

**BOARD OF VARIANCES AND APPEALS
REGULAR MEETING
MARCH 22, 2007**

A. CALL TO ORDER

The regular meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Lance Holter at approximately, 1:30 p.m., Thursday, March 22, 2007, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

A quorum of the Board was present. (See Record of Attendance.)

B. RESOLUTIONS FOR OUTGOING MEMBERS: LANCE HOLTER AND SHIRLEY ALAPA

Ms. Colleen Suyama: Since, Lance, you're here, I'll read the resolution. We have a resolution prepared for you of the Maui County Board of Variances and Appeals:

Whereas, the Maui County Board of Variances and Appeals was established in 1983; and

Whereas, Lance Holter has served the County of Maui since May 2003 as a member of the Maui County Board of Variances and Appeals; and

Whereas, Mr. Holter has served as Vice-Chairman from April 2005 through March 2006, and served as Chairman from April 2006 through March 2007; and

Whereas, Mr. Holter has served with distinction and has performed his duties in the highest professional manner; and

Whereas, Mr. Holter's term of office will expire on March 31, 2007; now, therefore,

Be it resolved, by the Maui County Board of Variances and Appeals that it does hereby express its deepest gratitude and appreciation to Mr. Holter for his service during the past four years; and does hereby extend its best wishes in his future endeavors; and

Be it further resolved that copies of this resolution be transmitted to the Honorable Charmaine Tavares, Mayor of the County of Maui, and the Honorable G. Riki Hokama, Chairman of the Maui County Council.

And the resolution has been signed by each of the Board members. In addition, we have a letter of commendation from the Mayor, and I'll read that:

Congratulations on a job well done. On behalf of the people of the County of Maui, please accept my deepest appreciation and gratitude to your dedication and service on the Board of Variances and Appeals. Your efforts and contributions have made a positive difference.

I truly believe that it is important for citizens to play an active role within both our community and government. The process of recruiting and selecting nominees to the various Maui County boards and commissions have given me a greater appreciation for volunteerism and community service. I would like to commend you for your willingness to devote your time, energy, resources, and insight to the betterment of Maui County.

Once again, thank you very much for doing your part to make our County the best that it can be. I hope that your experience has been rewarding and worthwhile.

Signed Charmaine Tavares, Mayor, County of Maui.

We also include a certificate of merit.

And we'll send this to you at a later date. We'll have this framed for you, as well as having this certified with the Mayor's Office and the Council.

Chair Holter: Well, thank you very much. I just want to say it's really been a truly, and I'm not kidding, it's truly been an honor working with this Board whom I find the most compassionate people and rarely do we have any kind of disagreement on any subject. And it's been truly amazing for me. And you're all citizens' heroes, as far as I'm concerned.

And I have a parking permit with one week left on it, and I'm willing to auction that. So anybody who's interested, we've got a dollar from Paul Horikawa. So going once, going twice, it's yours. It'll go to your favorite charity.

So thank you so much. I really appreciate it.

Ms. Suyama: We also have a similar resolution for Shirley Alapa. Although she's not here, I'll just read it into the record:

Whereas, the Maui County Board of Variances and Appeals was established in 1983; and

Whereas, Shirley Alapa has served the County of Maui since June 2006 as a member of the Maui County Board of Variances and Appeals; and

Whereas, Ms. Alapa has served with distinction and has performed her duties in the highest professional manner; and

Whereas, Ms. Alapa resigned from her term of office on January 25, 2007; now, therefore,

Be it resolved, by the Maui County Board of Variances and Appeals that it does hereby express its deepest gratitude and appreciation to Ms. Alapa for her service during the past seven months; and does hereby extend its best wishes in her future endeavors; and

Be it further resolved that copies of this resolution be transmitted to the Honorable Charmaine Tavares, Mayor of the County of Maui, and the Honorable G. Riki Hokama, Chairman of the Maui County Council.

Thank you.

Chair Holter: Thank you, Colleen. All right. Thank you so much, Planning.

C. APPEALS - To determine a hearing officer to preside over the following matter:

- 1. NEWCOMBER-LEE LAND SURVEYORS, INC., and KO`OLAU CATTLE COMPANY, LLC appealing the Director of Public Works and Environmental Management's determination that preliminary subdivision approval for the Waihe`e Valley Large Lot Subdivision (DSA Subdivision File No. 3.2118) is null and void for property located off of Kahekili Highway, in the vicinity of Waihe`e Stream, Waihe`e, Wailuku, Maui, Hawai`i, TMK: (2) 3-2-001:003. (BVAA 20070001)**

Chair Holter: We now have our order of business here. We have Newcomer-Lee Land Surveyors and the Ko`olau Cattle Company. Will staff please read the notice of public hearing?

(Ms. Trisha Kapua`ala then read the agenda item into the record.)

Chair Holter: Thank you, staff. Is there a video presentation? Will the applicant please come forward and state your name?

Mr. Paul Horikawa: Good afternoon, Mr. Chairman. And before I proceed further, congratulations on serving on the Board of Variances and Appeals for four years. I

think the statement of the Deputy Director earlier this morning is accurate. You've put a lot of effort into this, and it's kind of amazing how fast four years go. But on behalf of just my experiences here, I'd like to thank you for helping out my clients, and trying to be a facilitator on some of the more contentious cases that I've had before you.

Chair Holter: It's interesting, Paul, that I came in with you and I'm leaving with you. Are you here all the time?

Mr. Horikawa: I try not to be here that often. But anyhow, my name is Paul Horikawa. Present also is Bruce Lee and Dennis Boehlje, representatives of the appellants in this matter.

Just for the record, I just wanted to put something on the record. We're appealing – my clients are appealing the decision of the Director pursuant to Maui County Code, Section 18 – I mean, Chapter 18. I would note that Maui County Code, Section 18.36.020, does require that the Board have a hearing on the appeal within 30 days from the filing of the appeal. The appeal was filed on January 26, 2007, and we are outside of that timeframe. But nevertheless, I want to make it clear that we're not waiving any rights by appearing here today, or by participating in this proceeding. We are here today with the expressed reservation of our rights that we have under the code.

Prior to meeting today – we're on the agenda today for the selection of a hearing officer. I did have an opportunity to speak with the Director's counsel, Jane Lovell, and we have this proposal or suggestion to the Chair.

Chair Holter: I note Jane Lovell's here, for the record.

Ms. Jane Lovell: If I could just – sorry to interrupt. Just to make my appearance: Jane Lovell, Deputy Corporation Counsel, and I'm here representing the Department of Public Works and Environmental Management. I would like to also echo all of the nice things that have been said about the Chairperson. The County Corp. Counsel is also very appreciative of the hard work that you've put in over the last four years.

Chair Holter: Do you have a parking permit?

Ms. Lovell: No, but I wanted to outbid–

Mr. Horikawa: Time expired. As far as the hearing officer, what we would suggest to the Board is that pursuant to 12-801-51 that John McConnell be appointed as the mediator, to serve as mediator to resolve this dispute. I think Judge McConnell would be extremely important because he had rendered a ruling that pretty much creates the roadblock for having the issue before us resolved. And I believe that the first choice

would be – okay – and I believe the recommendation or the proposal to the Board is that Guy Haywood, who's on your list, be appointed as a hearing officer. And if he is unable or unwilling to serve that Glenn Kosaka be appointed as the hearing officer. And that Mr. Nakamura, on the last – on the second page, be appointed as a second alternate.

Chair Holter: So as I understand it, you're going to mediate it with Judge McConnell?

Mr. Horikawa: First.

Chair Holter: And then – okay. So–

Mr. Horikawa: And failing mediation, proceed to a contested case.

Chair Holter: All right. Are there any questions from the Board? Any questions for the applicant?

Ms. Kathleen Acks: The devil is making me say this: I noticed that your name is on the list.

Mr. Horikawa: Well, we didn't recommend that I be appointed.

Ms. Lovell: Actually, I was going to recommend Paul as the hearing officer until I saw that he was showing up to represent the party. I think that would be a little too efficient, so–

Chair Holter: Are there any discussions with the Board or questions? Any further questions? So it's been asked by the applicant and affirmed by the Corporate Counsel that we request Judge McConnell as mediator. Guy Haywood, Glenn Kosaka, number two, and Craig Nakamura, number three. Do we have a motion regarding this?

Ms. Acks: I'll make the motion.

Mr. Uwe Schulz: I second.

Chair Holter: It's been first and seconded. All those in favor, raise your right hand.

It was moved by Ms. Acks, seconded by Mr. Schulz, then

VOTED: To appoint Judge John McConnell as mediator. Failing mediation, to appoint the following as hearing officer in their respective order:

1. **Guy Hayood**
2. **Glenn Kosaka**
3. **Craig Nakamura**

**(Assenting: K. Acks, U. Schulz, W. Kamai, R. Endo,
H. Ajmani, and W. Shibuya.)**

(Excused: J. Shefte.)

Chair Holter: It's **unanimous**.

Mr. Horikawa: Thank you, Mr. Chairman, and congratulations on your service to the County.

Chair Holter: Thank you. I'll give you your parking permit afterwards. All right. Now, we're moving along with our agenda to Item D. We have Unfinished Business. We have Realcom Associates.

D. UNFINISHED BUSINESS

- A. REALCOM ASSOCIATES representing VERIZON WIRELESS for a variance from Maui County Code, §19.24.030 "Height regulation" to allow the installation of a 90-foot stealth monopine tree antenna pole whereas 48 feet or one and one-half times the width of the widest street which it fronts is the height limit (75 feet) within the M-1 Light Industrial District at the Haiku Marketplace located at 810 Haiku Road, Haiku, Maui, Hawai'i; TMK: (2) 2-7-011:050. (BVAV 20060007)**

Chair Holter: Is there any testimony? And if there is, could you please sign up on the sign-up sheet: public testimony? All right. So, Paul, are you giving testimony, or had you already done it?

Mr. Horikawa: I've already done it. Thank you.

Chair Holter: Okay. And so we have Velva Padgett and Eric Kaneshiro. Is that right?

Mr. Eric Kaneshiro: (Inaudible)

Chair Holter: Okay. All right. So, will Realcom Associates, the applicant, please come to the podium and state your name?

Mr. Kaneshiro: Thank you. Eric Kaneshiro with Realcom Associates representing Verizon Wireless.

Chair Holter: All right, staff, will you please read the notice of public hearing?

(Ms. Kapua`ala then read the agenda item into the record.)

Chair Holter: Thank you, Trisha. Would you please state your name, and are you agreeable to – for giving the staff report?

Mr. Kaneshiro: Yes. Thank you, Board members. I'll just summarize what the installation is. I believe most of you have seen it. This is, I believe, our third presentation.

At the last Board meeting that we attended, it was requested that we present to the Haiku Community Association. That was completed in January 2007. And attached on this front page is a letter from President Michael Gagne of the Haiku Community Association. And he had some comments and questions.

And I think – I make special note of, I think, his last paragraph of his letter where he pretty much states, I think, the challenge that not only Verizon, but the entire wireless community faces is that wireless communications, cell phone ownership in Hawai`i, has become very ubiquitous. It's used by everyone. It's widespread. I read an article about a year ago in the *USA Today* where Hawai`i was one of the – had one of the highest cell phone ownerships in the nation with an age group between 18 and 45. Overall ownership was at about 65%. So bottom line of it is, it is a very widely used product. It's no longer a toy or a fancy gadget. It is a useful communication tool.

So the challenge of the wireless industry is to continue to improve and expand coverage. At the same time, though, we also need to make sure that our installations are safe, healthy, and aesthetically designed. So it's a combination of both. Verizon truly endorses what President Gagne said in that we have to balance. And it's really a balance that we need to do and we need to come to so that number one, we still can continue to improve to meet demands, but at the same time, continue to address the surrounding neighborhood. We believe this installation, our monopine installation, at the Haiku Marketplace achieves this. It allows us to place an installation that is aesthetically stealth, at the same time, addressing the need to improve coverage in the area.

Specifically, some of the areas that President Gagne had questions on: what is the actual height vis a vis existing grade? The monopine tree is 90 feet tall. The proposed site area is currently situated on a slight embankment. The low end of the embankment is approximately, five feet below the high end. It'll be graded to match the high end of the embankment.

Were there other sites considered away from the populated town center? Several sites were reviewed in the area. This site was specifically chosen as it allowed – over all

others, it allowed us the ability to blend in and make a stealth installation. The area is very heavily forested. And it was – we felt an ideal situation where we could expand coverage, and in the meantime, also offer a stealth.

The last question that President Gagne brought up was, are there plans to deal with potential pollution from acid – from lead acid battery back up in the flood prone area where the proposed tower is to be located? Verizon's batteries first and foremost are all self-contained. And we also use a specially designed – what we call an environmental pan. It's – our batteries sit in a metal container within a pan. And it's basically, we use absorbent material, and the batteries actually sit on absorbent material if in case there is any leak, the absorbent material literally absorbs any spillage if they should occur. And that entire battery pack is then enveloped in a steel casing. The environmental pack that we use is approved by the Uniformed Fire Code, OSHA, and a slew of different national agencies who govern these things.

I've also included some specs of the environmental plan, of the environmental kit. And again, on the left side of it shows the regulatory compliance that the kit is in compliance with.

I've also included some of the pictures. Again, just to summarize, the very top under H-2 Haiku Marketplace is what it looks like today. And what we see is the antenna tree. We project that the antenna monopine tree will extend approximately, ten feet above the tree line.

The second picture is another picture of both the current, what it is today, and what is projected.

The third is the monopine tree, the actual monopine tree that is situated in Kalihi Valley off of Likelike Highway. You can see the antennas are built within the tree. And this is an actual tree. The one at Haiku Marketplace will be substantially surrounded by foliage and forestation. So it'll be, in our opinion, very stealthily designed.

The last photo I had was just the proposed location. The yellow, I guess, dot or the pinpoint, is where the site will be. It's behind in the back areas of the Haiku Marketplace surrounded by substantial forestation, and basically, where the site is in comparison to all of Haiku.

This installation, we believe, allows Verizon to meet the needs and meet that balance both addressing stealth, health, and also still providing expanded coverage. And that's why we feel, in our opinion, this is a very positive site. And we wish and we request your approval. Any questions?

Chair Holter: Thank you very much. Are there questions from the Board? Uwe?

Mr. Schulz: Yeah, I have two questions. I've never heard of a stealth antenna or a stealth tree. Maybe you can enlighten me? I mean, I know a B-2 Bomber is a stealth bomber, but I've never heard of—

Mr. Kaneshiro: What it is, is if you look at the second to the last, that picture that you're looking at, it's basically, a tree that—

Mr. Schulz: A real tree?

Mr. Kaneshiro: No, not a real tree, because it'll die. It's basically, an actual pole with branches and what have you. And also, we put the antennas within the tree. So that's why – I mean, this is not a replication. This is an actual picture of a stealth tree on O`ahu.

Mr. Schulz: So it's actually a false tree?

Mr. Kaneshiro: Yes, it is a false tree.

Mr. Schulz: And the second question I have – concerns about the wind load. Your stealth tree with branches or whatever, how was it designed to carry a wind load? Up to how many miles an hour?

Mr. Kaneshiro: All Verizon poles are designed to stand 120 mile-plus.

Mr. Schulz: So what happens if it's 150? The stealth tree falls over?

Mr. Kaneshiro: Actually, the current standard is 90, but we take it one step further and go to 120 miles. The national standard is 90.

Mr. Schulz: Yeah, but my concern is when you look at the last hurricane hitting Kaua`i, they had up to 200 miles an hour. And I have a feeling that all of your branches are going to break off. Then the second question is, if the wind load gets higher, what happens to your battery package?

Mr. Kaneshiro: The battery package itself is down below in an enclosed shelter which is pretty solidly bolted into the ground. So the shelter itself again is also wind-tested.

Mr. Schulz: Okay. Thank you.

Ms. Acks: I have a question. This mock tree, like a Christmas tree, is a height of 90 feet. And I assume it needs to be taller than the trees around it?

Mr. Kaneshiro: Yes, that's why we projected to stay above the trees by about ten feet.

Ms. Acks: Will the trees around it grow taller so that at some point in time the 90 feet isn't tall enough?

Mr. Kaneshiro: It can happen, but normally those trees at that height grow slowly. I've had other instances where growths on those trees aren't very large at this point. But you're right, it could over time exceed the height of the pole. It has happened. It may take ten to 15 years, but it could happen.

Ms. Acks: Ten to 15 years goes pretty quickly.

Mr. Kaneshiro: Again, we tried to make it where we didn't go too far above. We wanted to make sure that we had adequate reception, but again, we wanted to meet community needs by not going overly. And that was kind of again, that balance. Questions?

Chair Holter: Hari?

Mr. Harjinder Ajmani: On this one, do you have an emergency generator to support this?

Mr. Kaneshiro: Yes, we do.

Mr. Ajmani: And where is all of that located?

Mr. Kaneshiro: It's right next to the antenna shelter compound. It's part of the compound.

Mr. Ajmani: So these are located in the Haiku Marketplace?

Mr. Kaneshiro: Yes, it's in the back area. The entire installation is in the back area. One of the things that we noted not only from the hurricanes in Kaua'i, but in the recent earthquake that hit the Big Island and knocked out power on parts of the Big Island and O'ahu, the underlying factor was you need to improve your backup system. People still use wireless communication in times of emergency and needs. And our backup system probably lasts anywhere from four to eight hours. And during a time like the earthquake, usage was extremely high. And that's why they said we need to improve our backup. So we always try to have generators at each site.

Mr. Ajmani: And I think one question that comes up is, how much microwave radiation or other harmful radiation that might emit?

Mr. Kaneshiro: I have – first off, we are regulated by the FCC. And we are within all standards. And I pulled this off the Federal Communications Commission's website. And it specifically answers that question. And the question is, are basically, wireless

towers safe? And their answer is that number one, we are pretty low powered. So we are literally thousands, and I quote "thousands of times" below the FCC standards for a similar tower. Again, the towers are substantially high. And you'd have to be within a few feet within that specific antenna to be in any kind of danger zone. So again, we are literally thousands of times below the standards for health.

Mr. Ajmani: Okay. So what is the – in actual quantity, what is the amount?

Mr. Kaneshiro: We use – our average site uses about 40 amps at any given time. So that would be the equivalent of let's say maybe a little bit more than a microwave oven.

Mr. Ajmani: Forty amps are a lot more than a microwave oven.

Mr. Kaneshiro: Let's say your general ovens and – it's not substantial. It's not.

Mr. Ajmani: Because 15 amps are the maximum for a microwave oven.

Mr. Kaneshiro: And you have, you know, stoves, and whatever, so–

Mr. Ajmani: What about the structural foundation?

Mr. Kaneshiro: Those are all – we have a structural engineer that actually designs the poles. That's why Uwe's – Mr. Schulz's comments on wind-loading, that is all structurally designed.

Mr. Ajmani: I see. Thank you.

Chair Holter: Bill?

Mr. William Kamai: A quick question for staff: Trisha, you know your memo from Captain Val Martin, was the applicant notified about these concerns?

Ms. Kapua`ala: No, not at all. And it's my apologies, sir. I have a letter. We solicited comments from the Department of Fire and Public Safety, and they responded with these concerns. This is for you.

Mr. Kaneshiro: The Fire Code as it states now – we have a letter going into the County in regard to this, but the 25-foot setback is predominantly for gas dispensing stations. We are not dispensing fuel. It is just a generator with a fuel tank. But this specific code is with dispensing into gas stations, but we will address it directly with the County on that. But we had our people review this previously for a generator, and it was strictly for gas station dispensing.

Chair Holter: Any other questions? Yeah, I have a question. You have your last page. You have your Google map. And on the bottom map, it shows your PIN. It's the further image. One of the questions from the Haiku community was that have other areas been looked at. And I was wondering if you had looked at the property on the Kahului side of the post office, the Haiku Post Office. There's an industrial area over there next to a pineapple field.

Mr. Kaneshiro: Right adjoining the pineapple field?

Chair Holter: Yeah. There's an industrial building there. I think it's called – I'm not sure what the name of the commercial area is there, but it's the Kahului side of the post office.

Mr. Kaneshiro: Yeah, we looked at that installation. Again, one of the reasons why we chose here and not there was the amount of forestation in the area. The amount of forestation here is as, I think, as substantial as we could find in the area. And this is one of the really predominant reasons why we chose this area because of the forestation.

Chair Holter: So you could have your stealth tree?

Mr. Kaneshiro: Yes. You see, if we went next – we saw – in fact, we looked at various areas below and above on the side of the pineapple fields. And while they had some amount of foliage, it was all pretty short like 20, 30 feet. So that's why we said, well, if we go to here, the trees are 70, 80 feet, and it allows us to – in a very thick foliage area, allow us to build something like this as compared to something where it would be a very tall tree in shorter foliage.

Chair Holter: And then my other question is, you have your next picture, it's HI-2. You show the parking area in the marketplace, and you show the warehouse. I think in that warehouse there's a market and so forth. What's the height of the roof of the existing building there?

Mr. Kaneshiro: The existing building I think is about 48 to 50 feet. We are situated below that in back. That elevation of the AMSL, of the building itself, is approximately, ten feet above where we are.

Chair Holter: Okay. So it shows your tree. If I draw a straight line across from the roof line, you only have the roof appearing to be ten feet below the 90-foot tree. And so in your discussion here, you say that you're going to make the pad – you're going to make it level with the existing grade. Is that right?

Mr. Kaneshiro: Yeah, the existing grade in the area, not of the existing grade of the front

area, yes.

Chair Holter: Okay. So because the tree looks – it's not really truly representing the 90 feet, and I'm curious about that. How much lower is the proposed pad than the existing grade of the parking area?

Mr. Kaneshiro: It's about ten feet lower.

Chair Holter: Ten feet lower.

Mr. Kaneshiro: And it's more the positioning. If you look at the trees themselves, forgetting our monopole tree, for example, those trees in the distance are between 70 and 80 feet. So it's the depth perception that is somewhat altering your view here. Again, those trees at the very top, this is the top page of that, those are 70 to 80-foot trees. So if you look at it there, that's what you need to compare it against. Again, it's the depth perception that throws off where you're seeing right now. But that was the perception from the roadside where the community would most see it from, and that's why we took it from there.

Chair Holter: Could you clarify this with me, then? You say you're asking for a variance to twice the road width, right?

Mr. Kaneshiro: Yes, approximately.

Chair Holter: Okay. One and a half times the road width. And the road width in the area is how many?

Mr. Kaneshiro: It's about 48 feet, Trisha?

Chair Holter: This is just to refresh everybody's memories. So it's approximately, 48 feet, that road? So one and a half times, just quicky if that's the case, it's 72 feet. So you're asking for a 18-foot variance?

Mr. Kaneshiro: No. Actually, we want it to the 90. I don't know exactly what the County has put. We've always indicated that we wanted a variance up to 90 feet.

Chair Holter: Okay, 75 feet. So I guess it must be – if that roadway is 50 feet, and one and a half, that's 75, but someone said the road was 48 feet wide.

Ms. Kapua`ala: Mr. Holter, may I direct your attention to the staff report, background information, page 8, item no. 3, which starts on page 7, and continues on page 8? The property fronts Haiku and Kokomo Road. Haiku Road is 50 feet wide, one and a half times the width.

Chair Holter: So 75 feet. So you're asking a variance of 15 feet?

Mr. Kaneshiro: Yes, above that.

Chair Holter: Above that.

Ms. Kapua`ala: Excuse me, Mr. Holter, if you continue on it says in this case, the more restrictive height limit of 48 feet would be enforced.

Chair Holter: Stricter, okay. So then you're asking a variance of 18 feet, right?

Mr. Kaneshiro: Forty-eight times one and a half: 72, yeah.

Chair Holter: Eighteen feet?

Mr. Kaneshiro: Yes.

Chair Holter: Okay. So that's the variance. All right. Now, getting back to that second picture, well, actually it's the third picture— Sorry, Trisha.

Ms. Kapua`ala: I'm sorry, Mr. Holter. The actual variance request is to exceed the 48 feet height limit by 42 feet. We are enforcing the 48 feet height limit because that is the stricter of the two. Therefore, the applicant is requesting a variance of 42 feet, and that's of the pole only.

Chair Holter: So it's not 18. It's a 42-foot variance. Is that right?

Ms. Kapua`ala: Yes, sir.

Mr. Kaneshiro: Because of the stricter enforcement.

Chair Holter: Oh, I see. Okay. So then going back to this picture, the third picture in, and if you draw a line from the roof of the building, 42 feet looks to me like it would be twice as much as you show in your photograph, which to me sticks above the skyline quite dramatically.

Mr. Kaneshiro: Again, it's the depth perception. If you look at those trees that are there presently, those are 70 to 80-foot trees.

Chair Holter: Now, are those trees behind it on a hill?

Mr. Kaneshiro: Yes. They're on a slight hill – slightly above the grade of where we are, not much, but slightly above the grade.

Chair Holter: So they're 72 feet from the top of the hill?

Mr. Kaneshiro: Some of them are 80 feet, between anywhere from 70 to 80 feet, and they stick up from there, but again, it's the depth perception that you are looking at.

Chair Holter: Well, to me, the photo shows something else. Anyway, other questions?

Ms. Acks: Yeah, do you know the palm tree that's off to the left, do you know how tall that palm tree is?

Mr. Kaneshiro: That was not very tall. I would say that was about 50 to 60 feet, but that was somewhat situated in front. Again, the perception really — when you — the further you go back, the perception — the depth perception does add a lot to the somewhat distorted view.

Mr. Ajmani: The picture that you show on your second page, I guess, this one, how realistic is this? Is this the way it'll actually look like?

Mr. Kaneshiro: Yes. We basically superimposed what a pine tree monopole would look like. We superimposed it in. We actually use an actual monopine tree.

Mr. Ajmani: I see. So this is — so that's the way it'll actually look when you're all done?

Mr. Kaneshiro: Yes.

Mr. Ajmani: Okay. Thank you.

Chair Holter: Warren?

Mr. Warren Shibuya: Mr. Kaneshiro, I just want to thank you for helping us try to understand this project. I do have some concerns not only on the height, but in terms of the emission. Hari mentioned the fact and you alluded to 40 amps. What's the voltage?

Mr. Kaneshiro: Voltage, we take off of — we use 120 standard AC.

Mr. Shibuya: A 120. Okay. For your information, that comes out with a power of 4,800 watts.

Mr. Kaneshiro: Well, when you say — that's just the standard line we bring in.

Mr. Shibuya: That's correct.

Mr. Kaneshiro: Right — I mean, basically, we use the standard line that comes into

basically, any home.

Mr. Shibuya: Right. I'm talking in terms of capacity. You have the upward capability of going to about 4,800 watts, and that's considerable. However, if we have the pole, the antenna, at a lower elevation, this radiation would be closer to the people. In your case, you're proposing it to be 90 feet, which is further away from the people.

On your picture here and the monopine next to the school in Kalihi, which structure is this on the right-hand side?

Mr. Kaneshiro: That's the school.

Mr. Shibuya: Which school is that?

Mr. Kaneshiro: It's right off of – I don't know the exact name. It's a Hawaiian name. It kind of eludes me right now, but it's as you go up Likelike Highway. It's the last school off of Likelike Highway going onto the left side. It's–

Mr. Shibuya: Is it an elementary school or is it a–?

Mr. Kaneshiro: I know it's not – it's definitely not a high – I'm pretty sure it's an elementary school. I'm pretty sure it is.

Mr. Shibuya: Okay. And the pole that you have pictured here, what is the height of that pole?

Mr. Kaneshiro: That pole is – again, that's not our pole. We just took a picture of it, but I think it's about 60 to 70 feet.

Mr. Shibuya: So, I have concerns on the 60, 70 feet because it's so close in proximity to that elementary school whereas you're proposing something that's 90 feet tall and it's not an elementary school. It's on the back side, and it's about 130 feet away from the corner of this marketplace, is it not?

Mr. Kaneshiro: Probably a little – well, from the actual – from the front edge or from the back edge?

Mr. Shibuya: Well, there's a back corner.

Mr. Kaneshiro: Yeah, we're at the back corner. From the actual – from the site to the roadside is – let me just to be sure – it's about maybe 130 to 150 feet, in that area.

Mr. Shibuya: Yes, that's what I'm trying to estimate here. So I'm just trying to weigh the

emissions, the possible dangers, and seeing how this can be mitigated. What steps in terms of mitigation—? You're probably going to be adding more of these antennas. You have a south-facing, you have a west-facing, and you have a north-facing antenna.

Mr. Kaneshiro: Yes.

Mr. Shibuya: Are you planning to add more antennas?

Mr. Kaneshiro: Right now, it's designed for 12 antennas. We don't have any site with more than 12 antennas in the entire islands at this point. I cannot say what the future would hold, but at this point, that's the maximum that we have.

And I also would like to point – I'll leave this with the Board, but it's basically, off of the FCC website. And it specifically answers: are cellular and PCS towers, and antennas safe? And this is their – and I quote from here is that "Literally, we are thousands of times below the required standards as set by FCC." "Literally, thousands of times." And this is a quote directly from the FCC Communications.

Mr. Shibuya: And what is that standard? The Federal standard?

Mr. Kaneshiro: The Federal standards, actually, they use several standards. They have some set by IEEE, some by ANSI. So what the FCC does is they basically, incorporate it and says, hey, you need to take these standards and basically, amounts to you should not be within approximately, ten to 15 feet for over 20 minutes, if you're within ten to 15 feet of an antenna in their center beam. So in other words, if the antenna is right here, the center beam, you should not stay within ten or 15 feet for longer than 20 minutes at any given time. That's in general, I guess, terms how you should be looking at it. Again, because this is now 90 feet, and the center beam is basically, above, that's why they're saying we're literally, thousands of times below the standards as it's set. But again, just imagine, about ten to 15 feet in the center of the beam is what you should not be for longer than 20 minutes.

Mr. Shibuya: Okay. I just wanted to ensure. Because the public is viewing this presentation, I just want to make sure that they understand your presentation as well in terms of the impact to them. I understand also that the emissions ablate or get weakened at the cube of a meter. So every meter that you come out, a cube of that strength is reduced. Is that true?

Mr. Kaneshiro: I think in the very initial stages, yes. The farther it extends, that's not really a true statement. That again is more designed in the initial this is how far you should stay away from the center line of the antenna. But if you're let's say a hundred meters away or a hundred feet away, it substantially dissipates because it's virtually nothing at that point. But what you're saying is true for the first ten to 15 feet.

Mr. Shibuya: Okay. In terms of – for the public again to understand, you mentioned the term “thousand times.”

Mr. Kaneshiro: Or “thousands of times” actually.

Mr. Shibuya: “Thousands of times” safer?

Mr. Kaneshiro: Not safer, but below the standards as set by the requirements of the FCC.

Mr. Shibuya: So what are the standards so that the people can understand what the standards are, and what’s this thousands strength that it’s going to affect the people in the marketplace?

Mr. Kaneshiro: Again, the example is from – the standard is basically, you should not be within the center of the antenna, ten to 15 feet from that antenna for longer than 20 minutes. That is the basic, I guess, in laymen’s terms, what the safety standard is set at. I mean, we stand in front of those things all the time. It’s just that we’re told do not stand in front of those things for longer than 20 minutes. Again, when we stand in front of them, it’s within a foot or two, but the standard that we set for the general public is ten to 15 feet.

Mr. Shibuya: Okay. I just want to let you rest on that issue there. In terms of pollution, emission is a pollution, and it’s a concern for the people. In terms of aesthetic stealth and inconspicuousness, it’s not really inconspicuous because it’s going to protrude ten to 18 feet above the tree line, so to speak. You just have a tree line that is on a bank that if you look from below, it sort of fits in. It blends in, but it’s not really stealth in that respect. It still exists.

In terms of safety, on what Uwe had mentioned, Uwe mentioned that he wanted to have the strength, the wind strength. I understand that you have a 120-mile gust that it can withstand that strength, and that’s reassuring.

Mr. Kaneshiro: And I guess that’s – it’s again, that balance. We’re trying to make it as stealth as we can while still – we do have to be above the tree line. There is no way getting around being above the tree line, but we’re trying to see if we can minimize going above that tree line. And that’s the whole point is we’re trying to create that balance. That we’re trying to provide improved service, coverage, at the same time, trying to blend it into the general surroundings.

Mr. Shibuya: Right. And your power generation, it was very interesting in the fact that we just had an earthquake, and all of the cell phones which we use quite often were the ones that did not work. And it was the wire type of telephone that actually was working

through the earthquake.

Mr. Kaneshiro: And to give you an – that's why from that, it became almost a priority where we installed the generators in because we have battery packs at the site that can last, as I say, four to eight hours. In this case, the earthquake knocked out power in some places for 24 to 36 hours. And that's why the overwhelming response from the community was, improve your backup generation system. That was just the overriding thing. And that's why we really try to put in generators.

Mr. Shibuya: My concern here is to – when we have such a system here, there is a public risk that you're placing the people at. And so, my concern is, the public benefit in terms of using this or having this for the regular time as well as during disasters is a concern.

Mr. Kaneshiro: Yes, and that's a very legitimate concern. And with the generator, we're estimating that without refueling that we can probably last anywhere from two to three days depending on overall usage. Again, it will depend on what we find in these types of emergency situations that for the first ten hours, usage on wireless phones just goes through the roof. And so, that's why we estimate between two to three days without any refueling. Obviously, hopefully, within that time, we can refuel, and we can then meet the requirements and extend longer.

Mr. Shibuya: So this is my concern for the public: so now they need to – we, as a Board, will have to balance this risk and benefit for the people. And I want to highlight that fact that there is a risk, and there is a benefit, but this is the cost in which we – if we allow this, then the public needs to understand this. Also, you've also mentioned that you've located various locations. You did site surveys on various locations. And this appears to be the best location in terms of being more stealth.

Mr. Kaneshiro: Exactly, yes. And also in regard to the backup power, six months ago when we applied in a similar situation on Kaua'i, they mandated that we put in a generator because of the – as you say, there needs to be some safety backup. And a lot of phone usage is during safety and for well being.

Mr. Shibuya: Well, this is just one leg of the communication system. And I don't want too argumentative, but you have a hub in which you have your communications channeling through, and microwaving, or land lines going through Honolulu. Is that true?

Mr. Kaneshiro: We have both in Honolulu. I do believe – I'm not sure about Maui. I think we have a central office system on Maui which hubs through Honolulu.

Mr. Shibuya: Right. And so that's my concern that these are all vulnerable points.

Mr. Kaneshiro: Oh, definitely. And you will find that most switches – I cannot speak for all carriers, but most switches have like I know a Verizon switch has double wall, double cemented walls. The generators are double cemented walls. I mean, it's a huge undertaking, as you say, to make it somewhat we call, bulletproof, yeah.

Mr. Shibuya: Understand, but what is it for Maui? This is my concern. We're talking about Maui. We're not talking about Honolulu.

Mr. Kaneshiro: Right, but everything routes through the Honolulu switch.

Mr. Shibuya: Understand.

Mr. Kaneshiro: And then our C.O. here, I am not exact – we route basically, through the Telco company here. And normally, it's the Telco company that routes the backup generating system. And normally, their system is solid. It should be pretty solid.

Mr. Shibuya: Okay, I want the public to know that it is solid, and that they can depend on this, because now if we approve this, then we need that assurance from Verizon that these emergency services or at least this service will be available to them.

Mr. Kaneshiro: And it is. I mean, if we go back to the days of Hurricane Iniki, for example, on Kaua'i, my grandparents were out of phone service for over two months. In the end, all they had to do – all the communication they had – again, this was 20 years ago, obviously. But Verizon actually had to put up poles, and had people come down, and the community would be able to use those systems just to call out. But, yes, I mean, it is of utmost importance that we're trying to do our best by adding in additional generation power and things like that to help us and assist us for emergency-type purposes. Obviously, there are some – you know, some of these generators have never been used in 20 years since – until that earthquake. Some of these things are never used, and hopefully, they never are, but you still have to have them just in case.

Mr. Shibuya: And the power for this generator is actually diesel, is it not?

Mr. Kaneshiro: Yes.

Mr. Shibuya: Okay. Thank you.

Chair Holter: Randy?

Mr. Randall Endo: Good afternoon. I just wanted to clarify, first of all, something you were saying earlier about the safety issue. When you said that the standard was to be no more than 20 minutes within about 15 feet of the–

Mr. Kaneshiro: Ten to 15 feet.

Mr. Endo: Ten to 15 feet of the center beam. The center beam is going to be up high 90 feet. Is that correct?

Mr. Kaneshiro: Yes, 90 feet, yes.

Mr. Endo: So if you're standing around the base of the pole, ten, 15 feet away, that's like nothing.

Mr. Kaneshiro: Nothing. And that's why they come back at for human-type absorption, is the way they say it, it's literally, thousands of times below standards.

Mr. Endo: Okay, so the center beam means where the antenna is?

Mr. Kaneshiro: Antenna. Like in this case, it would be – while the pole is 90 feet, the antenna is, I think, situated at approximately, the 80-somewhat-foot level—the center of that four or five-foot antenna.

Mr. Endo: Okay. And then, my second question was, did you go to the community meeting in Haiku?

Mr. Kaneshiro: One of my associates did.

Mr. Endo: Because it seems to me like we don't have much of a summary except for this one-page letter from the board.

Mr. Kaneshiro: This is what President Gagne sent me. He basically, summarized it. And he told me that the board had reviewed it several times before it went out.

Mr. Endo: Okay. Thank you.

Ms. Acks: I'm just curious. What's the service radius for this particular structure?

Mr. Kaneshiro: It's all part of a network. Basically, we – and Verizon serves it rather poorly now, the Haiku area, but we service it out of Pukalani and from Kahului. So basically, by having this site in Haiku, it somewhat bridges the area. It's really hard to tell you exactly how far it will go or whatever because a lot of it depends on capacity. The more you use – you have more users, the coverage shrinks. So it's kind of a range, but in this area, it's probably anywhere from about five miles in that area around. And again, a lot of it is depending on how much mountain structures and things like that block.

Ms. Acks: Thank you.

Chair Holter: Uwe?

Mr. Schulz: I have two questions I'd like to clarify. I'm just an ignorant architect. I don't know much about antennas, and how they work, and so on and so on. How does foliage affect an antenna? Why can't it be in foliage? You can have reception in a concrete high-rise. And even in an elevator, you still have reception. So I don't know what the relation is between foliage and the bad reception.

Mr. Kaneshiro: Well, any sort of blockage affects – will affect coverage. And the closer that coverage is to – well, excuse me, the closer the foliage is to the direct antenna, the more it blocks. So that same tree a hundred yards away would virtually have no effect as that same tree two feet away. So the closer the tree or the foliage is, it affects it because it's in the direct block. And again, I think as Vice-Chairman was indicating, the farther you go away, the actual – you know, it kind of expands. It's not a concentrated type beam, so to speak. So if you have a tree right in front of that concentrated beam, that's what causes it to affect. That same tree or that building 20, 30 feet away would virtually have no effect.

Mr. Schulz: Okay. And then the other issue I have – I'm a little bothered by the fact that we do not have enough data to really form a clear picture in our own minds. We know where the antenna is located in relation to the building, but we do not have a topographical map showing us the elevation.

Mr. Kaneshiro: That's part of the plans that were previously submitted, but that's – the County has it.

Mr. Schulz: Yeah, let me just finish. And we also do not have, besides the existing grading, we also do not have any accurate dimensions of the existing trees. You are talking about they are 60 or 80 feet, but has anybody actually gone out there and measured the trees? I mean, true measurements, and how they are related to the ground, and how they are related to–

Mr. Kaneshiro: We actually took – I don't know what exact equipment we used, but we take it with equipment that takes it from the ground level up. And we also do, just to clarify, we do have the size of the tree. And it's all part of the previously submitted architectural drawings that we submitted to the Zoning Department.

Mr. Schulz: Because I'm looking at your second page, and the palm tree, everybody knows how tall palm trees grow. And if this thing is 50 feet, I would be very surprised. And so we're looking at an antenna a little bit further back being nearly twice as high, but it doesn't stick up.

Mr. Kaneshiro: Again, though, if you look at all of those trees in that area, as I was explaining to Chairman Holter, those trees there are 70 to 80 feet. And I guess it's just again, that vision. That palm tree there is situated pretty well up-front. It's a good— But also, I'll show you the — this was the basic drawings that were submitted to the County. It was drawn to scale. And those — that information is all with the County Zoning people, with Trisha.

Mr. Schulz: Yeah, I remember this drawing. However, it shows only your stealth tree and not— What I'm trying to say is, there is no accurate survey of heights of the truly existing trees. We sort of have to take your word for it that they are 60, or 80, or whatever the number is. But if there's no accurate survey by a licensed surveyor saying this tree is—

Mr. Kaneshiro: You can look at this other picture that I have. This is a person standing in the back area. I don't— What I'm saying is, I believe what we took was relatively accurate. I mean, is it accurate to the exact foot? I cannot say that for sure, but it is something where we did not say, oh, that's 70, 80. We actually used an instrument that we have.

Mr. Schulz: That's exactly my point. Without giving us specific data showing — a grading plan and a plot plan showing the proposed stealth tree—I love that word—showing the location of the proposed stealth tree, the location of the existing trees with accurate heights, I don't think we can really make a decision because if it turns out that the existing trees are only 60 feet, for example, then the stealth tree would come up 30 feet above the existing fronds. And I think without that information, this Board really has a problem of saying, you know— If the other trees are 85 feet, and the new antenna sticks out five feet, then that's one thing. If it sticks out 30 feet or 40 feet above the existing trees, then the picture changes dramatically, in my opinion.

Mr. Kaneshiro: No, I agree. If it sticks out 30 feet, that's not our intent. We just want to clear the trees. It is not our intent to go 30 feet above the trees or anything like that. That's again, exactly as I think Board Member Kathleen said was that will the trees grow eventually? Yes, they will, but we're just trying to keep it above by "X" amount of feet. We don't want to go 30 feet above. We don't want to go 20 feet above. That's not our intent whatsoever.

Mr. Schulz: My point is, can we get that information from you? Is it available? Or can you make it available?

Mr. Kaneshiro: Again, we used an instrument to do it. I mean, I don't know what more we're supposed to do other than — we're not guessing at it. We're using an actual instrument to take those heights, so I don't know what exactly you're requesting.

Mr. Schulz: What I'm asking you to consider is to provide us with a map showing the existing grade, and showing us the location of the existing trees, and accurate heights of the existing trees. That should've been, in my opinion, part of the application package. Without that information, without a grading plan and a location plan – not a location plan as you have it here on the last page showing the cannery building and the location of that. That is really insufficient data. We, or at least I would like to see that because I know the land is not flat. I have no idea where the existing trees are located. And your picture next to the school really doesn't relate to this project at all whatsoever.

Chair Holter: Kathleen?

Ms. Acks: Would there be a possibility of putting an additional restriction such that it couldn't be more than ten feet taller than the tallest tree in that area, or 12 feet, or whatever is the designation? Because if the closest trees are 60 feet tall, you've just said your goal isn't to have something 30 feet taller, so would there be a reasonable number to include the proposal that it would be no more than 90 feet tall or ten feet taller than the adjacent trees?

Mr. Kaneshiro: That's fine.

Chair Holter: Okay, now, I just want to just hold off on the discussion here for a moment because we have a member of the public who's been here for quite a long time. And I think her contribution or testimony may help us in our decision-making. So I'm sorry, but if we could allow the public to just speak? It looks like she's watching the clock. She may need to go somewhere. So, Valerie Padgett? Is that right? Would you like to speak? Thank you, sir.

Ms. Velva Ribble-Padgett: I think you guys ask wonderful questions.

Chair Holter: Could you just speak into the mic. and state your name?

Ms. Ribble-Padgett: I think you ask wonderful questions. And I appreciate all of your endeavors. It looks like a lot of you have researched some of the questions that have come up about this.

I'm going to refer to a picture. I don't have what he gave you. And I did take pictures to try to clear up some of these issues from miles up the road in Haiku and around the Haiku town center. Unfortunately, I can't get them downloaded and printed out. So I am amiss. But this particular photo right here, first of all, there's only–

Chair Holter: Let's try and identify this photo for the record.

Ms. Ribble-Padgett: This was something that was given by Verizon during the initial

meeting.

Chair Holter: That's the third – that's the second photo in on our package, right?

Ms. Ribble-Padgett: Yes.

Chair Holter: Oh, wait a minute.

Ms. Ribble-Padgett: This one is–

Chair Holter: No, it's in a previous package here.

Ms. Ribble-Padgett: It's a previous package. It's the original package from the original meeting.

Chair Holter: Okay, just a moment. Let us try and find that photo for the record.

Ms. Ribble-Padgett: It's behind this photo, if you have it. It shows the back of the cannery and the kind of true tree line that is behind there.

The other photographs that come in very dark, those are open spaces there. And with our last two weeks of Kona winds– There is a house within 20 feet right here from the proposed tower. And it's – the other thing is that there's only one tree on this person's property. All the other trees are either on EMI, Alexander and Baldwin property or the private homes behind here. If this is erected– This particular tree that really covers most of the area is probably a 70-year-old tree. It sits very close to the cottage and this tree right here, but the proposed tower– You know, these things are up on an embankment of about probably eight feet above the proposed level of the cannery. And then you jump another probably 20 feet up to this level of this tree. So this tree is – does look high, if you're taking a photograph looking up. But in reality, this tree has nothing to do with this property because this tree could fall down, or the people could take it down because of its age and how big it is.

But I guess what I'm trying to say is, I went – I did go to the – and asked around. And they are putting cell towers on the General Plan. I just feel that this tower does not belong near children or inside the community. If Verizon or other places want cell towers, then we should be picking areas outside of the populated areas to put these cell towers. If they have to pick three different sites to get the same coverage with lower towers, then that's what we need to do. Singular is already looking at the site, apparently, that you proposed. The other cannery was purchased by a new person, and made the existing tower that was on top of their cannery – he had it removed because he didn't want it or any of the EMF rays around his area. There is also Telcom already on top of the cannery. And then we also have the Sprint tower. So if – we're

shooting this little bowl of Haiku full of EMF rays.

We have a lot of children. There are a lot of people in the cannery that have put a lot of money into their businesses. Their landlord is not looking out for their interests because if the tower does fall, then they're out of their business, and all their money is invested. And it's like he's just going out for the dollar and is not interested in what is good for the community or everybody that's around.

I live on the other side of the gulch. This is another problem with this area. My property looks 70 feet down in the gulch. If this tower is built, that puts that tower's top coming straight into any of the houses on the other side of the gulch right into our bedrooms, basically, or anybody that's above.

Now, I'm probably – I don't know how many feet I am away from the tower because it's going to be on the other side of the gulch, but I'm in fear of that. Our young children's brains are the ones that get affected because of their thickness. They have very thin brain tissue. And as they develop, their skulls get thicker, and they won't get the EMF rays as harsh. But I feel that this area is not appropriate at all. And I think it should be taken to the General Plan, and we should come up with places for these cell towers.

I don't want those rays coming in. I did have my house tested when the Sprint pole went in because I was afraid also of the EMF rays, and so did many of the rest of us. It only showed up high in one – well, slightly high in one area, but I really don't want to have to go through the expense of doing that again. And I don't want to look at another cell tower outside my window. I mean, here our taxes are ridiculous. This wouldn't happen in Wailea or Kihei. We have a new community association. They're trying to get things together. We have a very local community, and people don't really want to get involved and don't know what's going on until it's being erected like the Sprint tower. And then they start fighting, and it can be too late at that point.

This is in a watershed area. It sits 70 feet below. This is Lilikoi Gulch. If those batteries are – do explode, even though they are contained, or if a tree falls on one of the shed areas, and cracks it open, then you're talking about lead contamination in our water. During the last heavy rains before the previous hearing, this area was under water three to four feet where this tower and this shed is being proposed.

And if anyone is in doubt, I really urge for a site inspection. I urge that Verizon should have to float balloons at the 90-foot area because not only are we talking about really 95 feet, we're talking 20 feet in circumference of these arms going out. This thing is going to stick out like a sore thumb. And that is my opinion. And it doesn't – nothing belongs that high anywhere in Maui County. We need to protect our land. That's what we're here for.

And my only other thing is that there is a humming from the towers also. They all have battery backup. So this is – when it's quiet in Haiku– I feel for the people that are right behind here. They're going to be able to hear that humming. We already hear the bands at the cannery. We already have other issues. Our playgrounds were just condemned at Haiku School. We have no walkway to Fukushima's in this area. Those are the things our community needs. We don't need a tower. And I thank you for your time. And if anyone has any questions?

Chair Holter: Yeah, did you attend the Haiku community meeting?

Ms. Ribble-Padgett: I did.

Chair Holter: And did visitors give testimony?

Ms. Ribble-Padgett: It was presented in a way that you really didn't have an opportunity to give testimony. It was a – Verizon was there to give basically, their proposal. Of course, I did ask pertinent questions. And someone else – there were several people that asked questions. And the end result was really that someone said if we allow this, we're just opening up a can of worms for more towers, aren't we? And that's what I feel nobody wants or needs. If I had to go around and get signatures, that's what I would do. You have to do these things on foot in Haiku. I am overwhelmed, and I haven't had the time because we just did a huge benefit. But, no, I don't think anyone wants a 90-foot tower sitting next to their house or in the cannery at all. I mean, we – I use a cell phone. We all use cell phones. I'm not against technology. I just want it out of the populated areas. There's no reason for this tower to be where everybody is. And everybody goes to the cannery. I mean, it's packed. We have hundreds of cars down there. I think that the landowners are being very greedy and not worrying about what's right for the community. And the fact that none of these trees that are protecting this tower are on their property, nor do they plan on putting anything in because then they would lose their precious parking area is just – they're not doing anything. All that they're doing is taking in the dollars.

Chair Holter: Thank you, Ms. Padgett. Are there any questions? Any other questions? Bill?

Mr. Kamai: Yeah, Ms. Padgett, I'm going to show you a map, and could you point out where you live in conjunction to this map?

Chair Holter: Can you speak into the mic.? Speak into Uwe's mic.

Ms. Ribble-Padgett: There is a picture here of one of the trees that is on my property that was–

Chair Holter: Ms. Padgett?

Ms. Ribble-Padgett: Yes?

Chair Holter: Come over here and use Uwe's mic. That way you can show us. Why don't you use this original, this map that he's showing you, for identification because this is our current one? Is the tree on that that you can kind of pinpoint? And then go and use Uwe's mic., and then speak into that. This is for the record because we keep minutes of this.

Ms. Ribble-Padgett: Okay, my – I can't quite pick the tree out, but the stream is right here, and my – it's like right about . . . (inaudible) . . . on his, but if I can show you? This is the back corner. And this is a very steep gulch area here. And my property borders right here on the edge of the gulch.

Chair Holter: And will you mark on that map where your home is? I'm going to pass around to the other members to see. Put like an arrow to it or something, or an "X" on it. And then maybe hand it to us and we'll pass it around.

Ms. Ribble-Padgett: This tree right here in this exhibit is on the border of my property and the gulch.

Chair Holter: That's the original – that's the first – on our original packet, guys, that's the first photograph, second one down. Both of them are in it, right? This is – just let me ask you a question: so this is your location of your home right where this "X" is? Okay.

Ms. Ribble-Padgett: And this mango tree is at the back corner of my yard. And my home sits right approximately, right in here.

Chair Holter: All right. Are there any other questions? Kathleen?

Ms. Acks: So how far – how close are you to the proposed structure?

Ms. Ribble-Padgett: Well, I can actually look down on it from my side yard. So I don't know exactly how far across the gulch it is to the tower site because it drops at 70 feet, and in air space, I'm not sure. I'm not good at air space. I don't know. I'm from about here to the trees over there across the gulch, something like that.

Chair Holter: About 100, 200 feet probably?

Ms. Ribble-Padgett: Yeah, not any further than that, but somewhere around where that tree is, but I'm looking down at it so–

Chair Holter: That's on the other side of the street that you're pointing to? Those trees?

Ms. Ribble-Padgett: Yes.

Chair Holter: So 150 to 200 feet.

Ms. Ribble-Padgett: Yeah, probably something like that. But then, my neighbors behind me, if you go up one street because Haiku goes up then, I took pictures up there, and you're just looking straight down at the site from there. Then they're about another 20 feet up. So it graduates quite rapidly at that point.

Chair Holter: Any other questions? Hari?

Mr. Ajmani: Yeah, I have a couple of questions, Ms. Padgett. This Google picture does not show your house?

Ms. Ribble-Padgett: That picture doesn't, but I have picked up my house on Google before, or at least my lot. I have palm trees around my house so you can't see the house. You can't see most of the houses in Haiku, but on the last Google picture I did, I could spec my lot right on it if I had gone in. And I could move out and spec the cannery too.

Mr. Ajmani: So this picture, according to you, is not accurate? Have you seen this picture?

Ms. Ribble-Padgett: I've seen that picture. I'm not saying it's not accurate. It's just that you can get a little bit closer view if you go down and Google to – you know, a little bit clearer. But I don't know when this was updated. The last time I Googled anything has been about three months.

Mr. Ajmani: It says "copyrights 2007" so I'm assuming this is recent also.

Ms. Ribble-Padgett: Like I said, I haven't been in for about three months.

Mr. Ajmani: And the other thing you mentioned was that there was another house within ten feet of this?

Ms. Ribble-Padgett: It's within – well, it's within 20 feet of the proposed area. And it's already at an elevation of probably 15 to 20 feet over the site. And because of the recent winds that we had, it defoliated all the trees in the area. So I didn't even realize how close that cottage was. It's like – I don't know – like an 800 square foot cottage, and then their main house is behind there, but they are the closest ones to the pole.

Mr. Ajmani: And I guess that doesn't show up on this Google picture either.

Ms. Ribble-Padgett: No.

Mr. Ajmani: Okay. Thank you.

Chair Holter: What's your TMK?

Ms. Ribble-Padgett: 2-7-11:77.

Chair Holter: Do you have a neighboring property? I'm trying to identify it on the map that we have an exhibit of the Haiku Marketplace. We have 2-7-11:15, 2-7-11:16, and I guess yours is the one off the map here. Does the Lowrie Ditch go right in front of your property?

Ms. Ribble-Padgett: Lowrie Ditch is at the back of my property.

Chair Holter: The back?

Ms. Ribble-Padgett: Where the tree was in the—

Chair Holter: Between you and the Marketplace?

Ms. Ribble-Padgett: The Lowrie Ditch goes – is right behind my property, and goes under the tunnel, and comes back up where the proposed tower site is.

Chair Holter: All right. Any other questions? You got a question, Randy?

Mr. Ajmani: Can I ask one more question?

Chair Holter: Yeah, sure, Hari.

Mr. Ajmani: You said you took measurements of EMF radiations in your house from the last antenna?

Ms. Ribble-Padgett: They did.

Mr. Ajmani: So what kind of readings did they get?

Ms. Ribble-Padgett: You know I don't know the specifics on the readings. I know it was very, very low even from the top of my house, but the one thing that I don't know is when they put everything in operation because we did it fairly quickly after the tower was erected. And at that point, I don't know what their output was. So I still fear from it,

you know, because it's so much at a level of my bedrooms.

Mr. Ajmani: This was some expert who took the readings?

Ms. Ribble-Padgett: Yes, it's actually a company out of California. And a woman by the name of Teresa Thielk who is one of the owners of Mana Foods brought the person in at her own expense, and put them up. And we all contributed to get our houses read so that it wouldn't cost any of us so much money that we couldn't afford to get it done.

Mr. Ajmani: Did she give you any indication--? When you say "low," low doesn't mean anything.

Ms. Ribble-Padgett: It was barely audible at that time.

Mr. Ajmani: For example, they say if you use a cell phone a lot, that affects your brain. There is some radiation coming out of your cell phone. Did anybody give you an indication how it compares to the two?

Ms. Ribble-Padgett: No, I could – at the time, the children – I just couldn't. There was too much going on with everything that I just wanted to know that we were safe within what they thought their guidelines were, and those were my ultimate concerns. I could definitely contact the company and find out what the readings were from my house. That wouldn't be a problem.

Mr. Ajmani: So you didn't get any comparative scores, or comparative ratings, or anything like that?

Ms. Ribble-Padgett: No, no.

Mr. Ajmani: Okay. Thank you.

Ms. Ribble-Padgett: You're welcome.

Chair Holter: I have a request from one of the members. Is it possible that we take a short, brief break, and get a TMK map so we could pick out TMK: 2-7-11:77? So we're going to take a five-minute recess here.

(A recess was then taken at 2:48 p.m. and the meeting reconvened at 3:08 p.m.)

Chair Holter: All right. So we're back from recess here. Thank you, staff, for the TMK map. So what we're trying to identify is 2-7-11: 77. The scale is one inch is a hundred feet.

Ms. Kapua`ala: Excuse me, Chair Holter. This is a reduction of the— It's approximately, half, half-scale, so it should be one per 200.

Mr. Endo: Mr. Chair?

Chair Holter: Yes?

Mr. Endo: In addition to using the half scale, you could also look at the distances on the adjacent lots as an example. By scaling off by looking at the adjacent parcels, it looks like it's about 380 feet from the nearest point of Parcel 77 to the corner where the pole is. That would just be a rough look from the map.

Ms. Ribble-Padgett: Can I ask something?

Chair Holter: Sure.

Ms. Ribble-Padgett: Now, when I originally got that from Telcom, I thought they had altered it because of the distance. And I don't know exactly how they take the gulches when they're like this that it comes up like this on paper because when I'm standing on my property right here, I'm looking straight across to this point. So it's like this is actually down here, or either this is down here, but when I stand here – and that tree in that one picture is a good indication because the proposed site's here, and my tree is like showing up over here. So I don't know how this all ends up like this, but when you're looking at it visually, it looks different than what's on the map. So I actually went and pulled the TMKs down myself to see if it was altered in any way. And this is what also showed on the County map because I was surprised also at the time which was several months ago.

Chair Holter: All right. Are there any other questions from the Board? All right. Seeing none, I'm going to close public testimony now.

Ms. Ribble-Padgett: Can I just—? One thing?

Chair Holter: Sure.

Ms. Ribble-Padgett: The two – at the last meeting, the owner of 2-7-11:15 was here, 2-7-11:17, and the TMK of the other nearest property, which is in the gulch below me, which is right here was also here. So thank you.

Chair Holter: All right. Thank you, Ms. Padgett.

Ms. Ribble-Padgett: Mahalo.

Chair Holter: Now, may we read the staff's recommendation, Trisha, please? Oh, wait. We got – you want to ask her a question?

Mr. Schulz: No.

Chair Holter: Okay, well, let's read the recommendation, and then we'll have a discussion.

Ms. Kapua`ala: Based on its analysis, the Department of Planning finds–

Chair Holter: Can you speak into the mic., Trisha? We can't hear. We got this hum above us. Sorry.

Ms. Kapua`ala: Based on its analysis, the Department of Planning finds that:

1. There is no exceptional, unique, or unusual physical or geographical condition existing on the property which is not generally prevalent in the neighborhood or surrounding area;
2. Strict compliance with the applicable provisions of this title would not prevent reasonable use of the subject property; and
3. The conditions creating the hardship were the result of previous actions by the Applicant.

Based on the foregoing findings of fact and conclusions of law, the applicant has not met all of the requirements for the granting of the subject variance. Therefore, the staff recommends DENIAL of the subject variance.

In consideration of the foregoing, the department recommends that the Board of Variances and Appeals adopt the department's staff and recommendation reports prepared for the November 22, 2006, meeting, and authorize the Planning Director to transmit said findings of fact, conclusions of law, and decision and order on behalf of the Board of Variances and Appeals.

Chair Holter: Thank you, Trisha. Is there any questions or discussion? Uwe?

Mr. Schulz: I just want to repeat myself. I want to point out very strongly to my fellow Commissioners that I deem the application incomplete. We do not have sufficient data. We don't have a topo. We don't have a map showing the existing structures surrounding the proposed project. We don't have a topo, and we don't have the location of the trees or the heights of the trees. We are relying on pictures, which were all taken from one particular point in the parking lot of the shopping center. And there's

no evidence that when you look from above or from a different angle that the stealth bomber will not show up in a different manner from a different location. And I think I pointed it out during our last go around on this project that a location map, not just a tax map key, but a location map with existing structures in the immediate surrounding neighborhood, and a topographical map should be provided by the applicant. Thank you.

Chair Holter: All right. May we have the applicant step forward also, please, to get in on this discussion? Are there any other discussions with the Board? Hari?

Mr. Ajmani: Just one little clarification: on this new drawing that we just got, where is the exact location of this pole?

Chair Holter: Of the pole?

Mr. Ajmani: Yeah, can the applicant clarify? Have I marked it correctly over here?

Chair Holter: It's right in the corner of that parcel—

Mr. Ajmani: 50?

Chair Holter: Parcel 50, yeah. Right at the edge of the gulch, you can see the edge of the topo – I mean, the description on the map.

Mr. Ajmani: So left of the 21 – plat 21?

Chair Holter: Yeah.

Mr. Ajmani: All right. I got it. Okay. Thank you.

Chair Holter: Yes, sir, do you have any comments regarding the staff's recommendation?

Mr. Kaneshiro: Yes. From Verizon's standpoint, as I said, we looked at various areas. And it's all a part of a network of sites. And this site provided again what we were looking for: the best possible coverage along with our ability to stealth the site into the surroundings. And that's why it met both of what we were looking for, and that's why we're requesting the 90 feet. We're wanting to get over the trees, which we need to be, and that was our main goal in the area.

Chair Holter: Thank you, sir. Is there any discussion? Randy?

Mr. Endo: I have a quick question. If you don't know the answer, you can say you don't

know, of course, but if we deny this variance, would you plan to build a cell tower there anyway at the 48 feet legal limit? I mean, I'm assuming you can already build it. You just have to build it at a lower height. So would you go forward with one there and a couple others—shorter poles? Or would you not build anything there at all?

Mr. Kaneshiro: We're not certain because again, it's all part of a network. And it's – I know we looked at just going forward because obviously, from a cost standpoint, it's probably, literally, four to five times cheaper just going on the building. It's literally, that much cheaper from a construction standpoint. So from our standpoint, if it worked, we would've gone there, but it's that it didn't work. And that's why it wasn't a consideration at that time. Now, I cannot say for sure. I do not make that decision, per se, but as I say, from a cost-effective standpoint, going on the building would've been far cheaper. It always is. A monopine is very expensive, very expensive.

Chair Holter: Yeah, sir, I have a question here. In the staff report, page 11, C, second paragraph, it says that "This request represents an 87.5% deviation from the requirement." Then going on to page 12 of the staff report, we have the applicant – it says in the last paragraph, no. 2, "Strict compliance with the applicable provisions of this title would prevent reasonable use of the subject property." The staff asks or says that:

Finally, in order to obviate the subject variance request, the applicant could apply for and obtain a special use permit from the Maui Planning Commission for the placement of the proposed structures within the agricultural district. In this case, structures over 35 feet in height would be permitted provided that there be an additional setback of one foot per each foot in structure height in excess of the 35 feet.

So my question is in going along with the questions that are asked by the Haiku community, why was not an area – why was not this solution sought for putting it in an agricultural district somewhere away from the residential area?

Mr. Kaneshiro: Again, it's a network, and I'm not exactly sure where the agricultural area is, but we looked at some of the areas around and the pineapple fields. And again, when we looked at it, and we've done a lot of these, we felt that we could blend in a stealth pole where the trees are a lot better than having a single pole that's taller than the surroundings in an agricultural open area.

And I'll give you the perfect example: that Sprint pole. It's not a monopine, but it sticks out a whole lot from the area. Imagine, it's just a short – if you go to an agricultural area, number one, it was out of the search area, but it would still show quite substantially as compared to something that's stealth within the area that we're looking at. Again, that's one of the main reasons why we chose this area was because of the ability to stealth in.

Chair Holter: Thank you very much.

Mr. Kaneshiro: And again, I'd just like to make one comment. It is a very tough decision, and I empathize with everyone here. It is, I think, as President Gagne from the Haiku Community Association indicated: it is somewhat of a balancing act. You have to have – everybody wants coverage. We're trying to provide coverage. At the same time, we need to address community concerns with health, safety, and aesthetics. And I say, this site here, we believe, fits all those categories.

Chair Holter: Thank you very much. Any questions? All right. So we have a discussion here. What is the pleasure of the Board? Uwe?

Mr. Schulz: I make a motion to follow the staff's report and recommendation to deny the variance.

Chair Holter: Do I have a second?

Mr. Shibuya: Chair, I'll second.

Chair Holter: All right. We have a first and second to support the staff's report for denial of the variance. All those in favor of the motion, raise your right hand. We have four. All right, all those against this motion, raise your right hand. We have one and Randy? That's two. All right, I vote to deny the variance.

It was moved by Mr. Schulz, seconded by Mr. Shibuya, then

VOTED: To support the Planning Department's recommendation for the denial of the variance.

(Assenting: U. Schulz, W. Shibuya, K. Acks, W. Kamai, and L. Holter.)

(Dissenting: H. Ajmani and R. Endo.)

(Excused: J. Shefte.)

Chair Holter: Variance **denied**.

E. COMMUNICATIONS

1. Discussion on sending a letter to the County Council regarding parking in Lahaina.

Chair Holter: Okay, next item. We have Communications, sending a letter to the County

Council regarding parking in Lahaina. This is the letter that we worked on for the last couple of meetings. And if you could please take some time to read it. I think it's pretty much what everybody wanted to say. And if this is okay, then we can – I hope we can transmit this to our Chair, Riki Hokama. So, okay? We have an okay with Warren. Randy? William? Uwe? Hari? Kathy? All right. Thank you, Trisha. Shall we vote? You want us to vote? Oh, we get to vote again. All right. All those in favor of sending this to Charmaine and to Riki Hokama? And all those against?

(There being no further discussion, the motion was put to a vote.)

VOTED: To transmit a letter to the County Council regarding parking in Lahaina.

**(Assenting: U. Schulz, W. Shibuya, K. Acks, W. Kamai,
H. Ajmani, and R. Endo.)**

(Excused: J. Shefte.)

Chair Holter: It's **unanimous**. All right. What a day. Thanks, Tremaine. Thanks, Trisha.

F. APPROVAL OF THE FEBRUARY 22, 2007, SITE VISIT AND MEETING MINUTES

Chair Holter: Okay. So, all those in favor of our minutes for our Lana`i trip. First is the site inspection. All those in favor – or do we have a motion to accept the minutes?

Mr. Schulz: I move.

Chair Holter: Do we have a second?

Mr. Ajmani: Second.

Chair Holter: Hari. All those in favor?

It was moved by Mr. Schulz, seconded by Mr. Ajmani, then unanimously

VOTED: To approve the February 22, 2007, site inspection minutes as presented.

**(Assenting: U. Schulz, W. Shibuya, K. Acks, W. Kamai,
H. Ajmani, and R. Endo.)**

(Excused: J. Shefte.)

Chair Holter: Okay. Now, we have for the meeting: accept the minutes.

Mr. Schulz: I move.

Chair Holter: We have a second?

Mr. Ajmani: Second.

Chair Holter: All right. All those in favor?

It was moved by Mr. Schulz, seconded by Mr. Ajmani, then unanimously

VOTED: To approve the February 22, 2007, meeting minutes as presented.

**(Assenting: U. Schulz, W. Shibuya, K. Acks, W. Kamai,
H. Ajmani, and R. Endo.)**

(Excused: J. Shefte.)

Chair Holter: It's **unanimous**.

G. DIRECTOR'S REPORT

1. Status Update on BVA's Contested Cases

H. NEXT MEETING DATE: April 12, 2007

Chair Holter: And one more thing, I just once again want to thank – it's been an honor working with you folks. You are exceptional, civilian heroes. And I just really appreciate the opportunity to work with the staff. The staff has been wonderful. And, Francis, even you. No, thank you very much. You guys are great to put up with us. So thanks for everything, you guys. And aloha. Meeting adjourned.

I. ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 3:21 p.m.

Respectfully submitted by,

TREMAINE K. BALBERDI
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Members Present:

Lance Holter, Chairman
Warren Shibuya, Vice-Chairman
Uwe Schulz
Kathleen Acks
William Kamai
Harjinder Ajmani
Randall Endo

Members Excused:

James Shefte

Others:

Colleen Suyama, Deputy Planning Director
Aaron Shinmoto, Planning Program Administrator
Francis Cerizo, Planning Staff
Trisha Kapua`ala, Planning Staff
Michael Hopper, Deputy Corporation Counsel