

# **PLANNING AND SUSTAINABLE LAND USE COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**January 24, 2022**

**Online Via BlueJeans**

**CONVENE:** 9:00 a.m.

**PRESENT:** Councilmember Tamara Paltin, Chair  
Councilmember Kelly Takaya King, Vice-Chair  
Councilmember Gabe Johnson, Member (out 10:00 a.m.; in 10:49 a.m.)  
Councilmember Tasha Kama, Member  
Councilmember Alice L. Lee, Member  
Councilmember Michael J. Molina, Member  
Councilmember Keani N.W. Rawlins-Fernandez, Member  
Councilmember Shane M. Sinenci, Member  
Councilmember Yuki Lei K. Sugimura, Member (in 9:40 a.m.)

**STAFF:** Wilton Leauanae, Legislative Analyst  
Alison Stewart, Legislative Analyst  
Brittney Sunderland, Legislative Analyst  
Shelly Espeleta, Supervising Legislative Analyst  
Richard Mitchell, Legislative Attorney  
Clarita Balala, Committee Secretary  
Lenora Dineen, Council Services Assistant Clerk

Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson  
Stacey Moniz, Executive Assistant to Councilmember Gabe Johnson  
Roxanne Morita, Executive Assistant to Councilmember Gabe Johnson  
Evan Dust, Executive Assistant to Councilmember Tasha Kama  
Davideane Kama-Sickels, Executive Assistant to Councilmember Tasha Kama  
Sarah Sexton, Executive Assistant to Councilmember Kelly Takaya King  
Ellen McKinley, Executive Assistant to Councilmember Kelly Takaya King  
Dawn Lono, Executive Assistant to Councilmember Shane M. Sinenci  
Jordan Helle, Executive Assistant to Councilmember Yuki Lei K. Sugimura

**ADMIN.:** Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
Michele McLean, Director, Department of Planning  
Jennifer Maydan, Planning Supervisor, Department of Planning  
James Buika, Planner, Department of Planning  
Johann Lall, Geographic Information System Analyst, Department of Planning

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**OTHERS:** Michael Lindenfield  
Kai Nishiki

Stewart Matsunaga, Acting Administrator, Land Development Division,  
Department of Hawaiian Home Lands

Andrew Choy, Acting Planning Manager, Department of Hawaiian Home  
Lands

Raymond Cabebe, Vice-President, Chris Hart & Partners, Inc.

Tara Owens, Coastal Hazards Specialist, University of Hawaii Sea Grant  
College Program

Krista Keegan, AOA Board President, Kahana Sunset Condominium

Carol Koepke Tu'ua, General Manager, Kahana Sunset Condominium  
(2) additional attendees

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

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CHAIR PALTIN: . . .*(gavel)*. . . Will the Planning and Sustainable Land Use Committee meeting of January 24th come to order. The time is now 9:01 a.m., although I think we gavelled in at 9:00 a.m. My name is Tamara Paltin, and I will be your Chair for today's Planning and Sustainable Land Use Committee meeting. Our greeting today from Italy is buongiorno. And this online meeting is being conducted in accordance with the Governor's most recent Emergency Proclamation on Sunshine Law in-person meetings, which has suspended the use of in-person testimony and viewing locations due to the recent COVID-19 surge. Members, the revised Sunshine Law includes the following mandates. A board holding a remote meeting pursuant to this section shall not be required to allow members of the public to join board members in person at nonpublic locations where board members are physically present, or to identify those locations in the notice required by Section 92-7, HRS, provided that at the meeting, each board member shall state who, if anyone, is present at the nonpublic location with the Member. In accordance with the Sunshine Law, if you are at a nonpublic workspace when your name is called, please identify by name who is present with you in the room, vehicle or workspace. Also, please see the last page of the agenda for information on meeting connectivity. So I'm here broadcasting live and direct from the Old Lāhainā Center, the Lāhainā District Office, with my EA Angela, who is more than six feet away. And with us also in the meeting we have Committee Vice-Chair Kelly King. Buongiorno and aloha kakahiaka.

VICE-CHAIR KING: Aloha kakahiaka and buongiorno. I am broadcasting from my home just to not have any glitches this morning and start off the week right, and nobody else is in the house.

CHAIR PALTIN: Awesome. Okay. And from the Island of Lānaʻi we have Councilmember Gabe Johnson. Buongiorno and aloha kakahiaka.

COUNCILMEMBER JOHNSON: Buongiorno, Chair, and buongiorno, fellow Councilmembers. I am in the County building today with my Staff Kate Griffith, and I'm looking forward

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to a great meeting. And boy, what a great football weekend we had this weekend. Mahalo, Chair.

CHAIR PALTIN: Mahalo. And from the neighborhood we have Member Tasha Kama. Buongiorno and aloha kakahiaka.

COUNCILMEMBER KAMA: Buongiorno, Chair and aloha kakahiaka. I am in my workspace in my home, and I am alone. Looking forward to a great meeting.

CHAIR PALTIN: Oh, that was the other day, this is PSLU, but it'll be great.

COUNCILMEMBER KAMA: Yes.

CHAIR PALTIN: Chair Alice Lee, buongiorno and aloha kakahiaka.

COUNCILMEMBER LEE: Madam Chair, buongiorno. Mamamia and Papamias too. I'm home in my workspace alone, along with my trusty little pocket Pitbull Koa Lei Lee. Good morning.

CHAIR PALTIN: Aloha to you and to Koa Lei. We also have Councilmember Mike Molina from under the virtual bridge. Buongiorno and aloha kakahiaka to you.

COUNCILMEMBER MOLINA: Buongiorno and aloha kakahiaka to you Madam Chair, my colleagues, and everyone else tuning in to our PSLU meeting today. For the record I'm transmitting from my home in Makawao, and in the next room is my wife, over 20 feet away. Ciao.

CHAIR PALTIN: And also with us today we have Councilmember Shane Sinenci from East Maui. Buongiorno and aloha kakahiaka.

COUNCILMEMBER SINENCI: Hey, buongiorno, Chair, and formale come stai. Aloha nui kākou, Mai Maui Hikina. I'm here at the Cultural Center with my EA Dawn Lono. Aloha.

CHAIR PALTIN: Aloha. And we also have Councilmember Keani Rawlins-Fernandez from Moloka'i. Buongiorno and aloha kakahiaka.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair, Mai Moloka'i nui Ahina. I'm at the Moloka'i District Office alone on my side of the office. Buongiorno kākou.

CHAIR PALTIN: Okay. And we did get word that Councilmember Yuki Lei Sugimura will be doing her router this morning, and so she might join us a little bit later. Okay. So from...and I got a message that Member Johnson needs to leave at 10:00, so let's try and hurry and get as much in as we can before he has to leave. Member Kama, you had a comment or question?

COUNCILMEMBER KAMA: Yes, Chair. Thank you so much. I have a NACo meeting at 10:00 also, and...but it's only an hour, so I'll be back. So just letting you know that. Thank

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you.

CHAIR PALTIN: Okay. We'll get in as much as we can before you guys have to leave. From the Administration we have Director Michele McLean on all items, as well as Jen Maydan, Planning Supervisor for PSLU-29 and PSLU-2(2); James Buika, Planner for PSLU-13; Deputy Corp. Counsel Michael Hopper for all items. For PSLU-29 and PSLU-2(2) we have acting Planning Manager Andrew Choy, and Acting Administrator and Land Development Division, DHHL Stewart Matsunaga. And then I'll announce the second set of resources when we come to the third item. For Committee Staff, we have Committee Secretary Clarita Balala; Legislative Analysts Wilton Leauanae, Alison Stewart and Brittney Sunderland; and Legislative Attorney Richard Mitchell; as well as Assistant Clerk Lei Dineen. We have three items on today's agenda, PSLU-29 Department of Hawaiian Home Lands Homesteading Program, PSLU-2(2) Department of Hawaiian Home Lands Honokōwai Development and Related Areas in West Maui, PSLU-13 Community Plan Amendment and Change in Zoning for the Kahana Sunset Condominium at 4909 Lower Honoapiilani Road in Lāhainā. So let's begin with public testimony. Testifiers wanting to provide video testimony should have joined the online meeting via the BlueJeans link as noted on today's agenda. Testifiers wanting to provide audio testimony should call 408-915-6290 and enter meeting code 149341846, also noted on today's agenda. Written testimony is encouraged and can be sent via the eComment link at [mauicounty.us/agendas](http://mauicounty.us/agendas). Oral testimony is limited to three minutes per agenda item. When your name is called, please unmute yourself by clicking the video and microphone icon, or if calling in, press star four to unmute yourself. Please be courteous to others, muting video and audio while waiting for your turn; and when testifying, please state your name. Please also state if you are testifying on behalf of an organization or are a paid lobbyist. If you have joined this online meeting, Staff will assume you wish to provide testimony and will add you to the list of testifiers. Once you are done testifying, or if you wish to view the meeting without providing testimony, please disconnect from the BlueJeans meeting. You may continue viewing on *Akakū* Channel 53, Facebook Live or [mauicounty.us](http://mauicounty.us). Once oral testimony concludes, only Councilmembers, Staff, and designated resources will remain online, and all others will be dropped from the BlueJeans connection. A link to the list of testifiers is posted in the chat. Please be mindful that chat should not be used to provide testimony or chat with others during the meeting. Members, I would like to...I would like to proceed with oral testimony. The first...

VICE-CHAIR KING: No objection.

CHAIR PALTIN: I don't have the list in the link, but I did see Michael Lindenfield, was it? Michael Lindenfield was the first person that I saw come on.

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

MR. LINDENFIELD: Yes, I'm here.

CHAIR PALTIN: Okay, we're ready for your testimony, Mr. Lindenfield.

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MR. LINDENFIELD: Oh, my testimony, oh...okay. I'm talking about PSLU-13. Can everyone hear me okay?

CHAIR PALTIN: Yes, we sure can.

MR. LINDENFIELD: I can't unmute...I can't unmute my video. But anyway, don't need that. I'm representing the Keonenui Bay Foundation. And I'm a physicist with oceanography experience. And I'd like to make some points about sea level rises not being a cause of beach loss. The last 50 years, sea levels have risen less than one foot. We've lost about at least eight feet of sand. Discussions with the Maui Council engineer, we agree that not all the causes are known, but one major cause is probably coral reef disappearance. Honolua has only 5 to 10 percent of the original reef, and maybe it's true for the rest of the island. So hopefully we can concentrate on restoration and nurseries . . .*(inaudible)* . . .

CHAIR PALTIN: Oh, we lost you, Mr. Lindenfield. Are you still speaking?

VICE-CHAIR KING: Chair?

CHAIR PALTIN: Yes.

VICE-CHAIR KING: Could you ask him what item he's testifying on so we could follow?

CHAIR PALTIN: He said PSLU-13, the Kahana Sunset, which is fronting the...

VICE-CHAIR KING: Yeah, I got it. Thank you.

CHAIR PALTIN: Okay, continue.

MR. LINDENFIELD: I lost my...

CHAIR PALTIN: Mr. Lindenfield, are you still there?

MR. LINDENFIELD: Hi there.

CHAIR PALTIN: We couldn't hear you for a second.

MR. LINDENFIELD: Can you...

CHAIR PALTIN: Now we can hear you.

MR. LINDENFIELD: I'm in...I'm in Abu Dhabi right now. It's 11...ten after 11:00 p.m. so connection may not be so good. But I was talking about sea level rise, did that come through?

CHAIR PALTIN: Yeah, that came through.

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MR. LINDENFIELD: Okay. So I think a good thing to think about is coral reef restoration, nurseries won't work. So I was hoping that we could build a real alive coral barrier reef, that would work as...and we know that works to dissipate wave energy and bring back sand. And we also know that this can survive hurricanes, 30-foot waves. Now, I've gotten good interest in some patients from the County, but when I approach State and Federal agencies about this, I never get a response. And I hope that the County can try to communicate to some State agencies, or help me to get introduced to them or to Federal agencies too. That's only the point I want to make.

CHAIR PALTIN: Okay. Thank you. Members, any questions for the testifier? Seeing...oh, Member King.

VICE-CHAIR KING: Thank you, Chair. Aloha. I'm looking for the . . . *(inaudible)*. . . Are you still here...is it Lindenfield, Mr. Lindenfield?

MR. LINDENFIELD: Yes.

VICE-CHAIR KING: So I just wanted to know if you were testifying in favor of this change in zoning, or you're against it?

MR. LINDENFIELD: No, no, this has nothing to do with the zoning. This was hopefully a long-term plan so to avoid all this damage. So these issues about the zoning and managed retreat aren't necessary.

VICE-CHAIR KING: They aren't necessary, is that what you said?

MR. LINDENFIELD: Hopefully, yes. If we...I want to bring back coral reefs in a large enough scale so that we have like the Kailua coast in O'ahu, it's protected.

VICE-CHAIR KING: Okay. Because the items we're talking about today are the community plan amendment and change in zoning.

MR. LINDENFIELD: I know, I know. But Tamara Paltin mentioned it at the last meeting, so I just thought I could talk about it a little bit more and elaborate.

VICE-CHAIR KING: Okay. All right. Thank you.

CHAIR PALTIN: Okay, that isn't on the agenda, so I think we need to move on. Next up to testify we have Kai Nishiki, to be followed by Ohana. Thank you so much for your testimony, Mr. Lindenfield. Kai Nishiki, we're ready for your three minutes.

MS. NISHIKI: Good morning, Chair, Committee Members. I'm testifying on PSLU-13. I oppose the change in the community plan designation and change in zoning. I was the former Chair of the West Maui Community Plan Advisory Committee, and our Committee voted no to the proposed changes by the Planning Department. The Maui Planning Commission also did not propose any changes in regards to that. And I am frankly a bit surprised by the Planning Department's recommendation for approval. I do not

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believe that there is any reasonable basis or rationale for that stance. And, you know, just to give a little bit of history, I know that Kahana Sunset has spent almost \$10 million since 1998 on seawall fixes. They could have built a new building and done a whole lot with that money to upgrade this very old and end of its life property. I think in light of what happened in Florida that there should be structural inspections done by the County, and I was aware that the Administration had a task force regarding this issue, and perhaps in another Committee that could...if we could get an update on that. It does not seem that the County should be approving fixes for a building that has already admitted that there are significant structural issues with it and, you know, it just doesn't seem that this is the right direction that we need to be moving in. Perhaps if the applicant was making strides and commitments towards relocating Building F and A, you know, that this would have more of a reasonable basis or a rationale. But at this point, it does not seem that this is the right decision, and is actually completely the opposite direction that the County should be moving in. And I mean, if I just want to be completely honest, this whole little situation here is the definition of insanity, doing the same thing and expecting different results. They have the room to move. They obviously . . . *(timer sounds)* . . . have the money to move, and perhaps when the applicant has had a bit more of a dose of reality, that they could come back and work with the County. Mahalo.

CHAIR PALTIN: Thank you. At this time, seeing as how Ms. Nishiki was the Chair of the West Maui Community Plan Advisory Committee, any objection to saving questions and including her as a resource when this item comes up?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR PALTIN: Okay. Ms. Nishiki, are you available? This will be the third item after we do Hawaiian Home Lands issues. Okay, thank you. We've seen your mouth say yes.

VICE-CHAIR KING: You're still moving.

CHAIR PALTIN: Okay, cool. Thank you so much, Ms. Nishiki. Next up on the roster we have the person signed in as Ohana. I will unmute you on our end, and now you would need to unmute on your end in order to give your testimony. Ohana, we're ready for your testimony. We don't know what item you're testifying on. Okay. Is there anyone logged in with the handle Ohana that's here to testify? Going once, going twice. Okay, going, gone. Anyone out there that we did not get? This is your opportunity right now to testify. Anyone else, please unmute yourself at this time or indicate in the chat that you would like to give testimony, otherwise we will be closing public testimony and dropping all non-resource people from the call. Nobody? Okay. Members, any objection to closing public testimony and accepting any written testimony into the record?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

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

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CHAIR PALTIN: Okay. All right. So testimony is closed. Oral testimony is closed. Members wishing to speak during today's meeting should say my name and raise their hand so that I may recognize you.

**PSLU-29: DEPARTMENT OF HAWAIIAN HOME LANDS' HOMESTEADING PROGRAM** (CC 21-363)

**PSLU-2(2): DEPARTMENT OF HAWAIIAN HOME LANDS' HONOKŌWAI DEVELOPMENT AND RELATED AREAS IN WEST MAUI** (Rule 7(B))

CHAIR PALTIN: Today I'd like to request Members' indulgence to take up the first two items together, PSLU-29 Department of Hawaiian Home Lands' Homesteading Program, and PSLU-2(2) Department of Hawaiian Home Lands' Honokōwai Development and Related Areas in West Maui. And the reason we posted the two items was, you know, in case we go outside of the scope of just the homesteading program talking about the infrastructure and the Maui Island Plan, we just wanted to make it as broad as possible so that we're not restricted, so in case anyone had any questions on that.

COUNCILMEMBER KAMA: No objections, Chair.

VICE-CHAIR KING: No objections.

CHAIR PALTIN: Thank you, Member Kama. So for the Homesteading, PSLU-29, the Committee is in receipt of County Communication 21-363, from myself, relating to a proposed resolution supporting the undivided interest awards policy of the Department of Hawaiian Home Lands' Homesteading Program. And, you know, this is basically to try and get folks on their homestead as soon as possible and, you know, hoping that no one else passes away on the list, or that if they do, maybe their downline beneficiaries can get a chance. So basically asking, you know, DHHL if there's anything more we can do to hurry up along the process. PSLU-2(2) in accordance with Rule 7(B) of the Rules of the Council, the Committee may receive a presentation and discuss matters relating to Department of Hawaiian Home Lands' Honokōwai Development and related areas in West Maui. So if you folks will remember, we did receive correspondence from DHHL on November 18, 2021, asking that their EA designations for Honokōwai ag lots be included in the community plan process. The problem that we ran into, according to the Planning Department, is what they came through with their EA doesn't align with the Maui Island Plan. They have areas of like small town center and rural village in what the Maui Island Plan had designated as ag. So if we had adopted those into the community plan, then the community plan would not be in alignment with the Maui Island Plan. And so the solution was to change the Maui Island Plan, and then change the community plan so it will be in alignment. Now, the reason why we're able to change the Maui Island Plan in this way is because of the Hawaiian Homes Act which is, you know, Federal, and our presentation will show, you know, that they're not subject to County planning and permitting, we should align with them, and they'll state the legalities of that because I'm not so ma'a to the subject of it. So the hope is once they give their presentation, we'll draft the legislation to change the Maui Island Plan to align



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with their plans. And when we post it, hopefully it won't need to come back to Committee before going to the Planning Commission because this is the discussion right now, we just haven't drafted the legislation until we get the presentation. Any questions so far on the process? No, okay. Great. So we have Mr. Andrew Choy and Mr. Stewart Matsunaga on to give us the presentation and let us know of any assistance that we can offer from the County side to help get Honokōwai and/or Leiali'i up and running. Aloha, Mr. Matsunaga, welcome.

MR. MATSUNAGA: Aloha, Chair Paltin. Next to me is Andrew Choy. I'm the Acting Administrator for Land Development Division and Choy is next to me. We have the pueo in front of us, so sometimes we look like we're looking elsewhere, but the pueo follows our voices so I'm going to let Andrew introduce himself.

MR. CHOY: Aloha, Chair Paltin, Members of the Committee. My name is Andrew Choy, as Stewart said, and we're happy to be here this morning. We did prepare a short PowerPoint presentation for the Committee. Let me see if I'm...is it okay if I share my screen?

CHAIR PALTIN: Yes, please go ahead. Begin your presentation.

MR. CHOY: Okay.

CHAIR PALTIN: Oh, I'm sorry. If there is no objections, I would like to designate Mr. Choy and Mr. Matsunaga as resources in accordance with Rule 18(A) of the Rules of the Council.

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR PALTIN: Okay, great. Okay, Mr. Choy, go ahead and begin your presentation.

MR. CHOY: Mahalo, Chair Paltin. So the Department of Hawaiian Home Lands has 200,000 acres across the pae 'āina, about 31,000 of which are on the Island of Maui. And our lands span from Wākiu in the east through Honokōwai in the west. And today's presentation would be focused on our lands in Honokōwai and Leiali'i. So these are the lands that the Department has in West Maui. We have Leiali'i Phase I and Phase II, which is about 75 acres, and then we have a larger tract, which is our Honokōwai tract, which consists of two parts...several parcels, all consisting of approximately 775 acres. Oh, sorry. Okay. So this is a closer shot of our Honokōwai parcel. To the north is Pulelehua, and to the south is Kaanapali. Also within our parcels, the County Mahinahina Water Treatment Facility, and then also close to our parcel is the Lāhainā Wastewater Reclamation Facility. We also noticed that our parcel is divided by the Honokōwai gulch. So the Department recently completed its final environmental assessment that was approved by the Hawaiian Homes Commission this past January, actually last week Tuesday, and will be published in the environmental notice with the environmental program formerly known as OEQC. So the Honokōwai master plan envisions subsistence agricultural community, and also a residential community. So this graphic kind of illustrates what the Department and its beneficiaries envision for the Honokōwai parcels. So small farms and also residential opportunities. And also,

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you can't really see it in this diagram, but community and commercial uses closer to the highway for community based economic development opportunities for our beneficiaries. So this overview kind of summarizes the master plan layout. As I previously mentioned, the majority of the planning area will consist of small farms, or what we call...like to call subsistence agriculture lots. These will be homestead lots, and provide opportunities for those on our agricultural waitlist. In addition, we did hear strong feedback from our beneficiaries that we should also be looking at residential opportunities for those on our residential waitlist. So we are envisioning two types of residential products; single-family homes in the yellow, and multi-family homes in the orange. And then in the purple along here are the areas that we designated for community use commercial, to provide community based economic development opportunities for our beneficiaries. In the maroon over here is light industrial, and its primary purpose of the light industrial is to provide some buffer between the wastewater treatment plan and future homestead lots. So this kind of gives a summary of the number of lots and acres that we are hoping to provide to our beneficiaries. So we're envisioning about 250 agriculture lots for those on our agriculture waiting list, about 350 single-family homes for those on our residential waiting list, and up to about 570 multi-family type of units to provide alternatives for either rentals or kupuna housing that we heard strongly from our beneficiaries that was their also desired uses that they would like to see. I'd like to pass it back to Stewart Matsunaga, who will quickly go over our Villages of Leiali'i development.

MR. MATSUNAGA: Aloha, Members. I'll start from the right side, and let's go through the Villages of Leiali'i. We acquired land back in the late nineties, and then we started the development of Phase I-A, about 25 acres, comprised of 104 lots. And houses were completed around 2006, 2007. I think we have further slides that give a little more detail for that. To the left of it is Leiali'i Village I-B. We are bifurcating the development, and I'll go through the reasons why we're doing that. And then to the far left then is our Honokōwai properties. We have...okay, next. Okay, so a little bit more detailed...again, Village I-A is 104 lots.

MR. DUST: Val, it's at 10:30. Yes, it's on your calendar.

CHAIR PALTIN: Evan, you're...unmuted.

MR. DUST: With the Lincoln teams.

CHAIR PALTIN: Sorry about that, guys. Go ahead, Mr. Matsunaga, my bad.

MR. MATSUNAGA: Village I-B is approximately 50 acres, and you can kind of see that old cane haul road that's going through the parcel. That cane haul road is roughly at 130-foot elevation. And so right now we're separating Village I-B into two increments. The lower increment closest to the Lāhainā Civic Center, which you can see that to the left, will be approximately 82 to 86 lots, it will be single-family units; and then the upper section will be increment two, which would be roughly 164 to 168 multi-family units is what our EA is providing right now. We have also highway and parkway improvements which are needed to access the Leiali'i Parkway. We are in the process of conducting

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environmental assessment. The legislature has provided some construction monies for this, so there will be impacts to the highway, as well as to the extension to the parkway. And this area is under the Governor's executive order to Parks and Recreation. So we're in the process of having more discussions detailed with the Post Office, as well as with Parks and Rec and the other users of the Lāhainā Civic Center. Okay, next. Okay. I'll start here with the number one. So again, DHHL is in process of a water master plan environmental assessment. It starts with number one, our new DHHL well. So this well was sunk about ten years ago, and our goal is bring the water down from number one where the well is, and then to connect up into the County's new mixing tank. So we have to cross Kaanapali, excuse me, Kaanapali Land Management lands and through the Honokōwai gulch, and so this would be providing a syphon from the south going across to the north. And so this has been a challenge right now, so we're going through different studies with our archaeology, the stream studies, et cetera. And let's see. Okay, so from the mixing tank, water will be transmitted through existing transmission lines down to number three, which is an existing two million gallon County storage tank. And from there it goes across...actually down to Honoapiʻilani Highway and then across to the Villages of Leialiʻi. So at this point at the Villages of Leialiʻi, water will be...is currently connected to the number four, which is the existing 1.5 million gallon water tank. So this water tank provides water to Villages of Leialiʻi below the 130-foot elevation. And so another new higher elevation tank is needed, which would be located approximately at number five, which is a new 1.5 million gallon water tank. And from there, it would be transmitted makai to DHHL property and be able to serve above a 130-foot elevation. So these tanks, the well, the development, the transmission are in...all part of the EA, and then...and then so we're hoping to complete this environmental assessment by the end of this year. We're also jumping ahead with the designs, and then working with Department of Water Supply on the review of those plans.

MR. CHOY: And then lastly, Councilmembers, we just wanted to look at potential opportunities to collaborate with the County and other surrounding landowners. So one of the major items that we would like to look at collaboration is the development of a R-1 system for the Honokōwai agricultural lots. As you know, we're in really close proximity to the wastewater treatment facility, and it would be great that we can minimize our use of our precious potable water sources and instead use R-1 water for irrigation purposes so that we can be better stewards of our limited water resources. So we would really like to further collaborate with the County on developing our R-1 system, and ongoing operations and maintenance of the R-1 system going into the future. Additionally, we have been collaborating with Pulelehua, our neighbors to the north. In order for them to hook up to the wastewater treatment plant, they have to cross over Hawaiian Home Lands. Their sewer lines have to pass through Hawaiian Home Lands in order to get to the wastewater treatment plant facility. And they've agreed to upsize their sewer line in order to accommodate our future residential lots, so that's a really big help from our neighbors to the north. Lastly, another potential opportunity to collaborate would be the development of potable water, as Stewart just mentioned. We need to...we would like to, you know, ask for approvals for a dedication of the new well to the County, come to an agreement on our water development for the new well as soon as possible, and look at potentially providing the share of costs for the Mahinahina surface water

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treatment plant for the mixing facility. And then also, we will need to be adding water storage for Leiali'i Phase I-B. So that concludes our presentation for the first agenda item, Chair Paltin.

CHAIR PALTIN: Thank you, Mr. Choy. Did you have the case law in about the zoning and permitting and planning?

MR. CHOY: Oh, yes, we do, sorry. So that kind of goes into the second part. I didn't know if you wanted to take that at this time?

CHAIR PALTIN: Yeah.

MR. CHOY: So Councilmembers, okay. Yeah. I'll go into that now then, Chair.

CHAIR PALTIN: Thank you.

MR. CHOY: So as you folks know, the Hawaiian Homes Commission Act was adopted by the U.S. Congress in 1921 during the Territory of Hawai'i. Fast forward 40 years later, or almost 40 years later in 1959, when the State...when Hawai'i became a State of the United States. As part of the condition of statehood, and as part of the admission act, the State agreed, and its people agreed, to accept, you know, kuleana related to implementing the Hawaiian Homes Commission Act. And the Hawaiian Homes Commission Act as a result was incorporated into the State's Constitution as Article 12. So, you know, just real quickly, you know, the State and its people do further agree and declare that the spirit of Hawaiian Homes Commission Act looking into the continuance of the Hawaiian Homes projects for the Federal rehabilitation of the Hawaiian race shall be faithfully carried out. So it's a commitment that the people of Hawai'i, as a condition of statehood, made to carry out the Hawaiian Homes Commission Act faithfully. So as part of the State Constitution, the Hawaiian Homes Commission Act does hold constitutional authority in the State of Hawai'i. And under the Hawaiian Homes Commission Act, the Hawaiian Homes Commission has exclusive land use authority over all DHHL lands. And what that means is, is that the Hawaiian Home Commission is not subject to the zoning powers of both the State Land Use Commission or the zoning powers of the County. But let me just clarify that the Department is still subject to the rules and regulations related to health and safety. So for instance, the Department is still subject to the Hawai'i Revised Statutes Chapter 343 related to the environmental...Hawai'i Environmental Protection Act. We're also subject to health and safety regulations related to clean air, safe drinking water, in order to keep the citizens of Hawai'i safe. DHHL has made a policy decision to comply with County Building Code standards to ensure the health and safety of its lessees and surrounding...and people surrounding those lessees. So with the Department's...or with the Hawaiian Homes Commission's exclusive land use authority, we will be moving forward with our Honokōwai development as planned, but we just wanted to make sure that we are coordinated with the County. Because we do want to partner with the County, and we do want to make sure that our plans are consistent with the County plans. So as you can see, the top map is an excerpt from the County West Maui Community Plan. It depicts the Department's Honokōwai lands as all agriculture and also open space, which

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is the darker green. As I previously presented, we do have predominantly agriculture uses on our property, but we also would like to provide residential homesteading opportunities and multi-family opportunities for those on our waitlist, as well as community based economic development opportunities, and also put a buffer between the wastewater treatment plan and future homestead agricultural lots. So there is a bit of inconsistency with what the Department would like to do at this time that is the depicted in the West Maui Community Plan. So the Department humbly requests that the County amend its West Maui Community Plan to do the following. So this table was also included in the Department's communication to the Council in its public testimony in the November meeting. So in the left-hand column is the Department's land use designation, and then in the middle column is what we feel is the applicable community plan designation and the approximate amount of acres that the Department would like to designate...or redesignate in the County West Maui Community Plan. And that...so, oh, sorry. I forgot I put animations in the slide. So these arrows just point out that these are the major substantive differences between the County's community plan designation and the Department's Honokōwai designation that we would like to get rectified. And now that concludes our presentation, Chair Paltin.

CHAIR PALTIN: Thank you, Mr. Choy. At this time I...oh, I would like to welcome from jacaranda country, Councilmember Yuki Lei Sugimura. Aloha kakahiaka and buongiorno.

COUNCILMEMBER SUGIMURA: Buongiorno. Sorry that I was late to your meeting, I was trying to get my Internet resolved. So good morning, and I'm really interested in this presentation. I think this is great. So, thank you.

CHAIR PALTIN: Good morning. And you're in a nonpublic location by yourself?

COUNCILMEMBER SUGIMURA: Yeah, I am. I am. There's nobody around me. I'm at my residence. Thank you.

CHAIR PALTIN: And you're coming in very crisp and clear, that router must have worked out good for you. At this time is Ms. Maydan on the line? If you had any comments about the presentation and the changes to the Maui Island Plan and the Community Plan, we'd like to give you the first opportunity. Oh, I don't see her on the line.

MS. MAYDAN: Mahalo, Chair. Yes, I'm here.

CHAIR PALTIN: Okay. Hi.

MS. MAYDAN: Hello. Yes, thank you. And that presentation was quite informative, so thank you for that. So Chair Paltin requested our input on DHHL's request. And we looked into the land uses that they are proposing, and we offered some recommendations as far as how the Maui Island Plan would need to be amended to then follow through with an amendment to the West Maui Community Plan. So just a little bit of background. Throughout our process to update the West Maui Community Plan, we were in communication with DHHL from the very beginning because we knew that they were

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going through their master planning process for their Honokōwai lands. And as it evolved, we checked in with them occasionally. And throughout the process, it was predominantly represented as an ag homesteading community. But it looks throughout the process, it's evolved a bit, as they explained. So the recommendation that we have to accommodate the uses that they're proposing, the recommendation for an amendment to the Maui Island Plan would be two expansions of the growth boundary. One area around their proposed industrial area that they identified as employment center designation in the community plan, that would be appropriate within the urban growth boundary. And then the uses that they identify as commercial, multi-family, single-family, and perhaps one of their park areas, those could be appropriate within the Maui Island Plan's small town growth boundary. So that's outlined in our response letter to Councilmember Paltin. So thank you for the opportunity to provide comment.

CHAIR PALTIN: Thank you, Ms. Maydan. Quick question before I open it up to the Members. For the areas that they have identified as rural residential, would there need to be a rural growth boundary opened up for that area?

MS. MAYDAN: Oh, my apologies, I didn't mention that. But the rural residential would be appropriate in this small town growth boundary as well. I'm sorry I didn't say that.

CHAIR PALTIN: Oh, okay. So just small town growth boundary and urban growth boundaries.

MS. MAYDAN: Correct.

CHAIR PALTIN: Okay. All right. Thank you so much. At this time I would like to open it up to the Members for questions. I'll put three minutes on the clock. Mr. Leauanae, are you okay with keeping time?

MR. LEAUANAE: Yes, Chair.

CHAIR PALTIN: Thank you. Okay, I'll take Member Rawlins-Fernandez, followed by Member King. Oh, and before she starts and before the clock starts, because we have so much people to ask questions and so little time overall, if the Member has the answer to their question they might cut you off, but they're not trying to be rude, we're just trying to be efficient. So that's our rudeness disclaimer. Go ahead, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair for that disclaimer. And excellent presentation, Mr. Choy and Mr. Matsunaga. I have three questions. One was already answered by Ms. Maydan, which was why didn't DHHL let the County know before we adopted the West Maui Community Plan about the intended land use designations, but it sounds like the master planning was still going, and it hadn't completed by then. Okay. I'm seeing confirmation. Okay, and then...so I have...my next question is...I know there's no intended legislative action scheduled on our agenda. So my first question, I think, is for Ms. Maydan, and I was trying to look it up so that I could have answered my question myself, but I thought in the Code there's like a section that prohibits us from amending the community plan for a year after it's adopted. And so if that is accurate, is there a way the Council can still adopt the proposal with that being

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in the Code? Because I fully support DHHL's proposal to amend the community plan. Ms. Maydan?

MS. MAYDAN: Mahalo, Member Rawlins-Fernandez, for your question. That is a terrific question. And if I may, I would like to defer to Director McLean to answer that.

CHAIR PALTIN: Director McLean.

MS. MCLEAN: Thank you, Chair. Yeah, I think you're correct that they would have to wait a year.

CHAIR PALTIN: Oh, I thought...can we get an opinion from Mr. Mitchell? I thought the Council could, and members of the public couldn't. But Mr. Mitchell, are you there for like an attorney opinion?

MR. MITCHELL: Aloha, Chair. I'm taking a look at the Code now, and if I could have a moment, I'll get back to you in a second.

CHAIR PALTIN: Okay. Member Rawlins-Fernandez, did you want to go on with your next question?

COUNCILMEMBER RAWLINS-FERNANDEZ: I would. Mahalo, Chair. And mahalo, Director McLean and Mr. Mitchell for looking into it. Okay, my next question is regarding compliance with our land use. Oh, I guess you didn't say building code. I don't know if Mr. Choy or Mr. Matsunaga, if you'd be able to speak to any agreement that DHHL has with the County regarding the maintenance of the roads in complying with the building code. But I...perhaps it doesn't apply to what we're . . . *(timer sounds)* . . . talking about now. Your presentation was just about land use and zoning.

MR. CHOY: Correct. Our presentation today was limited to land use and zoning as specific to the County's plans. But we could try to indulge your question about maintenance and County standards if you want us to.

MR. MATSUNAGA: Chair, mahalo, Member Rawlins-Fernandez. So under the Hawaiian Homes Commission Act, and I don't know exactly what section that is, but it requires the counties to maintain Hawaiian Home Lands roadways. And in our development, we typically will design and construct the road to County standard in order for the County to maintain the roads. So that's been our history on Maui. We do have several areas where roadways are not to County standard, DHHL continues to maintain those or...or move to improve those to County standards so that counties will...the County will take over the maintenance. And that's not only with the roadways, but with also the infrastructure within the right of way; water, sewer system, electrical, and drainage. So mahalo for that question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Matsunaga. And then Chair, can Mr. Mitchell let us know in the chat when he has found the answer to my question?

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CHAIR PALTIN: Sure. Mr. Mitchell...

MR. MITCHELL: Aloha, Vice-Chair Rawlins-Fernandez. I do have the answer to your question. Section 2.80B.060, the first sentence reads, "Nondecennial amendments to the Countywide Policy Plan and Maui Island Plan enacted pursuant to Section 2.80B.050 may be proposed by a person during July of each year, provided that such amendments shall not be accepted within one year after the enactment of a decennial provision to either the Countywide Policy Plan or the Maui Island Plan."

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so that...Chair, if I may clarify...sorry. So that...oh, I also see Mr. Hopper. So my question was...my follow-up question was just that section doesn't apply to the Council, just to other persons?

CHAIR PALTIN: That's my interpretation. Mr. Hopper, did you agree?

MR. HOPPER: This one is a little tricky because the definition of . . .*(inaudible)*. . . will be...sorry, this section is so large I have to actually look at the subsection. But 020...2.80B.020 actually defines person, and it says...means individual or natural persons, firms, partnerships, it goes through several things. But then it says, but not including the Director of Planning or the Council. So I think they are saying that they tried to carve out an exception. Maybe we can check with the Department on this as far as the history because since it's relatively recent that we're doing these decennial amendments, I don't think these issues have come up all that much, but I think that's how I'd read it. I can discuss with Mr. Mitchell more since again, this is sort of a...you know, just looking at this now, but it does look that definition carves out an exception for the Director or the Council since they're not considered a person for purposes of that section. And again, we can verify this, but initially that's, I think, the intention.

CHAIR PALTIN: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Member King, Mr. Johnson is leaving at 10:00 and he just had a quick question, is it okay for him to skip the line?

VICE-CHAIR KING: Sure. And my first question was actually the one that we just answered, so...I have one more question when we get to me. Thank you, Chair.

CHAIR PALTIN: Okay. Oh, Member Johnson, you owe her a cookie or something. Nah.

COUNCILMEMBER JOHNSON: Yeah. Thank you, Councilmembers. Thank you, Chair. Good morning, gentlemen. Just a real quick question. I apologize for jumping in line here. But for future projects I'm considering like fast tracking...fast track model for building Hawaiian Home Lands, would that help move your projects along with the exemptions of zoning and all that details when it comes to like a Hawaiian version of a 201H project, if you will. Does that help you achieve your mission on homes for Hawaiians?



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MR. CHOY: Thank you for the question, Member Johnson. I do believe, in my opinion, that it would. I think what would...doing that would help better educate both County residents, as well as the County Administration, I mean from top to bottom, about the Department of Hawaiian Home Lands and its constitutional mandate to be implemented. I think that what you propose will help to better educate so that when we do go through some County processes, there is better education about...that the Department is not like any other private for-profit developer. We are different.

COUNCILMEMBER JOHNSON: Wonderful, exciting. Okay. Thank you, Members, for indulging me. Thank you, Chair. I have no further questions.

CHAIR PALTIN: Thank you, Member Johnson. Member King.

VICE-CHAIR KING: All right. Thank you, Chair. So just to follow up real quickly on that last question, are you...didn't you just say you were exempt from County zoning in your presentation?

MR. CHOY: We are.

CHAIR PALTIN: They are through this whole process that we're going through right now.

MR. CHOY: I think it would help on the County's end to have their plans reflect our plans so that there is no confusion on the staff level --

VICE-CHAIR KING: Okay.

MR. CHOY: -- when the Department does have to come to the County for building permits or other types of health and safety regulations that the County needs.

VICE-CHAIR KING: Okay, not to cut you off, but I just wanted to make sure my second question gets answered. So I wanted to ask you if you have any specific designation in the infrastructure bill that's coming...the money that is coming down from the Federal Government. Is there specific money aside from what's coming to Maui County, what's coming to the State of Hawai'i for...you know, for the native populations, which I think the Hawaiians were following, too, along with Native Americans. Do you know?

MR. CHOY: I know that our Chair's Office, the Hawaiian Homes Commission Chair's Office, has been working with our congressional delegation, so we can follow up on that information. Right now I don't have that information for you.

VICE-CHAIR KING: Okay. Because, you know, in the next meeting that we have today there's an item on there talking about infrastructure...how infrastructure...or how affordable housing might be able to be used for infrastructure for, you know, wastewater treatment like that, and I...kind of made me think that maybe there's some money coming down directly to Hawaiian Home Lands. But maybe you could check into that, that might be helpful for the Council to know before we get into that.

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MR. CHOY: Sure, we can do that.

VICE-CHAIR KING: Okay. Thank you. That's all I have, Chair.

CHAIR PALTIN: Thank you. I know Member Kama also might have to leave. Member Kama, did you have any questions?

COUNCILMEMBER KAMA: I think my question to the Department would be...thank you, Chair, for the opportunity...that, you know, you talked earlier about developing potable water source and working on a water agreement with our County. So in that agreement, are those agreements usually limited to potable water only on one side of the island, and could it be expanded maybe to...maybe include ag water for another part of the Hawaiian Home Lands on the island?

MR. CHOY: Thank you, Councilmember Kama, for that question. My understanding is that the water agreements are agreements specific to a particular County water system. So I think this is probably a question probably also we should research with the County's Department of Water Supply, but that's my understanding, is that water agreements are limited to the specific system in which the user is drawing water from, or providing a source for that specific system. So if the systems are connected to each other, I think that is a possibility, but if they are separate from each other, then I do not think that's a possibility. But again, I just to preface that we probably have to confirm that with the Department of Water Supply as well.

COUNCILMEMBER KAMA: Okay. Well, thank you, that was my question. But also, I wanted to comment that I'm very pleased that the Department has actually taken a real hard look at their constitutional mandate because, you know, the constitutional mandate that came out in 1959 is what many of your lessees have been leaning towards and trying to get the Department to see that they do have strength, and they do have muscle, and that has not been exercised, even when looking and asking the State legislature for repeated funding. So when I take a look at your accelerated program, your kuleana home program, and now your undivided interest programs, funding has always been your challenge and your barriers. So I'm hoping and believing that you're going to exercise that even now with what representatives Saiki and Luke have come out with in most recent press releases. So thank you, Chair, very much. And thank you, Andrew. And so good to see you, Stewart. Hang in there with us. Thank you.

CHAIR PALTIN: Thank you, Member Kama. Members, further questions? Member Molina.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. Good morning, gentlemen. And in your presentation, I really appreciated your outreach with the Department...County Department with regards to R-1 water, that's really great you're doing that. Regarding Villages of Leiali'i, just quickly, how many years has that proposal been on the books? Because I came on the Council, my first go around, back in 2001, 20 years ago, when I heard about it. Hopefully there's some movement going on that, you know, many of us can see it in our lifetimes occur. But real quickly, and as far as the funding, when will the funding lapse for the improvements, and any general timetable for this project?

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MR. MATSUNAGA: Thank you, Member Molina. I'm taking a quick look at my notes here. So I admit that the second phase of Leiali'i, which we call Leiali'i I-B, has taken some time. So about a year and a half ago we obtained funding for the environmental assessment and design work. So the environmental assessment is in process right now. These were areas that were not covered under the original HHFDC EIS, and so we've had to update that because that was back from about 1990, so conditions have changed. We've also were required to make improvements to the highway and to the access into the Leiali'i Parkway, and again, that...those are lands...excuse me...excuse me...that are...the lands are within the Governor's EO that is assigned to County Parks and Recreation. So we're having continuing discussions with the users in that area.

COUNCILMEMBER MOLINA: Okay, and forgive me if I interrupt, I'm just going to follow Chair Paltin's recommendation that when your answers are given and we're satisfied, we're good. I appreciate your response. So just quickly, so with these improvements, they're going to occur concurrently while the units are being built, or will the improvements be built first and then...your improvements done first, then the units will be built just after?

MR. MATSUNAGA: Typically we are doing the improvements first, but given our funding, we're also looking at engaging in a development agreement which would then fast track the construction of the houses in that area. So that's a real good question that we're continuing to work on...work towards.

COUNCILMEMBER MOLINA: Okay. Okay, thank you. And then real quickly, you folks have a lot of vacant lands that sometimes people don't want, and those who are on the waitlist that may not want. And if you do, what do you guys do with these lands, or...just let them sit? And I'm sure it's probably real . . . *(timer sounds)*. . . you know, junk kind land, yeah...gulches and so forth.

MR. MATSUNAGA: We have vacant lots in different areas around the island, and so our...we have a contact and awards division who will be offering these vacant lots. We have about maybe a dozen in the Upcountry area in Kula and Waiohuli, and so this is something that's going to be offered maybe about the middle part of this year.

COUNCILMEMBER MOLINA: Okay. Interesting.

MR. MATSUNAGA: So we're trying to get out all of our excess inventory on unawarded lots.

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

CHAIR PALTIN: Thank you, Member Molina. I have Member Lee, followed by Member Sugimura, and then Member Sinenci.

COUNCILMEMBER LEE: Thank you, Chair. Good morning, Stewart and Andrew. I have a question on the wells. Now, how many wells in total are you planning to develop?

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MR. MATSUNAGA: Member Lee, we have one single well south of Honokōwai gulch. That well has been actually dug and it's online. We did a pump test on that, and the well is rated at approximately one million gallons per day.

COUNCILMEMBER LEE: And how much water do you need for your entire project?

MR. MATSUNAGA: A lot more than that.

COUNCILMEMBER LEE: So my question...

MR. MATSUNAGA: I can get specific information on that.

COUNCILMEMBER LEE: Okay, yeah. It's important because I see that you have over 1,100 lots and homes planned, and I'm wondering where all the infrastructure, such as water, will be coming from. So how long exactly do you project this project to take?

MR. MATSUNAGA: For Leiali'i, we are looking at construction in mid-2024. And currently we have adequate water for that 250 units, which is coming from a water agreement with County of Maui, Department of Water Supply. So we have 200,000 gallons, subject to some improvements that we need to make at Leiali'i.

COUNCILMEMBER LEE: Okay. And you know, generally, when other people develop wells, they are required to give a portion of the yield to the County. Are you going to give a portion, or allocate a portion to the County?

MR. CHOY: That's something that we will have to work out with the County when we start our discussion on water development agreements.

COUNCILMEMBER LEE: But you're not opposed to sharing with the County?

MR. CHOY: We understand that the County uses the water for public purposes, and the Department also uses the water for public purposes for our homesteading program.

COUNCILMEMBER LEE: Okay. Thank you very much.

CHAIR PALTIN: Thank you, Chair Lee. Member Sugimura, followed by Member Sinenci.

COUNCILMEMBER SUGIMURA: I guess I want to follow up with what Chair Lee just asked. So what is the answer to that question? We both have public purposes, so will Hawaiian Home Lands share some of the water or not?

MR. CHOY: We both have public purposes, and I think it's important for the County to understand that our public purposes are just as important as the County's public purposes. So when we negotiate with the County Department of Water Supply, we will educate them about both of our public purposes.

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COUNCILMEMBER SUGIMURA: Okay, I'll look forward to hearing more. So I am...I also was going to bring up what Member Kama brought up about speaker Saiki and Sylvia Luke in their press releases, where they designated I think was \$600 million to Hawaiian Home Lands for building. And it was really interesting as over the weekend I was talking to some legislators, and they were saying that it is our constitutional obligation, and that it is something that I fully support that we need to do. So what would you like to do with the \$600 million that hopefully will get passed through this legislative session, and how will it affect your project here on Maui?

MR. CHOY: Thank you for that question. I guess one, as you folks know, what's said at the beginning of the legislature isn't always what happens at the end of the legislature.

COUNCILMEMBER SUGIMURA: Oh.

MR. CHOY: So we need to be continuing vigilant about advocating for the resources that were identified by the House leadership. We hope to get the House's support, continued support, but we also have to look at the Senate side as well. And that figure might change during the course of the legislative process. So I believe, to answer your question, the House has made it explicit to us that it's to be used for new homestead lots. So how that shakes out, we need to wait until the end of the legislative process. We do have...all of our plans articulate what the costs will be. So we do have a good foundation, like the Honokōwai plan, the Leiali'i plan, other plans across the statewide is similar to that where we have preliminary ideas about how we can spend the money. But depending on what the outcome of the legislative process is, we won't know for sure until --

COUNCILMEMBER SUGIMURA: The outcome.

MR. CHOY: -- they sign that final bill. Yeah.

COUNCILMEMBER SUGIMURA: Okay. So Mr. Choy then, maybe you can tell us what you want us to...if you would like us to advocate and submit testimony in support. So of the money that...if you are to get the \$600 million and it was for new homestead lots, would that also include infrastructure or no?

MR. CHOY: That would. The primary cost to the Department is to provide infrastructure to the . . .*(timer sounds)*. . .

COUNCILMEMBER SUGIMURA: Oh, so that would be for infrastructure?

MR. CHOY: Yes, yes.

COUNCILMEMBER SUGIMURA: Okay. Oh, perfect. Very good. Okay. Thank you. Thank you, Chair.

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

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COUNCILMEMBER SINENCI: Mahalo, Chair, and mahalo for the presentation, gentlemen, this morning. I guess my question was just a general follow up from the other Members. Does the Department see themselves as the developer for these upcoming projects? And the reason why I'm asking is because, you know, beneficiaries have always asked, you know, sometimes the Director wants to rent out DHHL properties to pay for some of these projects. And whereas we kind of want to see, you know, if the Department put it out to RFP to contractors versus, it would probably be a quicker process than the Department trying to develop these infrastructure on their own.

MR. CHOY: Thank you for that question, Councilmember. I think if I understand your question correctly--and if I don't, please let me know. Typically when the Department wants to implement homestead development, it does issue requests for proposals to interested construction firms to carry out the implementation. We ourselves don't have Staff that actually go and do the physical construction, it's always bid out to those with the expertise. Did I answer your question correctly, or did I cover what you wanted to know?

COUNCILMEMBER SINENCI: Yeah, thank you. I think the RFP process in this case would be the most beneficial process, or the quickest one anyway. And then in anticipation of construction of this many homes, you know, we're seeing that the cost of construction is going up. And so...and I know it's towards the construction industry, so I don't know if we...normally who...you know, either you are looking at nonprofits. We've seen Ikaika Ohana or...some construction companies are able to handle the magnitude of these projects. So I'm just looking in anticipation. Are you looking outside of the State for resources as well when it comes to trying to keep your construction costs down?

MR. MATSUNAGA: Aloha, Member Sinenci. Thank you for that question. So all of our developments are a little bit different. So depending on the complexity, there are times when we do go out to request for proposals through the State procurement process. And so that process does . . . *(timer sounds)* . . . a proposal out to beyond Hawai'i, and so we do have mainland developers who take a look at it. We also have a lot of local developers who are very strong in development. Right now we have a development agreement for the development of the Pu'unani Subdivision in Waikapu. And so that one is being really fast tracked through the developer for the development of that 161 units. So it is, and I agree, a faster process, and so we are also looking at that for other developments statewide.

COUNCILMEMBER SINENCI: Okay. Mahalo, Mr. Matsunaga. Thank you, gentlemen. Thank you, Chair.

CHAIR PALTIN: Thank you, Member Sinenci. I just had a few questions myself. The first one, do you know if your well is over the Honokōwai aquifer or the Honolua aquifer?

MR. CHOY: Councilmember Paltin, I believe it is over the Honokōwai aquifer, but I can go double check.

CHAIR PALTIN: Okay, thank you. And the second question, this is for the general public's

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information. The single-family and multi-family lots on the Honokōwai side, which is currently all zoned agriculture, you will be pulling names from the residential waitlist for those, or the agricultural waitlist for those?

MR. CHOY: For the single-family residential lots and the multi-family residential lots, we will be pulling the names from the residential waitlist...the Department's residential waitlist.

CHAIR PALTIN: Thank you. And the last question; the 82 to 86 single-family homes that you mentioned that were below the 130-foot elevation on the Leiali'i I-B side, I believe...what is the barrier right now to getting started on 82 to 86 homesteads?

MR. MATSUNAGA: Well, right now, we're in the environmental assessment process, which does address the access improvements. And that's the main thing that we're working on right now is the environmental assessment and discussion with the County agencies and other landowners in that area. We are actually starting the preliminary design work for that. At the same time, we're working with Department of Water Supply on doing some testing at the booster pump station. We need to ensure that the improvements made and the delivery to Leiali'i I-B is...basically it works without impacting Lāhainā Town. There's a lot of hydraulic kind of, you know, analysis that has to be done during the dry season time, and so we're working with Director Pearson and his Staff of getting the testing done. So there's a lot of moving parts to this. And so we, as well as everybody else, wants it done sooner, there's just a lot of complexities in the development process.

CHAIR PALTIN: Okay. Thank you. And my last question, I know a lot of the folks at the Leiali'i side do not want that post office road to be a bypass terminus, at least until there's another northern terminus more north of them. Is that something that you can accommodate the existing homesteaders with? There's no plan for extension of the bypass to terminate at the post office before it terminates more north at like Kaka'alaneo or something?

MR. CHOY: Are you...Councilmember, are you referring to the Department of Transportation's bypass...proposed bypass route?

CHAIR PALTIN: Yeah.

MR. CHOY: During our environmental assessment process, and receiving public comments from the Department of Transportation for our Honokōwai development, they didn't specify where they were planning to put their bypass or the bypass terminus. All they did indicate to us was that they did not anticipate to utilize DHHL Honokōwai lands to accommodate the route. So I think they are still in the planning process for determining a suitable route for the bypass. But I think we can reflect our beneficiaries' concerns in Leiali'i to try to communicate that to the Department of Transportation so that they can take into consideration that input during their planning process. But I do think it is also very useful for both the Council and our beneficiaries to follow up with the Department of Transportation as well.

CHAIR PALTIN: Okay. Thank you. Members, if there is...oh, one more burning question. So

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if there's another round, let's put two minutes for those that need more. My hope is that we get all this questions out of the way so that when the legislation is draft, we can send it straight over to the Planning Commission because we had this discussion. I mean if it doesn't work, it doesn't work, but that's the hope, so that maybe we can get it through the Planning Commission during budget or something. Okay, two minutes, second round. Member Rawlins-Fernandez, followed by Member Molina, followed by Member Sinenci. Go ahead, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair, and I support that intent of expediting the bill to the...for the review of the Planning Commission. I wanted to ask two questions. Mahalo, Member Sugimura, for asking about how we can advocate and help DHHL to secure the funding that was promised in the...or cited in the opening day speeches, and I thought that Mr. Choy's response to the \$600 million was on point, that nothing is promised...or nothing is secured until bills are signed. So I wanted to extend my support of that too, so that we can advocate for that funding. For the water for the development on West Maui, is there a water permit that you needed to get from CWRM? Allocation?

MR. CHOY: Thank you for the question. So our water demand is articulated in our environmental assessment. We have several sources of water that we're looking at. One is the well that Stewart was talking about earlier. Pending before the Commission on Water Resource Management is a petition to designate the aquifers in West Maui as groundwater management areas. There's also a similar surface water petition that's before CWRM. When or if the Commission on Water Resource Management adopts a groundwater management area for West Maui, the Department would...probably would need to get a water use permit application from the Commission on Water Resource Management. The groundwater designation does also help . . . *(timer sounds)*. . . the Department being able to comment on other water uses in the area. Because one of the conditions of the permit is to make sure that those proposed uses do not impact the Department's use of water.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Choy, for that response. And for that reason and the limited allocation of funding for infrastructure development, I don't think it's appropriate for the County to ask for a share of the water. Our water policy was created for for-profit developers to share water with the County because of the public trust. So I would support DHHL maintaining all of its water and not sharing with the County. Mahalo. Mahalo, Chair.

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

COUNCILMEMBER MOLINA: Thank you, Madam Chair. I just have a quick question for Director McLean, and I'm sure it won't take a long...not even two minutes. In the Department's letter, it indicated a lot of land use designations that DHHL wants. At this point, does the Department generally support the DHHL eventually receiving these land use designations at this time, and could the Department possibly in the future consider introducing the required changes on behalf of the DHHL in the future?



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MS. MCLEAN: Thank you for the question. At the moment I can't think of any reason why we would oppose it, but it's too early for me to make that call. I don't have enough information. I'd certainly want to talk to Jen, and maybe do some outreach to folks on the West Side. Amending the Maui Island Plan is kind of a big deal, and so that's something we'd want to look at really carefully. And...but in general, yes, of course we've supportive of DHHL's mission and their efforts. We note that they don't need to amend the designations in order to proceed with their developments that are for homesteading purposes. Developments that aren't for homesteading purposes, they need to comply with County Land Use regulations, but not those that are for homesteading purposes. So they don't need them, but my goodness, we really appreciate them working with us, and we'd love to be able to map those accordingly so that the maps depict the uses that they have there. But in terms of, you know, being able to say we support the entire plan, it's too early for me to say that, but I would imagine we would support most, if not all of it.

COUNCILMEMBER MOLINA: Okay. Thank you, Madam Director. I just wanted to do a little temperature check at this point. Okay, thank you.

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

COUNCILMEMBER SINENCI: Mahalo, Chair. Yeah, I just had a quick question for the Department. I'm looking at the map here, was there any upcoming plans for Pūlehunui? And my question is only relating to construction as a possible site, whether it be a baseyard, or a site for construction materials, or manufacturing the Pūlehunui site.

CHAIR PALTIN: Mr. Choy?

MR. CHOY: . . .*(inaudible)*. . .

MR. MATSUNAGA: Member Sinenci, so at the Pūlehunui, DHHL has two properties. There is a 646-acre site that is planned for primarily agricultural homesteads with supporting services, that's to the south of the National Guard Armory. And there's a 186-acre parcel just below the Humane Society location. That parcel is...has been designated for commercial industrial. And right now, DHHL conducted an infrastructure master plan EIS that was finalized, and one of the first steps for development there is construction of a wastewater system. And we're happy to say that the County is moving ahead on the new . . .*(timer sounds)*. . . facility which DHHL and the other State properties are looking forward to connecting into the County's facility rather than DHHL building its own package...private package plan. And so we're working with wastewater on these efforts. And so we...as far as a baseyard, I don't know that we have anything specifically planned. Department of Land and Natural Resources also is planning a light industrial development on the mauka side of the Veterans Highway.

COUNCILMEMBER SINENCI: Okay. Mahalo for that update, Mr. Matsunaga. Thank you, Chair.

CHAIR PALTIN: Ms. Sugimura.

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COUNCILMEMBER SUGIMURA: Yeah, really fast...looking at your map, existing Mahinahina water treatment facility...oh, it's water treatment. So on my next Infrastructure Transportation Committee agenda, I'm having the wastewater on West Maui, or actually all of them, an overview. So do you have anything you would like to share of how we can help you with your plans for your wastewater treatment for West Side?

MR. CHOY: I think we can communicate to the Council and to the Administration some of our preliminary engineering report designs about what the wastewater demand would look like for irrigation, as well as conceptual alignments of wastewater pipes and our preliminary wastewater system for Honokōwai. So I think we can send that information ahead of your future meeting.

COUNCILMEMBER SUGIMURA: Okay. Thank you very much. We'll anticipate that. I appreciate it.

CHAIR PALTIN: Thank you, Members. Seeing no further questions, excellent presentation. A lot of information, and we'll get to work drafting the legislation based on the maps and information that you've given us. Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted clarification from DHHL. Director McLean made a comment about for non-homesteading, non-residential, I'm assuming, purposes that DHHL would need to comply with our zoning and land use. If Mr. Choy or Mr. Matsunaga would be able to speak to that really quickly?

MR. CHOY: I think Director McLean made the comment that her understanding is that if it's a non-homestead use that the Department would have to comply with County zoning. That is not my understanding. We had a similar example in Hawai'i County, in Hilo, where the Department pursued commercial development that did not comply with County zoning at the time. Through the course of several attorney meetings and discussions amongst attorneys, it was decided that the Department does have the exclusive land use authority, both for homesteading projects, as well as non-homesteading projects as well. We did eventually reach...

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Choy. Mahalo, Chair for that.

CHAIR PALTIN: Thank you. Thank you, Mr. Choy. That's a fight for another day, I guess. Anyways, I think the discussion has been exhausted on the items. And if there is no objections, I'd like to defer these items and come back with a bill and send it to the Planning Commissions.

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused: GJ)

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

CHAIR PALTIN: Okay, great. And you guys have worked so hard I'd love to give you guys a ten-minute break if there isn't any objection on that.

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**COUNCILMEMBERS VOICED NO OBJECTIONS.**

VICE-CHAIR KING: No objections, but I have a question for you, Chair.

CHAIR PALTIN: Yes.

VICE-CHAIR KING: Just on bringing the bill back. Because my understanding is that bills still have to go through to the Council to get referred back even if you have a subject matter in your Committee. That's what I've been told by OCS. So you might want to check on that.

CHAIR PALTIN: All right. Sounds great.

VICE-CHAIR KING: Just timing-wise, if you want to try to get it in before budget.

CHAIR PALTIN: Okay. So 10:47 we'll come back. Meeting is in recess. . . .(gavel). . .

**RECESS: 10:37 a.m.**

**RECONVENE: 10:49 a.m.**

CHAIR PALTIN: . . .(gavel). . . The Planning and Sustainable Land Use Committee meeting of January 24th return to order. The time is now 10:49. And look at that, we've got Gabe Johnson back, I think, so perfect.

**PSLU-13: COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING FOR  
THE KAHANA SUNSET CONDOMINIUM AT 4909 LOWER  
HONOAPIILANI ROAD (LAHAINA) (CC 16-39)**

CHAIR PALTIN: Next item up is the Community Plan Amendment and Change in Zoning for the Kahana Sunset Condominium at 4909 Lower Honoapiilani Road (Lāhainā). So the Committee is in receipt of County Communication 16-39 from the Planning Director, transmitting proposed bills to grant land use entitlements for property in Lāhainā, Maui for the Kahana Sunset Condominium Project. Correspondence dated August 29, 2018 from the Department of the Corp. Counsel transmitting the following: A revised proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE WEST MAUI COMMUNITY PLAN AND LAND USE MAP FROM SINGLE-FAMILY TO HOTEL FOR PROPERTY SITUATED AT LĀHAINĀ, MAUI, AND IDENTIFIED AS TAX MAP KEY (2) 4-3-003:015, FOR THE KAHANA SUNSET AOA." The revised proposed bill incorporates Community Plan Map CP-822 as an exhibit and makes other nonsubstantive revisions. A revised proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM R-3 RESIDENTIAL TO H-M HOTEL DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT LĀHAINĀ, MAUI, IDENTIFIED AS TAX MAP KEY (2) 4-3-003:015, FOR THE KAHANA SUNSET AOA." The revised proposed bill includes Land Zoning Map L-871 as an exhibit and makes other nonsubstantive revisions. And (3) correspondence

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dated September 5th, 2018, from the Deputy Planning Director, transmitting a proposed condition relating to creating a shoreline retreat plan, as approved by the Department of Planning, to guide the construction of new and replacement units. The Committee may consider whether to recommend passage of the revised proposed bills on first reading, with or without further revisions. The Committee may also consider the filing of County Communication 16-39 and other related actions. So we have from the Planning Department Director McLean, Planner James Buika, and I'd like to at this time designate as resources Raymond Cabebe, VP of Chris Hart and Partners, Incorporated and consultant for Kahana Sunset, as well as Krista Keegan, AOA Board President and Carol Koepke Tu'ua, General Manager, pursuant to Rule 18(A) of the Rules of the Council. And I'd also like to designate Tara Owens, Coastal Hazards Specialist with the University of Hawai'i and consultant for the County. Ms. Owens will be available to answer questions on managed retreat and related issues. So I'd like to designate all those folks, as well as Ms. Kai Nishiki, the Chair of the Community Plan Advisory Committee, as resource persons in accordance with Rule 18(A) of the Rules of the Council. Any questions...or any objection?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR PALTIN: Sounds good. Okay. And this is a continuation from last week. Mr. Cabebe, if we can have a short presentation. I think we did ask for plans of the seawall that you were going to create. There was a request to see meeting minutes, but we weren't able to find it. We did upload some of the things that we were able to find. Number 59, Robert Ohata, Planning Commission re: variance to Yabui to construct apartment with accessory uses. Please be informed the Maui Planning Commission voted unanimously to approve a variance for Yabui as contained in the letter to Mr. Ueoka, not Jeff, I think it was Meyer's...attached here within. Appeal on the action of the Planning Commission may be submitted to your honorable Board for a period not to exceed 15 days, otherwise the action of the Commission is final. The reference is at page 8 of the pdf. So Mr. Cabebe, we're ready for a short presentation from you. He's unmuted on our end.

MR. CABEBE: Good morning. Let me unmute myself. Hi. Good morning, Chair Paltin. Good morning, Members of the Committee. May I share my screen?

CHAIR PALTIN: Sure.

MR. CABEBE: Okay.

CHAIR PALTIN: Oh, we lost your share screen.

MR. CABEBE: Yeah.

CHAIR PALTIN: We got it back.

MR. CABEBE: Okay. Yeah. So you know, this...I'm talking about PSLU-13 for the Community Plan Amendment and Change in Zoning for Kahana Sunset. We have Carol Koepke Tu'ua and Krista Keegan also on the call, and thank you for designating them as

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resources. This is an aerial map showing where the location of Kahana Sunset is. I think most of you are familiar with that. Alaeloa Condominium to the north, Nāpili Villas to the east. And the request is just community plan from Residential to Hotel, and the Maui County zoning designation from R-3 Residential to H-M Hotel. And the Kahana Sunset is there because it was granted a variance back in 1968, and the actual buildings were constructed in 1971. And back then there was no ordinance regulating TVR use, and that's how they were able to use the buildings as transient vacation rentals. The variance itself was strictly for the buildings because you...obviously you can't build apartment buildings in residential zone, so that's what the variance was for. Now in 2012, Kahana Sunset applied for this CPA and CIZ to bring...you know, bring everything into compliance, the uses that has been occurring there since '71. And the property has, you know, your typical amenities similar to a hotel. There is six multi-unit buildings and one building that is for the resident manager, and it's also used as a laundry building, and there's a central courtyard with a pool. This is an old school map showing the old designation in the West Maui Community Plan of single-families, now residential. This is a map...the zoning map showing our three residential. This table compares, you know, the R-3 zoning to H-M zoning, what was allowable in 1971, and with how Kahana Sunset complies with these standards. So the use itself is just a nonconforming use from 1971, and the buildings are allowable through the variance with the setbacks and parking as well. So the changes in the criteria is whether it meets the intent of the community plan, and obviously it does not without the community plan amendment. So with the community plan amendment, the change in zoning would be consistent. And, you know, the question is, does it meet the intent of the district they've requested? It does because it operates as a TVR, it's in multi-unit buildings, so we're very similar to hotel. And just to note that, you know, these buildings have been there since 1971, so it's over 50 years old, actually it could be designated as historical buildings by SHPD standards. And, you know, any kind of impacts that would have happened has happened already, you know, as far as having a hotel type facility there. In 2014, Maui Planning Commission recommended approval, and they had one condition, to limit the height of the buildings. And in 2016, the Land Use Committee of Maui County Council recommended approval, again with the height specified at 45 feet, and also for the public shoreline access to be a minimum of 7:30 a.m. to 7:30 p.m., seven days a week. And that was approved, but it was never...never went to full Council for first and second reading. In 2018, the Planning Department recommended a third condition, and this was to force Kahana Sunset to come up with a managed retreat plan that would be approved by the Department of Planning. This condition was never adopted by the Committee, so it was eventually deferred, and the Planning and Sustainable Land Use Committee did do a site visit in 2019. In summary, you know, Kahana Sunset has gone through the process of, you know, trying to get their CPA and CIZ. It did do an environmental assessment, a draft assessment at first, and got all the comments back, held, you know, community meetings, and did a final EA that was accepted by the Maui Planning Commission and, you know, finally it was submitted to Council for review, and they are hopeful of an approval. So that was, you know, ten years ago. So here we are now, ten years later, trying to get approval of these two actions, the CPA and the CIZ. And that concludes my presentation. Thank you.

CHAIR PALTIN: Thank you, Mr. Cabebe. Did you have the seawall plans to share with us as

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well?

MR. CABEBE: I do have a set of plans. It was not part of the submittal to the County and the State for these plans. Somebody else had submitted for Kahana Sunset. So I'm going to share what I have here. Let me go back here again. So this is the plan view, which shows...let me go full screen here. Anyway, can you see that?

CHAIR PALTIN: Yeah.

MR. CABEBE: Okay. I was trying to go full screen on this, but it can't go for some reason. But there's a...you know, sandbags that are proposed to be put there in place to protect the area while they work on it. Going to the next page. This shows the seawall, and there are voids behind it that was occurring that were causing it to...well, actually, causing the building to fail itself. So the proposal was to drive sheet piles to, you know, solid rock below to shore it up, and then also to fill in the voids. Sorry I don't have, you know, more detailed plans, but this is what I have for right now. I don't know if that's enough for what you were looking for, Chair?

CHAIR PALTIN: I guess it will have to be. And to clarify, that there are no plans for managed retreat whether or not you get a change in zoning and a community plan amendment, you do not plan to retreat?

MR. CABEBE: Well, currently, there are no plans. You know, the AOA would like the option to do the...to plan a retreat when necessary and that, you know, having the change in zoning and the community plan amendment would assist them in helping them come up...you know, be able to have more options as far as, you know, doing their managed retreat. You know, should the buildings...Building A and Building F fail at some point.

CHAIR PALTIN: Okay. Thank you, Mr. Cabebe. Do you think you could email us those plans that you are screen sharing? And we can add it to our upload to Granicus when we receive it.

MR. CABEBE: Sure.

CHAIR PALTIN: Thank you so much. If you could send that [pslu.committee@mauicounty.us](mailto:pslu.committee@mauicounty.us), and our secretary will...who is fabulous, will upload it.

MR. CABEBE: Okay.

CHAIR PALTIN: Director McLean, did you have any comment that you wanted to make? I thought you had some opinions about the structural integrity of Building F, maybe as well as Building A?

MS. MCLEAN: Yes. Thank you, Chair. We are and have been actively working with Kahana Sunset on Building F. They themselves have shuttered Building F, it's been closed up for more than a year and hasn't been occupied due to concerns of its structural soundness. They are interested in what's effectively replacing the seawall that Building

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F sits on, and we have made it clear to them that we do not support that, and in fact, don't think that State law, with the recent changes to HRS 205A, would allow that. It would effectively be a new seawall. And we don't think it's responsible for Building F to be rebuilt or repaired. The plans that they've put together to allow that would be just extensive work right in the shoreline environment, and not something that we would support. In terms of the entitlements though, we do support the entitlements because it recognizes the existing use. And for them to properly maintain their buildings, to get an SMA major permit, we need to find consistency with the use and the zoning and community plan designation, and that would be difficult to do with the existing designations. Now variance does come into play, and that's probably how we've been able to issue approvals in the past, but it is better to have the appropriate designations . . . *(timer sounds)*. . . to make that clear, especially if they are going to talk about managed retreat and building entirely new buildings, they would need those designations for those buildings to be used the way that they're being used. Thank you, Chair.

CHAIR PALTIN: Thank you, Director McLean. Mr. Cabebe, did you have a cost estimate as to the plans that you shared with us at all?

MR. CABEBE: I don't off the top of my head. Let me...perhaps the Board President might have that number. Krista, would you be able to share that number?

MS. KEEGAN: Yes, yes I can. This is...hello, hi. This is Krista Keegan, I'm the President of the AOA. We have cost estimates that are approximately \$4 to \$5 million.

CHAIR PALTIN: For the seawall and the building reinforcement?

MS. KEEGAN: Right, the two of them.

CHAIR PALTIN: Okay. And so we also have on Tara Owens, the Managed Retreat Specialist, and Kai Nishiki too...for Members to ask questions of. At this time I'd like to open it up to the Members. For the first round, there is Mr. Cabebe; there's the General Manager, Ms. Tu'ua of Kahana Sunset; Ms. Keegan, who is the President; Director McLean; Tara Owens; Jim Buika; and Kai Nishiki for Members if they would like to ask questions of them. Mr. Leauanae, can I get three minutes on the clock first round, and we have Member Sinenci with a question. Before he starts, I just wanted to give our disclaimer. Because we're...have like 50 minutes left, if the Member gets the answer to your question, they might cut you off. They don't intend to be rude, but we're just trying to be efficient. Okay, go ahead Member Sinenci, your three minutes.

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a clarifying question for Director McLean. So it's...she said that in order for them to do the seawall project and to get a SMA permit, they would need this zoning change; is that correct?

CHAIR PALTIN: Director McLean.

MS. MCLEAN: Typically, yes. They do have the variance, so it's something we'd need to discuss with Council, but having the entitlements would be a lot cleaner.

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COUNCILMEMBER SINENCI: Okay. Thank you, Chair. That was just...I just had a clarifying question. Thank you.

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

VICE-CHAIR KING: Thank you, Chair. So it sounds like they could do the...whatever they need to do under the current zoning because of the variance. I actually had a couple of questions for Kai Nishiki, if Kai is still here.

CHAIR PALTIN: Sure. Go ahead.

VICE-CHAIR KING: Hello? Okay, Kai, when you were...hi. When you were testifying, you talked about a task force report that...on that building, and you mentioned something about learning from Florida and I'm assuming you're talking about that building that collapsed because it wasn't built properly. But the task force that you talked about, when was that report released, and is it available?

MS. NISHIKI: Thank you for the question. There is not a report. I was told that the Mayor's Administration has a task force investigating how the County can address structural integrity of buildings in Maui County...just an exploratory.

VICE-CHAIR KING: Not specifically for this building?

MS. NISHIKI: No.

VICE-CHAIR KING: Oh, okay. And then the other thing that I remember you saying was that the Planning Commission had recommended not doing the change for the community plan amendment, was that one of the statements that you made?

MS. NISHIKI: No. I was just saying that when the community plan went to the Maui Planning Commission, the Maui Planning Commission did not make a recommendation to change the community plan designation for this property.

VICE-CHAIR KING: Okay, so they didn't recommend to put that designation in the community plan is what you were saying. Okay.

MS. NISHIKI: Correct.

VICE-CHAIR KING: Okay. And then yeah, so I just...I wanted to ask Mr. Cabebe about that. When this plan went through the Planning Commission, did you folks discuss this with the Planning Commission the change...the change in zoning and the community plan amendment?

CHAIR PALTIN: Mr. Cabebe.

MR. CABEBE: Hi. No, we did not go to the Planning Commission for the community plan. We



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did go before the Planning Commission for the community plan amendment and change in zoning back in 2012.

VICE-CHAIR KING: Right, right. But this is...this was just recently, so this would have been the opportunity for you to go and meet with them. But you didn't do that?

MR. CABEBE: No, we did not.

VICE-CHAIR KING: Why not, if I can ask?

MR. CABEBE: It was not proposed by the CPAC for a change, and we already had CPA and CIZ in play already...so, you know, we had it at this point so we decided to just . . .*(timer sounds)*. . . follow through with the applications instead of trying to go through the Planning Commission again.

VICE-CHAIR KING: All right. Thank you, Chair.

CHAIR PALTIN: Thank you, Member King. Member Lee, followed by Member Molina, and then Member Johnson. Go ahead, Member Lee, for your three minutes.

COUNCILMEMBER LEE: Thank you, Chair. I have a question for you then, Mr. Cabebe. Is this just before S-turn or is this at S-turn?

MR. CABEBE: This is after.

COUNCILMEMBER LEE: After...after S-turn?

MR. CABEBE: Right.

COUNCILMEMBER LEE: Okay. And then, Mr. Cabebe, Building A seems to be at risk as well, but is that going to be addressed in addition to Building F?

MR. CABEBE: So Building F is the higher concern right now. Building A, it has been shored up and, you know, you would think eventually, you know, it's going to be threatened as well. So that's when...for the overall plan...overall retreat plan, if...whenever that happens, you know, Building A will be considered for that as well, so...

COUNCILMEMBER LEE: Okay, how many units in Building F?

MR. CABEBE: There's 12.

COUNCILMEMBER LEE: Twelve, okay. And that's...and retreat is not a consideration, it's not an option?

MR. CABEBE: Not at this point.

COUNCILMEMBER LEE: Okay.

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MR. CABEBE: If, you know, like Director McLean said that, you know, we have plans in, but they're not supporting plans for that. So that might be, you know, something sooner than later that will happen as a managed retreat plan.

COUNCILMEMBER LEE: Okay, thank you. Thank you, Chair.

CHAIR PALTIN: Member Molina, followed by Member Johnson.

COUNCILMEMBER MOLINA: Yeah, thank you very Madam Chair. I guess for the Department, so I'm assuming that if the Council happens to deny this change today, the property can still operate as is. And does the Department support the property continuing to operate as is for now, and have there been any other sea level rise issues that's been suggested to the applicant?

CHAIR PALTIN: Is that for Director McLean, Member Molina?

COUNCILMEMBER MOLINA: Yes, Madam Chair.

CHAIR PALTIN: Okay, Director?

MS. MCLEAN: Yeah, we don't see a reason why they shouldn't be able to continue operating as they are. I know that the Council has talked about looking at properties like this, but until that policy change has been put in place, we would support them being able to continue to operate. Tara or Jim would be better equipped to answer questions about other issues that might be affecting the property beyond Building F and Building A, so...if you do want to ask Ms. Owens if she has any comments on that regard.

COUNCILMEMBER MOLINA: Yes, that would be great.

MS. OWENS: Aloha. This is Tara Owens here with UH Sea Grant. I guess the question is, how is sea level rise affecting the property in general?

COUNCILMEMBER MOLINA: Yeah, if you guys have any recommendations for the property owners...any other, you know, type of remedies that they could seek. Because I know there was concern expressed about what they're trying to do currently, I guess, with a proposed seawall, if I heard that correctly.

MS. OWENS: Yes, well, the situation at Building F at Kahana Sunset is probably the most severe scenario we've seen where a building is impacted by sea level rise that is forcing expanded erosion. And as the Director mentioned earlier, the building is effectively condemned for the time being by the structural engineer that works for the property because it's no longer safe for habitation. So there are some major...or I guess we're at sort of a major decision point with how to manage the situation, and it's probably something that hasn't really been encountered anywhere else yet like this, and to this severe extent. So as you guys know, I'm a scientist...I'm a coastal scientist working in the planning world, which is what I love about my job because it makes the science, you

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know, part of real world decision-making, but of course, it's also very challenging. So in some ways the science is the easy part. We have a lot of good data now about where we're headed. But the science is kind of ahead of the planning . . .*(timer sounds)*. . . and so we talk about retreat as one of the tools in the toolbox, but as I think Chip Fletcher quoted in a recent article, it's sort of an idealized hypothesis. So now the questions are how do you undertake retreat? And the good news is that there are some emerging examples.

COUNCILMEMBER MOLINA: Okay, Ms. Owens. Thank you. Sorry to cut you off. I appreciated your responses. They were very, very helpful.

MS. OWENS: Okay, no worries.

COUNCILMEMBER MOLINA: Thank you, Ms. Owens. Thank you, Madam Chair.

CHAIR PALTIN: Thank you, Mr. Molina. Thank you, Ms. Owens. Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. Great time to follow up Councilmember Molina's questions. So this is for Tara Owens, do you support the Kahana Sunset plan in their ways of going about, and do you think...or do you think they should create a managed retreat plan?

MS. OWENS: Well, as I understand, the Department is asking them to look at a managed retreat plan, and may not support the proposed improvements, which would be to repair the seawall for I think a third time, and to strengthen the foundation of the building. And I'd rather...I think the Department is directing them to look at this pathway toward managed retreat.

COUNCILMEMBER JOHNSON: Okay. Thank you, Ms. Owens, you answered my question.

MS. OWENS: So it's not my place to support or not support the zoning choice, I guess that's really up to you as decision makers. But just to conclude, it is my understanding that that may be necessary at some point to allow for relocation of buildings.

COUNCILMEMBER JOHNSON: Okay. Thank you, Ms. Owens. Thank you, Chair. I have no further questions.

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

COUNCILMEMBER SUGIMURA: Thank you. So the question is regarding HRS 205A about the seawall. Is it replace or new, Tara?

MS. OWENS: What is being proposed...

COUNCILMEMBER SUGIMURA: So that would be a...sorry.

MS. OWENS: So are you asking what is being proposed for Building F?

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CHAIR PALTIN: The seawall.

COUNCILMEMBER SUGIMURA: It's the seawall...the seawall.

MS. OWENS: The seawall of Building F. What is being proposed is a very substantial repair to the seawall, which I think that it's being referred to as repair, but as I understand, the Department has determined that it's more substantial than a repair, and it's effectively a new seawall, which the State law does not allow.

COUNCILMEMBER SUGIMURA: Oh, it does not allow. So has that been explored, is that a legal question that maybe you can answer?

MS. OWENS: Yeah. I mean, maybe Jim or the Director would want to clarify, but in 2020, Act 16 was passed, which brings in the State law on our shoreline armoring, and basically does not allow shoreline armoring...new shoreline armoring or a significant expansion of shoreline armoring along sandy beaches due to the consequences that are known with seawalls.

COUNCILMEMBER SUGIMURA: Wow, okay. So that makes this project in jeopardy then of doing their seawall.

MS. OWENS: Possibly. And again, I'd defer on interpretations of that law and how it applies here to Planner Buika or Director McLean.

COUNCILMEMBER SUGIMURA: Okay. If I could, I see Jim Buika popped up, Chair.

CHAIR PALTIN: Oh, sure. Go ahead, we have time.

MR. BUIKA: Thank you, Chair. Thank you, Yuki Lei and Tara. Yes, the seawall basically...the repair for the seawall that is proposed is to drill...drill piles 25 feet deep down to bedrock. And as the piles come up, it would add a concrete wall basically from bedrock all the way up to the surface of 25 feet. So in essence, they would be building a brand new seawall upfront rather than like for like repair, which we usually authorize, you know, replacing rocks or mortar or minor repair. So this would be considered a new...a new seawall, which at this point is not allowed, and would require a variance from the Maui Planning Commission to achieve. Hopefully that answers your question.

COUNCILMEMBER SUGIMURA: Yeah, wow. So in other words then, they wouldn't be able to do the seawall replacement, repair, or whatever you're going to call it. And I guess what would happen to Building F then? . . .*(timer sounds)*. . .

MR. BUIKA: They would need to manage retreat, yeah...most likely. I don't know, I don't know what the bell was all about, but...okay.

CHAIR PALTIN: Thank you. Member Rawlins-Fernandez.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Yeah, I think one of President Barack Obama's estates was able to exploit a loophole in that new law, and was publicly and highly criticized for being one of the last ones to expand and strengthen that seawall. So I support that new State law regarding armoring of the shoreline. My question is for Ms. Owens. Right before you were cut off, I heard you start speaking about emerging solutions or models. Would you please speak to or finish what you were saying when the timer went off.

MS. OWENS: Thank you. Thank you. Well, I was just going to offer that there are some emerging examples, and this Kahana Sunset may be one of them. I know also, the Planning Department and...with support from myself and my program, are working on looking at the retreat pathway as an adaptation pathway for Ma'alaea. We have an example emerging with the Pā'ia Youth and Cultural Center that the Council has been involved in, and Moloka'i itself is working on a resilience plan that I think will probably explore some of these options too. So just...I think where I was going with that is that if retreat is the expected outcome, you know, what we have to do is figure out the road map to get there and it's going to be a site specific discussion...possibly Council can help with that to support the planning process, which may be leading these types of discussion. It may be that zoning changes are required. Again, it's timing of that may be crucial to support retreat, design for buildings. If these buildings like Building F or Building A at Kahana Sunset were to be relocated, you know, looking at design and siting, engineering and architecture are going to be really important. Understanding the demolition process, which will be very tricky with these buildings that are, you know, sitting right at the shoreline without causing damages during that process. So I don't know if that answers any questions, but it does just...I just wanted to emphasize that we're there. We know what the future looks like, and we know maybe what the end number is, but figuring out what that adaptation pathway is in the meantime is really challenging, and thank you for your support in that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. Owens. And then my second question--while I still have time--is for Mr. Cabebe . . . *(timer sounds)*. . . and I know...okay. Mahalo, Chair.

CHAIR PALTIN: Go ahead and finish your question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. The question is for Mr. Cabebe. And I know like several Members and the Chair has asked about the plan for managed retreat. And what I'm hearing from you and others is that managed retreat is like a Plan B, Plan C, you know, it's not the ideal. And so it sounds like to me that you're going to continue pushing this Plan A of re-enforcing the seawall and repairing Unit *[sic]* F and not continue to explore managed retreat unless you have to. Is that a fair assessment?

MR. CABEBE: Thank you, Councilmember Rawlins-Fernandez. Yes, you know, particularly the owners of, you know, the units in Building F, they would like to keep the building there obviously. But, you know, it's...everything is pointing more towards managed retreat now, you know, with the determination from the Planning Department that the

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wall is essentially a new wall. That was a determination that we...I think we just received like last week in a letter from the Planning Department. So, you know, going forward, you know, that was kind of Plan B which is true but, you know, there's something, you know, it may be Plan A now. So we would...you know, they would like the opportunity to be able to do that and, you know, come up with plans and a way to move these buildings if possible, you know, away from the shoreline.

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

CHAIR PALTIN: Thank you. I think everyone had a chance to ask at least one question. I had a question either for Mr. Hopper or Mr. Mitchell on process. So in Mr. Cabebe's presentation, this item went through the Maui Planning Commission seven years ago, I guess, on July 22, 2014, and received unanimous approval to change the zoning and the community plan. However, this same item went through the Planning Commission as part of the West Maui Community Plan update, with the existing community plan reinforced by the Maui Planning Commission as of December 8th, 2020. So as far as process, the most recent decision on this property by the Maui Planning Commission seems to have the community plan amendment leave it as residential and not hotel. Is that your interpretation, or are we going by the most recent ruling on this property, or by the seven years ago ruling, if you know...either Mr. Hopper or Mr. Mitchell.

MR. MITCHELL: Aloha, Chair. I'll defer to Mr. Hopper and his response here, but my initial reaction is that --

MR. HOPPER: Chair?

MR. MITCHELL: -- the most recent decision would be the one that you would focus on.

CHAIR PALTIN: Okay. Mr. Hopper, do you concur with the most recent ruling from the Maui Planning Commission, or the one from seven years ago?

MR. HOPPER: Well, I mean, the Planning Commission, again, seven years ago was a recommendation to you to do the change. So it still rests with the Council to make that decision. The decision in the plan, I think, reaffirms what the current is, but you're being asked to consider...I guess it's been a long time, you know, still pending. But as far as the Planning Commission, they just made a recommendation to you rather than an actual action.

CHAIR PALTIN: Okay. The reason I was asking is, you know, in certain circumstances, if we go against the Planning Commission's recommendation, we'll need six votes at full Council. And I know this is just Committee, but which recommendation would we need six votes for, if you understand what I'm asking?

MR. HOPPER: Yeah, I think you're talking about the Charter provision that talks about if the Council either acts without hearing from the Commissions or does something that's contrary to the Commissions. I will double check the Charter. I think I just checked on this relatively recently. I think that applies only to Council initiated changes in the

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Charter. I can double check that provision, but I do remember looking at that recently.

MR. MITCHELL: That's correct.

MR. HOPPER: Oh, okay. Thank you.

CHAIR PALTIN: Okay. So it wouldn't apply to us because this is Director initiated.

MR. HOPPER: I'd want to confirm that...or is this applicant initiated? I didn't recall. I can...we can double check that. I don't think it was Councilmember initiated though, correct?

CHAIR PALTIN: Yeah, that's why we have the Charter deadline, which we're years past. But I think it was Director initiated. So it doesn't matter what the recommendation is, we'll just vote and simple majority would hold? Is that what you're saying?

MR. MITCHELL: That's correct, Chair Paltin. Simple majority for a Committee meeting, simple majority for the Council.

CHAIR PALTIN: Okay. Thank you for clarifying that. And so my recommendation kind of is to file it because...unless a change in zoning and a change in community plan would not result in reinforcement, but managed retreat would not result in a new seawall, but managed retreat. But we can have some discussion on it before I give my recommendation.

COUNCILMEMBER MOLINA: Recommendation.

CHAIR PALTIN: Oh, okay. My recommendation is to file.

COUNCILMEMBER RAWLINS-FERNANDEZ: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR PALTIN: Moved by Member Rawlins-Fernandez, second by Member Molina. Member Rawlins-Fernandez...oh sorry, for first discussion, followed by Member Molina, Chair Lee, and Member King.

COUNCILMEMBER RAWLINS-FERNANDEZ: No problem, Chair. I know Fernandez is a very tricky Hawaiian name to pronounce. No, I concur with the comments that you made, Chair, and support your recommendation. Mahalo.

CHAIR PALTIN: Okay. Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. You know, I guess all depending on which side of the fence you're on, you know, since we just passed the hotel moratorium, the timing is, you know, not exactly the best, but I guess it's good to know that they can still operate as is with the current variance. So that's why I'll go with your recommendation to file at this time, on top of all the managed retreat concerns as well

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as it relates to that...I guess it was Building F. So I'll support your recommendation to file. Thank you, Madam Chair.

CHAIR PALTIN: Thank you. Member Lee.

COUNCILMEMBER LEE: Yes, I'd like to hear from Director McLean.

CHAIR PALTIN: Again, okay. Director McLean.

MS. MCLEAN: Thank you, Chair. If the Council wants to encourage managed retreat on this property, then you would support the requested changes because without them, they would only be able to build single-family units on their undeveloped portion of their property, and that wouldn't get them to the same unit count that they have now. It could be appropriate...we should defer to Counsel, but it could be appropriate to condition the zoning on seawall...you know, on not having the new seawall and things like that if that's also the concern. But the main message is, you know, I've heard this Council many times talk about managed retreat. And if you want to encourage that, then you need to give the entitlements for them to be able to do it. And this was applicant initiated, it wasn't Department initiated.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR PALTIN: I'm sorry, could you repeat that last part, who was initiated it?

MS. MCLEAN: That the applicant initiated the change. The Planning Department didn't initiate this change, I don't believe.

CHAIR PALTIN: Oh, okay. Thank you. And then it was Member King, followed by Member Sinenci.

VICE-CHAIR KING: I was actually...thank you, Chair. I was actually just seconding the motion, but I agree with your recommendation. And I would like to see some even rough outlines of any intent of managed retreat before we would move ahead with something like this. Like even where would you retreat to, you know, how would you reconfigure? I don't like the seawall idea, so I wouldn't be in favor of a variance on that, and I think we have to stop rebuilding right next to the ocean in the sea level rise area. So, you know, I support the motion to file.

CHAIR PALTIN: Thank you. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a clarifying question from Director McLean. You said that they could...they still have the variance to continue with the project . . .(inaudible). . .

MS. MCLEAN: Right. The variance allows them to do the short-term rental use in there. But if they were to build new buildings as part of a managed retreat effort, I do not think that the variance would extend to those new buildings.



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COUNCILMEMBER SINENCI: Okay. Thank you for that clarification. Thank you, Chair.

CHAIR PALTIN: Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. I just wanted to get a clarification from Director McLean. So if the Council were to grant them the hotel rezoning, what can they do with that...with getting that new entitlement versus, you know, what they can do now? What else could they do in addition to what they cannot do now, is my question.

MS. MCLEAN: Well, Raymond had a slide that talked about the differences between R-3 and Hotel, but I think...you know, if I'm understanding where the Council is coming from, you want to freeze everything like they have it now, but it would allow a managed retreat, and I think you could craft conditions that would serve that purpose. So they couldn't have the hotel use as the moratorium says, and there is an exception in the moratorium. They could build new units if they are decommissioning old units in a managed retreat process so that they would be allowed to do. And then those new units, unless the moratorium is changed, would be allowed to do vacation rental. So basically they would be moving Building F further mauka to where it's safe.

COUNCILMEMBER MOLINA: I see. Okay, thank you. Thank you, Madam Chair.

CHAIR PALTIN: Thank you. And for my discussion, you know, I do support the idea of managed retreat, but not just saying like oh, managed retreat. Until they have plans, financing, and those things, I don't think we can talk about it in the context of change in zoning and change in community plans, especially we just went through the community plan process, through the Maui Planning Commission and, you know, seeing South Maui up next and Central Maui after that, I don't want to just change what they worked on for the past three, four years after they duked it out. I mean as recent as March 4th, 2020, our West Maui Community Plan Advisory Committee voted to keep Kahana Sunset as residential. So I'm not thinking of coming in here and changing their vote, you know, it kind of leaves a bad taste in my mouth. Sorry, Member Sugimura, did I call on you? I didn't, yeah? I'm sorry. Did you have your hand up?

COUNCILMEMBER SUGIMURA: No, that's fine. No, thank you for that. Are you done?

CHAIR PALTIN: Yeah, yeah...sorry. I thought I'd called everybody. My bad. I meant to call you.

COUNCILMEMBER SUGIMURA: So Director, if she could come back and speak to what she just said in her last statement, that if we don't...Michele, are you there? Oh, there. So can you say again what you opened with just now?

MS. MCLEAN: When I talked about needing the entitlements to be managed retreat?

COUNCILMEMBER SUGIMURA: Yeah, yes.

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MS. MCLEAN: Well, if we want to encourage managed retreat, then we need to make sure that the properties that would be doing managed retreat have the entitlements they need to do that. Without that, they would have to first go through the entitlement process, and that all by itself can take a couple of years...or in this case, almost ten years. So if that's what we want to encourage, then we should support the entitlements. I think they can be conditioned to really limit them on the uses that they would be allowed in the future, and to prohibit the seawall...you know, to do the things that it seems you're most concerned about. So...but they wouldn't be able to pursue managed retreat without the entitlements, they'd only be able to build single-family homes.

COUNCILMEMBER SUGIMURA: So that would basically then stop them from proceeding any further because right there...what is it, 12 units or whatever it is, it's not a residential use now. So I understand where this...you know, if we do want them to do managed retreat, and if that is correct...so by what Director just said, then I want to support the action that would get them to where we want to get them, and put the conditions on, you know, as Director is recommending, and I wonder what those conditions would be. How would you say it so it would be clear to the applicant, as well as the Department? What would be your recommendation?

MS. MCLEAN: I'd need a few minutes to craft them, but that the only additional or new units that could be constructed would be those that are replacing units that are decommissioned as part of a managed retreat program. That existing units, you know, kind of like some of the language in the moratorium, that the square footage of the units cannot be expanded, the accessory hotel uses shall not be increased beyond what's there today, things like that. Jim popped up, I don't know if he wanted to make a comment as well.

COUNCILMEMBER SUGIMURA: Thank you.

MR. BUIKA: Yes, thank you. Chair, yes. I have the conditions...I have three conditions that were proposed at the 2018 if you'd like me to...I think it would be useful to see those conditions. May I share my screen? Do we have time?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR PALTIN: Are those the same conditions that Mr. Cabebe had in his presentation?

MR. BUIKA: Yes, I do believe so. Yeah.

CHAIR PALTIN: Okay. Member Sugimura, they're on page 15 and 16 of your Granicus from Mr. Cabebe's presentation.

COUNCILMEMBER SUGIMURA: Okay.

MS. MCLEAN: Or Chair, if I could also suggest, I know that you're anxious to get through your deadlines. This one is so, so, so far past. Maybe deferring it, and seeing if they can

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come back with somewhat of a managed retreat plan that could be part of your approval so that you're not just approving this entitlement and not knowing what their plans are, then you could at least see what would be allowed, you know, and would give time for zoning conditions that would restrict them to that plan. Just a thought.

CHAIR PALTIN: Okay, let's check in with Mr. Mitchell on that \$1,000 fine if we give them some time. Because, you know, we don't want...

MR. MITCHELL: Thank you, Chair. My response to the question would be the same as I gave last time that the Committee, and therefore Council, is moving this forward. So I seriously doubt that this would be willful negligence in not trying to meet a deadline. It already got to you late, and now you're trying to move it forward, so now you're just waiting for additional information. I think it'll be fine.

CHAIR PALTIN: Okay. Main thing, main thing. Member Sugimura, do you mind if we hear from Member Kama while we...while you look at those conditions?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR PALTIN: Okay. Member Kama, go ahead.

COUNCILMEMBER KAMA: Thank you, Chair. As I'm sitting and listening to where we're at, and I hear that our Members are saying we are really in support of managed retreat, but without a plan, it's hard to say yes. So I think giving them some time, taking the recommendation of Director McLean to defer, to give them time to do what we want them to do and to do it properly, I think is probably a good recommendation. And so that is my thought, Chair. Thank you.

CHAIR PALTIN: Okay. And Member Rawlins-Fernandez, did you have an additional comment?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair, yeah. I wanted to speak in response to your comments, and I wanted to speak in response to Director McLean's comments about giving the more...giving Kahana Sunset more time to come back with a managed retreat plan. So first, I think, you know, like you said, Chair Paltin, that...and Mr. Cabebe let us know that this wasn't...managed retreat wasn't Plan A, it was, you know, Plan B, Plan C. And so giving them a definitive, you know, vote because they've kind of just been in limbo all this time waiting for a response on their Plan A. And so, you know, if we move forward with saying that the Plan A does not have the Council's support, then they have a definitive answer from us on how to move forward because their Plan A isn't going to work. In response to Director McLean, in waiting for a managed retreat plan, I don't know how long that will take. I imagine it will take longer than a year, and I personally believe that that plan, a managed retreat plan, should go to the Planning Commission for review as well, you know. Because if we just defer this item, then the Planning Commission won't see this proposed managed retreat plan, and so I think it should go back. And so I think filing is the correct action to take here, and letting this process go back so that they can create a new Plan A, which was their Plan B or Plan C. So it'll be a clean slate, they have definitive responses. But I

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think even more so, a managed retreat isn't continuing to build in the SLR-XA, like Member King alluded to, that...you know, that it really be thought out, that it's further away. Like, you know, past Council, past actions, before having the kind of information that we have now regarding climate change, regarding sea level rise. And so we have the benefit of this information now, and we need to be responsible in using that information in how we make decisions. And that's how we're being responsible in making decisions, is not allowing the continued development right along the shoreline, knowing sea level is rising and we're going to be putting future Councils in this same predicament knowingly. I think that's irresponsible. Mahalo, Chair.

CHAIR PALTIN: Thank you. Member Johnson.

COUNCILMEMBER JOHNSON: Thank you, Chair. I was going to ask about exactly what Councilmember Keani Rawlins-Fernandez just answered my question, so I'm kind of sitting here. So...but I do want to support this...I just want to recognize my support to file because of all the reasons that Councilmember Keani Rawlins-Fernandez just mentioned. So mahalo, Chair.

CHAIR PALTIN: Thank you. And the...I just wanted to point out, the first time around, there was some confusion of getting who would sign like a unilateral agreement and like that, so it's not just that we're talking to Mr. Cabebe or Ms. Keegan. All the whole AOA and all the owners need to be consulted and get on the same page, and that's not something in the past that has happened in a few weeks or even a year. So, you know, I can say like if they were to submit to me plans and financing for managed retreat, then I could do a Council initiated change of zoning, which could cut down on some time going forward. But also, I do think that any plans and financing should also be seen by the Planning Commission as well. So that's why I'm staying with my recommendation to file, although we know that this isn't the end of the story as far as the property is concerned. But I think this will be giving clear direction that we don't support continued sea wall, continued fortification of Building A and Building F when they come back with any kind of community plan amendment, change in zoning...hopefully at least a year after the West Maui Community Plan has been passed, but we'll see. Then we can move forward with more definitive plans going forward. Member Lee, followed by Member Sugimura.

COUNCILMEMBER LEE: Chair, I'm really appreciative of your intent to try to be fair to these...to the applicant because they have been treated unfairly for almost ten years. The wait has been excessive, and that is one of my concerns. And secondly, if they do come up with a plan for managed retreat, I think this is something that we should encourage. I'm inclined not to support this, unless of course you make the commitment that you would bring this back immediately, and not let it fester for another ten years or so. And if you would expedite it, I'll be happy then to support your motion.

CHAIR PALTIN: Yeah, I mean, as soon as we get those plans and they're feasible, sure. Member Sugimura, followed by Member Kama.

COUNCILMEMBER SUGIMURA: Okay. I like where this direction is going, but can we hear

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from the applicant about all this discussion? I mean, is it something that they are...they would consider doing and bring it forward?

CHAIR PALTIN: Let me just clarify. We have Mr. Cabebe, the consultant; we have the AOA Board President; and we have the General Manager of Kahana Sunset. Which of the three are you referring to?

COUNCILMEMBER SUGIMURA: Whoever can speak about this.

CHAIR PALTIN: I don't know that any of them can speak on behalf of all the owners, but I see Mr. Cabebe, so give it a shot.

COUNCILMEMBER SUGIMURA: I see Mr. Cabebe.

MR. CABEBE: Okay. I'll give it a shot. I understand, you know, the concerns about the managed retreat and trying to, you know, maybe hold off on, you know, any kind of action by Council on the...you know, the CPA and CIZ actions. You know, to do a managed retreat plan will take some time, and some of the other Councilmembers have alluded to and, you know, it takes money. And I think it might be better to have a concept plan maybe to Council and then...you know, if that's something that Council is okay with, then go to Planning Commission...because you have to go to Planning Commission for an SMA permit anyway. So, you know, at that point, you know, that's when Planning Commission, I think, should be hearing the plan. And so...but, you know, also, like I said, you know, it is going to take some time and money. It would really make it easier to be able to do what they need to do so we can, you know, comply with the conditions and standards of hotel zoning. Because that's going to be the key, we have to make sure that whatever is planned is going to fit into the zoning requirements who are, you know, the H-M zoning, which they are asking for, you know. And I appreciate the Department's support, you know, with moving that forward, and I think that would be the preferable thing to do for the property, to get the approval of the change in zoning and CPA done before moving into something more complex like a managed retreat. Because managed retreat is not, you know, very simple to do, it's like there's all...there's different things to consider, you know. Compliance with, you know, current conditions as opposed to what it's complying with, you know, the conditions of the variance, and there's all sort of things that we would have to have conversations with the Planning Department with. So thank you for that opportunity.

CHAIR PALTIN: Member Sugimura, are you done?

COUNCILMEMBER SUGIMURA: I'm done, yeah. Thank you. Thank you, Mr. Cabebe.

CHAIR PALTIN: Member Kama, did you have your hand up also?

COUNCILMEMBER KAMA: Yes, I did, Chair. Thank you. And I was going to ask to hear from someone from the applicant side, and I did hear what Mr. Cabebe had to say. But I'm also wanting to say that he's talking about a conceptual plan, and I understand what that means. And that's not maybe what we might be asking for, but I'm thinking that

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if we keep the discussion flowing in terms of as they go through this process, and maybe it's helpful for us too, to be able to see how each step as we go forward in looking at managed retreats, and I hear that. So I'm just hoping and asking that this Council would be able to help walk with them as they go through this process, and that we, at that same time, are going to be walking and learning and continuing the conversation until that managed retreat plan is at a place and space and time that this Council can say yes to. So that's my comments, Chair. Thank you.

CHAIR PALTIN: Thank you. Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Madam Chair. If I may ask Mr. Mitchell with regards to the procedural process. The difference between deferring and filing, my understanding is if we file, then the whole item is erased from Member Paltin's master plan; versus deferring, it leaves it open then for the applicant at some point to submit a managed retreat proposal. I don't know, can you kind of shed some light on this, the differences between, you know, the options for the applicant facing either filing or a deferral? I mean cost-wise, I'm not sure what that's going to...how that affects them, but I'd like to hear your thoughts.

MR. MITCHELL: Thank you for the question, Member Molina. In terms of the descriptions of both, I think you've described them accurately. You know, filing closes the matter, and deferring leaves it open for future consideration at a later date. So you did describe it correctly.

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

CHAIR PALTIN: Member King.

VICE-CHAIR KING: Thank you, Chair. I'm in favor of filing this, and for a couple of different reasons. One, I think that it does give the will of this Council if we file this because what we want to see in terms of a managed retreat plan can always be brought back up to the Council. This issue can always be brought back up. And if we look back to the earlier item on today's agenda, and the question about whether we can make a community plan amendment within the first year, the point was made that if it came from an entity that was not the Council or the Planning Department, that you cannot make that change within a year. And we just heard from the Planning Director that this came from the developer, not from the Planning Director or the Council. So I don't think we can make a change in the community plan anyway. And I would rather see this filed and let them come up with another plan and then...you know, rather than dragging it out and having that question hang over our heads that we're not solving the issue within however many days we were supposed to solve it. Let them come back with another plan, and let it not be in the SLR-XA, please. I mean, you know, I understand that the...the desire to help the developer, but there's nothing fair about climate change, you know, and a lot of this is consequences of having built too close to the ocean years ago. I keep telling people in Wailea, they should get down on their knee...all the hotels should get down on their knees and thank Susan Bradford because she was the one that fought for that walkway along the beach, and pushed all the hotels further away from the high

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water mark. But I have heard from the past from residents of Lāhainā that they came to these developers years ago and told them they were building too close to the ocean, but they built there anyway. So this is part of the consequence of that happening, of building too close to the ocean. And it's...you know, you could say it's the developer's fault, you could say it's nobody's fault. But, you know, I don't think there's any way for this Council to make a fair response to everybody to climate change, because some people are just too close to the ocean. And I would...I think it would be prudent of us to file this motion, and have the developer work on an alternate plan or, you know, at some point, some of these buildings are just going to have to be let go, and that's just the reality of it. But anyway, that's my plan...my position. Thank you.

CHAIR PALTIN: Thank you. Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair, for my opportunity. Yeah, I would support the filing. And just to also bring up my support is in support of the Planning Department's proposed third condition of a planned shoreline management retreat at the September 5th Land Use Committee meeting of 2018. I support. Thank you.

CHAIR PALTIN: Thank you. I think I'm ready to call for the question. My last discussion before that would just be that, you know, Kahana Sunset is just...the bay that fronts it is called Keonenui Bay. And, you know, Wehewehe Wikiwiki calls it beach, Alaeloa, Maui, pocket of calcareous sand fronting the Kahana Sunset Condominium, also known as Yabui Beach; literally the big sand. So there's no more sand. All there is is sea walls and rocks and, you know, it's us humans that brought us to this point where a bay that was formerly known as the Big Sand Bay has no more sand. With that, I'll call for the question. Let's just do a roll call vote. Mr. Leauanae, can you assist me with a roll call vote?

MR. LEAUANAE: Sure, Chair. Committee Vice-Chair Kelly King?

VICE-CHAIR KING: Aye. This is for the filing, correct?

CHAIR PALTIN: Correct. Sorry, my bad. For the filing.

VICE-CHAIR KING: Aye.

MR. LEAUANAE: Member Johnson?

COUNCILMEMBER JOHNSON: Aye.

MR. LEAUANAE: Member Tasha Kama?

COUNCILMEMBER KAMA: No.

MR. LEAUANAE: Member Lee?

COUNCILMEMBER LEE: No.

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CHAIR PALTIN: No rest for the wicked. Okay. So...oh, Member Sinenci.

COUNCILMEMBER SINENCI: Real quick, Chair. I just wanted to get your input for tomorrow's PSLU meeting at 11...I mean, I know it's a virtual meeting, so we'll just kind of...there will be a recorder or visual for the . . .*(inaudible)*. . .

CHAIR PALTIN: Thank you. Yes, tomorrow is our virtual site inspection for Lumeria, and so we'll be seeing Mr. Cabebe again two days in a row. And right after this meeting, Mr. Leauanae and Ms. Sunderland will be going over to Lumeria to see about the broadcast ability of the Wi-Fi in the area. So when we log on at 11:00 tomorrow, we should be having a virtual tour...some testimony, and then a virtual tour of Lumeria. So...then you can have lunch, and then we'll make some discussion and decision. So Affordable Housing this afternoon, Lumeria tomorrow, what a busy off-week. So the time is now 12:05, and this meeting is adjourned. Go eat a good lunch. . . .*(gavel)*. . .

**ADJOURN:** 12:05 p.m.

APPROVED:



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TAMARA PALTIN, Chair  
Planning and Sustainable Land Use Committee

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Transcribed by: Terianne Arreola

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CERTIFICATION

I, Terianne Arreola, hereby certify that pages 1 through 50 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 24th day of February 2022, in Wailuku, Hawai'i

A handwritten signature in black ink, appearing to read 'Terianne Arreola', is written over a horizontal line.

Terianne Arreola