

PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

MINUTES

September 9, 2020

Online Only Via BlueJeans

CONVENE: 9:00 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 (in 9:33 a.m.)

STAFF: Ana Lillis, Legislative Analyst
Richard Mitchell, Legislative Attorney
Clarita Balala, Committee Secretary
Jean Pokipala, Council Services Assistant Clerk

Trinette Furtado, Executive Assistant to Councilmember Keani
N.W. Rawlins-Fernandez
Sarah Pajimola, Executive Assistant to Councilmember Keani
N.W. Rawlins-Fernandez
Davideane Kama-Sickels, Executive Assistant to Councilmember
Tasha Kama
Lois Whitney, Executive Assistant to Councilmember Tasha
Kama

ADMIN.: Jennifer Oana, Deputy Corporation Counsel, Department of the
Corporation Counsel
Michele McLean, Director, Department of Planning
Ann Cua, Supervising Planner, Department of Planning
Diego Sanchez-Gomez, Planner, Department of Planning
Carolyn Cortez, Planner, Department of Planning

OTHERS: Lucienne de Naie, Sierra Club Maui Group
Jeanne Schaaf, PhD
Clare Apana
Dr. Lee Altenberg
Daniel Kanahele
Carol Lee Kamekona
Faith Chase, Farmers Voice Hawaii

Charles Jencks, Honua'ula Partners, LLC
(4) additional attendees

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

CHAIR PALTIN: ...*(gavel)*... Aloha kakahiaka and good morning. Will the Planning and Sustainable Land Use Committee meeting of Wednesday, September 9th, come to order. The time is now 9:00 a.m. If I can request everybody to please silence their cell phones or any other noise-making devices, that would help the cause. My name is Tamara Paltin, and I'm your Chair for this Planning and Sustainable Land Use Committee meeting. I'd like to introduce my Vice-Chair from East Maui, Councilmember Shane Sinenci. Aloha kakahiaka.

VICE-CHAIR SINENCI: Aloha kakahiaka kākou. Nice to see everyone this morning.

CHAIR PALTIN: Nice to see you. Long time no see. Next up, we have Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Good morning, Madam Chair, coming to you from Makawao, even though I have a virtual background right now.

CHAIR PALTIN: Awesome. Awesome. Looks fun. Aloha kakahiaka, Chair Lee.

COUNCILMEMBER LEE: Madam Chair, guten Morgen from Germany. Sorry I was a few seconds late, my...my puppy insisted on having water.

CHAIR PALTIN: Oh, guten Morgen. Water, by all things finding life, right?

COUNCILMEMBER LEE: Yeah.

CHAIR PALTIN: Okay. And aloha kakahiaka to Council Vice-Chair Rawlins-Fernandez from Molokai.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka mai Molokai nui ahina and guten Morgen.

CHAIR PALTIN: Guten Morgen. And from South Maui, we have Councilmember Kelly King.

COUNCILMEMBER KING: Last, but not least. Aloha kakahiaka, Chair, and I'm going...oh, I see Councilmember Molina just changed his background. I was going to say, I'm going to have to visit that background one of these days, 'cause I see a lot of you using it, but then it changed.

CHAIR PALTIN: Good morning. And I guess Member Sugimura might come on later on. I don't see her. And as always, we welcome our non-voting Committee Members, Councilmember Hokama and Councilmember Kama. Today with us, we have Deputy Corporation Counsel Jennifer Oana. PSLU-65, Wailea 670 Annual Compliance Report, Charlie Jencks, project representative. From the Department of Planning, we

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have Director Michelle McLean, Supervising Planner Ann Cua, and Planner Diego Sanchez-Gomez. Our Committee Staff today, we have Clarita Balala, Committee Secretary; Jean Pokipala, Council Services Assistant Clerk; Ana Lillis, Legislative Analyst; Laksmi Abraham, Legislative Analyst; and Richard E. Mitchell, our Legislative Attorney. On today's agenda, we have three items: PSLU-65, Annual Compliance Report on the Change in Zoning for Wailea 670, which is Ordinance 3554; PSLU-4, Maui County Repetitive Loss Properties Floodplain Management Plan Annual Status Report; and PSLU-51, Status of Active Conditional Permits. So Members, let's begin with public testimony. Oral testimony via phone or video conference will be accepted. Testifiers wanting to provide video testimony should have joined the online meeting via the BlueJeans meeting link as noted on today's agenda. Testifiers wanting to provide audio testimony should have participated via phone conference by dialing 1-408-915-6290 and entering the meeting code 944504421, also noted on today's agenda. Written testimony is also encouraged by sending your comments to PSLU.Committee@mauicounty.us. Oral testimony is limited to three minutes. When your name is called, please unmute yourself by clicking the microphone icon, or if calling by phone, please press star-4 to unmute yourself. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. When testifying, please state your name. If you're testifying on behalf of an organization or a paid...or are a paid lobbyist, please inform the Committee. Staff will post a link to the testifiers' log in chat, so testifiers will be able to see where they are on the list. However, please be mindful of the use of chat during the meeting. Chat should be limited to items on the agenda and should not be used to provide testimony or chat with other testifiers. If providing testimony, please be courteous to others by muting your microphone while waiting for your turn to testify. Participants who wish to view the meeting only, without providing testimony, please view a late...live cable cast on *Akakū* Channel 53. You can also visit mauicounty.us/agendas to access live and archived meeting videos. I remind Committee Members, Administration, and the public, to please be patient with us as we continue to navigate through this new platform. Members, if there's no objections, I'd like to proceed with oral testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Right on. Staff has been monitoring people joining today's meeting by phone and by video, and we will do our best to take each person in an orderly fashion. The first person to testify today is Lucienne de Naie, and she will be testifying on PSLU-65. Aloha Ms. de Naie.

...BEGIN PUBLIC TESTIMONY...

MS. DENAIE: Mahalo. Aloha, and good morning to everyone.

CHAIR PALTIN: Can you --

MS. DE NAIE: I'm testifying on behalf of the Sierra Club, and --

CHAIR PALTIN: Oh, Ms. de Naie, before you start, did you want to lower your screen so that

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we can see your face? Yeah, that...that's good. We can see your face now.

MS. DE NAIE: Oh, okay. All right.

CHAIR PALTIN: Okay, go ahead. Sorry. Sorry to interrupt.

MS. DE NAIE: I'm moving, so I can be...there. I'm moving so I can get it more better. Thank you.

CHAIR PALTIN: Okay. Go ahead.

MS. DE NAIE: All right. So Sierra Club has tracked this project for many years, and we've weighed in on the conditions of zoning compliance for a number of years. And we really think at this point it's, you know, 12 years out from the conditions being imposed, that it would be good to have some more specific information for the Council and the Planning Department to understand where we are with the conditions. So we sent extensive written comments. I won't have time to get into all of them here, but in general, you folks should actually kind of have some direct communication with the Highways Department to figure out where...one of the main things that is a condition of zoning, the expansion of Pi'ilani Highway is. I get calls on this all the time, asking if I know what's going on, and I don't. I know what I read in the compliance reports, but they don't say much. So I would urge you to have the developer's rep get you exact documents that...that sort of say where things are at. And then the Condition 7, the Animal Management Plan, there's been a lot of problems in 2019 and early 2020 with wild pigs coming into Maui Meadows, and I put a quote from one of the people there. Basically, one of the homeowners had to hire a tracker, that she called the HP, LLC people, she called DLNR, nobody could help. The pigs were coming in from the Honua'ula property, and this Animal Management Plan is supposed to be reviewed during this phase, Phase II, and then was supposed to be implemented, I guess, as part of Phase III when they actually start building. But they have problems now, so if the intention is to manage animals, I...I think it needs to start when animals are there. Anyway, and then there's compliance with Condition 20, and that is the Water Quality Monitoring Reports. And this condition was put on because, you know, you always say, oh, this project's going to cause a lot of runoff. Well, why not get the facts? Why not get a baseline before a project is built, and then you'd know for a fact; does it cause runoff or doesn't it? You know, there'd be no myths. So the problem here is, we're not sure what these reports say. I know Councilmember Lee said that they were posted, but none of us could find them on the County website, so if they are posted someplace, we'd love to know, you know, where the link to that is. They're never posted with the materials, with the compliance reports. The last one I saw was 2012 in the EIS. But it's very important that these reports do follow this condition. This condition was...was hard fought and had a lot of discussion. Then we have Condition 26, which was the Historic Preservation Plan that needs to be approved by State Historic and OHA. And this plan really . . .(timer sounds). . . Sorry, is that my three minutes?

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CHAIR PALTIN: Yeah, if you...you can have a minute to wrap up. It looks like we don't have too much testifiers, so if you can conclude in the next minute, please?

MS. DE NAIE: Yes, I could. Thank you very much for the extra. Well, in essence, a preservation plan is supposed to be based on an archaeological inventory survey. I sent you guys a little slide show. The first survey, when the Council approved this project, showed 28 cultural sites were present, and by the time it went through the EIS process, there were 40 sites. Citizens have always said look, there's a lot more, and there's a lot more very important things, and we weren't wrong. When this project was approved, there were no ceremonial sites. Now there are at least 13 that are known. There were two stepping stone trails, now there's a least 16. These are very, very important things, and this is an amazingly important landscape that was unknown and almost destroyed. So we now have a preservation plan that is missing many sites. It's missing sites that were recorded that were then left off maps, it's missing sites that were never recorded, and it's missing sites . . . *(timer sounds)*. . . All right. There needs to be more, is all I can say.

CHAIR PALTIN: Given your extensive following on this, would Members have any objection to Ms. de Naie being a resource person for the Committee?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Okay. So then in that case, maybe we can hold any questions 'til the item comes up, if that's all right?

MS. DE NAIE: That's fine with me.

CHAIR PALTIN: Yeah? Did anyone have any clarifying questions?

COUNCILMEMBER KING: I do, sort of.

CHAIR PALTIN: Okay. Member King.

COUNCILMEMBER KING: Something we want to bring up...but on your...but you know, clarifying your testimony, Lucienne, and thanks for your written testimony because it's very detailed. Where...if we know that there are more cultural sites than what the developer has recorded, are they recorded somewhere else? Or do...how do we know that we have some record of how we know that?

MS. DE NAIE: Yes. All these, from the last 10, 15 years, citizens have been the ones to bring forward the knowledge of more cultural sites. The landowners have tended to pooh-pooh. They...you know, they weren't even going to preserve one site when they first started, and the Cultural Resources Commission said no, there's six that are really important. You've gotta preserve them. So it's been kind of an uphill thing. So these sites are documented. Many of them have GPS points. We've worked with various volunteer archaeologists, cultural users. So they've been identified by all kinds of people, and there's pictures of them and so forth and so on.

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COUNCILMEMBER KING: Okay, is there a website or some...someplace where all of these are...these documentations are?

MS. DE NAIE: Well, our hope was...our hope was that if you guys could put this on your agenda for a future time when citizens would have time to make a presentation, we'd be happy to make that presentation, and then it could be put on a website, whatever. We do have, like, slides and maps, and...but we...you know, we have it in various forms because these things have evolved over the years. It takes a lot of research to know what's properly mapped and what's not.

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

CHAIR PALTIN: Thank you, Ms. de Naie. And if I could just clarify in your written testimony, when you referred to HP, you're referring to Hono...Honua'ula Partners?

MS. DE NAIE: Yes. Yeah, I am. Yeah.

CHAIR PALTIN: Okay.

MS. DE NAIE: So they're the landowner of record at this time.

CHAIR PALTIN: Okay. Yeah, and I...I'll...I'll be happy to work with you on a more comprehensive citizens' presentation. Thank you for your testimony, and...and we'll hear from...more from you later if need be. Thank you.

MS. DE NAIE: Thank you. Thank you. Mahalo. I'll...I'll...I'll . . .(audio interference). . .

CHAIR PALTIN: Next up on the testifier list is the phone number ending in 1869. 1869. So I'll unmute you. Hello, Mr. 1869...or Mrs. Sorry.

MS. SCHAAF: . . . (inaudible). . . Hi. Aloha.

CHAIR PALTIN: Aloha.

MS. SCHAAF: My name is Jean Schaaf. Hi. Can you hear me okay?

CHAIR PALTIN: We sure can. Go ahead and provide your testimony. If you can state what item you're testifying on, and I heard your name was Jean Schaaf?

MS. SCHAAF: Yes, I'm Jean Schaaf, and I'm testifying on PSLU-65, the W670 Compliance Review, and I'm testifying on behalf of myself as a resident of Kihei; part-time resident.

CHAIR PALTIN: Thank you. Go ahead and begin your testimony.

MS. SCHAAF: I'm an archaeologist, and I'm retired from 30 years of cultural resource management with the National Park Service in the Alaska region. And I live half of the

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year now in South Kihei near the parcel. I visited the parcel many times with cultural users and community members, and these visits covered all sections of the project area, and included several site identification walks with the owners' representative and their archaeologist. I've read the archaeological survey reports and the September 2019 preservation plan, and one thing that really stood out to me in these reports was the lack of consultation. Cultural knowledge was left out of the site descriptions and significance evaluations. Michael Lee and others have provided information on the cultural importance of many of the sites, yet it was not included in the reports. Zoning Condition 26 requires that both the SHPD and the Office of Hawaiian Affairs approve the preservation plan. OHA has not approved the plan because their beneficiaries have deep concerns about the accuracy of the maps, the many undocumented sites, and the inaccurate lists of protected sites in the plan. I agree with those concerns. Cultural users have identified and photographed many sites that are not recorded in the present archaeological survey, and are not in the preservation plan. That means that these sites can be destroyed without ever being recorded or evaluated, and this is against Hawaii's historic preservation law. I have verified in the field that the cultural users are right; that many important Hawaiian sites need to be recorded and mapped correctly, and this should be included in an updated AIS and preservation plan. These unrecorded sites span centuries of Hawaiian history and ways of living, and they've been found in all sections of the parcel, and many are slated for destruction. I agree with OHA and the cultural users. The preservation plan required by Condition 26 should not be considered complete because it doesn't include dozens of historic sites, it doesn't accurately map the locations of many sites, and it did not consult with cultural users about the meaning of the sites. OHA is right to listen to those who have spent many hours on the land and have deep family ties to the land. The sites found on the parcel represent an extremely significant and mostly intact cultural landscape. The large agricultural field system in W670 is significant because the intensive dry land agricultural systems developed in Hawaii were unique in Polynesia and the world, and they contributed to the development of a complex political and state . . . (timer sounds). . . system in Hawaii. These people took extremely marginal habitats, and they made them productive --

CHAIR PALTIN: Ms. Schaaf, if you can --

MS. SCHAAF: -- and sustainable.

CHAIR PALTIN: -- wrap up and conclude in a minute.

MS. SCHAAF: Yep. Yep. Less than that.

CHAIR PALTIN: Okay. Cool.

MS. SCHAAF: To take these extremely...extremely dry, limited-rain habitats, and the Hawaiians made them productive and sustainable, and they supported a large population for centuries. How in the world did they do that? We've got so much to learn from these practices, which makes the preservation of this important cultural landscape so important. And I ask the Committee to hold another hearing on the

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compliance...on the conditions, especially those that preserve archaeological and botanical resources, because at that meeting, the cultural users of the land will be given a chance to present their information about the resources that are really there, and the Committee will have a true picture of whether compliance has been achieved or not. Thanks so much for the extra time and for the time at all.

CHAIR PALTIN: Thank you so much, Dr. Schaaf, for providing your testimony. Members? It looks like we have a question for you from Committee Vice-Chair Member Sinenci.

VICE-CHAIR SINENCI: Thank you, Chair, and aloha Dr. Schaafer [sic] for being here today. I just had a question about some of the archaeological sites that you mentioned. Are majority of them above...above ground? And is...has any cultural sites been recorded that...that may have been...I guess I'm...I'm talking about possible sites that are below the surface. Has there been any identification of...of those sorts of cultural sites? If you know of any?

MS. SCHAAF: Yeah, that's one of my big concerns too, because there's been very little testing, subsurface, you know, testing around...and most of that testing has been in and around the above-ground features, sites made of stone. They're ones you can see. And in some areas of the parcel, there are wide open, flat areas, and they have deep sediment deposits, and they've not been tested. But it's very likely that people conducted a lot of activities there. And because there are no visible rock features recorded by the archaeological survey, those are where the houses are going to go because they're nice, flat spots. But I really feel that deep testing should be done to identify other important archaeological sites, not just the ones you can see above the ground.

VICE-CHAIR SINENCI: Thank you, and thank you for your expertise this morning.

MS. SCHAAF: You're welcome.

CHAIR PALTIN: Thank you, Vice-Chair Sinenci. Next up, we have Council Vice-Chair Rawlins-Fernandez. Thank you, Vice-Chair Sinenci. Council Vice-Chair Rawlins-Fernandez also has a question for you, Ms. Schaaf.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Dr. Schaaf. Mahalo for your testimony this morning, and for also providing it in writing. I...because you helped to take some of the GPS points and mapped many of the unrecorded sites in the area, I was wondering if perhaps we would want to see if she would be available as a...as a resource or a...Chair, if you were planning to have that community presentation on the area? So I'm not...I guess I'm...it's a question for you, Chair, if having Dr. Schaaf as a resource would be appropriate at this time, or if your plan is to have what the previous testifier had suggested in having a community presentation on the area so that we would have, you know, be better informed of what's there.

CHAIR PALTIN: Yeah, that was my plan. I was...I mean, if Ms. Schaaf would like to stay on the line as a resource, I was thinking that for this...today's one, Ms. de Naie would be

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sufficient for a resource because she has an overall knowledge, and then at a later time, I can follow up with a presentation from the expertise from the community. But Ms. Schaaf, you're welcome to stay on the line, and if Members would like to designate you as a resource if a particular question comes up, I'm open to it, if...if you have the time.

MS. SCHAAF: I'm open as well if needed. Let me know, and I'll stay on.

COUNCILMEMBER RAWLINS-FERNANDEZ: And --

CHAIR PALTIN: Awesome, thank you so much.

COUNCILMEMBER RAWLINS-FERNANDEZ: --Chair, since we also have Dr. Schaaf's number, perhaps, you know, if we do need her as a resource, we can call her, so that she doesn't need to stay on the BlueJeans as another option.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Dr. Schaaf.

MS. SCHAAF: Thank you.

CHAIR PALTIN: It looks like Member King, the area representative, also has a question for you.

COUNCILMEMBER KING: Thank you, Chair. Thank you Miss...Dr. Schaaf, for being here. I really appreciate, especially as a part-time resident, the interest that you've taken, and the knowledge that you've provided. And I just wanted to kind of mention too, that we...we also have...if we wanted to just look at this area, we have a committee that does the cultural preservation that could maybe take on this issue as well because it sounds like it's a...it's been an ongoing issue, you know, from the beginning. And this has been...this project...I don't know how long...how long you've been coming back and forth to Maui, but this is...this project has been over 25 years, you know, that it's been kind of marching along, and...and this issue has been one of the longstanding issues. So, you know, any help you can give us on that, I really appreciate, and it's nice to know that we have a part-time archaeologist in our community.

MS. SCHAAF: I'm...yeah, I'm happy to help. I've only been involved for four years.

COUNCILMEMBER KING: Okay.

MS. SCHAAF: And I'm aware of the intense effort that so many people have put into this. It's really outstanding.

COUNCILMEMBER KING: Are you working with the Sierra Club at all on these issues?

MS. SCHAAF: As a volunteer, sometimes on the Sierra Club Hikes, yes.

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COUNCILMEMBER KING: Okay. But I mean, on this particular issue?

MS. SCHAAF: I don't...I'm not sure how to state that. Maybe Lucienne could...could clarify --

COUNCILMEMBER KING: Okay.

MS. SCHAAF: --what the role is, but yeah, I've been on the land many times with Sierra Club and other...and cultural users.

COUNCILMEMBER KING: Okay, well, thank you so much for --

MS. SCHAAF: Strictly as a volunteer, strictly as an interested citizen, and I just care a lot about cultural preservation.

COUNCILMEMBER KING: Mahalo, really appreciate it.

MS. SCHAAF: Oh, thanks.

CHAIR PALTIN: Thank you, Member King. And seeing no other questions, thank you so much for your time, Dr. Schaaf. Next up, we have Clare Apana to testify. Ms. Apana, you can unmute your video and your microphone, and you have three minutes.

MS. APANA: Is that just my video? Is my video still muted?

CHAIR PALTIN: Yes.

MS. APANA: It is. Okay, let me see if this will do that.

CHAIR PALTIN: Now you're --

MS. APANA: How's that?

CHAIR PALTIN: Now we can see you.

MS. APANA: Okay. Okay. Thank you very much for today. I just want to tell you, I tried to go on the site this morning to do some more research, and the agenda wasn't up, so I couldn't link into it. Just...just so that you know that. So I'll start my testimony now.

CHAIR PALTIN: Oh, if you want to move your computer over a little bit, we see not your whole...yeah, there you go.

MS. APANA: Okay, sorry, I...I can't see myself. Okay. I have been working with this project since 2008, when it came forward in the Council, and have grown to know this land very well. And as...as providence would have it, the hō'ailona of it all, is that my very good friend of many decades is actually the family who is the owner of one of the

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ahupua'a. They have already registered their title with the Bureau of Land and...Bureau of Land and Conveyances, and we've been watching this very carefully, hoping to make this work. But I'll tell you, I have made a lot of efforts in this project, and still, there are over 50 sites that are not on the map, that are not properly designated. Some of them are sites which have been promised to be saved and preserved in a legal settlement. Some of them are sites which were originally in a designated and recognized, and have just dropped off. And others are sites that we have found and have been verified by archaeologists that these are actual sites. You would not believe how beautiful the sites are, and how easily it is...easy it is to see that these are real sites. We were not looking at, like, a scatter of rocks and saying, hmm, is this something? No, these are really big sites, and...and it's been years. It's been years of working with this developer. I...I have worked really hard for the 106 process because Fish & Wildlife required that, and for us, it is another way to get the history correct, you know? To get all of the history out that...that could be recorded for this important place. And I spent a year and a half writing to Fish & Wildlife, because they proposed skipping talking to the Kanaka and the people who have been on this land who have knowledge. Fish & Wildlife tried to cut us out of having a 106, where we would actually have a consultation, where they would ask us about the sites. We have never been given the opportunity, really, to have the input that is needed for the sites. And it...it is a large area, there are many sites, and we have not been given the chance to do site significance. . . .(timer sounds). . . I have much more to say about the water, the condition I spoke about last time. So I...do I get another minute? Okay. I...I...I came and asked about the...the...the water results, the...the report. And I...I talked to the people in the State and the Clean Water Branch, the Health Department. I looked on the County site, as Ms. Lee suggested I should do, it's not there. But what I did find is that there are no regulations that are going on for the groundwater runoff, and then there are injection wells that are unpermitted on the bay that the water goes to that...I mean, the Grand Wailea has unpermitted injection wells. You know, if we want to save our water, this should be put into the Water Use and Development Plan, to be monitoring the quality, just as was required by this developer to do...to give the statistics, and to follow some regulations which are already set. We should follow these regulations, we should put it into a Water Development Plan, so that we will forever save our...our bay...our bays of fish. This was a place where I went to fish, our families went to fish, but now it's so polluted, it got closed because of bacteria. So I...I...I thank you for letting me to say this, and I guess I will stop here. I have much more to say, and it's been a very...very hard process for myself in trying to make sure that what is on the land is well documented and preserved, and that the descendants and the people who are cultural to this land are properly respected and engaged. The --

CHAIR PALTIN: Thank you so much, Ms. Apana.

MS. APANA: --true landowners have never been recognized by this...this...oh, this property people. Thank you.

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CHAIR PALTIN: Thank you so much, Ms. Apana, for your testimony. Members? Any questions for Ms. Apana at this time? Seeing none. Thank you so much for your testimony.

MS. APANA: Thank you.

CHAIR PALTIN: Before I go onto the next testifier, I'd like to recognize Councilmember Sugimura. Aloha kakahiaka.

COUNCILMEMBER SUGIMURA: Good morning, everybody.

CHAIR PALTIN: Guten Morgen.

COUNCILMEMBER SUGIMURA: Good morning. Sorry for being late. Good morning.

CHAIR PALTIN: Thank you. Good morning. And our next testifier is Dr. Lee Altenberg. Mr. Altenberg, if you can unmute your video and microphone?

MR. ALTENBERG: Yeah. Ah, now I see you.

CHAIR PALTIN: Awesome. Thank you. If you can --

MR. ALTENBERG: Can...can you hear and see me now?

CHAIR PALTIN: We sure can. If you can identify yourself and begin with your testimony?

MR. ALTENBERG: Yes, I'm Dr. Lee Altenberg. I'm graduate faculty in ecology, evolution, conservation, biology at the University of Hawaii at Mānoa. I'm testifying today on PSLU-65 as an individual, and I...there's machinery going on outside. I hope you can hear me without too much noise. So...so I wrote the report that is referenced in Condition 27 in the Ordinance 3554 on the surviving native dry forest in the southern portion of Wailea 670. And essentially, my role was to serve as a sentinel in alerting the conservation community that there was something that had been overlooked and extremely valuable in this property. So it's...you don't...you don't run into Wiliwili forests in going about your daily routines on Maui because it's an extremely endangered ecosystem; one of the 20 most endangered ecosystems in the United States. And the...the biggest portion of surviving of that habitat is in Pu'u O Kali, just mauka of central Kihei. The second largest area is in Kanaio. The third largest area is what's in Wailea 670. So it's really a critical habitat for the survival of this entire ecosystem, and in fact, it's been recognized and designated by the U.S. Fish & Wildlife Service as critical habitat for the recovery of 'Āwīkīwī in particular, and all the other endangered species...native Hawaiian endangered species. So I was very concerned when Ms. de Naie alerted me that the recent survey, biological survey of the property conducted by the developer, found no endangered species surviving on the property. And...and if this is true, then it represents a thwarting of the intentions of the Maui County Council to preserve this ecosystem for posterity. It represents a failure of the machinery, the legal machinery, that was created in order to make that happen. So I

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think it's...this is a extremely dire outcome that...that this Committee I think it's in its purview to investigate further. Are these...are these species that were...that this area was meant to preserve, have they really been extricated from this area? And there's a...I would . . .(timer sounds). . .

CHAIR PALTIN: Thank you Mr. Altenberg...Dr. Altenberg. If you can wrap it up in a minute?

MR. ALTENBERG: Yes. So I'm questioning, however, if these really have been extricated, because the...particularly the 'Āwikiwiki, it creates seeds that last for years and years down in the 'a'ā rocks, and it waits for good rainfall before it germinates. And in between, it's like hibernating. So if you went to Yellowstone in the winter and said, you know, where's your grizzly bears? There aren't...I don't see any grizzly bears, you might conclude that they've been extricated from Yellowstone, but in fact they're hibernating. And the 'Āwikiwiki is a very smart plant that knows the dry forest climate, and it knows not to germinate during drought, which I understand is bad. So I think it's very likely that the seed banks that are scattered throughout the property still harbor seeds of 'Āwikiwiki that will resprout when some good rains come. So in any case, I think this Committee ought to look further into what the situation is; the conservation of this ecosystem for the people of Maui and the world heritage -- . . .(timer sounds). . .

CHAIR PALTIN: Thank you so much --

MR. ALTENBERG: -- have further...further meaning.

CHAIR PALTIN: --Dr. Altenberg. Members, questions for Dr. Altenberg? Member King?

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Dr. Altenberg, and for your...your expertise. On the...you know, in talking about the ecosystem, are you talking about a portion of this property, or the entire property?

MR. ALTENBERG: So it's the 'a'ā portion of the property, which is all the area south of the historic wall. And the reason is because, it's...the soil is so sparse, that the plants are far enough apart that they didn't all burn up in the historic fires of the past. And that's why the 'a'ā, which is the most, in a sense, the most hostile habitat, is also the refuge for this ecosystem.

COUNCILMEMBER KING: And do you know about how many acres?

MR. ALTENBERG: Well, the total acreage south of the historic wall, the 'a'ā flow, is 192 acres. Condition 37...27 specifies a minimum preservation standard of 130 acres.

COUNCILMEMBER KING: Okay, thank you so much. Appreciate it.

CHAIR PALTIN: I...if no one else had a question, I had a clarifying question. And I'm sorry for my ignorance, but you know when you say dry land Wiliwili forest? That's different than, like...so my neighbors have Wiliwili trees at our boundaries. Those are different

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kinds, or? Because it's not...I don't live in a dry area, I live in Napili. So I just was wondering, like, for me and everybody else that, you know, neighbors use Wiliwili trees to separate their boundaries. If you could clarify that those aren't the same Wiliwili trees?

MR. ALTENBERG: So other...other trees in the genus Erythrina have been called Wiliwili, but I don't know what your particular trees are. Ah, that's a...that's a Wiliwili tree that Councilmember Rawlins-Fernandez is holding up. That's the native one. And...so but they used to cover almost...they used to cover...entirely cover Kihei and stretch up into Wailuku and the whole...the whole valley. So the...what...what we see left is just a tiny fragment of the original range of this ecosystem.

CHAIR PALTIN: So the ones in...around my house are real tall and have green leaves and those are different --

MR. ALTENBERG: Ah.

CHAIR PALTIN: --but people call them Wiliwili? Is that?

MR. ALTENBERG: Well, it sounds like...there's another species of Erythrina that has similar flowers and similar leaves to the native ones that was used as windrows around the sugarcane fields. But most of those were killed by the gall wasps that arrived in 2005. So I don't know if this is a surviving one or a replanted one, but that's a different species. That's not a native.

CHAIR PALTIN: Okay.

MR. ALTENBERG: Those are really tall. They're really tall, straight ones.

CHAIR PALTIN: Yeah. So it's a...it's not endangered, it's a different species?

MR. ALTENBERG: Yeah.

CHAIR PALTIN: Okay. Thank you for that clarification. Members, any further questions? Seeing none. Thank you so much...oh, Member Sugimura, did you have a question?

COUNCILMEMBER SUGIMURA: Yeah. Thank you very much. This is very interesting. I do remember that Wiliwili trees were at the golf course here in Waiehu or Waikapu, and I...I know that at some point, all the trees, either...they either died or they lost their...they have these beautiful seeds that we can make leis from; is that correct? Is that the tree?

MR. ALTENBERG: Well, that...that...that's probably a cultivated version. So all the cultivated trees pretty much were killed off by the gall wasp. But the native trees survived because they drop their leaves in the summer. And then when the first Kona storm hits, they flush out their leaves so quickly, that the gall wasp wasn't able to

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attack them quickly enough. And so the natives actually survived the gall wasp, whereas the cultivated ones were all killed off.

COUNCILMEMBER SUGIMURA: Ah, so I just wondered if that was it's...if that was a reason why there was, you know, the change of the availability of the Wiliwili trees in the...in this...in this property. But you're saying it's not. It's not affected by the wasp.

MR. ALTENBERG: Well, the native ones, they were affected, but they weren't completely killed off the way the cultivated ones were. So the cultivated ones, getting water all year round kept their leaves, and they just got more and more galls until they were just like were little stubs, and then the trees couldn't survive. So they...they were all pretty much wiped out by 2006, but the natives in the native habitat survived.

COUNCILMEMBER SUGIMURA: Yeah, thank you.

CHAIR PALTIN: Yes, thank you, that's very interesting. Thank you for your testimony, Dr. Altenberg. Next up, we have the testifier with the last four digits 9460. Please unmute yourself and identify yourself and provide your testimony.

MR. KANAHELE: Can you hear me?

CHAIR PALTIN: Sure can. Go ahead. Three minutes, with a minute to wrap up.

MR. KANAHELE: This is Daniel Kanahele calling from work, taking a short break. I'm testifying as an individual on PSLU-65. Thirteen years ago, September 10th, 2007, the Land Use Committee of the County's Council held a public hearing at the Kihei Community Center on this project, Wailea 670. And it was the most attended public meeting of its kind that I have ever seen since. Hundreds and hundreds of people of all ages attended the meeting. Mike Molina was the Chair of the Land Use Committee at the time, and it took six, almost six and a half hours of testimony before they recessed the meeting. I was one of the testifiers there, and as I recall, Chair Paltin, you were also one of the testifiers as an individual at that meeting. So that was 13 years ago, and here I am, testifying on the same project. This project was in the zoning approved by the County Council March, 2008. Twelve years have passed, and I ask the question, what community benefit have we, as a community, received from this project in 12 years? How many affordable housings of the 700 that was promised have been built? How many jobs of the hundreds promised have been...have occurred as a result of this project? And the answer is pretty much zero. And so that should raise a red flag that this is the twelfth compliance report given by these developers, and why hasn't this project come to fruition? Well, I think one of the reasons they may say is because of the many legal challenges they have, and I think that's part of the reason. But I think the biggest reason is that this project was never prepared to see the light of day from the beginning. When it came to the Land Use Committee early on in 2007, 2006, they just had outdated studies. The EIS was 20 years old, done in 1988, which they eventually had to update after the approval...after the fact. They had an incomplete archaeological inventory survey that took years and years to be accepted after the approval by State Historic Preservation. Not until 2015 was it

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accepted. Why did it take so long? They did not have a biological study that the Councilmembers at that time could see, so the Council just did not have the information it should have had to approve this project, and they should never have done it. And this project made it through...barely made it through on a vote of five to four; five for and four against. And Riki Hokama was one of those who voted against this project. Now, I recall the current mayor, Mike Victorino, did vote for the project, but he said if it wasn't pono, that he knew the community would maka'ala, watch to make sure that this thing...this project unfolded . . .(timer sounds). . . I'll take a minute to conclude, Chair.

CHAIR PALTIN: Thank you.

MR. KANAHELE: Would unfold...would unfold in a proper way, in a pono way. And the community has maka'ala'd [sic], telling you that the project has issues because of these studies. It's been their Achilles heel, the archaeologic inventory survey, the botanical aspect of this project has been the Achilles heel, and has kept them in the hole that they're in, and that's why it's taken so long. So I would ask the County Council, this Committee, to hold a meeting to hear from the community, hear what their findings are with regards to the compliance of the 30 conditions. And I would ask that this...this Committee ask for an updated AIS. Because you can do that as an agency. If Susan Lebo was testifying at this meeting today, I feel fairly strongly that she would also agree that this needs an updated AIS. But it requires an agency request for that to happen, and you are an agency that can request an updated AIS. . . .(timer sounds). . . Thank you so much.

CHAIR PALTIN: Thank you, Mr. Kanahele, for that stroll down memory lane. That was a pretty vivid memory in my recollection. I see we have a question from Member King.

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Daniel. I wish I could see your handsome face there, but I don't see a video. Was nice to hear --

MR. KANAHELE: Nah, I'm pretty dirty and dusty. You don't want to look at me right now.

COUNCILMEMBER KING: Well, I appreciate your being here. I missed you at the last KCA meeting. But, you know, I wanted to ask you, 'cause I know that the Maui Meadows neighborhood association has been doing annual updates with the developer, but what you're asking for in a community meeting is a greater community meeting...like a town hall with the greater community?

MR. KANAHELE: No, I'm asking that you...you have a...there are community members that have been involved with this project over the last...since it was approved. And...and that you hear from them, especially with regards to the archaeology, the culture aspect, and the botanical aspect of this...of this project. And they've done their homework, they've...they've been in connection and contact with SHPD over many years. They've been in connection with OHA, keeping them apprised over many years. These are the individuals that you should be hearing from. And Dr. Schaaf is one of those individuals, Lucienne de Naie is one of those, and I am also one of those. And

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there are several others that I think it would be beneficial to the Committee if they were updated on our findings and our concerns with regards to...specifically to the cultural landscape, which includes the cultural sites, which there's a plethora of in this project area. And as Dr. Altenberg has testified, the rare, endangered, low, dry land Hawaiian forest ecosystem, which is only three to five percent of that left here on Maui. So this place, Honua'ula Wailea 670, is a cultural and botanical treasure. It has a story to tell, and it's going to tell that story...it needs to tell that story, and we can help tell that story to...to you folks --

COUNCILMEMBER KING: Okay.

MR. KANAHELE: -- to help educate you.

COUNCILMEMBER KING: Okay, yeah, no, that was good clarifications. I thought you were originally talking about holding a larger, kind of a town hall meeting or something. I know that we've been having annual meetings with the developer through the Maui Meadows neighborhood association, but now I understand you're backing up the request to have a meeting of this Committee --

MR. KANAHELE: Yep.

COUNCILMEMBER KING: -- with the...some of the folks. Okay. Appreciate that. Thank you. Thank you for being here.

MR. KANAHELE: You're welcome.

COUNCILMEMBER KING: Thank you for taking time off of work.

MR. KANAHELE: Okay. You're welcome.

COUNCILMEMBER KING: All right.

CHAIR PALTIN: Thank you, Mr. Kanahele. Seeing no further questions, we'll move on to the next testifier, Ms. Carol Lee Kamekona, also coming to us by phone; last three...last four digits 9385. If you can please unmute yourself and begin your testimony. Three minutes, and a minute to wrap it up.

MS. KAMEKONA: Aloha, Chair. Am I unmuted?

CHAIR PALTIN: Yes, you are. Please begin and identify yourself. We can hear you.

MS. KAMEKONA: Aloha kakahiaka, Madam Chair and Members. My name is Carol Lee Kamekona. I will begin my testimony now. Four hundred of 670 acres of the Honua'ula project is in the ahupua'a of Pae'ahu. Pae'ahu is what modern day people call Wailea Resort, but it is a place with rich history. Part of the Pae'ahu land is along the shoreline of the Grand Wailea Hotel. It was the resting place of over 300 iwi kupuna. High-ranking ali'i were buried there, some found to be with ancient, extinct

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bird species. There was a heiau, there was a freshwater spring surrounded by a Kanaka Kauhale on the point above the ocean, where families lived for more than 700 years. All this has been documented and lost only one mile directly mauka of the Honua'ula project site. I am a lineal descendant of the Moku of Honua'ula. My kupuna have been associated with this area for more than 600 years. I have visited the Honua'ula project lands, and feel the uhaue of my kupuna that still reside in the lands of Pae'ahu. The Condition 26 provides for a preservation plan that will be approved by SHPD and OHA. It is my understanding that SHPD accepted a preservation plan that only has six historic sites preserved in Pae'ahu. We must protect what is left of Pae'ahu's history, my ohana's history. OHA has heard the concerns of cultural users and lineal descendants who are aware and care for many sites in Pae'ahu that have never been recorded and included in the official archaeological studies. We want to see an updated Honua'ula project AIS, and an updated preservation plan that truly protects the cultural landscape of Pae'ahu. Please do not consider this Condition 26 complete until those updated plans are done. As a lineal descendant of the area, I would appreciate the Committee holding one more hearing, where cultural users are invited to make their own presentation to the Committee and County staff, so you can get the whole picture of how these conditions of zoning are really being met, and ask for true compliance. Mahalo, Madam Chair.

CHAIR PALTIN: Thank you, Ms. Kamekona, for your testimony. Members? Questions for the testifier? Seeing none. Thank you so much for coming today and providing testimony. Next up, we have Faith Chase. If you can unmute yourself and unmute your video if it was your intention to provide oral testimony today.

MS. CHASE: Aloha, Chair. Aloha, Committee. I'm having...I always have bumpy technical, so I just feel like I should just do audio, so I don't get kicked off.

CHAIR PALTIN: Sure thing, no problem.

MS. CHASE: So when Wailea 670 was first started to be discussed, the concept of ahupua'a, while it is known...well known by many, it wasn't a widely used or understood land use planning like it is today. We have ahupua'a scattered throughout a lot of policy and documents. I just want to share a story above...about...above Pae'ahu in the Honua'ula ahupua'a. And forgive me if my dates aren't exact, but in around 2003, the rainfall was...or 2002, 2003, the rainfall was so intense on Maui that Keokea...when the Keokea homestead was enacting their archaeological study in preparation for, you know, Hawaiian Home Lands tenancy, the archaeologists that were tasked to do that work up in Keokea actually spent about 40 percent of their time just...their paid...you know, their paid allocated time, just pulling the overgrowth off of the area they were studying. In 2004, when I was working at the Maui News with Keko Enomoto, she was the president at the time for the Hawaiian Home Lands...Keokea Hawaiian Home Lands, which is now Farm Lots and Homesteads Association. And I just finished produce...taking the producer class at Akakū, and she asked me to come up to Keokea with her to record, since the archaeologists had pulled out all this, you know, overgrowth. And at the time, it was...it wasn't widely shared because there was not...there was only one person living up there, and they were afraid of looting. Well,

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certainly, now there's people living up there, and it's a different temperature. But there is the most intact Hawaiian village...the archaeological site up there. It was so intense that the burial council was asked to make the trek. At the time, Uncle Charlie couldn't do the climb due to his health, but Dana Hall hiked up to the undeveloped area. And, you know, it was rough, it was steep, it was precarious, rocky areas, but she did the tour, and I have her quoted on film saying that she has never seen such a large, intact archaeological, magical find. You know, evidences of that. And ultimately, we showed the film to DHHL, and we showed it to the Japanese developers at the time, and they ceased development on 40 acres. They changed the list around, and Waiohuli, all those that were going to be in that area, where the... 'cause they were going... about ready to bulldoze the area... they changed the lists around, offered those Keokea residents if they wanted to move up earlier on the list to Waiohuli, just to preserve this area. And so I know that they've got big plans, and one day it'll be an outdoor, you know, a classroom without walls, but I just wanted to mention that because now that we've caught up with that ahupua'a thinking, you know, and I'm in agreement with Doctor... I mean, with Mr. Daniel Kanahele that an updated archaeological, environmental study is certainly due. It's not mine to share, but it would... you know, I guess I could ask that Homestead Association to send you some other things about it. It's not... it's very precious, and there was some things that they didn't... the maps, they didn't want to share, for fear of looting at the time and stuff like this, but it is magical, and it's something that you guys should consider since it is part of this ahupua'a, and I just wanted to share that story. Thank you.

CHAIR PALTIN: Thank you, Ms. Chase, for your testimony. Members, any questions for the testifier? Seeing none. Thank you so much for testifying today.

MS. CHASE: A hui hou.

CHAIR PALTIN: A hui hou. Members, that looks like the last testifier on our list today. Is there anybody else that would like to provide testimony on today's agenda item? I don't see anyone else coming forward with testimony. Seeing that there are no more individuals wishing to testify, without objection, I will now close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Thank you.

...END OF PUBLIC TESTIMONY...

CHAIR PALTIN: Those that provided testimony via BlueJeans audio or video may tune in to Akakū Channel 53 or maucounty.us to view the remainder of today's meeting. Members wishing to speak during today's meeting should say my name, raise their hand, and ask to be recognized, so that I may call on you.

**PSLU-65: ANNUAL COMPLIANCE REPORT ON THE CHANGE IN ZONING FOR
WAILEA 670 (ORDINANCE 3554) (GC 20-3)**

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CHAIR PALTIN: At this time, we'll move ahead with PSLU-65, Annual Compliance Report on the Change in Zoning for Wailea 670, Ordinance 3554. The Committee is in receipt of General Communication 20-3, dated May 26, 2020, from Honua'ula, transmitting a copy of the Honua'ula Annual Compliance Report to Maui County Council, CIZ 2000/009 and Ph1 2000/001, in accordance with Condition 29 of Ordinance 3554. The Committee may receive a presentation from developers of the Honua'ula master planned community, and discuss related matters. No legislative action will be taken. So I scheduled this item in response to community requests, and at this time, it looks like Charlie Jencks...is that you with the code name admin? Or the name admin?

MR. JENCKS: It may very...very well be. Can you...can you hear me?

CHAIR PALTIN: I can you hear.

MR. JENCKS: Perfect.

CHAIR PALTIN: If you would, please proceed with your presentation.

MR. JENCKS: Sure, Madam Chair. Thank you...thank you for the time. I have...I was asked by your Committee to provide a brief summary of the project to them and then answer any questions you may have. I've been listening to the testimony, and...and a lot of the same people I've been talking with over the years on the project. I'll just give you a brief summary, and then we'll just take off from there. If you have any specific questions on any items they brought up, I'd be happy to answer them. Going back, Mr. Molina is the only one on this Committee that was around in 2008 when the zoning was approved. The Phase-I zoning was approved with both a unilateral agreement with conditions, which I address in the annual report, and a project district zoning ordinance for the project. Now, that project district zoning ordinance had a map attached to it, and I would ask the Committee support to put up on the...on the screen, Exhibit 1 if they could. Is that possible?

CHAIR PALTIN: Staff, can you share screen. Thank you.

MS. LILLIS: Yes.

CHAIR PALTIN: Looks like...yes. Right on. Thank you.

MR. JENCKS: Okay, can you still hear me?

CHAIR PALTIN: Yes, we can.

MR. JENCKS: Okay. This map is the conceptual land use plan for the project area, Wailea 670. To your immediate left, for orientation purposes is, of course, the community of Maui Meadows. On the makai side of the project, or the bottom, is Wailea Resort. Above the project, mauka, is 'Ulupalakua Ranch, and to the right of the property is Makena Resort. I'd like to draw your attention to the far right portion of the map. There's a green line that traverses the property. That is the pre-contact wall that

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was...or I should say post-contact wall that was...has been used on the property for a demarcation in a number of conversations. To the right of that is a dark green polygon, and it's a 22-acre area. That, at the time the zoning was approved in 2008, was proposed to be the...based upon the biological inventory work that had been done and discussions with U.S. Fish & Wildlife Service and other folks on Maui, was proposed as the native plant preservation area. Now, Condition 27 in the unilateral agreement states, and Mr. Altenberg was incorrect, he stated that it was a minimum of 130 acres. Condition 27 says that that native plant preservation area, which is depicted as 22 acres on this map, needs to be between 18 and 130 acres in the condition. And I'll be coming back to that in a few minutes. But you'll note on the map that there's an 18-hole golf course. And at the time the project was approved in zoning, it had 1,400 dwelling units. The Workforce Housing Ordinance at the time required that 500 of those units be built; 250 offsite and 250 onsite. And there's a specific condition, Condition 5, that talks about the location of those units, location of 250 of the units, and the fact that 125 needed to be owner occupied, and 125 be rental units. So moving on, once Phase-I was approved, and this map is referenced in the zoning ordinance, and you can take the map off the screen now if you'd like, it was incumbent upon the project ownership to start working on the conditions of approval. The following actions that need to take place before anything can happen on the property, since this is a project district, involve two more applications. The first...first of those two is Phase-II, which we've applied for, which is a verification and approval issued by the Maui Planning Commission in a public hearing in Kihei, addressing compliance with the conditions...conditions, and formalizing what the conceptual land use plan map is going to be. 'Cause...because through the...through the implementation of the conditions and changes in ordinances, that land use plan could change. The final stage of this process for a project district is Phase-III, which comes after Phase-II obviously, which is the ministerial administrative side, which is the subdivision side, the grading permits, the building permits, and those kinds of things that are necessary to build any housing on the property, including the affordable component. A number of challenges since the zoning was approved in 2008 have...have prevented the project from moving forward, and created uncertainty for project funding. I think you can all understand that, you know, we paid...that in 1999, I think we paid 20 million for this property. It was recapitalized in 2007 at 250 million because of the work that had been done and the entitlement work that had been accomplished to date. Any delay in the project creates uncertainty for folks who will loan you significant amounts of money to satisfy some of the conditions of approval that you've been asked to comply with. A couple of those delays...Daniel Kanahele mentioned one, it was a claim that the Sunshine Law was violated by the Council. That was...ended up being denied by the courts. There was a claim that there was an out...that the outdated EIS was being used for the project, and that claim was...was denied by the courts. There was a...also, once we got to...once we did do an EIS for the project, because we did have triggers for an EIS, one being the use of State right-of-way for extending the Pi'ilani, but also the creation of a wastewater treatment facility and pump stations, that EIS was accepted by the County of Maui, and then challenged again by...by Maui Sierra Club and Maui Unite. That was in 2012, and we got settlement with Sierra Club Maui and Maui Unite after four years of discussions in 2016, with a settlement agreement that the County...County signed on to. After that

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was achieved, I go back to the referred-to offsite affordable housing site in North Kihei. There was an order to show cause filed with the State Land Use Commission, and that process was...that process was started in 2012, and just recently, settlement was gained through the petitioners and the ownership, taking us, frankly, right back to where we started, which was light industrial zoning and allowing the ownership to move forward with their project with light industrial uses on the property. However, we, Honua'ula Partners, who own land in the property for the afford...the offsite affordable housing requirement, in the interim, filed a change in zoning request with the County Council...with the County of Maui, and the Council approved that, allowing us to move those affordable units from that property, which...for which we were being delayed to build, into the actual project area. So those affordable units now will be built within the property, not outside the property. And then last but not least, there was some reference to this Section 106 Consultation Requirement. In November of 2019, the U.S. Fish & Wildlife Service, in their wisdom, finally decided to tell us that we then had...now had to do Section 106 consultation, which means that if you have a Federal permit required for your project, and that could be...that could take on any kind of status. In our case, we were filing for an incidental take license with the federal government because of endangered...possible endangered species on the property to allow...we could take a limited number of those in the process of development with a permit. They felt that that permit was a trigger for 106. In the interim, in this...in this 12-year time period between 2008 and 2020, the U.S. Fish & Wildlife Service has changed their protocols for some of the species, and we have managed, through additional survey work, managed to establish a couple of things: Number one, that the yellow-faced bee, which was on the endangered species list, is not on the property. Number two, the 'Āwikiwiki plant that I think Mr. Altenberg mentioned, is found...may be found on the property in the NPPA, which is a designated conservation easement area, but the plants that were found there are dead. No seeds were found. And lastly, the Blackburn's Sphinx Moth which was the third trigger for the incidental take license, the Fish & Wildlife Service, in their wisdom, have decided that for the purposes of their regulatory influence, if you remove the Blackburn's Sphinx Moth's favorite plant, which is the tree tobacco, which is an invasive weed, off the property, you do not have to provide mitigation for that species, and we have done that. We surveyed, found the locations of all the plants at the time, and have removed those plants from the property. So in summary, we no longer have species we need to protect because they aren't there, or they're not in the development area, and we no longer need a Federal permit. Therefore, the 106 consultation process will not go forward. However, with that said, and with respect to the referenced Historic Resource Preservation Plan required for Condition 26, we continue in our discussions with OHA and getting them to work with us on a...on a final...we've incorporated their comments and concerns into the Historic Resource Preservation Plan, in fact have discussions planned with them this week on getting that...that document finalized. All of these challenges have taken significant amounts of time and money to resolve, while at the same time creating uncertainty and making it difficult for us to get a...a bank to loan you money to...to design Pi'ilani Highway when you're questioning whether or not you really have a project. So this hasn't been easy. I would ask the Staff to now put up Exhibit 2, which is the current conceptual land use plan, and I'd like to review that with you briefly.

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CHAIR PALTIN: Staff, can you please put up...

MR. JENCKS: There you go. Okay. Can you hear me?

CHAIR PALTIN: Yes, we can.

MR. JENCKS: Okay, great. This plan is the same area as described in the first exhibit you looked at. I draw your attention to a couple of things: Number one, obviously, there's no golf course in this project. It is primarily a residential project with recreational amenities. I will also draw your attention to the right-hand side of the property, where there was, in the previous map, a 22-acre native plant preservation area. We now have a 134-acre native plant preservation area. That area is pretty much all of the 'a'a basalt area that Mr. Altenberg described in his discussion. It is the center, if you will, of the archaeological resources on the property, as well as the botanical resources on the property. All of the established 'Āwikiwiki plants are...are, or were, located in this area. They may come back when we get more rain, but as of this point in time, they are...they are dead, desiccated plants. The archaeological survey that was redone sometime around 2013 was...was...you focused on this area, and Lucienne de Naie is correct. The initial survey work that was done in 1999 and 2000 and maybe 2001 was based upon a...a scope of work that was approved at the time by SHPD and others at the State level. Over the decade that we've...that we went through following the initial work, laws changed, requirements changed, and needs changed for the archaeological work. In 2013, as a part of the settlement with Sierra Club Maui, we did another archaeological inventory survey that was accepted by the State...State Historic Preservation Division in 2015 as I recall, maybe later. I think maybe it was 2017, I...I'll have to get you the correct date. But it was accepted, and that document is the basis for satisfaction of a number of conditions: Number one would be the condition requiring a culture resource preservation plan in the conditions of approval that has been accepted by the Maui Planning Commission, and also the Historic Resource Preservation Plan, Condition 26 I believe, which was accepted by the State Historic Preservation Division, but will be revised and will be reviewed again by both SHPD and OHA, and also Sierra Club Maui and Maui Unite. So this plan, as you can see, is vastly different from the original concept plan. It has the 134-acre native plant preservation area, which will be a conservation easement consistent of all the requirements in Condition 27. It is vastly larger than the 22 acres we had proposed in 2008, and includes the best, I think, of the archaeological resources on the property, as well as the best of the botanical resources on the property. The Wiliwili trees that are on the property, the 'Āwikiwiki that's there, the dry land forest that Mr. Altenberg referenced, the bulk of that area...the best of that area is located in this 134 acres. Now, Dr. Altenberg mentioned an area south of the red line, which is that wall you see to the immediate left of the NPPA. That area is correct; it's about 190, 194 acres. The NPPA is 134. The balance of it is going to be a combination of large, single-family lots and common area, in a conservation easement similar to that provided for the NPPA. The green that you see on that map is the common area conservation easement, and the yellow area south of that wall are the larger areas that would be half-acre lots at the present time. So this map is vastly different, the plan is vastly different. It is now,

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per the EIS that was done and accepted by the County, 1,150 units, of which 250 will be affordable...affordable housing units based upon Condition 5; 125 owner occupied, and 125 rental units. The current Workforce Housing Ordinance was revised in 2014. I participated in the Mayor's task force to help that, the Council approved that revision, you are presently at 25 percent. The formula to get to the number of units required for this project at 1,150 is 238 required units. However, we committed to 250, we will build 250 in the project, 125 owner occupied and 125 rental. They will be the first units to be built on the project, and are not subject to the limitation of 100 units per year imposed by the Council. They are not subject to that limitation. So the 250 will be built in the first increment of the project, and will be the first units constructed and occupied. Let's see. I guess that pretty much...the project plan is no longer golf oriented, but now more of a residential project. The current overall project status, we are working through the Historic Resource Preservation Plan with OHA, and they've been very helpful. We've worked together quite a bit, and I think we'll end up with a really, really good Historic Reservation...Preservation Plan. And I might add that through the discussions with OHA, and also Sierra Club Maui and Maui Unite, we added additional units for different...additional archaeological sites for preservation in the northern part of the property. We were looking at preservation south of that red wall for both the sites and features. We expanded, at the request of Sierra Club Maui. We included sites for preservation that technically were not designated as sites by the project archaeologists, but we agreed to preserve them in site. Those will be added. There's about another 20 to 24 sites north of that wall, plus all the sites in the drainage areas that will be preserved. And we're also updating any needed additional information for our Phase-II application, which we filed with the Department of Planning, with the intent of moving on to get Phase-II approved. A couple of things that are coming up through Phase-II would be the payment of 500,000 to the County of Maui for Condition 24 for the Maui Kihei Police Station, as well as a payment of \$5 million to the County of Maui per Condition 10 for parks development in South Maui. And I'd like to remind the Members that that 5 million is not counted against the park fees for the project. The park fees that would be charged against the project for 1,150 units, less the affordable component, I believe, would still be paid. So that \$5 million that goes to the County of Maui upon Phase-II approval is a cash payment that would go to the County for parks development in South Maui. So that's basically where we are, what's going on, how the project has evolved, you've seen the original conceptual land use plan, and you have before you on the screen right now the current plan, which I believe works to address the conditions as they relate to that plan to date. So at that point, I'd be willing to take any questions you may have.

CHAIR PALTIN: Thank you, Mr. Jencks. I see a question from Chair Lee, to be followed by Member King, and then Member Molina. Go ahead, Chair Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair. Hi, Charlie.

MR. JENCKS: Good morning.

COUNCILMEMBER LEE: So Charlie, I was looking through your conditions. Do you have a requirement for using recycled water?

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MR. JENCKS: Yes, we do.

COUNCILMEMBER LEE: Okay. So how much? I mean, like, for all landscaping...

MR. JENCKS: Yeah, what we're...what we're going to do is, the project is required to develop a private water delivery system, a domestic water system, and is not going to be using the County system. That system will be a dual system. We will have nonpotable water for irrigation purposes, and domestic supply for the obvious domestic uses. Now, the nonpotable water can be used in public rights of way, it can be used in landscaping, and --

COUNCILMEMBER LEE: Okay, that's okay. That...that's okay, Charlie, that's all I needed to know. 'Cause I was hoping you would reuse the water from our treatment plant, but you're...you're going to have your own treatment plant, right?

MR. JENCKS: Well, okay, so there's also a condition that we do a sewer...a sewage service study, which we did, which was delivered to the Council. We...our current plan is to send our wastewater to the Kihei plant that Makena Resort has...it has built and established, which is vastly over capacity for their needs. And then if we need to bring water back, we will bring water back, recycled water, back to the project for use on the project.

COUNCILMEMBER LEE: Okay. Now, then I see a road of makai to mauka. Where does that road end mauka? There seems to be a major road that goes up.

MR. JENCKS: Yeah, there...there is a condition in the...that was given to us by the Council that we have to complete...I think you're talking about the Pi'ilani Highway Extension?

COUNCILMEMBER LEE: Right.

MR. JENCKS: Yes. We have to extend that roadway to its terminus as shown on that concept...on the latest concept plan by the time we get to 50 percent occupancy on the project. So that will provide additional access out of the project, as well as...if you look at that map again, you'll see a roadway coming up through Wailea Resort. That's Kaukahi Street. Kaukahi Street will connect to the end of Pi'ilani Highway as we develop it, and allow for additional access out of the Wailea-Makena area, 'cause right now the access is limited to Wailea-Alanui, Makena-Alanui. So there'll be additional access for safety purposes and evacuation purposes out of the area.

COUNCILMEMBER LEE: Okay. One last question. Charlie, who were the original landowners?

MR. JENCKS: My father-in-law --

COUNCILMEMBER LEE: Christopher Columbus.

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MR. JENCKS: Yeah, Chris...Captain Cook...my father-in-law bought the land from Taiyo Hawaii back in 1986, and it is my understanding that Taiyo Hawaii bought the land from 'Ulupalakua Ranch way back when.

COUNCILMEMBER LEE: I see.

MR. JENCKS: It went from Taiyo Hawaii to Burkaire (phonetic) Hawaii. Burkaire Hawaii sold it to VMS out of Chicago. VMS sold it to the Japanese, and then we purchased the land from the Trinity Group, who represented the Japanese, in 1999 for about \$20 million.

COUNCILMEMBER LEE: Okay. Thank you. Thank you very much.

CHAIR PALTIN: Member King, followed by Member Molina, and then Member Sugimura. You're muted.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Charlie. Thanks for being here.

MR. JENCKS: Aloha.

COUNCILMEMBER KING: Thanks for your report. You know, I think the...I've been at some of the...the Maui Meadows Neighborhood Association meetings. I've been at the last few ones where you've presented. And I think...I don't think there's any dispute that there was a settlement agreement in 2016. I think the...and I thought we were moving along with this, but I think there's a great concern that the settlement...the conditions of the settlement agreement have not been met. So the one...the first thing I wanted to ask you is, have you done those...you know, you were required to hire an independent research firm to conduct, like, yearly water quality studies. Have you done that? Because it seems like people are not being able to find those reports.

MR. JENCKS: Well, I...I think the reports that were referenced in the public testimony refer to those required as a condition of zoning.

COUNCILMEMBER KING: Right.

MR. JENCKS: And yes, we did...we did an initial baseline study, and then we updated that baseline study for a couple of years. Those...all of those reports were sent to the Department of Health Clean Water Branch as required.

COUNCILMEMBER KING: Okay, so they're not made public?

MR. JENCKS: Well, I...I can't...I can't address how the Department of Health makes documents public, but I tell you what, I would be happy to send them to you.

COUNCILMEMBER KING: Okay.

MR. JENCKS: I mean, I have them.

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COUNCILMEMBER KING: Yeah, if you can send those --

MR. JENCKS: I can just send them to you.

COUNCILMEMBER KING: --and if we could make those public, because this is one of the sticking points, is people are looking for these studies and haven't been able to find them. So that'd be great. I'd be happy to put those on our County website, and --

MR. JENCKS: They were done per the...we hired...we hired Steven Dollar, who is a recognized expert. He did...he did all the studies for both Makena Resort, I think Wailea, and us. And so his...his...his scope of work was large enough, where he could...he could effectively do the research and...and write a good report. So I...I...I'll be happy to provide the latest report to you guys.

COUNCILMEMBER KING: Okay. Is he the only one doing your water studies?

MR. JENCKS: Yes. He's...he's a recognized guy. He's...he's a good guy.

COUNCILMEMBER KING: Okay. And you know, I just...I...I just wanted to...there's a lot of kind of open questions, and I'm happy that our Committee Chair's...is committed to have another meeting for the community to voice its concerns. But I just want...I just feel like do you...do you feel like there's a way for you to come together and, you know, represent the conditions as they've been met and as they should be met? I mean, this is...it's bothering me as the area representative, because I thought at one point we had been working well with the community, but now I'm hearing all these concerns about unmet conditions.

MR. JENCKS: Well, you know, Member King, if you give me a specific example, I can tell you what we're doing, what we have done to address that specific condition. And if...I...I can't...I can't guess what the concerns are, but I can tell you that in reading through the reports that I've given you, we've attacked those conditions that we can...we can manage...that we can do something about. We've taken action on them.

COUNCILMEMBER KING: Okay, well, if you've listened to the testimony, the bulk of the concerns are about the cultural sites that have not been added to your list. So that's...you know, and that's...that's the biggest bone of contention I'm hearing today, along with the water...the baseline water report issues. So you know, I would just ask that, you know, we have the...if we have this, and I think we will, another Committee meeting that's, you know, got the community coming forward and giving their concerns, that you would be able to attend that, and we could have a discussion about why you feel like you've met the conditions, and the community doesn't feel like they've all been met.

MR. JENCKS: Sure.

COUNCILMEMBER KING: You know, I...

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MR. JENCKS: I'm happy to. I...I can tell you that through the discussion we had from 2012 to 2016 with Sierra Club Maui and Maui Unite, we...we did another archaeological inventory survey. That survey took quite a while. The archaeologist and his team walked that property, I think, on ten meter transects, and it was done per the State requirements. It took...it's a huge effort. The document was sent to the State and accepted by the State, and that...that has been the basis. Now, I will...I will...I will add to that, even though that document, and it's a survey, it's an archaeological survey, okay? It's not the end-all to that issue, and I have been very specific with everyone I've talked to, including Sierra Club Maui and Maui Unite and the public when I've addressed this. That survey was done, and I recall having a discussion with the representative from SHPD, who said to me, Mr. Jencks, you are done. I'm going to sign the letter. You have nothing further to do, you're done. And I said to that person, I said, I find that hard to believe because this area is so large. This is a survey. It's not the end-all to investigating what's on the property. So she said well, you'll have to do monitoring, and I said well, I don't...I don't think monitoring is adequate. So what we're going to do, and I've made this clear to a number of people, using the AIS we have today that was accepted by the State as a baseline, many of the sites that are referenced in that document, the bulk of them, are south of the wall in the native plant preservation area, and will be preserved for eternity. Sites that are north of the wall, out of the NPPA in the common area, in the conservation easements will be preserved in perpetuity as well. I have also made it clear, as we get into design on this project, subdivision design, we will do additional walks with the cultural community and an archaeologist to make sure, because I've made it very clear, there will not be any archaeological sites or features on private property. They will be in common area, which is where they should be, so they're accessible by the cultural practitioners, those that want to learn, those that want to experience that aspect of our culture, of the Hawaiian culture. So this work isn't done. It's going to be a work in process. We're not done with the archaeological inventory work on the property, it will go on, as I stated. Whenever we do design work, design work includes laying out lots--large lots, small lots--we will again walk the property to determine if there's anything that's creating a conflict with those property lines. Because again, I'm not going to have any of these resources on private property with easements for access. That doesn't facilitate...I don't think that facilitates good relationships. I want it in common area, so it's all available to look at and experience.

COUNCILMEMBER KING: So you're willing to move some of the lots, should you need to?

MR. JENCKS: Absolutely.

COUNCILMEMBER KING: Okay, so this might not be...

MR. JENCKS: Or any of the lots...any of the...any of the...of the sites that are in the northern area of the project, we don't have any lot layouts as yet. But wherever those sites are, they will be addressed as a part of the land plan for the project. They will be avoided, set aside, buffers provided so that those sites, there's no conflict with those resources. In the area between the red wall, the line that you saw on the map and the NPPA for

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that common area, none of the development areas include any sites, except for three that we've agreed that do not need to be preserved. I think two of them are agricultural terraces, I'm not sure. But three out of hundreds is nothing. I've avoided all of the sites that I could.

COUNCILMEMBER KING: Okay. I think there's...that's...that's...there's still a divide there on, you know, opinion of how many sites there are, and how many need to be preserved. But you know, I think it's going to take another...you know, another conversation or two with the cultural experts that have walked the land. But you know, I appreciate that you're...you're trying. I just think that there's still a...you know, there's a...there was an agreement in 2016, and I think there's not an agreement today on how those conditions have been met, so that's where the issues lie.

MR. JENCKS: Well, if you could let me know what those conditions are, I'd be --

COUNCILMEMBER KING: Yeah, I'm hearing --

MR. JENCKS: -- happy to address them.

COUNCILMEMBER KING: --they're in the testimony today, and they're...you know, a lot of it was submitted in writing. But I'll...I'll yield the floor for now, and I appreciate your answers, Charlie.

MR. JENCKS: Thank you.

COUNCILMEMBER KING: Take good care.

CHAIR PALTIN: Thank you, Member King. And you know, before we move on to Member Molina, and I apologize, but Mr. Jencks, would it be possible to tilt your screen downward, because --

MR. JENCKS: How's that?

CHAIR PALTIN: Yeah, that's better. It was kind of, like, weird, like, not seeing your mouth when you're talking.

MR. JENCKS: . . . *(inaudible)* . . .

CHAIR PALTIN: Thank you. Okay, so we got Member Molina, followed by Member Sugimura, followed by Member Sinenci.

COUNCILMEMBER MOLINA: Okay. Thank you very much, Madam Chair. Good morning, Mr. Jencks, good to see you. It's been a long time. On the topic of the affordables, in the document, it mentions land planning and civil engineering work to incorporate this affordable component into the project area is underway. Can you give us just a basic

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timetable as when do you anticipate this phase will be complete, and if any further entitlements are required for this phase?

MR. JENCKS: Couple things. One of the conditions the Council gave me, was to widen the Pi'ilani Highway from...I don't remember the street name. About...it's about a mile's worth of Pi'ilani Highway fronting the property. That is a...an approximate \$30 million project. That widening has to be designed and constructed and completed before I can have any occupancies or do any work on the property. Okay. That's a condition that the Council gave me. So I'm probably...if I started today on the design, and I then started the...and I got my approvals through the State Department of Transportation in a year, and it took me a year to construct that four-lane improvement, I'm probably three years out from being able to do any significant work on the property. So...and getting Makena Resort and others to participate in that improvement agreement, which the State Department of Transportation has required, has...has not been easy. And...and part of that is because of the financial uncertainty that we've all been experiencing with regard to getting money to get things done. So I've...that's a significant improvement that I've got to get designed, constructed and completed before I can do any work on the property. We have done some preliminary layouts on affordable...by product type and also location on the property, but we really can't go too much further with that because it takes significant amounts of money to design, until we have more certainty in this process. Phase-II...Phase-II approval will give us that certainty. We at least have...we're done with the discretionary part of this process, and then we launch into the actual design of infrastructure, you know, the waterway systems, the...the sewer systems, the roadways in the project. Now...it's...it's...it's going to take time, Mr. Molina, but I think you can understand, having that kind of prerequisite, if you will, before I can put a shovel to dirt, is a...is a significant issue.

COUNCILMEMBER MOLINA: Okay. Thank you. Sounds like it's going to take a while then. That's the short answer, yeah? And...and on that note, you did file for an extension with the Maui Planning Commission back in January and we're, you know, six months in. I guess maybe this is a dumb question, but do you plan on getting more extensions?

MR. JENCKS: Yes, I have started...I did...I was able to start...fund and start the design work for that intersection of Wailea-Ike and Wailea-Alanui. And I will be asking for a time extension. I was...it was impossible for me to get anybody to go out with COVID.

COUNCILMEMBER MOLINA: Okay. And lastly --

MR. JENCKS: That work is under design right now.

COUNCILMEMBER MOLINA: Okay. And...and lastly, it mentions in...in that...in your document again, filed legal actions and processing have delayed significant entitlement...entitlement filings and investment by HP. So basically, does this kind of mean that you have no litigation pending on the project at the moment?

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MR. JENCKS: Not to my knowledge.

COUNCILMEMBER MOLINA: Yeah, okay. Yeah, you mentioned that...or you came to a settlement a few years ago, right? With the --

MR. JENCKS: Yeah.

COUNCILMEMBER MOLINA: --one of the environmental organizations. Okay. That's all I have for now. Thank you, again, Madam Chair. And thank you, Mr. Jencks.

CHAIR PALTIN: Sure thing. Next up, we got Member Sugimura, to be followed by Member Sinenci.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Nice seeing you, Charlie. Wow.

MR. JENCKS: Hey. Nice seeing you.

COUNCILMEMBER SUGIMURA: Yeah, I...I just wanted to ask some of the things that you've mentioned is exasperating all that you've done and gone through, and I...we've kind of read about it in the paper, or...or seen it, but I was wondering about any kind of time schedule you see, based upon the challenges that you've mentioned, and...and when do you see it happening? Or when were you hoping to see it happen? Break ground.

MR. JENCKS: Well, you...I think the bank was hoping for something to be happening on this property a long time ago. As it stands right now, if I can get Phase-II approval, and I think it's logical to project maybe first quarter of next year for Phase-II approval, the bank is willing to fund the design for the Pi'ilani Highway and the construction. But to do that, I also have to get Makena Resort on board, and they're in...they're going through their environmental process, which they've been delayed on because of COVID-19. So...and I think you can understand their reluctance to...to commit to significant amounts of money, probably in the...in the of...you know, maybe the \$15 million range, right, for an improvement that they're not sure they're going to realize any return on their investment either. So you know, if I can get Phase-II, we can have some certainty, we can then fund things like the design of Pi'ilani and get things going. But like I...like I told Councilmember Molina, the conditions imposed on the project are pretty clear. I really can't do anything on the property until that improvement is completed. Now, we do have the...the environmental assessment that was done. That's completed, that's out of the way. We have preliminary design, so it's not like we're starting from scratch. I'm at about 35 percent on the engineering drawings right now for the Pi'ilani. We would hire Austin Tsutsumi & Associates to get going on that, but I need some more certainty to get someone to commit to significant amounts of money to take care of that.

COUNCILMEMBER SUGIMURA: Thank you. Thank you very much.

MR. JENCKS: You're welcome.

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COUNCILMEMBER SUGIMURA: Give our best to Elsa.

CHAIR PALTIN: Thank you, Member Sugimura. We have Member Sinenci, followed by Member Rawlins-Fernandez.

VICE-CHAIR SINENCI: Mahalo, Chair. Mahalo, Mr. Jencks for your presentation this morning.

MR. JENCKS: Good morning.

VICE-CHAIR SINENCI: I just had a question about the conservation plan on the 134 acres that you had increased to include more of the cultural sites.

MR. JENCKS: Sure.

VICE-CHAIR SINENCI: So...and I don't know if it's a question that you or maybe Director McLean might be able to answer. Who would be monitoring that conservation plan? Would that be Honua'ula Partners?

MR. JENCKS: No, the...just as a matter of interest, the conservation easement document has been reviewed by the U.S. Fish & Wildlife Service. It was reviewed by County Council. It was reviewed by Sierra Club Maui and Maui Unite, and I think we've all agreed on the form and content of the conservation easement. You're...the...you raise an interesting question because we were interested in getting someone who had...had the ability and the knowledge to take care of that conservation easement to do so. Not Honua'ula Partners, 'cause that's not what we do. We have talked to the Hawaii Island Land Trust [sic], and they would be willing to accept the easement and all the management responsibilities. So it would not be managed by the ownership or the developer or the Master Association, it would be managed by the Hawaii Island Land Trust.

VICE-CHAIR SINENCI: Thank you. And that...and again, clarification, that is for the 134 acres, correct?

MR. JENCKS: That's . . . *(inaudible)* . . .

VICE-CHAIR SINENCI: Okay. And then this morning --

MR. JENCKS: We would...we may...we may expand that into the conservation easement and the area between the wall and the NPPA boundary as well, so Hawaii Island Land Trust would be taking care of all of that.

VICE-CHAIR SINENCI: And...and how many acres is that additional piece?

MR. JENCKS: It's --

VICE-CHAIR SINENCI: . . . *(inaudible)* . . .

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MR. JENCKS: --it's approximately 60 acres.

VICE-CHAIR SINENCI: An...an additional 60 acres?

MR. JENCKS: Yeah. Yeah.

VICE-CHAIR SINENCI: Is...is that what you were referring to on the north side of the property? You also had another piece that was...that had some cultural inventory?

MR. JENCKS: Well, there's...there's two areas. The southern area is the area south of the wall, and the northern area is the area between the wall and Maui Meadows. So yes, we did...we did identify and preserve additional archaeological sites in the northern area, but...but those aren't covered by any conservation easement. They would just be common area.

VICE-CHAIR SINENCI: Oh, okay. Great. And...and so this morning, we had a...a testifier...a lineal descendant of the area that has burial ties to the site. So if she needed to access the site and to practice her cultural practices, would...she would have to go through the Hawaii Land Trust to...to access the property?

MR. JENCKS: Actually, that's not...not totally correct. Part of the...the cultural resource preservation plan and the historic resource preservation plan being done for the project includes the development...creation of a cultural advisory committee for the project. That cultural advisory committee is made up of nine members from the cultural community and others to establish protocols for access, and to help manage the cultural resources on the property. At...but that CAC will not be impaneled until we get farther along into the project. At present, if anyone wants cultural access to the project, alls [sic] they got to do is call my office and check in with my...my secretary, Desiree Lopes, who will then look at the calendar, look...see if there's any conflicts, there shouldn't be any conflicts, those folks have...have the right to go on the property. And we make...we give them...we loan them a key, and they can get on the property, and we need to know where they're going, how long they'll be there for safety and liability purposes, but we're not restricting access. In fact, one of the things we had just...we have just done is, as a part of our cultural consultation, if you will, on the project, we were asked if we could designate a cultural representative who would have the ability to help manage the cultural access onto the property. And we said we thought that was a fine idea, but no one from the cultural community wanted to volunteer to take that responsibility. We finally got someone to do that. We've established a protocol, I've sent the protocol to him, which lays out how this works, giving us some notice. We have a hold harmless form you've got to sign so that everyone's covered, and as soon as he accepts that responsibility, these folks will be able to go directly to that person, who is a cultural...who's a member of the cultural community in South Maui, and he will be able to get them on the property. So we've set up protocols, and as of...as of right now, people are accessing the property. Except the problem has been with COVID, we've tried to keep that down to a minimum to honor the Governor's director...directive.

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VICE-CHAIR SINENCI: Mahalo, Mr. Jencks. Thank you, Chair.

CHAIR PALTIN: Thank you, Vice-Chair Sinenci. Next up we have Council Vice-Chair Keani Rawlins-Fernandez.

MR. JENCKS: Morning.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I have a question...I have questions for Mr. Jencks, and then our resource person, Ms. de Naie. I think I'm the last Councilmember to ask questions of Mr. Jencks, so would it be okay if I asked my first set of questions to Mr. Jencks, and then follow...finish my last set of questions with Ms. de Naie?

CHAIR PALTIN: Sure thing. Just to let the Members know, I've been in contact with Mr. Diego Sanchez, and we're deferring PSLU-4. So go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Jencks. Mahalo for your presentation. So just to clarify, you're...you're saying that the...all the settlement conditions, or I'm sorry, all the conditions have been satisfied?

MR. JENCKS: I'm saying we're working on the conditions, and those that we can address now, we are addressing incrementally. Some of them will be addressed as we move through the project, but some of them, as you will note in the annual report, are addressed, and...and stated as being satisfied.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification. Okay. So as some Members brought up, you know, during testimony, the two most cited concerns were the cultural sites, archaeological sites, and water quality testing. I heard Member King ask some questions about the water quality testing, but would you clarify, please, about the water quality testing being done by a third party?

MR. JENCKS: Sure. The...the conditions of approval that...that the Council gave me include some very specific directions on water quality testing, what needs to be discussed, what needs to be analyzed, and how it needs to be returned back to the Department of Health. That condition was given to a third...to a third party, Mr. Steven Dollar, who is a recognized expert in the field in the State of Hawaii, and he conducted those surveys and delivered the reports to the...to me, who...who...and I directed them to the Department of Health.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that clarification. And so in response to Member Sinenci's question, you mentioned you had a cultural consultant? Or a consultation? Who was that with?

MR. JENCKS: We had a number of meetings. I think there were, I don't know the total number, maybe four or five. We held those meetings in South Maui, and we invited all members of the cultural community to attend, and I would say some of those

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meetings, we had maybe a dozen, maybe 20 people attending. I held the meetings in the offices of Goodfellow Brothers, Incorporated in a conference room. We recorded the meetings, did audio and video, and then I had transcripts developed that we included in both the cultural resource preservation plan and the historic resource preservation plan for reference.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that. So I guess in response to Member Sinenci, you mentioned that there was someone that you asked to help with the management, and that person declined?

MR. JENCKS: We...we...during one of the meetings, the issue came up. It was proposed that, and I think it was Justin Kekiwi, actually, proposed that we have someone from the cultural community handling the access, and we...we said at the meeting, that's a great idea. Who wants to volunteer? And there were no hands that were raised. But over time, we found someone, Mr. Ashford DeLima, who is of the cultural community in South Maui. He apparently has...has decided that he would be willing to take on that responsibility, and now we're working with him on...we've established a protocol through OHA. We actually established a protocol for access through OHA, got them to accept it, and I've sent that to Mr. DeLima, and I haven't heard back. But if he is willing to accept the protocol and...and do the job of managing that access, he is welcome to it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that information. And so I guess...Member Sinenci asked about the burials, and we talked about a cultural preservation plan. Is there a burial preservation plan that's required?

MR. JENCKS: There are no known burials on the property at this time.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I'm glad for that information. And Member Lee had asked about who had owned the property before, and you responded 'Ulupalakua? But they must have not been the first owners, so does the...is the title clear?

MR. JENCKS: Yes, it is.

COUNCILMEMBER RAWLINS-FERNANDEZ: So the...the conveyance from the original owners, who I'm assuming was konohiki of the place, conveyed that...that property to 'Ulupalakua?

MR. JENCKS: I...I don't...I don't have the title information with me. I know we have clean and clear title to the property. If you have a specific question on that, I'd be happy to answer it. And...and...write...write...write it to me, and I'll answer it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo. And I guess there's a couple things that you mentioned in the beginning part of your presentation, and you mentioned that the removal of the tobacco plant, which is the...one of the favorite

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plants of the endangered moths, and that no mitigation would be required for...for that. So then what happens to the...to the moths in that area?

MR. JENCKS: Well, the habitat for the moth in the area is...is the tree tobacco plant. If the tree tobacco plant is not on the property, then the moths aren't on the property. So they're not considered, then. If you remove the plant, per the Fish & Wildlife Service guidelines, then they do not consider the moth to be the subject of mitigation or a take permit.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay. And so we had a testifier talk about the 'Āwikiwiki plant, and that it's hibernating and not dead, but in your report, you're saying that the 'Āwikiwiki plant in the area is dead.

MR. JENCKS: The plants that...that were surveyed in the latest work were located...I insisted the...the...the biologist hadn't included those plants that we knew that existed on the property in the NPPA in the preservation area. I insisted that he locate those again and investigate them. He did. The plants are dead. Now, they'll come back when we get rain. We...we allowed the Sierra Club Maui and Maui Unite to put orange construction fencing around the plants to help preserve them when they were alive and generating greenery, but as I said, the plants...it's been very dry. Nothing is really changing out there, and the plants are, you know, they're pretty much dead. But they'll...they'll probably come back. But again, those plants are located in a preservation area, which will be the subject of a conservation easement, and be protected in perpetuity, and nowhere near development.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. And the last question regarding the 'Ōpe'ape'a in the area. My understanding is there are the Hawaiian hoary bats in the area?

MR. JENCKS: Well, we...we did a bat survey as a part of our biological opinion work, and they found one bat that flew close to the property. We have included in the...in the animal management plan, as I recall, provisions for...for the bat, mostly applying in the dry land forest area in terms of when you can cut the trees, when you can't cut the Kiawe trees down outside of the area. So yeah, the...I think the bat has been addressed, and it has not been a subject of concern with U.S. Fish & Wildlife Service.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Jencks.

MR. JENCKS: You're welcome.

COUNCILMEMBER RAWLINS-FERNANDEZ: Ms. de Naie, are you on?

MS. DE NAIE: Yes. Yes, I am.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for --

MS. DE NAIE: I'm trying to get my thing up here. Okay.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MS. DE NAIE: All right. There we go.

COUNCILMEMBER RAWLINS-FERNANDEZ: So you spoke about the...the...the northern archaeological sites that Mr. Jencks talked about those conditions being satisfied.

MS. DE NAIE: Well, that's --

COUNCILMEMBER RAWLINS-FERNANDEZ: Would...would you --

MS. DE NAIE: Yeah. What would you...what would you like to know? Where should I start? Well, let...let me just say about the northern 480 acres. It has many undocumented sites. These sites, by law, are supposed to be recorded. Mr. Jencks is a great storyteller, but he's not telling you the correct information, that's why we actually need another meeting. There's not a 60-acre easement besides the 134-acre easement for the native plants. There's about 27 acres that's in that common area. HILT is not going to manage the land, they will hold and defend a conservation easement. There's going to need to be funding for another manager, which is why it was important to have a habitat conservation permit, and a takings permit, because then there's a commitment to actually care for the land. Now we're uncertain if there's any commitment to care for the land. Mr. Jencks claimed that they were terribly bothered to find out late in November they needed a 106 consultation. A citizen group had been telling them this for years. In fact, their whole process could have been shortened if they just would have come to some agreement; no lawsuits, no nothing. The same things that we asked for in the lawsuit, the Sierra Club-Maui Unite lawsuit, the same things that OHA is talking about now, these are all topics that were brought up in, you know, like 2007, 2008, 2012. It's just...I guess the landowners don't want to invest up front, and so it just cost a lot more time. State Historic has consistently, from 2000 on, asked for more work. Their standards didn't change that much, it's just there were inadequate archaeological reports. Mr. Jencks defended those reports. We were laughed at at the Planning Commission, saying we were making up sites. It's...none of this was true. Finally, the State Historic Division sent their branch chief, Theresa Donham, out on a site visit in December of 2012. She saw unrecorded sites in the first 15 minutes in plain sight. She wrote a, like, four- or five-page letter to Mr. Jencks, saying, you need a whole new survey here. You're...you're just not getting what's here. And he doesn't tell that in his story. It's kind of all blamed on the lawsuit. The lawsuit did ask that there be a better archaeological survey. We were disappointed in the process. These meetings in Kihei were limited to very small number of people. We actually forced them to have these meetings in Goodfellow office. We didn't force them to have them there, we wanted them to have them in larger spaces. But we forced, as part of the settlement agreement, Clare and I had to like, you know, practically cry to say no, we have to have more than one meeting with South Maui people. So none of this is getting captured in the stories. There are bats that live there. We have seen the bats in...in...in the evening. You know, there's far more tree tobacco plants. We have not been allowed on the land since March. We

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were told we couldn't go on the land. Sierra Club has an agreement to have regular access for any reasonable purpose by giving at least 48-hours' notice. We have been told we couldn't access. No one ever told us, oh, now that has changed. No one has access, and I guess that's why they sneaked in and tried to kill all the tree tobaccos while no one could access. This is very disappointing to learn. So in answering your question about the northern sites: these northern sites that have been protected, and we had to, like, fight tooth and nail for every one of them, almost every one is in a gulch. And so there's not, like, 20 sites and then some in the gulches. There's 20 additional sites that are being preserved in the north, and all but about two of them are...are in gulches, or three of them are in gulches. So this does not solve the problem. There are...are many extremely worthwhile sites that were not given proper significance, as Dr. Schaaf said. They...they were not properly evaluated for significance. They were said to be insignificant simply because they were in a location that a road or a house was planned. That's really not how it's supposed to work, but it's...it's how, you know, the landowners are treating things. And we really need a...a very different process. It sounds very good that they're going to do new surveys and nothing will be left in a house lot. That's not our experience. We've walked the land with them, we've pointed out things that are in house lots. In some cases, the lines were moved. In other cases, we were just told, we don't think that's anything. The...the three sites that are supposedly not going to be preserved, we visited with State Historic with one of these sites. It's a massive site that was never even recorded, and it's on the map to be destroyed. It...it's...it's like a ceremonial site with upright stones and big platforms. It's recorded as, like, you know, some sort of a little modified outcrop. So there's so much more to do here. We've done site walks with the archaeologists. Even the archaeologists from SCS have agreed with us, that sites have been misrecorded, they're in the wrong location, and they're not all in this NPPA or in this other preserve. If they're in the wrong location, they show one place on the map, but they're actually located someplace else that's a house lot. So none of that has been worked out, and I don't know when it's going to be worked out. But it could be worked out. But, you know, it's just...right now, it's...it's kind of like, like pulling teeth, and not being able to go on the land since March is...it...it's...it makes it difficult to monitor the plants and so forth. I did see seeds and seed pods of 'Āwikiwiki at my last access in March, and Dr. Schaaf was on that, as well as an archaeologist from SCS and a few other folks. And so the plants were dead, they die in dry weather, but the seeds are there. I am sure...you know, Mr. Jencks didn't mention it was mostly citizens who saw the endangered species there, who saw the caterpillars and recorded them and sent photos to the Fish & Wildlife Service. I think under the Trump administration, you probably have a very different Fish & Wildlife Service, but they agreed that these creatures were...actually had an excellent habitat there. The tree tobacco is what the caterpillar lives on. Once it's a moth, they have to eat, and what they eat, Wailea 670 is full of. The Maiapilo plant, the moon flower, the 'Ie'ie plant, it has thousands of specimens of these plants, so it's a place for the moths to eat. Why would they go away, you know? There's going to be tree tobacco that...that...that...plops up, so we're going to have to take this up with Fish & Wildlife. In short, our community is still extremely dissatisfied because we're being lied to, and we've been lied to all along. So we...we hope that we can, you know, resolve something. We're always willing to meet, but our settlement required this additional

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study should have been sent to us, that the biological consultants did. Our settlement requires that. It was not sent to our attorney, it was not sent to us. So you know, so much for integrity of the process. And you guys should know that that \$5 million for the park in South Maui is not altruistic. It was a trade-off, and maybe Mr. Molina remembers this. There was a condition of zoning from back in the 1980s for the original Wailea 670, and one of the reasons it got passed, is they were going to provide two Little League fields. And Mr. Jencks asked if they could be relieved of that condition because the nature of the community was changing to a more, you know, upscale community, and he didn't that kids would, you know, drive out to Wailea 670 to have Little League games. So in...in lieu of that, he offered to pay \$5 million and patted himself on the back for the South Maui park. But it was to get rid of one condition of zoning which was, you know, kind of a carrot thing; approve our project 'cause we're going to have Little League fields. Oh, now we're not going to have little league fields, but we'll give you some money for the park. So it...it's like, I think we should just tell the whole story here. And I don't dislike Mr. Jencks, I like him as a person. I don't dislike the project, it's just I wish they told the truth.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. de Naie. Mahalo, Chair.

CHAIR PALTIN: Thank you. I just have a couple of questions for Mr. Jencks. Was it SCS that did your 2013 archaeological...or your AIS? You're muted. Oh, sorry, I've got to unmute you.

MR. JENCKS: How's that?

CHAIR PALTIN: Oh, yeah.

MR. JENCKS: Yes, that's correct.

CHAIR PALTIN: And then the botanical studies, can you say who did those?

MR. JENCKS: The botanical studies have all been done by SWCA in Honolulu.

CHAIR PALTIN: And has there been cultural studies done on your end, or is it all the community experts that have been doing the cultural studies?

MR. JENCKS: Well, we...what we did do was we started the...the cultural discussion. You have a condition, I think it's Condition 13, that requires a Cultural Resource Preservation Plan for the project. And that condition was specific in asking us to reach out to the cultural community and ask for people who were interested and would want to participate in a discussion. We did that twice, trying to solicit input...knowledge of the property, where people knew of the property. All of that information is included in that document and referenced. So we fulfilled the requirements of that condition, by reaching out to the community and publishing in newspapers, requests for input. We also had multiple meetings. We documented those meetings. And the original Historic Resource Preservation Plan and Cultural

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Resource Preservation Plan documents that are now in process or accepted were written by SCS, by their staff, and...and also with input --

CHAIR PALTIN: Okay.

MR. JENCKS: --from the community and OHA.

CHAIR PALTIN: Thank you. You've answered my question. I guess my last question would be the Phase-II 500,000 for the South Maui police station. Is...was that supposed to build the police station? Because the police station already is built. Is that, like, an additional 500,000, and there wasn't any type of adjustment for inflation --

MR. JENCKS: No --

CHAIR PALTIN: --over the...

MR. JENCKS: --it was just...it was simply a contribution to assist in getting that station built, to help the County cover the costs. That's all it was.

CHAIR PALTIN: Okay, and so since the station has...I mean, it looks like it's built already to me.

MR. JENCKS: Oh, it's built.

CHAIR PALTIN: Would it just go to the General Fund?

MR. JENCKS: I would imagine, yeah.

CHAIR PALTIN: Or, you know...

MR. JENCKS: I...I don't...I...I...yeah, that isn't...that isn't disclosed in the condition, but I would...you don't have many choices. I think you'd probably just take that 500,000 and put it in the General Fund, would be my guess.

CHAIR PALTIN: Okay. All right. Thank you so much for clarifying those points. It looks like we may be having a follow-up discussion on this, and it sounded like you responded to Member King that you would be willing to attend that as well.

MR. JENCKS: Sure.

CHAIR PALTIN: So we'll...we'll make some arrangements with folks, and we'll follow up on this. Thank you so much for your presentation today. Members, if there's no objection, I'd like to defer this item.

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COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR PALTIN: Okay. Thank you. Thank you, Mr. Jencks, for your presentation.

MR. JENCKS: Have a great day.

CHAIR PALTIN: I know I've kept you guys overtime. Do we want to just power right through with the last event and...or item, and Members can use the restroom or do what they need to on their own? Cool. All right, seeing no objection...

COUNCILMEMBER KING: I'm good with that.

**PSLU-4: MAUI COUNTY REPETITIVE LOSS PROPERTIES FLOODPLAIN
MANAGEMENT PLAN ANNUAL STATUS REPORT (CC 17-105)**

CHAIR PALTIN: Okay, yeah. So we did defer PSLU-4 and let Mr. Sanchez continue on with his work.

ACTION: DEFER, NO DISCUSSION.

PSLU-51: STATUS OF ACTIVE CONDITIONAL PERMITS (CC 20-420)

CHAIR PALTIN: The next item would be PSLU-51, Status of Active and Conditional Permits. And this is our...our second quarterly report that we've received that I...I'm aware of, I think, second. And I...I scheduled this item. I didn't realize that the Wailea 670 would take so long, so I thought we needed, you know, more things. But I guess I was wrong. Anyways, there was a lot of good reading on that. I kind of took a deep dive, and...and I did have some questions that I submitted to the Planning Director ahead of time, and I'm sure that, you know, maybe it's...it's too much for her to get to all the answers, exact answers, in the amount of time that I gave her. But basically, the Committee is in receipt of County Communication 20-420 from the Planning Director relating to the status of all active conditional permits. The Committee may receive a presentation from the Department of Planning, and discuss related matters. No legislative action will be taken. So at this time, Director McLean, if you're able to, can you please unmute yourself and unmute your video?

MS. MCLEAN: Hi.

CHAIR PALTIN: I think we're ready for your presentation.

MS. MCLEAN: I don't have a formal presentation. I'll just comment that, as you pointed out, Chair, this is a relatively recent report that we've been generating. It's been required by the Code for a very long time, but we were only made aware of it recently. So we're now issuing these quarterly reports, and we're happy to do so. You pointed out a few issues with the list, and so in the next report, we will correct those. Generally, the

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descriptions aren't particularly accurate. For example, there's one permit, it is Number 24 on the list that lists three parcels. And the activities permitted column just says TVR. And in fact, the TVR use is just allowed on one of those parcels, the other two parcels are a retreat center and other activities. So we'll be sure to clarify that and provide a better description. It's also been pointed out to us, and I don't want to get too far off track here, but we keep a regular list of B&B permits, STRH permits, and also other TVR permits like the ones on this list. And there were a couple on this permit list that were not on that TVR list. So we will be updating that TVR list as well. And those are all available on our website. And let's see, I did also have a side communication with the Real Property Tax Division to make sure that they're applying the appropriate tax class for these because some of them were approved a while ago, and they might not have been aware of it, so they need to make sure that they're providing the right tax class for those operations. So that's really all I have to say up front. Thanks, Chair.

CHAIR PALTIN: Thank you, Director McLean, and if I may take the opportunity to clarify a question first. When you said that there's TVRs that are STRs or B&Bs or other TVRs, what did you mean by the other? Like, we're all...I'm pretty sure we're all familiar with B&Bs, we're all familiar with STRs, what...what did you mean by other TVRs?

MS. MCLEAN: Those would be vacation rentals that are permitted by a conditional permit, like the ones that are on this list. I don't know...I'd have to look at the list real quick to see if they had other approvals. There are only about ten or so of them. But because Maui County Code Chapter 19.65 that establishes the caps for short-term rental homes also says that vacation rentals allowed by a conditional permit should be counted toward the caps, we have to keep track of those. So that's why we have that list. It's not a STRH permit under 19.65, but those conditional permits are counted toward the STRH cap. And my guess is that's because those were issued before the STRH process came to be, and so the Council wanted to make sure that they were still counted. That's my guess.

CHAIR PALTIN: Okay, but like Conditional Permit Number 6 for Kathleen Gildred in Maui Meadows, does that one count towards specifically the Maui Meadows cap? Because Maui Meadows has its own separate cap.

MS. MCLEAN: Correct. I don't...I...I don't know that that property's in Maui Meadows. If you says [sic] it is, I...I certainly believe you. And it should be counted toward the Maui Meadows cap.

CHAIR PALTIN: Oh, okay. Thank you. Yeah, I...I kind of looked up the TMKs, and then I had a other question about Number 12, which says TVR, but it looks like it's in the Hono Kai, which is on the Minatoya list. So I just was...wanted to clarify why they would need a conditional permit for a TVR if, per the Minatoya list, they can do it without a permit?

MS. MCLEAN: I had a chance to quickly look that up, and the use isn't for TVR use, it's for a TVR office. So that was first granted back in 2001, and apparently the County

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recognized that that property could conduct TVR use, but didn't include an office as part of the permitted use. We don't look at it that way today. If you have a building that's TVR use, you can have an office that allows for people to check in and whatnot. But that's what that conditional permit is for, not the TVR operation, but to...to have an office in that complex for...for the TVRs. So I need to look into that a little bit more because if that's the case, then we would just tell them, you don't need a conditional permit anymore.

CHAIR PALTIN: Okay. And, you know, I have a bunch of other questions, but I...I don't want to be, you know, taking all the time. But I guess my last one was, I think it was Section 3.48, something, of the Maui County Code, where TVRs prior to, like, was it May 2012 or something, all would get the commercial residential tax rate. And in extending, the Director approved extension of this...conditional permit. Did you ever think of, you know, like, when you renew a permit, you can revisit the conditions and whatnot of...of putting them in possibly what I would consider the proper tax class as a...as a condition of a conditional permit extension. For example, Number 17 on the list, Oprah Winfrey Ranch looks like the extension is in process, and I'm pretty sure she's not a resident, but she would be commercial residential tax class. Would it be possible to, as a condition of extension, put her in the proper tax class? Or would you suggest possibly amending that ordinance that gave that 2012 date to put all the TVR in commercial residential, and try to put people in their proper tax classification? Or do you have any insight as to why that ordinance from 2012 went into place?

MS. MCLEAN: In 2012, I'm guessing that date was when that STRH law passed, and I think the Council was very specific about what STRHs would be taxed as. And so before that date, I...I suppose they wanted properties to continue at the tax that they were assessed when they were approved. It would be good to get the input from Finance or Real Property Tax on that. To answer your question about revising the condition when that permit gets extended, the Director's authority is only on the time extension. It's not to change any conditions. I mean, whether it's for the benefit of the applicant or to the detriment of the applicant, there...there isn't any authority to do that. It's only to do a time extension. So if the Council wanted to do that, then the Council could initiate that change. I don't know...I don't know if Corporation Counsel's on the call, but if...if, for example, I were to forward that time extension to the Council, I don't know if, at that time, the Council would have the authority to change the condition. That would be something, you know, how it was agendized. I mean, it's your authority to do that, don't get me wrong. But in terms of what's put before you, I don't know if...if through that channel, you'd be able to make that change. Or I don't know if Real Property can just make that change on their own. So I...I think that they'd be quick --

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

MS. MCLEAN: --to get there. I'm just not sure what the most appropriate way would be.

CHAIR PALTIN: Yeah, thank you. And the only reason I ask is, you know, if you do the math, it's a difference of over \$100,000, and you know, when we were going through the tax, we heard testimony, I think, from Mr. Croly, you know, that commercial

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residential was all for residents. But then when you look into this and 3.48, it seems a little bit insulting to the TVR or STR people that are paying the STR tax, that some folks that aren't even residents are paying less than non-owner-occupied. You know? And so it kind of seems like maybe something slipped through the cracks in terms of fairness across the board. And I thank you for providing this quarterly report, 'cause otherwise I would have never have known about that 3.48, so I think we're making progress here. And at this time, although I have a million other questions, I'll yield to my Committee Members, because I've been kind of hogging the questioning, and I'm sure they have a lot of other questions as well. So Members, if you don't have some, I can continue going on and on, but I'll yield. Anyone? Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. I just have a couple. Good morning, Director McLean. You know, on...I guess, your chart, you have a, you know, a conditional permit that's roughly ten months past due. Are there certain...I assume there's penalties that are applied for any types of delays. Typically, what are the penalties? Amounts, I should say.

MS. MCLEAN: Actually, it's...it's pretty straightforward. If an applicant submits for renewal in the required time frame before their permit expires, then we have that grace period, that the permit doesn't technically expire if...if, you know, we're slow in processing the renewal request, or if we send it out for Agency comment and there were issues that need to be worked out. The permit doesn't expire, it's considered valid. If the renewal gets denied, then...then it's done. But if the renewal is approved, and an extension is granted, then it just continues. If a permit expires without a renewal being submitted, it's expired. There's nothing we can do about that. And so at that point, if the activity continues without a permit, then there would be appropriate zoning violations for that.

COUNCILMEMBER MOLINA: Okay. And the last question, with the pandemic, you know, you...you had to adjust your Planning Department offices and so forth. You guys had, I guess, reduced the hours to minimize any potential spread. But aside from that, have you seen a significant drop in conditional permit applications since the pandemic started?

MS. MCLEAN: Thanks for the question. Just for your information, in the first few months when things really shut down, we closed our offices to the public and we started a work-from-home process, where there were a few of us that have to come in every day, but everyone else is on a work-from-home rotation, where they'll come into the office one day, and then work from home two days. And they come into the office to drop things off, pick things up, you know, get signatures, whatever. And that, we've continued. That...that is still going on today. But a while ago, we opened offices back up to the public. We have drop boxes at the outside of the office, which is what we implemented when we closed the offices to the public, but we still have the drop boxes, 'cause some people prefer to do that. We have the drop off and pick up boxes. We have hand sanitizer outside the door, and then we have plexiglass at our counters, so that, you know, safety for the public and for us. So in the first few months, there was a slowdown of everything, not particular to conditional permits, but a real slowdown of everything. But it has inched right back up, and again, across the board, not any

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particular type of permit. So yeah, we're...we're back to pretty much the regular routine, other than the work-from-home --

COUNCILMEMBER MOLINA: Um-hum.

MS. MCLEAN: --we're...it's pretty much business as usual.

COUNCILMEMBER MOLINA: Mini upswing if you will, yeah? Okay. Thank you for your responses, Director. Thank you, Madam Chair.

CHAIR PALTIN: Thank you, Member Molina, followed by Vice...Council Vice-Chair Rawlins-Fernandez, and then Committee Vice-Chair Shane Sinenci.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And you...you were asking a lot of the questions that I had, so you're doing a great job. Nah, I'm just kidding. So I just had a question about...dovetailing off of Member Molina's questions about, you know, permits expiring or penalties. So as far as enforcement goes, how has that been handled? Particularly for, you know, Molokai and Lanai, since it's off island and there's the travel restrictions. And my office has been getting complaints about, you know, violations.

MS. MCLEAN: It's the same for Maui island, enforcement is complaint based, but we have heard the same thing from Molokai about a lack of an enforcement presence there. And so we have started a schedule. I think it's twice...it might be once a month. It's certainly once a month, it could be twice a month, that we will be having an inspector . . . *(audio interruption)* . . . to Molokai. So before, we never had any sort of regular schedule, it was just on an as-needed basis. But now, we'll be sending the inspector on a regular basis. I understand with a small community, it's hard for people to file complaints sometimes. We...we get that Countywide, but certainly, that's true on Molokai as well. So we hear about things, but people don't want to file complaints. So it's hard for us to decide, well, you know...if...if it's a...if it's a true environmental concern or a health and safety concern, then we'll go ahead and initiate an investigation. But if it's not like that, then we do have to wait until there's an actual complaint. And we've let people know they can contact the Mayor's office, and maybe the Mayor's office would submit the complaint on their behalf, or their Council office, maybe their Councilmember would submit the complaint on their behalf. But otherwise, we end up kind of picking and choosing, and...and that's not really appropriate for us to decide which to initiate and which not. So again, if it's environmental or health or safety, then...then we will be proactive. But otherwise, we do need a complaint filed for us to investigate.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Director. So like you said, it...it's...it's hard with a small community because in order to file the complaint, you cannot be anonymous, you do have to list your name as the person who is filing the complaint. And so in order for that person to be anonymous, what you're saying is that, as a Councilmember, I would be able to file on behalf of that person, and I would be the complainant?

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MS. MCLEAN: Right. And you could say, filing on behalf of a constituent. You don't need to reveal it. But then we would, if we had questions or to give a progress report, we would interact with you and your office, rather than with the constituent directly.

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

CHAIR PALTIN: Member Sinenci?

VICE-CHAIR SINENCI: Thank you, Chair. Yeah, just some quick clarify...clarifying questions. Director, is there currently a cap of conditional permits that we could issue?

MS. MCLEAN: No, there is not.

VICE-CHAIR SINENCI: Oh, okay. Thank you. And then real quick, for Conditional Permit Number 21, it says it was extended by an Ordinance 4015. Can you explain maybe if...how the ordinance would extend the permit . . . *(inaudible)*. . .

MS. MCLEAN: Boy, you've got to have eagle eyes. We put this in a really tiny font so you wouldn't be able to look at it so carefully. Just kidding. I'd have to do...I'd have to look into that, Councilmember Sinenci, but --

VICE-CHAIR SINENCI: Okay.

MS. MCLEAN: --off the top of my head, I'm guessing that either that renewal happened before the authority was given to the Planning Director to do extensions, so it had to come to the Council for an extension, or they proposed some sort of change, like expanding the area or adding uses, which also would have had to go to the Council, and at the same time, the Council extended it. I...I'd have to go back and look at the history, and I'm happy to do that. But those are two options...two possibilities of how it could have been extended by ordinance.

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

CHAIR PALTIN: Thank you. Seeing no other hands up, I had a few more questions. You know when it says Director approved the extension? It seems like there's a wide range of time that the...the extension is for, like some are for, like, 20 years, or ten years, or two years. And I just was wondering how you determine what the length of time the permit is extended for?

MS. MCLEAN: That's another great question. There are a few factors. We would look at the prior approval, like when Council granted the extension, and grant the same time. Or there are a couple that also require a State special permit, and we would match the duration of that, so that they run at the same time. Those would be the two main...the two main reasons.

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CHAIR PALTIN: Okay. And then, like, for example, Number 15. It looked like there were some specific conditions, Condition 7, 11, and 12, like it's a some kind of a historic, 100-year building or something. And I just was wondering, like, when you approve the extension, do you check, like, the status of the conditions? Like, 11 and 12 of the condition?

MS. MCLEAN: Yeah. Routinely, the staff verifies compliance. Sometimes there are requirements for compliance reports, as you just went through with Honua'ula. Sometimes there are compliance report requirements, so we would review the compliance report. And if not, we would still review the conditions and verify compliance with the applicant before we would grant an extension.

CHAIR PALTIN: Okay. And then, you know, if we're interested in repealing that TVR being automatically...if they had a TVR prior to 2012 being automatically put in the commercial residential bracket, would it be possible--not like right this minute, but in the future--to get a list of all the conditional permit TVRs that, you know, would qualify for STRs or B&Bs and see, like, before we take any type of action like that, like, what the effect would be, what the difference would be, how many people would be affected that are residents, nonresidents, and things like that? Just inquiring if it's --

MS. MCLEAN: Sure, we could work --

CHAIR PALTIN: --a possibility.

MS. MCLEAN: --yeah, we could work with Real Property to put together the list and find out what they're being taxed at now, and provide that information to the Council.

CHAIR PALTIN: And then I guess my last question for this round would be, in the process of the Director approving an extension, are the conditional permits looked at to see if they could be switched from, say, a conditional permit TVR to, like, the existing short-term rental home process, or the B&B process that has been created since, I guess it was 2012? So that if...if it no longer needs to be a conditional permit, before you approve an extension, do you scrutinize whether it could be converted to the type of permits that we issue currently instead of continuing on with this conditional permit?

MS. MCLEAN: We do let the applicant know whether they would meet the criteria to get an STRH or a B&B, but my guess, and if I were an applicant, I'd say I'm sticking with my conditional permit, 'cause it's...it's less expensive than a short-term rental home permit renewal, and it's also potentially a longer duration because STRHs, the longest they can be renewed is five years. So depending on what these prior . . . (*inaudible*) . . . it could be a longer term. And also to...to get an STRH, they would have to apply and go through a whole permit process, whereas right now they have a permit in hand, and it's easier to just renew it. So we let them know, but it's...we...we let it be their choice. We don't have a basis to require them to switch over, and I...I would imagine it's easier and cheaper for them to just stick with a conditional permit.

CHAIR PALTIN: Interesting. But you did say that...do these conditional permits count

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towards the cap, or they don't?

MS. MCLEAN: They do. 19.65 requires that they do. And actually, I think that was Councilmember Sinenci's question about is there a conditional permit cap. And I said no, but I should qualify that to say if it's...if it's for vacation rental use, then it...it...it's not a conditional permit cap, but it falls within the STRH cap.

CHAIR PALTIN: Okay. Thank you so much for the clarification. Did any...Member King, questions?

COUNCILMEMBER KING: Thank you, Chair. A lot of good questions. Most of my questions got answered, but I just...I am having a hard time with this small print, but I did pick out a couple of things. One of them is, just maybe you can explain. There's a TVR on here, Number 4, that has an extension 'til 2038?

CHAIR PALTIN: That's, I think the Old Wailuku Inn. The Fairbanks.

COUNCILMEMBER KING: What is wrong with that?

CHAIR PALTIN: It's a B&B in Wailuku. I'm not sure why 18 years. Maybe it's there from --

COUNCILMEMBER KING: Yeah, why would we...why would we have a...an extension for that long? I mean, I...you know, as...I know the conditional use permits that the Council has approved, I've never seen one more than ten years. And this seems like an extraordinary amount of time, so.

MS. MCLEAN: I agree. That does look like an extraordinary amount of time. I'm happy to go back and look into that, and see when and...when that happened and what the basis was.

COUNCILMEMBER KING: And then there's another one, Number 14. And maybe this is because it's a...like, a business, but it goes 'til 2044, which seems like a really long time as well.

MS. MCLEAN: That one I can also check, but it required a State special permit, so I'm guessing that's what the Planning Commission granted, and so the Planning Department just matched that time frame.

COUNCILMEMBER KING: Oh, that the State gave?

MS. MCLEAN: That, well, it would have been the Maui Planning Commission that approved the State special permit. And then the Department . . . *(inaudible)*. . . --

COUNCILMEMBER KING: Oh, so the State Planning Commission approved it 'til 2044?

MS. MCLEAN: Right.

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COUNCILMEMBER KING: Oh.

MS. MCLEAN: That's the one on the road to Hana.

CHAIR PALTIN: That's in Hana. Banana bread.

MS. MCLEAN: Yeah, yeah, yeah.

CHAIR PALTIN: I love it.

COUNCILMEMBER KING: Okay.

MS. MCLEAN: So. Yeah.

COUNCILMEMBER KING: Yeah, you know, my...my curiosity is just, you know, are they...are they doing this for every similar type of business, or is this...you know, how do they make those decisions? But maybe you don't understand that either. I mean, that's...it just...they just...it just seems like a really long time.

MS. MCLEAN: Yeah. I'm happy to look into that one, just to confirm that that was the justification, because that's what the Planning Commission allowed.

COUNCILMEMBER KING: Okay.

MS. MCLEAN: I would...and that's not what the Department recommended to the Planning Commission, but then they, on their own, gave more time.

COUNCILMEMBER KING: Yeah, my biggest concern would be just somebody else who has a similar business coming along and not getting the same privilege to have a 44-year [sic] permit. You know? I don't know that that would happen again, and I don't understand...you know, I just wanted to make sure everything's being awarded fairly. That's all. Thank you, Chair.

CHAIR PALTIN: Thank you, Member King. Anyone else? I can keep going, if no one else has questions.

COUNCILMEMBER RAWLINS-FERNANDEZ: No objections, Chair.

CHAIR PALTIN: Okay, so my next question specifically would be on Number 5, the Enchanting Floral Gardens. In my research, it seems like they kind of shut down, and so I was wondering, like, did they...did they apply for an extension and then shut down? Or once they get the extension, you don't kind of keep track if they're still going or not? 'Cause, like, when I go to their website, it shut down. When I call to the...call the phone number, nobody answers. And, like, on Yelp, it looks like they're closed.

MS. MCLEAN: Once a permit is issued--and this would be true for any...any kind of use, a

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B&B, an STRH--if they stop operating, but the permit is still valid, as far as we're concerned, as long as that permit is valid, they could resume again. We don't...again, we don't have a basis to revoke the permit, just because the operation ceased. If the property's being used for lawful uses, whether under the regular zoning or under the uses allowed by the permit, then we don't have an issue with it, and the permit is still valid. They could get it going again in the future, as long as the permit is still valid.

CHAIR PALTIN: Okay. And then Number 10, I was a little bit confused about that one because it seemed like the one that went through the Maui Planning Commission, and I think their consultant was Brett Davis, it was the Banyan Tree one. And once it had gone through the Maui Planning Commission, they had contacted us to get on the agenda, and we've reached out to them several times, but they're not yet ready. Since they asked us, and then we're like okay, we're ready, and then they're like no, we're not ready. So I just was wondering if that was their reason for the shorter extension on that, or if you had any comment. It looks like multiple things going on with that.

MS. MCLEAN: You're saying this is the Banyan Treehouse up in Makawao?

CHAIR PALTIN: That's what I...I had thought, based on my --

MS. MCLEAN: Okay.

CHAIR PALTIN: --investigation of it.

MS. MCLEAN: That one, well, I don't...I don't know when that extension took place. So it expires next year, but that extension could have been granted ten years ago.

CHAIR PALTIN: Oh.

MS. MCLEAN: So maybe they got a ten-year extension, but that just happens to come up next year. They did recently go to the Planning Commission to transfer to the...adding the daughter as one of the operators, and I think...I'm trying to look up the ordinance now, that you folks have to approve the transfer.

CHAIR PALTIN: Yeah.

MS. MCLEAN: So.

CHAIR PALTIN: I guess if that's the case, I...I had assumed, and I guess it might be incorrect, that with these Director-approved extensions, they had taken place between the last quarterly report and this quarterly report. But you're saying the Director-approved extensions could have taken place years ago.

MS. MCLEAN: Right. That's just the current...the current status of that permit.

CHAIR PALTIN: Oh, okay.

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MS. MCLEAN: Yeah, and we --

CHAIR PALTIN: Would it be too much work to list when the Director-approved extension occurred? In the next quarterly report?

MS. MCLEAN: We should be able to do that. I mean, it'll take a little bit of time, but I...I think that's helpful information, so we can aim to provide that in the next report.

CHAIR PALTIN: Okay, cool. So the next report we would have when the Director-approved extension occurred, and a little bit more accurate activities permitted set column.

MS. MCLEAN: Right.

CHAIR PALTIN: And then...yeah. Okay. That sounds good. And then I guess, just my other question, you know, since I think this is only our second quarterly report of conditional permits. Is it always that...this is the full list, and every quarter we just get more information on these that was transmitted? Or is it different information that'll be on the next quarterly?

MS. MCLEAN: The...the list is...and when we put this list together, we discussed what should be in it, and how it should be arranged. And we thought it would be best to put it in the order of when the permits were originally issued. So these are in chronological order from when they first started.

CHAIR PALTIN: Awesome.

MS. MCLEAN: So that the next report, you know, at the end, there could be another conditional permit or two if you approve new ones between now and then. If any applicant or operator says, you know, I'm going to stop doing this, then those would get removed. That doesn't happen very often, but if it does, those would get removed. And the only other change that would happen would be the expiration date and notes, if there were any extensions since the last time around.

CHAIR PALTIN: Okay. So basically, what you're saying is that as of right now, or as of whatever time this quarterly report was transmitted, within the whole County of Maui, there's 46 conditional permits, and this is all of them.

MS. MCLEAN: That's correct. That are still active. Yes.

CHAIR PALTIN: Okay. Okay. I...I didn't realize that. Council Vice-Chair Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Quick question. Director, you said that it's in chronological order of the CP number, or the initial approve date?

MS. MCLEAN: The CP number. So that's when the application first came in and was first processed.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification. Mahalo, Chair.

CHAIR PALTIN: Thank you. And I feel, like, a lot more comfortable that there's only 46 conditional permits. It seems like a much more manageable number. I thought it was a different set of conditional permits that we would be getting updated on, but I feel like I got a good grasp on it. I hope other Members feel comfortable too. And we got seven minutes to spare. Any...any last questions, comments, epiphanies? Member King?

COUNCILMEMBER KING: Yeah, it just occurred to me that not...it seems like not all of these are ones that are necessarily approved by the Council? I mean, aside from the extensions. Are...some of these are approved by the Commission and not the Council? Is that...

CHAIR PALTIN: When --

MS. MCLEAN: Well --

CHAIR PALTIN: Oh, sorry. Go ahead.

MS. MCLEAN: Your meeting, Chair, you go ahead.

CHAIR PALTIN: I imagine, like, you know, when it's ordinance, it has to be the Council, right? That creates the ordinance. So if it's approved by, say, the Molokai Planning Commission, then it comes to our Committee, and then we approve it by ordinance. Similar to how we did that...what...that Upcountry Market. The Sunshine something.

COUNCILMEMBER KING: So all of these conditional permits are...have been approved by the Council, but not necessarily the extensions?

CHAIR PALTIN: Yeah.

COUNCILMEMBER KING: Is that what this is?

CHAIR PALTIN: Yeah, that's my understanding.

MS. MCLEAN: Correct.

COUNCILMEMBER KING: Are there any . . . *(audio interference)*. . . list that was originally not approved by the Council? Or is it all?

CHAIR PALTIN: Yes.

MS. MCLEAN: As far as I know --

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CHAIR PALTIN: Maybe not our...

MS. MCLEAN: --conditional permits have always required Council approval.

COUNCILMEMBER KING: Okay.

MS. MCLEAN: What changed, and this was a number of years ago, were that renewals could be issued by the Planning Director. It used to be that conditional permits had to go to Council for renewal, and that got changed some number of years ago, to give the Planning Director authority to approve. From time to time, the Council puts a condition on that conditional permit that says, you have to come to Council for renewal, and if that's the case, then they go to Council for renewal.

COUNCILMEMBER KING: Okay, and then the ordinance allowed the Planning Director to give extensions was unlimited? As far as number of years?

MS. MCLEAN: Yes.

COUNCILMEMBER KING: Okay.

MS. MCLEAN: Yes. I would like to note, because you mention the Planning Commission. So on the original conditional permit, those get approved by the Planning Commission first, and then come to the Council like any other ordinance.

COUNCILMEMBER KING: Okay.

MS. MCLEAN: If the renewal has to be approved by the Council, those would also go through Planning Commission. If it's --

COUNCILMEMBER KING: Is it possible to put...put on here what the length of the original permit was? Because some of them have been two years, some of them five years, some have been ten years that the Council approved. And then that...then we could see what the extensions are, the length of extension that...I mean, I'm sure that the Council didn't approve a 44-year [sic] conditional permit, so. Some portion of that was extended by your office, and...but if you could...we could differentiate between what...what it was that the Council approved, the length of time, then we could see what the extensions that are getting approved are.

MS. MCLEAN: Okay.

COUNCILMEMBER KING: That would be helpful.

MS. MCLEAN: Yes.

COUNCILMEMBER KING: Thank you.

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MS. MCLEAN: And...and then the other thing, as...as...as we discussed earlier, some of these activities also require a State special permit. And those are under the authority of the...if the area's smaller than 15 acres, then the Planning Commission can approve those.

COUNCILMEMBER KING: Right.

MS. MCLEAN: So there's times where you see where the Commission approved the SUP2, and then if the Director has the authority to do the extension, then that would match what the Planning Commission approved.

COUNCILMEMBER KING: Okay. Yeah, that's why I asked about if these were all ones that the Council approved. Because I know there's some special use permits too, that we never see. They just go through the State process, and we...and the Council doesn't have to approve special use permits. But these are all ones for...so yeah, it would be...it would be helpful to have the date that the Council first approved it, and for how long...and for how long. Yeah.

MS. MCLEAN: Okay.

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

CHAIR PALTIN: And then, just to clarify further on Member King's question. So at the County level, we have conditional permits, and we have special use permits. And the conditional use permits, like you said, have to be approved by the Council, and the special use permits get approved solely by the Planning Commission at the County level. And then there's the State special use permits, and you meant less than 15 (fifteen) acres, the Planning Commission has authority for, and if it's more than that, it goes to the State Land Use Commission; is that correct?

MS. MCLEAN: That's correct.

CHAIR PALTIN: Okay.

MS. MCLEAN: There...there is State special permit and HRS §205 says that Planning Commissions have the authority to review activities on less than fifteen acres. There are also County special use permits, which also get approved by the Planning Commission, and those are listed in each of the zoning chapters; special uses that are allowed in those zoning districts. So we have County and State special permits, just 'cause we don't have enough words to describe the different kinds of permits.

CHAIR PALTIN: So I don't know about you guys, but I feel a lot more clear about this whole deal. And we have two minutes to spare. Any last comments? No? Okay, well, let me find my notes. Committee Members, if there are no objections, the Chair will defer this item.

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COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR PALTIN: Right on, right on. And this concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much, Committee Members, for all your hard work. The time is now 11:59, and this meeting is adjourned. . . .(gavel). . .

ADJOURN: 11:59 a.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

pslu:min:200909:kr

Transcribed by: Kaliko Reed

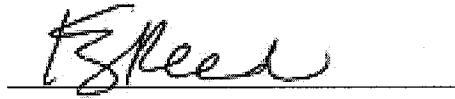
PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

September 9, 2020

CERTIFICATION

I, Kaliko Reed, hereby certify that pages 1 through 55 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 8th day of October 2020, in Wailuku, Hawaii

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

Kaliko Reed