

Properties proposed by the 3/8/2023 CPAC for acquisition in an action of topic 4  
Rob Weltman, 3/9/2023

Not wetlands?

The original proposal from Charlene Schulenberg and by Brandi Corpuz, as well as then-CM Kelly King's letter to the previous Mayor 12/27/2022, refers to the seven listed TMKs in the pictures below as wetlands properties. There was a claim at the 3/8 meeting that these properties are not wetlands, and the item was changed to "flood prone parcels".

However, the [County's definition of a wetland](#) requires only two indicators of hydrology (evidence of hydrology, hydric soils and hydrophytic vegetation) of the three criteria used by the Army Corp of Engineers for a "Water of the US". The County ordinance also says:

**3. Wetlands include the following areas:...**

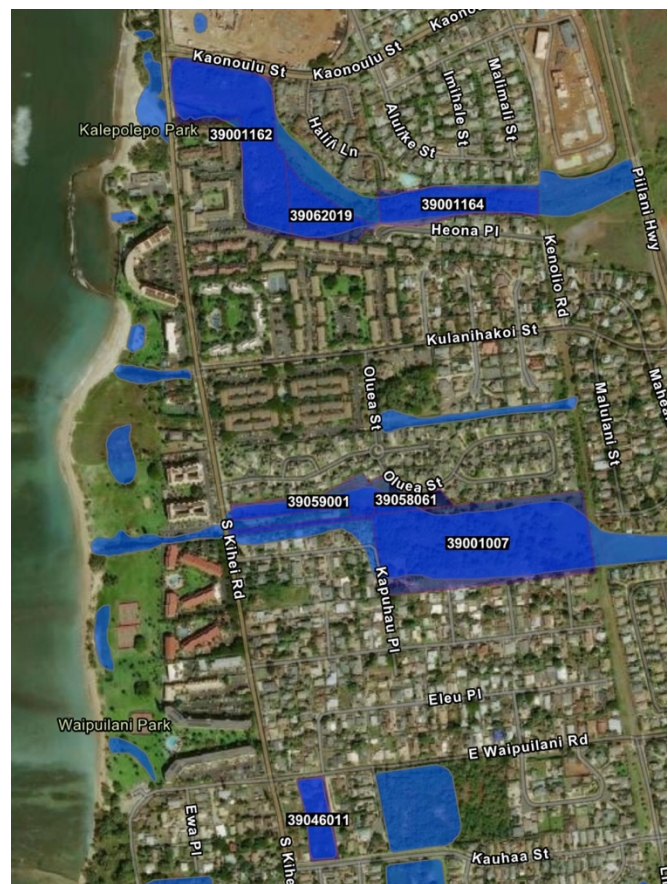
**i. Areas that provide wetland functions, including:**

**i. Conveyance of stormwater.**

**ii. Flood attenuation and storage...**

**j. Areas that formerly had wetlands characteristics or functions but have been altered or degraded..."**

On the left are the properties proposed for acquisition. On the right are the properties identified as wetlands by the "Kihei Wetlands 2021" study. All of the seven parcels in the action are called out as wetlands in the study based on the County's criteria.



Are all of these parcels also flood prone? All have flooded repeatedly the past few years. However, the purpose of the original proposal was not to identify properties at risk of flooding but to identify properties essential for the function of the remaining Kihei wetlands.

Entitled to build?

There was also a claim at the meeting that all the properties have rights to develop. That is not entirely correct even for property 39046011, which is the one furthest along in permitting:

[https://mapps.co.maui.hi.us/EnerGov\\_Prod/SelfService#/permit/90ea03ec-7983-4e6e-b11b-a070e51cd03a?tab=reviews](https://mapps.co.maui.hi.us/EnerGov_Prod/SelfService#/permit/90ea03ec-7983-4e6e-b11b-a070e51cd03a?tab=reviews)

According to that MAPPs record, as of now requests have been rejected by the Subdivision Section, Parks and Recreation, the Department of Water Supply and the Department of Health, while SHPD is waiting for comments that were due 11/7/2022. The Planning Department did approve 10/18/2022 and it looks like the project is continuing, with an approval with minor conditions for "Preliminary Plat" from the Engineering Division 3/6/2023. Inside that approval, however, it says "Final approval of the subdivision is: Not recommended". Here is an analysis of property 39046011 as a wetland:

<https://gokihei.org/news/concerns-about-building-on-the-waipuilani-wetlands>

Here is the design by Chris Hart in 2016 for the Kulanihakoi Greenway Park (parcels 39001162, 39062019 and 39001164):

<https://gokihei.org/wp-content/uploads/KulanihakoiGreenway.pdf>

There was \$50k in the FY 2020 County budget for appraisals for the three parcels for the Kulanihakoi Greenway Park:

<https://www.mauicounty.gov/DocumentCenter/View/118279/004-FY20-Appendix-A-Part-II-Special-Purpose-Revenues>



Why acquire the properties?

Another question at the CPAC meeting was why bother to acquire the properties if they will not be developed anyway? As mentioned above, the developer got approval from the Planning Commission for 39046011 despite massive community objections. It appears he is continuing to try for permits for 39001164 (Land Use Designation), 39001162 (Land Use Designation) and 39001007 (Grading Permit applied for 5/19/2022 but still In Review). A future Planning Commission could approve the requests. Future DPW, Parks, Water, DOH and SHPD reviews could approve the permits. It may be possible to change the zoning for the properties to prevent development, but that would likely face stiff opposition as a taking. To ensure the properties play a role in reducing stormwater damage to the ocean and to neighboring properties, and to prevent them from increasing the threats to the ocean and neighboring properties through development, they should be acquired as proposed by King, Schulenberg and Corpuz.

Preventing development is an important first step, but restoration and improvement to increase their ability to slow and infiltrate stormwater is an important second step. Use for foot and bike mobility and for recreation during the rest of the year is icing on the cake.

Proposed text by Charlene:

**Purchase wetlands** TMKs 3-9-001-162, 3-9-062-019, 3-9-001-164, 3-9-001-007, 3-9-059-001, 3-9-058-061 and 3-9-046-011 and designate as open space-protected lands in perpetuity.

Adopted text 3/8/2023:

**Explore the feasibility of purchasing flood prone parcels** under the threat of condemnation, such as TMKs 3-9-001-162, 3-9-062-019, 3-9-001-164, 3-9-001-007, 3-9-059-001, 3-9-058-061 and 3-9-046-011 and designate as open space-protected lands in perpetuity.



Two major streams flow through the seven properties proposed for acquisition.

TMK 39046011

TMKs 39059001, 39058061 and 39001007



TMKs 39001162, 39062019 and 39001164

