

**LANA‘I PLANNING COMMISSION  
REGULAR MEETING  
OCTOBER 20, 2021**

**A. CALL TO ORDER**

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Ms. Shelly Preza, Chair, at approximately 5:00 p.m., Wednesday, October 20, 2021, online via BlueJeans Meeting No. **680 524 529**.

Ms. Shelly Preza: Before we go over the rules for the meeting, I'm just going to take a quick roll call for Commissioners to make sure we have quorum. If you're here, could you just unmute and let me know that you are, so Sally?

Ms. Sally Kaye: I'm here.

Ms. Preza: Thank you. John de la Cruz? I think he's not here. Zane de la Cruz? Okay, not here. Lisa Grove?

Ms. Elisabeth Grove: Here.

Ms. Preza: Sorry, did you --? I see you. I think you said here.

Ms. Grove: Yeah, here. Sorry.

Ms. Preza: Thank you. No, you're good. Sherry Menze? I see you Sherry. Do you want to test your microphone?

Ms. Sherry Menze: Yes. Here. Can you hear me?

Ms. Preza: Yes. Thank you. Okay, Natalie I don't think is here. Shirley, I don't think is here either. And Chelsea Trevino?

Ms. Chelsea Trevino: Here.

Ms. Preza: Thank you. Okay, great, so we do have quorum. Okay, so before we get started, just some housekeeping rules. So public testimony will be taken when each agenda item is discussed and testimony will be limited to a maximum number of three minutes. So, Leilani, if you wouldn't mind keeping time and just letting people kind of know when they have 30 seconds left or so or a minute, that might be good. Thank you. And then I'll call testifiers one by one. And if you're not testifying, if you could mute your audio and video that would be most helpful to keep the meeting going smoothly. If you would like to testify, please sign up using the chat by messaging Leilani directly so Commissioners won't be checking the, the public chat. So if you want to testify, please let Leilani know; you know you can directly message her. And then I'll call any testifiers calling in via phone after any of the BlueJeans testifiers are done.

**B. PUBLIC HEARING (Action to be taken after public hearing.)**

**1. A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO PROHIBITING AGRICULTURAL RESTRICTIONS IN THE RURAL DISTRICT**

**MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting Resolution No. 21-113 referring to the Maui, Molokai, and Lanai Planning Commissions a proposed bill to amend Maui County Code Chapter 19.29 -- Rural District, to prohibit instruments of conveyance from restricting the growing and harvesting of any agricultural crop or product. (J. Takakura)**

**The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/128227/Resolution-21-113-proposing-to-prohibit-instruments-of-conveyance-from-restricting-agriculture-in-Rural-district>**

Ms. Preza: Okay. And with that we'll get started. We'll move on to item B.1., which is a bill for an ordinance amending comprehensive zoning ordinance relating to prohibiting agricultural restrictions in the rural district. And I'm not sure if Jacky or Jordan, you folks are commenting. I see Jacky; you're here. Hi. I'll pass it on to you.

Ms. Jacky Takakura: Is it okay if I get started? Okay, hello Lanai Planning Commission, Chair Preza, and Vice-Chair Kaye. For this first agenda item regarding rural district, I don't have a power point presentation. As you can see, it's a pretty short resolution from the County Council and what they're proposing is prohibit instruments of conveyance from restricting the growing and harvesting of any agricultural crop or product on lands in the county rural district. So the intent of the measure is to stop the prohibition of ag uses permitted in the rural districts through deed restrictions in all forms, including homeowners association, HOAs, or similar covenants, conditions and restrictions, or CC&Rs. The intent is similar to the existing prohibition on restricting permitted ag uses in the ag district.

Just as review, there's county and state zoning. And the purpose of the County rural district is to provide low density development, which preserves the rural character of certain areas and allow small step scale ag uses and keeping of animals to serve as a transition between standard residential or other urban density developments and agricultural lands. For State rural district, there's definitions in Hawaii Revised Statutes 205-2, and it's intended for areas of land composed primarily of small farms mixed with very low density residential lots. And it's for areas where a city like concentration of people, structures, streets and urban level, level of services are absent. And where small farms are intermixed with low density residential lot.

So the Planning Department's position is that we support the protection and diversification of agricultural operations in the county economic engine. In the context of food sustainability, it's really important, and in the preservation of the rural character of Maui County. The department also supports the preservation of permitted uses established by zoning to facilitate the most efficient and desirable uses of land.

So we do propose a revision to the wording and I do have that in the memo report on page, the last page, page three. And we would prefer, if it were to read that any deed, lease, agreement of sale, mortgage or other instrument of conveyance interpreted to contain any covenant or clause that restricts directly or indirectly the growing and harvesting of any agricultural crop or product on lands within the RU-0.5, RU-1, RU-2, RU-5, and RU-10 County rural districts shall be considered invalid and not enforceable. This section does not apply to any covenant or clause existing prior to the effective date of the ordinance establishing the section.

So as I mentioned, we do support the proposed bill. The commission can either recommend approval of the bill, recommend approval of the bill with amendments, recommend denial, or vote to defer action to gather information. You can see in the memo report, I do have maps of the different islands and where the rural zoning is located. And on page-nine of eleven, you can see there is one area near the harbor that is rural. So that is the area that would be affected for the island of Lanai. And it would be simply to say that any documents that, if there's an association, they can't prohibit ag. And that's all I have. We can answer any questions if you have any. And I actually do have a screenshot of that area in case you want to see it. That's all I have for you. Thank you.

Ms. Preza: Thanks so much, Jacky. Before commissioners we get to discussion, I'm going to open up public testimony since this is a public hearing item. Leilani, has anyone signed up to testify at this time?

Ms. Leilani Ramoran-Quemado: Thanks Chair. No one signed up to testify on this item.

Ms. Preza: Okay, thank you. Well, I'll open it up in case anyone would like to. At this time, you can unmute yourself. If not, is there anyone calling in via phone who would like to testify on this item? Okay, so we'll close public testimony for item B.1. And Commissioners, we can move to our discussion. Do you folks have any comments or questions about it? Any thoughts? Yes, Lisa, go ahead. Sorry, you're muted, Lisa.

Ms. Grove: Amateur hour. I'd like to see the, the visual that Jacky suggested she's, she'd be willing to share, please.

Ms. Preza: Jacky, if you wouldn't mind sharing.

Ms. Takakura: Give me about five seconds and I will --

Ms. Preza: Yeah. Thanks.

Ms. Takakura: -- screen share.

Ms. Kaye: While she's looking for that, I don't have a problem with the change in the language, but I would recommend taking out the word "considered" because I think it adds a layer of ambiguity. It raises the question of considered by whom. And it actually could be just fine to say the rural district shall be invalid and not enforceable.

Ms. Preza: Thanks, Sally. Is that, is that your only comment? Okay.

Ms. Kaye: Thank you. Thank you.

Ms. Preza: No, thank you. That's great. Okay, thanks for sharing. So I think what we're seeing at the kind of upper right, that's like the Kaunalapau Highway, right Jacky? So I think we're all kind of generally familiar with the area. Did you guys or do you have any questions?

Ms. Kaye: Is that Aunty . . . (inaudible) . . . old house? The structure?

Ms. Preza: Family B, I'm not sure. The dirt road comes down, so it's -- yeah, so the highway continues and then --. Yeah.

Ms. Kaye: It's hard to tell exactly where that is, but, yeah it's pretty empty.

Ms. Preza: Okay. And Jacky, that's the only rural -- thank you for sharing -- that's the only rural district on Lanai zoned, zoned rural?

Ms. Takakura: Yes Chair Preza, that is correct.

Ms. Preza: Thank you. Yes, I'm okay with this as well, given that it's going to only impact that area, and, you know, agriculture is fine. So, so I have a question. So if we would like to --. I mean, sorry, Commissioners, do you have other questions or comments? I did have a question. So the, if we would like to recommend say like approval with amendments, would that be with, you know, the County's proposed amendments as well, and then maybe also Sally's recommendation to remove considered? That would be the course of action we would take correct?

Ms. Takakura: Yes, that is correct. We can fix the language. And then, of course, we do send it to Corporation Counsel to, for them to double check on, but yes, we would incorporate your revisions.

Ms. Preza: Okay. Thank you, Jacky. Commissioners, did anyone want to make a motion?

Ms. Kaye: Okay, I'll move that we recommend approval of the proposed bill to Maui County Council with the simple amendment of removing the word considered from the language proposed by the Planning Department.

Ms. Preza: Thank you, Sally. Would anyone like to second that?

Ms. Grove: Second.

**It was moved by Ms. Sally Kaye, seconded by Ms. Elisabeth Grove, then unanimously**

**VOTED: To recommend approval of the proposed bill to Maui County Council with the simple amendment of removing the word considered from the language proposed by the Planning Department.**

*(Assenting: E. Grove, S. Kaye, S. Menze, S. Preza, C. Trevino)*

*(Excused: J. de la Cruz, Z. de la Cruz, N. Ropa, S. Samonte)*

Ms. Preza: Lisa seconds. Is there any further discussion on this? If not, then we'll take a vote. Because we have quorum, I think, and I can actually — Chelsea, do you mind putting your camera again because then we can just vote. I can see you folks or I can call you guys individually like we've been doing. Okay so I'm all in favor please raise your hand. Okay, any abstentions? Any not in favor? Passes unanimously. So thank you very much.

**2. A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO BUILDING HEIGHTS IN BUSINESS AND PUBLIC/QUASI-PUBLIC DISTRICTS**

**MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting Resolution No. 21-114 referring to the Maui, Molokai, and Lanai Planning Commissions a proposed bill to amend Maui County Code Chapters 19.18 – B-2 Community Business District, 19.20 – B-3 Central Business District, and 19.31 – Public/Quasi-Public District to lower the maximum building heights. (J. Takakura)**

**The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/128226/Resolution-21-114-proposing-to-lower-building-heights-in-B2-B3-and-P2-districts>**

Ms. Preza: And we can keep the meeting moving along. And Sherry, I know, you said you have to leave an hour in, right? Sorry, you're muted.

Ms. Menze: Yes, I do. I'm sorry.

Ms. Preza: Oh, no, it's okay. Just letting the other commissioners know that we are trying to get the public hearing items done at least before Sherry leaves, so that -- because we do have bare quorum only. So after she leaves, we probably won't be able to take official action, any voting action on any of the subsequent items. But okay, thank you very much.

So we'll get moving to Item B.2. which is a bill for ordinance amending the comprehensive zoning ordinance relating to building heights in business and public/quasi-public districts. I believe there is a presentation for this. I think we got a copy of it.

Ms. Takakura: Yes. Thank you, Chair. And I do have a presentation. There's a lot going on because it's three different chapters that are being proposed to be revised. Although I must say none of these zoning districts are on the island of Lanai so, but we still want your feedback.

Ms. Preza: Okay. Sounds good.

Ms. Takakura: I'll try to be succinct so we don't have everybody here and . . . (inaudible) . . .

Ms. Preza: That was my one question ahead of time was, oh, I didn't see any, any of the maps on Lanai, so okay. But thank you. You can take it away.

Ms. Takakura: Okay, so I'm going to share screen. Can you give me a thumbs up if you can see okay, a blue and white screen? So yeah, this is a proposed bill from the County Council to amend these three chapters, B-2 Community Business District, B-3 Central Business District, and P-2 in the Public/Quasi-Public Districts, and it's relating to maximum building heights.

So the proposal is to reduce the heights, as you can see on the bottom of this screen, from either 90, 144 or 90 feet to, across the board, 45 feet for all three of these zonings. So I, I did some research to see what was the basis or why the proposal came about. And according to the County Council meeting on July 23rd, it was explained that the resolution is about maximum building heights that are more appropriate for Maui than Waikiki. So that got me wondering, well, what are the building heights in Waikiki? And so I found this from the Honolulu County, City and County website that in Waikiki, if you can see the bottom, I guess, would be the ocean makai side and the top would be the more the Ala Wai, you know, the top. Height limits range from 130 feet to up to 350 feet over here. It's a little bit lower in some of these like the park areas. But where the structures are, you've got 130, 300 to 280. So they're much taller. The buildings are much taller in Waikiki and keep in mind that those structures are primarily for resort purposes. So it is a little bit different from what you saw that we have as existing heights in these.

So I'm just going to touch on the three different zoning districts real quick. B-2 is the Community Business District, and that's for providing all kinds of goods and services for the community. And dwelling units are allowed like apartments, especially if they have the, you

know, the multi-use like a maybe a little store or something in there. And you can see from the map that B-2 is kind of scattered all over the island in West Maui, Wailuku and Kahului, Maalaea, Kihei, upcountry, and then there's a little speck of red there on the North Shore and then in Hana. We've got B-2 all over the place on Maui. And also four parcels on Molokai. I was just trying to get a hold of those property owners today. None on Lanai, unfortunately.

B-3 is the next zoning district and that is for general business enterprises, particularly financial, governmental and professional activities. And that is actually just limited to in Wailuku, where you have those buildings that you can see the State building, the courthouse and the County building. Multifamily dwellings are allowed and the maximum building height for B-3 is 144 feet. The county building is about 140 feet tall and would not conform to the proposed height limit of 45. As I mentioned, there's no B-3 on Molokai or Lanai.

Public/Quasi-Public, that's for public or nonprofit or quasi-public uses. Dwelling units are not permitted in this zoning district. Maximum building height for P-1 is 40 and P-2 is 90. There are a few P-1 parcels in Lanai, but that's not on the table for discussion with this proposed bill. The one that they would like to cut the height on is the P-2. For now we have St. Anthony Church in Wailuku that's P-2. Hale Makua in Kahului, and St. Theresa Church in Kihei that is also P-2. No P-2 on Molokai and Lanai.

Keep in mind, though, that one of the reasons for P-2 is because of the heights. P-2 was created so that, for these structures like these taller churches so they would fit in the height limitations of the P-1, which is only 40 feet. And that was approved -- P-2 was approved in the 2013. The vast majority of properties that would fit in the P-2 category would be like schools or fire stations and police stations that were either built up prior to 1958 or they met earlier definitions of height limit . . . (inaudible) . . . constructed, or they received variances to attain those heights.

So that's the proposal. The Department's position is that it's inconsistent with the County's long term planning documents. I have about four pages of statements from the County Wide Policy Plan and the different plans that are counter to this proposal. It could really reduce the opportunities for affordable housing, especially in apartments. It could lead to increased costs of buying or leasing commercial property. It could increase the cost to the County if expansion is needed because a lot of these properties, while not a lot, but some of the properties are owned by the County. It's inconsistent with climate change mitigation and adaptation needs. It could encourage sprawl into undeveloped areas. Applications for variances could increase. And also the State of Hawaii has concerns, and their letters are attached to the memo report.

However, we do have a few revisions we would like to make for these zoning districts that are just minor things to make some corrections. And they're on appurtenant equipment heights, accessory structures heights, setbacks and lot widths. The first one is about the appurtenant equipment, and those are the things that are like the antenna or the vent pipes or the other things that are on the roof of a building. We'd like to see those be limited to no more than ten-feet above the building roof from which it extends. Because right now you could have a very

short building and still have a very tall antenna or other type of equipment on it. Like we -- we would like to say that, you know, if the height of a building is, you know, say it's 30 feet, then stuff on top can be no more than ten feet. And of course, none of it would be higher than whatever the maximum of that.

And then right now, there is no height limit for these accessory structures like mailboxes and trash enclosures. We'd like to see those things limited to eight feet, which we do have in other zoning districts.

We also are proposing some revisions to setbacks. And this is a little setbacks 101 review. So this is an aerial photo of Kihei McDonald's looking down. And then the road here is South Kihei Road. So this front area is what we would call the front setback. And then the two sides are the side setbacks. And then the rear setback is over here. And the setback is the property line to whatever the setback that is set for that zoning district. It could be like, say, six feet or ten feet or whatever. It varies depending on the zoning district. Right now for B-2 and B-3, the setback is zero. So it could -- the structure could be right up to the property line. For the side and the rear, it's either zero or the same as the adjoining lot that -- the adjoining zoning category. So you'd have to look up what are the zoning, what's the zoning of the properties next door is. What we're proposing is kind of a tiered set back. Fifteen feet for the part of the building that's a little bit lower, 35 feet or less. Then a 25 feet for greater than 35 feet in height. And then similar for the side, ten and 15 feet. And I'll show a diagram in the next one.

For B-3, we're proposing half the height of the building, with a minimum of 15 feet for the front and rear end. And the side also be tiered and there's a chart in the memo report. And here's just a different way of looking at it. Because right now, it said you could build right up to the property line for B-2 and B-3. The proposal here is to have some space.

This one is also slightly technical and it -- you have to remember what the math that we learned back in intermediate school. But lot width we'd like to make a correction to that for P-1 and P-2. And that's the diameter of a largest circle that can be inscribed within the lot lines. If you can imagine a lot, say it's a square, a square lot, there has, the largest circle that can be put in there is what we call the lot width. And that's the diameter of that circle. So that's going to be the width. You can imagine a lot that circle in it. So we know that area equals blank length times width, right? So in P-2 we have a minimum lot width of 200, and minimum lot area of 20,000. If it's a diameter that's a circle 200 times 200 does not equal 20,000. This is -- it doesn't work. So what we're proposing is to have the minimum lot width be 100 for B-2. And then reduce it a little bit in P-1 to 75. For one thing that will make the math workout in P-2. But it just allows a little bit more flexibility on the lot development for both of those zonings. A lot of times lots are typically deeper than they are wide, so the lot with of 200 is more appropriate for the bigger lots like in ag zoning where the lot area is --. Really would like to correct this math and then this one just makes more sense in terms of lot layout for P-1.



And then I did look, just FYI, in case you're wondering about Lana'i, the fire department, fire station and the police department on Fraser Street are P-1. But as I mentioned, there's no P-2.

And then the last thing we're proposing is just some minor revisions to the setbacks for P-1 and P-2. Having the front, the front is actually we're proposing to keep that the same, but then letting the, the rear be a little bit smaller. Right now, the rear is 15, proposing to let that be the same as the side. It's ten for P-1, and a little bit smaller for P-2. That way there's enough developable area. And we also have a provision in there for P-2 for --. If there's a steeple that's taller than the height limits, we would take that to the Urban Design Review Board. And if they say okay then we would --. And then of course, the existing structures would not be affected by any of it. If they're already meeting the code, say the code changes, they would be conforming in that.

Okay so that's it in a nutshell. We hope that you will recommend approval of the bill with the department's improvements. You do have four options, though, recommending approval with amendments, or approval of the bill, or denial of the bill, or deferring action. So that's the proposal. We can answer questions. Jordan is here to -- a lot better with the technical stuff. But I'm going to stop sharing if that's okay. Thank you.

Ms. Preza: Thank you. Commissioners, before we move on to discussion, we'll open up public testimony. Leilani, has anyone signed to testify on this item?

Ms. Ramoran-Quemado: No one signed up to testify on this item.

Ms. Preza: Okay, thank you. I'll open it up if anyone is here who would like to you can. If not, is anyone who calling in via phone who would like to testify? Okay, then we'll close public testimony and we can move on to discussions or questions we might have for Jordan and Jacky on this, and then we can take some action. So Commissioners, any thoughts after reading through the document and --. Yes, go ahead, Lisa.

Ms. Grove: I have great concerns about the height limits. If you look at smart urban planning right now, it's about making sure that people have wraparound services where they live so they have access to banks, social services, maybe a DMV, a grocery store, a farmer's market, a health clinic, especially when you think about our kupuna. And when you look at central Maui, I think it's also important that we realize for those who don't know what the ALICE report is it's, it's, it's very depressing. We have, it is the Asset Limited Income Constrained and Employed. So it's the working poor on Maui. There's a lot of them are, are live in central Maui. We have 42 percent of, of the island of Maui that is in that, either below the poverty line or in that ALICE category. That number increases to 50 percent among Maui residents, 65 plus. So what we would be doing in my in my view is really jeopardizing the housing opportunities for those people who need it the most. Let's remember that the median house price in Maui is now over a million dollars. And I appreciate what people are saying about not becoming another Waikiki. But as a person who lived on Oahu for four years, we also don't want to

become another Aiea or Kapolei where people are forced to drive big miles to get to work, especially the working poor. And we're losing the lots of farmland and ag, which is also a very huge concern for us given our food security issues.

What I'm not sure about is how to, how to say no to that and yes to the other things in terms of a process point or if we have to sort of support or reject the whole package. But being able to have those stories mean that we be able to actually improve the quality of life and the ability to provide affordable housing to those who need it most in my personal view.

Ms. Preza: Thank you. And I think Richelle had a comment on that.

Ms. Thomson: Right. I just wanted to comment on Commissioner Grove's point. If the Commission is inclined to, you know, express support for the Planning Department's minor revisions to those sections, I would probably, so that it's very clear to Council what the comments are, that you recommend denial of the Council's proposed bill, but that you recommend approval of the Planning Department's proposed changes in their report. Just so it's clear because you don't want the mixed message to kind of, you know, be taken by Council that you support the bill. Then they think you support it, you know, as some kind of combination.

Ms. Preza: Thanks Richelle. Sally, before we go, Sally, I just want to say Zane, are you here? I think we saw your name pop in. I just want to, for the record, say that you are here.

Mr. Zane de la Cruz: Yeah, sorry. I've having trouble with BlueJeans. Can you hear me all right?

Ms. Preza: Yes. Thank you so much.

Mr. Z. de la Cruz: Are we good?

Ms. Preza: Yeah, thank you. Just want to confirm you're here for the record because when Sherry is leaving an hour in and so we'll still have quorum after that. So thanks for being here. Okay, back to you Sally.

Ms. Kaye: Yeah. Okay, so I just had a follow up question that the all – this also recommends suggesting reducing the B-2 and B-3 heights on Lanai, on Lanai to 45 feet. But I'm, I'm unclear how that works since we don't have any of those, those areas on our island. So how, how would that happen? Would it be prospective or what? I'm not sure how that would get worded.

Ms. Preza: Thanks Sally. I had a similar question because I was wondering if we recommend, like, yes, we want this limit on Lanai, does it mean if it gets rezoned eventually, like that's what would, you know, yeah. If Jacky or Jordan might be able to answer that?

Ms. Takakura: Thank you Chair Preza. That would be a mistake from my side. I must have put that --. Even though I say previously that you don't have any. And then I was thinking there could be a, a slight chance you could have something zoned B-2 later, but then I think you already have in your country town business, I think you have appropriate zoning already in Lanai City. So I think it would be unlikely that Lanai would have something that could become Zone B-2. But I think you could still put that in there in the bill that now if you wanted to have a certain height limit specific to Lanai if ever it were to happen on Lanai. I mean, I've seen Molokai do that or they don't have something and they put that in there that they don't want to have that.

Ms. Preza: Thanks. So we have the option to. But it's not --. Because also, like, if things were to get rezoned, there would be a process for that where commentary could happen. Okay, so there's a couple of different routes we could kind of go with this. Okay, thank you. Or Sally do you have more other questions?

Ms. Kaye: No, I was just glad to hear that we can do that prospectively. I think that's a great idea.

Ms. Preza: Okay, thank you. Sherry, Chelsea or Zane, any comments on this? What are your thoughts?

Ms. Trevino: I agree with what Lisa has said. There's nothing additional I want to add. The concern was about housing in that context for myself as well.

Ms. Preza: Thank you. I think that makes sense too. Thanks for sharing. Sherry or Zane, anything to add or questions?

Ms. Menze: Nothing to add. No questions. I agree with Lisa.

Ms. Preza: How about you Zane?

Mr. Z. de la Cruz: Yes. My main concerns were just like the points that were brought up of how does this affect housing and urban sprawl if we limit vertical storage, essentially? How does that affect the rest of, you know, does that impact future ag lands or yeah, yeah, the creation of food deserts and things like that? So, yeah everything I was thinking has already been said.

Ms. Preza: Thanks for sharing. Okay, great. So it kind of sounds like, you know, we're decently in agreement about all these things. Do you think that we would like to prospectively say that if, you know, anywhere on Lanai were to be rezoned B-2 or B-3 that we would like to impose the 45 foot height limit?

Ms. Kaye: I would be in favor of that.

Ms. Grove: Me as well.

Ms. Preza: Thank you. I think that makes sense definitely for Lanai, but I think Maui is kind of, yeah, a definitely different, different island, different community, different needs.

Ms. Menze: How tall is Iwiole you think?

Ms. Preza: For reference, the, the highest proposed building in B-3 currently 144 and the County Building in Maui is 140 feet us that's the absolute highest it would go. But sorry, I'm not sure if I can comment on Iwiole. I'm not, I'm not sure if I would want to take a guess and be wrong. Yes, Lisa.

Ms. Grove: The one concern I have about the perspective piece is, you know, not knowing what we won't know, right? Like let's say there's some research institute that wants, you know, UH wants to build here. I'm making this up, right, completely making it up. Or we have an opportunity because, you know, we can do things differently on this island or there are some asset on this island or an opportunity to create some cyber security center because of our geographic location or whatever, whatever. I just -- I'm a little concerned about doing the prospective work without, you know, because we won't know. And what if we have an opportunity that that doesn't work for us or our children or the generations that come after us because we made a decision today without the data that tomorrow may bring. And I know that lots of things are done prospectively, it just gives me a little bit of pause.

Ms. Preza: Thanks, Lisa, for sharing. Is there a way to kind of, without saying we would like this to be established, say that, you know, if --? I mean, because Jacky and Jordan, how often do, like, rezoning for B1 and B-2 come up? Does it is that sounds like a rarity, but I'm not sure? I mean, especially on Lanai, when is the last, you know, when is the last time we did any kind of rezoning, rezoning like that?

Mr. Hart: I think we can say it's a rarity. And Jacky, do you have any information on specifics?

Ms. Takakura: I would agree with the Deputy Director. And I think for Lanai City, you kind of have your zoning already set with, you know, the Country Town Business and, you know, your Lanai Design Guidelines. I don't -- unless there was some undeveloped area that was going to be made into some new thing. But that would certainly go through the Lanai Planning Commission first.

Ms. Preza: Okay, so any future potential like rezoning would have to come through the planning commission that we'd be able to discuss, like maybe with, you know, what Lisa is saying, like we have more details about why it would be requested to be rezoned and they could impose potential like height requirements for different kinds of things? Okay, that's something to consider. Thank you. Sally?

Ms. Kaye: I'm not sure we get to decide that. I think it would probably come, but if there was rezoning, that would be up to County Council ultimately. That's not something I think we get to decide.

Mr. Hart: If I could clarify. Right the Planning Commission would be a commenting agency making -- not commenting agency, but reviewing and making recommendations to the Council action.

Ms. Preza: Any thoughts on this? It sounds --. I mean, yeah. Sally, do you still think we should recommend?

Ms. Kaye: Well, I think we've had conversations in the past when years ago, probably only Leilani and Clayton would remember this, about big box stores and trying to limit the size of them on Maui. And we, we actually were given the opportunity to set our own limits here as a recommendation. And then it never went anywhere as far as Maui County Council went. But 45 is a pretty good height. As Jacky said the business, our BCT district, is set. So this would only be somewhere else on the island that we don't know about, and I would think it might be easier to get a variance from the 45 then to pass on it altogether. I don't know, maybe Jacky or Jordan could weigh in on that.

Mr. Hart: Yeah, I'll answer that. I think that proposing variances before something is built, may be, may be challenging. And if you look at the variance criteria, it's pretty narrow. The department is looking at or has been discussing whether or not there can be an exception type of vehicle that would be somewhat comparable to variances but different and have different criteria. But that's, you know, abstract and may never happen. So I think there's ways to address it with zoning outright. But relying on the variance chance is not something that I would build a business plan on.

I do want to say too that I think that you do need to evaluate the difference between commercial type of development, whether it's commercial or apartment that may be permitted in those areas, and what would be civic or, or community uses, which is the public, quasi-public. And while Lanai is definitely a more rural scale than Maui County, I think the feature of having the ability to do these types of things that don't exist now or could exist is, is worth considering into the future. But definitely the commercial type development and keeping it in the scale of Lanai . . . (inaudible) . . . in communities is something to put some thought into.

Ms. Preza: Thanks, Jordan. Okay Commissioners, we have a decision to make. It sounds like we are relatively in agreement with, you know, we, we think keeping the current heights for, you know, Maui and stuff that that makes sense. But we really need to decide on if we would like to prospectively, say, you know, for Lanai we would like this, or if we're kind of comfortable with just recommending denial now and then, if they're, I'm mean --. Just a reminder, we don't have any of these zones currently, right, so we're just kind of speaking hypothetically about what if in the future if this were to happen. And I do -- I don't like the idea of having, like, buildings higher than 45 feet, but I also kind of what Lisa was saying about we don't know

what we don't know right now and maybe something might come up in the future that we just don't have details on right now. But anyway, anyone have any thoughts on this?

Ms. Grove: In that case . . . (inaudible) . . . say I think big box stores are different and more definitional than some sort of perspective blanket like in the future thing. And I don't know if it's possible to have something that's more specific around the kinds of buildings that we want to make sure we're limiting.

Ms. Preza: I think I'm not sure if that --. I guess I'm like that sounds a little complicated to me, like to make details about like what potentially could happen or like what buildings we would be comfortable with being above 45. It just, I think it might get a little too complex, but --

Ms. Kaye: How about if I try to, try and make a motion and we can, we can further discuss and what we --. I'll move that we recommend denial of a proposed bill to Maui County Council; would recommend approval of the amendments and updates proposed by the Planning Department and that's it.

Ms. Grove: I second.

Ms. Preza: Thank you. So seconded. Any further discussion on this? If not then we can, we can vote, and I can see all of you. So all those in favor please raise your hand? Okay any abstentions? Any noes? And it passes unanimously.

**It was moved by Ms. Sally Kaye, seconded by Ms. Elisabeth Grove, then unanimously**

**VOTED: To recommend denial of a proposed bill to Maui County Council, and would recommend approval of the amendments and updates proposed by the Planning Department.**

*(Assenting: Z. de la Cruz, E. Grove, S. Kaye, S. Menze, S. Preza, C. Trevino)  
(Excused: J. de la Cruz, N. Ropa, S. Samonte)*

**C. UNFINISHED BUSINESS (Action to be taken)**

**1. A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO CONDITIONAL PERMIT AMENDMENTS**

**MS. MICHELE CHOUTEAU MCLEAN, AICP, Planning Director, transmitting Resolution No. 21-92 referring to the Lanai Planning Commission a proposed bill to amend Maui County Code Chapter 19.40, Conditional Permits, to remove the planning director's authority to approve non-substantive amendments that do not result in significant impacts above what would result from the approved conditional permit.**

**(J. Takakura) (Public Hearing was conducted at the September 15, 2021 meeting.)**

**The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/127556/Resolution-21-92-Referring-to-the-Planning-Commissions-a-Proposed-Bill-Relating-to-Conditional-Permit-Amendments>**

Ms. Preza: Well, thank you Sally. I feel like, I feel like if we did feel strongly about kind of, you know, putting something in, we would have probably had more discussion. But I think that was a good way to go, so thank you very much. Great, so we -- I'm glad we got done with the public hearing items, so just looking through my notes. We'll move on to item C.1., which is unfinished business; a bill for an ordinance amending the comprehensive zoning ordinance relating to conditional permit amendments. So this is on our last month's meeting. And I think -- I don't know if Jordan or Jacky has any, you know, if you folks have any further follow up on this.

Ms. Takakura: Thank you, Chair Preza. I -- as you can I did send a transmittal to the County Council after the September meeting, but I did not get a response. So we don't have any further information from the County. I did learn, though, that the Current Planning Division does go through a very thorough review. Amendments for conditional permits do come up, they do a process, they do an assessment. So it was, it was assuring to me because, you know, to see that they, they have a rigorous steps that they go through for that, you know, nothing falls through the cracks. So they do review it and then they put it on the Commission's agenda and explain why or what the proposal is from the conditional permit holder and why they feel it's not substantive. So they do an internal analysis. They look at how the permit was initially granted, see what the proposed use would be, and make sure that it's not significantly detrimental to the public interest, convenience and fair.

And so then when they're looking at this proposed change from the permit holder, they're making sure that whatever the amendment is still fits that criteria of not being detrimental, convenience and welfare, and that it's in harmony with the area.

And so it goes on the Planning Commission's agenda as a communication item. And then they forward the applicant's letter of request to the Commissioners. I guess it's similar to how they do an SMA extension request, and the planner lets the Commissions know about the project and what the plan is by the department feels it's not substantive. If that process were to not take place, like if this portion of the code is deleted, then the non-substantive amendment would have to be processed just like a conditional permit, which could take a year at the shortest and probably longer. So that's what I learned from Ann Cua, our supervising planner, who has a lot of experience with conditional permits, so that, you know, the Department does have a very thorough vetting process for these things. That's the information I have. Thank you.

Ms. Preza: Thank you. And I think, Richelle, you also let me know that I think last meeting we were asking about the unanimous vote for County Council, and I think you said that that was just unanimously voting to kind of pass it on to the commissions for comment. Is that correct, Richelle?

Ms. Thomson: Yes, we signed off on the resolutions and attached to the resolution is the actual proposed bill. But what passes at County Council is the resolution that just forwards the proposed bill to, to you folks. So it doesn't mean that once the bill itself actually gets back up to Council that all Council Members are fully in support of it. They're just fully in support of your review is how I interpreted that.

Ms. Preza: Thank you. Yes, everyone on the Commission, thank you so much. Okay before we have discussion, I'll open public testimony. Leilani, has anyone signed up to testify on this item?

Ms. Ramoran-Quemado: Thank you Chair, no one signed up to testify.

Ms. Preza: Thank you. Is there anyone on BlueJeans or who's calling in via phone who would like to testify? If not, then we'll close public testimony on this item. Thanks. Commissioners, any comments? I feel like --. Oh, sorry, yes, go ahead, Sally.

Ms. Kaye: I'd just like to ask, after it came to us, it went to Maui and Molokai Planning Commissions, so I just wondered what they did.

Ms. Takakura: Thank you, Vice Chair. Molokai Planning Commission voted to give up their, their review and they voted to have this part removed as the Council proposed. And the Maui Planning Commission did not support that at all. They voted to deny this.

Ms. Preza: Thanks. With Molokai, they, they waived review, meaning that they supported that proposal?

Ms. Takakura: Chair Preza, yes, they supported the removal of this Section D of the --.

Ms. Preza: Okay. Yeah, so my understanding is that -- so the reason why this was put in place was to kind of streamline the permitting process for non-substantive changes, right, so --. Because you said if we revert back to the traditional conditional process, then it would, it could take a year at least to go through. So personally, I think, you know, the having the Planning Department kind of vet these changes and then they still come before the Planning Commission to kind of review and, you know, either waive review or not, I feel like that seems like that process has been working, at least in the time that we've, we've been on the commission or I have been. But I don't know if others have thoughts on this.

Ms. Kaye: Well, I'm never in favor of giving up any kind of small bit of power or authority that this commission has or other commissions have in giving it to the department. But I still feel



like we don't have the full story. We just have one half of it. And I'm disappointed that we didn't get more from the County Council so we know what's going on. So that's just my thoughts on this.

Ms. Grove: I think the same thing I thought and I may have mis-recollected, I thought we had requested more information and, and didn't get it. So I think I'm probably in the defer mode, but maybe, maybe I'm mistaken about that.

Ms. Preza: Thanks. I mean, so I think the correspondence was submitted but then we just didn't receive anything back, right? So, I mean, Jacky and Jordan, do you think if we did defer it another month, do you think you would expect to get any kind of commentary or would you recommend that we just take, I mean, take action aside from deferring? What are your thoughts?

Mr. Hart: I think that we could do a more informal follow up and ask that just basically reiterate that this was brought up rather than write a new letter, and it might be worth waiting. I'm not sure, Jacky, if there's a procedural timeline that we're, we're dealing with or not.

Ms. Takakura: Chair Preza, we have 120 days after the date of the last public hearing so that would have been -- I forgot the date of this one.

Ms. Preza: September, I think. The public hearing was September, so we have until maybe like December or like mid-December to take action. Is that right?

Ms. Takakura: That's about right, yes.

Ms. Preza: Okay. Well, with that said, yeah, I'm comfortable deferring as well if, if, if even if a not another formal letter submitted, even if it's informally just to try to urge them to get us a little more information, I'm okay with that, too. Would anyone like to make a formal motion for that or anyone else feel strongly either way?

Ms. Kaye: Okay, I'll move that we defer one more month and give the County Council another opportunity to explain to us what their thoughts are and why they want this done.

Ms. Preza: Thank you. This kind of informally include like that we're asking the Planning Department to kind of informally ask them to follow up with us again.

Ms. Kaye: Got it.

Ms. Preza: Thank you. So motion from Sally. Who would like to second?

Ms. Trevino: Second.

Ms. Preza: Thank you. Chelsea seconds. Is there any further discussion on this? If not, then we can take a vote. All those in favor, please raise your hand? Any abstentions? Any noes?

**It was moved by Ms. Sally Kaye, seconded by Ms. Chelsea Trevino, then unanimously**

**VOTED: To defer action in order to gather additional information as discussed.**

*(Assenting: Z. de la Cruz, E. Grove, S. Kaye, S. Menze, S. Preza, C. Trevino)*

*(Excused: J. de la Cruz, N. Ropa, S. Samonte)*

Ms. Preza: Okay, so that passes unanimously. Thank you very much.

Ms. Takakura: Thank you. That's all I have for you today.

#### **D. COMMUNICATIONS**

- 1. AT&T Mobility requesting a County Special Use Permit time-extension and upgrade to existing facility, located at 80 Hulopoe Drive, Tax Map Key: (2) 4-9-002:001 (por.), Manele Bay, Island of Lanai (CUP 2016/0001) (K. Willenbrink)**

*(Commissioner Sherry Menze excused at 6:10 p.m.)*

Ms. Preza: Thanks so much, Jacky. I hope you have a nice evening. Okay, great. So we're moving right along here to D.1., which is AT&T Mobility requesting County Special Use Permit time extension and upgrade to existing facility located at 80 Hulopoe Drive. So we did receive a packet on this. I'm not sure if Jordan. I think we do have a presentation right?

Mr. Hart: Let's see here. We have our staff planner, Kimberley Willenbrink, I believe.

Ms. Kimberley Willenbrink: Good evening.

Ms. Kaye: I'm sorry. I'm sorry. Can I interrupt for one second? Jordan, I would like to back up and before we get a presentation and talk about moving forward, I want to have you address, please, some of the noncompliance with the conditions from 2016. And that's Exhibit-4 in the packet. So if everybody can get there, I'm going to start with condition five that the applicant shall submit to the Planning Department copies, two copies of a detailed report addressing compliance. Was that done?

Ms. Willenbrink: Good evening, Commissioners.

Ms. Preza: Hi.

Ms. Willenbrink: Hi Chair.

Ms. Preza: Maybe you can take over and introduce yourself first and then we can start. Sally, can you let us know what page you're on?

Ms. Kaye: This is page three of Exhibit-4.

Ms. Preza: Okay . . . (inaudible) . . . Would it be okay if . . . (inaudible) . . .

Ms. Kaye: It's towards the back.

Ms. Preza: Is there a reason why you wanted to do this before the presentation?

Ms. Kaye: Yes, yes. Yes, I think it's really important that we address the conditions before we move on.

Ms. Preza: I still can't find Exhibit-4. So I think if it's okay, I think I would prefer to have the presentation and we can go back. I'm sorry. I'm still looking for the page.

Ms. Kaye: Shelly, I'm sorry . . . (inaudible) . . . If we could --. I don't believe that this is an active permit that's why I'm . . . (inaudible) . . .

Ms. Preza: Sorry, Sally, you were kind of cutting out. I'm sorry . . . (inaudible) . . . folks have gone to the page that Sally was talking about.

Ms. Kaye: I'm sorry. What was that? What did you say, Shelly?

Ms. Preza: You were kind of cutting in and out, but I finally found exhibit four. Sorry. Would you mind referencing what, what you were . . . (inaudible) . . . about?

Ms. Kaye: Okay. I'm going to go over the conditions that I would like Jordan or someone from the Planning Department to address. The first is condition number five which required them to submit copies of how they complied with it. I don't see any evidence in the record that that was done. It's certainly not part of our packet. Then the project specific condition said that construction had to be completed by August 31, 2017, and that failure to complete automatically terminated the permit. That wasn't done. Then you have obviously number six, that the applicant shall develop the property in substantial compliance. If they didn't meet seven, then they didn't need six. And then the very first one is that the County Special Use Permit had to be applied for the extension at least 90 days prior to its expiration. So essentially, as I read this, we're being asked to extend something that's effectively terminated. And that's, that's an impossibility. So if I'm wrong, if any of these things were done and I mean, clearly they weren't because they're coming back asking for it again. I think they should be doing a new CUP and not asking for an extension for something that really null.

Ms. Preza: Thanks. If Jordan or Kim, if you could comment on this.

Ms. Willenbrink: Thank you, Chair. This Kim Willenbrink here. I'm the planner assigned to this matter. This matter has come before. The original permit was granted, I believe, in 2011, and it came back before the Commission in 2016. And this is a further extension of the time consideration. I think you may be familiar with the area. It's an existing facility site at Manele Bay area and there are several carriers there that have their, their equipment there. I was trying to pull up and I wasn't able to. I believe that when they got their first extension, they did submit conditions of compliance. To tell you the truth, I can't verify that at this moment that they submitted that this time around. I think they have.

Ms. Kaye: Kimberley? Kimberley, excuse me for interrupting you, but the second time they came back in 2016, they did not get an extension. They didn't ask for an extension. They had to do a brand new CUP because the -- it had changed from T-Mobile to AT&T. And they admitted that. I mean, I read the minutes. They came back --

Ms. Willenbrink: They came back?

Ms. Kaye: Yes. So these conditions -- this is, this is -- we're not dealing with 2011 conditions anymore because it was a brand new CUP. The ones that I've just read are the ones from 2016. That's what I think they're not in compliance with. And I don't understand why you can -- how you can extend something where, where they have not fulfilled the conditions.

Ms. Willenbrink: Thank you. Thank you, Sally. I apologize for that. I was prepared to discuss condition number one, but I had just assumed that they had submitted the compliance report.

Mr. Hart: You know what, Chair, do you mind if I just interrupt for a moment? You know, I understand the concerns that Commissioner Kaye has addressed and I recognize them. But I'm just wondering if procedurally, you know, Commissioner Kaye has kind of given an indication of potentially her demeanor on the situation, whether or not we should just go through the normal process that we do for applications, and that there can be a discussion by the Commission, which may ultimately reach a conclusion that that Commissioner Kaye has indicated she's maybe interested in. But just to go through the normal procedure in order to, to conduct this kind of consistent with other applications as opposed to kind of do the front end discussion of these details and then potentially lead into some sort of decision.

Ms. Preza: Thank you. I, I personally agree. I'm sorry, Lisa, I see you raising your hand. I was going to say it seems like we do have a prepared presentation and we can continue our discussion definitely after that. But Lisa, do you have a comment?

Ms. Grove: Yeah, and forgive me because I'm new to all of this, but it sounds like Commissioner Kaye is questioning the validity of the permit in front of us. And my question is, if that's in fact what she's doing, why would we have a discussion before understanding whether or not said permit is valid? And please forgive me if I misunderstood.

Ms. Preza: Thanks. I'm not sure if Jordan or Kimberley, you might -- Richelle?

Mr. Hart: Chair, I would like to address that. So, so on behalf of the department, the department has concluded that the application is, is adequate to present to the commission. And so since we've reached that point, it does seem that it's appropriate to kind of go through the next steps that take place. And then the commission can conduct its deliberation and reach whatever conclusion that it believes is appropriate. But we provided the material that has been collected as well as our recommendation. But that's for your consideration and decision. And I do think that it would be a good idea to just kind of just keep the process in order.

Ms. Preza: Thanks, Jordan. Richelle, were you going to concur with what Jordan had just said?

Ms. Thomson: Exactly. And I concur with Jordan's advice on that.

Ms. Grove: Okay.

Ms. Preza: Thank you. I'm thinking that we, you know, we can go back to the original, you know, the process that we were going to do. Prior to --after -- or prior to public testimony, I'll probably recommend that we take a quick break and then we can come back for discussion or come back for public testimony and discussion. So if we could move back to, I guess, back to you, Kimberley, you can believe you can present the, the item and then we can proceed with the presentation. Thank you.

Ms. Willenbrink: Thank you, Chair. Okay, so this item is on the agenda for several reasons, as noted. The applicant is coming in for a time extension request and they would like . . . (inaudible) . . . special permit. And they're also coming in for an amendment to upgrade and modify some of the existing equipment. They can go into more detail on that in their presentation; some of it is a little bit technical. So you may be familiar with this area. As I mentioned, it is the Manele Bay area and it is near the wastewater treatment facility. And there are several carriers that have their equipment there. So the applicant is also requesting upgrades as to their antennas and ground equipment, and also including preparation for 5G technology. And that is listed in the committee report. Details of these upgrades can be found on page three of the staff report that you have before you.

The staff report is posted on the Lanai Planning Commissioner, Commission agenda on the website. That is for the record. The applicant also provided a report. This is from First Net, the first responder network. And they can also go into more detail about that in their presentation. That document is posted for your perusal. I'd like you to turn to page-12 of the staff report, if you can. That is where the recommendations are indicated. And the Department is requesting a revision to condition one of the permit. This is to provide for planning director approval of future time extensions. This is kind of in keeping with some of our normal

procedure, moving forward, trying to streamline permitting processes where applicable. So that is for you to consider. This would not include any approval of upgrades or modifications, just future time extensions.

Also at this time, the Department notes and acknowledges that the Commission has received some testimony regarding the timeliness of this renewal request. This is also in that same condition, number one, and also in the specific conditions, number seven. Historically, we have accepted renewal applications all the way up until the day before the expiration date. This expiration date was August 31<sup>st</sup>, 2021, and they did submit their application in time. And so we processed it as normal. Several years ago, the department made a decision to revise that standard language because of this process that we've been doing all along as far as accepting applications up to the point of expiration for obvious reasons. So if approved today, I'd like to read that condition into the record. We would like the condition to be amended to read -- condition number one and you'll see that it's Ramseyered -- that the Commission of the County Special Use Permit shall be valid until August 31<sup>st</sup>, 2031, subject to extension by the Planning Director upon a timely request for extension filed within 90 days prior to its expiration. The director may request a public hearing be held by the Lanai Planning Commission on the time extension. And then that same language is reflected again in the project specific condition, number seven. You started to address questions of that. The applicant's representatives are here, as chair mentioned, and they do have a presentation for you. And I hope that that will answer any questions that you may have. If there are no objections, I would like to introduce the applicants.

Ms. Preza: Yes, please.

Ms. Willenbrink: Thank you, Chair. Elizabeth Songvilay is here. She is the AT&T External Affairs Director for Hawaii, and Bryce Novak is here. He is the project manager of J5 Infrastructure Partners, and he's the consultant I've been working with. I see Bryce on my screen. I don't see Elizabeth, but I don't see everyone on my screen. I'd like to turn this over to Bryce if you have no objections.

Ms. Elizabeth Songvilay: Hi, Kimberley. This is Elizabeth. I'm here. I don't know if I'm popping up now.

Ms. Willenbrink: Okay.

Ms. Songvilay: But if it's okay. Hello. Aloha Chair and Lanai Planning Commission. I have some prepared remarks and then we also have a power point if I have share screen capabilities. And I'll pull that up during the opening if that's okay.

Aloha Chair and members of the Lanai Planning Commission. My name is Elizabeth Songvilay and I am the External Affairs Director for AT&T in Hawaii. I am joined by Bryce Novak with J5 Infrastructure, who leads our site acquisition efforts in the state. Mahalo for

having us here today and for your time and consideration of our Special Use Permit renewal application for our existing site near 80 Hulopoe Drive.

As Kim shared AT&T is requesting the renewal of our Special Use Permit and the inclusion of proposed additions. Specifically, they are two additional poles, three additional antennas, one power generator, and two surge suppressors. We also have photos in our presentation to go over that as well in more detail.

The proposed modifications model, we basically exemplify what we are doing at our existing sites across the state, and the equipment package at our new site build to provide the best service possible to our customers. Power generators are installed at strategic sites in case of a power outage. Following these remarks, Bryce and I will have additional context to the proposed changes, as well as specific details of the project that we hope will be helpful to you.

As you all know, since early 2020, we have all been impacted by the Covid-19 pandemic and stay at home and safe work orders throughout the state. This hearing is an excellent example of how society has been affected, and access to the internet is now even more critical in our daily lives. So I just wanted to share a little bit of what we've been doing since the start of the pandemic. AT&T has seen a huge spike on our network due to learning from home, working from home, telehealth appointments, and people staying in touch with family and friends near and far.

Last year, on average, we saw our core network traffic increase about 20 percent from the start of the pandemic. We also saw all-time highs with calls and texts. At one point, texts were up 51 percent. In Hawaii and across the country, AT&T continues to field numerous requests to assist in facilitating access to the internet for students, public housing residents and those in areas that lack internet fiber. And we have been since the pandemic began. It has been come clear that much of how we've adapted may become a permanent part of our lives. AT&T has also, unfortunately, had to turn down requests to assist those in areas where we either have poor or no coverage. And while limited broadband service may have been tolerated before, it seems to be intolerable now when we need to be able to join a virtual call for school, work, or a community meeting.

In the early days of the pandemic, the state's broadband strategy also formed the Hawaii Broadband Hui at first to get Hawaii residents connected. As some of you know, this Hui is a loosely organized group of with now over 200 individuals representing public, private and nonprofit sectors, and some joined to represent the needs of their communities. This Hui has come together to collaborate on digital equity across the state. This means both access and affordability. On behalf of AT&T, I have been participating with this Hui since around May 2020 and continue to be a regular attendee on their calls. Representatives from all major service providers in Hawaii also joined the call. This meeting is helpful in our understanding of different broadband needs across our state, and AT&T assist whenever possible. Members of this Hui are also never shy about calling on us to ask a question or express a concern.

Earlier this year, the Hawaii Broadband Hui issued a digital equity resolution which recognizes and aligns with Hawaii DBEDT's 2020 Hawaii State Broadband Strategic Plan. This plan called for robust broadband infrastructure, including wireless infrastructure across the state to facilitate Internet access for all. And earlier this year, the State Legislature and Maui County Council adopted the digital equity resolution as the other counties across the state. And AT&T is committed to doing what we can to keep up with the demand we are seeing on our network across the state. And the work plan at our site near Manele Bay is a great example of one of the ways we do this. So I'm just going to pull up the presentation. You know, Kim, I might be coming across some technical difficulties. Would you mind pulling up the presentation for us?

Ms. Willenbrink: Let me give it a shot here. How does that look?

Mr. Bryce Novak: We can see your screen. It hasn't uploaded yet.

Ms. Willenbrink: I am seeing it here.

Mr. Novak: Is it on the other screen? Do you have two?

Ms. Willenbrink: It says you are sharing screen.

Mr. Hart: Kim, when you when you share the screen, the option at the very top is to share the green box that you're selecting. Or, there's another option to select what's being presented in various applications. So you could either put the presentation under that green screen window or select it as the option PDF.

Ms. Willenbrink: I will try again because I've done this before.

Mr. Hart: I think you'll need to stop sharing and then re-share to get that option again.

Ms. Willenbrink: And then what were you saying? Mine says click here to start sharing screen.

Mr. Hart: Right. And then a little dropdown window will show up and it will be all your options of the things that you can share. At the very top is, is will be basically a share screen where it shares a green square area, and you can drag the presentation, the open presentation into that and show it. And that appears to be what you're doing when you're showing your, your desktop. Or there will, it will give you the option of --. No, no. Open it. Open the presentation and then drag the window into the green screen or the green square.

Ms. Preza: I think we saw it for a second. Like --

Mr. Hart: There it is. There it is. Okay, maximize that and then put it in a presentation mode, and that will be it.



Ms. Songvilay: It's a PDF, so we might just have to slide along.

Mr. Hart: If you go into view, there's a presentation mode or it's called full screen. Go under view there, and then I believe it's full screen mode there. Down. Full screen. And then you can operate that with keys.

Ms. Songvilay: Thank you so much. Sorry about that. Could we go to the next slide, Kimberley? We just wanted to quickly share, I think, a couple of drivers that drive us to modify our site, as well as building sites. Okay, the first driver is First Net, the First Net Network. I'm not sure if, if you've all heard of that, but the First Net Authority, which is an independent agency within the, the US Department of Commerce did submit some additional information that I hope is helpful. But in any case, this is a big driver of our network because AT&T has a federal contract to build, and operate, and maintain the First Net Network across the country actually. So this idea was first came about after 9/11. In the commission report, there was a finding that there wasn't adequate communications between first responders. Departments could not communicate with each other. And you know these days, we all experience congested networks sometimes. So the idea of a network dedicated to first responders came about. In 2012, Congress passed a bill to create the First Net Authority. That is the independent agency within the US Department of Commerce. They were tasked with building, maintaining and operating this network. And they went and looked for a private partner. They put this out for a bid, and AT&T won a 25 year contract to basically do what they were tasked to do. And we answer to them as the vendor of their contract, basically.

Part of this process is all states and territories needed to opt into this network because it is a nationwide network. If they did not opt in, there had to be a way to build a network that would be interoperable with the nationwide network. All states and territories opted in. And this part of – and as part of the opt in, we entered into agreement, state specific agreements with each state, Hawaii being one of them. And part of the agreement was to build certain sites in certain areas, particularly rural areas, because this is, this is not necessarily covering people, but really covering geographic areas, and really responding to the needs of public safety. And so certain sites were identified.

In addition to that part of the contract was we were given a spectrum called Band 14. And I'll go into the spectrums a little bit more. But you can think of this as adding a lane to the highway. And this is a special lane because during emergencies, the idea of Band 14 is first net users will have basically an express lane to use to basically communicate. One example is we did a demonstration for Honolulu PD at the Bruno Mars concert at Aloha Stadium. And we've been to concerts and games and things like that, and when everyone's on their phone, sometimes you can't get through because everyone is doing trying to do the same thing on their phones. We did a side by side first net phone and an AT&T commercial phone, and the First Net phone had no issues, while the AT&T commercial phone, just like any other phone, had issues with text, calls, et cetera. So that's really the idea behind the First Net Network. On our existing commercial bands, First Net also has priority. So they are basically first in line to make their call. And I just shared in Maui County who our first net customers are. Right

now we have Maui Emergency Management (MEMA) and Maui PD. Could we go to the next slide?

Oh one last thing about First Net is the Band 14 addition spectrum that is one of the proposed modifications we are asking to be included in this permit renewal.

This is the second driver, just a huge spike in network. I think I mentioned earlier that we saw a huge spike during the pandemic and this is just since 2007. This huge spike is from basically data; a lot of social media, telehealth appointments online, now Zoom calls. You know, the more call like this will take up a lot of data. And if enough of us are using it, you see this huge, huge spike. So we have to find ways to really respond to this demand. Because when too many people are on the network at the same time, the quality does decrease significantly. Can we go to the next slide?

And these are several ways we just wanted to share that we can respond to demand. So one is deploy more spectrum. The spectrum, like I said, they're like lanes in a highway. And they are the tools in the toolbox so that we can help manage traffic on our network. But that is really controlled by the FCC, the federal government. There's another way is to improve spectrum efficiency. This is really making the most of our network. And so maybe we add the lanes that we have in our toolbox. But also increasing spectrum efficiency is going from like 3G to 4G to 5G. And a lot of that is as we progress in wireless technology, it's just about moving data through the highways faster and more all at the same time to really help facilitate calls like these or other needs that we have on our wireless devices. And at this specific site, as it was mentioned, we are proposing upgrading one of the spectrum to 5G. The other ones are capacity adds to sort of our existing 4G LTE network. So in the end, this will be 4G, 5G, and then also have Band 14 for First Net.

And then the third option is adding additional sites. Like I said, you know, part of the First Net contract, but just also business as usual, where we do see needs for additional sites to expand our network, we build those too. Next slide.

So these are just practical real examples of benefits of I know it says 5G, but this is just quality and reliable wireless networks that we know we can use today. And from 3G to 4G, we saw a lot of improvements. And 4G to 5G, there just should be a lot more improvements. And some of these real life examples are teleworking. Traffic management is, is here as an example, but really, it could be any municipal use to help manage smarter solutions, distance learning, agriculture just for efficient use of technology and optimizing technology there. Public safety; this is not just first responders, but our public safety as well. So when we call 9-1-1, real life, real time response, et cetera. And then, of course, health care. During the pandemic, we really ramped up telehealth appointments. And in the future, that might be a way to reduce travel if we don't need to travel, and access specialists if we need to. Next slide.

I know safety comes up a lot in terms of radiofrequency safety of our sites. And I just wanted to share that with our new site builds and with any type of modification like the one we are proposing, we do run model testing. Basically, we run, if all the equipment were to run on maximum power, which it, which it rarely really never does. But we just, we just basically calculate the worst case scenario and to make sure that we are FCC compliant. That RFME report for the proposed modifications was also included for the public record, and I know the County has it as well. But that said that for this site with proposed modifications, the general public exposure would still be less than one percent of the FCC standards. And here's a little bit of the FCC standards. But I think one thing just to point out really quick is they did re-evaluate these standards several years ago and in December 2019 after years of public input and review with other agencies and experts as well, the FCC affirmed their RF standards. And this applies to all technology; 3G, 4G, 5G, and all frequencies that we use. Next slide.

And I will turn this over to Bryce just to go over some of the specific modifications we are proposing.

Mr. Novak: Thank you, Elizabeth. Aloha, Commissioners. Thanks for having me tonight. Kim, if you could go to the next slide, please. Okay, this is just an overhead view, satellite view showing where our site is generally located. It's just north of the Manele Water Resource Plant there, the yellow pin there. That's where the also the Verizon and T-Mobile sites are located directly adjacent to it. If you go next slide, Kim.

This is a zoomed in version of the red line is the outline of AT&T's compound there. To the right, I believe that's T Mobile's compound. And then directly behind it is the Verizon monopole, mono pine. It sounds like a fake tree looking thing. But if you could go to the next slide. These are elevations from the ground showing on top what the existing site looks like. As you can see, there's three 21-foot poles with two antennas on each pole. Some of the, the original design for this site in regards to 4G isn't really the antennas. They are too close and they're causing interference with each other. So in, in, in order to optimize the performance, the antennas had, we have to add more, three additional antennas for the additional frequencies and spectrum we're deploying on this site. And we also had to separate the antennas to minimize interference at the site which was causing problems with our coverage of Manele Bay and Four Seasons and everything.

So basically this additional antennas and additional radios we're going from for four frequencies to six frequencies. And we're going from two LTE frequencies to three LTE frequencies, and one 5G frequency. So there's going to be a lot more data reliability at this site after this upgrade.

And this just shows that, you know, this one shows existing, the existing . . . (inaudible) . . . go to AT&T antennas. Those other sticks, I think, are T-Mobile. And like I said before that fake, that mono pine tree is Verizon's site. So if you can, you can see on the left we have those six antennas spread across three poles. Then on the right, it's going to show the two new poles with the three antennas a piece. And we're going to keep the existing three poles

in the back, looking in the opposite direction, towards the back side of the hill there. You can go to the next slide Kim.

And little second look from -- this is what does this inside looks like. Again, this is more of a close up. Next slide Kim.

Again, this is facing the site. Those are the existing antennas. The new poles will be in front of the cabinet there. And the fence will be extended for a backup generator in case of emergency. This site will be able to run up to 48 hours on a backup standby generator in case of emergency power outage. And then on the right side of the picture, it just shows, again, from the side of the gravel area where the new poles would be located. The fence line would be pushed out and are existing. We have additional lease area in front of that and we'll put a standby generator in back. And then you can see in the distance there, there's the wastewater treatment plant. Next slide.

Ms. Songvilay: So this slide just shows our existing coverage, approximate existing coverage right now. And the purpose of the modifications is to enhance coverage in the area. Next slide.

This is what it would look like without its existing site. Obviously with it being the only site in that part of the island, there would be no coverage. Next slide.

And this, this chart basically shows what we're seeing on our network at the site today. The blue line basically represents quality of calls. If you are on our network, you can see that voice traffic and data volume has increased over time and so subsequently that blue line decreases when there's more congestion on the network, the quality degrades. And over time, if modifications are not made, the quality will still will continue to degrade, and then basically the coverage area will shrink. That green area will shrink. So we're trying to catch that before just to maintain reliability and quality of our network.

So that is the end of our presentation. And again, AT&T is kindly requesting the renewal of our Special Use Permit and the inclusion of the proposed additions, which will be responding to the demand we see on our network across the state and this specific site, as well as expand the First Net Network. And as you can see in our application, our proposed modifications meet the applicable requirements of the Maui County Code and complies with other applicable State and Federal laws and regulations. Accordingly, AT&T respectfully request the Planning Commission approve this project as proposed subject to standard conditions of approval. We also wanted to express our appreciation for the Planning Department's recommendations, particularly its recommendation for a ten year renewal. If the Commission is willing, AT&T respectfully request consideration for a 15 year permit. We know that this is quite a lot longer than the previous permit. The length of time would ensure long term continuity of service for our customers in the area and allows for us to make the most of upcoming capital improvements to the existing site. But just wanted to note that we would also be fine with ten years. Mahalo for your time and consideration, and Bryce and I are available for any questions you may have.

Ms. Preza: Thank you, Elizabeth and Bryce. So actually, if you folks wouldn't mind sticking around, I am going to, before we do public testimony and then further discussion from our commission, I would like us to take a ten minute break just because we've been on for an hour and a half. So if everyone could return at 6:37 p.m., then we'll restart our discussion and do public testimony. Thank you.

*(The Lanai Planning Commission recessed at 6:27 p.m., and reconvened at 6:37 p.m.)*

Ms. Preza: Thank you. Okay, so before we move to discussion, we will open public testimony. And if you are here to testify, please directly message Leilani. And just a quick reminder that testimony will be limited to three minutes in the interest of time. Leilani, has anyone signed to testify?

Ms. Ramoran-Quemado: Thank you, Chair. No one signed up to testify.

Ms. Preza: Okay. Thank you. Anyone calling in via phone who would like to testify? If not, then we will close public testimony on this item. And Commissioners, we can begin our discussion and questions. Go ahead Zane.

Mr. Z. de la Cruz: I guess my main questions are concerning the onsite generator, the backup generator. I guess, how much fuel capacity is it in gallons? And are there any form of, like, structural mitigations in case of a fuel leak? Because the site is located in the drainage that drains directly into Hulopoe so that would be a concern for me.

Mr. Novak: I can --. Can you hear me? Sorry.

Ms. Preza: Yes, we can.

Mr. Novak: Yeah. The fuel storage for those typical 30 kilowatts down by is 148 gallons. And they're double hulled so they're, so in case the, the interior breaks. If there were to be anything --. One of the -- there's always a backup spill container on these.

Ms. Preza: Zane, does that answer your questions?

Mr. de la Cruz: Yes.

Ms. Preza: Other questions or comments? Yes, Lisa, go ahead.

Ms. Grove: I have a few questions. I think you guys mentioned quote unquote preparing for 5G. What does that mean? That -- I think that it might have been you who said that as part of your presentation. But I didn't know what preparing for 5G meant. Are we moving -- are you transitioning to 5G? Is that what's going to be offered or what, what does preparation look like?

Ms. Songvilay: Yes, I -- I'm not sure if I, if I said that because 5G will be installed at the site on an 850 band. Yeah, so –

Ms. Grove: And then just -- thank you -- and then to confirm and I apologize because it probably is in tiny font on one of those charts you did, not in power point but in the materials, the additional antennas, are they also I believe I think the other ones were, the poles are 21 feet. Are these also 21 feet or all they taller?

Mr. Novak: No, they're 21 feet also.

Ms. Grove: Perfect. Thank you. I think you said that but I just wanted to get a clarification on that.

Mr. Novak: We're not increasing the height anywhere on the poles.

Ms. Grove: Perfect. Thanks so much. The other question I had was you were talking -- you talked about the whole importance for the safety network in the First Net and all of that. But then there's also the, on the page nine that the proposed development has the possibility of interfering with the county's public safety system. And I saw the emails from the police and so on. Can you talk a little bit more about how that, I mean sort of in the worst case, what that would look like if, in fact, there was that interference?

Ms. Songvilay: Sure. So we have an agreement with Maui PD. They have a radio guy there who's requested that even before. Well, when we turn on the site, we notify him right away and we work with public safety. And it's typically the radio folks because sometimes there can be sort of cross. You know, with the frequencies, there might be some interference and we dealt with those before. Before, sometimes, it's equipment related. And so he's asked us to just let him know when we turn on the site, and he's going to go test it. But we, we actively work with all public safety and even the state radio teams, if there is ever an issue like that, to address it right away.

Ms. Grove: Thank you. The other one is on the page ten, and it is an applicant -- applicant response kind of after question number six, which is there are no anticipated deleterious effects as a result of the proposed use as the antennas backup generator and related equipment will be transmitting from unpopulated areas of Lanai. Is it because they're unpopulated or is would there be an anticipation of deleteriously effects if this was in a less populated part of Lanai? I just want some clarification on the response there, please.

Ms. Songvilay: No, we answer the question because I think that is part of the -- that question is just part of the application. So the answer is no either way with every single site we run that RFME testing model that I had, that I had explained earlier. And we always ensure that we are in compliance with FCC standards. And typically our sites do run, you know, less than one percent than what's allowable by the FCC for the general public.

Ms. Grove: Thank you. And then you talked about wanting to extend to 2031, and then perhaps another additional five years. I know that there's a huge amount of controversy around 5G, and the health effects and so on. I also know that there is more science and more data being gathered sort of as 5G goes online all over the world. Is there any -- can you explain why you need to go to 2031, or 2036, especially as folks are sort of still, still thinking the science? I tend to be a person who believes the science I've read so far and, and feel comfortable with 5G. But I've also seen the scientific community suggest that, you know, more data is more time, more understanding about what the possible negative effects are.

Ms. Songvilay: Sure. On the time piece, frankly, it's, it's really just long term continuity of service. So it would be nice to have a longer term permit, but I think we are okay with ten years too, so yeah.

Ms. Grove: Okay. And then I apologize if this sounds snarky, but you guys have had AT&T . . . (inaudible) . . . just had a bad couple of weeks. You've got kind of stocks tumbling. You've got John Oliver after you, and your CEO is meeting with the head of the NAACP because of your secret support of the right wing television network. With all of that consumer investment that is sort of confidence issues kind of in play right now, what sort of contingency plans do you guys have? We don't want to have you guys come in and invest in our, in our, on our island and then not be able to hold up your end of the bargain. I don't. I'm not speaking for everybody. I'm going to speak for myself.

Ms. Songvilay: You know, that's fair. I know there is, there is, there is quite a bit in the news right now, but also AT&T is separating from DirecTV at the moment, and as well as some of our Warner media, parts of our company as well so that we can focus on the wireless. It's exactly what you said. This is our bread and butter, and so we want to make sure our investments are going into this. And then those parts of the companies are really, as they separate, they can focus on media or whatever. But AT&T is doing that so that we can focus on, on wireless and providing internet access, wireless infrastructure for our customers.

Ms. Grove: Thank you.

Ms. Preza: Thanks Lisa. Other Commissioners, comments, questions?

Ms. Kaye: Yeah, I have a question. When T-Mobile first came in for this, there were two sites, Manele and Koele. And then in 2016 when it switched to AT&T, the permit was given to put in a backup generator, which clearly hasn't happened. That was the condition I was referencing that would result in automatic termination. But I wonder if you could address what is, what, what happened, what's happening at the site at Koele, and why are there, why is there no focus up there?

Ms. Songvilay: I can try to take a stab at this and Bryce I don't know if you have anything to add. I think today we're just talking about, about Manele Bay because of the permit renewal

that needs to happen. And we might have to look into what has been done at another site. But what we are proposing at Manele Bay is typical, and I think it just would probably depend on the status of that permit, and what modifications have been made there thus far. But it, you know, all to say we focus on all of our sites similarly and try to get to them as capacity needs need to be addressed.

Ms. Kaye: So wait. This was, this was one permit for two sites. Are you saying that Koele is no longer under your control?

Mr. Novak: I don't see --. I'm sorry. From the 2006 approval, we have a 300 square foot portion of, of the, that approved that we outlined in the presentation. That's our compound. That encompasses all. The other two sites are Verizon and T-Mobile at this particular location.

Ms. Preza: Right. I think, I think Sally is asking about a different site. But Sally, are you saying that there was a permit, a past permit that, like, had both of them together?

Ms. Kaye: Yes, that's exactly right. That's what, that was a 2011 permit was for both sites.

Ms. Preza: Okay. Well --

Ms. Kaye: And then the 2016, brand new CUP application was to install a generator at Manele. That didn't happen. So now they're coming back and asking for the same thing again, but there's never been any, any more attention paid to Koele where obviously the coverage is way more people than, than at Manele. So, you know, I'm just confused why just to cover the hotel and a few homeowners, we would be focusing on that area rather than Koele.

Ms. Preza: I mean, it sounds like maybe we might --. I'm sorry, Elizabeth or Bryce, if you want to answer, that's fine. I think also it sounds like we might be asking for some follow up information if you folks need to take time to kind of look back through those permits that Sally is referencing.

Mr. Novak: We do have a site on, in Lanai City that we upgraded extensively in 2020. And there is currently -- we're currently looking for a new location in Lanai City because due to the poor coverage there because the site's overloaded there as well. We're working with different parties there. But that's a recent . . . (inaudible) . . . We're still identifying candidates.

Regarding the 2016 permit, it was an upgrade of capacity in addition to the generator. At some point after that, the CUP or SUP, the CUP was extended. AT&T, I have a record of an email sent to the planner of record saying we still intend to upgrade the site, but the generator will be, a standby generator would no longer be included. And they accepted that and said please move forward and they submitted BP. Again, it was reviewed by the County of Maui for compliance with the conditions of approval. And it was deemed, you know, the BP move through and it was upgraded in 2016. I hope, I hope that answers your question.



Ms. Kaye: It does, but that's not evidence in our record at all. We have no evidence of that whatsoever. If you read the minutes and you read the submission, I'm sorry, that AT&T put in 2016, it was strictly limited to the generator. There was not a single mention of upgrades.

Ms. Preza: That's for the Lanai Planning Commission meetings you're saying, Sally, right?

Ms. Kaye: Yes. And they came in for this, for the new CUP, yes.

Mr. Novak: You know because nothing design wise changed besides the generator, it doesn't mean we couldn't just upgrade the antennas, I think. Usually when you come in for amendments like we are tonight, we're adding those new 21 . . . (inaudible) . . . -- staff, correct me if I'm wrong -- but here we're amending the design from three poles to five poles. So in that sense it would be in the record back in 2016, the only new design change was the generator. But we were still upgrading the antennas back then. I wasn't part of that, but that's what I'm seeing in the AT&T's records.

Ms. Kaye: Which, which unfortunately we don't have in front of us. Okay, so is there a backup generator in Koele? Do you know?

Mr. Novak: I, I did. I'm sorry. I don't -- I didn't prepare for that site. But I'm . . . (inaudible) . . . happy to take follow up on that for you.

Ms. Preza: Thank you. Maybe, maybe when we make a motion to whatever we decide on tonight, I think if we want to ask you some questions, but I would like to keep it to kind of what's in front of us. So kind of going back to what you mentioned earlier, Sally, about the copies of a detailed report addressing compliance with the CUP that was established, I'm not sure if, if Kimberly is still here, or if Elizabeth or Bryce can speak to it, if that was submitted. And like if so, why we didn't get copies in our report here tonight.

Mr. Novak: So typically, once a new CUP is issued -- we just went through this on a site in Waiehu -- after it's approved, we usually move forward to the BP process. And part of that BP process, we submit it to the County. It's routed back to the zoning department. It reviews the -- to make sure that we're in compliance with the CUP. So in that point, either in 2016, after the Commission approved it, it was submitted, you know, AT&T would have submit it to the Public Works Building Division, for a building permit. It would have be routed to the zoning department and they would have reviewed for compliance with the COA. So I don't, I don't know what kind of records the Planning Department keeps, but we do have a record of that BP showing that would certified that we were in compliance with the COAs. And I'll let staff correct me if I missed anything on that.

Ms. Preza: Thank you. I think Jordan has a comment on that.

Mr. Hart: Thank you very much. No, I think that Commissioner Kaye raised a relevant question and there is a different sort of compliance report that's typically expected with this special

permit. And it does appear that that that may be deficient in our file at this time. And it was not recognized prior to being raised, so we acknowledge that.

Ms. Kaye: Okay, then Jordan, then I wonder if you could address with that, the project specific condition number seven, that the construction had to be completed by August 31<sup>st</sup>, 2017. And again, for 2016, it was the generator. That that's what they were supposed to be constructing.

Ms. Willenbrink: Chair, in Exhibit-four, project condition seven, it does say that construction of the project shall be completed by August 31, 2017, and they have, they came forward with this time extension and that is when they noted that they did not do the generator at that time. But they were coming forward at this time to say, no, we have not installed the generator yet, but that is still on the table. And so the department recognized that.

Ms. Preza: Thank you. So I guess back to kind of Sally's point and, you know, kind of what Lisa was echoing earlier, if failure to complete construction on that wouldn't terminate the special use permit? Is there even a valid permit in front of us right now?

Ms. Willenbrink: The permit itself –. Sure, go ahead Jordan.

Mr. Hart: Can I ask the applicant for clarification? Was there a portion of construction that did take place or was there no proportion of construction that took place between now and 2017?

Mr. Novak: . . . (inaudible) . . . that addressed to me? I'm sorry. Can you repeat it?

Mr. Hart: It was. What I'm trying to ask is that, is that was there a portion of construction that was completed and that construction was closed, but then a portion was, was –

Mr. Novak: Yeah.

Mr. Hart: -- was not initiating and remains outstanding?

Mr. Novak: You know, they followed up after the upgrade and told us, staff planner --. I have an email from --. There's an email in the record, AT&T's record that show they followed up with county staff in, I think, in 2016, an email was where they acknowledged that they didn't install the generator, but intend to in the future. And it was acknowledged by staff and they didn't acknowledge any, any violations of the BP.

Mr. Hart: I needed a little bit more clarification on that. There was --. So there was no construction action, but there was an exchange with the department?

Mr. Novak: There was a construction action. The construction was complete, the BP was issued. The site was upgraded. The site was not upgraded with a new generator is what I'm saying.

Mr. Hart: Okay, thank you very much. So, so Chair, what I was --. That, that was the impression that I had. So what I was trying to clarify is that the department typically would recognize that if, if some construction was proposed --. Let's say there was something that was discussed. There was a larger plan that was established and it was approved by the planning commission, but the applicant does a revisit sometime in the interim of a project and determines that some portion of the project is not going to be completed. They initiate a construction action and they close that construction action properly. But there is some other phase that that they don't continue on to. We wouldn't conclude that that's, you know, out of compliance with condition number seven. We might consider that if no construction action had taken place or if they failed to properly close the construction action that they did do. But if there was a subsequent phase that they never completed and they want to keep it alive through the extension process, we would normally recognize that as --. I mean, I'm not trying to say that this happens on a daily basis, but those kinds of things of, of basically doing a project in phase, phases is quite regular in projects. To me the difference is either not starting or not properly closing that I believe that that condition would have been a set up to address.

Ms. Preza: Okay. Thank you for the clarification. I think we were just kind of going off of what we have in front of us, which is it just says, the construction and, you know, we didn't, we didn't have anything in our packet that showed like that email chain about like we will properly close this. So I can see why, you know, Sally had brought it up. Okay.

Mr. Hart: Chair, I do want to reiterate. I can recognize Commissioner Kaye's concern. These are the kinds of things that would be addressed in a narrative compliance report that would talk about how each the conditions had been satisfied in the interim.

Ms. Preza: Thank you. So just to clarify, we don't have that, but does the Planning Department have that, like, the compliance report?

Mr. Hart: We, we checked our files. That was, that's a deficiency.

Ms. Preza: Okay, so I think we should, you know, I think the Planning Department should have that because it says that they should have two copies so --. And then preferably that could be submitted to us at a later time when you folks do get that. I think that sounds important to just make sure that what was prior, you know, the permit that was issued prior, like was able to stay compliant, compliant. Does that sound fair, Commissioners? Is that kind of what people were addressing concerns over is that we don't have those documents and it doesn't seem the department does either?

Ms. Kaye: Are you suggesting we defer this?

Ms. Preza: I'm, I'm kind of entertaining that because it sounds like there, there is some missing information here that maybe, you know, people can't pull up right away, but hopefully it exists and we can get, get, get it in a timely manner. Does that sound sufficient to you folks? Before we get back to that, I actually had a different --. Oh, yes, Lisa, sorry, go ahead.

Ms. Grove: Sorry, just one quick question. So -- and I'm using your words, Jordan, and forgive me if I've used them wrong -- but you said that the deficiency reports, or the deficient reports, and then you said I think they're out of compliance. So if --. Okay, I'll let you then explain to me. Like, if they, if there are no reports and you, you right now say you can't find records them. If they don't exist, does, does this permit still exist or is it --? I mean, that's what I'm still trying to figure out.

Mr. Hart: Chair, the way I'd respond to that. So, so typically the way these are done is that, is that there's a, there's a narrative that goes along with the application document and it addresses compliance reports. So a lot of times or generally the compliance report is actually the extension. And that's, and that's a regular process. Unfortunately, the, the department did not collect that and also did not provide that to the commission, and it's causing a lot of the, you know, issues that we're having in this discussion right now. So on behalf of the department, I would greatly appreciate the opportunity to step back and reissue a staff report with attachments that would actually clarify the record. And I think that it would make a much more orderly meeting than we're having at this time unfortunately.

Ms. Grove: Thank you.

Ms. Preza: Yeah, I think that's a good idea. Before we make any kind of motion to move forward on what it seems like, we kind of agree on that. I did have a question for Elizabeth or Bryce about if there's any subsurface work that's planning to be done with this proposal, with the proposed project?

Mr. Novak: There will be minor, you know, the, the, the new poles will be installed in that gravel area. And there will be a generator pad, a concrete pad for the standby generator. So there will be a -- not significant but, you know, it will be new, new poles, a couple feet, into the ground.

Ms. Preza: I guess I'm wondering, was there any, like, archaeological monitoring plan established for that subsurface work or looked into?

Mr. Novak: Anytime we do a new site, full NEPA was done. So we would have done a NEPA report would have been run during that time.

Ms. Preza: Sorry, can you spell the acronym, NEPA so that everyone --?

Mr. Novak: Yeah, NEPA; National Environmental Protection Act. It's where you send -- so the different state stakeholders for comment. Typically, NEPA, our compliance vendor would consult with DLNR, OHA, all the different state agencies and federal agencies for feedback regarding the project. And they'll typically take six months. And they're good for the lifetime of the site unless you're standing outside of that footprint. And in this case it was for the entire lease area, so that NEPA report would still be valid.

Ms. Preza: Okay. And that includes cultural resources as well?

Mr. Novak: Yes.

Ms. Preza: Okay. I might also ask that when we're talking about, you know, additional information, like maybe that could be provided just so we take a look at them. I don't assume that's public record.

Mr. Novak: That's typically not for renewals. It's not something the county, because it's not required. But on a new site built, when this was originally built, it would have been provided to the county for review. Again, this used to be a T-Mobile site for those -- you know, it would take some digging to find it.

Ms. Preza: Zane? Chelsea? Any comments or questions?

Mr. Z. de la Cruz: I guess --

Ms. Trevino: I guess --. Oh, go ahead Zane.

Mr. Z. de la Cruz: Sorry. So I said -- you were saying that for the original permitting process, all that was done as far as the site evaluation. So could you clarify if the generator is on an area that has already been surveyed? Because it sounds like it's an extension to the site.

Mr. Novak: No. Our lease area, if the fence line is not our lease area so it would --. You know, I wasn't, again, I wasn't around. I'm just doing the upgrade, but it would have covered that entire general area up to 500 feet outside of that area, the NEPA report, as general protocol.

Ms. Preza: Thanks Zane. Any other questions or back to Chelsea is okay?

Ms. Trevino: Yeah, I just wanted clarification because there was discussion about if some form of construction was performed that would be sufficient. But I thought that he had said earlier that the only construction that they were intending to do was to add the generator. And I'm, I guess, I'm asking that in the context of Jordan, was that saying as long as something was done, regardless as to whether it was completion of, of. But I thought I had heard prior, maybe I misheard, I thought Bryce had said the construction was basically to put in the generator. And I'm only asking that because that's contradictory to say some was done if the generator was the only thing to be done.

Mr. Novak: You know I'm going to defer to staff here. But this has been an existing site since early 2000 since it's been operating. And I think we're focusing on a standby generator that would provide a backup service in an emergency.

Ms. Songvilay: I might chime in here if I can help. I think partially, at least partially answer Chelsea's question. So the last I think renewal was to basically add a generator, just adding equipment to the site and sort of expanding that footprint there. But I think the -- I believe and Bryce correct me if I'm wrong -- the construction that you're referring to may have been modifications to the existing site. Because within the permit, if we have to upgrade equipment or things like that, we, that is considered construction even though it might be like a swap of equipment and we would go to planning to receive a building permit basically for those upgrades as well. So that might have been the construction. Is that right, Bryce that took place? It just might not have been the generator per say.

Mr. Novak: There was an LT upgrade. So LT, you know, hasn't been around that long. So it was -- if, you know, if it was upgraded, it would have been probably upgraded during that time. So I'm searching AT&T's records, as we're here. I didn't plan on something like this being brought up, but I can definitely research to confirm. But usually when they do these modification projects, they're bundled and would have been included in LT upgrade at around that time. It appears the generator is part of that for emergency backup generator. After 9/11, there was a big push for standby generators on cell sites for power outages and what have you. So to me, the, the timeline would line up. But I don't have, you know --. It's hard for me to keep track of every upgrade over the last 20 years. But it should have happened around that time frame, the LT upgrade.

Ms. Preza: Thank you.

Ms. Songvilay: . . . (inaudible) . . . Okay.

Ms. Preza: I think, I think, yes, and it does sound like we might want some additional information. We might want to defer and maybe it will give the planning department and you folks also some time to kind of compile, like, do some research and just compile like a clearer timeline so I think we will be on the same page. But thank you for answering our questions. And Commissioners, does, is there any further discussion? Sally?

Ms. Kaye: Yeah, yeah, I, I just want to stress that I'm, I'm disappointed that at the, at the eleventh hour we're hearing that, that we're going to change the rule because the 90-day extension that we were all told was in operation just no longer applies. So we're just, we're just going to get rid of it. I don't, I don't understand why these conditions were imposed by the County and now the County, I think, it's disrespectful to the County, it's disrespectful to us to just say, well, we didn't comply with them so we're just going to change the rules so we no longer have to comply with them. So I'd like a little explanation from the County. I'm just hearing tonight that it's done a different way is not sufficient explanation for ignoring the conditions that were imposed and voted on and approved. And I want to also stress that it is, it is incorrect to say that the 2016 was an extension. It was a brand new CUP, that, that that's on the record. There was no mention of upgrades. The construction was limited to the generator. So I think the -- what happened in the interim that shows that they had done some things and not others really needs to be fleshed out. Otherwise, we're looking to something in

my opinion that is no longer a valid permit. They should be coming back in for a new CUP. And I also think that, you know, I, I don't see -- I don't understand the additional need. I don't see the proof of it. I, I just think that we need a lot more information.

Ms. Preza: Agreed. Having more information is definitely . . . (inaudible) . . .

Mr. Hart: Chair, if I'd like to be able to address that if I could.

Ms. Preza: Go ahead Jordan.

Mr. Hart: So, you know what, I, I definitely want to say first of all, that, that it's not the, the intention of the department to be disrespectful to the community or the planning commission. You know, this may be viewed as somewhat of a cop out, but this does predate me. But I do recognize Commissioner Kaye's concerns on the procedural basis. And that is something that I had a bit of discussion about this morning, and I'm aware of and know it's, it's an issue and we'll address it. And I do, as I said earlier, I think that the procedural concerns that have been raised are something that you can discuss when you actually take action on this item. But it is factual that this has been a long standing process or procedure of this department to recognize these requests for extensions up until the date of expiration. And I do recognize that that's contradictory to the language of the condition. But I'll just reiterate that I don't think that the intention was to be disrespectful. It's, it's the conflict between longstanding agency process and the language of this condition that's coming to a head during this meeting.

Ms. Kaye: Thank you Jordan. Thank you. That that helps a lot. Thank you.

Ms. Preza: Thank you, Jordan. Okay, Commissioners, I think we've had a long discussion. Would anyone like to propose motion based on what we've discussed?

Ms. Grove: Propose that we defer pending additional information.

Ms. Preza: Thank you. Richelle, do we need to go more specifically into like what particular information that we need or is what we've discussed so far kind of encapsulating?

Ms. Thomson: I think that what you've discussed has been sufficiently clear.

Ms. Preza: Thank you. Okay, so Lisa has put forward a motion to defer. Is there any second?

Ms. Kaye: Second.

Ms. Preza: Thank you. Sally seconds. Any further discussion? If not, then please raise your hand if you agree. So yes? Okay, any abstentions? Any opposed?

**It was moved by Ms. Elisabeth Grove, seconded by Ms. Sally Kaye, then unanimously**

**VOTED: To defer and requested additional information, as discussed, to be provided.**

*(Assenting: Z. de la Cruz, E. Grove, S. Kaye, S. Preza, C. Trevino)*

*(Excused: J. de la Cruz, S. Menze, N. Ropa, S. Samonte)*

Ms. Preza: That passes unanimously. So this item is deferred pending further additional information. And thank you everyone for your time, for presenters and Planning Department, Kimberley for being here tonight and presenting for us. With that, we'll move --.

Ms. Willenbrink: Thank you, Chair.

Ms. Preza: Oh, sorry. Did someone say something?

Ms. Willenbrink: I said thank you, Chair.

2. **MS. MICHELE C. MCLEAN, AICP, Planning Director transmitting the following request pursuant to the provisions of Section 19.45.060, Maui County Code, relating to Project District Amendments and Revision:**

**LANAI RESORTS, LLC, a Hawaii limited liability company, doing business as PULAMA LANAI, requesting review of revisions of the previously approved Phase II site plan for the Malanai Estates Residential Subdivision within the Koele Project District at TMKs (2) 4-9-021:001, 003, 005, 006, and 011, Koele, Island of Lanai (PH2 1992/0004 and PH3 2019/0007).**

**The Director has determined that the proposed revisions are non-substantive changes from the approved site plan for the Malanai Estates Residential Subdivision. The Commission shall acknowledge receipt of the request. The Commission may act to waive its review of the proposed non-substantive revisions in the Phase II Project District request and allow the Director to approve and take action on the request.**

Ms. Preza: Okay. Sorry. You were kind of got cut off at the ending. Great. We'll move on to item D.2., which is Planning Department -- Michele McLean, Planning Director, transmitting the following request pursuant to the provisions of Section 19.45.060 Maui County Code relating to Project District amendments and revision, which is regarding the Malanai Estates. I'm not sure if we have an official presentation for this or Jordan, if you're speaking on it, before we discuss.

Mr. Kurt Wollenhaupt: Oh, hello. This is Kurt here.

Ms. Preza: Hi.



Mr. Wollenhaupt: I'm calling in from out of state. I'll just have a very brief presentation. I'm not sure if the representatives of Munekiyo & Hiraga or if the applicant, Pulama Lanai, if they have a presentation. But just very briefly, there was a memo that was written to the commission and there was exhibit-one, which is the communication from the consultant, Munekiyo Hiraga, on behalf of the applicant, Pulama Lanai, to Chair of the Maui Planning -- excuse me -- the Lanai Planning Commission. And that memorandum was to request that the Lanai Planning Commission waive review of the phase two Project District request and allow the planning director to issue the phase two project district approval. That request being that there were modifications to the Malanai residential estates site plan. That plan being approved at the meeting of the Lanai Planning Commission on January 15<sup>th</sup>, 2020. And consequently, the revisions reflect a non-substantive nature, decreasing the intensity of the use primarily and the number of buildings now being considered, and in the building square footage. This all has to do with a technical interpretation of Maui County Code 19.45.060, which is unique to Project Districts and in fact unique to Lanai for its two project districts, Koele and Manele. It states for project districts on Lanai, the Planning Director shall notify the respective commission of the review of the proposed non-substantive revisions. Consequently, that is what the planning department is doing is giving notice of these non-substantive revisions, and the commission may review the proposed non-substantive revisions, take action, or waive review.

You have seen a waive review in the past. In fact, that's happened to some, with some degree of frequency. So I believe that Jordan may have more information on this or we can go to the presentation by the representatives as they may have it this evening. Thank you.

Ms. Preza: Thanks Kurt. It must be, if you're out of state, then it must be much, much later.

Mr. Wollenhaupt: It's past midnight, yes.

Ms. Preza: My goodness. Thank you for staying on all this time. We appreciate it. Okay, Jordan, sorry, did you have further information or the applicant?

Mr. Hart: No, I think that Kurt's explanation was sufficient. This is -- we view this as a non-substantive change and just it's a criteria of notifying the Commission.

Ms. Preza: Okay, before we discuss it, I'll open public testimony if there is any on this agenda item. Leilani, has anyone signed up to testify?

Ms. Ramoran-Quemado: Thank you, Chair. No one has signed up to testify.

Ms. Preza: Is there anyone present who would like to testify on this agenda item or calling in via phone? If not, then we'll close to public testimony on that. And Commissioners, we can have our discussion about this. Go ahead.

Mr. Wollenhaupt: Just, just to note, I see that Gwendolyn Rivera from Munekiyo & Hiraga is online. I believe that she may have some clarifying comments to make.

Ms. Preza: Okay. . . (inaudible) . . . ask Gwendolyn to share before your question.

Ms. Kaye: Sure.

Ms. Gwendolyn Rivera: Hi. Good evening. Thank you, Chair Preza, thank you Kurt, and thanks Commissioners. My name is Gwendolyn Rivera. I'm with Munekiyo Hiraga, representing Pulama Lanai on this request. If you like, I could share a real brief presentation to clarify a little bit about what's being requested here.

Mr. Preza: Right. Sounds good. Thank you.

Ms. Rivera: Okay. Are you able to see my presentation? Thumbs up?

Mr. Hart: Yes.

Ms. Rivera: Okay. Super. Alright. Yeah, what we're asking for here is a request to review or waive review on non-substantive modifications regarding Project District Phase Two Development Approval for Malanai Estates in the Koele Project District. So thank you very much for the opportunity present. And again, I'll try to keep this brief because I know we've been on for quite a while.

Just a brief recap. The Project District process is a three phase process. For Koele Project that started back in the 80s with the first steps phase one, which is the establishment of governing ordinances. So that was done in 86 and amended in 92.

Phase Two is the preliminary site plan stage, and that was done in 1992 when the Lanai Planning Commission provided the phase two approval for preliminary site plans.

Phase Three, final stage, is the final site approval. So as Kurt mentioned last year on January 15th, the site plan and building elevation plans were presented to this commission. Those plans included 20 homes and 20 garages in Malanai Estates. And your commission voted to waive review at that time, and the Planning Department did issue the Phase Three approval. However, since that time, there have been some adjustments made to the plan. The modification before you today involves lot 34 of Malanai Estates Development. Pulama Lanai is currently pursuing building permits for two single-family homes with two detached garages on lot 34. And relative to the site plan that you saw and was approved last year, that is one less house and one less garage than what was approved. And that is why we're here. As Kurt mentioned, you know, the Planning Department views this as a non-substantive modification. It's removing units. It's not resulting in any additional significant impacts. And the reason we're bringing this to your attention is because of the Maui County Code that Kurt mentioned relating to amendments and revisions for Project District Phase Two approvals, 19.45.060, which says

that the Planning Department Director shall notify the Planning Commission for Project Districts on Molokai and Lanai regarding proposed non-substantive revisions. So the Commission may then, you may review the proposed non-substantive revisions and take action, or you can review.

This is very similar to what was the Manele Amphitheatre item that you saw, I think, a couple of months ago, in August, where you voted to waive review for that Project District Phase Two. Again, a non-substantive modification. Today, we're requesting your consideration to waive review for this modification. Again, it involves just eliminating one house and one garage from the site plan. So we would request that you waive review and allow the Director to issue that Phase Two approval so that the building permit process can move forward.

So this is the approved site plan from last year. For your reference, lot 34, you can see that there were three houses and three garages in the Malanai Estates, lot 34. And if you look to what is proposed today, this is the proposed reduction. We've gone from three houses and three garages, detached garages, to two houses with two detached garages. So fewer houses in the lot, the density development has reduced, the infrastructure demands will be less than what they would be in the approved plan, traffic impacts would likewise be expected to be reduced from what was previously approved.

So that wraps it up. To conclude, since the proposed modification is non-substantive, and it involves a reduction in the plan. Again, we thank you for your consideration and we respectfully request that you waive your review of this Phase Two Project District modification so that the Director can issue the approval to allow the project to move forward. So that's all I have. I'll go ahead and stop sharing at this time.

Ms. Preza: Thank you for that presentation. Commissioners, do you have comments or questions for Gwendolyn or --? Yes, Lisa, go ahead.

Ms. Grove: So, it's actually kind of funny what I'm going to ask, given that this word was now used about a hundred times, are these words. But I was going to ask about the words non-substantive revisions. Is that a technical term, like a Planning Department term or is it a term of art? And if it's a Planning Department term, is it possible for me to get that definition? Because it's been used a lot in these meetings and it was obviously used a hysterical amount of time just now, and I want to understand what it means.

Mr. Hart: Sure. Let me -- this is Jordan Hart -- let me confirm if it's if it's defined in the Code. It is --. And I've got to confess a little bit of ignorance between the technical term and a term of art, unfortunately.

Ms. Grove: I mean is it -- I mean, that, the presentation we just saw had it like many, many, many, many times. We've been talking about this. A lot of the things we talk about say, well, it's non-substantive so you should just sort of move it through. I personally think, and I think Gwendolyn made a great case of this that it, that it is substantive. It's one less house, it's less

traffic, it's less waste water, it's less pressure on the community. That seems substantive to me, but I'm not a planning department expert. So I'm just curious. And this isn't the first meeting where this has come up. And I just -- I'm just trying to understand who is determining the extent to which something is or is not substantive?

Mr. Hart: Okay, thank you. So, so I just confirm, it's not defined in Title 19.

Ms. Preza: Sorry, Jordan, it sounds like Richelle was about to speak up at the same time on this.

Mr. Hart: Oh I'm sorry.

Ms. Preza: Yeah. Is that okay? It sounded like you might have some clarification.

Ms. Thomson: A quick note. Just -- this is from the County Code section. It's 19.45.060 and that's the code section that talks about these types of amendments to Project District Phase Two, the preliminary site. So non-substantive revisions of the Phase Two preliminary site plan, that would not -- and this is, I think that this is kind of defining what is significant or not in this particular circumstance -- that would not result in significant impact above what would result from the Phase Two approved plan. So if it's an impact that is not greater than what was previously approved, that's how I would define non-substantive in this instance. I think that it does change depending on what type of permit or approval you're talking about.

Ms. Grove: Great. Thank you.

Ms. Thomson: Yeah. The Code specifically looking at greater impacts.

Ms. Grove. Right. Okay. So if it a, it has a beneficial less impact, it still can be quote unquote non-substantive or actually it's defined as. I really appreciate that. Thank you very much.

Mr. Wollenhaupt: Hi. This is Kurt again. On the first page of the memo, I wrote, in italics, is that portion of the Code with the words that Richelle just spoke to.

Ms. Thomson: And, and as to who determines it, it is -- that's your decision to make. So you're the ones that weigh the request and determine whether it's a, an impact above what was previously approved or not. And I apologize for missing the italics. Thank you so much. I really appreciate the clarification.

Ms. Preza: Thanks, Richelle. Other questions or comments on this?

Ms. Kaye: Yeah, I have one, one observation to make. And that is, Shelly, you and Jordan, in the January meeting, did just a super, super job of discussing and explaining what waiving this sort of thing means. I learned so much from reading the minutes from that, so I wanted to thank you for that. But when I when I read this one, nobody -- I thought I read something

about two generators being added and that wasn't discussed. Was that was that part of the last reduction or was that a part of this one? There was going to be a backup generator added to the site, and my question was, if that's the case, is it going to service the whole complex or just the lot that it's on?

Dr. Keiki-Pua Dancil: Hi Chair Preza. This is Keiki-Pua. Would I -- can I answer that?

Ms. Preza: Yes, please go ahead.

Dr. Dancil: That's with another lot. That's not lot 34, so that's not part of this application.

Ms. Kaye: Okay. So it was in this material just as an informational item?

Dr. Dancil: It was part of an informational item that the Planning Department put in, as well as some of the requests from us, the applicant. But it's not part of this application. This application is just for a lot 34. The generator went into lot 36.

Ms. Kaye: Okay. Could you answer the question of whether that generator is for the whole complex or do you know?

Dr. Dancil: Yes. Yes, I can answer that question, Commissioner Kaye. The generator is for a lot 36; one of the homes on lot 36. Not for lot 34.

Ms. Kaye: Okay. And then Keiki-Pua, can you, I cannot tell from these diagrams, these, the garages that are up there, are they, are they two cars, three cars or four car garages?

Dr. Dancil: I believe they are two car garages.

Ms. Kaye: Okay. So if there were four independent people living in one of the structures and it's a two car garage -- I know this came up before, but I don't think that was ever a clear answer -- where, where do they park? And, and I guess for the County does Chapter 19.36B, which is the parking regulations, does that apply up there?

Ms. Preza: Right, if Jordan or applicant want to clarify that, that's fine. I guess I'm wondering, would that have any bearing on if we decide this is non-substantive? Or is that just for like . . . (inaudible) . . .

Ms. Kaye: No, I'm just asking a couple of questions. So because if we're going to waive it, then I'd like to have fuller information to make that decision. So I learned from you from the last meeting.

Ms. Preza: I'm not sure if Jordan if you have any answers to that or --.

Mr. Hart: Sure. I'm just looking through the project district right now to see how parking is handled. I'm not sure if Kurt already knows based on his experience with, with this project district over more time, whether or not he, he knows it the top of his head. But I'm searching that right now.

Ms. Preza: Thank you. Commissioners, other comments, questions while Jordan is searching? Personally, I feel like, I mean, regardless of the answer to that question, like, I don't think that a reduction of one home and one garage is a substantive change that we need to review. I don't know if others are feeling similarly or not.

Mr. Z. de la Cruz: I mean --

Ms. Preza: Zane, go ahead.

Mr. Z. de la Cruz: Like it does -- it all, it all depends on what, you know, they're planning on using these units for. But it's not the loss of one single family house, right? It seems like it's a loss of four units of living space, like, for four individuals. So that to me is substantive. Like, that, that's a considerable amount of housing that goes away. But that once, again, is highly dependent on who is allowed to live in those houses. Because it says that this adjustment is made because of an adjustment to their calculation of management, right. So if they're not going to bring in people who are applicable to stay in those places, then no, it wouldn't be substantive. But if it's a more -- if the housing criteria is broader, then yes, it would be substantive. So, I guess I would like some clarification on that.

Ms. Preza: Thank you. I don't know if Keiki-Pua or Gwendolyn wants to comment on that.

Dr. Dancil: Sure. Thanks Commissioner de la Cruz. Commissioner Kaye mentioned the meeting minutes that happened back in January of 2020 and there are significant discussion about who was going to be occupying these homes. And this this is for I think at the time we discussed who would be occupying these homes. And yes, it would be for our management, and yes, we have made changes. We continue to make changes along the way. And as Corp Counsel Thompson mentioned, the non-substantive impacts, and reading from the County Code, and if you look at the memo that was prepared in italics, the definition is that it's a greater impact for resources. And I believe going from three homes and three garages to two homes and two garages, it is less impact. So it would meet the definition as part of County Code, which is why we're here tonight.

Ms. Preza: Thanks for clarifying.

Mr. Z. de la Cruz: I just --

Ms. Preza: Go ahead Zane.

Mr. Z. de la Cruz: I just wanted -- like I don't, I don't know what packet that italicized portion that everyone keeps referring to. Is that --?

Ms. Preza: It's in random and it's says subject to Project District Phase Two review. It kind of look like this.

Mr. Z. de la Cruz: Okay. Yeah, I got it. Thank you.

Ms. Preza: Yeah, it's right at the bottom of that page. Jordan, were you going to say something?

Mr. Hart: Chair?

Ms. Preza: Yes?

Mr. Hart: On parking, it doesn't, it doesn't appear that the Project District specifically calls out its own parking standards. So I was hoping that that would --. The normal course of action for the department would be to apply this County wide parking standards to it. And I would also, you know, concur with the applicant that --. So what I was trying to do earlier is I just wanted to make sure that the non-substantive wasn't redefined in the, in the overall zoning code, because there is the contextual definition of, of non-substantive, which Richelle went over. And it basically amounts to something that would not result in a significant impact above what would result from the phase two approval. So, you know, the department can't find any reason to conclude that the reduction of these structures would result in an impact above what was already approved in the phase two. Now, you know, the commissioner, Commissioner de la Cruz pointed out that there is dwelling units that may be, you know, subtracted potentially from the overall project. But that's not an impact that was created by a project. You know, the project may provide housing units, but the reduction of those potential total units doesn't increase the impact of the project. And while I do recognize the concern that it may not provide housing that is needed in the context of the requirements for evaluating this request, this is a reduction.

Ms. Preza: Thanks Jordan. Did you have any questions or Lisa? Okay, if there's no further discussion, then would someone like to put forward a motion for this item?

Ms. Trevino: I move to waive.

Ms. Preza: Thank you. Chelsea moves to waive. A second? Anyone seconds?

Ms. Kaye: Second.

Ms. Preza: Sally seconds. Any further discussion? If not, if you're in favor, please raise your hand. Any abstentions? Any opposed? So to waive passes unanimously. Thank you very much.

**It was moved by Ms. Chelsea Trevino, seconded by Ms. Sally Kaye, then unanimously**

**VOTED: To waive review.**  
(Assenting: Z. de la Cruz, E. Grove, S. Kaye, S. Preza, C. Trevino)  
(Excused: J. de la Cruz, S. Menze, N. Ropa, S. Samonte)

Mr. Hart: Chair, I would really like to thank Kurt for participating in this meeting.

Ms. Preza: Yes. Thank you, Kurt. And please get to bed if you can, if it's past midnight already.

Mr. Wollenhaupt: Thank you.

Ms. Preza: Yeah. Thank you very much for the chance. Okay, so moving right along because we're coming up quickly on eight o'clock.

- 3. August 27, 2021 Q1 through Q2 2021 Semi-Annual Report (Condition 14) submitted by MS. KEIKI-PUA S. DANCIL, Ph.D., Senior Vice-President of Governmental Affairs, PULAMA LANAI regarding the project irrigation demand associated with the Residential and Multi-Family Development at Manele, TMK: 4-9-017-001, 002, 003, 004, 005 and 4-9-002:049, Manele, Island of Lanai. (95/SM1-015) (95/PH2-001)**

**The Report is provided to the Lanai Planning Commission for its review.**

- 4. August 27, 2021 Fourth Quarter 2021 Report from mid-February through mid-June (Condition 15) water usage reports for the project site submitted by MS. KEIKI-PUA S. DANCIL, Ph.D., Senior Vice-President of Governmental Affairs, PULAMA LANAI for Project District Phase II Application for the Four Seasons Resort, Lanai, Koele Proposed Improvements (PH2 2017/0001).**

**The Report is provided to the Lanai Planning Commission for its review.**

Ms. Preza: If it's okay, could we combine items three and four since it's both being transmitted by Pulama Lanai? They're just water use reports for Manele and then Koele. Would that sound okay with everyone just to kind of speed things along a little? Okay, so we both -- we received those in our packets. I don't know, if Keiki-Pua if you have any comments, or is it's more just like if we have questions.



Dr. Dancil: Mahalo Chair, and due to the time we come before you often for these reports. I think they're pretty self-explanatory. But both myself and director of utilities, Joy Gannon, is here to answer any questions. So in light of time, I'm not going to read through kind of what the condition states. It's pretty clear in our memos to the Planning Department and the LPC, but we're here for questions and we want to make use of time considering it is two hours and thirty six minutes in.

Ms. Preza: Thank you. I'm sorry for a couple of our new commissioners just to say, like we do get quarterly reports for these different areas so we can expect them every few months. It's pretty standard on our agenda at this point. So does anyone have any questions or comments about them? Yes, Lisa, go ahead.

Ms. Grove: Can you please explain the big jump in single-family water usage between quarter one and quarter two at Manele? Page two of your semi-annual Q1, Q2 2021 report?

Dr. Dancil: Yeah, great question. I'm going to hand it over to Joy and she can -- she's prepared some comments about that.

Ms. Joy Gannon: Good evening, Commissioners. Thank you for inviting us. So on the single families down in Manele, we have quite a bit of construction happening in the cul de -- in actually two cul de sacs. And so there's quite a bit of dust that has, dust control that they've had to do, particularly in Maunalei Drive cul de sac. So that is what that's driving the increase.

Ms. Grove: And why is that not, not non-potable water?

Ms. Gannon: That's a good question, Lisa. At this point in time, I have to further research it, but potentially it could have been.

Ms. Grove: Thank you.

Ms. Preza: Thanks Lisa, and thanks Joy. Any other questions or comments? Oh, I forgot to open public testimony on items -- where are we on now -- D.3. and 4. Leilani, has anyone signed up to testify?

Ms. Ramoran-Quemado: Thank you, Chair. No one signed up for any of those items.

Ms. Preza: Thank you. Anyone calling in who would like to testify? If not, then we'll close public testimony. Okay, we can get back to if there's basically these are just for our review so we don't take action on these. So are we get to move on?

Mr. Hart: Chair, unfortunately, I'm going to have to ask a problematic question. Could I get a comment from Corporation Counsel? We already kind of had muddled record for, I believe, item --. Item --. I'm sorry. Oh, I'm sorry, you did open up testimony and closed it for D.1.?

Ms. Preza: D.1., AT&T, I did. There was just no one.

Mr. Hart: Okay, I apologize. I missed that. Thank you very much for confirming.

## **E. DIRECTOR'S REPORT**

### **1. Open Lanai Applications Report as distributed by the Planning Department with the October 20, 2021 agenda.**

Ms. Preza: No worries. Yeah, it was pretty quick so --. Okay, if there's no comments on these, then we'll move to E which is Director's Report. So E.1. is our open Lanai applications which we get every time we meet. If there's any questions on that for department.

### **2. Status of Maui County Council's review of proposed amendments to Chapters 19.64 and 19.65 relating to B&B and STRH procedures for Lanai (PSLU-68).**

Ms. Preza: If not, then E.2. status of my County Council's review of proposed amendments to Chapters 19.64 and 19.65, B&B and STRH procedures for Lanai. Jordan, do you have an update for that?

Mr. Hart: I do. I believe that those are both passed through and that Leilani forwarded the ordinances to the entire commission. I can't recall the date of it, but as soon as I received them from the Mayor's Office signed, I asked her to forward both of those. I believe that was something like three to four weeks ago. But I, I'd have to check my records on that.

Ms. Preza: Thank you. I think I do remember getting that. Commissioners, do you remember kind of getting those? We're okay to move on from that? Okay, thanks Jordan.

Mr. Hart: Maybe you could remove them from future agendas too if that's possible.

Ms. Preza: Oh, yes, yes. Now we can remove -- Leilani, if you wouldn't mind, we can remove the status because I think now we've got -- you know, it passed so thank you. And yeah, thank you, Commissioners, you know, if you were involved in that process because yeah --. I mean Chelsea, I think Sally was part of it too like --

Ms. Trevino: I was just going to say Jordan has the biggest smile on his face right now. Take that off the agenda.

Ms. Preza: I know, and thank you, Jordan, for dealing with all of our comments, and, you know, we really cared about what happened to Lanai. So I think, I think the turnout was good, though. Or the outcome.

Mr. Hart: It was great. No, thank you. I was just -- it's just that I would always forget to get you the updates and I would have to scramble to check my emails as this item came up. And that's, that's what gave me the smile anyway so thank you.

Ms. Preza: No worries. Yes, now no need to worry about it anymore. So we just might ask for status updates on other things. But I think that was the one project that we were very involved in so, you know, that you know, that we wanted to kind of have on our agenda. So thanks very much.

### **3. Proposed Meeting Schedule for Calendar Year 2022.**

#### **The Board may take action to accept or modify the meeting schedule.**

Ms. Preza: Okay, so moving on is item three, which is proposed meeting schedule for calendar year 2022. So we can take action to accept or modify? I think, yes, if anyone has comments, we can discuss that or we can accept. Yes Lisa.

Ms. Grove: Again, a point of procedure. I was talking to a friend on Maui who does a lot of work with the County and she was surprised that we have evening meetings. Is it standard operating procedure to have these kind of planning meetings in the evening as opposed to during regular daytime business hours?

Ms. Preza: Jordan, did you want to answer?

Mr. Hart: Oh, okay, if that's for, for the department. So the other two commissions meet during the daytime. But my understanding is that the Lanai Planning Commission, previous, previous bodies of the commission have wanted to have evening meetings.

Ms. Grove: Thank you. I'll be on the record saying I'd prefer a daytime meetings.

Ms. Preza: Okay. Thanks. I -- sorry, go ahead, Sally.

Ms. Kaye: No, no. I was just going to concur with Lisa. I think this is hard on the Planning Commission to have to work -- I'm sorry -- Planning Department to have to work all day and then deal with us at night. I think with the new format, the way we meet that it's probably not as problematic to move it to the daytime. And I hear people asking if that's possible, so I'm, I'm just raising that as something we should discuss.

Ms. Preza: Thanks. I do have some opinions on that. I just feel like the five o'clock allows people who are working during the day who don't have flexible work hours to participate in the commission. Like, for example, for me, like especially if a meeting goes two hours or three hours, I would not be able to just leave work to do this. Additionally, when we do take public testimony, I think at least most people are done with work by five so it kind of gives them the

opportunity to, you know, share in person testimony, which maybe not as relevant on the virtual platform. But, you know, when we were in person, I think people would physically show up and, you know, so that that's just my two cents. I kind of prefer it later in the afternoon just so it allows people who are working and can't meet during the day to participate. So I don't know if Chelsea or Zane if you guys have comments or --?

Mr. Z. de la Cruz: I'm more of the opinion with Shelley on this one. I feel that the evening meetings just allow for greater participation for those who work nine to five jobs.

Ms. Trevino: My comment is just personal. I could not serve on the board if, or the commission, if it was during the day.

Ms. Preza: Thank you guys for your comments.

Ms. Kaye: Okay, well then you know, the only thing I will say if we're going to keep it this way is let's never have a stacked agenda like tonight. We need to, we need to not just take everything that comes. We can control what's on the agenda so that we don't have to stay here for three hours.

Ms. Preza: Thanks. I think that's something that, you know we'll, for the time that I'm Chair, I can take into consideration. I think, we, in my experience at least being on the commission, we have allotted three to three and a half hours to do these meetings. So when I look at the agenda, I account for that time. But if it sounds like you folks, you know --. Jordan, I'm not sure, I mean, or Richelle, if we say we want to cap our meeting times at two hours like I can, I can adjust my agenda planning accordingly. But I, up until this point, we kind of, you know, occasionally we don't always go three hours, right. But for some of these meetings, we do. So is that, is that something we need to put on record, like we want we don't want to go past a certain time or is it more just at my discretion just keep it rather short?

Mr. Hart: I'll have Richelle correct me on any of the procedural issues, but I think that it's the chair's discretion. Some things that you could consider and this is what I might want to Richelle to correct me on, is whether or not you can set specific times on testimony that you're going to receive if you believe that an item is especially contentious. I know in the past, some of the meetings have been kind of free form on testimony that can go back and forth and become a kind of a question and answer session with individual. And then I will also say that sometimes it's difficult to tell which items are of interest or exceptional interest to the community. So it'll just have to be a coordinated effort between the chair and the department to establish the, the agenda. And we'll provide our thoughts on what we think are items that might take more information or attention, and you might let us know what you think may take more time.

Ms. Preza: Thank you. Yes, when I looked at the agenda I thought, you know, sometimes some of our discussions, they go pretty quickly, right. Like, we get kind of through them faster. So I thought it would be, you know, we would be able to do it within the eight hour time or not the eight hour time, the three hour time going up until eight, which we have stuck within. But

I definitely keep it under consideration. And any future chairs, I'm sure they can maybe if they could -- there could be a little meeting to kind of discuss, like, you know, those things that you mentioned, Jordan. And I think also, I think capping the testimonies that sounds like an -- we haven't done that before, right. Like we've only had limited three minutes. But if 20 people show up, that's, that's a while, right, not including Q&A. Sorry, Richelle, were you going to comment on something?

Ms. Thomson: I was just going to say that there are some, some types of applications that, you know, whatever the underlying law is that it requires you to take action within certain periods of time. And then there's just the --. Yeah, I just, you know, just from sitting on the commission for a number of years now, it seems like you folks are able to manage your time pretty well. I haven't seen meetings, and when we're doing them in person, go much longer than I think nine o'clock, nine thirty, which does get late, you know. I'm in early to bed person, so I understand that completely. So, yeah, you know, a lot of times you can try to manage the flow, but sometimes you'll just end up with a meeting that, you know, for whatever reason, you just have to do those items. You can always have another meeting so that's something to keep in mind too. You can have, if you needed to, you're just getting backlogged with work, you can schedule another meeting.

Ms. Preza: Thank you.

Ms. Grove: I would be against capping the number of people getting to speak, though. I think that that what we want to try to do is foster civic participation. And I take your point about being and -- I just think that if people are --.

Ms. Preza: Sorry.

Ms. Grove: Okay, did I . . . (inaudible) . . . you?

Ms. Preza: Sorry, yeah, that was not what I meant. I meant, I think Jordan said something about like giving a certain amount of time for like, well, sorry, Jordan, you can clarify. But sorry, I did not want people --

Mr. Hart: Duration. Only the duration. Each individual would speak, but, but, you know, some, some body, like you can give three minutes, you could give two minutes, and I've, I've, you know, seen shorter than that for items that are have an enormous amount of people. And so you can, you can do things like that to adjust the amount of time that it takes to get through the public testimony.

Ms. Preza: Thank you. I'm sorry, Lisa, for interrupting you, but I just want to, you know, that's not I was trying to suggest. But yes, I think, you know, for some agenda items, maybe we can ask ahead of time, like if there's a list of people who have signed up to testify and we can kind of adjust accordingly. I think, yeah, to your point, Richelle, that was the other thing I was going to bring up was if the department could like let us know if there are certain items that do need

more timely action, then that should take priority. I think also in some cases, I've asked about public hearing items that like, oh, can we defer it because it seems like the schedule kind of stacked. But then I think when public hearing notices go out, then the meetings have to happen within a certain amount of time, right. So, yes, sorry everyone, I'm doing my best, but I think --

Ms. Kaye: Shelly? Shelly?

Ms. Preza: Yes?

Ms. Kaye: Do you get the agenda before it's posted?

Ms. Preza: I do.

Ms. Kaye: Okay, so that's the easy solution. I mean, Clayton is on this call. Years ago, that's what we did. They would send it out to the chair and the vice chair and we would negotiate which ones did the County think, the planning department think we had to do because of time restraints. And if it looked like it was going to go over, we would just push back some agenda items to the next month. So I'm glad to hear that you're doing that. That's great.

Ms. Preza: Thanks. So since I've been on the commission, it's only gone to the chair, but maybe we could send it to both chair and vice chair to kind of --. Is that not standard practice or is that something we could do?

Mr. Hart: At the chair's discretion that would be okay, I believe. Well, actually, counsel do you think that . . . (inaudible) . . .

Ms. Thomson: You know, I think it's fine. There are a couple of boards that involve the chair and the vice chair, but I think most are just really the chair. And that's, I think that's also for the turnaround factor. But I think both of you would be, you know, turning around your comments quite quickly, you know.

Ms. Preza: Thanks. And as long as we're just putting everything on email. Like if, like we wouldn't be talking about it separately. I know, I mean, I know it's two plus people that's like the sunshine, right. But if we just are on the email correspondence and we're, we're giving our comments that should be okay? Yeah, why don't we do that just to have more eyes on it and some opinions about how late it might run. But thank you, everyone, for being flexible. And I know it's not easy to stay on a virtual platform for three hours, so I appreciate your time. Yes Jordan.

Mr. Hart: I just want to add one brief comment. Sometimes we don't know which items are of more interest before they're on the agenda. So I just want to say that. But we do our best to judge based on past experience, but there's that unknown.

Ms. Preza: Thank you. Well, I think we've done decently, you know, okay with staying within three hours. But if we want to keep it closer to two with the virtual, like we can, we can kind of adjust our upcoming agendas accordingly. I do -- part of why I do this, too, so that we can get things done or else it's just going to end up stacking up, you know. Because some meetings, as you guys recall, you know, we, we meet for half an hour because we've gotten everything done and there's nothing on the docket. So anyway, but these meetings can be rough, so thank you. I mean, not rough, but it's just it's a long time to stay online. And poor Kurt, you know, past midnight that's crazy.

So, but are the dates okay with everyone? It sounds like -- I mean, three of us kind of prefer the five o'clock time. Is that -- Sally and Lisa, are you okay with that?

Ms. Grove: I rescind my offer. I'm fine with five.

Ms. Preza: Okay. And the meeting, the meeting schedule does come up every year, you know, the commission at the time has to approve it. So, you know, if it's a different time when maybe commissioners want to change that, like, I think they can make that decision in the future meeting. But I think for our commission right now, maybe it's better if we stick with it. Thank you for your comments.

Ms. Kaye: We can't, we can't lose Chelsea.

Ms. Preza: Or Zane. So thank you very much. Okay, so with that, do we, Richelle, do we need to make a formal motion or I think it sounds like we're all in agreement?

Ms. Thomson: Yes, you don't need to.

#### **4. Agenda Items for the November 17, 2021 meeting.**

Ms. Preza: Okay, great. So on, I guess, item E.4. is agenda items for November 17th. Leilani, is there anything on the docket right now?

Ms. Ramoran-Quemado: Yes. Besides the items that you folks deferred, you're going to get a couple more bill for ordinances, amending Chapter 19 of the Maui County Code. And then you'll also get T-Mobile County Special Use Permit, another one.

Ms. Preza: Okay, that will be interesting. We can ask them both questions, AT&T and T-Mobile, in the same virtual meeting. Okay, thanks so much, Leilani. With that, our next regular meeting is November 17th, right before Thanksgiving. So thank you all for your time tonight, and thanks for everyone who kind of tuned in and stayed on and listened, and I hope you all have a great rest of your evening.

**F. NEXT REGULAR MEETING DATE: November 17, 2021**

**G. ADJOURNMENT**

There being no further discussion brought forward to the Commission, the meeting was adjourned at 7:53 p.m.

Respectfully submitted by,

LEILANI A. RAMORAN-QUEMADO  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**PRESENT:**

Zane de la Cruz (Present at 6:20 p.m.)  
Elisabeth Grove  
Sally Kaye, Vice-Chair  
Sherry Menze (Excused at 6:10 p.m.)  
Shelly Preza, Chair  
Chelsea Trevino

**EXCUSED:**

John de la Cruz  
Natalie Ropa  
Shirley Samonte

**OTHERS:**

Jordan Hart, Planning Deputy Director  
Jacky Takakura, Administrative Planning Officer, ZAED  
Kurt Wollenhaupt, Staff Planner  
Kimberley Willenbrink, Staff Planner  
Richelle Thomson, First Deputy, Corporation Counsel