us with other projects that vacant land is...or to have land with houses and development is better than having vacant land. And so, this developer is proposing something. I don't think they're trying to hide anything bad, I think they're trying to make, you know, this better. I'm going to speak against the motion, I'll vote that way. I think that, you know, they have been very open with us and agreeable to make this better. And let's move forward, you know, let's not look like the Council body that tries to stop things. We want things to move forward. I think this is a good move forward motion, and I don't think that the developer has any ill will. I think they've

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

met with, you know, I've met with them. They would meet with everybody and I think they, they're open and willing to do the best for this community.

CHAIR PALTIN: Thank you for your comments. I'll take Member Lee followed by Member Sinenci.

COUNCILMEMBER LEE: Thank you, Madam Chair. I'll be voting against the motion. I believe that we have vetted this project enough and this is not the first time, it's like their second time around and reducing the volume and density of the project tremendously. I don't believe that another hearing is warranted. I mean if you're against the project, vote no. If you support the project, vote yes. Belaboring this is not in the best interest of anyone. I think the project is a quality project. I think that the Councilmembers have provided very good conditions, comprehensive conditions, and I believe this project should go forward and go to the Council as soon as possible. And we should vote it up or down today and not defer. Thank you.

CHAIR PALTIN: Are you suggesting vote yes or file?

COUNCILMEMBER LEE: No. I'm saying that I'm voting no on the deferral. We should vote it up or down today. Yeah. So, we're going to vote first on the deferral, and then I might make the motion move to approve. See?

CHAIR PALTIN: So, you're not suggesting filing?

COUNCILMEMBER LEE: No.

CHAIR PALTIN: Okay, just clarifying. Sorry. Unsure of what's going on. Member Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. I'm going to support the deferral only for one reason and is to look into the County acquiring this project only because, you know, looking at some of the, again, the recent fires, we still have the fire issue, the water issue, the 3 million gallons a day in Waikapu. So, some other issues but, you know, there's...I mean just looking at the place, there's besides all of those hazards, we have some cultural sites, we have the DLNR State area. We're looking at the corridor as a potential for parking if further emergencies do happen. So, I think this is a prime area where the County should be looking at this site. I spoke with the developers and, you know, they have it for sale. So, even though they mean well, they're, they've put it up for sale. And I think they did offer it to the County at the last Administration which didn't go through. So, and that's one of the main reasons for me to defer it is to look at that option again and to see if the County could possibly acquire this for our needs. Also, you know, listening to the Maalaea Village Association and some of the problems that they've been trying to get as far as protecting runoff that goes into Maalaea Bay, you know, so this is prime, a prime spot to try and keep the waters from going into the ocean and maybe keeping it somewhere on land and recharging some of the groundwater before just letting runoff just, you know, when we're talking about water conservation. So, that's my reasons, Chair. Thank you.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**

**Council of the County of Maui**

**October 16, 2019**

---

CHAIR PALTIN: Thank you, Member Sinenci. Member Molina, did you have some comments to share with us?

COUNCILMEMBER MOLINA: No, no further comments. Just call for the question, Madam Chair.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Second and final for Member...

COUNCILMEMBER KING: I can go first.

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: Yeah, I just wanted to point out that we're not here to approve or disapprove this project, we're here to just approve or disapprove zoning changes and changes to the community plan amendment. So, you know, to borrow a word from my colleague, I'm kind of disgusted with all the changes we continue to make to our community plans without the input of our communities. And that's...and, you know, we've got...the only input we have right now is not supportive. We're not here as nine people to decide which projects we like or don't like, we're here to represent the community and the community's desires in the Maui Island Plan. So, if we're going to be changing community plans, we have to get that input. This to me is very similar to that Launiupoko project that we just heard, and the community came out in force wanting one thing and the Council said no, we know better than you and this is what we want. That one, you know, had some merit because it had some affordable housing in it. This one is not in our...in my opinion in our wheelhouse of priorities, because our priority is affordable housing and this...what we will get here if we're looking...if what we get with those changes is what we're looking at, there's no affordable housing in there. So, I'm not asking...I'm not saying I'm against this project or for this project, I'm saying let's take a step back, let's go back to the community now that there's something to look at and get input. And if the community does feel like this is a better alternative than...and in light of looking also at the Maui Nui Marine Resource Council plan for that area, let's look at all our options and let's start planning out these areas instead of piecemealing them because we're trying to support the developers and the people, and the applicants. You know, I wasn't around when the bigger projects were proposed and I feel for them because I know they've gone through many iterations of trying to do different things, but I'm just, I'm here and now in this space having to look at what is our...what's the best thing for our community for this area that is very fire prone, that has much runoff, that we have to deal with these environmental issues I think. And that's why, you know, I would also like to look at the County purchasing this land and then, you know, really...and the developer, the applicant of continually coming back. But it's just to me it's jumping the gun and it's disrespecting the community plans. Before...and we're already doing...we're constantly doing that, we're doing that right now with the West Maui Community Plan, we're sliding things under the table even as their CPAC is meeting. So, I just want to make it clear that this is a not a thumbs-up or thumbs-down on the

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

actual project, this is to me the process of going forward and figuring out the zoning change and the community plan amendment. And we're doing that in the absence of the greater community. So, thank you.

CHAIR PALTIN: Thank you, Chair King. I'll take Member or Council Vice-Chair Rawlins-Fernandez followed by Member Lee for second and final.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Member...Committee Chair. Okay. So, I just, I wanted to speak to some clarification that, you know, my colleague kind of framed my vote in favor of deferral as being anti-development. And I just wanted to say that I am very much not anti-development. I'm anti-irresponsible, not thoughtful, careless development. I'm very much pro responsible, thoughtful, smart development that is supported by the community. And what my comments, my initial comments wasn't about the development, it was about going back to the community to empower our community to take part in this democracy, to be engaged, to be involved, and to give them that opportunity. That's why I'm sitting in this seat. It's not to make decisions for them, it's to make decisions with them. I want to hear from our community members. There were, what, there's one testifier today who represented an association who opposes this. We had written testimony from both that association and the other community association who also opposes this. And so, I'm hearing from that community saying please don't take this action as our representative and I want to make that decision with them. And I don't want to thumb my nose at what they're saying, because it's important that we listen to our community and we take direction from our community members. So, that's what my initial comments were about. It's about going back to our community and giving them that opportunity to speak directly to us at a time when they're not at work, in the evening when they can talk to us. I also want to support our, you know, Councilmember who is from that district who is saying please allow us to take this back to the community. I also don't think that anyone who doesn't use the trail should be giving any comments about whether it's impacting the trail or not, because you don't even use it so you should probably not, you know, say it's not going to be impacted. And my last comment is, you know, with the learning of the sale and what's going on, you know, I've been around enough to know, you know, to question things and it makes me wonder if perhaps this...the whole purpose of this amendment is to increase the value of the land so that when they do sell it then it'll be worth a lot more. So, that's my hunch of what's really going on with this. Mahalo, Chair.

CHAIR PALTIN: If I might just comment on that hunch, I believe that they're under contract for a certain price. But I mean I...that's...and whatever. Member Lee...

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, they don't want to, you know, talk to us about it so we're just left to kind of guess and assume, but if they would be open then perhaps we would know for sure. Mahalo, Chair.

CHAIR PALTIN: Member Lee?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBER LEE: Thank you, Madam Chair. You know our job primarily is to look at this community plan amendment and Change in Zoning for this subdivision and not...and look at the merits and the facts of this application and not necessarily look at who owns the property. You know is this place, is this plan, does...do they fit, all these things do they fit in with the community in the long term, in the short term? Right now although, you know, people might say they're not anti-growth, I'm not trying to target anybody on this Council, but the funny part of it is for a non-anti-growth, you know, Council government, we have one of the worst reputations in the United States of America as being business unfriendly. So, we have to take care of our environment, we have to make sure that our economy is vibrant and that opportunities are available for future generations. And this project to me represents, you know, sort of a recycled application. Years ago it was supposed to be a huge housing project which the communities did not want to have. Most of the communities really don't want to have more development because it imposes on their lifestyle. But our job is really not to win popularity contests. Our job is to figure how are we going to provide housing and jobs for our children and their children. And in this particular case, we have this huge piece of property with 21 lots planned and buffer zones, et cetera, which will make it appear to be open space. But the benefit of having this project is also the fact that not only will there not be any density to look at, it'll help with fire protection because vacant lands are, you know, are more prone to random fires. So, I respect the reasons given by other Members of this Council for their vote, and I would hope they would respect ours even though it's different because we have different reasons and we have different perspectives. But that doesn't mean we're wrong. I think there are good points on both sides. And for me, my thinking is I represent the entire County, everybody, not only my district but everybody. And so, for that reason I will be voting against deferring, and I'm hoping that we can move this project forward to the Council. Thank you.

CHAIR PALTIN: Thank you, Member Lee. Anyone else for second and final? Member Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. Just real quickly, I'm looking at the Special Purpose Revenues Fund in the Budget FY 2020 and under the revised Charter of the County of Maui 1983, as amended; Chapter 3.88, Maui County Code, Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund, so the County actually has a fund to acquire spaces like this. I think this is a worthy candidate because of its location, because both on mauka and makai, and as that entry, that main thoroughfare that goes to West Maui. So, this is a very important section that we need to really look at, and I mean yeah, it's not highly, a high-density area, but still, you know, when that Pali shuts down, this is where everybody gathers, where everybody gets stuck. How many hotels are on West Maui? So, that fire that happened last...two weeks ago when we were discussing this, I mean we could see it from Kahului, and people were stuck on this side. So, I think as far as having that ike papalua, that foresight, that this...I mean that's where I'm coming from that this could potentially be one of those County areas. 'Cause we've already got the big town coming up right down the road at Waikapu with 1,400 houses and so...and Mr. Atherton did put out another couple hundred acres for agriculture. But again, I'm

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

looking...this is really tell, tell...telling, this map, this aerial view, because can you just imagine it being, you know, putting...it could quickly gentrify the area. So, I want to look more into acquiring it for the, for County's sake. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Sinenci. Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. The motion of course is to defer. If it does advance, what is your time table for bringing this item back or are you going to look at potentially scheduling an evening meeting in the district? Just curious.

CHAIR PALTIN: Thank you for that question. I also had that question as I have used up one and a half of my out-of-district meetings.

COUNCILMEMBER KING: You could have mine.

CHAIR PALTIN: Oh, okay. That's...okay. So, I can use one of the Chair's. So, and then I guess another question for the Chair would be would you allow for a night additional meeting? Okay. I don't have a date certain, but I guess if the deferral passes I would like to have a...I would imagine like Kihei Community Center would be an appropriate location.

COUNCILMEMBER KING: Chair, there have also been a lot of public meetings happening in the Maui Ocean Center, and that might be more appropriate because it's right across the street. The manager of the Maui Ocean Center has allowed that use of that dome, the sphere to be used for many, many...I think that's where the Maalaea Village Association meetings are held.

CHAIR PALTIN: Okay. I don't have a date certain, but with the information I've been provided with Chair King, from Chair King, I guess I would poll for an evening meeting, and I'm not sure of the date, I would have to look into it. But I wouldn't like to drag it out beyond the end of the year, that's for sure, assuming that the deferral passes. But if the deferral passes, I will commit to an evening meeting at either the Maui Ocean Center or the Kihei Community Center, assuming we can secure one of those places and get a quorum of Members and so forth. But I don't have a date certain at this point should the deferral pass.

COUNCILMEMBER KING: And I'm happy to work with you on that, Chair, putting that together.

CHAIR PALTIN: Okay, thank you. Is that the extent of your comments? Okay. So, if there's no other further comments, I think only Member Molina has another second and final, I'd like to make my comments at this time. You know when the landowner representative's father, Mr. Jesse Spencer was still alive and when he initially purchased the land from Mike Atherton and proposed over 1,100 homes in this area, I believe I testified against that because I thought it was a wrong location. And I just wanted to say that I think Mr. Jesse Spencer was a really good guy and he had a lot of

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

heart and, you know, I've had a chance to get to know and interact with his sons Doug and Mark, and I think they're also nice people. And I think the tragic kingdom circumstance of it is that nobody else would sell Mr. Spencer land. There's so many large landowners in Maui County that claim that they care about affordable housing, and he was prepared to build 1,100 affordable homes similar to what Waikapu Gardens is because that was his project. And so many people that we know live in Waikapu Gardens and they've been able to own a home. And I mean I think even our Director of Public Works lives there and it's real local families and he really, Mr. Spencer really had a heart. And I heard that, you know, even though he was 30 and 1 as his record, it's that last one before he moved on that was the one that he couldn't get over. And I think that's really sad and, you know, I just, I wanted to allow full due process for the applicant in this application that he provided. But whether it's 1,150 homes or 21 homes, I don't think it's the correct location. And yet I was prepared to move forward with this. It was not the late testimony, it's the early testimony because it's the day before, but it was the recent testimony of the Maalaea Village Association and specifically their comment on conservation subdivision design. And I apologize because I feel like I need to take some responsibility, because the cluster bill is on my master agenda and I haven't...it hasn't really been on my radar as I'm learning all of the lists of things that I have on the master agenda. And so, I would like to look into that more if it could be clustered. In my mind I had thought that, you know, as this subdivision moves forward, not many local people would buy in here, because everybody that lives here is well aware of the wind and the fire. And would I care if 60 to 100 percent of the homes were mainland buyers and they learned the hard way about fire and wind? And initially I didn't care much, but there's a lot of folks that do move from the mainland that are, you know, really nice people and maybe they don't do their due diligence on it. So, I'll support the motion to look more into it and schedule a Kihei or Maalaea evening meeting in working with the Chair. So, at this time I'll call for the question. All those in favor of the motion please say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: All those opposed, please say "nay."

COUNCILMEMBERS: No.

CHAIR PALTIN: The motion carries four to three.



**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

October 16, 2019

---

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

**NOES: Councilmembers Lee, Molina, and Sugimura.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: None.**

**MOTION CARRIED.**

**ACTION: DEFERRED.**

CHAIR PALTIN: Moving on to our next item on our agenda.

**PSLU-26: RENEWALS FOR CONDITIONAL, BED AND BREAKFAST HOME, SHORT-TERM RENTAL HOME, AND SPECIAL USE PERMITS**  
(CC 19-67)

CHAIR PALTIN: PSLU-26, Renewals for Conditional, Bed and Breakfast Home, Short-Term Rental Home, and Special Use Permits. The Committee is in receipt of the following: County Communication 19-67, from the Planning Director, transmitting a proposed bill to conditionally allow for a grace period to temporarily extend a Conditional Permit while an application for the permit's extension is being processed; and Bed and Breakfast Home, Short-Term Rental Home, and Special Use Permits while an application for the permit's renewal is being processed. Correspondence dated October 9, 2019, from the Department of the Corporation Counsel, transmitting a proposed bill entitled A Bill for an Ordinance Relating to Renewals for Bed and Breakfast Home and Short-Term Rental Home Permits. The purpose of the proposed bill is to conditionally allow for a grace period to temporarily extend Bed and Breakfast Home Permits and Short-Term Rental Home Permits while an application for renewal is being processed. And the reason that I scheduled this item is that we had originally been going forward on first reading I believe when we received pretty much unanimous testimony against what was going on. And I'd like to note that Committee Report 19-120, that was recommended earlier this month and with all the testimony against it, I thought it was prudent of us to bring it back and work on it a little bit more. So, this new proposal contains the same language relating to B&Bs and STRHs from the old bill, basically where we're splitting it in response to the testifiers that didn't think that B&Bs and short-term rentals should be included in a bill that, you know, also does resource extraction renewals and quarrying and the like. So, at this time is there any questions or discussion from the Members? Member Lee?

COUNCILMEMBER LEE: I just want to hear comments from the Department.

CHAIR PALTIN: Sure thing. Mr. Hart?

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

MR. HART: Thank you, Chair. You know some of the critical entities that use special use permits and conditional use permits are nonprofits and, you know, other organizations that I think that you would all agree do positive things. And the challenge was the firmness of missing a grace period. You know if there is a concern about resource extraction or some of the more offensive uses that are also special or conditional use permits, it's possible that those are, you know, have special rules. But to eliminate all operators including the nonprofits and so on, it makes it tough. Basically, you know, you have some of these organizations they're doing their day-to-day operations and their number one focus is not what is the expiration date of my permit or they'll change their executive director or various things will happen. And if they come in and they're just passed our grace period, you know, we're telling them oh, you're done essentially and it's really, it would be nice to be able to be more flexible. I understand there can be concerns about other uses, like I said that may be more offensive to members of the public or the Council, and that's not really what the Planning Department was thinking about when we brought this forward. But if that's a concern, you know, I'd like to see if that can be addressed while moving the overall intent forward. Thanks.

COUNCILMEMBER LEE: So, did you have a revised proposal?

MR. HART: I don't at this time have a revised proposal to present to you but we could work on that.

COUNCILMEMBER LEE: Okay.

CHAIR PALTIN: I just wanted to clarify, conditional permits and special use permits are not off the table, we're just taking more time to look at them, so I believe what we did was split the more offensive renewals from, out from the bill, to just pass the less offensive portions of the bill. And then at a later time, we can revisit the more offensive portions of the bill. Can you correct me if I'm wrong, Mr. Rapacz?

MR. RAPACZ: Thank you, Chair. No, that's my understanding that we are expecting to work with the Planning Department on revisions regarding conditional permits and the County's special use permits later.

CHAIR PALTIN: Okay. The PSLU-26 does include special use permits in the title, is that not including the less offensive parts of special use permits? Was it only the conditional permits that had the offensive parts on them? Just clarifying, sorry. If I may take a short recess at the call of the Chair, if there's no objection?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Meeting in recess. . . .(gavel). . .

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

**RECESS: 11:23 a.m.**

**RECONVENE: 11:24 a.m.**

CHAIR PALTIN: . . .(gavel). . . The time is 11:24 on October 16. Will the Planning and Sustainable Land Use Committee meeting return to order. And thank you for that pause for clarification. So, to clarify for folks, what we did was split the two bills and, but the title remains the same, and we'll keep the item open to revisit the offensive or questionable portions the testifiers had. And the part that was primarily okay we'd like to pass out so that we can codify the practices that the Department is currently using. There was a comment from Ms. Russo that she thought it would decrease the amount of time, but we did clarify that instead of the within the 90 days, they can submit it in advance of the 90 days if they so choose, but they need to get it in before 60 days to give the Department a fair shot of, you know, processing it and renewing it within that two months and giving them an additional six months by Code. So, it's basically the same language that we passed out of Committee the first time, but we split it up, and then we'll keep this item open to address the parts that there were testimony against in volume at a later date. Member...Committee...Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so this is everything except 19.40.090 and 19.40.100?

CHAIR PALTIN: Mr. Rapacz, can you confirm that?

MR. RAPACZ: Thank you, Chair. Nineteen point four zero is for conditional permits, but what will remain in Committee along with that is for special use permits. So, there were four items: conditional permit, special use permit, bed and breakfast, short-term rental home. And out of those four items, the proposal is to move two of them forward today, just the bed and breakfast homes and short-term rental homes. The other two items, conditional permit and special use permit would remain in Committee.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, I was just trying to compare the old bill to the bill that we just received.

CHAIR PALTIN: So, the old bill is, and this bill is exactly the same except for we're not addressing the special use and the conditional permits today.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, that's...

CHAIR PALTIN: And, Mr. Krueger, did you want to add on to that?

MR. KRUEGER: Apologies, Chair. Just to clarify for the Committee, by old bill the Chair's referring to the bill that the Committee passed out that was forwarded to the Council with the Committee report, not necessarily the one that's attached to the County communication with the item. That's the original bill we received. But the Council made...the Committee made revisions within Committee and so that's the language

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

that's reflected in the bill before the Committee today is that language the Committee agreed to before passing that bill to the Council.

COUNCILMEMBER KING: Okay, point of information. So, what we're looking at is the very last thing that's listed on Granicus from Corp. Counsel, that's the bill we're looking at today? Okay.

MR. KRUEGER: Correct, yes.

COUNCILMEMBER KING: So that we're all on the same page.

CHAIR PALTIN: Yeah. So, it's the same wording that went to the first reading and got --

COUNCILMEMBER KING: Nineteen point six four point --

CHAIR PALTIN: --kicked back.

COUNCILMEMBER KING: --oh six oh.

CHAIR PALTIN: And then so what we did was split it so that we can look more in detail at the problem portions at a later date. Member Lee?

COUNCILMEMBER LEE: I'm wondering why you're splitting it and not just fix the whole thing at one time? Especially if you're only going to be exempting sand mining or whatever, you know. Because, you know, we're going to be affecting nonprofits, yeah, and who do we want to help? You want to help the B&B people or you want to help the nonprofits?

CHAIR PALTIN: So, what I was doing was just codifying what is currently going on for STRHs and B&Bs, and I think it would be a little bit more involved than the half an hour that we have left to also fix the quarrying and resource extraction, sand mining issues and trying to separate that out of conditional permits, special use permits from the nonprofits and churches. And in the meantime, they'll continue on with the practice that they're doing that isn't codified so it's a status quo which is how they do it now. And so, it wouldn't, in my opinion, change anything or hurt them, because they're already using discretion right now.

COUNCILMEMBER LEE: Okay. Well, I just thought 'cause when you...when we asked Planning for comments, it was apparent that you didn't work with them for the revised bill.

CHAIR PALTIN: We worked with them the first time around, they can make --

COUNCILMEMBER LEE: Yeah, with the revised bill.

CHAIR PALTIN: --their comments. Yeah.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

COUNCILMEMBER LEE: Of the revised bill.

CHAIR PALTIN: Revised bill is the same as the bill that passed out of Committee the first time so there wasn't more things to work on than with...but I'll let him clarify for you. Mr. Hart?

MR. HART: Chair, you know, provided the other items are going to be picked up, I think that that's fine. That was just my number one concern. I didn't understand that they were set aside and were going to be resumed at a later date.

COUNCILMEMBER LEE: So, that means you didn't work on the revised bill separating out the other people, the nonprofits, et cetera?

MR. HART: I did not personally, no.

COUNCILMEMBER LEE: Yeah, that was my concern, yeah. That just ours, our Staff worked on the revised bill. Okay. So, if you want to do it in two phases, hopefully it won't be long before we take up the other, the second phase.

CHAIR PALTIN: Hopefully not, yeah, 'cause I think both sides want to see that matter addressed in a timely manner. Any further discussions, questions, comments?

COUNCILMEMBER KING: Thank you, Chair.

CHAIR PALTIN: Chair King?

COUNCILMEMBER KING: I just had one question, on Page 3, while it says a permit shall remain in effect while a renewal application is being processed for up to six months after the expiration date, I just wanted to get the Department's comments on that. Is there any situation where that would be a problem to say that it shall remain in effect for six months versus it may remain in effect?

MR. HART: How do I put this, basic practice has been that if the applicant's done everything they need to do and there's some other sort of backlog issue or scheduling issue with let's say Planning Commission, that the applicant wouldn't lose their permit...

COUNCILMEMBER KING: No, I know that.

MR. HART: Okay. So...

COUNCILMEMBER KING: I just wondered if there was any situation where that would be a problem for the Planning Department like you've made a decision or some situation comes up and the six months isn't up, but you haven't --

MR. HART: No...

COUNCILMEMBER KING: --quite finalized it.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

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MR. HART: If the Department feels that they've done some sort of violation of the terms of their permit, you know, we can act on that --

COUNCILMEMBER KING: Okay.

MR. HART: --regardless of any of these issues.

COUNCILMEMBER KING: Okay. So, if you end up turning down an application before six months is up then it's just over. So, there's...this doesn't apply?

MR. HART: Yes, this would...my understanding of the intent of this is basically the applicant's done everything they should have done --

COUNCILMEMBER KING: Right.

MR. HART: --and there are other issues that may be causing --

COUNCILMEMBER KING: Yeah.

MR. HART: --a delay in renewal.

COUNCILMEMBER KING: No, I understand that. I understand the intent, I'm good with the intent, I just want to make sure that there's no situation where that word...where, you know, you have to give them a six-month space and you're...yeah.

CHAIR PALTIN: Mr. Galazin, would you care to comment on that question?

MR. GALAZIN: Thank you. I appreciate your question, Chair King. I think where the Department would have the ability to not be bound by that is the fact that it's shall remain in effect while the renewal application is being processed. So, once it's not being processed, once it's denied, it's not being processed anymore, and therefore that provides that cutoff date.

COUNCILMEMBER KING: Okay.

MR. GALAZIN: So, that would --

COUNCILMEMBER KING: Okay.

MR. GALAZIN: --give Planning the ability.

COUNCILMEMBER KING: Okay, that's just...that's all I wanted to hear to know what you guys...what other circumstances might come up. But I'm good with it, Chair. Thank you.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

---

CHAIR PALTIN: Okay. Any further comments, questions, deliberation? No? Oh, I guess maybe this isn't the deliberation. But the Chair will entertain a motion to recommend passage on first reading of the proposed bill entitled A Bill for an Ordinance Relating to Renewals for Bed and Breakfast Home and Short-Term Rental Home Permits, incorporating any nonsubstantive revisions.

COUNCILMEMBER KING: So moved.

VICE-CHAIR SINENCI: Second.

CHAIR PALTIN: Moved by Chair King, seconded by Councilmember Sinenci. Members, any...or, Chair King, any discussion as the movant?

COUNCILMEMBER KING: No, I think it speaks for itself. I'm just...I think we can go ahead and address this, you know, so that we can move on to the next issue with this same section.

CHAIR PALTIN: Okay. Any further discussion, Members? Seeing none, I'll call for the question. All those in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Any opposed? So, the motion passes unanimously.

**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.**

CHAIR PALTIN: And I will not be filing this item because of the additional issues that we need to tend to.

**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

**October 16, 2019**

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**PSLU-1(4): WEST MAUI COMMUNITY PLAN UPDATE**

CHAIR PALTIN: Our West Maui Community Plan was also on the agenda, but we have a lot to talk about on that issue so if there are no objections, I would like to defer that also to a later time.

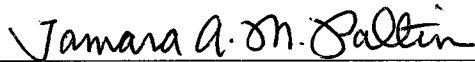
**COUNCILMEMBERS VOICED NO OBJECTIONS.**

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

CHAIR PALTIN: Okay. Seeing no objections, at this time I will conclude today's Planning and Sustainable Land Use meeting. Thank you very much, Members. The time is now 11:34 and this meeting is adjourned. . . .(gavel). . .

**ADJOURN:** 11:34 a.m.

APPROVED:



TAMARA PALTIN, Chair  
Planning and Sustainable Land Use  
Committee

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Transcribed by: Daniel Schoenbeck



**PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES**  
Council of the County of Maui

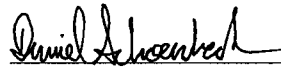
**October 16, 2019**

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CERTIFICATE

I, Daniel Schoenbeck, 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 7<sup>th</sup> day of November, 2019, in Kula, Hawaii



Daniel Schoenbeck