

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

MINUTES

June 17, 2020

Online Only via BlueJeans Link

RECONVENE: 9:04 a.m.

PRESENT: VOTING MEMBERS:

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

STAFF: Ana Lillis, Legislative Analyst
Alison Stewart, Legislative Analyst
Laksmi Abraham, Legislative Analyst
Richard Mitchell, Legislative Attorney
Clarita Balala, Committee Secretary

Kate Griffiths, Executive Assistant to Councilmember Kelly Takaya King

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Michele McLean, Director, Department of Planning
Tara Furukawa, Planner, Department of Planning
Jordan Molina, Deputy Director, Department of Public Works

OTHERS: Sandra Duvauchelle, Lehua Builders, Inc.
Howard Kihune, Aina Lani Pacific, LLC
Jeff Kihune, Aina Lani Pacific, LLC
(6) additional attendees

PRESS: Akakū: Maui Community Television, Inc.
Kehau Cerizo, The Maui News

PSLU-56 CHANGE IN ZONING FOR THE PROPOSED KILOHANA MAKAI WORKFORCE HOUSING PROJECT (KIHEI) (CC 20-191)

CHAIR PALTIN: ...*(gavel)*... Good morning, everyone. Welcome to the July 17th Planning and Sustainable --

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COUNCILMEMBER LEE: June.

CHAIR PALTIN: --Land...oh.

COUNCILMEMBER LEE: June.

CHAIR PALTIN: I'm jumping ahead here. Welcome to the June 17, 2020 Planning and Sustainable Land Use Committee meeting. The time is 9:04. Will the meeting please come to order, and if I can ask everyone at this time to silence their cell phones. My name is Tamara Paltin, and I will be the Chair for your Planning and Sustainable Land Use Committee. I'd like to introduce our voting Committee Members. Today we have our Vice-Chair for this Committee, Member Shane Sinenci.

VICE-CHAIR SINENCI: Aloha kakahiaka from Hāna.

CHAIR PALTIN: Aloha kakahiaka. And we have also with us Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Aloha and good morning, Madam Chair, to my colleagues and everyone else in beautiful Maui County. It's beautiful up here in Makawao. Thank you.

CHAIR PALTIN: Aloha and good morning. Lovely weather. We have Council Chair Alice Lee. Good morning.

COUNCILMEMBER LEE: Madam Chair, okay, so when you travel to Uganda in Africa, you would say to the folks there, wasuze otya nno. Wasuze otya nno. And that's the good morning greeting. Good morning, everyone.

CHAIR PALTIN: Wasuze otya nno to you as well.

COUNCILMEMBER LEE: Thank you.

CHAIR PALTIN: And we have Council Vice-Chair Keani Rawlins-Fernandez. Wasuze otya nno.

COUNCILMEMBER RAWLINS-FERNANDEZ: Wasuze otya nno and aloha kakahiaka, Chair and everyone.

CHAIR PALTIN: Aloha kakahiaka. And we have also Councilmember Kelly King out of South Maui.

COUNCILMEMBER KING: Aloha kakahiaka, Chair and fellow Councilmembers, and everybody else --

CHAIR PALTIN: Aloha kakahiaka.

COUNCILMEMBER KING: --that's watching.

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CHAIR PALTIN: And last but not least, we have Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good morning, everybody, from beautiful Wailuku, looking at the West Maui mountains in my office. Beautiful day today.

CHAIR PALTIN: Can you see me waving? And our non-voting Committee Members are Councilmembers Riki Hokama and Tasha Kama. I don't see them here, but they're welcome to join us at any time. Today with us we have Corporation Counsel Michael Hopper, Deputy Corp. Counsel. From the Administration, Department of Planning, we have Director Michele McLean.

MS. MCLEAN: Good morning, Chair.

CHAIR PALTIN: Good morning. And my good friend, Tara Furukawa, Planner. I guess she's not camera-ready. Okay, and from the Department of Housing and Human Concerns, we have Deputy Director Linda Munsell. Good morning.

MS. MUNSELL: Good morning.

CHAIR PALTIN: Good morning. And from the Administration Department of Public Works, we got Deputy Director Jordan Molina. Good morning.

MR. MOLINA: Hi. Good morning.

CHAIR PALTIN: Good morning. And from Kilohana Makai representatives, we have Sandra Duvauchelle, Howie Kihune, and Jeff Kihune. Good morning.

MS. DUVAUCHELLE: Chair, I will say my screen is frozen. I don't know if anybody else is having that problem.

COUNCILMEMBER KING: No.

CHAIR PALTIN: No, but we can hear you good so that's a good sign. If you want to turn on your TV to Channel 53, maybe you can see us that way. Our Committee Staff, we have our Committee Secretary Clarita Balala. Good morning. Council Services Assistant Clerk Jean Pokipala. Good morning. Legislative Analyst Ana Lillis; Alison Stewart, and Laksmi Abraham, as well as Legislative Attorney Richard Mitchell. Good morning.

MR. MITCHELL: Good morning, Chair.

MS. LILLIS: Good morning, Chair.

CHAIR PALTIN: Good morning. So, today we have one item on the agenda. It's a reconvened item, PSLU-56, which is the Change in Zoning for the Proposed Kilohana Makai Workforce Housing Project in Kihei. Public testimony was closed during our recessed

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meeting on June 3rd. Therefore, no testimony will be taken during today's reconvened meeting. At this time, I would like to read into the record the additional written testimony that we received, and hopefully Members read between the last meeting and this meeting. We had testimony from Mike Moran, Dina Edmisson, Marlayna Gomes, Sandra Duvauchelle, as well as Madolin Wells. Any objections to entering that into the record for written testimony?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay, awesome. Participants joined to this meeting via BlueJeans will be asked to leave the meeting and please continue watching the meeting on live cablecast on *Akakū*, Channel 53. You can also visit mauicounty.us, access live and archived meetings videos...to access live and archived meetings videos. Committee Members wishing to speak during today's meeting should say my name, raise their hand, and ask to be recognized so I may call on you. As a reminder, last meeting we received a presentation from the applicant and opening comments from the departments. Today, I'd like to continue with the discussion. So, Change in Zoning for the Proposed Kilohana Makai Workforce Housing Project (Kihei). So, I scheduled this item, last meeting we had a lot of public testimony, and it seemed clear that a lot of the residents in the surrounding areas wanted a chance to meet with the developer and, you know, have some questions answered. I had some additional questions myself. And so it was really good we had this two-week break. I composed a lot of my questions, and if Members wanted to see them, they're all on Granicus to the different departments. Not all of the different departments was able to respond by this meeting, and so some of them asked for a time extension which I think is fine because we committed to not making any decision yet this meeting. So, I think that's all good. Member King and I on Monday had a meeting with the developer/builder. And they committed to a virtual meeting with the broader community, and I don't think that date has been set yet. But depending on the date that is, the next meeting will follow that up. Member King, did you want to report any update on that?

COUNCILMEMBER KING: Yes, Chair. We're working on...you know, we tried to get one before this meeting, and were not successful in getting the developers there. But we did...we're trying to set the meeting for July 2nd now. So, we're waiting for --

CHAIR PALTIN: Okay, okay.

COUNCILMEMBER KING: --confirmation from the developer that they will be there. We do have confirmation from the, you know, the homeowner associations and the Kihei Community Association to help us publicize the meeting so it would be a true community town hall.

CHAIR PALTIN: Okay, awesome. And so, our next meeting dates for PSLU are either July 9th or July 16th. And I wanted to add in a special mahalo to Councilmember Mike Molina as he's already started drafting some of the conditions that we can discuss today as well. At this time, I'd like to ask for opening comments from the developer once again. And I know they did give a presentation last time, and so I don't want to review the

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presentation that they gave last time. I'd like to ask for an update as I know that they have been meeting with some of the surrounding homeowners' associations and members of the community that have reached out to them on the property itself. So, at this time, Ms. Duvauchelle or Mr. Kihune, if you could give us an update on what has transpired since the last meeting in your meetings with the surrounding homeowners' associations?

MR. KIHUNE: Howard Kihune here. Thank you, Chair. We did meet with the Kilohana Ridge Association homeowners. We met with the Maui Hill. And we met with Kilohana Waena. We have something scheduled tomorrow with Keawakapu Views HOA. So, we had good meetings. It was great to be individualized 'cause we can concentrate to really listen and understand what their comments or what their issues were. And the three issues from all so far was basically trying to help us help them, or help the project have access in and out other than Ala Koa Street. And there was comments about ohanas. And then there were comments about possible access through the subdivision out to South Kihei Road as a pedestrian kind of path. The legalities of that and I don't know what that would be. I don't know if the County allows us to open up a subdivision that walks right into a sidewalk on South Kihei Road. But I think that's something that can be addressed at some point. The ohana issue is not something that we're going to put a condition on. I think that's gotta come from your Committee or from the Council, only because that is challengeable by law. I cannot put a deed restriction on something that I will be challenged later on. So, if the County decides that they don't want to have ohanas there, which we're fine with, that would be your call. But as far as the second entrance or additional entrance, that we have...the property extends all the way to Kilohana Drive so that's an opportunity to move a second egress/ingress into the project or into Wela Street. And we're happy to address that. And that was pretty much what we talked about. They understand what we build. They understand the type of product that we like to present. And they're very happy with, you know, the improvements that we'll make. So, based on that, those basically was the conversation but was nice to meet with them on a smaller group and really hear and understand where they're coming from.

CHAIR PALTIN: Thank you so much. So, just to clarify kind of the three main concerns that you had was an additional ingress/egress for vehicular traffic, a pedestrian path through the project, and accessory dwelling units. If I could please clarify, do you know if there was concern that the...it's my understanding, and, Director McLean, if you can correct me if I'm wrong, I think in the end of 2018 the Council allowed for any size property to have...be able to build an accessory dwelling unit whether it's detached or attached as long as they have a parking space for it. Is that correct, Director McLean?

MS. McLEAN: Thank you, Chair. In general, yes, that's correct. There's no longer a size...a lot size limit for a property to have an ohana. The size of the ohana and its decks are limited by the size of the lot, though.

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CHAIR PALTIN: And then the...they would need an additional parking space for the accessory dwelling unit as well is one of the conditions.

MS. McLEAN: Yes, that's a requirement.

CHAIR PALTIN: So...okay, thank you. Mr. Kihune, do you know if it was specified that they were against any sort of additional accessory dwelling unit, or if it was specifically attached or detached?

MR. KIHUNE: Thank you. No, they were, they were...the issue was having ohanas. And again, at those meetings, we were fine with not having 'em. But I...us as a local builder/developer, from what we understand, that that can be challenged if we put it in a deed restriction because HOAs, as we all know, may put that as part of their CC&Rs. But homeowners individually because it's a law with the County, we don't want to get into that issue. So, if the Council or this Committee says the condition that no ohanas, that's fine with us. It was never really our intent to have ohanas. But we were just following what was available should these lots and these homes get built, yeah.

CHAIR PALTIN: So, and to clarify again, they don't want either attached or detached ohana capabilities is what --

MR. KIHUNE: Correct, correct.

CHAIR PALTIN: --you're saying? Okay.

MR. KIHUNE: Their comment was they wouldn't want that. Correct.

MS. FURUKAWA: Can I...

MR. KIHUNE: Now the expansion of a home, to add another bedroom or expand the home as part of the...within their lot area is another, you know, is just another subject, really. So, but as far as ohanas, correct, yeah.

CHAIR PALTIN: Okay. Did somebody...

MS. FURUKAWA: Yes, this is Tara Furukawa, Staff Planner with the Department of Planning. I just wanted to --

CHAIR PALTIN: Hi, Tara.

MS. FURUKAWA: --mention that we did bring up--hi--in the Maui Planning Commission meeting that when we were consulted with, in early consultation meetings with the applicant, we actually encouraged them to add accessory dwellings because it is within the urban growth boundary per the Maui Island Plan. So, that was something that they presented in the Maui Planning Commission meeting originally.

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CHAIR PALTIN: Okay, so I guess we will have to make a decision on that when the time comes. Thank you for that --

MS. FURUKAWA: Yes.

CHAIR PALTIN: --that you folks were the folks that are recommending it. Member King, did you have a question?

COUNCILMEMBER KING: Yes, I did because I have a five bullet point list of agreements that were made with the homeowners' associations that came from two of those...the people on two of...there were two people that had testified in front of us before, Scott Shapiro and Mike Wysocki. So, they both...I'm surprised that they didn't e-mail the Committee. So, I thought maybe the Committee got that same e-mail. But they e-mailed me with what they thought was agreed to by the developer. And that was one of them, was no ohanas because of the . . . (inaudible) . . .

CHAIR PALTIN: No ohanas, period.

COUNCILMEMBER KING: Right, because of the extra...it was a traffic issue and the overcrowding that we...we're already having issues with the parking around that area. They said that they agreed to the Wela Street open to Kilohana Drive for ingress/egress. And their position that they thought was agreed to was only one ingress/egress on Wela Street. They also said that there was, and this is so Mr. Kihune could speak to whether he agreed to this, to have a two to three-foot property line wall with a taller galvanized fencing and dense landscaping like the full length of Wela Street to buffer the noise and soften the view lines. It says somewhat agreed to put a four-foot walking pathway through the neighborhood. I don't know if that was what Mr. Kihune was referring to. And it was agreed that the new homeowners association would maintain the rules and regulations similar to area neighborhood associations. So, that was the list I got from...directly from the people that met with him. And I'm not sure, I didn't hear from all the neighborhood associations, but I was kind of hoping that that would be transmitted. I can ask my staff to transmit those e-mails to the Committee, if they'd like. So, Mr. Kihune, are those the things that...does that sound like the agreements that you made with these homeowners?

MR. KIHUNE: Yeah. We...well, yes and no. We offered up that based on the landscaping that we're going to be doing a two-to-three-foot rock wall with a...what they call a powder...we call a powder-coated aluminum-type of fencing. The same fencing we use over at our projects on the West Side, very nice, very attractive. And that, yeah, there'll be landscaping and stuff around the project. As far as the four-foot access, we don't know where it's going to go yet 'cause we haven't quite...we haven't designed it. The civil design is not complete, but we told 'em that we would definitely take a look at it, and we are going to make sure we incorporate it some place within the project. I just don't know where it's going to be yet.

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COUNCILMEMBER KING: Okay, their concern was to have...allow...they were recommending one on Wela Street by Ahekolo and one by the current bus stop. And they wanted residents to have access to the bus stop more easily to keep the current walking path towards the beach open. So, those are all the notes I have from, you know, distilled down from those, the two e-mails I got after the meetings.

MR. KIHUNE: Yeah, we'll take a look at the location and the design of that. We just don't know what it looks like yet. So, not sure if liability-wise you want to open up right to a crosswalk or right to a bus stop. We just need to make sure that we do it in a manner that is safe, and that's what's more important right now. So, we'll take a look at that. We promised that we would do it. We just don't know where.

COUNCILMEMBER KING: Okay, thank you.

CHAIR PALTIN: And then for me, for clarification, they only want one ingress/egress for Wela Street. Is that what you're saying?

MS. DUVAUCHELLE: Hi, Chair. It's Sandy. I know how to do this. Sandy Duvauchelle. I do want to respond to that. That was a request that we only have one in and out on Wela Street. We did not commit to that. We did, you know, we understand the going out through Kilohana. But until we get our civil engineering done and see what that would actually look like, I don't know how we could commit. So, that was a request, but we did not commit to it.

CHAIR PALTIN: Okay.

MS. DUVAUCHELLE: Thank you.

CHAIR PALTIN: Yeah, I mean I'm kind of questionable if I prefer that like for safety purposes if there is 28 houses and you could go in and out on both ends of the thing. I mean to me, it seems safer and more for the flow of traffic. So, I mean --

COUNCILMEMBER KING: Chair? If I...

CHAIR PALTIN: --I think ultimately that we're the ones that propose the conditions and while we do want to, you know, make this a good project for the surrounding homeowners, we also need to consider the safety of the project and...so, I mean it's a good thing to consider. But, yeah, I can understand not committing to that yet.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Yeah, I just wanted to just say that I agree with you that having two accesses are...makes it safer, but this is why we need the greater community, you know, meeting because this group felt like that was a commitment that was made to them. So, that's where, you know, we don't want some commitments to be made to

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some associations and, you know, just there's a misunderstanding of what was actually agreed to and what can be done and what should be done. And so, I think that's my push for more community involvement on this project.

MR. KIHUNE: Chair? This Howard Kihune.

CHAIR PALTIN: Yeah, and...

MR. KIHUNE: Oh, go ahead.

CHAIR PALTIN: And one other thing is there's some things that we have the final say on so it's not necessary that they can make the commitment on that. But go ahead, Mr. Kihune.

MR. KIHUNE: I do want to reiterate that it was a request. It wasn't a demand. It wasn't an issue, Ms. King. I do want to say that County Code, you have to have two egresses and ingresses for anything over 20 lots. The County Code...

COUNCILMEMBER KING: Okay. No, I just, Mr. Kihune, I'm just...what I was reading from was their understanding of what you agreed to. So, that's, you know, to my point of why we need a, you know, we all need to be hearing the same thing at the same time because maybe it was their misunderstanding that you agreed to it. Maybe it was your misunderstanding that you could agree to it. I don't know, but I'm just reading to you what they sent to me.

CHAIR PALTIN: Yeah. So, before...

MR. KIHUNE: And I'm transmitting what was discussed with them. So, agreed.

CHAIR PALTIN: Okay. So, that's why it's important that we have that larger meeting before the next decision-making meeting so that we can all get on the same page.

COUNCILMEMBER KING: Agreed.

CHAIR PALTIN: Okay, so I did have some questions to the Planning Department that hasn't been answered. But it's my...I mean it has been answered but hasn't been transmitted through the Mayor's Office. I was wondering if Members wanted to start with their own questions, or they wanted to hear from Director McLean the answers to the questions I provided in Granicus to Director McLean? Members preference?

COUNCILMEMBER SUGIMURA: We'll hear from the Department with your questions.

CHAIR PALTIN: Okay, yeah.

COUNCILMEMBER KING: Yeah, I would like to hear. And, Chair, just a point of information, is that your letter of June 10, 2020?

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CHAIR PALTIN: Yeah, I pulled those questions a lot from the testimony we received. So, Director McLean, if you could go through the answers to those questions, and then depending if there's follow-up questions and whatnot, I'll open it up to the rest of the Members for questions. I just...I know that as the Chair, usually I go last on questions. But maybe the answers to the questions that I submitted may spark more questions from the Members, or it may answer questions they have as a lot of those questions I pulled from public testimony. If possible please, Ms. McLean?

MS. McLEAN: Thank you, Chair, sure. I'll just go through them in order, and I'll stop after each one to see if there are any questions. The first --

CHAIR PALTIN: Okay, great.

MS. McLEAN: --related...the first related to the differences between OS-1, OS-2 and Open Zone. OS-1 and OS-2 are codified in Chapter 19.07. OS-1 is much more passive. OS-2 is more active. But both of them have limited permitted uses. Both of them allow Native Hawaiian traditional and customary uses, restoration of cultural sites, park, passive land uses and recreation. Then in addition, OS-2 allows agriculture, outdoor recreation, outdoor recreation, and assembly areas.

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

MS. McLEAN: Open Zone is not codified in the County Code. That was a designation used in older zoning maps, and it didn't have accompanying restrictions and standards. So, that's the difference among those three. Are there any questions?

CHAIR PALTIN: Okay. Members, questions?

COUNCILMEMBER KING: No, but somebody's got...if we could get everybody on the call to mute 'cause somebody's got some background noise.

CHAIR PALTIN: Yeah, I just muted Mr. Kihune. So, any questions about OS-1, OS-2, and Open Zone?

COUNCILMEMBER LEE: I have one.

CHAIR PALTIN: Chair Lee?

COUNCILMEMBER LEE: Thank you, Madam Chair. Yes, Director McLean, on the Open Zone, I don't really recall that classification, that designation. But anyway, was that the old Interim zone? Or that's just something that's a miscellaneous sort of category?

MS. McLEAN: No, it's different from Interim. Open Zone was the term that was used the way that we use Open Space now. And it was used on very old land zoning maps. So, those old zoning maps had designations like floodway, or proposed roadway, designations that were never codified as a zoning district, but they're labeled on the maps like that.

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COUNCILMEMBER LEE: Was Open Space a zone that allowed for residents on it?

MS. McLEAN: I don't believe that Open Space has...when an Open Space zoning district was actually created, there are very, very few structures that are allowed and certainly not dwelling units.

COUNCILMEMBER LEE: Okay. So, but the Open Zone doesn't...it's not codified so there are no restrictions?

MS. McLEAN: Correct.

COUNCILMEMBER LEE: Okay, thank you. That's all I have.

CHAIR PALTIN: Members...thank you, Member Lee. Member King?

COUNCILMEMBER KING: So, Director, Open Zone, you said means no restrictions? If there's no restrictions, why do we need a zoning change?

MS. McLEAN: By no restrictions, I mean the kinds of standards that are established in the County Code. If someone came in today and said, what can I do on this property? We would refer to Open Space, OS-1 and OS-2 zoning and say, your uses are limited to those.

COUNCILMEMBER KING: Okay.

MS. McLEAN: So, that's how we . . .(inaudible). . . when there isn't a corresponding chapter in the County Code for some of these older designations, we use the most closely associated one. But sometimes we can't even go that far because it's just...there are no standards. By saying there are no restrictions, it really...it can mean no uses are allowed. Subdivision isn't allowed. Structures aren't allowed.

COUNCILMEMBER KING: Okay, thank you.

CHAIR PALTIN: Thank you. Members, any further questions on this first item...first question...or answer, I guess? First answer. Seeing none, let's move on to the second question.

MS. McLEAN: The second question asks if the property was designated Open Zone for a certain purpose, or to fulfill open space requirements for a development.

CHAIR PALTIN: And also when was it designated that?

MS. McLEAN: Right. So, the...as I mentioned, Open Zone is used on older land zoning maps. This one, Land Zoning Map number five, which zoned areas from Ma'alaea to Makena, was adopted on December 19, 1969. So, that's why Councilmember Lee doesn't remember it.

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COUNCILMEMBER LEE: I wasn't born yet.

CHAIR PALTIN: What?

MS. McLEAN: Back then there were a couple of master plans that were developed for Kihei that were adopted in the early '60s, and then Land Zoning Map was, number five, was adopted in 1969. We didn't retrieve those old files from the County Clerk's Office 'cause those were those would've been kept 'cause there wasn't a Planning Department back then. But I feel pretty confident saying that that zoning designation was not an open space requirement for any particular development because there really was very little development in that area at that time.

CHAIR PALTIN: Okay, Members, any questions on the response for question number two from the Members? Seeing none, let's move on to question number three which is, how did the Department determine a portion of the parcel was incorrectly labeled as R-3 Residential, and has KIVA been updated to reflect the correct zoning?

MS. McLEAN: They...the R-3 question came up with that little stub out or leg that extends to Kilohana Drive. And when...when the digital zoning map was adopted in 2018, it designated the entire parcel as Open Zone, following Land Zoning Map number five's older designations. Then, surrounding that little leg was, on Land Zoning Map number five, was proposed road and R-3 Residential, and then farther up above where the existing development is zoned R-3 as well. The Real Property Tax Administration regularly updates the parcel layer. And when they updated the parcel layer after the digital zoning map was adopted, that parcel boundary of the little leg moved into the R-3 area. But that doesn't mean that the zoning of the property changed. The zoning follows the property line. So, if the Council zones this property Residential and this property Business, and then that parcel line changes, that doesn't mean that that one parcel suddenly has a little bit of Business zoning in it. That parcel, the zoning stays with that parcel because that's what the Council zoned. So, when that little leg moved with the later parcel layer, if you look at the Real Property Tax website today and click on the zoning layer, it shows some R-3. And it also shows some R-3 along the entire mauka portion. But the digital zoning map that was adopted shows it entirely as Open Zone.

CHAIR PALTIN: Okay, and so has KIVA reflect that the entire property is Open Zone?

MS. McLEAN: KIVA didn't get changed, but we will get to that at some point.

CHAIR PALTIN: Okay.

MS. McLEAN: Update KIVA, yeah.

CHAIR PALTIN: Okay. Any questions? Member King? You're muted.

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COUNCILMEMBER KING: Okay, yeah. I don't know, sometimes it takes a couple of times to push that button. So, no, I just wanted to ask Director McLean about putting this in KIVA because I thought MAPPS was going to be replacing KIVA and...but we're still...do we have...we're going to be overlapping so we're go and try to align those two systems?

MS. McLEAN: Eventually, yes, MAPPS will replace KIVA. And as much data as possible from KIVA will be imported into MAPPS. But until then, we continue to use KIVA --

COUNCILMEMBER KING: Okay.

MS. McLEAN: --and we want to be as current as possible.

COUNCILMEMBER KING: Okay, great. Thank you, Chair. Are you speaking? Because you're muted.

MS. McLEAN: Chair, you're muted.

CHAIR PALTIN: Thanks. Okay, question number four is, in the SLR-XA document provided to the Committee, there seems to be a sharp drop off in the shaded blue area and an end to the red line around the building marked, "Maui Yoga Path." Can you provide reasons for the sharp drop off in that area?

MS. McLEAN: Well, of course I asked Tara Owens for her input on this. And according to Tara, this is due to the properties that are occupied by the Mana Kai, Kihei Surfside, and the Kihei Boat Ramp which is where that Maui Yoga Path is shown, are located on top of a volcanic headland composed of basalt that is erosion resistant. I'm reading from Tara's e-mail right now. The headlands separates the Keawakapu and Kama'ole III beaches, and because of the headland, there is no historical presence of sandy beach. Therefore, along the headland there are no historic erosion rates or future erosion projections as represented by the red line in the SLR-XA. The narrow band of blue shading that continues along the volcanic headland represents only projected high-wave flooding with sea level rise on the headland.

CHAIR PALTIN: Thank you. Members, questions to that response? Member King, followed by Member Sugimura.

COUNCILMEMBER KING: Okay, thank you for that, Director. So, we...so it's on top of volcanic headlands so that protects it from the sea level rise is what you're saying. And then what...but you said that there is some storm inundation zone area up...that goes up beyond that? And what is...we heard from, you know, we heard from Ms. Owens the other day about this V Zone that FEMA has that pertains to storms, tsunamis, and so can you just elaborate on...is that still a risk?

MS. McLEAN: Okay, so there are a couple of things. When you look at the red line, the red line shows coastal erosion with the three different components to it. And what Tara was saying that because of the basalt headland, there is little erosion there and there's

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no projected erosion because that area doesn't erode. So, that's why the red line dipped below in that area. But the blue-shaded area is the sea level rise exposure area. So, there still is projected sea level rise, and so that's why there still is a little bit of blue there. But there isn't the red line which is coastal erosion.

COUNCILMEMBER KING: Okay.

MS. McLEAN: So that model depicts two different things. And the red line incorporates passive flooding, highway flooding, and historic erosion. But the blue area is simply sea level rise that accounts for the higher waves that we see seasonally and episodically.

COUNCILMEMBER KING: Oh, okay, great. Thank you.

MS. McLEAN: So, that's... *(inaudible)*... between those two.

COUNCILMEMBER KING: Okay.

MS. McLEAN: V Zone is separate from the SLR-XA model in the sea level rise viewer. V Zone is a FEMA projection for potential tsunami. And then in addition to that, you can see the evacuation zone and things like that. But the V Zone is the velocity zone, the areas that's most impacted by a tsunami.

COUNCILMEMBER KING: Okay, and that's not on that map that we looked at. So...

MS. McLEAN: Correct.

COUNCILMEMBER KING: I mean that's one of the things that I asked her for, an overlay for the V Zone, but I'm still hoping to get that for the entire island.

MS. McLEAN: Right, right.

COUNCILMEMBER KING: Okay, thank you.

CHAIR PALTIN: Thank you, Member King. Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, thank you, Chair. So, at the last meeting when Director was talking about this project, she said she had some maps that you wanted to share with us, and it was deferred to this meeting. So, at the right time, and if this is the right time, if you could have that, you know, if you could share those, that map showing sea level rise.

CHAIR PALTIN: That, I believe that's the map that we're discussing.

COUNCILMEMBER SUGIMURA: Right.

CHAIR PALTIN: The...yeah.

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COUNCILMEMBER SUGIMURA: Correct, so.

CHAIR PALTIN: And she did send it to the...you sent it to the Committee. I believe it is on Granicus. It's a correspondence --

COUNCILMEMBER SUGIMURA: Oh, it is?

CHAIR PALTIN: --from, yeah, Director McLean.

COUNCILMEMBER SUGIMURA: Sorry about that

CHAIR PALTIN: And so she sent it to us, and that's how I came up with that question. And I think after she sent it to us, I saw that it was also included in Mr. Kihune's documentation that he sent to us as well.

COUNCILMEMBER SUGIMURA: Yeah, I'll check.

MS. McLEAN: Chair, if you want, I can share my screen and pull that up if you want to see it now.

CHAIR PALTIN: Member Sugimura, would that be helpful to you?

COUNCILMEMBER SUGIMURA: Yes, please. Thank you.

CHAIR PALTIN: Okay. Yeah, I think it was in his original transmittal that...

COUNCILMEMBER SUGIMURA: Okay, yeah, I did see that. So, just confirming 'cause of the testimony that came through that first meeting, there were people who were bringing it up as a problem. I did see that. Okay.

CHAIR PALTIN: Yeah, that's the one that...

COUNCILMEMBER SUGIMURA: So that's the same thing that Director McLean was going to share?

CHAIR PALTIN: Yeah.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: I think Director --

COUNCILMEMBER SUGIMURA: Just to confirm.

CHAIR PALTIN: --McLean's one was a little bit cleaner or larger, maybe. But maybe because --

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COUNCILMEMBER SUGIMURA: Okay.

CHAIR PALTIN: --this one is printed out.

COUNCILMEMBER SUGIMURA: I was just reacting to the testimony. The people who were saying that it was, you know, the danger and whatever. So, if everybody's fine with that, then that's great. I did see that earlier, too.

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Okay, thank you, Member Sugimura. Member King?

COUNCILMEMBER SUGIMURA: Thank you.

COUNCILMEMBER KING: Yeah, just to be clear, that the headlands are on the northern half of the property. So, that's the front part of the property that's protected. The southern end of the property is not protected. That's what I understood that the neighbors had heard from Ms. Owens. Is that --

UNIDENTIFIED SPEAKER: There is. . .

COUNCILMEMBER KING: --your understanding, Director?

MS. McLEAN: Well, I can...if you'd like I can share my screen. I have the viewer up.

COUNCILMEMBER KING: Yeah, I think...yeah, I think that would be helpful.

MS. McLEAN: Okay, okay. Okay, can you see that?

CHAIR PALTIN: Not yet.

COUNCILMEMBER KING: No, not yet. Okay, now we can.

MS. McLEAN: Okay.

COUNCILMEMBER KING: Can you zoom in?

MS. McLEAN: So, if you can see my cursor which is the little hand, the property boundary is here, and then it stops here. And this is a separate parcel here. So, then this would be the area of the property that is closest to the sea level rise exposure area and coastal erosion. So, again, the red line here shows coastal erosion with 3.2 feet of sea level rise. And then the blue is just the sea level rise exposure area. So, moving the map a little bit, the property extends all the way to here. And then this is the area Tara was saying is on the headland that isn't as vulnerable to coastal erosion. But it still does depict a little bit of sea level rise.

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CHAIR PALTIN: Thank you. Can you scroll back to the southern end of the property? Oh, I guess...yeah, right there. So, I think Mr. Shapiro's concern was that if South Kihei Road gets inundated, he wanted a place to be able to move South Kihei Road inland. And we already have that one parcel on the corner of Kilohana Drive and South Kihei Road. So, based on his testimony, I think, you know, to me, it would be in the best interest if that's a big concern that the extension from Wela Street extends to Kilohana Drive because then instead of having to actually move South Kihei Road inland just by extending that, there is an alternative way around that portion if people can get to Kilohana Drive. And it would be less...that's the portion, you know, so if we are able to have that be a condition, that Wela Street extends to Kilohana Drive, I think that would satisfy Mr. Shapiro's concern. Otherwise, you know, the main portion of that...if you can kind of see the walking path that looks like it comes down from--what does that say--Hokai Place. From there south, I believe is somebody else's property. So, right there you couldn't move South Kihei Road anyway because somebody already built a house there. So, it seems like, you know, if that's a big concern about South Kihei Road getting inundated, it would be beneficial to have Wela Street extend to Kilohana Drive so that it's not a concern about moving things. And I guess we would have to, otherwise...I don't know what. But any questions on that, Members? Member King?

COUNCILMEMBER KING: Yeah, I think part of the concern is also with that erosion line so close to the road. You know, that's...that was part of the concern about moving South Kihei Road. I mean I just wanted to point out that when they looked at going four lanes with the North-South Collector Road which I live on, and this was like 30 years ago when they were trying to make it four lanes, they were going to just do eminent domain and basically take property from us and people on the other side of the road to widen that. So, apparently the County has that ability to do that. So, I'm not sure if that's something that they would look at. But I...one of my concerns is what's been happening up in Kahana with those condos. And when we had, I think this was last term, when we had a budget session where the condo owners...somebody's ...*(inaudible)*... When they had those...when they started having that erosion, they started doing the EIS on that. They came and asked the County for assistance in the EIS. And there were people from the aha moku in that area including Ke`eaumoku Kapu who came out and said, hey, we came out and told them 30 years ago, or whenever they were building that, not to build so close to the ocean. And now...and then they built it anyway, and now they want us, the County, to use taxpayer money to help, you know, renourish the beach and things. So, they, you know, there was that contention of, you know, if we don't look at these things now and address the possibilities of what's going to happen, are we liable as a County? And luckily the homeowners in that area got together. They realized, okay, this is our kuleana. And they got together and they're putting together a plan to address the erosion and beach nourishment. I don't know if it's something that we're going to be approving. But, you know, these are the things that we need to look at now. And so, I have questions about, you know, future liability and how do we make sure that if sea level rise happens faster than we think it's going to be, or if we get these storm surges that come up above the road and make it like that situation with Honoapi`ilani, what

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is our liability if we approve these kinds of properties in these kinds of areas when we, you know, when we know there's that proximity to storm surge and sea level rise.

CHAIR PALTIN: Okay, Mr. Hopper?

COUNCILMEMBER KING: I don't know...

CHAIR PALTIN: Mr. Hopper, did you hear Member King's question?

MR. HOPPER: I did. I mean that's going to depend on each specific case. If you're going to condition the property to deal with that issue based on the map here, then I think you need a basis to do that and to determine what, you know, what you're looking at the danger being. In general, I think the County's position would be that the County would not be liable for approving developments like that. There's case law on that that involved...I think there were...was periodic flooding in areas where the County approved the subdivision and there were claims made against the County. And the Hawaii Supreme Court generally said that basically, in general, that the County is not liable for approving development. And then if problems arise like flooding or other things like that, that would not be the County's responsibility. Where it could get I guess a little more complicated is if homeowners seek to take remedial measures and that require County approvals, you know, would the County be required to allow those remedial measures, which I think is happening in other areas. But I think each case you would need to look at the actual, you know, situation in conditioning the property if you were going to attach conditions to try to mitigate potential risks of, you know, sea level rise or other items and make sure that the conditions are related to the risks for the property. But generally speaking, there's case law that talks about that the County generally isn't liable for, you know, if there's an approval and someone claims that, oh, the County, you know, negligently approved this. You know, there is case law on those issues. But, you know, that being said, you can consider those issues obviously in deciding on a Change in Zoning application or conditions if you wanted to look to deal with that issue.

COUNCILMEMBER KING: Okay, can I just follow up with one more question, Chair? So, Mr. Hopper, the State study, when the State came out with their sea level rise vulnerability study, one of the recommendations was full disclosure. So, is that something that we would have to mandate? Or did the State mandate full disclosure like when you go to sell a piece of property you have to disclose, you know, where the sea level rise area and erosion lines are. Is that something that is in State...I mean it was just a recommendation in that original study, and I don't know if it landed there at the end or if there was a State law that followed up with that. Or if that's something that we should put into the conditions.

MR. HOPPER: You know, I don't know if realtors either do that or are required by State law to do that. I mean it obviously would be, you know, a good thing and if I was a realtor I think would want to look at providing an application . . .(inaudible) . . .

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COUNCILMEMBER KING: Would that protect the...I guess my question is would that help protect the County if we require full disclosure?

MR. HOPPER: I don't...again I wouldn't necessarily say the County would have liability, but if you wanted to put conditions on things like that, I wouldn't see that being prohibited. I know that for agricultural properties, for example, I think there's requirements in State law when the Land Use Commission reclassifies properties that are adjacent to ag lands, I think they have to...they put conditions on saying that you have to notify owners of neighboring ag lands of I think potential nuisance issues and things like that. So, you know, I think that is something you could consider in doing that.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Thank you, Member King.

COUNCILMEMBER KING: Thank you.

CHAIR PALTIN: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. You know, I echo all of Member King's concerns about County liability. And so, Mr. Hopper, mahalo for joining us. When we had the Kahana Bay issue, Deputy Corp. Counsel Thomson said that we would, the County, could be liable for things along the shoreline like if we failed to assist...

CHAIR PALTIN: Allow structures or some...allow remediation action maybe?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR PALTIN: Allow them to protect their property.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, what is the difference? Because you're saying that we wouldn't be. But in...

MR. HOPPER: I said that if...

COUNCILMEMBER RAWLINS-FERNANDEZ: And I understand...and you said negligent. And this could be considered not negligent. I mean there's elements to proving negligence. But, okay, I'll let you go, Mr. Hopper.

MR. HOPPER: Yeah, what I did say, there's a difference between if someone just sues the County saying, hey, you shouldn't have approved this, there's other periodic flooding or other problems. The issue I think, and again I can talk to Ms. Thomson and see what the specific discussion was, but the other issue could be is if the landowner seeks to take remedial measures to try to remedy the issue and the County denies those. That may have been the concerns that were looked at. That's different than

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someone just suing the County and saying, by approving this subdivision or something to that effect, you were negligent. And generally, the County relies on engineers and, you know, architects in applying for those subdivisions and certifying that, you know, that the...what has to done. And so, and I think the court, the Supreme Court when it looked at that issue, in general said, you know, to hold the County liable for something like that would basically mean anytime anyone's property flooded, someone would sue the County and say, oh, you shouldn't have allowed this subdivision. And so, and again, the facts of the case can be different and can change things. But this is the general, you know, state of the law as I know now based on the Supreme Court cases. But, you know, I don't think there's a case specifically addressing sea level rise or those issues. And so as I said, I think if you're looking at conditions to, you know, mitigate impacts of sea level rise, or if there's evidence that the proposed, you know, development would have problems along those lines, you can consider that at either conditioning or whether to approve the development, you know. But in generally speaking, County liability for approving a project based on negligence or other claims, wouldn't be...we would say that's not something that, in general, the County would be responsible for. But there's still the requirements of you being...you approving the Change in Zoning and being comfortable with the impacts of the project and the conditions that it would have to fulfill before it could build. That's still...I'm not saying that's something you can't consider, certainly. But as far as County liability in general, that's not something that the County every time it approves a development would be liable for in every single situation. But again, the facts can change cases and, you know, the degree of...I'll just leave it at that 'cause I don't want to go into every specific case. But I think as far as this case is concerned, you can certainly look at how sea level rise could affect the development and if you wanted to condition that appropriately and whether to approve the development also.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Hopper. Mahalo, Chair.

CHAIR PALTIN: Thank you. Before I call on Member King again, did anyone else have a question on...for Mr. Hopper or on the response to that question? Seeing none, Member King?

COUNCILMEMBER KING: Thank you, Chair. Just a follow-up, Mr. Hopper, because it's the sea level rise issue, but it's also the storm surge that could cause damage. And so, you know, the other thing I want to be cognizant of, you know, and pertinent to something that we just dealt with in Committee yesterday were, you know, we're being sued because of damage to a road that cut off access, you know, after-the-fact. If something happens and we don't respond to it quickly enough or, you know, someone sees it as devaluing their property or something, that's kind of what I want to protect ourselves against as well.

MR. HOPPER: Yeah, point taken. I mean if you're dealing with the County maintaining its roads and things like that, that's a bit different of an issue. And there's, yeah, there's...again I don't want to talk too much about potential liability in open session.

COUNCILMEMBER KING: Yeah.

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MR. HOPPER: And specifically . . .(inaudible). . .

COUNCILMEMBER KING: But I, you know, it's...

MR. HOPPER: . . .(inaudible). . .

COUNCILMEMBER KING: Yeah, I appreciate that. But it's just something that, you know, I want to make sure we consider because that is a County road, South Kihei Road.

MR. HOPPER: And again, there are also flood hazard development standards and flood maps that FEMA approves every year...or I don't know about every year, but FEMA periodically reviews and approves and the County is required in order for the Federal flood insurance program to be allowed in Maui County, the County is required to enforce restrictions on flood maps that can, in some cases, result in making it very hard to build properties or require certain things to be done when properties are built. So, that's another issue. As far as, you know, as flooding and flood zones are concerned, there is a, I think, it's in Title 19, a flood hazard district standards that, you know, that you may want to look at to see how they would apply to this property and things like that also because whether you're doing a Change in Zoning, whether you're in the Special Management Area or not, those provisions would also apply. They would be dependent on FEMA maps, so I'm not sure what this property's classification is and how that will affect their ability to develop. But that's something in general as well. You know, basically there are laws that are intended to deal with these issues and so taking a look at that and knowing how they will affect the property could also be relevant.

COUNCILMEMBER KING: Okay, so --

CHAIR PALTIN: That's . . .(inaudible). . .

COUNCILMEMBER KING: --those could be different from the County maps.

CHAIR PALTIN: Where...flood question is number six, so we're skipping ahead of --

COUNCILMEMBER KING: Oh.

CHAIR PALTIN: --ourselves.

COUNCILMEMBER KING: Okay.

MR. HOPPER: Sorry.

COUNCILMEMBER KING: I'll wait.

CHAIR PALTIN: Any further --

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COUNCILMEMBER KING: Thanks, Chair.

CHAIR PALTIN: --questions, Ms. King? I had one question for Mr. Hopper. Director McLean, can you re-pull-up and share the screen with the pictometry image that you had up again? I had a question for Mr. Hopper.

MS. McLEAN: Okay. Did that come up?

CHAIR PALTIN: Not yet. Okay, now it says we've started receiving screen share. Okay. So, my question, Mr. Hopper, if you can see how that red line gets real close to South Kihei Road. It looks right next to that corner parcel that's already developed. I don't know if that's a tennis court or something, and how it gets...yeah. Thanks, Director McLean. If you can see underneath the layer of blue, all those already-developed coastal areas, so if we're talking about liability for not allowing whatever remediation member...remediation measures such as, you know, T-groins or seawalls, wouldn't it be those properties that are under the blue shading area that would sue us rather than the properties mauka of the South Kihei Road for not allowing remediation members...remediation measures because by the time it gets mauka of South Kihei Road, those guys would be underwater so they would be the first to sue the County if we don't allow remediation members...sorry, remediation measures. Is that correct, or do you have an opinion about that or advice on that, Mr. Hopper?

MR. HOPPER: I don't want to in open session go over the potential claims that these owners would have or bring or would think to bring. And obviously, this is a projection so I don't think this is happening right now. So, I don't want to get into those details. But I think your basic premise is correct that if there would be sea level rise and flooding, there would be other properties further makai that would potentially be subject to, you know, sea level rise issues prior to this property. I mean I think that's generally true of any property that's further mauka of other properties. But I think that's generally...that's generally correct, but I don't want to go into any sort of analysis of claims against the County from particular property owners. But I think your general premise is correct as far as when...what's going to happen first if the projections are correct.

CHAIR PALTIN: Okay, thank you. And thank you for your cognizance in protecting the County from any legal action. I'm sorry I asked that question now.

MR. HOPPER: No, no.

CHAIR PALTIN: Members, are we okay to move on to question number five? Okay, question number five is the 1998 Kihei-Makena Community Plan designated the property as Single-Family. What are the advantages and disadvantages to waiting for the Kihei-Makena Community Plan to be updated before considering a change in zoning for the property? And does Community Plan Advisory Committees generally spend more time developing policy statements and action items rather than debating specific development projects? Director McLean?

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MS. McLEAN: Thank you, Chair. At this point, we guess that the South Maui Community Plan would be adopted about three years from now. The variables are how long...you know, we expect the CPAC to take six months. The Planning Commission may not take six months. The Council may not take a year. Or all of them could ask for time extensions, and it could take longer. But just ballpark right now, about three years from now. The advantages of waiting would include having recent community input on the use of the property from a long-term planning perspective rather than just on this particular project, knowing what other areas in the region are designated to accommodate future growth, and understanding recent community-based policies and objectives for regional infrastructure to support new growth. Disadvantages include delaying the development of new housing units assuming this project gets the permits that it needed, when there is a serious housing crisis now, sending the message that older community plans should not be followed, and do not truly guide future land use, and further discouraging the private development of housing.

CHAIR PALTIN: And as to part A of the question?

MS. McLEAN: During the three most recent community plan updates, yes, more time is spent on policies and actions than on specific projects and land use maps. And that generally is appropriate because CPACs, because of their makeup and because of their role, have a broader long-term vision for future land uses and not focus on specific projects and parcels.

CHAIR PALTIN: Members, any questions, follow-up on that response? Member King?

COUNCILMEMBER KING: Actually, I have a question for you, Chair, because I know you spend a lot of time at the CPAC meetings. So, your impression of the answer to A. When I came on board in a previous term and was shepherding the Molokai Community Plan, the CPAC meetings had already been completed so I wasn't able to attend any of those. But just from your point of view, you know, the recent past the only CPAC meeting that I think anybody on this...in this Committee might have attended would be the West Maui one. So, just wanted to get your perspective on what you...that CPAC spent more of its time on.

CHAIR PALTIN: Thank you, Member King. You know, either me or my staff attended every single West Maui CPAC from the information-gathering phase when they had the pre-meetings to the...all the way through it. And one thing that I recall was in the very early stages before the CPAC even got sat, the Kaanapali revitalization was on everybody's minds. So, when they were in the process of gathering just broad information about what people want to see as their vision for the West Maui Community Plan, we had maybe 20 to 30 people come in and want to talk only about the Kaanapali revitalization, and it...there was a lot of distrust there because, you know, folks had collared shirts that said We Are West Maui. And nobody from our community knew who these folks were and they're like, they're not West Maui, you know, and what are these collared shirts? And there was just a lot of confusion and they just wanted to speak specifically towards this one project. And, you know, as the

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meetings progressed there were a couple of projects that were really controversial, you know, the Olowalu Town project, the...I forget what it's called, if it's like Plantation Estate lot owners. They wanted to change their zoning I think from Ag to Rural, or something like that. But for the most part, you know, because you're looking at the entire West Maui and they divided it up into sub-areas, it wasn't that, you know...to me personally, this is a great opportunity for the community and the surrounding areas to be able to spend two to four weeks talking about just this project. When you wait 'til the South Maui Community Plan, you're not going to have the luxury of spending a lot of time talking about an individual parcel or project. So, I think that, you know, with the developers reaching out to the community, reaching out to the homeowners association, and having these in-depth discussions, it's not, to me, something that you're going to get as part of the South Maui Community Plan Advisory Committee because there's so much work to be done, so many policies to look through, so many action items to look through that there's no way...I mean you might spend half-an-hour at most one entire night on this. But there's a pretty rigorous agenda that's set for the members. And then on top of it, if you think about how long it takes 9 of us Members to discuss this one project, they have like 13 members. And it's new for them, this type of procedure of where, you know, you get a chance to speak and try to keep everyone on the parliamentary procedure and try to keep everyone on topic. So, you know, I think this opportunity for the greater community as well as the surrounding homeowners to have this chance to speak with the developer and focus in only on this project isn't really something that they're going to get out of the South Maui Community Plan Advisory Committee process because of the broad scope and work that they have to do and the 13 members. It's not like the entire community. If the entire community comes and, you know, how you get testimony for four or five hours, even less time that the 13 members have to do their work. And that's part of the reason why West Maui had to ask for extension because some nights all they got was testimony. So, that's my personal perspective.

COUNCILMEMBER KING: Okay, well, I appreciate, I really appreciate that. And I think that's one of the reasons why we were trying to create these community advisory committees. You know, the one in Haiku-Paia and the one in South Maui to handle these types of issues. And so we're still, you know, plugging along on that. But, you know, for one thing I don't...I agree with you, we don't need to wait for three years to, you know, to finalize the plan. But I think the reason why people, the testifiers were, you know, kind of frustrated about that was that there hadn't been any community meetings. You know, we tried to get some community meetings earlier and we just...so the community hadn't had a chance to input, and they're just trying to figure out how. I mean you were in the meeting when we talked about trying to put together a town hall meeting in the last two weeks, and we didn't get a good response from the developer. But now they're willing to go ahead. So, I do think, you know, taking some time to get the community input, get people's concerns heard and addressed is important. I'm hoping, personally, that it doesn't take a year-and-a-half of stakeholder input to do our community plan. I'm hoping that we can shorten that period because I know that's what the Department likes to take. But three years is a long time to spend developing a community plan, I agree. And it's a different community sometimes by the end of three years. So, you know, we...you know,

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I...really that was the purpose of putting that money into the budget to find a consultant to figure out how we can shorten that period so that we're all still on the same page, but you know, I think when we start and how we finish. And so, the prescription that's in the ordinance right now I think is really cumbersome and too long. So, I'm not necessarily pushing to finish the community plan before we do this, but the kind of input that we would have with the community plan is what we've been missing with this project from day one. So, that's where, you know, and I think we're there now where we've gotten some agreements now to go ahead and hold these community meetings. But you can see from the input I got and what Mr. Kihune said that sometimes when you meet one-on-one with one group, you think you walk away with I told them this, and they think you walked away with you agreed to do that. And so, we need everybody in the room at the same time hearing the same commitments and the same concerns, and you know, with the Department saying, well, we can't, you know, that's not practical, or whatever. But instead of trying to, you know, go to individual groups where we don't even know what's being said. And I haven't been to any of these meetings. So, anyway, thank you for your perspective on the community plan but I think you made a good case for the community advisory committees needing to get going.

CHAIR PALTIN: Okay. Any further questions on the community plan response or question? Seeing none, let's move on to question number six. Would the property owners be able to obtain flood insurance for the property? Director McLean?

MS. McLEAN: Thank you, Chair. The answer is yes. And I checked with our flood plain manager who informed me that all property owners are able to purchase flood insurance for structures. Flood insurance is not available for parcels. It's only available for structures. The only instance where flood insurance is not available is when an applicant builds a structure without a permit in a regulated floodway. And that doesn't apply to this situation. The most updated FEMA flood maps for this area show the entire property situated in Flood Zone X, which is outside the Special Flood Hazard Area which means there's a less than 1 percent chance of flooding in the event of a 100-year flood. So, flood rates, flood insurance rates for each structure will be relatively low, and there is a very low risk of flooding. And flood development permits are not required and elevating structures is not required.

CHAIR PALTIN: Thank you, Director. Members, any questions on that response? Member King?

COUNCILMEMBER KING: Yeah, just thank you, Director McLean. Can you send that to the Committee 'cause that's what I've been trying to get a hold of, is the FEMA flood zone map that shows that it's in...you said Flood Zone X.

MS. McLEAN: Yeah, I can do another screen share if you want.

COUNCILMEMBER KING: Well, I'd like to...I haven't seen a hard copy of that so I don't know if that...'cause that's not on your map, correct? I mean your map that you showed us earlier is the SLR-XA, but --

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MS. McLEAN: Right.

COUNCILMEMBER KING: --it's not the FEMA.

MS. McLEAN: It's also a layer that's available on the Real Property Tax website. You can click on flood hazard areas, and it overlays. So, I can share that screen if you want to see it, or you can just find that when you want to take a look at the Real Property website.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Director McLean, that wasn't part of your transmittal through the Mayor, the maps.

MS. McLEAN: Correct, correct.

MS. FURUKAWA: Excuse me. This is Staff Planner Tara Furukawa again. The flood zone map is also included as Exhibit 30 in the staff report. Exhibits 28 and 29 were the sea level rise maps. And this was discussed in the Maui Planning Commission meeting as well.

CHAIR PALTIN: Thank you, Tara. That's awesome.

COUNCILMEMBER KING: That's that FEMA...it's a FEMA flood zone map, Tara --

MS. FURUKAWA: Yeah.

COUNCILMEMBER KING: --that you were talking...okay.

MS. FURUKAWA: Yeah, it's Exhibit 30.

COUNCILMEMBER KING: Can you send it to the Committee?

CHAIR PALTIN: That's part of the transmittal that I had printed out for all the Members, if you recall, before we had all that testimony.

COUNCILMEMBER KING: Part of your transmittal? It's on Granicus already? Okay.

CHAIR PALTIN: It's on Granicus and Tara had it printed out for all of us and delivered in your box about three --

COUNCILMEMBER KING: Oh, okay.

CHAIR PALTIN: --weeks ago.

COUNCILMEMBER KING: Oh, okay. Okay, I haven't been...I haven't been...I'll find it.

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CHAIR PALTIN: That's the one Member Rawlins-Fernandez got the day after the meeting. Right, Member Rawlins-Fernandez? Yeah. Okay, so does that satisfy your needs, Member King?

COUNCILMEMBER KING: Yeah, I'll find it.

CHAIR PALTIN: Okay. Any further questions? Okay, seeing none, let's move on to question number seven. If the Change in Zoning is granted, will the development be exempt from any permit fees? And what is the estimated cost of exempted permit fees?

MS. McLEAN: The project isn't going through any of the processes that allow for fee waivers. This is going through the regular entitlement process. So, it's not going through the Maui County Code Chapter 2.97 process, or the HRS 201H process which allow for fee waivers. So, there are no fee waivers or exemptions.

CHAIR PALTIN: If Members have any questions on that...I had a question, but I'll go after the Members. Seeing no questions, Director McLean, so my question is that they're committing to a 100 percent affordable through the 2.96. We wouldn't give any waivers like new residential dwelling permit fee. I believe usually it's like \$200,000. There's no exemption on that?

MS. McLEAN: The 2.96 requirements simply lay out the pricing standards and the percentage of homes that need to be in an affordable range. I'm not familiar with any fee waivers that are available through that. The applicant might know. But I'm not aware that 2.96 allows for fee waivers.

CHAIR PALTIN: Okay. Any further questions on that response, Members? Seeing none, questions eight and --

COUNCILMEMBER KING: Chair, I had...

CHAIR PALTIN: --nine...

COUNCILMEMBER KING: Chair, I had a question.

CHAIR PALTIN: Sorry, I didn't see that.

COUNCILMEMBER KING: I'm sorry. I had my hand up, yeah. So, Director, are there still entitlements that are going, you know, the credits that are going with this project? There's no fee waivers, but my understanding was that there were still credits, entitlement credits, that were going...assigned to the project.

MS. McLEAN: Entitlement credits meaning housing credits?

COUNCILMEMBER KING: Yeah.

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MS. McLEAN: I'm not familiar with that. But I would imagine the applicant could answer that.

COUNCILMEMBER KING: Okay.

MS. McLEAN: But those aren't administered through the Planning Department so.

COUNCILMEMBER KING: Oh, okay. Right. Gotta ask Housing. Okay, thank you.

CHAIR PALTIN: So, Member King, if you look in Granicus on Response from Howard Kihune and Sandra Duvauchelle, I did ask that question and it was answered. I think question 3, and 3A, and 4. But we can go over that when we have the developer up for further questions. But just to get you prepped on that, the questions and answers are on Granicus under that header. So, question 8 and 9 are just confirmation questions. I think I know the answer, but if you could just confirm for us. After...so, please confirm the Council will have no role in reviewing Special Management Area permits for the property's development if Change in Zoning is granted.

MS. McLEAN: That's correct. The SMA permit would be issued by the Maui Planning Commission.

CHAIR PALTIN: Okay, thank you. And number nine is just, please confirm prohibiting, I guess, either attached or detached accessory dwelling units can be a condition of zoning.

MS. McLEAN: Yes, it can be. Section 19.510.050 of the County Code establishes the guidelines for conditional zoning. So, the Council can impose conditions, and this is a quote, "if the Council finds them necessary to prevent circumstances which may be adverse to the public health, safety, convenience, and welfare, the condition shall be reasonably conceived to mitigate the impacts emanating from the proposed land use." So, if the Council finds that conditions are necessary to protect the public health, safety, convenience, and welfare, then you can enact such a condition.

CHAIR PALTIN: Thank you. Members, any questions on those confirmations that we received from the Director? Member Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. Yeah, just referring back to Ms. Furukawa's comment about the Commission, their recommendation allow dwelling units?

CHAIR PALTIN: Ms. Furukawa, would you mind repeating what you had said about the accessory dwelling units for Member Sinenci?

MS. FURUKAWA: Yes, when we discussed the project with the applicant in early consultation, we recommended that they propose accessory dwelling units. At first, they weren't going to. They were going to limit it through their CC&Rs, but we suggested that they add it because there's a need for housing. And the Maui Island

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Plan shows that it's in the Urban Growth Boundary, so that's where housing is needed.

VICE-CHAIR SINENCI: Okay, my concern was I guess we were looking at the parking if we did add accessory dwellings, Chair mentioned that we would need to increase more parking for more cars. And I think, you know, traffic mitigation in and out of the project was one of the concerns. Okay, I just wanted that clarification. Thank you. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Sinenci.

MS. FURUKAWA: I'm sorry. Can I also add that this was something that was brought up before the Planning Commission, and they seemed okay with it. At that time, the applicant represented that they were going to add a building pad, I think, for an accessory dwelling unit to be built in the future by each individual owner.

CHAIR PALTIN: Thank you. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm just wondering, like for Planning...from Planning's perspective, so my understanding from Ms. Furukawa, is that it was something that our Planning staff suggested the developer do? I'm just...I'm trying to process like how is that their kuleana to do. Like what is that kuleana? Why would Planning make that suggestion? Like is that Planning's role?

MS. McLEAN: Yes, absolutely, that's Planning's role. Practically every application that comes in the door is not the same application that ultimately gets considered. We work with applicants to mitigate potential impacts, to make changes to their plans...

COUNCILMEMBER RAWLINS-FERNANDEZ: Director McLean?

MS. McLEAN: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm specifically asking about increasing density. So, like advocating for more units when that wasn't something...so I understand mitigating impacts. So, is the impact here that's being mitigated is pushing for more houses because we need more houses? Is that the impact that is being mitigated?

MS. McLEAN: I wouldn't call adding density mitigating an impact. I would call adding density addressing a dire community need.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo.

MS. McLEAN: If, for example, this project came in and it wasn't designated for single-family use or it wasn't in the Urban Growth Boundary and they were proposing changes, we might not have recommended increased density. But because the other plans applicable to this area call for residential development and because there is such a housing need, that's what we suggested. And so, as Tara described, the applicant's

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intention is to leave the door open for individual lot owners to build the accessory dwelling if they choose to, which we think is quite appropriate.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo, Director. I guess the framing of it is my concern. I understand if planners discuss the options that are available for a developer or a property owner, but I guess recommending or advocating for certain things, that is not mitigating, you know, impacts, and is more addressing a policy kind of a decision is where I have an issue.

CHAIR PALTIN: If I can follow up with a thing --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR PALTIN: --to that. So, you know, in the beginning part of that printout that Ms. Furukawa made for us, it went over things like, you know, the Maui Island Plan policies and things like that. And I mean, it's sort of highlighted...shucks I don't have it ready for me, but it highlighted like, you know, our policies for affordable housing and the need for that. So, is that kind of what, you know, its Maui Island Plan policy implementation is that why it's advocated for? Because in terms of presentations I guess of smart growth, this is near infrastructure. It's, you know, zoned as such, and is that kind of why you would advocate for increased density because of the Maui Island Plan policies on affordable housing and things like that? Is that part of the reason or...

MS. McLEAN: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, my concern is that the advocacy and the pushing towards this, like I said, it can be discussed as options but I don't think...like I disagree that it's appropriate for our Planning Department to take a position on something like this. I think that it's okay to say, these are the options, this is what the community plan says. But shouldn't be saying this is the direction you should take. So, it shouldn't be framed as recommendations. It should just be framed as options. Mahalo, Chair.

CHAIR PALTIN: Okay. I'll take Chair Lee, followed by Member Molina, followed by Member Sugimura.

COUNCILMEMBER LEE: I fully understand Ms. Rawlins-Fernandez's position. But, you know, the longer you're in this business you'll know that the Planning Department feels very passionately about development, and planning, and growth, and so forth, and following certain principles. And what they do generally, almost for every project, is to try and avoid sort of hodge-podge developments and urban sprawl, and that's why they try to increase density wherever possible, especially if it's near or...developed

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areas already with infrastructure there. They try not to encourage development all over the place, you know, so that there's a rhyme and reason for a development. So, I'm not surprised that they encouraged the developer to consider adding the ohanas, or option for ohanas. But I believe that's the reason, and that's why I'm not terribly concerned that that was suggested. But it's really ultimately our decision whether we're going to allow it or not, yeah. Thank you.

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

COUNCILMEMBER MOLINA: Thank you, Madam Chair. A question for Director McLean. In your response to Member Rawlins-Fernandez with regards to ohanas, you mentioned the developer now is going to do building pads. Now was that at the recommendation of the Department? Or is this something that the developer is volunteering to do? Because I would think for a 100 percent affordable project, they would want to keep expenses to a minimum. Now, I don't know what it costs to do 28 building pads, you know, what it would cost for the developer so I'm just kind of curious. So, was this something encouraged by the Department to tell the developer to create these building pads in conjunction with the need for ohanas? Or was this something the developer just volunteered to do and take on that additional expense?

MS. FURUKAWA: The developer took on...said that they would take on that voluntary expense. They volunteered that information at the Planning Commission meeting.

COUNCILMEMBER MOLINA: Okay.

MS. McLEAN: If I can add, and just to clarify, I don't want there to be an understanding that we twisted their arm or pushed them to do it. When they came in with the project and said no ohanas, we said, oh, you should really allow ohanas at this. Like that's the extent of it. And they could've chosen not to. If they choose to, and if the Council allows it, then it would be up to them how to make that happen whether they build the ohanas themselves, whether they don't do anything related to the ohanas and leave it entirely up to the owners, whether they provide the pad. That's up to them. We wouldn't get involved in that level of specificity. We just said, oh, don't start off this project saying no ohanas 'cause we think you should allow them. So, I hope that gives a fuller picture of how this transpired.

COUNCILMEMBER MOLINA: Okay, no, definitely I appreciate that, Director, 'cause it did kind of raise my eyebrows 'cause I'm thinking this is 100 percent affordable housing project, and I know that the developer certainly would try to minimize their expenses. Now, upon hearing this that they want to do the building pads and add additional expenses for themselves, just got me a little bit more curious. So, I'll ask that question of the developer as to now why they would want to do this when, and I know they have the...property owners would have that option to do an ohana. But now why this additional assistance from the developer to create an ohana? 'Cause I know some folks in the community were concerned about that. But anyway, it's just kind of...it stems my curiosity now with this issue. Thank you. Thank you, Director. And thank you, Madam Chair.

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CHAIR PALTIN: Thank you, Member Molina. Member Sugimura, you had a question?
Followed by Member King.

COUNCILMEMBER SUGIMURA: Yeah, thank you, Director, for the clarification. Just knowing the big job that you all have in terms of helping us solve the housing crisis, that and if this is in the growth boundary area, I can see where that, you know, that suggestion may come. And appreciate, you know, the partnership in terms of trying to help us get our housing crisis in some, you know, moving forward. So, I don't think you did a...you stated policy because I think the policy was already kind of predetermined through the island plans. And that probably the Department just was sharing information. So, I've worked with your Department and I know that, you know, it's all with good intentions. And thank you. That's all I want to say. I don't have...really have a question

CHAIR PALTIN: Thank you, Member Sugimura. Member King?

COUNCILMEMBER KING: Thank you, Chair. So, just, you know, I had the same concerns as Member Molina about, you know, all this added expense because I know in some of these discussions I was told by some of the people that attended meetings with Mr. Kihune that some of the things that he had agreed to, he had expected that the County would cover expenses about, you know, like the ingress/egress infrastructure and possible roads. So, it was a shock to me that they, you know, wanted to put in all these pads, and yet they wanted the County to cover other infrastructure expenses. But, you know, and I'm not opposed to the County covering some of these infrastructure expenses. But my question is, did you...the Planning Department commit to any other infrastructure expenses in that area for this development, additional roadways, or pathways, or anything?

MS. McLEAN: That's...we would only have raised that issue if it came from relevant agencies. And to my knowledge, that hasn't come from the relevant agencies. So, no.

COUNCILMEMBER KING: Oh, okay. But you know, you understand that those are concerns that the developer has that they want certain types of infrastructure covered by the County, is my understanding, if they're going to go forward with some of the agreements that they made with the homeowners.

MS. McLEAN: Again, I would defer to the relevant agencies for those 'cause we wouldn't get involved with those discussions.

COUNCILMEMBER KING: Okay, well, I just...I'm, you know, I'm kind of following up because you're getting involved in the housing discussion. You're not...and then you're referring, you know, me to other questions for housing. So, you know, at some point I know you guys have all got to be talking to each other. And, you know, if we're making suggestions about increasing housing, then there should be taking into consideration what's already in these areas and what's, you know, we have a comprehensive housing plan, RFP out right now. So, hopefully we'll get some

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information there on what is going to become available. I'm real concerned that we're going to have an overabundance of people who can't rent to tourists, and tourists anymore, and so they'll be opening up to...I'm hoping they're going to be opening up to residents. But, you know, all of this plays in together with recommendations that are being made. Thank you, Chair.

CHAIR PALTIN: Thank you, Member King. I'll take Member Sinenci, followed by Member Rawlins-Fernandez.

VICE-CHAIR SINENCI: Thank you, Chair. Just real quick, I just wanted to clarify that my question wasn't about particularly increasing density at the project. It was more towards mitigating additional traffic in an area that already has a lot of traffic. Thank you.

CHAIR PALTIN: Thank you, Member Sinenci. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Member Sinenci. That's exactly it. That was the concerns that were expressed by the community, is the traffic. So, what happens with density? More traffic. And there's also not enough places to park is my understanding 'cause where are these vehicles going to go in this small area that they're trying to maximize the space. So, I think...I'm not against density where it is appropriate. I'm all for it. I'm all for putting houses where there are infrastructure. I'm all for affordable housing. Affordable housing. These houses are \$600,000 and if you add an accessory dwelling, I don't know, what 700,000, 800,000. So, I'm not here to just help everyone build all these luxury or unaffordable houses. Like, we're not going to build ourselves out of this problem. We can't just add more houses just to have houses. I'm here so that we can get our residents into houses, not just build houses. And my concern was that...okay, I'm not attacking the Department. So, I don't think they need to be defended or cheerlead. I'm not attacking them. Just saying that perhaps when framing the options, the Planning Department are looked at as the authorities, the experts. And so, their words carry a lot more weight than just some random person in the community, and that should be taken into consideration when choosing how you frame your suggestions to the applicants who are developing, that's all. Explaining what is allowed on a property, what is allowed in the community plan, and not encouraging or saying you should do something. I disagree with that. And that's all. Mahalo, Chair.

CHAIR PALTIN: Thank you, Member Rawlins-Fernandez. So, we've come to the end of my prewritten questions and the answers that Member [sic] McLean had. I had one additional question that came up based on our discussion, but I'll defer to other Members if they had conditions...or not, sorry, not conditions...questions beyond what I had submitted and is on Granicus. So, I'll open up to the other Members chances for questions for Member [sic] McLean if you folks had any additional questions beyond what I had submitted to her. Maybe she has the answers or maybe she needs more time. Just raise your hand, and I'll call on you. Okay. If it's okay, I'll ask my question then. And I'm not sure if this is the correct one. You can just let me know, but as I was saying, if we could ask...if you could confirm if we could prohibit...I know

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the developer said that he, as part of his HOA, wanted to prohibit overnight, on-street parking as part of his HOA. I was wondering if we as the Council could prohibit on-street parking, period, as part of the Change in Zoning condition, whether it's daytime or nighttime, if that's something that we could prohibit.

MS. McLEAN: Again, I would refer to that section that gives the parameters for imposing conditions on zoning. That if it's to mitigate a potential adverse impact to public health, safety, welfare, and convenience, then I would imagine that you could. I don't know if that's typically...I mean that's from the County Code. That's from Title 19, but I don't know if Corp. Counsel has any further guidance on that 'cause often they advise Council on the appropriateness of conditions.

CHAIR PALTIN: Okay. Mr. Hopper, did you have any comment if prohibiting on-street parking whether it's overnight or daytime, is that something that's reasonably legal as a condition of Change in Zoning?

MR. HOPPER: I would want to first find out what the requirements are now from maybe Public Works Department or Police. And it's also...these would be...this would affect I guess the roads within potentially a subdivision or a condominiumization so there would be...they'd be privately-owned roads, and the County would be conditioning that. I'm not sure how that would be enforced. I want to check on those things. I'm not saying that you couldn't do it as long as you have...if the reason for doing it is to...I'm not sure what your reason is, if it's for safety or others, you know, and what impact you're looking to mitigate. But I would want to maybe check with Public Works Department or Police on what the general requirements are because...I mean I don't know of...I don't know of many subdivisions...I mean CC&Rs I guess could do that and there could be, you know, private enforcement if they're privately-owned roads and common areas and things like that. And maybe the County could be involved, but I mean I know there's roads like in Kehalani that I think are still privately-owned that, you know, there's a fair amount of on-street parking. I don't know if there are hours where you can and can't do it in general. So, if you're being more restrictive than a current County ordinance, I think generally you'd be...you'd need a reason for doing that. And as far as how that would be enforced, I guess maybe you have to require that as a condition, and then as part as their CC&Rs, they would have to keep that and enforce that. But, you know, just the details of that, I wouldn't be sure of. You know, you could look at something like that. But before doing it, I think you'd want to make sure it would be effective. And I mean maybe it's something the law already prohibits, but it's just not enforced or not enforced on privately-owned roads as much. So, you may want to check on those issues. If you're talking about parking on currently...I assume you're talking about parking within the property on roads that would be created. The other issue would be, you know, parking on the streets outside of the subdivision, and there may be requirements there on existing County streets. I think the County would probably have a fair amount of greater authority on those areas. But we'd already have...there would already be laws in place that dealt with that. So, without knowing all those things, I'd probably recommend getting that information before imposing a condition just so you know how that would work.

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CHAIR PALTIN: Okay, thank you. So, I guess this would conclude our questions for Director McLean. Members, how you feeling? You want to forge ahead? Are you ready for a little break for about 18 minutes after our regular break time?

COUNCILMEMBER SUGIMURA: Short break.

COUNCILMEMBER KING: Take a break.

COUNCILMEMBER LEE: What does forge ahead...what do we have ahead, Chair?

CHAIR PALTIN: Well, we also have other resources. Director Teruya, I don't think he's on the line, but he did answer my one question. So, that's available on Granicus. Our other resources, we have Ms. Munsell, Mr. Molina, and the developers. I believe Ms. Munsell and the Public Works asked for more time. But if Members had any other questions, or if they did have any answers to any of the questions that I submitted, or if you, Members, had additional questions for any of our other resources, it's all available. I like to do the footwork in the Committee and not on the Council Chamber floor because you know how you don't like that.

COUNCILMEMBER LEE: Thank you, thank you.

COUNCILMEMBER KING: Chair?

COUNCILMEMBER LEE: Thanks, Chair.

CHAIR PALTIN: Yeah. Yes, Member King?

COUNCILMEMBER KING: So, I, you know, I have a list of...kind of accumulating a list of concerns from the community. A lot of 'em have been discussed and lot of them have been discussed within...with the developer and certain people in the community, not everybody. But I would be interested in hearing and going...taking a break, and then going through Mr. Molina's proposed conditions when we come back because I really appreciate all the work he did on that as well.

CHAIR PALTIN: Okay. So shall we come back at 11:05, Members?

COUNCILMEMBER LEE: Okay.

CHAIR PALTIN: Eleven o five?

COUNCILMEMBER LEE: Okay.

COUNCILMEMBER KING: Eleven o five.

COUNCILMEMBER LEE: No objections.

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CHAIR PALTIN: Okay, Members, we're going to call a recess. . . .(gavel). . .

RECESS: 10:50 a.m.

RECONVENE: 11:08 a.m.

CHAIR PALTIN: . . .(gavel). . . Will the Planning and Sustainable Land Use Committee meeting of June 17 return to order. The time is 11:08, and I believe we left off with...we wanted to go over some of the...and I believe the revised conditions are updated, Conditions of Zoning that Member Molina had submitted to our Committee. Thank you very much, Member Molina. I can tell you put a lot of work and thought into this, and I like the conditions. Member King, as this was your request, did you want to go through it condition by condition and have a discussion? Or were there some that you were just good with and you just wanted to pull out? What was your preference?

COUNCILMEMBER KING: My...well, my preference...and I know a lot of these conditions are conditions we put on other projects. So, I appreciate that Mr. Molina was trying to codify it with other, you know, previous actions that were taken. But I just as soon go over it, you know, condition by condition to see if there's any concerns, and also to get comments from the developer on whether he has any concerns with these conditions. I don't see Mr. Sinenci. Did Councilmember Sinenci come back?

CHAIR PALTIN: Okay, let's see. Mr. Sinenci, are you there? I didn't check on that if he was there. Let me text him.

COUNCILMEMBER KING: I did text him, but I haven't heard back yet where he's at.

CHAIR PALTIN: He left 10:12 or something. Let's see. I muted Mr. Kihune before. Let me just unmute him. And let's see. Ms. Duvauchelle can unmute herself if she has any comment. Mr. Kihune, did you want to just mute yourself so that there's no background noise. And then if you had a comment, you can then go ahead and mute and unmute yourself and be in charge of that?

MR. KIHUNE: That'll be fine. No problem. Thank you.

CHAIR PALTIN: Okay, thank you. Oh, Mr. Sinenci, glad to see...have you with us.

VICE-CHAIR SINENCI: Thank you. Sorry, we have the MEO bus here with the Wi-Fi access for the community, free Wi-Fi access. So, Deputy Director Mike is here so we just wanted to welcome him to the community. Thank you.

UNIDENTIFIED SPEAKER: Nice.

CHAIR PALTIN: Oh, awesome, awesome. Okay, so, Members, we're...I believe we're looking off of Granicus item memo from Councilmember Molina dated June 15, 2020. Does

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everyone have that item pulled up? Yeah? Okay, Member Molina, did you want to go through these, or did you want me to read them for you?

COUNCILMEMBER MOLINA: I'm fine with either way, Madam Chair. You know, maybe we can rotate, whatever. But you, you know, I respect you as the Committee Chair and your process. So, if you're more comfortable with doing that, I'm fine. And of course, I'll chime in as well.

CHAIR PALTIN: Okay, awesome, awesome. Okay, I'll...just to keep things moving a little bit quicker, I'll go through them. The first one proposed by Member Molina, and I agree with, the developer shall record in the Bureau of Conveyances of the State of Hawaii restrictions permanently providing for the following, A, the residential workforce housing units shall be...shall by deed restriction be owner-occupied for a period of 30 years; however, if no loans are approved due to the 30-year deed restriction, the developer may request of the Council, via resolution, an adjustment of the deed restriction. The developer shall not sell the workforce housing units at market rate. Also, an owner of a workforce unit that is being resold, one, must sell the unit to an income-qualified household in the same AMI category as the original homebuyer. And two, may retain a maximum 3 percent appreciation per year. C, the use or operation of any dwelling in the project for transient or short-term rentals, including any rental for a term of less than 180 days is prohibited. D, condominium conversion or further subdivision of any of the lots in the project is prohibited. And E, accessory dwellings shall be rented consistent with requirements of set forth in Chapter 2.96, Maui County Code, in perpetuity.

COUNCILMEMBER LEE: So, Madam Chair?

CHAIR PALTIN: Yes, Member Molina [sic]?

COUNCILMEMBER LEE: So, are you going to be asking the developer for a response after each one?

CHAIR PALTIN: I think so. Yes.

COUNCILMEMBER LEE: Okay, good, thank you.

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Yeah, Madam Chair, if you will, yeah, we could go...I know this is a pretty long...for number one, a lot of stuff in Condition 1. So, if we could just ask the developer...I believe Mr. Kihune, on Condition 1A, had expressed concerns about the 30 years. So, if we could hear from him again. I believe he said 20 at the prior meeting might be workable. But I guess less than 20 would be much more amenable to lenders for those applying for a loan for these units. So, if we could hear from Mr. Kihune or Ms. Duvauchelle.

CHAIR PALTIN: Okay...

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MR. KIHUNE: Thank you...go ahead.

CHAIR PALTIN: Mr. Kihune, go ahead.

MR. KIHUNE: Thank you. Thank you, Chair. Thank you, Mr. Molina. With regards to the 30-year, we limit...it's not us, it's the buyer. You limit the buyers to the availability of financial institutions lending to them at something at that particular...for that particular deed restriction. Right now, we have an executed workforce housing agreement with the County and the Housing Department for 15 years. Normally, we would be doing one that's five, seven and ten. But as a true home...100 percent workforce housing builder/developer, we think that 15 is an adequate, which is very good. Doesn't restrict the buyer for such a long period of time because what happens is that with a long period of deed restriction, you start getting the project into a high-end rental project. And again, like I said, the lenders have a difficult time with...some lenders will drop out because they will not finance something that's 30 years. It's the same thing with perpetuity. So, we limit the buyer's opportunity. We want to make sure we get everybody in there that we can.

CHAIR PALTIN: Members, questions for Mr. Kihune? Member King, followed by Member Sugimura.

COUNCILMEMBER KING: Thank you, Chair. Thank you for that input, Mr. Kihune. Did you...have you reached out to a wide variety of lenders? And I ask this because, you know, we've been talking about this for, my second term now, for about four years. Every year it comes up. And the previous TIG that looked at the affordable housing recommendations had found I think half-a-dozen lenders who are willing to lend on the 30-year deed restriction. So, just wondering how broad, and I know you said you're leaving it up to the buyers, but if you could get a suggested list of people who...of institutions that were willing to lend, would you be able to work with the buyers on that list?

MR. KIHUNE: To answer your question, Ms. King, with regards to lenders, what happens is that you lose your Federally-backed institutions to some degree because what happens is that you have to give that lender first right to foreclose if they gotta foreclose. They...and they will take that home, and it will not be in affordability. That is the requirement. It was done through Corp. Counsel. They fought to take it to 120 days for foreclosure. But they agreed to 90. So, that is something that the lenders have a very difficult time with. If they're going to foreclose, they want to foreclose.

COUNCILMEMBER KING: Right. But that doesn't --

MR. KIHUNE: So...

COUNCILMEMBER KING: --have...but they would do that with a 15-year deed restriction as well, right? I mean that doesn't, that's . . .(inaudible) . . .

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MR. KIHUNE: With 15, if they would accept 15 years. I've been to HomeStreet Bank, American Savings, Bank of Hawaii, First Hawaiian Bank. What we do is we start limiting the availability of lenders for our hardworking people. That's the bottom line. Some of 'em --

COUNCILMEMBER KING: But are you saying --

MR. KIHUNE: --will not lend.

CHAIR PALTIN: --that they're more likely to foreclose if it's a 30-year deed restriction than if it's 15-year deed restriction?

MR. KIHUNE: What I'm saying is that that's language that we gotta have in the mortgage. They have to have the ability to foreclose should they not pay.

COUNCILMEMBER KING: Right. I mean --

MR. KIHUNE: ...*(inaudible)*...

COUNCILMEMBER KING: --but that doesn't have anything to do with the length of the deed restriction. That's in there anywhere, right, regardless of how long the deed restriction is.

MR. KIHUNE: That is correct. But what I was trying to get across is that they are less likely to lend on something that's 30 years or longer.

COUNCILMEMBER KING: No, I understand that. But I mean I'm just saying that we did hear from previous Council TIG that they did identify lenders who are willing to lend with the 30-year deed restriction. So, I was just offering that that might be something for you to look into if we...if the Council decides to do that. And so, is that the only concern with this?

MR. KIHUNE: What happens when you got a longer deed restriction, usually your FICO scores have to be higher. And you know, as people that are hardworking, their FICO scores, their credit scores are usually like below 700. But when you get to a longer deed restriction, the FICO scores go up. And that restricts buyers from getting into this market.

COUNCILMEMBER KING: Okay. Thank you for that answer. Thank you, Chair.

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

COUNCILMEMBER SUGIMURA: Thank you, Chair. So, Mr. Kihune, then are you saying, based upon the number of years that actually 15, or would you agree to 20-year deed restriction?

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MR. KIHUNE: Well, right now we have an agreement for 15, Ms. Sugimura. And we feel comfortable with it, speaking with our lenders, HomeStreet, local banks, Bank of Hawaii, First Hawaiian Bank. Again, what it comes down to is that the longer the term is, the deed restriction, the higher your score has to be because they're trying to make sure that these people can stay in this mortgage for that long. If we go 15, then it allows them...a lot of our people who are not as...don't have the scores as high as 700 or 720, might be 650, 660, the ability to get into these homes that'll be probably Federally-backed by Fannie Mae or some of our other institutions out there.

COUNCILMEMBER SUGIMURA: Understand. Thank you.

CHAIR PALTIN: Member Lee? Followed by Member Molina.

COUNCILMEMBER LEE: Yes, Mr. Kihune?

MR. KIHUNE: Yes.

COUNCILMEMBER LEE: Is the breakdown going to be 7-14-7 units?

MR. KIHUNE: No, it will be 30 percent, 50 percent, and 20 percent. So, our breakdown will be...did you say 7-14-7?

COUNCILMEMBER LEE: Yeah.

MR. KIHUNE: It will be --

COUNCILMEMBER LEE: So, it will be...

MR. KIHUNE: --so it'll be basically 7, 14, and what, 6? Five, sorry, five.

COUNCILMEMBER LEE: Five? Five.

MR. KIHUNE: Yeah.

COUNCILMEMBER LEE: Okay, that's 26.

MR. KIHUNE: Oh, hang on.

CHAIR PALTIN: Nine. Nine, fourteen, five.

MR. KIHUNE: My math. So, 30 percent is going to be...no, sorry. It should be 8, 14, and 6. Sorry.

COUNCILMEMBER LEE: Eight, 14, and 6. Okay.

MR. KIHUNE: Correct, yeah.

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COUNCILMEMBER LEE: So, the eight homes are going to be sold roughly, I know interest rates change, but at this point in time, at about what amount?

MR. KIHUNE: Four-hundred thousand.

COUNCILMEMBER LEE: Four-hundred thousand. Okay, and then the 14?

MR. KIHUNE: Probably somewhere right around 500, or 480 to 500. It's based on the sliding scale from the sales guideline, yeah.

COUNCILMEMBER LEE: Yeah, I know. And interest rates.

MR. KIHUNE: Correct.

COUNCILMEMBER LEE: So, and the six?

MR. KIHUNE: And the six will be probably in the...probably the 570 to 600, some place around there.

COUNCILMEMBER LEE: Okay. My concern is, from my experience, you're going to have difficulty selling those last 20 units because it'll probably be easier for those people who can qualify for those loans to find other market products because nobody in their right mind is going to sign up for a 30-year deed restriction and pay \$600,000 for a house 'cause pretty much you are handcuffed for 30 years with that kind of deed restriction. The other one is, you know, I think maybe 15 years might be a little bit better. My concern on deed restrictions...and normally deed restrictions, yeah, are put on projects that receive some kind of County benefit, like discounts on fees or exemption from fees, things like that, you know, expedited process, et cetera. In this case, Mr. Kihune, are you receiving any kind of County benefit?

MR. KIHUNE: We are not.

COUNCILMEMBER LEE: You're not. So, more so, you know, I've always felt that the longer the deed restriction, the more difficult it is for the homeowner to be able to...well, to be incentivized to grow equity because you won't be able to use your house, you know, sell your house, or remortgage your house, refinance your house for 30 years. So, that's where, you know, these kinds of long deed restrictions have to be, you know, really evaluated because what we're trying to do is help the homeowner as well, yeah. And we want that person to be able to be, you know, move upward. So, you know, I'm thinking, you know, 15 years is plenty for the first two categories. The third category, I'm afraid is...you're probably never going to sell those six units. And normally, for agreements, 2.96 agreements, if you can't sell those units with the restrictions, then at some point in time we legally have to allow...free you up of that requirement because we can't place a requirement on you that is unworkable. So, I would strongly suggest that we rethink 30 years on the last category because nobody would want to pay \$600,000 for a home and not be able to use it, you know, in terms of leveraging that equity in that house for 30 years. Plus, there's a safeguard in the 2.96 requirements

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that if somebody has to sell, divorce, death, whatever, that there is a shared equity provision. So, again, you know, the County is protected. And the idea of preserving affordable homes is still, you know, still in play. So, anyway, thank you, Mr. Kihune. Appreciate your answers. Thank you.

MR. KIHUNE: Thank you.

CHAIR PALTIN: Thank you, Member Lee. Thank you, Mr. Kihune. I believe, was it Member Molina next, and then Member Sugimura, and then Member Rawlins-Fernandez. Okay --

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: --go ahead, Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. And good morning, Mr. Kihune. I believe at the last meeting you mentioned that there's roughly, what, 70 applicants for these 28 units? Is that correct?

MR. KIHUNE: Applicants...thank you, Mr. Molina. Not applicants. We have 70 inquiries at this point, 75 to be exact.

COUNCILMEMBER MOLINA: Okay.

MR. KIHUNE: Through word of mouth, and just, I guess, you know, because of the publicity of it, we've got quite a few people that have reached out. We've taken their number and their information, and we told them that at some point when we get ready to release the project, should we be able to, that we would reach back out.

COUNCILMEMBER MOLINA: Oh, okay.

MR. KIHUNE: Yeah.

COUNCILMEMBER MOLINA: So, that makes my next question moot then, 'cause I was going to ask if you guys had any inkling as to what the credit scores were of these...what I thought were applicants, and if they're prequalified and so forth as it relates to the deed restriction, yeah. So, okay, and I think in this condition too, I think it does provide that room for if whatever deed restriction we allow for, if you as a developer have a hard time selling or there's a lot of difficulty for applicants qualifying for loans, then I guess it could be the deed restriction, the years could be adjusted. So, anyway, okay, thank you for your responses, Mr. Kihune. Thank you, Madam Chair.

CHAIR PALTIN: Thank you, Member --

MR. KIHUNE: Thank you.

CHAIR PALTIN: --Molina. Member Sugimura, followed by Member Rawlins-Fernandez.

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COUNCILMEMBER SUGIMURA: So, the last item in Mr. Molina's item number 1, so it's 1E, accessory dwelling shall be rented consistent with requirements as set forth in 2.96. So, can the...sorry, could Mr. Kihune...does he have any comments on that?

COUNCILMEMBER LEE: They're not doing any.

MR. KIHUNE: Thank you, Ms. Sugimura. Yes, we...let me make...let me, real quick, tell you how we got to ohanas. The Planning Department did not advocate for that. Tara had asked us, upon our submittal of the traffic assessment, she came back to us and said, can you please include ohanas because if we're going to R-1 zoning or R-2, or R-3, the Code allows for ohanas, so I'd like to make sure that we address that traffic that way. So, we went ahead and had an assessment done. So, we got that done, we turned that in. And then what happened, we started thinking, well, if we are allowed to and the County says yes, go ahead, you can have ohanas, that we would go ahead and land plan the lot specifically so that if an ohana was to be built, this is the only place you can build it. And we...our architect would design two ohana units, different styles, that you could choose from should, in the future, five years, ten years, whatever, you'd have to use one of those two because then it'll match the current architecture and be in blend with everything in the neighborhood. Now, as far as developing the pad, our goal was to bring the utilities, which is the water, the sewer, and the electrical, from the roadway to that area for the ohana so that the owner wouldn't incur that cost by breaking back into the street, tearing up sidewalks to bring those utilities for an ohana. For us that cost is probably somewhere around \$500 because it's just conduits just, you know, plastic pipe and metal conduits for electricity and stuff, but that was it. So, for us we figured, you know what, let's just move in that direction. Should this happen, we want to make sure we plan this subdivision correctly. That's all.

CHAIR PALTIN: Member Sugimura, does that satisfy your question? We might've lost her.

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

COUNCILMEMBER SUGIMURA: Let me...let me just get back on. So, maybe just to clarify what this...we were hearing cement pad, or I envisioned a cement pad by the previous discussion. But you were just talking about empty land that's going to fit these two different plots for possible accessory dwelling, and that you would provide the conduits for it. But you're not going to build like a...

MR. KIHUNE: No, we're not. We weren't going to build it. We're just going to designate the area so when the houses are completed, it'll be grass. They'll have a yard.

COUNCILMEMBER SUGIMURA: Okay.

MR. KIHUNE: But this will be the area if you decide to extend your house, this is where you can do it.

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COUNCILMEMBER SUGIMURA: Oh, okay. Thank you for that clarification.

MR. KIHUNE: Okay, you're welcome. Thank you.

CHAIR PALTIN: Thank you. And before I move on, Mr. Kihune, did you want to unmute your video so you can be seen. It's optional, but it's like joining the conversation with us.

MR. KIHUNE: Okay, I can, but I just had a ugly haircut. So, hang on. Let me find out where this thing is at.

CHAIR PALTIN: Look at my hair, nah, nah, nah.

MR. KIHUNE: Okay, there you go. How's that? Better?

CHAIR PALTIN: Yeah, we can see you. Okay --

MR. KIHUNE: Okay.

CHAIR PALTIN: --Member Rawlins-Fernandez, you're up.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Good to see you, Mr. Kihune.

MR. KIHUNE: And you, the same.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, in your response to Chair Paltin's questions, I believe you said that you're receiving housing credits.

MR. KIHUNE: Based on 2.96, yes, we would get some housing credits. Correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: And \$25,000, you said?

MR. KIHUNE: Right now, that seems to be the going market for housing credits.

COUNCILMEMBER RAWLINS-FERNANDEZ: For how many?

MR. KIHUNE: We would end up with 21.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And that would be considered a benefit from the County, yeah.

MR. KIHUNE: I guess if you want to call it that, yeah. It's in the ordinance so we...if that's a benefit, it's a benefit, yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. Have you heard of or considered managed equity to account for homeowner investment in the property until they decide to sell? Have you considered that?

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MR. KIHUNE: What was that again? I'm sorry I didn't get that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Managed equity.

MR. KIHUNE: So, you mean based on the schedule that the County has for equity in the house if they wanted to sell? Or --

COUNCILMEMBER RAWLINS-FERNANDEZ: Right.

MR. KIHUNE: --wanted to go ahead and take an equity loan on their house for the time period?

COUNCILMEMBER RAWLINS-FERNANDEZ: Right, yes.

MR. KIHUNE: That is stated in our agreement that if they were to sell, if they wanted to make improvements, that's all part of the current Code. So, we don't have any objections. We just follow the Code.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so a homeowner could get equity then. It would just be managed.

MR. KIHUNE: It would be based on the improvements that they made. So, like if you put up a rock wall, if you want to refinance, or you put air-conditioning, split system, whatever that be, you can file for...you can go in and get a equity loan, or get it refinanced. But you have to submit all of your invoices, yeah, to the Housing Department.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. Okay, so this wouldn't prohibit them from getting equity out of their home which is...I heard some concerns from Members for extending the deed restriction because I understand taking equity out of the home. But, I mean, I think, you know, these houses could probably go for double after 15 years. And that's part of our responsibility in mitigating harm, right. So, what we're trying to do is get more houses affordable. But in 10 years, 15 years, boom, we're back to, you know, square one with less affordable houses because the deed restriction was so short, which is what I see with this project. The intent, as I understood when you presented, was that these homes were really going to be really well-built, well-designed, and something that it sounded like would be someone's forever home and not just a steppingstone. Is that correct? Is that a correct understanding of what you were pitching?

MR. KIHUNE: As far as we were pitching, there was no pitch. We're just saying that we build our homes consistently...I mean consistent in every income segment. We don't lessen the house that's for the 80 percent versus the 140 percent. Every house is built identical as far as materials and construction and design. The second part of your question is...I don't have an answer for that because I don't think that's correct.

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COUNCILMEMBER RAWLINS-FERNANDEZ: I'm sorry, which part do you not think is correct?

MR. KIHUNE: The second part of your question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Which is? That you --

MR. KIHUNE: Regarding...

COUNCILMEMBER RAWLINS-FERNANDEZ: --you don't think people would stay in these houses? That it's a steppingstone.

MR. KIHUNE: Some of 'em would stay for ten years, some of 'em will stay 15. My family gets older, gets bigger, I need to buy another house. Again, it all depends on the individual family. It's not me to govern that. I can't tell 'em they have to stay there for 30 years. That's not...or 50 years, or 60 years. Every homeowner should have the opportunity to make that decision based on the 15-year deed restriction we currently have. That's up to them if they want to stay in longer. I don't have...I'm not going to force a homeowner that you can never get any equity, and you gotta live there in perpetuity.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, so that wasn't my question.

MR. KIHUNE: That's for...that'll be your call.

COUNCILMEMBER RAWLINS-FERNANDEZ: You're twisting what I asked.

MR. KIHUNE: I don't...

COUNCILMEMBER RAWLINS-FERNANDEZ: No, that wasn't what I said. I already asked...we already discussed managed equity, and that's an option. No one's saying...no, I'm not saying that they're being forced there. But the way you pitched the houses the last time we had this meeting was that they were beautifully constructed and something that people would want to stay in. And so that was my understanding and that's how I understood your presentation. That's all.

MR. KIHUNE: We hope that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, okay. So, my understanding was correct. For the prices of these homes, because they're so expensive, people would need pretty high FICO scores I would think, yeah.

MR. KIHUNE: Not at our last project. We had FICO scores at 650.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And I think one of Chair Lee's points I thought was a good point in that what we've been seeing is that the higher end of the houses where they're 140 AMI are so close to market rate that people generally not want to get into deed restrictions. And then what happens is they just flip out of

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affordability and are sold at market rate, which is what we saw at Kahoma. So, that's one of my concerns too. Mahalo, Chair.

CHAIR PALTIN: Thank you, Member Rawlins-Fernandez. Member Sinenci, did you have your hand up?

VICE-CHAIR SINENCI: Okay, thank you. Just a clarification for Mr. Kihune on Member Sugimura's question, item E, about...so he wouldn't have any input as far as renting those accessory dwellings because that would be after-the-fact. You guys are just providing a space with conduit for future expansion should the buyers decide to, yeah. So, you're okay with that condition?

MR. KIHUNE: Correct. I mean we actually, when we were looking at this and that was brought to our attention, we made the comment that if that's going to happen, this is a workforce affordable housing project that the rental, if they were to rent it, has to be...had to be under the 2.96 guidelines for rentals as affordability.

VICE-CHAIR SINENCI: Oh, okay, thank you. And then...

MR. KIHUNE: We'd be fine with that.

VICE-CHAIR SINENCI: Yeah, are those accessory dwellings kept to a specific square footage?

MR. KIHUNE: I believe we were looking at some place around 5 or 600 square feet max, based on the size of the lot, yeah, yeah.

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

MR. KIHUNE: You're welcome.

CHAIR PALTIN: Thank you. Member King?

COUNCILMEMBER KING: Thank you, Chair. Just...you know, I thought we were going through these with just the first ones. But if we're talking about E, and the developer was amenable to no ohana, then that would come off of this. That would be a denial of ohana dwellings.

CHAIR PALTIN: Like a moot point kind of, is what you're saying.

COUNCILMEMBER KING: Or we change it to no ohanas, no accessory dwellings.

CHAIR PALTIN: Yeah, I think he stated before he was okay with that. Is that right, Mr. Kihune?

MR. KIHUNE: Yes, we are. Yes, correct.

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CHAIR PALTIN: And do you have any problem with no short-term rental or no CPRs as well? Is that all right with you as well?

MR. KIHUNE: Yes. That's fine. We actually have that in our CC&Rs in Kaanapali and our other projects. So, we don't allow short-term rentals. We don't allow CPRs either, so.

CHAIR PALTIN: Okay, awesome, awesome. Members, do we feel okay with Condition 1? I mean we're not going to vote on anything right now. But I feel like we've had a pretty thorough discussion here.

MR. HOPPER: Madam Chair?

CHAIR PALTIN: Mr. Hopper?

MR. HOPPER: Just looking at these in general, I think it would be, if it hasn't been done already, just to check with the Department of Housing and Human Concerns on conditions related to affordability. If they've been on projects before, maybe they're fine. But I know we had to discuss issues with the Pulelehua project that we were working on at the Land Use Commission just to make sure some of the...some requirements, you know, you can maybe be more restrictive than 2.96 in certain cases. But you would want to avoid being, you know, inconsistent, you know, or putting in something that's inconsistent so that they...the unit would no longer be a 2.96 unit if you imposed different types of selection criteria, for example, or something like that. So, just as a heads-up. I mean maybe the Department has already reviewed conditions like this and is fine with them. But it may be a good idea to check with the Department just to see if they foresee any problems implementing these conditions and making sure they're consistent with 2.96 so that you can...not have any problems with amending the affordable housing agreement and moving forward with that, just as a suggestion.

CHAIR PALTIN: Thank you. I don't see Ms. Munsell still on the call right now. Ms. Munsell, are you there? I'm also waiting. I asked them some questions about the agreement that they had with the developer and we didn't...they needed an extension for some of my questions. So, I guess before we have our next meeting, we'll add their comments to this conditions onto our request for information. Does that sound good, Members? Okay, thank you --

COUNCILMEMBER LEE: Yes, yes.

CHAIR PALTIN: --Mr. Hopper. Okay, it looks like Member King and Member Molina had their hands up. Member King?

COUNCILMEMBER KING: Okay, so, yeah, I was just concerned before we leave this, how do we want to...it sounds like the deed restriction, the number of years is still kind of up for discussion, between 15 and 30 years. And it also sounds like the accessory dwelling, you know, did we determine whether we want to, you know, change that to no accessory dwellings? Or do you want...because what I'm trying to do is ascertain is

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what the discussion in the greater community should be. So, if that's a...if we haven't made a decision or even a, you know, don't have a consensus, then basically that will be one of the discussion points, a deed restriction timeline and whether or not there are accessory dwellings.

CHAIR PALTIN: Okay, thank you, Member King. Can we get a consensus that Members would like to restrict both attached and detached accessory dwellings because of traffic concerns? Or do we need more discussion on that? Or do Members feel comfortable restricting that, or no? Member Lee, followed by Member Molina.

COUNCILMEMBER LEE: Madam Chair, I was thinking that since this is Mr. Molina's proposal, maybe we should check with him first 'cause he may have changed his mind on a couple of things. So, we don't go around and around discussing something that he's already decided he would, you know, remove. Okay.

CHAIR PALTIN: Okay. Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair.

CHAIR PALTIN: Do you have a comment?

COUNCILMEMBER MOLINA: Yeah, maybe if we can...I guess looking at strictly Condition 1 and all of the components. For me, with A, as far as the 30 years, I'm amenable to a number that's less than 30 years. As far as B, when the workforce unit that is being resold, I'm wondering if that's any problem with the developer, Mr. Kihune. Get any thoughts on that? If Mr. Kihune can respond?

MR. KIHUNE: Thank you, Mr. Molina. Yeah. Sorry, there we go. According to 2.96, the County has the first right of refusal, so they would call us and say, okay, who's next on your list, and that did not get a house. And then we would get those people requalified, or they would get requalified, and that house would become available to them, should they qualify. If they didn't, then we'd have to go down the list one more, you know, keep going down the list 'til we get one of those qualified buyers in.

COUNCILMEMBER MOLINA: Okay. So, this is...I'm talking about Condition B, yeah, 1B. So, where it says --

COUNCILMEMBER KING: Point of...point of information.

COUNCILMEMBER MOLINA: --must sell the unit to an income-qualified household in the same AMI category as the original homebuyer and may retain a maximum of 3 percent appreciation per year. Was that your response to that, Mr. Kihune?

MR. KIHUNE: Yes, it's correct. What happens if somebody says they have to get out, they gotta move or they gotta relocate, we follow that and what happens is that goes back to the County. We communicate, and then we work with them to get the next person on our list into that house.

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COUNCILMEMBER MOLINA: Okay, thank you. And it sounds like you're okay with Conditions 1C and D. And as far as accessory dwellings, Madam Chair, I'm just personally...I'm not comfortable with us putting a restriction on the accessory dwellings because I believe the property owners are already entitled to put one up if they want. So, I'm just concerned that if we as a body put that as a condition where we're restricting the property owner from putting a accessory dwelling, there may be some legal challenges to that. So, those are my thoughts on that, Madam Chair. Thank you.

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

COUNCILMEMBER KING: Yeah, I just wanted to say that I think we heard from Corp. Counsel that we can put those restrictions on if we want as a Council. The...1B, I just wanted to clarify that what we're talking about is a workforce unit that's being resold before the end of the deed restriction.

MR. KIHUNE: That is correct.

COUNCILMEMBER KING: After...after whatever period we choose, whether it's 15, 20, 25, or 30, after that, they can do whatever they want with it so. But I think as far as these proposals in the community discussion, you know, they're not...it's not going to hinge on what one Member wants. It's going to hinge on, you know, what should the...what, you know, what direction is the Council going in. So, if we don't have a clear consensus, then, you know, we'll have a full discussion about it, and we can bring up all the points that the developer brought up in today's meeting, and, you know, broach those with the greater community.

CHAIR PALTIN: Yes, I agree. That's why we're not voting on conditions today because, you know, I think that we should get the input back from the broader community meeting. I think, you know, in terms of, like you said, 15, 20, 25, 30, I would like to hear more from the community as well as 1E. But it's good to know where people stand now and we can listen to the community more, and then when we have our decision-making meeting, I think we'll have a clearer picture. And, you know, we can...I agree, and while I'm very thankful for all the hard work Member Molina put into this, it doesn't prevent another Member from, you know, just going off of this and submitting their proposal as well. So, you know, I think that Member Molina should have the first crack to speak to it as we're working off of his conditions right now. But it doesn't preclude another Member from submitting their own recommendations when we make decisions, if we get to that point. So, points taken. It looks like we thoroughly vetted Condition 1. Everyone okay with moving on to Condition 2? Yeah, okay. So, Condition 2 says the property located in the tsunami zone shall not be developed and shall be used as open space or park. Mr. Kihune, would you like to speak to that condition?

MR. KIHUNE: The south side, the lower side of the property, which is next to the wastewater lift station, has an easement of 15 feet for utilities that were given from the Ferreira's

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to the Kilohana Waena subdivision. So, it doesn't look like we can build on that side of it anyway at this point. So, we probably...until we get a design or get our civil engineer taking a look at it, I don't foresee an issue with that. It's only about 10,000, 11,000 square feet to begin with. So, we would need to keep that easement clear. We could probably put a sidewalk or grass the area, but we couldn't build on that easement. All the utilities are in there.

CHAIR PALTIN: And just to clarify, you're talking about the drainage lot and that one area that might be the...or just the drainage lot that's circled in Exhibit 4?

MR. KIHUNE: It would be...if you...just a little south of the...so, if you look at the lots. Let me pull up my lots. Hang on, hang on real quick.

CHAIR PALTIN: Or number 14, would it be?

MR. KIHUNE: Right. It would be lot number 14. So, we wouldn't be able to build in that area looks like because the easements are there. But we can put sidewalks or roadway as far as coming out of the subdivision, yeah. But we wouldn't be able to put a house there.

CHAIR PALTIN: Okay. Okay, Members, are you guys satisfied with that? Member Molina? Yeah? Okay...

COUNCILMEMBER MOLINA: Yeah, Madam Chair, yeah, yeah, I think this is an appropriate condition in there. Thank you.

CHAIR PALTIN: Okay. Member King?

COUNCILMEMBER KING: Yeah, just wanted to check. That's the only lot that's located in the tsunami zone?

MR. KIHUNE: As far as the maps are concerned, correct.

COUNCILMEMBER KING: Okay.

MR. HOPPER: Yeah, just...Madam Chair? Just to be clear...

CHAIR PALTIN: Yes, Mr. Hopper?

MR. HOPPER: I think given that, it should be clear where the tsunami zone is and what this would affect. I mean as long as everyone is talking...if you're talking about a lot that the developer is saying is unbuildable anyway, just having that understanding confirmed so that, you know, if they come in for an SMA or something later, there's not any confusion on that. So, confirming that would be a good idea.

CHAIR PALTIN: And you're talking about confirming that with the Planning Department?

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MR. HOPPER: Well, whoever has...I mean presumably by saying, this tsunami zone shall not be developed, there is an understanding of what the tsunami zone is. And so, that would need to be confirmed just so the condition is clear enough and that the developer's statements are correct on the matter.

CHAIR PALTIN: Okay, thank you. It looks like Director McLean has something to add to that.

MS. McLEAN: Chair, just for the Committee's information, a portion of the property is in the tsunami evacuation zone. And a number of properties are in the evacuation zone, but it's not the VE zone, just for your information.

CHAIR PALTIN: Okay. So, no portion of the property is within the tsunami VE zone.

MS. McLEAN: No portion is in the VE zone, correct. There is a portion in the evacuation zone, though.

CHAIR PALTIN: And by evacuation zone, you mean like the route that people would use to evacuate, or...can you be more specific if Members don't know what the evacuation zone versus the VE zone is, please.

MS. McLEAN: Sure. The evacuation zone is when there is a tsunami, it's areas within that zone should evacuate. The VE zone are areas that are susceptible to actually be hit by waves if there's a tsunami.

CHAIR PALTIN: Okay, thank you. And so then, Member Molina, by tsunami zone did you mean the evacuation zone or the VE zone?

COUNCILMEMBER MOLINA: To tell you the truth, I really wasn't quite clear on that. Whichever is the most appropriate I think would work for me. But the bottom line is no building in that area.

CHAIR PALTIN: Okay, and you saw that Lot 14 where there's no building scheduled to be, and you're okay with that as satisfying what you meant?

COUNCILMEMBER MOLINA: Yeah. Actually, more the evacuation aspect of it.

CHAIR PALTIN: Oh, the evacuation.

COUNCILMEMBER MOLINA: Yeah, yeah.

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: Make that clear.

CHAIR PALTIN: Evacuation.

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COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: And so, Director McLean, are there any lots within the evacuation area, from I guess Exhibit 4 maybe? Or any depiction?

MS. McLEAN: Just describing it, it's the area on the...a little bit of the County pump station lot, and then from that area south is in the evacuation zone.

CHAIR PALTIN: Okay, yeah, so then that looks like Lot 14 which he said was unbuildable. We can have Committee Staff just verify that before we make any decisions or set the condition written in that format. So, we're...yes?

MS. FURUKAWA: Sorry, this is Tara Furukawa, Staff Planner. Exhibit 31 shows the tsunami evacuation zone --

CHAIR PALTIN: Oh, thank you. That's so helpful.

MS. FURUKAWA: --areas in the staff report.

CHAIR PALTIN: Twenty-nine, page 29.

COUNCILMEMBER KING: Is that the NOAA evacuation zone? From NOAA?

MS. FURUKAWA: Yeah.

COUNCILMEMBER KING: Okay.

CHAIR PALTIN: Exhibit 31. Members have that?

UNIDENTIFIED SPEAKER: Yeah.

CHAIR PALTIN: Okay. So, maybe we can work...draft on some more specific language before we get to that point that depicts what was...the discussion reflected here. Okay. Members feel comfortable with what was discussed for number two? Ready to move on? Okay, thank you. Number three says, the Department of Housing and Human Concerns shall oversee the waitlist and distribution of all residential workforce housing units via lottery. No residential workforce housing units shall be promised or pledged to any applicant prior to such lottery. Mr. Kihune, are you okay with that? And, Member Molina, is that still relevant? Yeah, okay.

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: Mr. Kihune, you're okay with this?

MR. KIHUNE: Yeah, it is part of the ordinance as far...with Housing. So, we spoke with the Department. So, yeah, no problem.

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CHAIR PALTIN: Okay, awesome. Does any other Member have any question? It's a pretty straightforward. Okay, awesome. Number four, there shall be no restrictions placed on workforce unit homebuyers in their choice of lenders, including in the pre-qualification process. Mr. Kihune, are you okay with this condition?

MR. KIHUNE: Yes, yeah. Again, it states that as part of the ordinance, so we're fine with that.

CHAIR PALTIN: Awesome, awesome. Members...Member Molina?

COUNCILMEMBER MOLINA: Yeah. Yeah, Madam Chair, if some of these conditions are already part of 2.96, then maybe we don't need to put it in there 'cause it may appear redundant. But just food for thought if that's something for consideration. 'Cause if it's already there in 2.96 then maybe we don't need to have it listed. But either way just for the discussion purposes, we leave the conditions in there for consideration, but down the road. So, I just thought I'd --

CHAIR PALTIN: Thank you --

COUNCILMEMBER MOLINA: --you know, standard conditions.

CHAIR PALTIN: --Member Molina. Yeah, yeah. Personally, I like it because, you know, not everybody goes and reads the Code and that way, you know, the relevant, important parts are right there for people to see and it's recorded with the Bureau of Conveyances. And, you know, you never know people might change 2.96 down the road and, you know...so I personally like it. But when the time comes to vote on conditions, we can have that discussion again. Let's see. I think we're on number five now. To the extent legally permissible, the residential workforce housing units shall be restricted to residents of Maui County, with preference given to residents currently employed or residing in the greater South Maui area. Although, I prefer your original, this is acceptable to me.

COUNCILMEMBER MOLINA: Yeah, yeah, that was a slight typo on my part. I apologize.

CHAIR PALTIN: Shucks, I loved it. Mr. Kihune, any comment on this? Followed by Member Molina and Member King.

MR. KIHUNE: If Corp. Counsel can defend that for us, we'll be happy to do that. I just don't know if I can...you know, I don't know the legality of it. But being...you know, giving preference to South Maui or somebody who works in South Maui might be totally, without using the word discrimination, I don't know. That would be the only issue, yeah.

CHAIR PALTIN: You know your Kaiaulu O...is it Kaanapali? I know a lot of those folks that lived in Lahaina. So, that did work out. Was that just by chance how that worked out? Because a lot of them were Lahaina residents.

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MR. KIHUNE: Correct. Thirty-two or 33 at the time were Lahaina residents. One was working as a fireman in Lahaina, and it worked out perfect for him to move back to Lahaina, yeah.

CHAIR PALTIN: And that was just by chance?

MR. KIHUNE: I believe it was, yeah, for sure.

CHAIR PALTIN: Oh, awesome, awesome. Okay, I see a couple of hands. Member King, Member Lee, I just wanted to give...Member Molina, did you have anything to say about this?

COUNCILMEMBER MOLINA: No, I think my line of questioning was the same as Mr. Kihune's about just getting some thoughts from Corporation Counsel on this. Thank you.

CHAIR PALTIN: Okay. Mr. Hopper, anything to weigh in on before I call on Member Lee and Member King?

COUNCILMEMBER KING: Can I just say...Chair, can I just say my question 'cause it relates to this? So, maybe he can answer that too, is how...my...I was going to ask how that would be able to be reconciled with the lottery. So, if you're--

CHAIR PALTIN: Okay.

COUNCILMEMBER KING: --requiring...going by lottery, then how do you make sure that, you know, South Maui people...

CHAIR PALTIN: Preference is given.

COUNCILMEMBER KING: Yeah.

CHAIR PALTIN: Okay, and, Member Lee, did you have a question that related to Mr. Hopper as well?

COUNCILMEMBER LEE: Yeah, I questioned whether number five is legal.

CHAIR PALTIN: Okay. Mr. Hopper, we wanted to know if that's legal.

MR. HOPPER: Checking the lottery criteria, this is another one I think that we need to check with Housing on to make sure, first if it's consistent with their selection criteria that they go through. And then generally, there are potential issues with requiring residents or particular people of a particular area get first priority. That's why I think it hasn't been done very often in the past. And so, if this condition was...if that was considered in drafting the condition, I would want to know the legal basis and any legal research that went into proposing the condition. And then I think we would want to check with Housing on is it consistent with their requirements and, you know,

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maybe they've looked at these before. But, in general, residency requirements are not something that we have imposed through the government requirements. So, that could be a potential problem.

CHAIR PALTIN: Okay. Staff, can you make a point to follow up with Housing on condition number five about if it's been done before, or if they have any comment as to the legality before we have the next meeting on this?

MS. LILLIS: Chair, this is Ana. And yes, we can do that.

CHAIR PALTIN: Awesome, thank you. Okay, moving right along then. Condition number six states the developer shall contribute to a homebuyer financial education program that includes an individual development account, IDA component, for residential workforce housing unit applicants. Mr. Kihune, any comment on this one?

MR. KIHUNE: We'll probably work with one or two nonprofits to help us administer that which we have in the past. So, that's not an issue for us.

CHAIR PALTIN: Awesome. Members...

MR. KIHUNE: Like . . .*(inaudible)*. . . or, you know, Hale Mahaolu, or there's a couple out there so. And we've done that on our projects. It's very necessary. Although 2.96 now does not require it, so it's something that we should take a look at.

CHAIR PALTIN: Yes, awesome. Okay, Members, any questions about that? No? Okay, moving along. Number seven, the project shall comply with all applicable requirements of Chapter 2.96, MCC, and Chapter 201H, HRS. And let me go to Member Molina first. This isn't a 201H project. Did you still want that in there? I believe it's just a 2.96.

COUNCILMEMBER MOLINA: Yeah, yeah. Just 2.96 I think is sufficient.

CHAIR PALTIN: Okay. And, Mr. Kihune, do you have any problems with the project complying with all applicable requirements of Chapter 2.96, MCC?

MR. KIHUNE: Not at all, not at all. Thank you.

CHAIR PALTIN: Okay, and, Members, no problem there? Okay. Moving along to number eight. The project shall be developed in substantial compliance with the representations made to the Council in obtaining approval of this resolution. The County of Maui has the right to deny the issuance of building permits for any unit in any lot in the project if, and as long as, the developer is in breach of any of these modifications. Let me go to Member Molina first. Did you want to further clarify that, or is that, you know, perfect as it is?

COUNCILMEMBER MOLINA: No, that's fine, Madam Chair. Thank you.

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CHAIR PALTIN: Okay, Mr. Kihune, is that something that you can live with?

MR. KIHUNE: I think we would be acceptable to once we know what all the conditions are. But other than that, you know, we're looking at this now, but that might change. So, but for now, yeah.

CHAIR PALTIN: Okay, awesome.

MS. DUVAUCHELLE: Excuse me, Chair. May I add something here on this...

CHAIR PALTIN: Is this Ms. Duvauchelle?

MS. DUVAUCHELLE: Yes, for Sandra Duvauchelle, yes.

CHAIR PALTIN: Okay, yes.

MS. DUVAUCHELLE: Be really quick. My only thought on number eight is that as long as it wouldn't impede our ability to be able to get our construction financing for the project.

MR. KIHUNE: Good point.

CHAIR PALTIN: Okay, so maybe before we can word that in, impede ability...so as not to impede ability to get construction financing. Okay, and, Members, any comment? Member King, followed by Member Sinenci.

COUNCILMEMBER KING: Thank you, Chair. I just wanted to ask Ms. Duvauchelle, basically what this statement is saying is if you're in breach of the conditions. So, are you saying that you should be allowed to breach some of the conditions in order to get financing?

MS. DUVAUCHELLE: Oh, of course not. That's not at all what I meant. I...what I'm referring to is all of these documents are reviewed by our lender prior to obtaining our construction financing. And if there's any chance that we couldn't get building permits, I just don't know how they would look at it. So, I would like the opportunity to allow them to take a look at it before we would commit to it.

COUNCILMEMBER KING: Before you would commit to the conditions or to...

MS. DUVAUCHELLE: To the condition, yeah.

COUNCILMEMBER KING: This particular condition...because basically this particular condition is just saying you have to follow all the conditions. So, your concern is with just wanting to see the list of conditions before you...

MS. DUVAUCHELLE: No, no, no. I just want to be sure that we run this condition, if it's going to be attached to the project by our current construction lender. And we will be ready to comment on that later.

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CHAIR PALTIN: Okay. So, it's a little premature at this point. We're going to have to continue discussion up until any final conditions and discussion are made. Will you be running these through your construction lender in the meantime and flagging any concerns to bring back to us before we make a decision-making meeting?

MS. DUVAUCHELLE: Yes. I think only this one. But, yes, we will.

CHAIR PALTIN: Okay --

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: --so I mean we're not committing anything right now. We're just having the discussion so that you know at our next meeting we did some prework, we're not doing the work --

UNIDENTIFIED SPEAKER: Can I just...

CHAIR PALTIN: --on the Council floor 'cause I know how Member Lee hates that. Member King?

COUNCILMEMBER KING: I'm just...yeah, I'm still confused as to why you would have an issue with the County denying the issuance of building permits if you are in breach of the modifications. So, because, you know, basically it's just...it's an extra enforcement that we're putting in there.

MS. DUVAUCHELLE: I'm not saying that I do. I just wanted to bring the point up that we would like to also have that discussion with our construction lender.

CHAIR PALTIN: And you will be having that discussion on an ongoing basis between now and the next meeting. Is that correct, Ms. Duvauchelle?

MS. DUVAUCHELLE: Yes, Chair. Thank you.

CHAIR PALTIN: Okay. We...it's now 12:07. I've been informed that Affordable Housing is cancelled today. Do Members want to...we only have one more condition to go and we...it looks like we lost some of our resources. Do Members want to break and come back? Do they want to go through this last condition?

COUNCILMEMBER MOLINA: Yeah, go through the last one.

CHAIR PALTIN: Or take a few more...

COUNCILMEMBER KING: Do the last one.

MR. HOPPER: Madam Chair?

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CHAIR PALTIN: Okay, thank you. Mr. Hopper?

MR. HOPPER: Madam Chair, just for Condition 8, I think it should say, instead of "any of these modifications," it should be "any of these conditions." I think modifications is probably left over from a 201H and these are zoning conditions. So, that should probably be changed.

CHAIR PALTIN: Okay, okay. Staff, you got that one down?

MS. LILLIS: Chair, this is Ana. And yes, we have that. Thank you.

CHAIR PALTIN: Awesome, right on.

VICE-CHAIR SINENCI: . . .(inaudible). . . I just wanted to refer to Mr. Hopper. So, thank you for chiming in.

CHAIR PALTIN: Awesome. Okay, and so our last condition from Member Molina is number nine, to lessen the traffic burden on Wela Street, a second ingress or egress shall be developed. And it's my understanding whether that's South Kihei Road or Kilohana Drive, we can figure that out when more traffic studies are done maybe. Is that correct, Member Molina? You're leaving it kind of open to what the traffic studies recommend?

COUNCILMEMBER MOLINA: Yeah. And I guess the developer shared some options as well too, so might be good to hear from Mr. Kihune as well on this. Thank you.

CHAIR PALTIN: Okay. Mr. Kihune, did you have any input on condition number nine that to lessen the traffic burden, a second ingress or egress shall be developed?

MR. KIHUNE: Yes, at one time Wela Street was slated to be improved all the way to Kilohana. So, part of our property, or part of this property includes that. And talking with the neighbors, that was an option. And we definitely will explore that to make sure that, you know, that could be our option to get a second egress and ingress. It makes the most sense, to be honest. There's a lot of people like to use the stoplight to get back up to Piilani Highway. So, that would make a lot of sense so, yeah.

CHAIR PALTIN: Okay. Members, questions? Member King?

COUNCILMEMBER KING: So, Mr. Kihune, is that something that you would take on yourself and make a commitment to, or you expecting...or wanting the County to do that?

MR. KIHUNE: We definitely, as far as...you mean as what, building it, developing it?

COUNCILMEMBER KING: Right.

MR. KIHUNE: We want to take a look at it first. I'm not sure what it's going to entail. We need to get our civil people in there. But definitely that's the option right now for us.

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But until I know exactly if we can or we cannot, I'd rather refrain until we know what we can and cannot do with Kilohana.

CHAIR PALTIN: And if I may follow up on that. Mr. Kihune, do you have a timeframe as to when your civil people would be able to get back to you on that by? Whether the next meeting is June...or July 9th or 16th, or whenever it is. Is there a amount of time you think that it would take your civil people to respond?

MR. KIHUNE: Yeah, actually we've asked them to take a look at it. I don't expect anything back from them for...probably 'til next week sometime.

CHAIR PALTIN: Okay. Yeah, so our next meeting is in either the 9th or the 16th anyway. So, that should be plenty of time. Member King?

COUNCILMEMBER KING: Yeah, so Chair, it would be nice to get all this information that we're asking for before the meeting on the 2nd because these are all discussion points with the community. So, you know, I mean if we wait 'til after that, then you know, we're going to have...we're probably going to be pushing this back even further as far as decision-making because we're going to have a whole bunch of people that now have to come out and testify again because they haven't heard the responses from the civil people, the civil engineers.

CHAIR PALTIN: Okay, well, he says about at least a week. So, that would bring us to the 24th, and that's a week in advance of the 2nd. So, you know, if we can hear back within the two weeks or so, that would be helpful. Let's see. Okay...

MR. KIHUNE: Chair, I'm pretty sure we'll have a response really soon from our civil engineer.

CHAIR PALTIN: Okay, awesome, awesome. So, that brings us to the end of Member Molina's proposed conditions that he submitted to the Committee. Did anyone else have any conditions that they were thinking of proposing that Mr. Kihune could comment on, or that could be brought up to the broader community meeting? Or are we good? Do we feel like we've fully discussed this so that we're not discussing on the Council floor or anything like that?

COUNCILMEMBER KING: Chair?

CHAIR PALTIN: Member King?

COUNCILMEMBER KING: Yeah, I think we will...we may have additional conditions. We may have some changed conditions depending on what happens with the community meeting. But most of the ones that I've been tracking are...have been coming out of the community and you know, it doesn't sound like they're...what they understood from their meetings was in perfect alignment with the developers. So, I would just say, you know, I would reserve my conditions 'til the next Committee meeting 'til after the community has a chance to weigh in. But I think most of them have been somewhat discussed although we don't have a complete direction on which way we're

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going. But most of them have been discussed here today. I just...you know, that was going to be the point of having that town hall meeting before today so that we could discuss any new issues that came up in the community, but I don't have that information right now.

CHAIR PALTIN: Okay. And then I did have one question about that walking path that some of the members of the surrounding areas were speaking of. Do you think, for Mr. Kihune, my question, do you think that that Lot 14 area could be a walkway through? It's my understanding that South Kihei Road has a sidewalk along the makai...or I guess the mauka edge of the road, but the makai edge of this property, there's a sidewalk. So, do you think that Lot 14 could be a walking path from Wela to South Kihei Road and meet up with the sidewalk?

MR. KIHUNE: Possibly. I think what we're looking at is possibly in that area for sure. Knowing that we have an easement that we have to deal with now, that was not presented to us until recently, so probably about a month ago. So, we're trying to figure out how to utilize that portion. But yeah, that could be definitely where it could be, yeah.

CHAIR PALTIN: Okay, cool, cool. Do Members feel like we've sufficiently discussed this to the extent possible today? Okay...

UNIDENTIFIED SPEAKER: Definitely.

COUNCILMEMBER LEE: Member King, you had a question or a comment?

COUNCILMEMBER KING: Chair, yes, I think...yeah, I think it was a good discussion and good starting point to kind of fill in some blanks. If we could get the questions that we had today, if we could get...if you could make sure that those are transmitted to my office so that we have all that information including the NOAA map so that we can have those full discussions with the community because if something comes up and somebody is misinformed, I want to be able to give them the correct information.

CHAIR PALTIN: The NOAA map, the one exhibit, was it...Ms. Furukawa, was it Exhibit 30?

COUNCILMEMBER KING: Somebody sent me the NOAA map. I'm not sure if that's the same one that she's using. That tsunami evacuation zone map. The same one that...

CHAIR PALTIN: Ms. Furukawa, did you say it was Exhibit 30 on the...on the transmittal? Or was it 31?

MS. FURUKAWA: Okay, let me locate it.

COUNCILMEMBER SUGIMURA: I think it's 31.

MS. FURUKAWA: Thirty-one, yeah.

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CHAIR PALTIN: So, you want us to resend to you Exhibit 31?

COUNCILMEMBER KING: No, I just thought she was using something different than what I had. So, I can pull that out. But whatever information that you've asked for, Chair, or anybody else has asked for that's new information including the Housing Department question about credits.

CHAIR PALTIN: Okay. I think it would all be transmitted to the Committee anyway 'cause we're not going to have information that isn't available to all the Members. You want it transmitted to the Committee and transmitted to you?

COUNCILMEMBER KING: Well, if I'm getting it as a Member of the Committee. But normally they come to your office, and then you would distribute. So, if you could...I'm just kind of wanting to be conscious of the time that we could get whatever we need to get for this town hall meeting by July...before July 2nd.

CHAIR PALTIN: Okay. Staff is that something that we can do...or you can do?

MS. LILLIS: Sure, Chair, yes.

CHAIR PALTIN: All right.

COUNCILMEMBER KING: And is it also...is it possible, I wonder if, Mr. Hopper, if it's possible for you to attend the town hall meeting?

MR. HOPPER: It's going to...it would depend on my, you know, my schedule and the time. And if...is it going to be by BlueJeans or are you...

COUNCILMEMBER KING: Yeah, it's virtual. July 2nd at 6:00 p.m. is what we're looking at, assuming that Mr. Kihune has confirmed.

MR. HOPPER: I could also...I mean if you have legal questions, I could also answer them as they come up. But for now, I'd have to check my schedule with meetings and things and see if I'm available.

COUNCILMEMBER KING: Fair enough. Thank you. And then, Mr. Kihune, did you commit to that date? I know that we were, we were...

MR. KIHUNE: No, we have not. Sandra has...may have to be in Honolulu that day for her, a license test with the State. So, we are awaiting that confirmation now.

COUNCILMEMBER KING: Okay, so we might have to push it out further then. Well, I guess I'll refrain from using that date until we hear back.

MR. KIHUNE: Okay.

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CHAIR PALTIN: Okay, Members, we did a lot of work today. Good job. Give you guys all selves pats on the back. Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair, for taking the time to go through the proposed conditions that I had. But I just wanted to comment on conditions five and eight. I believe it's this term or the prior term on a 201H project these were conditions that were implemented, and there was no concerns at that time that I can recall about the legality of it, especially condition number five. So, these were somewhat pretty standard stuff. So, I just wanted to make that clear for the record. Thank you.

CHAIR PALTIN: Awesome. Thank you, Member Molina, for your diligence and hard work and keeping track...keeping us on track of what we've done in the past. Really appreciate it. Okay, Members, you guys did a great work. You guys worked 20 minutes overtime. I'm going to add that to your salary in kisses.

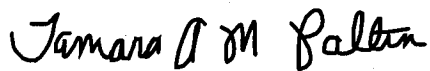
COUNCILMEMBER KING: Didn't know you had that power.

CHAIR PALTIN: Free hugs and kisses. If there's no further questions or any other thing, I'm going to give you guys the rest of the afternoon off because you worked so hard. I will adjourn this meeting at 12:19. ...*(gavel)*...

ACTION: DEFER PENDING FURTHER DISCUSSION.

ADJOURN: 12:19 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

pslu:min:200617r:rlk

Transcribed by: Reinette L. Kutz

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CERTIFICATE

I, Reinette L. Kutz, 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 this 10th day of June 2020, in Makawao, Hawaii.


Reinette L. Kutz