

PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

MINUTES

February 18, 2021

Online Only Via BlueJeans

RECONVENE: 9:00 a.m.

PRESENT: Councilmember Tamara Paltin, Chair
Councilmember Kelly Takaya King, Vice-Chair (out 11:00 a.m.)
Councilmember Gabe Johnson, Member
Councilmember Tasha Kama, Member
Councilmember Alice L. Lee, Member (out 11:59 a.m.)
Councilmember Michael J. Molina, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member (in 9:20 a.m.)

STAFF: Ana Lillis, Legislative Analyst
Alison Stewart, Legislative Analyst
Wilton Leauanae, Legislative Analyst
David Raatz, Supervising Legislative Attorney
Clarita Balala, Committee Secretary

Michelle Del Rosario, Executive Assistant to Councilmember Kelly Takaya King
Axel Beers, Executive Assistant to Councilmember Kelly Takaya King
Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson
Davideane Kama-Sickels, Executive Assistant to Councilmember Tasha Kama
Sarah Pajimola, Executive Assistant to Councilmember Keani N.W. Rawlins-Fernandez

ADMIN.: Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Jennifer Oana, Deputy Corporation Counsel, Department of the Corporation Counsel
Michele McLean, Director, Department of Planning
Kathleen Aoki, Planning Program Manager, Department of Planning
Pamela Eaton, Planning Program Administrator, Department of Planning
Jennifer Maydan, Planning Supervisor, Department of Planning

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

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PSLU-1 WEST MAUI COMMUNITY PLAN (CC 21-70)

CHAIR PALTIN: . . . *(gavel)*. . . The Planning and Sustainable Land Use recessed meeting of February 18th, 9:00 a.m. will come to order. My name is Tamara Paltin and I'll be your Chair. If everyone can please silence their cell phones or any noisemaking devices at this time. We have with us today our Committee Vice-Chair, Member Kelly King. Aloha kakahiaka.

VICE-CHAIR KING: Aloha kakahiaka, Chair, from little bit hazy, overcast Kīhei.

CHAIR PALTIN: Right on. And we have from hilly Lānaʻi, Councilmember Gabe Johnson.

COUNCILMEMBER JOHNSON: Aloha, Chair. Good morning, Members. Looking forward to an informative session. Mahalo.

CHAIR PALTIN: Aloha kakahiaka. And from the neighborhood, we have Tasha Kama. Aloha kakahiaka.

COUNCILMEMBER KAMA: Aloha kakahiaka, Chair. And it is a beautiful rainy day in the neighborhood of Kahului.

CHAIR PALTIN: Water is life. Aloha kakahiaka to Chair Lee from the course.

COUNCILMEMBER LEE: Yes. Aloha, Madam Chair. And from the island of Taiwan, we say zao an. Zao an.

CHAIR PALTIN: Zao an. Right on, zao an. Okay. And from under the virtual bridge in Makawao, we have Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Aloha kakahiaka, Madam Chair. Zao an and right on to you and my colleagues and everyone else tuning in. A little bit wet under the virtual bridge here in Makawao, but looking forward to another wonderful, exciting Committee meeting.

CHAIR PALTIN: Zao an, right on. And we have from Molokaʻi, Councilmember Keani Rawlins-Fernandez. Aloha kakahiaka.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka...aloha kakahiaka, Chair, mai Molokaʻi nui ahina. On my phone at home grabbing my office keys. And zao an kākou.

CHAIR PALTIN: Zao an, right on. Okay. And from it looks rainy Hāna, we got Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: He aloha kakahiaka, Chair, mai Maui Hikina no ka uakea and zao an, everybody.

CHAIR PALTIN: Zao an. And Yuki Lei Sugimura said she's going to be a little bit late. If she's

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watching us, please call Ana, our Staff, to get let in since the meeting is locked. Oh, she's locked out. Yeah. If you're watching, please contact our Staff, PSLU, they'll let you in. And from Corp. Counsel, we have Deputy Corp. Counsel Michael Hopper. He may need to step away for a moment, and I think at that time Jennifer Oana will fill in for him. We have from the Planning Department, Director Michele McLean, Planning Program Administrator Pam Eaton, and Senior Planner Jen Maydan. Our Committee Staff today is Clarita Balala as Committee Secretary, Council Services Assistant Clerk Jean Pokipala, Legislative Attorney is Richard Mitchell, but I think he's still on vacation, and our Legislative Analysts are Ana Lillis and Alison Stewart. We have one agenda item today, PSLU-1, West Maui Community Plan, and oral testimony is still closed. The public is welcome to submit written testimony at any time. Members wishing to speak during today's meeting should say my name, raise their hand, and ask to be recognized so I may call on you. So we're going to begin again where we left off. There was a motion on the table to pass the community plan, and then a motion now to amend Section 2. At this time if anybody has any written amendments to Section 2, please email the Committee at pslu.committee@mauicounty.us. I added one more page, and I believe Member Rawlins-Fernandez has a page, so they should be getting uploaded right now. What I'd like to do is take a brief ten-minute recess for the Members to be able to print out or upload whatever they need to...or has...has anyone uploaded comments? Because we can only accept them when the meeting is open, yeah. So if anyone has any written amendments they'd like to upload, please send them in, and then we'll take a quick ten-minute recess. We can print out all the amendments for Section 2, look them over, and then go over them one by one. I think Section 2, there's about 75 policies and some writing. And we can go through them, I'm hoping, within the whole three hours today, and then next meeting we'll take up Section 4. So has anybody that has written amendments, have they uploaded them or emailed them? Sorry. In already? Good? We're all good? Yes, Chair Lee?

COUNCILMEMBER LEE: Did...did somebody answer my request for the graph that shows all the changes?

CHAIR PALTIN: They're working on that right now, but I think we don't need that until we get to the maps because we're only on the policies right now. So they're working on getting it. We...we put in a request.

COUNCILMEMBER LEE: Okay. So the policies haven't changed really then?

CHAIR PALTIN: Not yet. Today is our day for policies, yeah.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR PALTIN: And...

VICE-CHAIR KING: Just a quick question.

CHAIR PALTIN: Member King, yes?

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VICE-CHAIR KING: Just...I just saw the...I saw the letter to the Maui Emergency Management Agency and just wondered, did we get a response yet on that?

CHAIR PALTIN: We didn't get a response yet. I did speak with...one of my Staff was looking into it, and she said...and I also spoke a little bit with some of the members of the CPAC Committee and Planning, and they said it was left kind of intentionally broad. One of my Staff used to work for the Red Cross, and she said, you know, like my...my thinking was that we should prepare for Category 5 because that's what Lane was and it was heading towards us. But she said, you know, if a Category 5 hits us, everything is going to be totally demolished and it's...might not be realistic depending on that. If...if we want to get specific in making that policy to become a reality, then we'll need to work on amending the Building Code, and we can learn more about that...about it at that time. But it's not as easy as you would think to say what kind of category you should rate for, it depends on a number of different circumstances. They say Florida has the strictest building codes in the nation because of the number of storms they get. So if we want to put the policy into action, we can put the detail at that time and, you know, do a full deep dive into building codes and amending the County Code, everything like that.

VICE-CHAIR KING: I was just asking if you got a response, so.

CHAIR PALTIN: Oh. Okay, no --

VICE-CHAIR KING: I guess the answer is no.

CHAIR PALTIN: -- no response. Yeah.

VICE-CHAIR KING: Okay. Thank you.

CHAIR PALTIN: Any other questions? No? Staff, have we had a chance to upload the documents already that were received?

MS. BALALA: Yes, the documents have been uploaded.

CHAIR PALTIN: They have been uploaded?

MS. BALALA: Yes.

CHAIR PALTIN: Okay. Cool. So if there's no objection, I'll take a ten-minute recess to return at 9:18, give Members a chance to print out the amendment summary forms that were submitted, and then we'll look them over during that recess, and then we'll come back ready to go.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR PALTIN: Okay. All right. So I'll be calling a recess. The time is 9:08. We'll be back here at—I'll give you guys 12 minutes—let's come back at 9:20. ...*(gavel)*...

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RECESS: 9:08 a.m.

RECONVENE: 9:21 a.m.

CHAIR PALTIN: . . .*(gavel)*. . . Thank you. The...will the Planning and Sustainable Land Use Committee meeting of February 18th return to order. The time is now 9:21. Thank you all for being so prompt. And so I...I did have a quick discussion with Staff after the last meeting, and they said, you know, like John Hendrick *(phonetic)* said, while it's preferred that there be a motion on the table to take a vote, it's not necessary. So as we go through these amendments, I was...for the ease of Staff, I'll just say all in favor and all opposed so that they know. So I...I had about five new amendments. So let's just start from Page 27, Section 2, Policy Framework. When I first looked this over, and I see the first page it just says for landowners, it kind of got me like whoa, what about the rest of us, you know? And then I looked at the CPAC draft, and I noticed that the Appendix B, Plan Methodology, was in the front before. And so I think for me, I'd just like to move that from page 142 back to the top of page 27. The...it provides insight and context into this section, and it seems kind of weird that we're making someone flip to the appendix to read that. So I just was suggesting we put it back as the CPAC version. Member King, question?

VICE-CHAIR KING: Yeah, no, I support that. And so are you also saying that we should re-letter the appendixes so that Appendix C becomes Appendix B?

CHAIR PALTIN: Yeah. But we're taking on appendixes...appendices with Section 3, so we'll...we'll get to that when we get to Section...

VICE-CHAIR KING: Okay. No, I support it because I think the more we can put into context and the less we put into appendixes, it...it really...it should be part of the plan, not as an afterthought. So yeah, I like that change.

CHAIR PALTIN: Okay. And to go along with it, in the CPAC version, the note on policies was on page 28. So I'd like us to just...because we can't fit them both on page 27. We'll just move the note on policies to the bottom of page 28. So all in favor of that change...do you guys want to talk about it a little bit more?

MS. MCLEAN: Chair, may I make a comment please?

CHAIR PALTIN: Sure.

MS. MCLEAN: I...I just wanted the Committee to know that that change was a recommendation that came from the Department, and that's because I...I agree with the discussion that you're having to put this information up front. But once people start using the plan and understand it, we felt it would be more cumbersome to have that information up front rather than people being able to get directly into the content of the plan, which is what's going to be used on more of a regular basis. So I'm not arguing about it, I'm just giving you the explanation of why we recommend it...why we made that recommendation. Because that is how it was structured, and that's how Staff structured it, but that's why

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we made the recommendation. So your call on where it goes, just letting you know the background. Thanks, Chair.

CHAIR PALTIN: Thank you, Director. Yeah, I just...I didn't really like the optics, like this is the community plan, and we're starting off for the landowners. So you know, and...and I'm not...I'd love for our West Maui community members to use this as a bible, but in the past it sat on the shelf, so it may need to be up front. So all in favor of those two changes, moving Appendix B from page 142 to the top of page 27, and moving note on policies to the bottom of page 28. All in favor, raise your hand and say "aye."

COUNCILMEMBER KAMA: Aye.

COUNCILMEMBER MOLINA: Aye.

CHAIR PALTIN: All opposed? So that's nine "ayes" and two...zero "noes." So the first two amendments passed. On page 29, next amendment was just in the first paragraph, third sentence, I wanted to add, instead of just flood and drainage facilities to help convey rainfall flows to reduce flood risk to the community, and just add, and sedimentation in the nearshore waters. Just because of, you know, the Kahana silt basin project, the Nāpili sedimentation basin project, it's kind of an important issue in West Maui to keep that sedimentation out of the nearshore waters. All those in favor of that amendment, raise your hand and say "aye." Nine "ayes," zero "noes." That amendment passes. Thank you, guys. We're moving along real good. Next up on mine is to change the various headers. At the top of page 30, you can see it says West Maui Community Plan, and then a line, and it says, Maui Planning Commission draft. I'd like to replace that Maui Planning Commission draft with the 2.1 goal, which says, ready and resilient systems so that when people are looking at the policies...like 2.1 is all about ready and resilient system goals. Then when you move on to 2.2, page 36, that goal is a complete balanced and connected transportation network. So I feel like once we pass this, this will not be called the Maui Planning Commission draft anymore. And we can have at the top what goal it corresponds to so when people are looking at the policies, they can look at the corresponding goal just for, you know, ease of identifying what we're trying to do here. Any discussion on that? All in favor, raise your hand and say "aye." Any opposed? All right, unanimous. Thanks, you guys, you're doing great here. Yes, Member Lee? Did you have a question?

COUNCILMEMBER LEE: Yeah. Before we take a vote going forward --

CHAIR PALTIN: Yes.

COUNCILMEMBER LEE: -- can we also ask Michele if she has any comments? Because your changes seem to be reasonable, but we're not the ones that are going to, you know, implement this, so we need her to say okay, yeah, no problem, you know.

CHAIR PALTIN: Okay.

COUNCILMEMBER LEE: Okay, thank you.

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CHAIR PALTIN: Sure. Okay. Next we're on page 31 and...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Yes, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just a quick clarification on our process.

CHAIR PALTIN: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Are we doing all of your proposed amendments? Are we going page by page? So should I like jump in when I have a proposed amendment on the page that we're currently on, or should I wait until we go through all of your amendments?

CHAIR PALTIN: Let's go page by page. Jump in when we're on that page so we don't go backtrack.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. Well...

CHAIR PALTIN: Did you have one for 20...27 through 31?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes, page 31.

CHAIR PALTIN: Okay, which one? 31. Okay, we're on 31 now.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. Perfect.

CHAIR PALTIN: So 2.1.3, this is a proposed amendment from Rawlins-Fernandez. Member Rawlins-Fernandez, did you want to introduce it, or did you want me to say it?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure, you can say it.

CHAIR PALTIN: Okay. So Member Rawlins-Fernandez's for 2.1.3 on page 31, she'd like to add a letter C to the policy, for redevelopment and new developments within the State recognized sea level rise exposure area, developers shall proactively...and C would say, sign a County of Maui drafted liability waiver releasing the County of Maui and State of Hawai'i from any and all future costs associated with maintaining or protecting the property developed within the SLR-XA including, but not limited to, costs associated with retreat, hazard mitigation, cleanup costs to maintain the health of the nearshore marine environment and...from material debris originating from the ocean or from the structure's own erosion. Any discussion on C? Director McLean, are...are you okay with that?

MS. MCLEAN: In general, yes. It might be a good idea to get Corporation Counsel to comment

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on that.

CHAIR PALTIN: Okay. I'm going to just add a letter D to it before we get Corporation Counsel's input, and that's, sign a legally binding agreement drafted by the County of Maui waiving the ability to ever request shoreline hardening for their property or project from the County of Maui or the State of Hawai'i. Mr. Hopper or Ms. McLean, any question or comment on the entirety of this amendment for 2.1.3?

MR. HOPPER: That's...I mean, that's the first time I've heard of doing something like that. The...normally that would be something that you'd have in the Maui Planning Commission rules because the...the...the...although the plan does have the force and effect of law within the Special Management Area, not all actions are subject...are...are developments. You could have an exemption, for example, within that area, so this would not cover all of those. So like many of the other community plan policies, I think it would need to be implemented by the Planning Commission through their rules. Secondly, I mean again, that's something I'd want to review and maybe advise you in executive session on...on some of these issues. If you're...you're looking at requiring a landowner to say they will not do something in the future that they may otherwise be legally entitled to ask for, they may be generally legally able to ask for something from the Commission, and...and, you know, the Commission might deny that or they may approve that. But this would...this would change that as well. And so I think there'd be...that's some significant changes that again, I haven't looked at before this meeting, so you know, I'm hesitant to say this is all...there's...there's no issues with this at all. I mean, in...in general, granting a permit to somebody under Hawai'i law does not give rise to a claim against the agency granting the permit for some type of negligence, for example. For example, if a...there's Hawai'i Supreme Court case law on...I think there was a case where a subdivision was granted approval, they had repeated flooding, and there were claims against the County for approving the subdivision and not adequately reviewing the, you know, the...the drainage plan in the area. And the Hawai'i Supreme Court said that the County did not have liability for the failure of the designers of the project essentially to...to properly design a project. That if the County was liable every single time it had to review a permit and approve it, then...then that would be an untenable situation. So that's the general law with respect to that. So I...I...I think in general we...we have required, as conditions to permits, for example, insurance and indemnity and things like that, although those are normally discretionary permits we're looking at. And so...and these would be discretionary permits to an extent, depending on what they...what they were. But I would want to be able to review those issues and...and look at that pretty closely because it's something that...it is different, and I think would...would need to be implemented through Planning Commission rules, which again, that's...that's, you know, that's up to the Planning Commission to --

CHAIR PALTIN: Okay.

MR. HOPPER: -- to...to put in.

CHAIR PALTIN: Thank you. Member King?

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VICE-CHAIR KING: Okay, thank you, Chair. Yeah, it's a good discussion. I...I like the intent of these, they seem more like implementation items, so maybe there's a way to put this...the intent of wanting the liability waivers, or the...to address the liability issues into policy, and then in the implementation items, to...to try to create the avenues for protecting the County. And...and then the agencies that would be responsible for that would be the Planning Commission, the Council, and the Administration. You know, we have to...we have to work on...we may have to work on a policy or an ordinance. Because this comes up every time we look at a development that's potentially in or close to the sea level rise area, you know, it's always what liability does the County have. People who are already in that area, you know, from no fault of their own or ours because we didn't know about sea level rise when they built are asking that question, you know, what is the County...does the County have to replace my house somewhere else because they allowed me to? So I...I do think it's something that we need to work on for the entire island. And it might be better to put these into the implementation, to Chapter 4, but also put a...put a statement in 2.1.3 about the need for such a policy or ordinance. So that's my...

CHAIR PALTIN: So...

VICE-CHAIR KING: I wonder if maybe Director McLean could comment on that.

CHAIR PALTIN: Director McLean? And then maybe too, what are your thoughts about adding this as...now that we're going through the proposed SMA shoreline rules update, what are your thoughts in terms of this amendment and the possibility of having it be for the Planning Commission rules? Or anything else you'd like to discuss relating to this.

MS. MCLEAN: There...there is already language in the proposed rule amendments talking about hold harmless agreements when it comes to repairs and renovations of structures within the shoreline setback. And when we say within the shoreline setback, that's with the assumption that the sea level rise exposure area's red line will be the basis for the setback. So a similar...a similar idea that if you want to do this thing that we consider to be potentially threatened by coastal hazards, then you need to sign a harm...hold harmless agreement saying yeah, I know this is stupid, but I'm...I'm going to do it anyway, but you're not responsible. So language like that is already in the rules. I'd have to compare that exact language with what's being proposed here. I don't know...and again, getting Corp. Counsel's input, I don't know if the term "liability waiver" is the correct term. We were calling it a hold harmless agreement. Yeah.

CHAIR PALTIN: I have my rules here. Do you happen to know what section that hold harmless agreement is? And we can compare the language.

MS. MCLEAN: It would be in the shoreline rules under the uses allowed within...within the setback. Not the "no needs," but the other uses allowed with a shoreline setback approval.

VICE-CHAIR KING: So Chair, if I could follow up with just...so...so Michele, do you think that we could put something in this section that refers to the need for that since we haven't

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gotten there yet? And...and if we get to Chapter 4 and we haven't approved those rules and we put that...we put these as implementation items and then when we approve the rules, you can check it off because it's done. But you know, at least this backs up the need for that hold harmless clause in the rules. I mean, what are your thoughts on that?

MS. MCLEAN: I don't...I don't see a downside for putting it in both places.

VICE-CHAIR KING: Okay.

MS. MCLEAN: I mean, one is a community plan, you know, this broader thing. Granted, when you're talking about seawalls and shoreline hardening, you're only talking about shoreline property, so the shoreline rules also apply. But yeah, I don't see...I don't see a reason why it should be in one place and not the other, it can be in both places.

VICE-CHAIR KING: Okay. Thank you.

CHAIR PALTIN: Okay. I...I couldn't really find it under the gun, but how's about we approve the idea of it subject to approval of form and legality? We vote on it subject to the approval of form and legality by our Corporation Counsel. Member Sugimura? Can't hear you.

COUNCILMEMBER SUGIMURA: Sorry. Okay, so I would prefer that we get the language and have Mr. Hopper review it and then vote on it, so we have the...you know, it's...it's that important. So I would rather wait for Mr. Hopper to make his recommendations and legal assessment before we move forward. That would be my preference.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez? Did you raise your hand?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I did. Mahalo. Okay. So I...I agree with Member King that the way that the language is drafted is more of an action item, implementation rather than policy, and so I can propose striking from "sign" all the way to "releasing" and inserting in its place...well, actually, so starting with, the County of Maui should make efforts to hold itself and the State of Hawai'i from any and all future costs, and then the same language there, so that it's more of a policy. And that was for C. And then for D, again, the policy would be, the County of Maui should make efforts to waive the ability to ever request shoreline hardening, et cetera, et cetera. So that's my proposed amendments to my amendments.

CHAIR PALTIN: Okay. And...

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Okay.

CHAIR PALTIN: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

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CHAIR PALTIN: And I just wanted to share this with you as well, maybe Director McLean can clarify on 2.3, page 22, it says, the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Maui harmless from and against any and all loss, liability claim, or demand arising out of damages to said structures or activities from coastal natural hazards and coastal erosion. Was that the part in the proposed shoreline rules that you were referring to, Director McLean?

MS. MCLEAN: Yeah. I just found that too, and I didn't want to interrupt the discussion to --

CHAIR PALTIN: Okay.

MS. MCLEAN: -- you know...yeah.

CHAIR PALTIN: It's...it's similar, but different. Yes, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So it sounds like we're kind of in alignment then.

CHAIR PALTIN: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, great. So that's already what we're doing, that's the direction we're heading, so it's not --

CHAIR PALTIN: Crazy.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- coming from left field. Yeah. Thanks.

CHAIR PALTIN: And Mr. Hopper, are you okay with that as...as amended...the proposed amendment as amended to say, the County of Maui should make efforts to release the County of Maui or waive the ability? I'm sorry, I didn't know if...

MR. HOPPER: Yes. I...yeah. There's...there's...I...I...I understand what's...what the objective is, and I think that makes sense. We...we certainly do that for permitting in other situations. It's just, you know, whatever the Planning Commission decides to adopt, you know, I don't...they...they may not decide to adopt that. I don't know why they wouldn't, but that hasn't been adopted yet, so just...just to keep that in mind. It...it's just an odd situation because the community plan does have the force and effect of law in the SMA, but under the Charter, the Planning Commission's the...the authority in the Coastal Zone Management Area. So there's certainly things you can do through the community plan that will have an effect, but it's...it's just a little bit different of a situation because it's not like zoning ordinances, where you can just implement the plan by adopting the zoning ordinance. It's a little bit different because you don't have as much control over the specific implementation in the rules. So that's all I was getting at with...with that issue. But that...that language sounds...sounds fine. As with the rest of the plan and the your amendments, I'll still have to review them and approve them as to form and legality, but I think your language sounds...sounds fine, and...and...and that...that makes sense. And the details, I think, would generally be in

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the rules rather than the plan, but, you know, it's...it's up to you to...to look at that issue for sure.

CHAIR PALTIN: Okay, great. Thank you so much. All right, so we'll just vote now and, you know, it's everything, the entirety of the document is subject to form and legality, so we can go ahead, I think, and proceed. All those in favor with that amendment to add that letter C and D, raise your hand, say "aye."

COUNCILMEMBER LEE: Aye.

CHAIR PALTIN: Any opposed? Okay. Cool. So that passes with unanimous. And I've just been informed that Member Sinenci's Office did also send in an amendment, but we're not at that point yet. So just letting you folks know, if you have somebody able to print that out for you. Moving ahead, that was 2.1.3 on page 31, moving on to page 32. And so last time we had a discussion, and right before the recess, we had a little discussion about leaving 2.1.8 a little bit broad because it's just a policy, and when we get into amending the Building Code, if that's what we want, we can get more specific as to what standard because it's a pretty complex discussion. Are Members okay with leaving 2.1.8 amendment kind of broad and not giving the specific hurricane standard rating? Any discussion on that? All those in favor...oh. Member Rawlins-Fernandez, did you have a discussion item for that?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, I do. So I...I understand like keeping it broad, but I think like from Category 1 to Category 5 is pretty substantial. And I...is...so don't we have something in the Building Code that says what category that it's currently at, and can we not just make it align with what currently exists at the minimum? So if it's Category 3, then it's Category 3. I'm not, you know, advocating for a specific level of hurricane, but I think that putting something there would be good.

CHAIR PALTIN: Okay. So then we're going to have to wait, I guess, for MEMA to get back to us with the specifics on 2.1.8. We'll table that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Does...Chair, does...does Planning have that part of the Building Code or is that a Public Works' thing?

CHAIR PALTIN: Director McLean?

MS. MCLEAN: Yeah, the Building Code is Public Works.

CHAIR PALTIN: Okay. We'll...we'll come back to that one.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Sure. Okay, the next one is pretty nonsubstantive, both...both --

VICE-CHAIR KING: Chair?

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CHAIR PALTIN: -- Member...yes, Member King?

VICE-CHAIR KING: Yeah, thank you. I had my hand up earlier. I just wanted to just to try to clarify the process. If you could tell us what amendment...I think this goes back to your original amendment summary form for Section --

CHAIR PALTIN: Okay.

VICE-CHAIR KING: -- 2. So if you can just tell us when you are addressing...if it's on your amendment summary form or Member Rawlins-Fernandez's summary form, you know, just so we all know where...I've got piles of --

CHAIR PALTIN: Sure.

VICE-CHAIR KING: -- papers that I'm trying to keep separate on...on my lap and on my table and the book, and so that would helpful. Thank you.

CHAIR PALTIN: Sure, sure. Sorry, my bad.

VICE-CHAIR KING: So what we're doing on...so what we're...what you're...your new proposal for that Section 2.1.8 is to eliminate the extra stuff that you originally proposed on your original amendment summary form?

CHAIR PALTIN: So we're going to have to wait on that one because we haven't heard back from MEMA yet, and Member Rawlins-Fernandez would like to get more specific.

VICE-CHAIR KING: Yeah, no, I understand that. I just wanted to just clarify where we're at in the...in all these, you know, different amendment summary forms...

CHAIR PALTIN: Yeah, that's where we're at.

VICE-CHAIR KING: Okay, great.

CHAIR PALTIN: We're tabling that one.

VICE-CHAIR KING: Okay, great.

CHAIR PALTIN: So the next one is both Member Rawlins-Fernandez and my older amendment summary form. It's for page 32, 2.1.9, a nonsubstantive, like, typo correction to add the N to make the word greenways, in 2.1.9. All in favor, raise your hand and say "aye."

COUNCILMEMBER LEE: Aye.

COUNCILMEMBER SUGIMURA: Aye.

CHAIR PALTIN: Okay, you have eight...eight in favor, and one excused. Oh, nine. Sorry. I just saw the hand pop up. Nine in favor and...all unanimous for 2.1.9. Okay. Next up

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on Member Rawlins-Fernandez's amendment summary form...oh, sorry. Member Molina?

COUNCILMEMBER MOLINA: Oh, no, sorry. Madam Chair, are we still on page 32? After Member Rawlins-Fernandez's turn if I could ask for a consideration on 32. Just more of a clarification.

CHAIR PALTIN: Sure, sure. Go ahead, Member Molina.

COUNCILMEMBER MOLINA: I'll yield to Member Rawlins-Fernandez if she wants to go ahead and do her amendment, and then I can go after.

CHAIR PALTIN: Okay. So Member Rawlins-Fernandez's amendment is for 2.1.11 on page 32, and she'd like to add, water catchment systems, after greywater. So it will read, and use greywater and water catchment systems where the State Department of Health allows it. Any discussion on that? All in favor, raise your hand and say "aye."

COUNCILMEMBER LEE: Aye.

CHAIR PALTIN: Okay. So we have eight for it and one excused, Member Johnson. That passes. Okay. And then Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. Just a question for the Department under Item 2.1.10 where it mentions, prevents impacts to streams. Instead of using, prevents impacts to streams, did the community maybe consider stronger language such as, there shall be no impacts to streams? I don't know if anyone from the Department can comment on that, Ms. Eaton or Ms. Maydan.

VICE-CHAIR KING: Chair?

CHAIR PALTIN: Planning --

VICE-CHAIR KING: Chair --

CHAIR PALTIN: -- anybody?

VICE-CHAIR KING: -- I have a...I have another potential amendment to that same section, maybe I could add that to Member Molina's concern so they could comment on both. If you --

CHAIR PALTIN: Okay.

VICE-CHAIR KING: -- don't mind, Member Molina?

COUNCILMEMBER MOLINA: Yeah. No, no.

VICE-CHAIR KING: Basically kind of in the same vein as making the language stronger to

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change the first word from “encourage” to “require.”

CHAIR PALTIN: I’m sorry, which one were we on?

VICE-CHAIR KING: 2.1.10.

CHAIR PALTIN: Oh, okay. Yeah, yeah. Shoot, I...I totally spaced out, I had one on that. It was on my second...I’m sorry, my bad. So...

VICE-CHAIR KING: Oh, so I was just...I was just, you know, suggesting we change the word “encourage” to...“it require” which I see on your amendment summary form as well.

CHAIR PALTIN: Yeah, yeah. So...so Member Molina, Member King, and myself have this as an amendment proposal. Mine is on the second amendment summary form that I just uploaded this morning, and I took mine...the wording from my amendment from strategy number 35 in Appendix 10 of the Water Use Development Plan after we did that homework for Member Sinenci’s Committee. So this is right out of Appendix 10, WUDP, these words, for 2.1.10, require private and public water systems to develop in a manner facilitating potential interconnection or integrated management in order to optimize pumpage, mitigate saltwater intrusion, prevent impacts to stream, and preserve regional resources. And so Member Molina, you wanted something stronger than prevents impacts to streams?

COUNCILMEMBER MOLINA: Yeah, for the sake of semantics or just strengthening...you know, and I just throw it out there as an example, change it to, there shall be no impacts to streams, rather than prevents impacts to streams. So just for consideration. If we want to make it more --

CHAIR PALTIN: Okay.

COUNCILMEMBER MOLINA: -- tighter and specific. I mean if there’s other words, then by all means, but as long as it gets...we get to that same...reach that same objective to tighten it.

COUNCILMEMBER SUGIMURA: Can we hear from the --

CHAIR PALTIN: Okay.

COUNCILMEMBER SUGIMURA: -- Department?

CHAIR PALTIN: Yes. Director McLean, do you have any comment on the entirety of 2.1.10 --

MS. MCLEAN: I...

CHAIR PALTIN: -- as amended?

MS. MCLEAN: Thanks, Chair. I would want to see if Pam and Jen have any comments on

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that. My thought was...I mean, whether you approve it now and then revisit it later, is getting input from the Water Department because I, you know, I don't know if that might be problematic for them. Because again, we're looking for these plans to really be implemented, and if...if requiring that is something where there may be situations where they can't do it, we don't want them to be in defiance of the plan. We don't have much involvement with private water systems, so you know, the...the Department of Water Supply can only do what it can do. But I would just...using the word encourage, I would encourage you to get the Water Department's input, you know, whether it's, you know, after you take action today if you choose to, just at some point. And I don't --

CHAIR PALTIN: For...for the --

MS. MCLEAN: -- know if Pam and Jen have anything to add.

CHAIR PALTIN: -- the part that I'm proposing, I took it out of the Water Department's document that they gave to us to pass. So that's why I was assuming my part of it would be okay because it came straight from their document. If you're talking about Member Molina's part, instead of prevent, there shall be no impacts to streams. Maybe we need Corp. Counsel on that. But go ahead, Ms. Maydan, if you had something to add to Director McLean's comment.

MS. MAYDAN: Thank you, Chair. I would just agree with Director McLean that with any policies or actions we have that were responsibility of other departments, we certainly confirmed their ability to implement the policies or the...the actions. And regarding Councilmember Molina's question, whether the community talked about stronger language in that policy to the statement of prevent impact from streams, not to my memory. I mean, preserving water quality is certainly a priority of the West Maui community, but to this specific policy, I do not recall discussion on that particular statement, so I would say whatever your Committee feels is appropriate. Thank you.

CHAIR PALTIN: Thank you. And just because I've worked next to streams for a long time, sometimes it feels like, you know, you want to prevent things, but sometimes Mother Nature just overruns you and you don't have control, so maybe that's why. I mean, I would love no impacts to streams, but sometimes we're not the ones in control. Sorry. I'll take Member Sinenci, and then Member Rawlins-Fernandez. You had something to add, Member Sinenci?

COUNCILMEMBER SINENCI: Mahalo, Chair. I...I believe when it comes to streams, it's under the Commission of Water Resource Management. So I don't know if we should say something about...you know, they normally either provide input when it's...when you're taking from streams.

CHAIR PALTIN: Yeah. So that note on policies at the beginning does go over it. Kind of like, you know, some of this isn't the primary responsibility of the County, that developers and planners should still implement these policies when designing and approving projects, and work with other departments and agencies. So that would...I think that would fall under that disclaimer at the beginning on policies, that not everything is

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under County control.

COUNCILMEMBER SINENCI: And Mr. Fujii said...I mean, they mentioned on Tuesday about, you know, the County, you know, they refer to the County putting it in the WUDP too, and then for less work for them to do at the State level, yeah.

CHAIR PALTIN: Yeah. Thank you. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So I had an amendment that wasn't on my amendment summary form --

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- to...the...this...

CHAIR PALTIN: For the same one?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, for this item, 2.1.10. And it was to add at the end, so preserve regional resources, and preserve traditional and customary rights protected under Constitution...the Hawai'i Constitution Article XII, Section 7. And I think that may address Member Molina's intention in adding, no impacts to streams. Because the word "impacts" is very broad, there...there's some...you know, there's traditional and customary practices, like having 'auwai that go into the lo'i and then return back into the stream that I guess one could argue impacts the stream, but it adds to the stream in the whole of the ahupua'a down to the Loko i'a and the muliwai. So I...I...I think I understand where Member Molina is going with it, like no adverse impacts to the streams. And so I think adding language to preserve traditional and customary practices that's already protected under the Constitution would have that effect of ensuring that being able to gather limu at the end where the muliwai is would ensure that there aren't adverse impacts to the stream.

CHAIR PALTIN: Okay. So you wanted --

COUNCILMEMBER MOLINA: Sounds good.

CHAIR PALTIN: -- and preserve...and preserve traditional and customary rights according to HRS [sic] Article XII, Section 7?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR PALTIN: Okay. So the entirety of the amendment for 2.1.10 on 32 would read, require private and public water systems to develop in a manner facilitating potential interconnection or integrated management. That part right there is straight out of the WUDP. And then, in order to optimize pumpage, mitigate saltwater intrusion, prevent impacts to streams, and preserve regional resources. That section is from the CPAC. And then add, and preserve traditional and customary rights according to the Hawai'i Constitution, HRS [sic], Article XII, Section 7.

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COUNCILMEMBER RAWLINS-FERNANDEZ: No HRS, it's the Constitution.

CHAIR PALTIN: Oh...

COUNCILMEMBER RAWLINS-FERNANDEZ: So it's just...it's just Article XII, Section 7.

CHAIR PALTIN: Hawai'i Constitution, Article XII, Section 7. Preserve traditional and customary rights according to Hawai'i Constitution Article XII, Section 7.

COUNCILMEMBER RAWLINS-FERNANDEZ: Protected under, but sure, we can massage --

CHAIR PALTIN: Oh, protected --

COUNCILMEMBER RAWLINS-FERNANDEZ: -- it later.

CHAIR PALTIN: -- rights. Protected under Hawai'i Constitution Article XII, Section 7. Okay. Any more discussion on that item?

COUNCILMEMBER SUGIMURA: Mr. Hopper.

COUNCILMEMBER MOLINA: Mr. Hopper.

CHAIR PALTIN: Mr. Hopper, yes?

MR. HOPPER: Yeah, just...just I understand that it might be from the...the Water Use and Development Plan, but the...stating, require private water purveyors, you just may have...and I think you said it before, you may have some limited authority to require private water developments or...private water developments because they're regulated by the State. So I don't know to what extent that would have...would be able to be implemented. And...and I think that, you know, no impacts to streams, you know, that...that might not be feasible to have absolutely no impacts. I think that you had that...you kind of stated that.

CHAIR PALTIN: Yeah. We --

MR. HOPPER: And you know, if you're talking about...

CHAIR PALTIN: -- took out that thing.

MR. HOPPER: So...so...yeah. So those were just the comments on the earlier ones. But to say, require private developers, as long as it's...you know, you got to...I think it's important to...to...to know that there's limited County authority there to...to do that. And so I'm not sure how that would...that would affect it. If...if it's talking about requirements for County projects, then I think you have, you know, a lot more control obviously.

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CHAIR PALTIN: And it's my understanding that outside of the SMA, it's like a guideline for the vision that we'd like to see, the policies, but in the SMA, it's more of a...kind of like an ordinance. So if we put this in, we're understanding that it's not going to be able to be enforced outside of the SMA, but it is the vision that we'd like to see for our community. Is that an accurate statement?

MR. HOPPER: Well, I...I'd...I'd first want to see what the...if that's actually in the Water Use and Development Plan, I'd...I'd want to know why the Water Department believes that that's...that's something that's worthwhile putting in because it's my understanding we cannot regulate...County anyway cannot regulate private water systems, although maybe I'm overlooking something. The other issues are...you know, I...I...I think that's why the word "envision" was...or "encourage" was used rather than "require." Require has the sense of you're going to pass an ordinance to require this, and if...if it's not done, then...then it's in breach of the plan. And that's why in general, I'm hesitant to advise to put in language that you would not be able to...to implement. If it's require public, that's fine. And...and if I'm overlooking something with respect to requiring private water development, I mean, I guess if you're talking about oh, we want to do a Change in Zoning, well, then yeah...or...or if you have a discretionary permit, yeah, the agency may have some control over the development where they would say, the way you're doing this private water means that we're not going to approve your development. So I suppose that's a situation where you...you could have control over that, but that's...that's not going to be a situation where if someone is just getting a building permit and...and they're using a private water system, you know, we couldn't implement that part through the plan. So that's the only thing I'm looking at with that. And again, if that's in the Water Use and Development Plan, maybe there is an avenue that I'm not seeing here if that's something that was put in there and that there's a reason that...that we did that. But just generally speaking, it's hard to put in language that says...you know, if you would put in language that would say require airports to do X, Y, and Z, you know, that's difficult because that might be under State control, just...just as an example. So...

CHAIR PALTIN: How about...

MR. HOPPER: And...and the more things you put in the plan...sorry.

CHAIR PALTIN: How about, require public water systems and private where possible...private systems where possible to develop in a manner facilitating...like that, is that better?

MR. HOPPER: Yes, I think that's...that...that's better. I mean, it...just...it's just the expectation created by saying require something that you won't be able to do, and I just want to...I mean, I think it sounds like you are all aware of that, but I wanted to make clear that that's not something that's necessarily something the County could implement.

CHAIR PALTIN: Yeah. And...Member Johnson, followed by Member King.

COUNCILMEMBER JOHNSON: Sorry, just to clarify a question for myself. Are there private water systems within SMAs?

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CHAIR PALTIN: Director McLean, or someone from Planning?

MS. MAYDAN: Chair, I can address your question.

MS. MCLEAN: Are there private --

MS. MAYDAN: Sorry, go ahead.

MS. MCLEAN: -- water systems in the SMA?

CHAIR PALTIN: That's the question.

MS. MCLEAN: I would...I would think there are areas served by private water systems in the SMA, but I don't know that the system itself...I don't believe the system itself would be. You know, the...the treatment system, the pumps, the wells, probably not, because I don't recall ever seeing those come in for permits.

CHAIR PALTIN: I think Kapalua Water Company serves in the SMA, but I don't know if their plant is in the SMA.

COUNCILMEMBER JOHNSON: Okay. Thank you.

CHAIR PALTIN: Member King?

VICE-CHAIR KING: Thank you, Chair. Because...you know, I...I like the language that you originally proposed with the require because if we...this is not an implementation chapter. So if we...we're going to put it into the implementation chapter and say we had to do that, that would be different. But I just want to remind everybody who...and Chair, with those didn't know that, you know, when the Kihei Community Plan or the Kihei-Makena Community Plan had...you know, I'll use this one example of a lot that was...that was designated as business use in the community plan, but when it came to the...someone bought it. When it came to the Council to change the zoning, the Council said no, we don't want that. And so there...there's going to be those kinds of conflicts where things aren't going to be implemented because of whatever, will of the Council or...or legal issues, but to me, this is what the community wanted. I mean, I heard from a couple of testifiers directly that the language in this is there's too much that puts it back into that...that genre of a guidance instead of ordinance, instead of by law. So you know, I'm comfortable...and especially if it's in WUDP, I'm comfortable with using that language of require. And then, you know, if...if it's addressed in the implementation then we do where possible, you know, we put that language in there, where possible --

CHAIR PALTIN: Yeah.

VICE-CHAIR KING: -- for private.

CHAIR PALTIN: And we also have that disclaimer at the front about the policies, not everything

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is under the County purview, so --

VICE-CHAIR KING: Right.

CHAIR PALTIN: -- that's kind of a disclaimer. Ms. Maydan, it looks like you have something to add to the conversation.

MS. MAYDAN: Mahalo, Chair. I just want to provide a clarification. I heard you state that the community plan is regulatory in the SMA. That is true, but I also wanted to make sure that it's understood that the community plan is also regulatory for changes in...changes in zoning, County special use permits, and subdivisions. So that's broader than just the geographic --

CHAIR PALTIN: Oh.

MS. MAYDAN: -- region of the SMA.

CHAIR PALTIN: Sorry. Yeah, my bad --

MS. MAYDAN: Thank you.

CHAIR PALTIN: -- I didn't include all the places where it was regulatory. And to me, that sounds pretty good. Member Lee?

COUNCILMEMBER LEE: Madam Chair --

CHAIR PALTIN: Yes?

COUNCILMEMBER LEE: -- I'm thinking that the less confusion that we put into the plan, the better. The...the more consistency we put into the plan, the better. And it...clearly we have no jurisdiction over private water systems. So I'd like...I liked your suggestion of where possible in this...in this paragraph, not only in the implementation section.

CHAIR PALTIN: Okay. So I guess the...the vote will be whether people want it, require public water systems and private where possible to develop in a manner facilitating potential interconnection or integrated management in order to optimize pumpage, mitigate saltwater intrusion, prevent impacts to streams, and preserve regional resources...oh, maybe take out that and, sorry...impacts to streams, preserve regional resources, and preserve traditional and customary rights protected under Hawai'i Constitution Article XII, Section 7. So the vote will be if we want to add the where possible, relating to the private water systems or not. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I like the intent of where possible. I think where possible is too suggestive, and I...I would prefer the language, to the extent legally allowable, or something, so that we can take it all the way until we cannot.

CHAIR PALTIN: Okay. Friendly amendment, to the extent legally allowed? Allowed.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Allowable.

CHAIR PALTIN: Okay. Allowable. Member Lee?

COUNCILMEMBER LEE: Didn't we also talk about adverse impacts versus just impacts?

CHAIR PALTIN: I think that part is covered under the Article XII, Section 7 part is what Member Rawlins-Fernandez...

COUNCILMEMBER RAWLINS-FERNANDEZ: But I would be happy to put that too, adverse, so that we...we're describing, because if we do positive impacts, I would totally support that.

CHAIR PALTIN: Okay. So we're...we're adding in, prevent adverse impacts to streams. Okay. Member King?

VICE-CHAIR KING: Do we need...if we're going to use, you know, adjectives like that, do we have to define what adverse is versus positive impacts?

CHAIR PALTIN: Can we look at Article XII, Section 7 for that?

VICE-CHAIR KING: Yeah. So that's...that's...I mean to me, that was...that covered it all by...by the earlier language about Article XII, Section 7, but...

CHAIR PALTIN: Okay. All right.

VICE-CHAIR KING: If you...okay.

CHAIR PALTIN: So do you guys want me to read the policy as amended one more time or...okay. So this is what...yes, Member Lee?

COUNCILMEMBER LEE: Okay. My understanding is that Article XII, Section 7 has more to do with cultural rights and practices, but I'm talking about Mother Nature, adverse impacts that may start from above. There could be all kinds of different impacts that have nothing to do with practicing cultural rights and so forth, so that...that's what I'm concerned about. Because we have...like for instance, we have ditches and streams ourselves, you know, the County --

CHAIR PALTIN: Yeah.

COUNCILMEMBER LEE: -- and God knows what goes into...you know, dead pigs or whatever, you know. So that's why I'm concerned about...you know, I think adverse impacts is...is sufficient without having to define the word adverse.

CHAIR PALTIN: Okay. So I'll...I'll read the amendment that we're going to be voting on. At this time it says, require public water systems, and to the extent legally allowable,

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private water systems, to develop in a manner facilitating potential interconnection or integrated management in order to optimize pumpage, mitigate saltwater intrusion, prevent adverse impacts to streams, preserve regional resources, and preserve traditional and customary rights protected under Hawai'i Constitution Article XII, Section 7. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay, we got nine "ayes," zero "noes." Moving on from 2.1.10...

VICE-CHAIR KING: Chair?

CHAIR PALTIN: Yes?

VICE-CHAIR KING: So you...going back to your original amendment summary form, it looks like maybe we skipped page 31, 2.1.2 that you had proposed.

CHAIR PALTIN: Yeah. We were waiting to hear back from Tara Owens on that one.

VICE-CHAIR KING: Oh, on the SLR-XA? Okay.

CHAIR PALTIN: Yeah.

VICE-CHAIR KING: Okay.

CHAIR PALTIN: We had the words, we just wanted to make sure she was okay with it, so we're still waiting to hear back from her.

VICE-CHAIR KING: Okay.

CHAIR PALTIN: Okay. Next up on my original amendment summary form, we're on 2.1.12, and I just wanted to add, including 201H and 2.97 projects. As those are the projects that usually exempt themselves from things, we wanted to say that we intend for 201H and 2.97 projects to also connect to County or private recycled water distribution when available. If reuse is not readily available, development shall be designed to allow for future connections. Any discussion on this policy? We came up with that from one of the other sections where they added 2 point...201H and 2.97 projects. Mr. Hopper?

MR. HOPPER: Just to point out, I mean, it may be obvious, but if a...if a 201H project comes in and seeks an exemption, they could also exempt themselves from this portion of the community plan. Of course, the Council would be deciding that, and the Council is the same body that could amend the community plan anyway, but just to note that, that...which I think you're probably all aware of. But I figured it would be good to state that.

CHAIR PALTIN: Thank you, Mr. Hopper. Yes, it's just, you know, visionary kind of stuff. So any discussion besides Mr. Hopper? No? All in favor, raise your hand and say "aye."

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COUNCILMEMBER LEE: Aye.

CHAIR PALTIN: Okay. And any opposed? All right. So nine "ayes" have it on that one. We're on to...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair? Sorry.

CHAIR PALTIN: Yes, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: In your amendment, it was a 201H only, or did you include 2.96?

CHAIR PALTIN: I only had 201H and 2.97, as those were the ones that usually get the exemptions, so we wanted to specify. The intention is for it to also apply to 201Hs and 2.97s; however, we are aware that us or whoever is the sitting Council can pass 201Hs or 2.97s to exempt those types of projects, but the community would rather we didn't, as a guideline kind of thing.

COUNCILMEMBER RAWLINS-FERNANDEZ: You...so I guess it would be a question for you then. Do you think by explicitly excluding 2.96 that it could be implied that it was not intended for it to apply to 2.96 too?

CHAIR PALTIN: For me, my interpretation was 2.96 would fall under the new developments in West Maui portion of it.

COUNCILMEMBER RAWLINS-FERNANDEZ: 201H and 2.97 would also fall under new developments?

CHAIR PALTIN: Yeah, but I added them here to clarify the importance of this to the community, and that an exemption to the 201H and a 2.97 goes against the policy. Because 201Hs and 2.97s are usually the one with a list of exemptions that they can get from the County, whereas 2.96 doesn't have that list of exemptions that they can go for.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Yeah, I just...I guess I'm just concerned that if we're going to start citing specific HRS and Code, that future Councils, in not reading our minutes and understanding the intent, could interpret that as us intentionally leaving out 2.96 for a reason.

CHAIR PALTIN: Okay. I'm...yes, Member Lee?

COUNCILMEMBER LEE: Member Rawlins-Fernandez, but 2.96 is not a fast-track tool in the toolbox, the other two are. So 2.96 is...is...is no different from changing a project district or a Change in Zoning or anything else. It's...it's not...it's not a special zoning category like the other two. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair and Chair --

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CHAIR PALTIN: Member King?

COUNCILMEMBER RAWLINS-FERNANDEZ: -- Lee.

CHAIR PALTIN: Oh, sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: Really quickly. I just...I...I understand the purpose of citing those two. I guess my question is, would there be any harm in also citing 2.96? And if there isn't, then perhaps we can also cite it.

CHAIR PALTIN: I'm open to it. Member King, did you have a...

VICE-CHAIR KING: Yeah, I just have a question. I don't...I think that's...I don't have a problem with including 2.96. But my question is, if we have...if you have a situation with a new development in West Maui where recycled water distribution is available and they choose not to use it, so they're still going ahead and asking for the exemption, does that require...because, you know, you made the statement that...the true statement that the Council could still allow it. But does that require a Community Plan Amendment then for that particular project, or is that just an exemption? So I just wondered if the...process-wise if maybe Corp. Counsel could address that.

CHAIR PALTIN: It would...I think it would matter if it was under one of the regulatory categories like SMA, Change in Zoning, special use permit, or subdivisions like Ms. Maydan had said before.

VICE-CHAIR KING: Well, just because we're trying to...you know, I mean a lot of us would like to say that, you know, the community plan has the force and effect of law, and so if you're going to go against it, then do you need an amendment to that? So that's...

CHAIR PALTIN: Mr. Hopper, did you have an answer for Ms. King?

MR. HOPPER: I think this looks like one of the policies--I know you're talking about new developments--that you're going to want to have implemented through ordinance where an ordinance would...would require that. I...I think there is an ordinance dealing with recycled water and required connections. I don't recall it offhand, maybe DEM would be able to, you know, give us details and see that if amendments would be needed to implement this section to require that. I thought in general, a lot of this is...is required. So I...I think that this is the type of policy that you'd be, I would assume, looking to pass an ordinance so that all projects, whether they need a discretionary approval or not. I know it's new projects, but maybe there's a project that's fully entitled, then the plan passes, you would generally want those to be implemented through ordinance. So I don't know to what extent we would need ordinance changes to...to do that. And...and so that...that would be one question I would have with this...with this section. Because something like requiring a connection, that seems more of a thing you'd want to apply to ministerial as well as, you know, discretionary approvals to the extent possible. And so that...that's...that would be the question I'd have, is that how is this...what's the best

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way to implement this? Because if you're just going to get...I mean, you know, if it's new, maybe it does catch most new things, but the details of something like this you'd think would be...you'd want to have in an ordinance that would go over the requirements and how it would be done and...and things like that. And I think there's an ordinance on that already, but I would want, you know, to check with DEM on that.

VICE-CHAIR KING: Okay, so that didn't answer my question. My question was if someone...and he was trying to get an exemption from that ordinance, even despite what it says here, do they...do they also need then to get a Community Plan Amendment?

MR. HOPPER: Well, the way that it's worded right now, it says they shall connect when available. If reuse is not available, they shall be designed to allow for future connections. So this would be something that if they needed a discretionary approval, it would appear that they wouldn't be able to get that. If it was actually available, then they wouldn't be able to get that approval without getting this Community Plan Amendment. If...you know, so if that's your intention, if you have an issue with that, then I would make...I would look at revising the language if...if there's going to be situations...

VICE-CHAIR KING: No, I don't want...no, I don't have an issue, I just wanted clarity on that, on what, you know, what things would...because that does give us another...another, you know, bite at the apple, another opportunity to say hey, you know, you can't just go ahead and do this, you have to get a Community Plan Amendment, which has to come through the Council. So that's...that...I was just...I was just asking about it because well, I wanted to...I wanted to know what...what the process was going to be if someone tried to get an exemption anyway. So you answered my question, thank you.

CHAIR PALTIN: Okay. Member Lee, followed by Member Sugimura.

COUNCILMEMBER LEE: Thank you. I was going to ask the same question. I didn't think Mike answered Member King's question directly.

CHAIR PALTIN: Okay, thank you.

COUNCILMEMBER LEE: And I was --

CHAIR PALTIN: Oh.

COUNCILMEMBER LEE: -- just...no, but I was just wondering too, that...that, you know, hopefully this is...if this passes, it's not just going to be in one community plan, right? I mean, does...does it make...

CHAIR PALTIN: Well, I can't speak for other communities, what they want, but it would be great, I mean.

COUNCILMEMBER LEE: No, no, but...but...no, but, you know, if you're going to do for one, you got to do for all, yeah? So otherwise, how can anybody know the law if it's...you know, applies in Wailuku but not in, you know, Kihei and, you know, stuff like that?

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So that...that was my question, my concern. That's all.

CHAIR PALTIN: Well, I mean, I guess it would depend if we had a wastewater treatment plant in that community because I can't imagine Kula putting this constraint on Kula when where's the recycled water going to come from? Kihei? And then we're going to have to pump it all the way up. So I don't think it makes sense for all the communities, whether or not that they have a...

COUNCILMEMBER LEE: It...it references the future, right? So...

CHAIR PALTIN: The next 20 years, yeah.

COUNCILMEMBER LEE: Yeah.

CHAIR PALTIN: Member King?

VICE-CHAIR KING: Yeah, just --

CHAIR PALTIN: Or sorry...

VICE-CHAIR KING: -- just to respond to that because, you know, I...I think this makes a lot of sense for South Maui too, when we're looking at the South Maui Community Plan, but it, you know, it...it may not make sense for all communities. And you know, I really would hope that developers who...who try to develop in a certain community would pick up the community plan for that community and say okay, here's what the community wants, does my project fit with that, first of all, or can make it fit with their desires. That's the purpose to me of the community plan is not to have, you know, island-wide...you know, some of these things aren't going to be island-wide, they're going to be specific to the community, and this is the tool that developers have. And maybe if they're trying to do something different than what the community wants, they should just go to a different community and try to figure out where their projects fits, or change their project to fit the community plan. This is what we want when we pass these community plans. And so, you know, that's...we've seen a lot of...over...over my past, you know, years on the Council, I've seen people come in for...for amendments all the time and...and which, you know, because our plan's 20 years old, I can see why they think some of them don't apply anymore. But once we get our new community plan passed, and hopefully for West Maui once we pass this, this will be a guideline for people coming into that community to develop and seeing --

CHAIR PALTIN: Yeah.

VICE-CHAIR KING: -- okay, they want recycled water --

CHAIR PALTIN: Okay. We gotta...

VICE-CHAIR KING: -- we don't have it, so it's . . . *(inaudible)*. . .

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CHAIR PALTIN: We gotta focus in because we only have three hours and we're only on 2.1, okay? So questions and answers. Yes, Member Sugimura? You're muted.

COUNCILMEMBER SUGIMURA: So from the Department, your comments, but I'm also interested to see if DEM also weighed in on this. Director McLean?

CHAIR PALTIN: Are we talking still about 2.1.12? Because we already discussed that and voted on it.

COUNCILMEMBER SUGIMURA: Aren't we still talking about that?

CHAIR PALTIN: Well, the conversation started with adding 2.96 --

COUNCILMEMBER SUGIMURA: .96.

CHAIR PALTIN: -- specifically.

COUNCILMEMBER SUGIMURA: Right.

CHAIR PALTIN: Director McLean, do you have a problem with adding 2.96 to 2.97 and 201H?

MS. MCLEAN: No, I don't think so. And I don't...I don't know that DEM would have an issue with that. I'd agree that 2.96 is kind of...might not really fit in there, but...because 2...anyway. Yeah, we don't have a problem with that being added. I don't know that 2.96 needs to be included, but...

CHAIR PALTIN: Okay. Does anyone have any objection to 2.96 being added? No? Okay. We'll take that as a friendly amendment, add in 2.96. No harm. Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Really quick. Okay, mahalo. So I just wanted to correct for the record, and like Chair Lee and Member King didn't hear an answer from Mr. Hopper, and I'm wondering if perhaps it...it's...for the record, I think Member King was asking if projects would need to apply or request an exemption to the community plan provision and not amendment, meaning amending the plan. And so I...I don't know if Mr. Hopper can answer that question. Would a project under this provision need to request an exemption to this provision in the community plan and not an amendment? Yes or no?

MR. HOPPER: I'm...I mean, if you're doing 2.96, that...or sorry, a 201H, then that you could request an exemption. Other than that, you generally can't get exempted from the community plan, you would need to amend the community plan. I don't know a way of, you know, asking for an exemption from the community plan. I guess you would...you would ask for a Community Plan Amendment that would say except that this section does not apply to this particular development or something like that. So --

CHAIR PALTIN: Yeah.

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MR. HOPPER: -- my point is that this may work better as an ordinance that applies to --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo, Mr. Hopper.

MR. HOPPER: -- everybody, and then the ordinance would say that.

CHAIR PALTIN: Thank you so much for your help.

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

CHAIR PALTIN: Okay. Moving on, Section 2.2, page 35, just a typo here. Right after where it says 2019, because 2019 was two years ago, West Maui was heavily dependent...was heavily car dependent, and residents and visitors alike were stuck in gridlock, because 2019 passed. Any objection to that? All in favor, say "aye." Any opposed? Okay, we'll count that as nine "ayes." That amendment passes. Okay, 35. Still on my...my first amendment summary form, that's the only one we're working on now because the second amendment summary form is done. On page 37, Policy 2.2.7, based on feedback from community town halls, they would like to add lighted. So support improvements for safe, lighted, and convenient movement of all users, including alternative modes of non-motorized vehicles in Lāhainā region, particularly along Honoapi'ilani Highway, Front Street, Lahainaluna Road, Waine'e Street, and Lower Honoapi'ilani Road. Any discussion on adding the word lighted? No discussion? Everybody okay with that? All in favor, say "aye." Any opposed? Okay. That one passes. Sorry, I forgot 2.2.1 from Member Rawlins-Fernandez. She...on page 36. Was that what you were raising your hand about, Member Rawlins-Fernandez? Sorry, I got mixed up. So 2.2.1, page 36, Member Rawlins-Fernandez would like to revise the sentence to say, improve West Maui's active transportation network by increasing multimodal transportation options, incorporating complete streets, adding new sidewalks, and improving existing sidewalks and other pedestrian and bicycle facilities. And that's just for the flow of reading the sentence without all those other ands and stuff. Kind of nonsubstantive. Any discussion? All in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay, that passes unanimously, 2.2.1. And moving on to the same page from Member Rawlins-Fernandez, kind of a nonsubstantive change for 2.2.4, page 36. She'd like to add the word "projects" after the word "development" in the second line of the sentence, so residential development projects. Any discussion on that? Kind of nonsubstantive. All those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: Okay, that amendment passes unanimously.

COUNCILMEMBER MOLINA: Chair?

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CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Yeah, sorry. Since we're on page 36, can I ask the Department a question regarding --

CHAIR PALTIN: Sure thing.

COUNCILMEMBER MOLINA: -- regarding 2.2.2, transportation policies about toll roads? Just for my own curiosity, did the community share any thoughts as...as to where the location of a toll road or toll roads would be?

CHAIR PALTIN: Ms. Maydan?

MS. MAYDAN: Thank you, Councilmember Molina, for your question. This conversation, it started to get broader when the CPAC and community talked about it, and they often referred to Hāna and Hāna Highway, and then we would pull them back to the discussion of West Maui. So I do not recall a specific roadway in West Maui that was ever referenced. But they just wanted...they didn't...I think the policy, when it was written at first, it may have been narrower with less examples after the...the such as. But they just wanted to list potential options. So no, I do not have a specific road to reference in the region.

COUNCILMEMBER MOLINA: Okay. Thank you for that. Thank you, Madam Chair.

CHAIR PALTIN: Thank you, Member Molina. Also on page 37, on Member Rawlins-Fernandez's sheet, she would like to add 2.96 to 2.2.8. I guess similar as before, what's the harm? Members, any discussion? Seeing none. All in favor, raise your hand and say "aye." Any opposed? Okay, that's unanimous. That amendment passes. And let's see, moving on. Okay. The next one is on my amendment summary form, page 2 of the amendment summary form, page 37 of the community plan, Policy 2.2.12. And I'd like to strike the existing policy and replace it with, determine ownership of Mill Street. And this location has been the source of a lot of conflict recently in West Maui, police are often called. Developer is trying to put waterlines and stuff, and...and there's a lot of question in the community as to who owns it. At one point, lawyers are saying the County owns it, the County is saying they don't own it. We don't know who owns it. So I think that's the first step, and it's quite an undertaking, before we do anything else. Any discussion on this matter? Everyone okay with the...yes, Member Lee, you look like you want to say something.

COUNCILMEMBER LEE: Okay. So are you saying to delete the whole sentence right now and just...and just put, determine the ownership of this road, that's all?

CHAIR PALTIN: Yes.

COUNCILMEMBER LEE: Oh, this is a 20-year plan, right, so you don't want to --

CHAIR PALTIN: Yeah.

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COUNCILMEMBER LEE: -- consider --

CHAIR PALTIN: Working with the County.

COUNCILMEMBER LEE: -- you know, the idea of an alternative parallel road at some point?

CHAIR PALTIN: Yeah, yeah. I mean, we can consider it, but I don't think we should move forward at all until we determine the ownership of it.

COUNCILMEMBER LEE: Well, you can put at the very end, after determining who the ownership of the...of the road. I mean, seems like a...a visionary statement, you know, something that people can look at as an alternative for the future.

CHAIR PALTIN: It can be, just my office has been getting a lot of complaints, even from the subdivision right below Mill Street on Leoleo Street. I guess as the construction trucks go through there, their houses are shaking and things like that. So --

COUNCILMEMBER LEE: Yeah.

CHAIR PALTIN: -- I'm...I'm...

COUNCILMEMBER LEE: I...I understand, you're...you're getting the complaints, but my...my concern is that...or my thought is we need to not only look at today, but contemplate what could happen in the future. That...that's all I'm saying.

CHAIR PALTIN: Okay. Member King?

VICE-CHAIR KING: Thank you, Chair. Yeah, I...I agree that...you know, and I like that statement in there, but I think you could add, determine ownership of Mill Street, as an implementation item to help...help us get there eventually. That would be the first step. But I would leave that sentence in there as, you know, what the community had envisioned it wants to get to eventually. We just have to put implementation into Chapter 4 because you can't get there without this first step.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So I'll take a stab at wordsmithing. If determined that County has ownership of Mill Street or...I had it, it went away. Okay. But upon determination of proper ownership of Mill Street, consideration can be made for this to be an alternative road, da, da, da, da.

CHAIR PALTIN: Upon determination of proper ownership of Mill Street, consideration can be given...

COUNCILMEMBER RAWLINS-FERNANDEZ: - To this being an alternative parallel road to Honoapi'ilani.

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CHAIR PALTIN: To this being an alternative parallel road to Honoapiʻilani Highway and Lāhainā bypass to help disburse traffic as Lāhainā Town develops. Any objection to that amendment or discussion? Member Kama?

COUNCILMEMBER KAMA: Can you read that sentence to me again . . . *(inaudible)* . . .

CHAIR PALTIN: Sure thing. Upon determination of proper ownership of Mill Street, consideration can be given to this being an alternative parallel road to Honoapiʻilani Highway and Lāhainā bypass to help disburse traffic as Lāhainā Town develops.

COUNCILMEMBER KAMA: So...so are we saying that when we determine who owns the road, then we can decide if we going do something, or we have to do something?

CHAIR PALTIN: Yeah, because...

COUNCILMEMBER KAMA: We can deliberate on it and deliberate, but do you want to do something?

CHAIR PALTIN: Well, I mean, if the County doesn't own the road, then I don't think the County can develop it.

COUNCILMEMBER KAMA: Right, right.

CHAIR PALTIN: And the County --

COUNCILMEMBER KAMA: But if it does...

CHAIR PALTIN: -- said that they don't own the road, but there's controversy on that. Member...or...or was there more questions, Member Kama?

COUNCILMEMBER KAMA: Well, I was just thinking if nobody wants to claim it, we should claim it, and then go ahead and do with it what we say --

CHAIR PALTIN: I think that's what --

COUNCILMEMBER KAMA: -- for our people's sake.

CHAIR PALTIN: -- the community said, but it's getting through the Department of Public Works that's the problem.

COUNCILMEMBER KAMA: Okay. Okay. Well, thank you.

CHAIR PALTIN: Sure thing. Member King?

VICE-CHAIR KING: Yeah, you can still...you know, the community could still support the extension of Mill Street as an alternative road even if the County doesn't own it. They

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can support it by working with the State or any other entity. I mean, we had a lot of these in the Moloka'i Community Plan where, you know, they were supporting items, you know, in collaboration with, you know, other agencies in the implementation section. So it doesn't...it doesn't necessarily have to follow. We...I mean, I think you do have to determine who owns it before you...you get to that point, but it doesn't mean you can't support it if you find out that the County doesn't own it. You could still say, you know, we support the State making this a road. If that's what the community wants, then they can still support whoever owns it making it a parallel road if that's what they envision.

CHAIR PALTIN: Yeah. I just am not hopeful, like in the next 20 years, that we'll make a determination with the way that government works. You know, I mean, a lot of it is out of our control, can't direct the departments what to do.

COUNCILMEMBER KAMA: Yeah, but . . .*(inaudible)* . . .

CHAIR PALTIN: Member Molina?

COUNCILMEMBER MOLINA: Yeah, Chair, I agree with you, determine the ownership of the road, but at the same time, what Chair Lee said, we don't want to hamstring the...the community in the future because, you know, once ownership is determined, it might be a good alternative. Because you know, let's face it, the...the population is growing. And...and I like the wordsmithing *[sic]* of Vice-Chair Rawlins-Fernandez on this as well. So yeah, I think we can...I can...we can live with that. I think we can address all of our concerns with this. So just my comments. Thank you.

CHAIR PALTIN: Thank you. Do you guys want me to read it again, what we're voting on, or you guys got it in your head? Good? Okay. All those in favor of the wordsmithed words for 2.2.12, raise your hand and say "aye."

COUNCILMEMBER LEE: Aye.

CHAIR PALTIN: Okay. So we got the wordsmith words in. Okay.

VICE-CHAIR KING: Wordsmithing, is that a word?

COUNCILMEMBER MOLINA: It was smothering. . . .*(laughing)* . . .

CHAIR PALTIN: Okay. Next I'm looking at Member Rawlins-Fernandez's second page or her back page. She's proposing an amendment to page 38 to crop the picture so the book scene doesn't end up over a person's face. Oh, that's Mapu Pali too, so she...she probably would appreciate that. Members, any objection to cropping the picture in a way that it doesn't end over somebody's face? All in favor, say "aye." Any opposed, say "no." Okay. So that passes, eight for it, and Member Johnson excused. Yes, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just a real quick question for the

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Planning Department about the photos used. If...if the photos were...we have permission and consent for all the photos?

CHAIR PALTIN: Ms. Maydan?

MS. MAYDAN: Mahalo, Member Rawlins-Fernandez, for your question. Yes, we do. We have cited the photos, and a lot of them are County photos, but yes, our...our staff member responsible for that has taken a lot of care to make sure.

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

CHAIR PALTIN: Thank you. Okay. So back to the page 2 of my original amendment summary form, on page 39 on Goal 2.3, the fourth paragraph, I'd like to replace fishponds with Loko i'a for consistency because it starts out with lo'i, 'auwai, and then fishponds, and we might as well just keep with the message of Loko i'a. And all the Hawaiian words, there's an appendix in the back just in case if anyone was wondering about that. Kind of nonsubstantive. All those in favor, raise your hand and say "aye." Any opposed? Okay. That amendment passes unanimously. Next up, both Member Rawlins-Fernandez...oh, I had one on my amendment summary form, but that wasn't an amendment, sorry, that was a question. Member Rawlins-Fernandez had an amendment on page 40, 2.3.2, and she wants to remove, unless low-impact development strategies are implemented to prevent stormwater runoff, from the end. Okay. This may be one we need a comment from the Planning Department or Mr. Hopper, whoever feels most suited to comment on this amendment. Mr. Hopper, maybe? Or Ms. Maydan.

MR. HOPPER: Could you...could you go over the amendment again? I think I'm at the policy, but it just took a second to get there. 2...2.3.2 you said?

CHAIR PALTIN: Yeah. We'd like to remove, unless low-impact development strategies are implemented to prevent stormwater runoff, at the end of the sentence. Or that's Member Rawlins-Fernandez's proposal, I'm not sure if we'd all like to do that or not. I'd like to.

MR. HOPPER: I...I'd like to look at what's currently the law there. I...I...with...with FEMA and the...the...the 19.62, I think, there's an ordinance on special flood hazard districts. And so I don't know how these...these gulches are...are labeled there, and what the basis of this language came from. You're talking about a buffer zone of 100 feet within the top of the gulches. I'm wondering if that's something that's already in the Code and that FEMA requires of us to avoid flooding and keep our flood insurance. I'd be interested in that. And so if...if this...if a low-impact development strategy language was something that's in 19.62 that allows you do that, I...I'd want to know that and know the impacts of what taking that out would do. I'd...I'd want that...that additional information on that...on that policy, I think.

CHAIR PALTIN: Okay. I do have some additional information. I did ask the note on my amendment summary form on page 2 to Public Works. If...if the mapping of Figure 2.3 on page 58 be identified and incorporated into the building permit review process as to like, you know, the...the...a way that Public Works could incorporate it. And their

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response was, Department of Public Works' review would be focused on Code compliance with respect to the Building Code in 16.26(B), Maui County Code. The Department suggests that language be incorporated into Maui County Code 19.07, Open Space Districts, to identify permitted uses or prohibitions in these areas. This review would be conducted by the Department of Planning. And then I went on to ask, would you have to wait for a future ordinance that addresses the conflict with 2.80(B) because this wouldn't...ministerial permits do not have to follow the community plan, and the response to that was, amend Maui County Code 19.07, Open Space Districts. So I think this is another one of those visionary ones. As to the removing of low-impact development strategies, Ms. Maydan, did you guys look into that? Was that qualified for a specific reason?

MS. MAYDAN: Mahalo, Chair. I'll just provide a bit of background. This policy was discussed quite a bit during the CPAC process. It went through many evolutions, they looked at it a number of times. I think I'm accurate in saying that all CPAC members were supportive of the intent of this policy to protect gulches, to protect water quality, and it was just...they did a lot of wordsmithing on this policy to try to get it right. And there was concern about limiting landowners' opportunities, and that's when the low-impact development qualification came in, that structures could be built if they were done in an environmentally conscious way. And...and so there was a lot of evolution with this policy. And seeing again that, you know, with your Committee, there is discussion and question of what's the best way, I would absolutely agree that it is...it is a visionary policy and that there may be Code changes that are needed in the future, or perhaps as an action to really implement it, but it is stating the importance of the gulches as far as protecting water quality. Thank you.

CHAIR PALTIN: Okay. So I think...Member Molina?

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. Just for my information, what is low-impact development strategies, and is it defined in this community plan or the Code? And because I note the term is also used under 2.3.5 as well.

CHAIR PALTIN: Ms. Maydan?

MS. MAYDAN: Thank you, Chair. And thank you, Member Molina, for your question. Low-impact development is defined in the plan in one of the appendices, Appendix G, Definitions, and it's on page 166. Low-impact development, a resilient approach to managing stormwater through planning, design, and structural best management practices. LID promotes use of natural systems to manage stormwater as close to its source as possible, thereby reducing runoff and pollutants. Example techniques include preservation of undisturbed areas and buffers, roadways and parking reduction, and rain gardens and infiltration.

COUNCILMEMBER MOLINA: Okay. Thank you for pointing me to that definition. Thank you, Madam Chair.

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

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So I liken this...the gulches to like the wetlands, right, they serve a purpose. And just as we wouldn't want or approve permanent structures in wetlands so that it can do its ecoservice job to the benefit of our community, we wouldn't want to...it's bad policy to allow for permanent structures in gulches, preventing gulches from doing its job, and putting those permanent structures and whoever is there in harm's way because gulches serve a purpose, just as wetlands do. And this recommendation came from a dune restoration specialist as well.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Any further need for discussion, or are we ready to take a vote? Mr. Hopper?

MR. HOPPER: Just for clarification, are the gulches currently zoned Open Space, these areas that are labeled? And are the areas within 100 feet of the top of the banks also currently zoned Open Space, or is the zoning and community plan designation something different than that, such that adopting this policy would, you know, prevent the development in that area that would otherwise be allowed? Or is it already Open Space and non-developable area? I'd be curious about that.

CHAIR PALTIN: Ms. Maydan, do you have an answer for that question?

MS. MAYDAN: On page 58, Figure 2.3, West Maui Gulches, in this community plan, the gulches as shown in that map are proposed to be designated Park Open Space in the community plan. I cannot answer the zoning question at this point in time off of the top of my head.

CHAIR PALTIN: I would imagine some is probably Agriculture, possibly --

MS. MAYDAN: Yes.

CHAIR PALTIN: -- other types of zoning. That --

MS. MAYDAN: Yes, I would agree.

CHAIR PALTIN: -- your determination, Mr. Hopper?

MR. HOPPER: Well, I don't know. I would...I don't know what the zoning is. It looks like the gulches go a fair...a fair distance makai. So I don't know if it would all be Ag, and I'm not sure if the areas within 100 feet of them would also not be Ag. I presume the low-impact development language was put in there to deal with having...having use of the land under certain circumstances, especially since you're going 100 feet in either area...in either distance from the gulch. So I was...I was curious about that language and, you know, to what extent this would be changing things for, you know, properties that might be within 100 foot...feet of a gulch that would otherwise be able to develop,

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but if this policy gets implemented would not...would not be able to.

CHAIR PALTIN: So I think this would be another one of those where maybe they would need a community plan amendment.

COUNCILMEMBER RAWLINS-FERNANDEZ: Exemption.

CHAIR PALTIN: Exemption or amendment if it's a...like a Change in Zoning. If they try to pursue it. Is that all right? Subject --

MR. HOPPER: That's...

CHAIR PALTIN: -- to form and legality.

MR. HOPPER: Well, that's...I mean, we can...I'm asking about that because when you're talking about designating things as completely undevelopable, meaning that you can't build anything there at all, and you're talking about within 100 feet of that area, I just want to know what area we're...we're talking about. Now, to say we're just going to designate it and then you can always ask for a Community Plan Amendment, there's...there is some case law on that issue that...that maybe we...we need to discuss in executive session a little bit in more detail. But we've had...we did have a case in South Maui involving that...that...that we did have to go through a...a Federal...or it was...it was a State court, but it was a trial on that issue. So that...that's my only...that's my only concern here. I mean, we're...we're substantively designating all of this...by this language, we're sort of in substance saying all of this land is Open Space and undevelopable, correct? And you know, if it's already Open Space and that's not making any difference here, it sounds like we're designating it as Open Space already and that's the plan, I'd...I'd want to know sort of what the zoning is and...and what impacts that...that would have. And then the 100-foot buffer language, I assume that, you know, that that other language with the low-impact development was put in as sort of a way to say, you know, if you do it this way, you could develop something potentially. So that...that's...that's all. That's where that difference, I think, may be...may come into play.

CHAIR PALTIN: Would it not be similar to like the shoreline setback where we have knowledge of, you know, rising sea levels and whatnot, and as well as increasing frequency of what they call the 100-year storms and whatnot? And...and just experience with development near these areas and our community watching, you know, as Honolua Ridge or Plantation Estates gets developed, even Mahana Estates to some extent, we see all the brown water washing out into the bays that are so valuable to our economy, our people, and whatnot. It's not a surprise when we see developments close to the gulches, the negative effects that the entirety of the community is subjected to as the development is going on. We've seen it at Plantation Estates, we've seen it at Honolua Ridge, we've seen it at Mahana Estates, all the way up and down the coast when it happens. I don't necessarily see how different it is than the shoreline setback to have a gulch buffer setback.

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

CHAIR PALTIN: Home schooling got you down?

COUNCILMEMBER RAWLINS-FERNANDEZ: Call for the question.

CHAIR PALTIN: Okay.

MR. HOPPER: Sorry. No, that's...that's...I mean, it's a very good point. The...the issue would be if...if...with...with those potential impacts, is the County allowed to say no development at all on...on these parcels, and is...is that something you can do? Or is it you're looking at you're going to take mitigative measures to prevent those...those impacts? And that's what the language appears to be designed to...to do. And...and I'm not saying that doing this is necessarily going to give rise to viable legal claims, it's just that with looking at this, it looks like that language was intended to say you can do certain types of development if...if you go through...through this process. And taking that out, I just want to review if that's going to give rise to potential, you know, issues that would...would arise. And I don't want to just not raise that issue with you if that's...if that's coming up in your deliberations.

CHAIR PALTIN: Thank you, Mr. Hopper, for bringing that up. And I...I'd just like to point to best management practices while Mahana Estates was being developed, you know, so...Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. It's...when it says shall remain in Open Space, I take it as for those that are already existing in Open Space. So I mean, as far as the zoning question, it says shall remain in Open Space. We're not saying that we're going to put all of them in Open Space, it says remain in Open Space. So I don't know...I mean for me, it just says we're just addressing those gulches that are already designated Open Space.

CHAIR PALTIN: Good point. Okay. All those in favor of deleting that last segment that I read, raise your hand and say "aye." All those opposed? I have eight "ayes" and one excused, Member King. Okay. Now, on my second page of my amendment summary form, page 40, 2.3.3, protect ocean and stream water quality by requiring that wetlands as defined by traditional historic knowledge or by Section 404 of the Clean Water Act be preserved as Open Space with vegetative buffer areas that are adequate to protect from pollutants. So you know, we have some traditional historic knowledge about wetlands that aren't always covered in Section 404 through Aha Moku and other sources. So I just wanted to say, western science isn't the only knowledge source to rely on in Hawai'i, we're a unique place. Any discussion on that amendment? All those in favor, raise your hand and say "aye."

COUNCILMEMBER LEE: Aye with reservations.

CHAIR PALTIN: Okay. Any opposed? Okay. So we have eight...seven "ayes," one with reservations, and Member King excused. We're moving on to page 41, 2.3.6., just adding

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on after...so it's going to read, require new developments and encourage existing developments with pools within the Special Management Area to use best management practices for cleaning and maintaining the pool, specifically prohibiting draining of pool water directly to the ocean or storm drain--I added that storm drain part--and encouraging utilizing pool water for irrigation onsite. And then I'm adding, new pools within the Special Management Area must show how pool water will be drained prior to obtaining a permit or exemption. And this is because, you know, West Maui used to be known for all the many different types of limu up and down the coast, and now we have hardly any, just, you know, invasive in front of the sewage treatment plant. So if there's going to be a new pool coming in, we'd like to know where that backwash water is going to go, that it's not going to go in the storm drain, it's not going to dump directly into the ocean. There's a whole bunch of Infinity pools all over the place, and they look like they're...what is that called, artificially extending the vegetation line in some areas sometimes. So that's the reason for my amendment. It's a problem that I've witnessed more than I'd like to with the nearshore pools. Any discussion on that? All those in favor, raise your hand and say "aye." Okay. So we got eight "ayes," one excused, Member King, on that one.

COUNCILMEMBER MOLINA: Chair?

CHAIR PALTIN: Yes, Member Molina?

COUNCILMEMBER MOLINA: If we're still on page 41, if no one else has an amendment, I just wanted to share something with you. But I'll wait first if Member Rawlins-Fernandez or someone has an amendment. I'll wait...I can wait my turn.

CHAIR PALTIN: Member Rawlins-Fernandez and I both had an amendment to 2.3.7.

COUNCILMEMBER MOLINA: Okay.

CHAIR PALTIN: Her amendment adds, and support the restoration of Moku'ula and Mokuhinia Pond to the end of the sentence. And I added to the end of the sentence, and incorporate this policy in any future master planning process for the area. And I...I did kind of discuss that with Director Peters because that area is so significant culturally and historically that whatever we do in that area, we should do it as part of the master planning process. Any discussion on both amendments? Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I was just wondering if Director Peters was still online. I had a question about the Malu Ulu o Lele Park.

CHAIR PALTIN: She's not on the line. When I did --

COUNCILMEMBER SINENCI: Okay.

CHAIR PALTIN: -- reach out to her, she said that she was okay with these statements that deal with her subject area because she worked closely with the CPAC on this plan. And I believe in the email, she was okay with the...the amendment that I made to incorporate

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the policy in any future master planning of the area. I know that there were efforts to restore Moku'ula and Mokuhinia back when Akoni Akana was alive and was in charge of Friends of Moku'ula and, you know, since he passed, we haven't had much forward progress. But the money from the parking lot is being set aside specifically for this purpose. So it seems that it, you know, it could be in alignment because we have...well, not now that the tourists aren't parking in the paid parking, but there is a specific fund for this purpose. So I'm not opposed to Member Rawlins-Fernandez's revision, it just is difficult.

COUNCILMEMBER SINENCI: Oh, yeah. And --

CHAIR PALTIN: Because...yeah.

COUNCILMEMBER SINENCI: -- I'm...I'm supportive...I'm supportive of the amendments. I think my office received some calls from some residents that wanted to either somehow retain the tennis court area or somehow dedicate it to Coach Wakida.

CHAIR PALTIN: Yeah.

COUNCILMEMBER SINENCI: And...and so I don't know if...if there was an alternative site to do that. That's all, Chair.

CHAIR PALTIN: Yeah. I've received the same calls from the community that those tennis courts and basketball courts are heavily used by the community, but are in disrepair and they'd like to see it fixed up. And so that's kind of why, and incorporate this policy in any future master planning process for the area. It's going to be a long, possibly messy discussion, you know. I mean, it's such a complex and huge issue. Because even if we were able to excavate the archaeological features of Moku'ula, if there's no running water for the Mokuhinia Pond, then I think possibly the original reason that it was filled in was mosquitos and...and whatnot. So it's a really complex difficult issue, but if we're talking about visionary for the community, I think incorporating both my and Member Rawlins-Fernandez's amendments is...is a good starting point. Any --

COUNCILMEMBER SINENCI: Yeah, I'm supportive.

CHAIR PALTIN: -- discussion from anyone else? Okay. All those in favor of the amendments as read, raise your hand and say "aye." Okay. Eight for it with one excused, both amendments there. And then for 2.3.9...or sorry, 2.3.8, my amendment was to just...I'll read it as amended. Preserve and protect the region's cultural resources and traditional lifestyles including, but not limited to, the agricultural pursuit such as, and then this is...I added, subsistence agriculture on DHHL, Honokowai. Then it says, lo'i cultivation of Native Hawaiians in Honokohau Valley, Kahoma Valley, I added Kauaula Valley, Olowalu, and Ukumehame. Any discussion on that, just adding a couple specific locations? Member Sinenci?

COUNCILMEMBER SINENCI: Yeah, I pledge my support. Just to add that the APT Committee had received testimony from Ms. Steward about the expansion of subsistence

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agriculture in the area, so supportive.

CHAIR PALTIN: Okay. All those in favor, raise your hand and say "aye." Oh, Member Rawlins-Fernandez, was that a hand raise or was it a question or comment?

COUNCILMEMBER RAWLINS-FERNANDEZ: It was an aye, and then I have a comment after, I guess. I can wait until after.

CHAIR PALTIN: Okay. Okay. So all those in favor? And so we're eight, one...Member King excused. Member Rawlins-Fernandez, you had a comment?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So it has lo'i in 2.3.8, and earlier you...you amended fishpond to Loko i'a. And I was wondering if we can do like a blanket to the entire plan to have lo'i, Loko i'a, kalo, some...some of those just, you know, throughout. And then that way we don't have to bring those up each time fishpond is mentioned instead of Loko i'a. I'm not making an amendment here, but just for the entire plan.

CHAIR PALTIN: Oh, always...always replace the word with the Hawaiian word, you mean?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR PALTIN: Yeah, I'm okay with it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair.

CHAIR PALTIN: Okay. The next amendment on my list is 2.3.9, and that's just to add, and incorporate this policy in any future master planning process for the area. So I think, you know, if there's master planning around Hanaka'ō'ō Beach, then we just have to support paddling for that area. And that's, you know, the community felt like they got pushed out of so many other locations. Nāpili Canoe Club used to be at Nāpili Bay, Kahana Canoe Club used to be at Kahana Bay, and so they're super protective of Hanaka'ō'ō as a paddling beach. They feel it's one of their last locations. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm supportive of your amendment. I was curious about the community...community's feedback on including the nickname of Canoe Beach in parenthesis, like if that was something necessary.

CHAIR PALTIN: Ms. Maydan, do you have any feedback on how that process went, the background as to it?

MS. MAYDAN: Thank you, Chair. I...I think we just wrote it that way. I honestly do not...actually no, I think this policy had come from a CPAC member, so we would have taken the language that the CPAC member provided, but there wasn't discussion whether it was absolutely necessary to have Canoe Beach included in there or not. I don't really...I don't recall any discussion at CPAC or with the community regarding that

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term.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. Maydan. Yeah, so is...Member Paltin, as a member in that community, do you know if it's necessary? Or...

CHAIR PALTIN: It's kind of interchangeable. I've heard everyone call it Canoe Beach as well as Hanaka'ō'ō. I think, you know, it's kind of asserting that they don't want...canoe as an activity doesn't want to be moved from Hanaka'ō'ō Beach Park. There's like a strong kind of fear about that because of what has happened for Nāpili and Kahana. Each canoe club in West Maui used to be where the name is from. Nāpili used to be in Nāpili, Kahana used to be in Kahana, but as the resorts developed around them, they were told to move. And so I think that's part of it, is like this beach is for canoe. Like whatever else comes through here, scuba diving or whatever, Canoe Beach, it's for canoe, I guess, is...is kind of the sentiment within the community. They're...they're very protective of it, and it's a way, you know, to convey that to the many tourists that flow through that park, that this beach is for canoe, I guess.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for your feedback, Chair.

CHAIR PALTIN: Okay. And did we vote on that one? Member Kama? Sorry.

COUNCILMEMBER KAMA: So...so this policy applies to just Hanaka'ō'ō Beach, or does...will this apply to all the beaches that have canoe paddling activities?

CHAIR PALTIN: This just applies to Hanaka'ō'ō Beach Park.

COUNCILMEMBER KAMA: And where do the other paddlers use to paddle or do their canoeing activities?

CHAIR PALTIN: For six man, it all occurs at Hanaka'ō'ō because they were pushed out of the other locations. For one man and two man and like that, they kind of launch where they can. I've seen them launch out of Fleming's or Nāpili Bay and whatnot. But for six man, that's pretty much the only place. They'll...they'll paddle out from Canoe Beach. They can go to Nāpili or Fleming's, you know, various races. Like they'll start Fleming's across the Pailolo Channel or like that, but the home for canoe paddling in West Maui is at Hanaka'ō'ō.

COUNCILMEMBER KAMA: So is there opportunities for expansion of these canoe...canoeing activities on other beaches in West Maui?

CHAIR PALTIN: Not so much. There's commercial operations in Kā'anapali south of Black Rock, but they have agreements with the hotels, I believe, and it's...it's not necessarily for the community, it's commercial.

COUNCILMEMBER KAMA: So how does the PASH Act play into that? Remember way back in

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the earlier '90s, they had public access shoreline that guaranteed rights to native tenants that could exercise their traditional practices? Canoeing is a practice just like surfing, so.

CHAIR PALTIN: Nāpili Bay has a regulation as no vessels, like motorized vessels are allowed within there unless, you know, for a lifeguard jet ski rescue. And I think at one time they had been trying to prevent canoes as well. I could be wrong. But they can go into fairly any bay that they feel safely able to steer themselves [sic] into. But once you get onto the...the sand with a six-man canoe, some locations it's difficult to get out other than the water. So that's why the home of canoeing...canoe paddling is at Hanaka'ō'ō. Member Molina, followed by Member Rawlins-Fernandez.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. You know, I look to you as our, you know, water recreational specialist, lifeguard, and someone in the know in that area, especially of canoeing. So I kind of just wanted to throw out this thought. And...and first, I support your...your proposal. You know, maybe if we could consider...because paddling takes place throughout the West Maui coast as, you know, Member Kama has brought up, and paddlers launch at various coastal sites in this area. So my thought is should we include language, something along the lines to add on to 2.3.9 such as, and throughout the West Maui region. So it's not only just focusing on Hanaka'ō'ō Beach Park, but also just in general. So it's sort of a broad vision or outlook to recognize that canoe paddling should be, you know, recognized throughout this area. So you know, I...I just kind of came up with some words that...and throughout the West Maui region, adding to that. So I don't know if maybe Vice-Chair Rawlins-Fernandez can do some wordsmithing [sic] if this is something that's...you feel appropriate. I don't know, it's just something that I came up with looking at this, so.

CHAIR PALTIN: I'm supportive of it. I think it sounds good. So support a thriving paddling community at Hanaka'ō'ō Beach (Canoe Beach) and throughout West Maui region, and incorporate this policy in any future master planning process for these...these areas...this area.

COUNCILMEMBER MOLINA: Sounds good.

CHAIR PALTIN: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Member Molina. I...I fully support that as a...a paddler myself. So I...I...my personal policy in renaming traditional place names is that it should just have the traditional place name. I hear and completely understand wanting to keep in Canoe Beach in parentheses. And so with trying to find a middle ground for...for...for this, for preserving our traditional place names and recognizing Hanaka'ō'ō Beach as the home of paddling, that perhaps adding language...removing the parentheses Canoe Beach, and adding language in its place, which has served as the home and mainstay of paddling. Which is currently...

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

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair.

CHAIR PALTIN: Which has served as the home...and what was the other part?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mainstay.

CHAIR PALTIN: And mainstay of canoe paddling.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes. And that way it's prioritized as the...the...the home, as you said. Because I know it has that connection, sentimental value, and it...it...it really served as a home for our paddlers on that side of the island who got pushed out from the construction of all the resorts on the beach. And so I think that emphasizes that...that connection more than just, you know, it being a nickname.

CHAIR PALTIN: Yeah. And I think, you know, part of it too is the CPAC members were looking at sea level rise as well. And knowing that Puamana is currently shut down because of coastal erosion and things like that, they wanted to kind of say like, you know, this is the home, and even if sea level does rise, we'd like to expand it mauka. You know, that this area is what it is, there's nothing else. So I'll read the amended amendment as amended. Support a thriving paddling community at Hanaka'ō'ō Beach, which has served as the home and mainstay of canoe paddling, and a thriving paddling community throughout the West Maui region, and incorporate this policy in any future master planning process for the area. All those in favor, raise your hand and say "aye." Any opposed? Eight "ayes," one excused. Okay. Next up on 41, a fairly nonsubstantive change on my page 3 amendment summary form. The footnote at the bottom of the picture, to split that Malu'uluolele into four words, Malu 'Ulu o Lele. All those in favor, raise your hand. Okay. All opposed? Eight "ayes," one excused.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. My suggestion for this is can we just make it a blanket amendment throughout the plan?

CHAIR PALTIN: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: And then that way we don't have to bring it up every time. Okay, great.

CHAIR PALTIN: Everyone --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR PALTIN: -- in favor a blanket amendment? Any opposed? Okay, blanket amendment. Eight...six...seven...

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COUNCILMEMBER LEE: Madam Chair?

CHAIR PALTIN: Seven to one. Yes?

COUNCILMEMBER LEE: Just --

CHAIR PALTIN: Alice.

COUNCILMEMBER LEE: -- wanted to let you know I have to drop off the call at 12:00.

CHAIR PALTIN: Okay. Thank you. Okay. We better pick it up then. Okay. I think this is the last amendment for this section, 2.3.12...or sorry, 2.3.11, and then 2.3.12 on my amendment summary form. Shoot, maybe not. Okay. 2.3.11, I'd like to amend it to say, protect public mauka to makai view corridors and scenic vistas in each subarea. Just adding a little clarification. All those in favor, raise your hand and say "aye." No, opposed? Okay. I don't see Member Lee. Are you still on right now? Okay. We'll call that seven in favor, and --

COUNCILMEMBER RAWLINS-FERNANDEZ: I see her.

CHAIR PALTIN: -- two excused. Oh, you see here?

COUNCILMEMBER RAWLINS-FERNANDEZ: There she is. Yeah, and she's raising her hand.

COUNCILMEMBER LEE: I'm on.

CHAIR PALTIN: Oh, okay. Sorry, I didn't see you. Eight, one then, with Member King excused. Moving on to 2.3.12, I'd like to amend it as, design landscape barriers along major roadways in such a manner as to maintain existing views of the mountains and ocean to the extent possible. So it's just adding a little bit more clarity. You know, as you're leaving Lāhainā on the bypass, you got excellent ocean and mountain views, and that's part of what makes people love us so much, so just want to maintain them to the extent possible. All those in favor? Any opposed? Eight, one, with Member King excused. Okay. We got 15 left, let's try see what we can do. Page 42, 2.3.15, kind of nonsubstantive. I just wanted to add, and native planting efforts, as clarifying that that's part of beach nourishment through dune restoration. Any objection? All in favor, raise your hand and say "aye." Any opposed? Eight "ayes," one excused, Member King. Also on page 42, 2.3.16, I have a Pūnana Leo O Maui alumni makua on my staff, and she says that we should remove the 'okina for proper grammar for Aha Moku O Maui. Any objection? All in favor, raise your hand and say "aye." Eight in favor, one excused, Member King. Okay. Member Sinenci has one amendment for 2.3.17 that just came in after the recess. He would like to say...Member Sinenci, did you want to add this on as --

COUNCILMEMBER SINENCI: And...yeah.

CHAIR PALTIN: -- a new...oh, okay. So we're going to add a...he'd like to add a new policy

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called 2.3.18, and it should say, expand the cultural historic district boundaries should new cultural inventories be identified in the County cultural overlay plan.

COUNCILMEMBER SINENCI: And this is for future use because currently, we have Dr. Six creating a cultural overlay for the County. And so for...for future use in the next 20 years, once she does that, and should the...should she identify any more new cultural inventories, then...I...I think we sent a map. So currently...and the map is through...I know it's adopted by the National Historical Landmark...Landmark District...Historical Landmark District, and so the map had a couple places in yellow and green that is currently under the...the Historic Landmark District.

CHAIR PALTIN: Okay. And just a question, I guess, for Planning or for Member Sinenci. I know of the Historical District boundaries, is there a cultural historic district boundary, or is that something that you'd like to create is a cultural historic district boundary? Or did you mean just Historic District boundary?

COUNCILMEMBER SINENCI: I...I think with the...with the cultural overlay plan, then we're looking at...at...looking at expanding a cultural district.

CHAIR PALTIN: Okay. So I'm not sure that we have a cultural historic district at this time. I think it's just a Historic District. Ms. Maydan, can you clarify?

MS. MAYDAN: Thank you, Chair. Yes, you're correct, it is just...there are two County Historic Districts and the Historic Landmark District. So it sounds like perhaps this would be a new cultural district. And just to make note that as worded, this is an action, not a policy, so it should go in Section 4, the action, so that it can be implemented by the appropriate department. And if she hasn't already, I would recommend that Dr. Six review the wording on this sentence. Thank you.

CHAIR PALTIN: Okay. And I...I do recall that two of the action items, or one of the action items was talking about expansion of the Historic District. So Member Sinenci, are you opposed to holding off on this until we get to the action items?

COUNCILMEMBER SINENCI: Not at all, I can wait until action items. Thank you.

CHAIR PALTIN: Okay. And maybe you can run this wording by Dr. Six before we get to Section 4.

COUNCILMEMBER SINENCI: Okay. Sounds good. Thank you.

CHAIR PALTIN: Thank you. Okay. Moving on to 2.4...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Real quick. Back to 2.3.16, Aha Moku O Maui,

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removing the 'okina, was that the only 'okina you had intended to move...remove, or did you intend to strike the other 'okina as well?

CHAIR PALTIN: She had said the other two 'okina, either way would be okay. So I figure just leave them since it makes grammar sense either way. But I'm open to amendment on that if you'd like.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Striking them as well.

CHAIR PALTIN: You'd like to strike them as well? Any objection to that, striking the...all three 'okinas? All in favor? Any opposed? Okay. Eight, one, with Member King excused, no 'okinas. Member Molina, you had a question?

COUNCILMEMBER MOLINA: Yeah, Chair, I apologize. Can we go back briefly to 2.3.9...excuse me, 2.3.14 where it references the reduction of sedimentation of nearshore waters? And if...I'm just curious, does that language recognize or reinforces the reduction in the use of injection wells? I don't know if maybe...

CHAIR PALTIN: Ms. Maydan?

COUNCILMEMBER MOLINA: Maydan, yeah.

CHAIR PALTIN: Can you have an answer to Member Molina's question?

COUNCILMEMBER MOLINA: And Madam Chair, I ask that because if it doesn't, I'm just wondering if, you know, with your guidance, if we should include some language that specifies that.

CHAIR PALTIN: Ms. Maydan, do you...is this policy clear to you that we want to reduce the...the injection wells?

MS. MAYDAN: Thank you, Chair. I don't believe that this policy was written with that as the heart of the purpose of the policy, it's more the second half of the sentence, to protect and enhance the region's land, water, and marine environments. There was a lot of discussion about injection wells during the CPAC, but it was not in reference to this policy in particular. It was other policies and actions that are very direct to injection wells.

COUNCILMEMBER MOLINA: Okay. Thank you for that, Madam Chair. Yeah, as long as it's recognized somewhere in...in the plan, so...but thank you for that consideration.

CHAIR PALTIN: Thank you. Okay. Moving on to Section 2.4, for 2.4.2 I would like to revert to the CPAC original language, which says, no additional visitor units except bed and breakfast homes shall be permitted in West Maui unless an equal number of workforce housing units are concurrently developed in the same subarea. And this is...you know, when they talk about amending 2.96 to provide more workforce housing and how that could prevent the creation of more housing period, this takes it in a different direction

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of we don't really need more visitor units until we have more workforce housing. And if...because we have so much visitor units in West Maui, and during normal times when we're at capacity, the unemployment rate is so low that if more hotels and units are built, the idea is, where are these folks going to live? Because it's either our West Maui community or Maui community is going to have to start working four and five jobs instead of two and three jobs, or you're going to have to have more workers come in, and where are those people going to live? And so I'm...I'm supportive of the CPAC original language here. Any further discussion from the Members? Member Sinenci?

COUNCILMEMBER SINENCI: Yeah. And just remembering some of the testimony that we received at the last meeting about possibly keeping transient vacation rentals limited within the Historic District, that was one of the testimonies that came up. I don't know if it's...this is the...where we could...or...

CHAIR PALTIN: I believe there is an action item that goes --

COUNCILMEMBER SINENCI: Okay.

CHAIR PALTIN: -- along with the expansion of the Historic District for that.

COUNCILMEMBER SINENCI: Okay.

CHAIR PALTIN: But --

COUNCILMEMBER SINENCI: All right.

CHAIR PALTIN: -- are we...all those in favor, raise your hand and say "aye." Okay. We got seven...or eight, sorry, eight for it and one excused, Member King. I had a thought, it wasn't on my amendment summary form, but for 2.4.1 or anywhere it says support agriculture, what are your guys' thoughts on adding either support regenerative or sustainable agriculture? Is there any discussion on that when it says support agriculture? Support regenerative, sustainable agriculture that provides jobs, improves soil health, is less water intensive, and provides food and products for local markets. Or do you think that it's implied that it's regenerative/sustainable? Member Molina, followed by Member Rawlins-Fernandez, followed by Member Sugimura and Kama. Member Molina?

COUNCILMEMBER MOLINA: Madam Chair, yeah, this is one I could go either way. I mean, as I see agriculture, it's broad. Now, if you want to get more specific, I mean, no matter. I mean, either way. Because I think even just a broad term will cover it, but I think it...it wouldn't hurt to get more specific. So just my thoughts. Thank you.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: I support it.

CHAIR PALTIN: Okay. Member Sugimura?

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COUNCILMEMBER SUGIMURA: I support. I support it being broad because then it encompasses everything, you know, and implies what you're...what you're trying to amend. So I support broad.

CHAIR PALTIN: Okay. Member Kama?

COUNCILMEMBER KAMA: Oh, I...I support anything that is inclusive.

CHAIR PALTIN: Okay. All right. Member Johnson, followed by Member Sinenci.

COUNCILMEMBER JOHNSON: Thank you, Chair. I would prefer a more specific one because of West Maui's uniqueness to gentleman estates and those kinds of farms that aren't...aren't really farming. So I would like something a little more specific with some weight. My two cents. Mahalo.

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

COUNCILMEMBER SINENCI: I'm...I'm supportive either way. But I think the...the issue and...and thanks for bringing it up, is that we're trying to change some...the...the mindset, and try to get more fresh fruit for...fresh vegetables within the neighborhoods into the...the smaller...and more access to...to our...to our...in...within our small neighborhoods. So I think if we can support this...this switch in mindset, that hey, everybody of all economic backgrounds have...have access to fresh...fresh produce. Thank you, Chair.

CHAIR PALTIN: Okay. Member Molina?

COUNCILMEMBER MOLINA: Yeah...yeah, thank you, Madam Chair. Hopefully this is not...come across as kind of naïve or stupid but, you know, we recently talked about the resolution for cannabis, so I guess cannabis is a form of agriculture like this, yeah. So I don't know if we want to get specific with that. Or maybe just simply adding a word after the word "support," support all agriculture that provides jobs, et cetera, what have you. But I don't know the cannabis thing just came to mind, so...okay. Food for thought, I guess.

CHAIR PALTIN: But I have heard that is pretty regenerative, like it pulls the toxins out of the soil, so that's --

COUNCILMEMBER MOLINA: Yeah.

CHAIR PALTIN: -- definitely --

COUNCILMEMBER MOLINA: And it is...

CHAIR PALTIN: -- what we're looking for.

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COUNCILMEMBER MOLINA: And it is edible in some form, yeah, too.

CHAIR PALTIN: So I've heard. Yeah. Okay. So I guess the...the question for the vote is...or the amendment to vote on is, support regenerative, sustainable agriculture that provides jobs, improves soil, is less water intensive, and provides food and products for local markets. All those in...and I would be doing the same regenerative, sustainable for 2.4.4 also. So all those in favor of that, raise your hand and say "aye." Okay. Seven to one...or sorry, eight, with one excused, Member King. And then my next amendment on my amendment summary form, page 4, is for 2.4.4. It would read, support agriculture that is small scale or self-subsistence farming. Agriculture shall not be discouraged or limited through CC&Rs--that's the part I added in--in areas designated Rural Residential, and I'd also like to add in, or Rural Village. Because with the community plan designation as Rural or Rural Residential or Rural Village, it doesn't have any effect on people's ability to farm, but if the zoning changes from Agriculture to Rural Residential or Rural Village, there's no law stopping CC&Rs from prohibiting certain actions that are related to ag. With it zoned as Ag, then there's no stopping it, but if the zoning changes to Rural, there's no protection under the law to protect agricultural activities from CC&Rs. So that was a big concern amongst people. So this is just putting a little strengthening to people who would like to continue doing agriculture in Rural Village and Rural Residential. All those in favor, raise your hand and say "aye." Any opposed? Member Kama and Member Rawlins-Fernandez, I saw you raise your hand I think late, was that an "aye" or a "no?"

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

CHAIR PALTIN: Okay.

COUNCILMEMBER KAMA: Aye.

CHAIR PALTIN: Aye. So eight, one excused...eight for it, one excused, Member King. That measure passes. So my proposal is to strike...delete 2.4.5, 2.4.6, 2.4.7 as they're so broad, and it was brought up to my attention that a lot of those are supported...if they're not so broad that we don't know what they mean, they're supported as part of the Maui Island Policy Plan, like support small business. Any discussion on deleting of those? Member Lee?

COUNCILMEMBER LEE: Don't we support all three?

CHAIR PALTIN: We do. I guess, you know, the Planning Department said a little bit about the length of it. If...if we want to put some of them in, I would amend 2.4.5 to put, encourage community supported legal small business and wellness as an industry. And the reason for that is in Lāhainā Town, there's a big issue with aggressive cosmetic salespeople, and the community definitely doesn't support that type of small business, or small business that's illegal in nature like, you know, surf lessons without the proper permits. And due to the abundance of tourists, you know, people start all sorts of small business that aren't necessarily supported by the community. So I just...if we want to keep it in, I'd just like to clarify it in that way.

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COUNCILMEMBER LEE: I don't mind clarification but, you know, I think you're...you're talking about...I think there are more legitimate businesses than illegitimate businesses. And you know, the small business guy really needs our support, especially now. Yeah.

CHAIR PALTIN: Okay. So here's the proposal, encourage community supported, legal small business and wellness as an industry. So that will combine 2.4.5 and 2.4.7. All those in favor with that amendment, raise your hand and say "aye."

COUNCILMEMBER LEE: Aye.

CHAIR PALTIN: Any opposed? Okay. Seven, one, Member Rawlins-Fernandez, and Member King is excused. Did you have a question as well, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: I wasn't voting against the motion, I just --

CHAIR PALTIN: Oh, sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- wanted you to repeat it.

CHAIR PALTIN: Oh, I'm sorry. There was a little lag where you were frozen, so I wasn't sure. Sorry. So the motion...or it's not a motion, it's just an amendment for voting. Encourage community supported, legal small business and wellness as an industry.

COUNCILMEMBER RAWLINS-FERNANDEZ: Just 2.4.7?

CHAIR PALTIN: 2.4.5 and 2.4.7 is combined in that one. And I...I still recommend deletion of 2.4.6 because to me, historic industries is just way too broad. Like whaling, whaling was a historic industry. I think that would not fly over well, you know, and...and there's some other historic industries that I wouldn't mention. But Member Sinenci?

COUNCILMEMBER SINENCI: So deleting 2.4.6 and then...and then the succeeding ones we just change the numbers?

CHAIR PALTIN: Yeah, yeah. We would just change the numbers. Nonsubstantive revisions.

COUNCILMEMBER SINENCI: Okay. Thanks.

CHAIR PALTIN: So Member Kama?

COUNCILMEMBER KAMA: Chair, what historic industries do we not want to support?

CHAIR PALTIN: Whaling, prostitution...

COUNCILMEMBER KAMA: Yeah. That's all I got too. I couldn't think of any other industry that we wouldn't.

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COUNCILMEMBER JOHNSON: Opium.

CHAIR PALTIN: Opium trade. It's just so broad when we say historic industries. I...

COUNCILMEMBER KAMA: But if historic industry is only three, that's not a whole lot, right?

CHAIR PALTIN: Well, that's off the top of my head.

COUNCILMEMBER KAMA: Well, okay. So...so what industries...historic industries could we support? What did we do in our past --

CHAIR PALTIN: Support the plantations.

COUNCILMEMBER KAMA: -- that we supported in terms of an industry?

CHAIR PALTIN: I guess...we got kalo production, I would support, I guess.

COUNCILMEMBER KAMA: Yes.

CHAIR PALTIN: Plantation monocropping, not so much.

COUNCILMEMBER KAMA: Right.

COUNCILMEMBER SINENCI: No sandalwood.

CHAIR PALTIN: Sandalwood, I like sandalwood, but I'm not sure about it as an industry because...unless it was a sustainable industry.

COUNCILMEMBER KAMA: See, that's why I'm...I'm kind of like conflicted, it's like oh, do we know enough about our own history to be able to say we don't want to do that in the future?

CHAIR PALTIN: Or that we do want to do it in the future.

COUNCILMEMBER KAMA: Yes. Yes.

CHAIR PALTIN: I feel like we don't know enough.

COUNCILMEMBER KAMA: That's my sense, Chair.

CHAIR PALTIN: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. If Pro Temp Kama is pau.

COUNCILMEMBER KAMA: Yes, I am, Chair. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Yeah. So I...it...it sounds like Members

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would like to keep this, and it could be...we...we could modify it to be a good thing just like we did with 2.4.5 in, you know, adding language that, you know, states community supported, legal. Because some of those things that you mentioned...like whaling is illegal, prostitution, so...opium trade is illegal. So you know, perhaps, you know, we...we would be able to find compromise here by making...adding language to modify historic industries to one that would be supported and would be something more along the lines of kalo production.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR PALTIN: Maybe we can put it all into 2.4.5 if I amend it like this, further amending 2.4.5, encourage community supported, legal small businesses, historic industry, and art...small business, art, and wellness as an industry? Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Can we also add culturally appropriate?

COUNCILMEMBER KAMA: Yeah.

CHAIR PALTIN: Okay. So it would read, encourage culturally appropriate, community supported, legal small businesses, art, and historic industries...art, historic industries, and wellness as an industry.

COUNCILMEMBER LEE: And affordable prostitution. Just kidding.

CHAIR PALTIN: I'll decline that friendly amendment. Thanks. I don't know who gotta pay for stuff here. Geez.

COUNCILMEMBER LEE: I was just kidding. Just kidding. I'm going to be leaving you guys in seven minutes.

CHAIR PALTIN: Okay. Member Kama?

COUNCILMEMBER KAMA: So you know, I was thinking too, that when you talk about some of the practices and the industries, you know, what...what we know as an industry today was a practice yesterday, but we didn't call it an industry. You know, the issue of traditional healing and medicines and the development of those medicines, you know, that I don't know if you all had grandparents that when you got hurt or something, that they would go and make this concoction. So that would be traditional medicine, but it could have been an industry back then too, I don't know, because we don't...we don't call things like that anymore. I mean it's like lā'au lapa'au, right? That's what...that's what we understand it to be. So I'd like to see some of that language inserted someplace over here too, Chair.

CHAIR PALTIN: Yeah, I think with Member Rawlins' [sic] amendment to that, that says culturally appropriate, community supported, legal small business, art, historic

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industry, and wellness as an industry, I...I feel like it's encompassed in there. I'm not sure what...what you guys think.

COUNCILMEMBER LEE: Agree.

CHAIR PALTIN: Member Johnson?

COUNCILMEMBER JOHNSON: You know, this is a really interesting debate here because I...I know we go to these...this big idea of whaling and things of the past, but I mean if you look at just our retail because it seems to me that the intention was hey, we don't really like the aggressive salespeople on Front Street, you know. And it reminds me of like how we used to have a Blockbuster around the corner, right. Now...now there is no Blockbusters, right. You know, the...the...the retail changes, people's opinions of what retail should be changes. It's a consumer-based society, so a lot of times, the market will decide. But I think the intention was is hey, there's some things that this community, West Maui, wants to have rooted in more of a traditional, cultural, and like what the amendment was mentioning, you know. That...I kind of...that works for me. I...I think if we're always doing a fad, you know, Front Street can be like the strip of Vegas where all of a sudden you're doing all these kinds of what's new and what's hot, and I don't think that that's kind of what the people of West Maui were intending in having it more, you know, reflective of what the history was. So that's kind of where I...I think that goes. Thank you.

CHAIR PALTIN: Member Sinenci?

COUNCILMEMBER SINENCI: I'd support a friendly amendment for environmental friendly.

CHAIR PALTIN: Okay. Environmentally friendly. Everybody okay with that friendly amendment? All right. Call for the question. All those in favor, raise your hand and say "aye."

COUNCILMEMBER LEE: Aye.

CHAIR PALTIN: Any opposed? Eight "ayes," with one excused. Okay. And I think this might be our last one for 2.4...oh, no, not. Sorry. Second to the last. 2.4.10, I'd like to add, community supported. Support expansion of community supported renewable energy, including small-scale community options. And the reason for adding that in was, you know, watching Kahuku deal with the windmills like so close to their public schools, I wouldn't want that to happen to us. So if it...if it turns out to be a super controversial thing, I don't want the community plan to say like oh, but the community plan says. So all those in favor with that amendment, raise your hand and say "aye."

COUNCILMEMBER KAMA: Where are we?

CHAIR PALTIN: We're on 2.4.10.

COUNCILMEMBER KAMA: Okay. Good.

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CHAIR PALTIN: Any opposed? Eight for and...yes, Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: One excused, Member King. Sorry, I cut you off. So I...I wanted to add to that. It's not on my...my amendment summary form, sorry, but...so support expansion of community supported renewable energy, including small-scale community options that also include a plan for...what's the word...

CHAIR PALTIN: Dismantling.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR PALTIN: Recycling.

COUNCILMEMBER KAMA: And removal.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, removal. Yeah.

CHAIR PALTIN: That includes...

COUNCILMEMBER RAWLINS-FERNANDEZ: One of those words, but that.

CHAIR PALTIN: Include plans for removal...

COUNCILMEMBER SINENCI: Decommission.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR PALTIN: For decommissioning --

COUNCILMEMBER KAMA: Yes, decommission.

CHAIR PALTIN: -- at the end of the lifecycle.

COUNCILMEMBER KAMA: Yeah. Question, Chair.

COUNCILMEMBER MOLINA: Decommissioning and disposal.

CHAIR PALTIN: Yes, Member Kama?

COUNCILMEMBER KAMA: So although they're going to take it down, they're going to be able...but we don't want them to dispose of it here, right? Do we want it to take it away?

CHAIR PALTIN: Well, take it back to where it came from? That'd be awesome.

COUNCILMEMBER KAMA: Yes. Yeah. Can we say that?

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CHAIR PALTIN: Okay. Here's the new one as...as amended, support expansion of renewable energy that is broadly supported throughout the community, including small-scale options, all of which include plans for removal...decommissioning and removal at the end of the project's lifecycle...at the end of the project lifecycle.

COUNCILMEMBER KAMA: How do we get it not thrown away in our...at our landfill, but somebody else's?

CHAIR PALTIN: Removal...

COUNCILMEMBER LEE: Madam Chair?

CHAIR PALTIN: Yes, Member Lee?

COUNCILMEMBER LEE: Can you choose other words than lifecycle? Because you know, they...they may stop it for some reason and not complete the lifecycle, you know, at the conclusion of the project or the...

CHAIR PALTIN: Usefulness?

COUNCILMEMBER RAWLINS-FERNANDEZ: Intended use.

COUNCILMEMBER LEE: Well, I don't know about usefulness, but...but I'm saying if, you know, if they're not going to use it, they should remove it, right?

CHAIR PALTIN: At the end of the project's intended usage. And then something about removing it from the...the State or the County...that include plans for removal from the County and decommissioning at the end of the project's intended usage.

COUNCILMEMBER LEE: I did like the word "disposal" that Mr. Molina said because it...that means getting rid of, you know, as opposed to removing it from one place and putting it another, that's not appropriate.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So keeping it broad because we don't know what technologies, you know, will, you know, be developed in these next few years, and I'm hoping it will be positive for our environment. And so maybe disposal, right, yeah, that doesn't burden our landfills or something like that. And then that way it can be maybe recycled hopefully or repurposed in some way.

CHAIR PALTIN: Okay. So here...here it is, support expansion of renewable energy that is broadly supported throughout the community, including small-scale community options, all of which include plans for disposal that doesn't burden County landfills, and decommissioning at the end of the project's intended usage. All those in favor, raise your hand and say "aye." Any opposed? Amendment passes, eight "ayes," one excused.

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COUNCILMEMBER LEE: Aloha.

CHAIR PALTIN: Aloha. We got just a few more. One...two...three...four...five more. You guys cool to hang in there for five more amendments hopefully?

COUNCILMEMBER KAMA: Yes, we don't want to recess.

CHAIR PALTIN: Yeah, for sure. Oh, I was going to recess anyway, but. Okay. Page 51, 2.4.11, this was my attempt at wordsmithing it, encourage the growth of cultural education and citizen kilo science, such as lo'i restoration, water quality testing, marine biology, and authentic voluntourism as an industry in coordination with lineal descendants of the area and led by cultural practitioners. And I just...you know, there has been a little bit of buzz about people misappropriating other folks' culture for monetary purposes. And if we're going to be using these types of cultural knowledge, we should include the cultural practitioners and lineal descendants of Lāhainā. Any objections? All those in favor, raise your hand and say "aye." Oh, did you have a comment to add, Member Rawlins-Fernandez?

COUNCILMEMBER KAMA: Reread it. Oh, sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, sorry. Yeah, I...I do have a question. So the growth as an industry. And so, you know, when...when we were talking about historic industries, I looked up the word "industry" and it is related...you know, it's tied to money, economic activity. And so it...is that what this specifically is talking about, monetizing education?

CHAIR PALTIN: I think so, with their original policy, as this is the economic opportunity through innovation and collaboration goal section.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So perhaps we can add...like if it would be considered a friendly amendment, something to the effect of, not violating cultural intellectual property rights...indigenous intellectual property rights.

COUNCILMEMBER MOLINA: Protocols? I don't know.

CHAIR PALTIN: With lineal descendants of the area and led by cultural practitioners in a way that does not --

COUNCILMEMBER RAWLINS-FERNANDEZ: Violate.

CHAIR PALTIN: -- violate indigenous --

COUNCILMEMBER RAWLINS-FERNANDEZ: Intellectual property rights.

CHAIR PALTIN: -- indigenous intellectual property...intellectual property rights. Okay. Any more discussion? Seeing none. All those in favor, raise your hand. Any opposed? Okay. I count that three, six...six in favor, and three excused. We're on our last goal,

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guys. And we have four more amendments, I guess, to this section, safe, healthy, livable communities for all. My first amendment on page 5 of my amendment summary form is for page 54 of the community plan. Policy 2.5.3 as amended would read, support the development of trails and greenways in West Maui as part of a larger integrated recreation and transportation network and, I took out maintain and added, manage existing public mauka to makai access along the tops of gulches as identified in Figure 2.3, and then I added, to prevent the spread of ROD--which is rapid ohia death--feral ungulates, and other invasive species in our upper watersheds. And I added that after visiting Pu'u Kukui Watershed and seeing how much work they put in to make sure that our watersheds are protected. You know, you don't want folks coming from the Big Island and then going up there and spreading ROD or opening gates and leaving them open and let feral ungulates through. So that just was kind of a qualifier addition. Any further discussion on that? Member Sinenci?

COUNCILMEMBER SINENCI: Yeah, real quick, Chair. I just wanted to note, is some of the...the...those...are those --

CHAIR PALTIN: Ziplines?

COUNCILMEMBER SINENCI: -- the slides...the ziplines, is that within the...some of these areas? Are ziplines like infringing upon some of these upland areas?

CHAIR PALTIN: I think...

COUNCILMEMBER SINENCI: Because a lot of it is within the gulches, yeah, or goes through the gulches.

CHAIR PALTIN: Yeah. I know of...I think there's a Kapalua and a Kahoma one. I've never actually ridden on them, so I'm not sure of their location.

COUNCILMEMBER SINENCI: Okay. That was just one concern, but I'm supportive. Thank you.

CHAIR PALTIN: Okay. All those in favor, raise your hand and say "aye." Any opposed? Okay. We have it seven with two excused, amendment passes. Let's see. The next one is on Member Rawlins-Fernandez's amendment summary form for page 56, Policy 2.5.11. She would like to add Chapter 2.96 to the list, what does it hurt. Any discussion? All in favor, raise your hand and say "aye." Any opposed? I'm counting it seven, two in favor of just adding Chapter 2.96 in. Okay. Last two, guys, last two. On page 57, Policy 2.5.17, I'd like the amendment to read, support the development of homes and contribute to the infrastructure on Hawaiian Home Lands as a priority in West Maui. We got 777 acres in Honokowai for subsistence ag been sitting there for 26 years, so just trying to get folks in houses. All those in favor...any discussion? No? All those in favor, raise your hand and say "aye." I got seven, two, with Members Lee and King explodes...excused, sorry. Sorry, my bad. Okay. Last one, 57, 2.5.20, promote the placement of utilities underground in new areas of development and in existing areas where possible. I'd just like to add, unless desecration of iwi kupuna or archaeological

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sites is likely to occur. Because you know, especially with the Historic District, there's so many archaeological sites and whatnot. Any discussion on that amendment? Yes, Member Kama?

COUNCILMEMBER KAMA: Thank you, Chair. So why are we going underground as opposed to over? My sense is that if we put utilities underground, the cost to do repairs because you have to dig it all up, right, versus if it's overhead, if it falls down, we can put it back up. That would add cost to the...to the housing units and stuff. So...

CHAIR PALTIN: For sure. I think for my community, two things that I've heard are reasons. The first reason is aesthetics, people want those scenic views without the wires in it. And the second reason, while it hasn't necessarily been proven, a lot of folks feel that the lines sparking in high winds has caused many brushfires, wildfires that affect West Maui. Those are two reasons that I can think of I've heard murmurings in the community. Did you have anything more, Member Kama?

COUNCILMEMBER KAMA: No, no, that was just my thought process was that if you are a homeowner, and you're going to have to dig up something under your lot, it's going to cost you to dig it all up. And before you even move in, it's going to cost you more. If something happens and you have to go digging for it, it's going to cost even more. So it's just about cost. Thank you, Chair.

CHAIR PALTIN: Were you considering deleting the amendment?

COUNCILMEMBER KAMA: No, no, I was just thinking why...the reason why we're going underground as opposed to overhead, and if overhead is because it...those two reasons of the sparks may contribute to the fires that are going on and the aesthetics, I mean, we could probably weigh those things out. But I'm not sure if, you know, if that for me is cost effective. But then that's just one out of us nine. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Kama. Member Johnson, followed by Member Sinenci and Member Sugimura.

COUNCILMEMBER JOHNSON: I support this proposed amendment. I was...on Lānaʻi, we had a Kona storm a few years back and it's just the...all the lines got knocked down, we were out of power for three days. You can go ahead and look at what's happening in Texas right now. Underground utilities is a very safe way to protect, especially with the incoming global warming changes. So I'm...I'm a supporter of underground utility lines. I know we're going to talk about cost, but what is the cost of...when you don't have power for three days and you have medicine that needs to be refrigerated? What is the cost of people on oxygen tanks who don't have...who don't have electricity to keep them going? What's the cost of the human capital? We try to prevent disasters, and this is a great way to limit the effect on...on major disasters. That's my two cents. Mahalo.

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

COUNCILMEMBER SINENCI: Thank you, Chair, for the opportunity. Yeah, going back to

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Dr. Six, cultural overlay, I think the issue is to...currently utilities are exempted from triggering the cultural monitoring of iwi kupuna. So it's a future what she's working with. So I think if...if it's within historic areas or within the cultural overlay, it...it might trigger SHPD monitoring. So I...I don't know if this is okay, just desecration of iwi kupuna.

CHAIR PALTIN: Is likely to occur, or if development lies within areas of significance in the proposed cultural overlay, or something like that?

COUNCILMEMBER SINENCI: Yeah. Because I think the overlay will...will show boundaries where...and...and so now, you know, you won't have an exemption, you would have to go through SHPD oversight.

CHAIR PALTIN: Okay. Unless desecration of iwi kupuna or archaeological sites is likely to occur if underground utilities are proposed in areas of significant cultural resources according to the County's overlay, SHPD monitoring is required?

COUNCILMEMBER SINENCI: I think...I think it's...that's going to be the requisite within the cultural overlay, so no need the SHPD, just within the cultural overlay boundaries.

CHAIR PALTIN: If underground utilities are proposed within the cultural overlay boundaries of significant cultural resources, then permitting is required.

COUNCILMEMBER SINENCI: Yeah, that'll be all part of the cultural overlay, I presume. So just so that...that it's the proposed cultural overlay. I mean, that...that should be said sufficient, Chair.

CHAIR PALTIN: Okay.

COUNCILMEMBER SINENCI: Thank you.

CHAIR PALTIN: Staff, were you able to get what I just said? Because I didn't write it down.

MS. LILLIS: Chair, this is Ana. We were not able to. Sorry about that.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. If you go to top right, apps, transcription, it's all right there.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: So you can just scroll back above and then you

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can read it back to yourself.

CHAIR PALTIN: Okay. Whiteboard, annotation...would it be annotation? Meeting highlights.

COUNCILMEMBER RAWLINS-FERNANDEZ: It...yeah, meeting high...you click on meeting highlights, and then to the right it...of highlights it has transcription. Then you hit transcription, and then jump to most recent, and then you kind of scroll up a little bit to where you were having your discussion, cultural overlay.

CHAIR PALTIN: My buttons aren't working. Okay. I see it.

COUNCILMEMBER RAWLINS-FERNANDEZ: You see it?

CHAIR PALTIN: I saw it, but it disappeared.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, did you move it?

CHAIR PALTIN: I see it, but it keeps disappearing.

COUNCILMEMBER RAWLINS-FERNANDEZ: If you...if you...when you scroll up and you click on the area that you want it to stay, then it won't pop down as it continues to transcribe our conversation.

CHAIR PALTIN: Is likely to occur or if development lies within areas...oh, shoot. I just lost it.

COUNCILMEMBER RAWLINS-FERNANDEZ: It has a timestamp too, so if you know where the timestamp is then you can quickly go back to it.

COUNCILMEMBER SINENCI: To occur as identified in the cultural overlay areas.

CHAIR PALTIN: Can't find it. Is likely to occur or if development lies within areas of significant cultural resources in the proposed cultural overlay, there would be...they would be required to get a permit. Did that come through? Did you hear me? Staff, were you able to get it that time?

MS. LILLIS: Yes, and we...we're...I'm looking at the transcript as well.

CHAIR PALTIN: Okay. All right. Then all in favor, raise your hand and say "aye." Any opposed? We got seven for and two excused, Member Lee and Member King. And that's all I've got for this section.

MR. HOPPER: Madam Chair?

CHAIR PALTIN: Only 17 minutes late. Oh, Mr. Hopper?

MR. HOPPER: Sorry. I just wanted to...I'm sorry to do this, but back to 2.4.2 about the additional visitor units issue. I just wanted to try to clarify the intent. It...it reads, no

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additional visitor units except bed and breakfast homes shall be permitted in West Maui unless an equal number of workforce housing units are concurrently developed in the same subarea. So I mean, does that mean that if someone applies or has applied for an STRH permit, that permit would have to be denied unless they concurrently built a number of affordable housing units equal to the STRH unit. And that if a hotel, existing hotel wanted to expand its units in the SMA, that permit would have to be denied unless they concurrently built an equal number of affordable housing units.

CHAIR PALTIN: That's the intention, yes.

MR. HOPPER: Okay. Yeah, that...that's...I'm certainly going to have to...to review that one because I mean essentially, I think that's...you're...you're...you may be saying, you know, sort of capping existing STRH homes at where they are unless someone applying...I mean, that's not a criteria in the application right now. So someone would have to also build an affordable housing unit as part of the STRH. And as far as hotel expansion, I mean, if they're zoned Hotel, 2.96 would apply to them, which is what the original policy said, but this would be changing that. And if they needed a discretionary permit, that would have to be denied unless they built, I guess, an equal number of affordable units somewhere in the area. So they'd have to acquire land and build the units or build it on their own property. So you know, I'm going to have to review that one because that's certainly a significant change to the County Code, and I think would, you know, probably necessitate Code amendments to...to...to qualify that. I'm not sure if that's, you know, something that should be added along with that. So that...that's...again, I just wanted to get clarification on that policy because it's a significant change to the current...current law.

CHAIR PALTIN: Thank you. Yeah, we need to take significant steps because we significantly need housing. So thank you for that clarification. And Members, thank you for your diligence and hard work. And I will be recessing this meeting until our next regularly scheduled meeting time, and at that time we'll be taking up Section 4 action items. If there's no questions or comments at this time...oh, Member Sugimura?

COUNCILMEMBER SUGIMURA: So by recessing the meeting, I mean, you're not allowing testimony or people in the community who may want to testify as things that we have spoken about. So I wonder if...are you going to continue recessing all the meetings so that there's no community input?

CHAIR PALTIN: Well, people are always welcome to send in written testimony on the things that we've discussed. And when I opened the public testimony, I mentioned that this was for Section 1, 2, and 4, and yet people still wanted to talk about Section 3. So I'm going to keep recessing until we're done with Sections 1, 2, and 4, and then after that, it looks like we're...no way we're going to get done before budget. So if you wanted to know my whole outline, it was that next regularly scheduled meeting we'll take up Section 4 and try to get through that. And then we'll go into budget. And then after that, I wanted to take up just community plan designations on its own because that's a significant change, the new community plan designations are a significant change from what we were being...what we used to use. And I've been talking back and forth with

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the Planning Department and others about these new community plan designations. And I feel like I'm just barely catching a grasp on them, so that's something I wanted to give all the Members time just on its own to absorb the significance of these new community plan designations without worrying about the maps and things. So the next meeting after we finish 4 will be strictly community plan designations. If people come in and want to testify about the maps, that's not what we're discussing, we won't have time, you know. Then I'll adjourn when we finish discussing community plan designations, and then we'll go into Section 3 and 5, and I'll open it up for testimony on 3 and 5. At that time, we may have 12 to 16 hours of testimony because that's when testimony for the maps is, and that would be the appropriate time for everyone who wants to talk about maps to come and talk to us about maps. But until then, they're talking to us about things that we're not...aren't on the...up on deck yet, so it's kind of...it gets confusing, you know. And so I just wanted to focus testimony on the parts that we're discussing. And when I opened it up for testimony for 1, 2, and 4, so much people were talking about Section 3 that it's like I don't think people are hearing me. And so that's the reason why. I had testimony 1, 2, and 4, now we're amending, 1, 2, and 4, then we'll go to just community plan designations because it...it is a significant change, and I don't want people to be pressured thinking about maps and that, while we're just learning about these new community plan designations and possible consequences, unintended or whatnot. So that was my layout, but really, the goal is...at this time to get through 1, 2, and 4 before budget. Yes, Member Rawlins...or was that all, Member Sugimura? Did I successfully answer your question?

COUNCILMEMBER SUGIMURA: Yeah. So you're not...you did. I...I was just curious because of the testimony. So you're...you're...if somebody testifies about...about sections that we've already taken up and they sent us a written testimony, you would be willing to go back and look at it, is that what you're saying?

CHAIR PALTIN: Well, we did go over the procedure for going back over things was new information or a significant change in current events, you know, those were the reasons. And then we all voted to agree that Member Rawlins-Fernandez wanted to revise some parts of Section 1 --

COUNCILMEMBER SUGIMURA: 1.

CHAIR PALTIN: -- and that we would consider that as new information. So if we receive written testimony, that would be considered new information; then when we go back at Section 1 with Member Rawlins-Fernandez, whatever section that new information or change in current events, then we can go back one time.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

CHAIR PALTIN: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Real quick, just so that, you know, it's communicated to the public. Perhaps developing, you know, like a draft timeline or like an approximate timeline so that the public knows when to testify on

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which items and what will be coming up and, you know, what dates, what projected dates we're aiming to take up different sections and different, you know, parts of the...of the plan to...to just...since we won't be taking testimony in the next meeting as well. I...I understand Member Sugimura's concern, but I also recognized your concern with trying to keep everyone on track and not allowing people to hijack our meetings. Mahalo, Chair.

CHAIR PALTIN: Thank you. Yeah, so just so everybody knows, not next Thursday but the following Thursday, our regularly schedule meeting, the intention is for Section 4, and the process would be similar. If you have written amendments, then you can submit them any time before the meeting, but they won't be uploaded to Granicus because of the Sunshine Law until I gavel in. So anybody can submit their written amendments at any time leading up to the meeting, and then when I gavel in, it'll be uploaded to Granicus. If there's a lot, again, we can take that five, ten minutes so that everybody can print out the amendment summary forms that are submitted and we can go through it in a similar way. And I think there's quite a few actions items, so...we...we did pretty good today and, you know, I...I have confidence we can do it again now that we're like used to the...the format. And if we come prepared, I think we can get through it because you guys are a smart bunch of efficient workers that I'm proud to call my colleagues.

COUNCILMEMBER RAWLINS-FERNANDEZ: Flattery will get you everywhere, Chair.

COUNCILMEMBER KAMA: Absolutely.

CHAIR PALTIN: I hope so. I hope so.

COUNCILMEMBER KAMA: Good job. Good job.

COUNCILMEMBER MOLINA: Spoken like a true politician.

COUNCILMEMBER KAMA: Keep it up, keep it up.

CHAIR PALTIN: All right. So if there's no objection, I will recess this meeting until our next regularly scheduled meeting time, and we'll go over Section 4.

COUNCILMEMBERS VOICED NO OBJECTIONS.

COUNCILMEMBER MOLINA: Madam Chair?

CHAIR PALTIN: Meeting is in recess...oh.

COUNCILMEMBER MOLINA: Madam Chair, before we recess, should we specify specifically the recess date, March --

CHAIR PALTIN: Oh, okay.

COUNCILMEMBER MOLINA: -- that will be March 4th, yeah.

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CHAIR PALTIN: Oh, yes. That would be...

COUNCILMEMBER RAWLINS-FERNANDEZ: And the location.

CHAIR PALTIN: The location is at the same PSLU link that we have, and the next meeting date is March 4th...March 4, yeah, March 4th...March 4th, 9:00 a.m., at the same PSLU link, 149341846. We'll see you there. Or *Akakū*, Channel 53, or Facebook Live, or mauicounty.us/agendas something...PSLU, March 4. Member Sinenci, did you have a question or a comment or a concern?

COUNCILMEMBER SINENCI: No. Good job, Chair. Thank you.

CHAIR PALTIN: Oh, you were waving. A hui hou. This meeting is in recess at 12:28.
...*(gavel)*...

RECESSED: 12:28 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use Committee

pslu:min:210218

Transcribed by: Daniel Schoenbeck


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CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 66 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 17th day of March 2021, in Kula, Hawai'i

A handwritten signature in black ink, reading "Daniel Schoenbeck", is written over a horizontal line.

Daniel Schoenbeck