

**MAUI PLANNING COMMISSION
REGULAR MINUTES
JANUARY 27, 2009**

APPROVED: 3/24/09

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Jonathan Starr at approximately 8:34 a.m., Tuesday, January 27, 2009, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Mr. Starr: Welcome to the January 27, 2009 meeting of the Maui Planning Commission on wet day in Wailuku. We have a very full agenda today so we'll try to move forward. Just one comment. We do have a full agenda. Also, at 4:00 p.m. we have a special workshop and presentation so we'll try to get through as much as possible we may not get through all the items but it's the intent to try to take them in order serially unless something comes up. Our process is is that we allow testimony from the public on all action items and before we start that I want to introduce the body here. We have batting off first in left field, Commissioner Kent Hiranaga, Commissioner Bruce U'u, Vice Chair Commissioner J.B. Guard, Commissioner Ward Mardfin. We have our legal eagle our lawyer and Corp. Counsel representative James Giroux. I'm Jonathan Starr Chair. We have Planning Director, Jeffrey Hunt. We have Commissioner Donna Domingo and Commissioner Dr. William Iaconetti. Our board secretary is Carolyn Takayama-Corden. We have Mike Miyamoto, Deputy Director of Public Works. We have Planner James Buika. We have Planner Robyn Loudermilk and Planner Paul Fasi and I'm sure we'll have some others helping us out, the planners and Current Division people really work hard to make these meetings possible they do all the real work and we appreciate what they do.

Anyway, we do allow testimony on any action item at two points in the meeting. People are allowed to either testify before we start on any agenda item which will be just in a moment or two or if you want you can wait and testify before we take action on any individual item after the staff and the applicant makes their presentation. We ask that people testify only once unless there's some absolutely compelling reason why new information has made a great change in what they have to say. And we ask that testimony be kept as short as possible and in no case longer than three minutes. With that being said, we will open up for public testimony. I don't have any sign up sheet so, oh I do have a sign up sheet, correct. The first person who signed in is Chris Scharein. Please come up and testify. The second person following will be Jane Sakakihara. Welcome and please introduce yourself.

The following individuals testified at the beginning of the meeting:

Ms. Chris Scharein - Item B-2, Parks & Recreation, Lahaina Civic Tennis Courts, SMA
Ms. Jane Sakakihara - Item B-2 Parks & Recreation, Lahaina Civic Tennis Courts, SMA
Mr. Steve Sutrov - Item B-2 Parks & Recreation, Lahaina Civic Tennis Courts, SMA
Mr. Richard Stompton - Item B-2 Parks & Recreation, Lahaina Civic Tennis Courts, SMA
Ms. Kailani Ross - Item B-2 Parks & Recreation, Lahaina Civic Tennis Courts, SMA
Mr. Matthew Erickson - Item B-2 Parks & Recreation, Lahaina Civic Tennis Courts, SMA
Mr. Stanley Namoa - Item B-2 Parks & Recreation, Lahaina Civic Tennis Courts, SMA
Ms. Elaine Gallant - Item B-2 Parks & Recreation, Lahaina Civic Tennis Courts, SMA
Ms. Lisa Darcy - Item B-2 Parks & Recreation, Lahaina Civic Tennis Courts, SMA
Mr. Mark Sheehan - Item C-4, Kutira Decosterd & Fred Sharpte, SUP2, CP

Mr. James Kimokeo Kapahulehua - Item B-2 Parks & Recreation, Lahaina Civic Tennis Courts, SMA

Their testimony can be found under the item on which they testified on.

Mr. Starr: Okay, anyone else out there wishing to testify please waive a hand, stand up, do something. Okay, not seeing any, I will close public testimony and we'll move onto our first item. I'll ask our director to introduce the item. He'll introduce the planner, who will give us a brief background, then he'll pass it back to me and I'll call the parties since there has been a legal request filed and we have to make sure that everyone involved gets the same opportunity to present. Director.

Mr. Hunt: The commission's first item involves Ms. Jessica Kailani Ross, Vice-President of Leialii Homestead Association submitting an October 24, 2008 letter requesting to intervene on the application by Ms. Tamara Horcajo, Director of the County Department of Parks and Recreation for a special management use permit for the Lahaina Civic Center tennis courts expansion project consisting of the addition of four new tennis courts, a 25-stall paved parking lot and related improvements at TMK 4-5-021: portion of 010, portion of 016, and portion of 020 in Lahaina. The file number is SM1 2008/0015 and Jim Buika is the planner substituting for Livit Callentine.

B. UNFINISHED BUSINESS

- 1. MS. JESSICA KAILANI ROSS, Vice-President of the LEIALII HOMESTEAD ASSOCIATION submitting an October 24, 2008 letter requesting to intervene on the application by MS. TAMARA HORCAJO, Director of the COUNTY DEPARTMENT OF PARKS AND RECREATION for a Special Management Area Use Permit for the Lahaina Civic Center Tennis Courts Expansion Project consisting of the addition of four (4) new tennis courts, a 25-stall paved parking lot, and related improvements at TMK: 4-5-021: portion of 010, portion of 016, and portion of 020, Lahaina, Island of Maui. (SM1 2008/0015) (J. Buika for L. Callentine)**

- a. Amended Petition to Intervene dated November 9, 2008 and submitted on November 10, 2008.**

Mr. Jim Buika: Thank you Chairman Starr, Commissioners. Would you like me to provide just a short overview of the scope of the project?

Mr. Starr: Yes, please.

Mr. Buika: For everyone's edification on this, the scope of the project is to add four tennis courts, a 25-stall parking lot, fencing, sports lighting and wind screens. The existing tennis complex includes five tennis courts, a comfort station, overhead lighting and related supporting improvements. The proposed project is to be located to the north of an adjacent to the existing tennis court complex and covers an area of approximately two acres. The existing project site is grassed and vacant. A 25-stall proposed parking lot will include lighting and the lighted walkway

access paths, retaining walls, landscape planting and irrigation. Site utility improvements will address water, wastewater, drainage and electrical systems. The water system improvements will consist of relocation of water meter manhole, relocation of a fire hydrant, water service lines and drinking fountains. The wastewater system improvements will include a sewer lateral for the restrooms located mauka of the existing tennis courts. The drainage system improvements will consist of channels, inlets, manholes, drainpipes and a subsurface detention/retention basin. And the electrical system improvements will include underground distribution lines for lighting. So that is the scope Chairman Starr.

Mr. Starr: Okay, thank you. And then just for the record there has been a October 24th letter requesting intervention that's been filed and you do you have information on when that was received?

Mr. Buika: Yes, that was received on October 24, 2008, and there was an amended petition was sent to you in your packets that was ..(inaudible)... the commission November 9th, one day prior to the original Maui Planning Commission hearing of November 10th. And the commission heard the, or entertained the petition to intervene at the November 10th public meeting. And at that meeting, the Chair allowed public testimony to go forward as well as a presentation from Livit Callentine and the consultants Munekiyo and Hiraga on the project but you did not deliberate and you did not ask any questions at that point. The project was deferred to November 25th Maui Planning Commission meeting and at the November 25th meeting it was deferred indefinitely and then it was brought up, both sides agreed to hear it today, January 27, 2009. So that's where we are.

Mr. Starr: Has this request for intervention been answered by the original applicant, the County of Maui?

Mr. Buika: Yes it was. I don't have the date but it was answered and it was distributed to everyone, all of the commissioners in the packet that went out this week to you. So you have that before you.

Mr. Starr: Okay: Thank you Mr. Buika. We'll call first the party requesting the intervention and I believe that's Jessica Kailani Ross. And before you begin Ms. Ross do you have counsel with you or will you being doing all the representation? Either way is fine.

Ms. Jessica Kailani Ross: No counsel with me.

Mr. Starr: Okay.

Ms. Ross: Just Akua.

Mr. Starr: Okay, I'll give you first opportunity to present and you'll have another opportunity after the County states its position as well.

Ms. Ross: Mahalo. Okay, thank you Commission Chair for allowing us to be on the agenda. Good morning Commissioners. My name is Jessica Kailani Ross and I filed this petition on behalf of the Villages of Leialii Association, the homeowners of Leialii.

It was submitted admittedly in haste due to unreturned phone calls regarding a notice that one resident received about the addition of the tennis courts, the issue before us, the SMA permit request.

We did not know where this was going to be located. Within the notice that was given to us we tried to make calls to find out where this was going to be, what it was going to be. Getting no calls, getting no answers we filed a petition to intervene believing that this court was being built upon Department of Hawaiian Homelands.

Having recently gone through leadership training regarding Act 302, it was brought to our attention that it is part of our responsibility, our kuleana which is different from our kuleana rights, but our kuleana to be aware of use of Department of Hawaiian Homelands and participate in the use to the best interest of the beneficiaries.

So we filed our petition to intervene swiftly within the minute to intervene. And we apologize for the late intervention and it was a last resort to look after what we thought was an error not being notified of this plan.

As a result of that intervention Parks Department has contacted us. We've had meetings with Parks Department. They've brought us maps. They've showed us where indeed the development is to be, and indeed it is in part on Department of Hawaiian Homelands.

In deferring and having meetings with Parks Department we've learned that the person we need to be talking to is the Mayor and so we contacted the Mayor and the Mayor did give us...(inaudible)... to Mahina Martin. And we are now under the impression that we will continue negotiations with the Mayor. We haven't heard anything back from our initial meeting and so at this point, we are requesting a continued intervention for the purpose of amending the SMA permit request to include parks at the far end. We are not asking to stop any tennis courts. We just want a playground for the kids. And last night I went through and I got the signatures for the letter that is before you and the kids are literally on the streets playing.

The question came up is there land within Leialii? That's what we were searching for before this SMA notice came out is land for a playground, land for a meeting house and there is nothing. There is nothing on Leialii Phase 1A. So we were looking at surrounding areas and that's when this petition for an SMA permit came before us and we realized we have a little bit of land and the rest of Phase 1B is taken up by houses and it was made clear to us that we cannot use any of that for Parks. DHHL has taken a different stance since we've come to negotiations with Parks in that they make available a portion of Phase 1B for a park. That is many, many years down the road and we believe that we can expediently modify this SMA, this parks plan to include a playground. This is big land there on the fair end that does not have any plans for a tennis court, no plans for anything. It's vacant.

It's been said that there are drainage issues. I went there this morning and I watched the rain in this heavy downpour and I'm sorry, I don't see drainage issues. I'm not an engineer admittedly but the land is also adjacent to the tennis court which is flat. So if there's a drainage issue then why is there a tennis court right there. And I believe that with the technology that we have we can

accommodate a playground in this 200 x 180 foot area which is half on DHHL, half on County land. And you have our letter before you signed by all of our board of directors. And if I may indulge, it's brief and may I read it?

Mr. Starr: Yeah, go ahead.

Ms. Ross: "Dear Chairman Starr and Planning Commissioners: On the grounds that Act 302 makes it our responsibility, our kuleana to look after DHHL lands in our area for the betterment of beneficiaries we pray you grant our petition to intervene on the county's application for an SMA use permit for the Lahaina Civic Center tennis courts expansion which is partially on DHHL lands. The county has failed to meet requirements of Hawaii Revised Statutes 205A-2(b)(7), Managing Developments. When the county knew a community was coming to this area, it did not wait in order to include said community in the development and review process. We didn't know we would be there, but they knew we would be there. We were still in the selections phase and we weren't sure where we would be. Thus, we were left out of the public participation in the management of coastal resources and hazards.

We hope only to amend the Parks Department plan so that it will include a playground on the far end and a temporary office trailer in the middle. Both will be half on the DHHL and half on county land. This process is not unmanagable and will aid in more efficient communication with the county.

Please grant the petition to intervene with a mediator and a court officer. We are willing to go that route selected in order that we may work out an agreement that is amicable to everybody. Thank you for your consideration on this request."

Any questions?

Mr. Starr: Members want to take questions? Do you want the other side to respond and then do questions? Go ahead Commissioner Hedani if you wish.

Mr. Hedani: Ms. Ross, how many homes are in the Leialii Phase 1A?

Ms. Ross: 104.

Mr. Hedani: 104, and how many are planned for 1B?

Ms. Ross: 250.

Mr. Hedani: 250. So roughly 350 homes all together.

Ms. Ross: Yes.

Mr. Hedani: And as the project was laid out there were no plans that were incorporated into the design for parks for those 350 homes?

Ms. Ross: That is correct.

Mr. Hedani: Okay, thank you.

Mr. Starr: Okay, Dr. Iaconetti, please.

Mr. Iaconetti: Do we have any charts or graphs of where the tennis courts are going to be and how it?

Mr. Starr: Jim.

Mr. Buika: Yes, we can do a presentation on that but also there are, I believe Exhibits 3 through 5 in your staff report show you the approximate location of the tennis courts if you refer to your –

Mr. Iaconetti: Is the proposed tennis court area the same area that the Homes of Leialii want this part at to be located.

Mr. Starr: Jim, why don't you get up to the podium for minute. Stay up too, Ms. Ross, but I want –

Mr. Buika: I may need my staff report back.

Mr. Starr: Have you got this one Doc?

Mr. Iaconetti: No, I don't have it.

Mr. Mardfin: That's the one from?

Mr. Starr: Couple of meetings ago.

Mr. Buika: To answer Doc's question, Exhibit 8, excuse me Chair, shows the approximate site of the tennis courts if you have your staff report with you. In relation to the existing tennis courts.

Mr. Iaconetti: My question basically is the distance from the parkway, from the homes to the project site. What is the distance there?

Ms. Ross: Less than 500 feet.

Mr. Iaconetti: And you'll be crossing –

Mr. Starr: Hold on one second, Ms. Ross, take the mike please. Jim let her answer.

Ms. Ross: It's approximately 200 feet from the corner of the housing area to the desired playground site.

Mr. Iaconetti: And the path that the children would be taking would be going across the road that

goes to the tennis courts, goes to the homes, as the area where the post office is, where the proposed hospital is supposed to be going.

Ms. Ross: No, just across Leialii, not across the tennis court or the post office or the hospital. We're on the other end. We just crossing through our drive, Leialii Drive which is closed at the top and only open at the bottom.

Mr. Iaconetti: Thank you.

Ms. Starr: Okay, thank you Ms. Ross. I'll let the other side present. You will have the opportunity to come back as well and members will have an opportunity ask more questions.

Ms. Ross: Thank you. Thank you very much.

Mr. Starr: Thank you. I'd like to call upon our Director of Parks, Tamara Horcajo to begin and then I know Counsel Johnston will also be coming up as well. Please go ahead Ms. Horcajo.

Ms. Tamara Horcajo: Good morning. Good morning Chairman Starr and Members of the Maui Planning Commission. My name is Tamara Horcajo and I'm the Director of Maui County Parks and Recreation. We truly hope that we can find a win-win out of this situation here and we are delighted that we have an avenue to work with the Village of Leialii and their residents there.

It is the Department of Parks and Recreation's mission to provide safe, satisfying recreational opportunities for the residents and visitors of Maui County. That's a tough task in these hard times to find that discretionary funds that we're in competition with Police, Fire, Public Works, for the small amount of money that we have.

This particular funding for this tennis court project was brought to the department's attention by the tennis community back in FY 2005. Their efforts to bring the lack of tennis court planning and the issue of the growing tennis community to the administration and to the County Council from 2005 and they finally after, you know, many hearings and trials with Council budget hearings, Mayor's budget hearings got the funding for the tennis courts in 2006. Again, additional supplemental funds went through the planning stage, the environmental assessment, all of the public hearings, additional monies were appropriated in 2007 and then again, in 2008. So that's where we are today.

It has been a long process and the testimony has taken quite a while. Our department, I personally was very saddened to see this intervention from the homeowners because the quality of life issues in Maui County are dire for many for us and we do need those recreational outlets. We are great supporters of playgrounds and it has now allowed us the opportunity our planning staff with Village of Leialii to work together to we believe we can find a plan that would work together. Our department has done that previously with Hawaiian Homes in Paukukalo and in that particular subdivision, they County did appropriate funds to build a playground in that area. So it has been done. Once it's brought to our attention and the attention of the administration and County Council.

If possible, is it possible to show a map of the area? We have Munekiyo here, so that everyone can

see where we are talking about?

Mr. Starr: Yeah, I think that's a good idea. Mich, can you get the map up?

Ms. Horcajo: There is a slide that I asked Kim to – oh, there we go, it's right there. So I think if you folks can see, and Pat Matsui who is with our Planning Division, can you kind of point up there Pat where things are. If you folks know where that main Honoapiilani Highway is, and then the road going up to Village of Leialii is right there. It goes right by the post office there. It's a new road created. If you pass the railroad tracks and take that left past the existing tennis courts, the proposed expansion is right there on that corner.

We believe that it's a very good spot for increased tennis courts because tennis is a social game and having, you know, MIL and tournaments and leagues playing there, the more courts the better. That corner area services the Fire Department, the Police Department, Lahaina Civic Center which has a lot of events. So we really do not believe that that is a real good location for a playground. We would rather of course, assist and work with the DHHL to find a site where the kids can walk from their homes to their playground location within their subdivision so that it is safe and maybe we can find that. It seems like, and maybe in a minute Mahina Martin has had a chance to work with DHHL on behalf of th Mayor's Office. We are very concerned with this, you know, lack of playground facilities in this area too.

However, I would like to say on behalf of our department we would like to ask that because the petition to intervene is for SMA as will be stated and was stated very well by Ms. Mimi Johnston, we do not believe that this is the appropriate venue for an intervention. And so we are requesting that the commission deny the petition.

We do want you to know that we will work with this group and try as best we can to find alternate locations.

Mr. Starr: Does Ms. Martin have anything to say on behalf of the Mayor?

Ms. Horcajo: Yes. Thank you very much.

Mr. Starr: Why don't you come next?

Mr. Mardfin: May I ask a question?

Mr. Starr: Oh, hold on one second please Ms. Horcajo, Commissioner Mardfin.

Mr. Mardfin: Aloha. Can you show us on the map where the Hawaiian Homelands are? Because that seems to be an important issue.

Ms. Horcajo: Thank you, yes. I'm sure we have that capability somewhere here.

Mr. Mardfin: While they're doing that I'd like to thank you for – your people held a hearing for Paani Mai Park out in Hana the other day. I thought it was a very good meeting.

Ms. Horcajo: Thank you. We have a lot of community needs in parks and small amount of money.
Mr. Guard: I have a quick question for you. Is it mauka of the proposed tennis courts, does Hawaiian Homes surround the park area? Does it go all the way to the tennis courts? On the issue of like using Hawaiian Homeland lands for the tennis court.

Mr. Hunt: Just to remind people, everyone needs to speak into a microphone.

Mr. Starr: Yeah, who's going to answer that? Tamara?

Ms. Horcajo: I'm going to ask Pat Matsui who is our Chief of Planning to outline specifically. I think he is aware of the project unless Jessica or someone else would like to.

Mr. Starr: Yeah, go ahead introduce yourself Mr. Matsui.

Mr. Patrick Matsui: Good morning. I'm Patrick Matsui, Chief of Parks Planning. I want to call your attention to site plan. Again, go back to the other one, the drainage, next one. Okay, there we go. Okay, the bottom is Honoapiilani Highway. This is the entry to the Lahaina Civic Center, post office, existing courts. This is the Civic Center complex. This is Leialii Parkway. Currently it's two lanes that connects down here. Future plans it's going to be four-lane divided roadway. It's the main highway. Phase 1 is here. That's the 104 units that they have. Phase 2 they're planning is here. And they're looking at 250 units. They don't have any parks in it. You know, we looked at an ideal site for a playground would be better up here or well, within here it's too late already. But you know, anything in here you're conflicting with the Civic Center activities. There's also a terrain drop. Over here is a lot higher. So we had to build retaining walls. This area is pretty steep. ...(inaudible)... by the tennis court is and up here.

Mr. Mardfin: My question was, on the property for the tennis courts that you're using is part of that Hawaiian Homes land? And if it is, what part?

Mr. Matsui: The portion would be, the line comes here. Okay, so part of the parking lot and one of the courts would be on it.

Mr. Mardfin: Okay.

Mr. Matsui: Okay we did go to the commission and they did grant us a license, long term license to use that. We also had to agree that we would put up fencing over here, vinyl fencing. Also we would have to give up this portion so they could bring their roadway all the way through down to the park. And we agreed to, we have our Lahaina Civic Center sign, ground sign, we agreed to move it and bear that expense.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: Could you just clarify which commission granted you the license agreement?

Mr. Matsui: Hawaiian Homes, the commission.

Mr. Hiranaga: Thank you.

Mr. Starr: Mr. Matsui, was that a swap that because you said, it sounded like the County gave up land for them to put their road on?

Mr. Matsui: It wasn't a swap, it was a license, but as a condition of the license, we agreed to giving up portions of the land.

Mr. Starr: Okay, maybe we should proceed with the initial presentation. So I think we were about to head to Mahina Martin, PIO for the County of Maui who's speaking I believe on behalf of Mayor Charmaine Tavares and still in response to the petition to intervene.

Ms. Mahina Martin: Yes, good morning Chairman Starr, Commissioners. My name is Mahina Martin. I'm the Mayor's Community Relations and Communications Director. The Administration acknowledges the concerns and the interest of both homesteaders as well as the tennis community. This is a very unfortunate situation and ideally in the best of everything, all interests would be considered and all parties would have what they're requesting.

The Mayor feels strongly that, and is very clear as is all of us that the Parks and Recreation Department is tasked with serving the recreational needs of the community. The tennis community has worked for several years to enable the tennis courts to come to this stage in the game. \$1.2 million, I believe, it is over a million has been appropriated by the Council for this project.

For disclosure reasons you should know that I'm a former Hawaiian Homes Commissioner. I am the one that helped break ground at Villages of Leialii, a matter of fact. So I have a little bit of insight. I am not here obviously to speak on behalf of DHHL, but I have had the benefit of insight and a number of discussions with Mona Kapaku who attended a board meeting with me at the Villages of Leialii, their board meeting. As well as discussions with Stewart Matsunaga and others of the Planning Department, Division, of DHHL, of their department.

So you know, DHHL's responsibility, their kuleana as everybody calls it is very specific. It is to the beneficiaries. The petition to intervene invokes Act 302. It requests that their kuleana, their right and responsibility to the area be recognized and adhered to. The homesteaders or Villages of Leialii identify themselves rightly so as kanaka maole of the area. The agreements that the county carries has followed all the correct procedures, agency to agency, county to state department. So between the County and the Department of Hawaiian Homelands we have an existence, an agreement that the Hawaiian Homes Commission and the DHHL's Chair, Micah Kane has signed off on.

So in that process we have followed that through. It is unfortunate that the timing of the work to get to the tennis court project superceded the, you know, the development of the homes of the first phase of Villages of Leialii. It is correct that that community should have recreational facilities. We do not dispute that. We have offered to the board when I met with six members of the board couple of weeks ago, or maybe it was a week ago, that we, the County would support them in their efforts to DHHL as we as done with Paukukalo. If you've ever seen the Paukukalo Homestead it has a great county park right in the middled. When that playground was burned down, the County

stepped forward and replaced it. So there were a lot of things that we can do in partnership.

The DHHL's future plans at this point include working with HHFDA, the Hawaii Housing Financial Development Agency formerly known as HADCA, I believe, they owned, on paper the over 1,000 acres that they hope to develop. So the agreement between DHHL and HHFDA continues into next phases. They are having a public meeting this Wednesday evening in Lahaina specific to talk about Villages of Leialii to get the input from the homesteaders from the community. It is a multi-purpose development for affordable homes as well as what I saw on paper. A school, areas of park, the Department of Hawaiian Homelands has 18 or 19 regional plans. It's very methodical what the department goes through and on every island and every homestead they have a process that is very inclusive of the homesteaders and the beneficiaries and their planners go out across the state to engage with these communities.

They are very clear that the county would like them to consider at this point some accelerated effort on addressing the playground and future recreational needs of the homesteaders of the area. They homesteaders have made it clear to me as well as the Department of Hawaiian Homelands that they would like a large scale project up there including a youth center, farm land, ability to run different programs that help their families as well as just keiki. So the department is aware that the County would like this need addressed specific Villages of Leialii.

The County does not have jurisdiction to force them. The County has a large interest in making that happen. So what DHHL's responsibility is directly to their beneficiaries. The County is unfortunately in it for obvious reasons. You know, we want them to provide for the beneficiaries as Act 302 allows for. Their board is correct in holding the department accountable.

Mona Kapaku who is the Land Agent for Maui acknowledges in several conversations and discussions I've had with her that they would like to address that. It is sitting in the chairman's office right now, Micah Kane's office for that decision on what their next move and how quick they could accelerate it.

The homesteader's concern about the tennis court being right at their doorstep now versus a playground later five to 10 years is understandable. The children will be far, you know, grown out of the need for that. Maybe the next population or the next generation will come. But perhaps as a way with the HHFDA meeting coming up on Wednesday that they can separate the request for the recreational land from the affordable homes development plan that DHHL has thereby circumventing a long term effort. That is unknown. We don't have jurisdiction over HFDA efforts either.

So if I can answer any questions to that effect, this is very unfortunate. It of course should never be where one part of our community is challenged by another part of our community. It's unnecessary and very unfortunate, but we do recognize that there are different needs. There are philosophical understanding of what the land is for and about and its history and here we sit. So we would like DHHL, they were asked to come to today's meeting by the Mayor's Office. Their planners in charge of this unfortunately are on Lanai and unavailable as is Mona, and so whatever I can answer for you I will try.

Mr. Starr: Commissioner U'u.

Mr. U'u: Good morning Mahina.

Ms. Martin: Good morning.

Mr. U'u: HHFDA lands the thousand acres you're talking about where is it located?

Ms. Martin: It is located, I actually have a map I pulled out of my file, but this is what they have on their internet site, on their web site in preparation for the public meeting on Wednesday. So this identifies their land and I'd be happy to have this passed around if you like and that gives you the scope of what it is. It's up above. It's right behind the tennis courts mauka side is the second phase of DHHL development. Higher up are the larger planned development.

Mr. U'u: Next question. Do you foresee a park in the future in that area?

Ms. Martin: On speaking on the County side, I could not say. On the Hawaiian Homes side it would be and they have been encouraged, the board and the beneficiaries of Villages of Leialii would work in tangent with their commissioner, Perry Artates, whom I'm sure all of you are familiar with to seek that support from the commission. The Hawaiian Homelands commission members have the final vote. Every homestead is encouraged to work through them and with their island commissioner in addition to the DHHL's staff. So it's hard to say. I think the County would join the homesteaders in seeking that from the commission.

Mr. U'u: Thank you.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: You spoke about a five to ten year delay in doing this if they go through the normal routes. But then I think you said something that implied that it could be speeded up.

Ms. Martin: Yes.

Mr. Mardfin: If it were speeded up what would be the time frame?

Ms. Martin: I would not know. I understand from DHHL, from Mona Kapaku that the five to ten years is because it would be folded into the entire development on the mauka side. We have been talking about separating out the request for the land specific for the youth center and a playground and whatever those desires are of the homesteaders. And outside of that, then you would not need as much of the infrastructure work to go in and perhaps a lot of red tape could also not be necessary. And so what I've heard from DHHL staff is now we're talking about three years and I believe when she I and met with the board she was, board members Kailani could also correct me that she was adamant it could be faster.

Mr. Mardfin: This is maybe not for you but for the Department of Parks and Recreation. Is Department of Parks and Recreation committed to working on an expedited basis to get this done/

Ms. Martin: It would not be to get – let me just make sure we clarify that answer. To work with DHHL on the park?

Mr. Mardfin: Yes. And to, I mean, Parks can drag things out too, but I'm asking if the Department of Parks and Recreation is committed to working expeditiously as possible to accommodate this community.

Ms. Horcajo: I'm Tamara Horcajo, and our funding authority comes to through the administration and then through Council so funding for this project would be key to have that designated through Council. We do have the expertise in our department to work with the Village and the group on plans for a playground and we feel that those could be expedited in terms of, you know, facilitating that kind of work. As far as the funding goes, again, bringing it to the attention of our administration which it has been done and then to the Council to get funds appropriated would be our challenge. But we are well connected with the providers and builders of playgrounds. So we could expedite it.

Mr. Mardfin: Do you agree with the time frame of maybe three years? Putting the funding issue aside. Assuming the funding is there, and who knows, we might get some federal funds if we have ...(inaudible)... ready projects. Do you think a three-year time frame is essentially correct?

Ms. Horcajo: That sounds reasonable. Moving the time frame up, I haven't had a lot of experience in quick projects, so a three-year time line does seem reasonable. I'd like to say it could be done faster, but my experience has been it takes a while to get things done.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: I guess these questions are more for Mahina. I know there is a balance which the DHHL probably struggles with in that if you provide park space you're eliminating house lots.

Ms. Martin: Yes.

Mr. Hiranaga: So, you mentioned Paukukalo. Is that the park in the corner that used to have the covered basketball court, there's a little community center?

Ms. Martin: Correct.

Mr. Hiranaga: So that's DHHL land that the County has improved?

Ms. Martin: Yes.

Mr. Hiranaga: And then the new project out in Waihee next to Waihee Park.

Ms. Martin: Waiehu Ko.

Mr. Hiranaga: Yeah, is that a DHHL project?

Ms. Martin: The park is not but Waiehu Ko is yes.

Mr. Hiranaga: Okay, because there is a park out there, right?

Ms. Martin: Yeah, the ballpark.

Mr. Hiranaga: No, no within the project. I think there is a small park in the corner.

Ms. Martin: I think it's a small parcel that could not be used or is an odd size and I don't know the details of the actual planning on that one. It came towards the end of my term.

Mr. Hiranaga: I guess my point is hopefully the DHHL will look at providing park land because they basically created this situation by being exempt from having to provide park land.

Ms. Martin: Yes.

Mr. Hiranaga: But I understand there is – it is a difficult balance because every time, the more park area you provide, the less lots they'll be able to provide for the homesteaders. So –

Ms. Martin: Yeah, DHHL is trying to fulfill its requirement of providing homes for its beneficiaries and history is well known about the lengthy list and getting people into their homes. They are challenged with building communities and not just homes and I think the commission today is taking that fairly seriously.

Mr. Starr: Commissioner U'u.

Mr. U'u: You know somebody brought up the parks fee. What is the parks fee in Lahaina?

Ms. Martin: I will let Parks staff, Pat Matsui, I'll let our division head respond to that.

Mr. Matsui: The parks fee right now is based on roughly 500 square feet per lot. So you can give that land which is supposed to be improved, graded grassed or you can give the equivalent cash value of it. For Lahaina I believe it's about \$26,000 per lot.

Mr. U'u: And that happens after the fourth dwelling or third or fourth before it's –

Mr. Matsui: Right, if the development exceeds three or more then that's triggered.

Mr. U'u: So from the forth house on you pay either or give either?

Mr. Matsui: Right. So it's something that the Parks Department determines whether we want cash or we want land. For your information for about a hundred lots, you're talking 50,000 square feet, that's about an acre. So if you're talking 350 lots, that's about four acres.

Mr. U'u: Next question. The funding for the parks, does it stay within parks in that region or does it spread out over the entire County or does it stay within Parks?

Mr. Matsui: It's a park assessment fund. It stays within the community plan area. So the West Maui collections stay in West Maui.

Mr. U'u: Thank you.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: I have a couple of questions actually for Mahina. And this is more basically because of your background with the Hawaiian Homelands Commission. When I look at the subdivision that was done for Phase 1, to me it doesn't represent good planning from the standpoint of laying out a subdivision. Let me point it out.

Ms. Martin: Sure.

Mr. Hedani: When you look at this subdivision it's a typical old-fashioned subdivision. It's what Andres Duany would call a dead worm subdivision. The size of the roadways within the subdivision, this particular roadway serves only 11 lots or 12 lots in this case but if you look at the scope of the roadway itself and it compare the width of this road with the width of the adjoining older subdivision, you'll see that the subdivision is designed for cars more than people. And if you took the aggregate amount of roadways that you have in the entire subdivision, the amount of land that you've lost just to accommodate the motor vehicles would more than make up for having a pocket park within the subdivision itself. So from the standpoint of trying to create livable communities for the Hawaiian Homelands people I think they need to work with people that are at the cutting edge of sustainable communities and we have a lot of them, you know, that are within the community that can help them to avoid conflicts like we're seeing right now. That's the only point I wanted to make.

Ms. Martin: Commissioner Hedani, I want to thank you and I will certainly pass it onto the Department of Hawaiian Homelands who has a Long Range Planning and Community Building Division. They are, you know, involved with a number of homesteads across the State of Hawaii. Maui was one of the most accelerated areas for about four, five years and as you may be familiar the Villages of Leialii originally were under the purview of HCDCH when it was called HCDCH and that land stopped any future work on it while the ceded lands issue was being debated in our courts. So out of that came an agreement between DHHL and then HCDCH who are known today as HHFDA, all these acronyms. So I will certainly pass that on including to the Maui commissioner to make sure that on the commission level that that concern from a member of the Maui Planning Commission is made very obvious and I appreciate that. I do.

Mr. Starr: I have a question relating to that map that went just back to you.

Ms. Martin: Sure.

Mr. Starr: It shows, I don't really know what the prominence of that is, but it shows 92 acres above the tennis courts as being not in the project and the project is huge and the project includes 43 acres of parks. Do you have any clue what the 93 acres is? Is that actually Phase 2B or is Phase 2B up above?

Ms. Martin: Well you know, Chairman Starr I'm not really sure. I, myself, am going to the meeting on the Wednesday night. This document is part of the public notice put out by HHFDA. So their planners have put together this concept and they're pitching it out there and wanting the community to speak to it. So I can't actually venture a guess on what they intend myself so.

Mr. Starr: Okay, thank you. Lets continue with the issue at hand which is the filing for a request for intervention and we'll call up the counsel for respondent, County of Maui, Mary Blaine Johnston.

Ms. Martin: Thank you.

Ms. Mary Blaine-Johnston: Thank you. Mary Blaine-Johnston, Deputy Corporation Counsel representing the Director of Parks, Tamara Horcajo. I was asked by the Parks Department to take a look just at the legal aspect of this petition to intervene because the first issue the commissioner's got to decide is whether they're going to permit the Villages of Leialii to intervene. I prepared a memo setting out what I believe is a correct interpretation of the law as to what the commission, how they should act on the petition to intervene.

First of all, what I tried to point out in the memo was that this particular petition, these particular petitioners don't have a right to intervene, so the commission is not forced to let them become a part of this proceeding, become a party as it were to whether or not the SMA permit should be granted and that's really what's before the commission.

So the second aspect is whether or not there is anything that can be accomplished by these petitioner to intervention that they can't accomplish by participating as they have as members of the public in offering their testimony.

My conclusion was that under the planning commission's rules that you do not have to permit them to intervene and in fact that you should not permit to intervene because intervention which is basically coming into litigate issues and these are the SMA issues. These are not issues of whether this should be a children's park or a tennis park but there the issues of drainage, and all the protections that I have provided both as a exhibit, the objectives of the Coastal Zone Management Act and within the body of my memo, the policies that need to be considered.

None of those issues are being challenged by the petitioner. In fact, today for the first time I heard Ms. Ross say that they're no longer taking the position that it's either a park or a tennis court. That they're okay with having the tennis courts but now they want to add a park to part of that project instead of replacing it. So this a real shift in their position that I think that has come about as a result of the dialogue that they're presenting the petition initiated.

The project is ready to be for construction to start. My understanding is that the bids for the construction of the tennis courts and the other improvements have already been received. It's just a matter of the commission approving the SMA permit and the project as planned, as approved by the County Council can proceed immediately. What I hear today from the representations that have been made is that there are now additional efforts outside this approved project which I don't believe that the commission can alter. You can say you have the permit or you don't have the permit, but as far as the commission adding something new to it it's going to have to go through a

different process.

So I believe that through the Mayor's Office and through the dialogue I know that members from the Corp. Counsel Office have met with association members to discuss what can be done. It seems like there's a real agreed to effort to try to see what can be accommodated to address the needs of having maybe a children's playground. As I pointed out in the department's memo in opposition to the petition to intervene, there's nothing to mediate. There is nothing to arbitrate. There's no decision to be made especially since now the petitioners are not saying they want to replace the whole project with the new project. They're willing now to look at, bring addition to this project going through a different venue.

So as from a legal standpoint, I believe, while the commission has the discretion to grant or not grant the petition to intervene, for the reason I point out that in this case, the intervention is going to delay the tennis project for who knows how long that it's going to broaden the scope of this proceeding way past just the consideration of the SMA considerations granting the permit. And these are basis under the planning commission's rules for not granting a petition to intervene. I think in this case that, we're looking at a win-win situation that the tennis project can go forward. In the meantime, the other issues can be addressed in a different procedure. Someday it may end up back in front of you but for right now – anyway, that's my legal advice to the Parks Department on the petition to intervene and I'm happy to answer any questions that.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I read your package very carefully at home and I was trying to think it through and you dealt with kanaka maole not having a special interest in this. But I didn't see anything about the issue of this being built on Hawaiian Homelands. Would that affect your analysis at all?

Ms. Johnston: No, it really doesn't because if there's an issue there and I didn't want to get into this in my memo because I didn't know how far the commission was going to go with this. If there's an issue as to how the Hawaiian Homelands is being used, that is not an issue for the planning commission. The research I did into it I think if they disagree with what the DHHL was doing, they would have to actually petition the Hawaiian Homes Commission for resolution on that and I can't say definitively that that's what the law is but that is not within your ...(inaudible)... of having to deal with. If they are unhappy with the deal that Hawaiian Homelands has made with the Parks Department, this is not the venue for them to raise that issue. They do have another venue they can raise it.

Mr. Mardfin: But it doesn't change their issue of standing in this?

Ms. Johnston: No, I don't believe. As I pointed out I don't think just because they are Hawaiian doesn't give them a different interest in the general public in this particular instance and again, that is not an SMA issue. I mean, that's not really what's on your plate here to deal with. It's the other considerations which they haven't challenged at all I might add in their petition. I don't know if that answers your question, but–

Mr. Mardfin: I think so.

Mr. Starr: Okay, Commissioner Hedani.

Mr. Hedani: From a legal perspective, what consideration was paid to the Hawaiian Homelands Commission for the property that's being encumbered by the improvements?

Ms. Johnston: I don't have the details of that so I really can't answer. I think Mr. Matsui detailed as much as my understanding that there was an agreement made. I don't know what the monetary agreements are. I do know that there was a consideration you know, of giving.

Mr. Hedani: Could Pat answer that question?

Ms. Johnston: Yes.

Mr. Starr: Mr. Matsui please.

Mr. Hedani: Was Hawaiian Homelands compensated for the land that was licensed?

Mr. Matsui: No, it was very nominal.

Mr. Starr: Commissioner Guard.

Mr. Guard: This is another question for Pat. That was the trade for the land to open up the roadway though correct?

Mr. Matsui: It was a license that the board granted to the County. And part of the license had certain conditions that we agreed on and part of it was allowing them to build a road, removing the sign, putting up fencing.

Mr. Starr: Okay, thank you Mr. Matsui. Is that it Ms. Johnston? And I just want to clarify that Ms. Johnston is a part of Corp. Counsel representing the Parks Department as the respondent. We have also with us our own counsel, James Giroux, who represents us and is not at this time in any way affiliated with Ms. Johnston. So if we have questions, you know, regarding a process we can feel free to ask Mr. Giroux and understand that he's here representing us and the force of law.

Ms. Johnston: That's correct.

Mr. Starr: Okay, thank you. Okay, Commissioner Mardfin, please.

Mr. Mardfin: Mr. Chairman, is there anybody here from the Villages of Leialii that want to respond to the analysis by Corp. Counsel.

Mr. Starr: Yeah, I was just going to go back to Mr. Ross and you know, she has anyone else as part of her team they would be welcome as well. But if there is any questions first from the commission I would take them. Seeing none, Ms. Ross, please come and it's your opportunity and if you want to call anyone that would be acceptable as well.

Ms. Ross: Thank you for the opportunity to respond to the things that have been said. Most importantly I wanted to state that we are responding to the SMA permit Item No. 7 in the Objectives of the special management area are set out in the Hawaii Revised Statutes in the areas as follows and that's what I referred to in my letter is that Item No. 7 is what we are basing our intervention on as we have come to understand this process better. And that was to improve the development review process and communication and public participation in the management of coastal resources. And the basis again was that we were not yet known to be in those homes. We were in the selection process when these developments were being discussed. However, the development was under construction and was it was known to the County and the people of Lahaina that this was a community coming. And I think it would have been prudent for the Council and the County to say, you know, these homes are going to abut this area and we should wait to see what these homeowners have to say about this development and give them a chance to participate in this process.

And then I just wanted to bring attention to the big empty space in the corner which is where we propose for the playgrounds to be built and a temporary trailer would house an office and a temporary youth center facility. Would you like me to point out the location on the map?

Mr. Mardfin: I would like to see where you're talking about.

Mr. Starr: Jim, could you give her the mike?

Ms. Ross: Okay, this is the line with the Department of Hawaiian Homeland property and then this is the tennis court edge, the existing with the fence and this area here is all open space. No plan, it's not in the plan at all. This dotted line is where the plan ends. And it's right across the street from the cul de sac. There's a sidewalk here they can walk through the mailbox areas down the road. This end is closed. There is no traffic. It's a four-lane. Two lanes are closed until the bypass is developed. This community will be having access to this playground once it gets developed and we anticipate that another playground will be built eventually here for the use of this community. But again, that is at least three to five years down the road and we will work expeditiously with the County if granted and we do have funds available to help with the implementation of these plans.

Right here is the crosswalk and this 200 to 300 feet here, 200 feet here. There is a steep drop here but with our technology we can make a retaining wall and build that up. And drainage can be modified to accommodate the needs of a playground here I'm confident.

Mr. Starr: Members any other questions? Commissioner Hiranaga.

Mr. Hiranaga: You can return to the podium. The County has represented that negotiations are ongoing and they're hopeful that there'll be a mutual resolution. So I'm curious why you are still moving forward with your intervention request. Or do you disagree with the County's representations that negotiations are being productive?

Ms. Ross: I believe negotiations are productive, it's time is the essence. I, as was stated three years is maybe – I'm not confident with the time projections of three years. Land acquisition still has to happen. Drafts for any changes of Department of Hawaiian Homelands portion have to be

changed and development needs to begin. The development was supposed to be done. There are many obstacles blocking the development at this time. It isn't going to happen in the foreseeable future on Phase 1B. And so this is the most logical, expeditious way to get this done with – and it will be cheaper for Parks and DHHL and us to amend this plan rather than to develop a whole new plan and have to go through a whole new process of legislation in developing a new plan for a park. It's much more feasible in our position to do it this way.

Mr. Starr: Dr. Iaconetti.

Mr. Iaconetti: I don't quite understand how the intervention is going to bring about the park any faster. If you go ahead with the intervention is that going to promote your park faster?

Ms. Ross: With mediation, I believe so, yes. With the suggestion of mediation and a court officer it will happen much faster. Which is something we knew had an option of. You know, we hope to negotiate quickly but with a mediator and a court officer it will happen much quicker.

Mr. Starr: Commissioner Guard.

Mr. Guard: Thank you. It seems like it's two different areas of the Civic Center. So I'm wondering, I would think the County as the entity that owns this property would have to go all the way back to Phase 1 to redesign around the existing tennis courts to the south. So I would think that if the four new courts on the interior were built and maybe work with them to resurface the existing courts to more of a multipurpose type, like basketball court or something, maybe that would be better for the kids that are now going to be if they're three or four now, they're going to be 10 by the time anything got built at that existing area. Because they're still going to have to go back to plans. Still gotta go look for new budget money. I just – I think by killing one project to go south towards the homeowners, we're going to end up with less courts and starting all over right now for a few more years. If this started in 2005. I mean, I see some of the names on the board. I know a lot of these people and I've seen these kids grow up from people having one baby to now two or three, that these kids are getting older fast and to take it back two or three, four more years, they might be tennis players instead of toddlers.

Ms. Ross: Well, we don't anticipate killing anything in order to build playgrounds and I don't think that the Tennis Court Association would like to convert them into basketball courts although Leialii would sure like to convert them to basketball courts. I think although those toddlers will be older, there will be new toddlers who will need a playground and again, this is a faster, cheaper route to getting a playground built. It will delay the tennis courts slightly but it will come out to a win-win-win situation in the long run if they're willing to wait a little while, while we get our playground built.

Mr. Starr: Okay, thank you. You're finished with the presentation? You have anything to wrap up?

Ms. Ross: Believe so.

Mr. Starr: Okay.

Ms. Ross: I just want to bring to your attention that Act 302 that was brought in for your

convenience and where it states that it is our responsibility to act in the best interest of the beneficiaries on Department of Hawaiian Homelands lands and that's what gives us jurisdiction to submit a, in my understanding, an intervention, petition to intervene on behalf of the beneficiaries. Thank you very much.

Mr. Starr: That you Ms. Ross. We're going to take a 10-minute recess until 25 of.

A recess was called at 10:27, and the meeting was reconvened at 10:36 a.m.

Mr. Starr: Okay, we're going back to our first item on our agenda and we'll be calling for Mary Blaine Johnston and/or Director Horcajo to give their summation in response before we take up – Please go ahead Ms. Horcajo.

Ms. Horcajo: Thank you very much Chairman Starr. I believe on behalf of the Department of Parks and Recreation, I believe we've come a long way today. I believe that at least the intervenor is considering the option to withdraw or at least if we can look at moving forward together in a positive way that that would be of benefit to our whole community. We would very much like to see this project move forward. It has been a long project, a long haul in coming. We are worried about the funds that have been committed and know that by slowing it down it will jeopardize part of this project so we're very concerned. We do however, want to give commitment to the Village of Leialii and their homeowners that we will work with them to plan an area for their children to grow up and play as well.

Mr. Starr: Okay, thank you. I think everyone wants to see, you know, that type of recreational facilities that they need for their families and you know, also to see this project go forward. So if there's an amicable way that's always best. I think everyone's on the same side on this one.

Ms. Horcajo: I do too. I think there is a win-win in here. Thank you.

Mr. Starr: Okay, I'll now call on Ms. Ross to sum up and state your final position here.

Ms. Ross: I'm really grateful for this opportunity. We've learned so much through this process and we're really grateful to have this opportunity. I believe that our objectives of looking out for the best interest of our beneficiaries have been met. We have spoken up and we've been heard. I'm really grateful to see the great representation by the County, Department of Parks and Recreation here today. It shows that they take this matter very seriously. We've heard here today many efforts to assist our community in building a park quickly, expeditiously, close by and I believe that in the sincerity of all of those comments and shared stakes. Nobody wants to go to court and I've learned that this petition to intervene is a very serious matter. We really are learning what it means and the depths of it. Again, seeing that our objective of being heard, being helped has been met. I will make the call on behalf of our board of directors to withdraw our petition to intervene. I would like to ask it be on the condition that we continue to dialogue expeditiously to get this playground built, dialogue between DHHL and the Department of Parks and Recreation. So would ask for that commitment from Tamara and Mahina before I withdraw my petition if possible.

Mr. Starr: Can I ask Ms. Horcajo and Ms. Martin to address the body in this regard?

Ms. Horcajo: Thank you Jessica. I know this was a tough one. Our department will be committed and we'll work together with them to find some solutions and find a location that would be appropriate for a playground in the best interest of the families of Leialii.

Ms. Martin: I can honestly say Kailani you can take this to your board and for the commissioners here and Chairman, the Mayor and her administration is committed to advocating in conjunction with the Villages of Leialii homesteaders to seek the park land that they need and want from DHHL and personally I would, and I've said this to them previously, help to lobby the commissioners as one of their own, ..(inaudible)... to move that forward as fast they can.

Ms. Ross: Mahalo. Mahalo and everybody for your time. I don't think it was in waste. So we withdraw our petition to intervene and thank you for hearing.

Mr. Starr: Thank you. I'd like to state I'm going to call on Commissioner Guard in second and the other commissioners. Two things. One is that I think everyone in this room shares the belief that it's imperative that the community and the County and Hawaiian Homes and everyone work together to create a safe playground and exercise facilities for all the youth and all the people in that community. And that you're to be commended for working hard. I know it's scary to come out, you know, into the County process and before bodies like this and stand up for what you believe. You're to be very heartily commended for doing the right thing and being very strong and brave and leading to a solution.

Ms. Ross: It's the children who give us courage, yeah, to come out and do this. Thank you.

Mr. Starr: Commissioner Guard.

Mr. Guard: I wanted to say thank you for coming up here as well. A lot of the members in there I know they keep on talking and wanting their voices heard and over the years they felt like nothing's happened, nothing's happened. So I hope this is small victory for a lot of those families in there that we're willing to work together because a lot of the people that I talk to just feel like their voices go unheard all the time. So thank you for keeping up the fight.

Ms. Ross: Mahalo.

Mr. Starr: Okay, Members? Okay, thank you. Mr. Giroux is there anything else we need to do on this?

Mr. Giroux: You can go forward with the SMA hearing.

Mr. Starr: Okay, so we're moving onto the SMA hearing since this first item has been withdrawn. With that in mind, I turn it over to our able Director Jeffrey Hunt to introduce the next item.

Mr. Hunt: Your next item involves Ms. Tamara Horcajo, Director of the County Department of Parks and Recreation requesting a Special Management Area Use Permit for the Lahaina Civic Center Tennis Courts expansion project consisting of the addition of four new tennis courts, a 25-stall paved parking lot and related improvements at TMK: 4-5-021:portion of 010, portion of 016, and

portion of 020 in Lahaina. The file number is SM1 2008/0015 and Jim Buika is the planner who is substituting to Livit Callentine who is the staff planner assigned to this project.

2. MS. TAMARA HORCAJO, Director of the COUNTY DEPARTMENT OF PARKS AND RECREATION requesting a Special Management Area Use Permit for the Lahaina Civic Center Tennis Courts Expansion Project consisting of the addition of four (4) new tennis courts, a 25-stall paved parking lot, and related improvements at TMK: 4-5-021: portion of 010, portion of 016, and portion of 020, Lahaina, Island of Maui. (SM1 2008/0015) (L. Callentine) (Public hearing conducted on November 10, 2008.)

Mr. Jim Buika: Good morning Chairman, Commissioners, Jim Buika with the Planning Department. We have options to proceed here. We have presented the project on the SMA use permit on November 10th. We are prepared to do a very short power point presentation if it's the desire of the Chair. We do have Parks here. We have our consultants to answer any questions you have not asked questions about the SMA use permit or have deliberated on it. So this is, I think is your opportunity here so how would like to proceed?

Mr. Starr: At this point I'd like to poll the body whether we need a power point presentation or we can move onto questions? Members? What I'm seeing is it looks like consensus is we'd like to just move onto – Oh, Commissioner Hiranaga.

Mr. Hiranaga: I think in order to limit the number of questions that I ask it might be important to have a power point presentation.

Mr. Starr: Okay, can we get the Cliffs Notes version of the power point?

Mr. Buika: Sure. Munekiyo and Hiranaga represented – Kim Skogg is going to do the – or Mike Munekiyo will do the presentation.

Mr. Mike Munekiyo: Good morning Mr. Chair, Members of the Commission, my name is Mike Munekiyo. I'll briefly go through the project description just to I think refresh the commissioner's memory. Again, just project location. Next slide. This is a more detailed location map showing the various tax parcels involved, again Lahaina Civic Center. The dark outline there is the location of the map and here is more detailed, you can go back to that next slide Kim. This is the more detailed project limits slide. Again, these are the existing tennis courts and we talked about this area being the project limits approximately two acres in size. Next slide. A little bit more detail here. We do have a grading plan that was prepared by our civil engineer that takes care of newly generated runoff created as a result of the project. There is a retaining wall to be constructed here because as was mentioned in the previous discussion there is a steep drop here. So a retaining wall is part of the action. Again, here are the four new courts, one, two, three, four, 25-stall parking lot right here.

This is the landscape plan which was reviewed by the Urban Design Review Board. Again, this area of the tennis court action is currently grassed. We are occupying existing grass area. Again,

there'll be landscaping provided within the parking area along the perimeter just to give the natural transition to the surrounding areas. I think that's it. Anything else?, oh, let me just go through a real quick photos. Again, as I mentioned it is a grass area that is going to be occupied by the new courts and parking lot. Next slide. Same here. This is where the parking lot is going to be located. Here is that steep grade that I spoke about, retaining wall will follow this area roughly. Next slide, again this is the entry point to the parking area. This is part of the grassed area. I think there's one more slide and this is the actual access road that leads to the new court area. This is one of the existing tennis courts here. In the background here, is the Villages of Leialii Subdivision and Leialii Parkway right in this location here. I think that pretty much sums it up Mr. Chair.

Mr. Starr: Okay, thank you for that excellent brief presentation. Members, questions? Commissioner Mardfin.

Mr. Mardfin: I have a couple of quick ones. Are these parks going – when these are constructed would be that be sufficient to sustain tournaments? Will the number of courts be sufficient to have tournaments?

Mr. Munekiyo: I believe they are. Mr. Matsui has nodded in agreement that they would be.

Mr. Mardfin: And I saw a person from the tennis association nod also. Second question, these are open to the public I take it because –

Mr. Munekiyo: That's correct.

Mr. Mardfin: At no charge?

Mr. Munekiyo At no charge.

Mr. Mardfin: Parking fees?

Mr. Munekiyo: No parking fees.

Mr. Mardfin: This is probably already known, but how do you determine who gets on the court at what time? Are there reservations taken or first come first served, time limits?

Mr. Starr: Can I call Ms. Horcajo.

Ms. Horcajo: Thank you. You'll have to play tennis then you'll know. Basically for the most part it's first come first serve. We do have some admin rules that if you want to permit courts such as the high school or tennis associations, if there's for example four or more courts, you're only allowed to permit of those courts, the rest need to remain open. But there is a permit process allowed.

Mr. Mardfin: So I if there are eight, I guess you're going from four to eight there?

Ms. Horcajo: That's correct, from four to eight courts.

Mr. Mardfin: They could reserve two?

Ms. Horcajo: They could reserve three is I believe. That's three courts and the rest would remain open. I will have to review my admin rules.

Mr. Mardfin: What if there were a tournament that they wanted to schedule? Could they get all eight for a day tournament?

Ms. Horcajo: How the process works is they can only permit what is allotted by our admin rules, and I believe that it's under half. The rest remain open. If there's no people there to play, you know, they are allowed get on as members of the public. If public start waiting then they must end at the end of a set.

Mr. Mardfin: Thank you very much.

Mr. Starr: Members? Commissioner Hiranaga.

Mr. Hiranaga: At a previous hearing individual from the community came by and kind of made comment about the noise created by the tennis courts and also the lights at night. I'm just wondering, are there timers on these lights?

Mr. Munekiyo: There are timers and I think that piece information was relayed to the Parks Department. I believe Parks Department has addressed the lighting issue.

Mr. Hiranaga: And is there a cutoff like 9:00 p.m. or 10:00 p.m. that the lights no longer function?

Mr. Munekiyo: 10:00 p.m. is the cutoff time.

Mr. Hiranaga: I guess one more question. Could you explain the drainage plan? I was looking at, I guess it's page 26 or I guess in the preliminary drainage plan, I'm trying to understand what's going to be contained.

Mr. Munekiyo: I'll ask our civil engineer, Mr. Fukumoto to respond.

Mr. Starr: Come on up Ron, introduce yourself.

Mr. Ron Fukumoto: My name is Ron Fukumoto. We're the civil engineer and consultant. As far as the drainage plan is concerned, what we're doing is, it's kind of a two-part system. The first part captures offsite flows that head down into the site. So we have ditch here. There are inlets in that ditch which will route the flows past the site and into a ditch here which eventually close out under Honoapiilani Highway to a 48-inch culvert and it discharges at this point. So we're taking the offsite flows that already come through the site and bypassing the tennis courts.

For the tennis court area and including the parking lot, we have inlets at various locations which will pick up the flows and because of the hard surfaces you're going to have increase in flows. So we're directing all of those flows into a buried detention/retention basin system. So that consists

of five-foot diameter perforated aluminum pipes and they're buried in a gravel bed which will allow percolation into the ground and that will take care all of the increase due to the project.

And there is an overflow point that will tie into the drain line that takes the offsite flows past the site.

Mr. Hiranaga: I have a question. Where is the post development surface runoff from the existing four tennis courts go?

Mr. Fukumoto: The existing tennis courts has really a separate system. There are some inlets within the courts and those flows are collected and they're directed towards actually the south and there's a ditch that runs here that eventually drains out to these culverts. These culverts are three, 48-inch diameter culverts. So essentially we're not touching what's happening to the existing system, we're just allowing it to I guess function at it currently functions now.

Mr. Hiranaga: Is there any way to incorporate the proposed new drainage system so that it will capture the existing runoff off of the existing five tennis courts in order to prevent surface runoff from entering the ocean? Which means basically, can you increase the drainage capacity, retention capacity so that the existing five courts surface, post development surface runoff does not enter the ocean?

Mr. Fukumoto: There is a way to do it. However, because it was an existing condition, we felt that we could leave it in place. We're also not directed to try to address existing conditions. It's possible to do it and use a similar type of system where we could use a detention/retention buried pipe system as well. There's also a cost issue as far as the overall project budget that we're – cost is quite high right now and we were trying to fit it in into the overall budgeted funds.

Mr. Starr: Director.

Mr. Hunt: In community planning there's a trend to push towards pervious surfaces as opposed to impervious. Is that even feasible, the tennis court, given the paints and all that? Or is there industrial innovations in this regard?

Mr. Fukumoto: We're not aware of pervious surfaces for tennis courts. I guess there are grass courts that can be put in place. That's a different type of tennis surface. What we have is the standard tennis courts that you see throughout Maui.

Mr. Starr: I want to weigh in on this and you know, I'm really glad that this item is being discussed. You know, I also understand this project is pretty much shovel ready. I for one would not like to send it back to the drawing boards, but I'm hoping that we can get an acknowledgment from the County and from Parks and also from the engineering folks who are in the room that in the next generation of projects that greater attempt is made to try to capture existing flows and to use pervious surfaces. I visited a tennis facility in Nevada at the Planning Conference where there was a lot of pervious surfaces, not in the court but surrounding areas where you know, every bit was retained because once it's planted out and there are chemicals used in the grass we don't want that getting in our shorelines. So is that something we can look forward to in the future from Parks and the administration? Ms. Horcajo and also I'll ask Ms. Martin if this is a direction we can look that

we'll be going. Not on this one but on the –

Ms. Horcajo: Correct. And I believe that the consultants more and more as our county is learning and getting more information that we indeed try to be as green as possible.

Mr. Starr: Ms Martin. I know that the Mayor is very much in favor of this.

Ms. Martin: Yes, I was going to articulate that, that the Mayor as you know, has consistently embraced any options that make for green work and green projects. So we will defer to the planning of every department including Parks and Recreation and their consultants in their design and engineering work. But certainly that would be of interest.

Mr. Starr: Okay good. Commissioner Hiranaga.

Mr. Hiranaga: Just a follow up comment from the Planning Director. Is there any possibility at looking at pervious surfaces for the parking lot, the additional 25 stalls?

Mr. Hunt: I believe this commission has explored that in other projects. You might want to talk to the Parks Director about possible impacts to the project on that.

Mr. Starr: Ms. Horcajo.

Mr. Hiranaga: I guess the question is would you consider looking at possibly providing pervious surfaces for the proposed 25 parking stalls because the Planning Director talked about the tennis courts, how about the parking stalls?

Ms. Horcajo: I would need to defer to our Planning and Development Chief in terms of what kind of materials would be appropriate for the project.

Mr. Hiranaga: I guess the question is, will you take a look at it? I'm not asking you to do it.

Ms. Horcajo: Right. We would definitely take a look at any products that would be available to us. I, for one, am not aware of these products, but I believe that's something that our county is moving towards.

Mr. Starr: Okay, I have a question of the applicant which is whether they would be willing to accept a condition to use best efforts to help the community to create a recreation facilities as expeditiously as possible, and if so, will they work with staff to craft something in that area? Good, would not be harmful.

Mr. Munekiyo: I'm sure that would be something that's very workable. It's just a matter of coming up with the language that can be addressed from a compliance report and standpoint that we can work with staff to come with language with a few minutes collaboration.

Mr. Starr: Okay, Dr. Iaconetti.

Mr. Iaconetti: Are there any plans to have the bus service stop any where near this?

Ms. Horcajo: The Maui County bus system currently does stop at Lahaina Civic Center and we do have a bus area there.

Mr. Iaconetti: Thank you.

Mr. Starr: Okay, members? Commissioner Mardfin.

Mr. Mardfin: Since you raised a condition I'd like to see if the department saw a great deal of aloha from Villages of Leialii and I tend not to hear what happens down the road. I don't think you'll come before us again, but could we have a condition that ...(inaudible - changing of tape)... a couple of months you'd send us a, just a one-page memo on how the negotiations are going on getting a recreational park for the Villages.

Ms. Horcajo: Parks Department would be happy to provide that information.

Mr. Mardfin: I would really appreciate that, thank you.

Mr. Starr: So you'll work wording to that effect with the staff?

Mr. Munekiyo: If we could have a few minutes Mr. Chair?

Mr. Starr: Yeah. Okay, Members? In that case, we'll move along to public testimony. Any members of the public wishing to give testimony please make yourself known. Please come forward. Actually you testified before, so if you have something new to add, I'll give you a minute.

Ms. Elaine Gallant: I do, I want to say thank you, to everyone and everyone.

Mr. Starr: Anyone else?

The following testimony was received at the beginning of the meeting:

Ms. Chris Scharein: Good morning my name is Chris Scharein and Scharein is a good pronunciation too. So no problem there. I'm here to testify today for the planned expansion of four additional courts at the Lahaina Civic Center. I've been playing tennis for nine years and have become an advocate for playing tennis along with saving our courts here on Maui. And in the past four years I've seen too many changes that are going to have a dramatic impact on our sport in our communities specifically on the west side. I can think of at least 30 tennis courts on the west side that have been removed or slated for removal based on the resort SMAs already approved by the Maui Planning Commission. I've listed a few of them.

5 courts at the Marriott have already been removed.

11 courts at Royal Lahaina slated for removal.

2 at the Whalers.

3 courts at the Hyatt.

8 courts at the Ritz Carlton Village which are really unplayable.

The overall loss of these tennis courts after 40 years of having resort support is huge. Local players of all ages and skill levels have been given access to these courts and once they are gone, more players will have to move to the public courts. In addition, at the history Front Street, "Shigesh" Wakita courts, these four courts are eventually slated for removal based on Mokuula's preservation plans for the area.

That means that the Lahaina Tennis Club run by Mac Pascual along with the Lahainaluna High School tennis teams will have to move their daily afternoon practices, coaching sessions and weekend round robin events to the Lahaina Civic Center courts.

The cumulative social and recreation impact will be long-lasting and our local players along with visitors have a right to be concerned as to where they will play tennis.

Our public records show continued growth on the west side of up to 60,000 additional residences. And according to the Maui County Data Book with a population of Maui at a 182,000 and average daily visitors of over 48,000 we need to ensure that our recreational facilities stay in line with that growth.

The Save our Courts campaign has worked for the past 3.5 years to get the expansion of four additional courts at the Lahaina Civic Center in place. For me and all the others who have pulled together facts, testified at budget meetings, county council sessions and at the Maui Planning Commission we hope that our efforts will not go unrecognized and that the expansion of the Lahaina Civic Center courts be approved.

In closing I'd like to invite everyone here to come out to the courts and enjoy the game with us. Whether your interest in tennis is for leagues, tournaments, lessons or tiny tot tennis or tennis block parties, you know, come out to the courts. This is an investment in our community's future and for the love of tennis. It's a sport for a life time. Thank you.

Mr. Starr: Okay, members any questions? Okay, thank you very much for your testimony. Next will be Jane Sakakihara followed by Steve Sutrov.

Ms. Jane Sakakihara: Morning my name is Jane Sakakihara and I am here to testify on the need for more tennis courts at the Lahaina Civic Center as well. Thirty-one years ago my husband Herbert introduced me to the sport and I just fell in love with it so much so that when our only daughter Lori was seven years old we got her started in the game and through with her growth with the Junior Tennis Club and the highschool tennis team she joined the University of Hilo Vulcans with a tennis scholarship and today in California she now coaches her high school's boys and girls varsity teams.

Maui has nurtured many tennis greats, but the Lahaina Tennis Club has produced a great number of world class players like Ryan Ideta, the Oda brothers, many of you know Kula and Malino, who now coach the Hilo Vulcans boys and girls teams there. Jean Okada who qualified once for the opening rounds of the U.S. Open. The Felicilda twins, Kathy and Karen, who played for the

University of Hawaii and Kathy right now in Maui here heads the Quick Start program for little children. Michael Burger, who is currently an assistant coach at the University of Hawaii and Macario Pascual who coaches the Lahainaluna High School team at the current Shigeku Wakita Courts which if we lose we'll have only the Lahaina Civic Center courts to use.

Our current MIL, that's the Maui Interscholastic Tennis League utilizes the Lahaina Civic Center courts for three months out of the year but our local league USTA, adult league tennis utilizes these courts all year round. League tennis in Maui started a few year before I became involved which is about 30 years ago. I joined the adult league team back then for a few years before I became a league coordinator. Back then we had only two leagues, the USTA Adult League and a Local Team Tennis League. There were 17 total teams spanning those two leagues. Today, we have 139 adult league teams in six different leagues throughout the year and we're adding yet another league this year in 2009. Understand though that these 139 leagues teams of close to 1,800 players do not all play at the same time. The leagues accommodate different age groups and one of our leagues is even for players aged 60 years and over like me.

With the loss of our resort courts on the west side coupled with the many new homes built and to be built we sorely need more courts at the Lahaina Civic Center to accommodate the growing populous of moms and dads, aunts and uncles, brother, sisters, grandpas and grandmas.

Tennis is a sport of a lift time and at 64 years of age I assure you I would not be as fit today as if it were not for the sport. Tennis can change lives and build futures. Tennis can provide a college education, a tennis profession and community connectedness. Tennis teaches people how to work as a team and I'd like to invite all the homeowners of the west side to come and join me and play this sport for a lifetime. Thanks.

Mr. Starr: Okay, thank you. Members, questions? Seeing none, thank you very much for your testimony. Steve Sutrov followed by Richard Stone, and please excuse me if I mispronounce anyone's name.

Mr. Steve Sutrov: Did mine fine. Good morning, my name is Steve Sutrov. I'm speaking for myself today also I'm the Director of the Kula Tennis Club and I've been working with the tennis community on Maui for 10 years right now. I have a personal thing I want to share with everyone. I've been work for more courts in Kula for 10 years. I started with a petition up there and to get it where it's at today which we had two current courts and we're masterplanning it for four more courts eventually. We have two more in process right now which should be completed soon. The work that went into that was extensive as far as networking and going many meeting for the budget with the Mayor and the Council and selling tennis to them how good it can be for not only upcountry community but how it works for the entire islandwide community as far as a healthy recreational option.

We asked for six courts originally up there. Okay, I'm sorry. The idea had challenges but it caught on fast when it became obvious what we're asking for was something healthy and good available to everyone. It was for young and old and anyone with any measure of ability and skill. Tennis courts not only just for upcountry players but from anywhere. We get a lot of visitors up there. Families coming in all the time and hitting on the courts. It's a not a league sport. It's for everyone.

It offers good family time, lessons. The County Parks Department can sponsor lessons. Schools use these courts. Leagues if you have four or more courts you can have leagues. Clinics. I met my wife on a tennis courts. It's great for lovers. You know, and we've been married almost 30 years. Tournaments if the courts – you have enough courts. Great to get together just as with one friend or three other people for a set of doubles.

When I was young in California, I was the last one to be picked on baseball teams and stuff when we used to play in the park and stuff. And so, you know, all I had to do was find one other guy with a tennis racket and we'd go out and hit balls and get a great workout. And from that point on, I saw it being something I wanted to do all my life.

Yeah, it's all possible too, with very limited equipment. It's least amount of equipment than any sport except for maybe frisbee. It's great and if anybody has a problem getting rackets for a group of kids or balls, we have a network within a day or two we could have as many as you wanted donated. I mean, it's amazing. The tennis community here supports it for everyone. It's not just for a select group of people. It's for everyone and we want to make it available to everyone all the time.

There are many citizens that support the LCC public tennis court improvements which I'm supporting right now. We have a petition here, from 2006 to 2007, 12,079 signatures. After one year it was stopped. If we would have continued it on to now, I'm sure we could have doubled that. And I'd like to submit this to the Planning Department. Thank you. Yeah, that was never really turned in. It was accumulated but never turned into the county.

Mr. Starr: Okay, I'll have to ask you to wrap up Steve.

Mr. Sutrov: Okay, I'll wrap it up. Please allow this SMA permit to be approved today so this much needed public park improvement can move into the development stage to benefit us all with additional healthy recreational opportunities island wide. Thank you.

Mr. Starr: Okay, thank you for your testimony. Questions? Okay, thank you. Next testifier will be Richard Stompton followed by Kailani Ross. And the petition we have received that. Thank you. Go ahead Richard.

Mr. Richard Stompton: Thank you very much and thank you very much for allowing me to address this fine group. I'm sorry about my condition. I made a couple guesses where the building was today.

Mr. Starr: Do me a favor, introduce yourself for the record.

Mr. Richard Stompton: My name is Richard Stompton. I've been professionally involved in the tennis industry for over 40 years. During that time I assumed the responsibilities for many different roles including running tennis tours to Europe, being a site producer for World Team Tennis. I've been a director of tennis for world renowned resort and have been director of tennis on the mainland for the Department of Rec department in Southern California.

My resume isn't so important other than how broad reaching the tennis industry is and how important we can see that there are other things involved than just hitting tennis balls. But my passion for tennis is education and bringing tennis to people who ordinarily wouldn't have the chance. I developed a tennis program for the Braille Institute in Los Angeles. I've taught wheelchair athletes, kids with special needs, underprivileged youth and seniors and thousands of average Jane and John Does. I've been a national coach for the State of Hawaii and coach for the men's professional tour and currently along with my other duties that I coach Seabury Hall tennis.

Now most of the court time that I'm mentioning right now was spent on public courts. In fact my first ball hit was on public courts in Southern California. It's very important that we see that this sport, mainstream sport is not just a fife country club set, that we have an opportunity here to see that it is broad reaching and we have to also see that this sport and tennis courts are for all age groups not just children. We have a golden opportunity to make a difference in our community right now. A lasting example of how we care for the well being of our constituents regardless of experience, financial background and ability level. Tennis isn't just a main street support it's a way for a lifetime. And the skills that are developed on court you can use on and off of the court. It brings people together to socialize, to compete and develop life skills that are broad reaching. It's my passion to spread the word, to spread the fun and joy that everybody feels when goals are accomplished. But we need more courts. We need courts to make dreams come true.

I have seen the tennis industry flex for 40 years and the sport has gone from full circle since the golden era in the 1970's until now. There was a shortage then and there's a shortage now in the not too distant future. The shortage is going to be critical.

I want to give you one other piece of advice. The number one critical issue for our youth is not going to be drugs or homelessness it's going to be obesity and it's a generation that is going to possibly not outlive their parents. Tennis gives an opportunity for them all to be able to develop a program that is consistent and it's just not random play. That we have a structure and an opportunity to them about nutrition, good exercise, academic skills along with life skills that they'd be able to use. I urge you to forward the Lahaina Community Center court expansion and I know that it will be legacy that you'll all be proud of. Thank you very much.

Mr. Starr: Okay, thank you very much. Next testifier is Kailani Ross followed by Matthew Erickson. Welcome and please introduce yourself.

Ms. Kailani Ross: Good morning. I'm Kailani Ross. I'm on the agenda. Item No. 1 so I'll defer until my item comes up on the agenda.

Mr. Starr: Okay, yeah, you'll an opportunity to speak then as part of the agenda item. Thank you. Matthew Erickson followed by I believe it's Stanley Namoa. Please introduce yourself.

Mr. Matthew Erickson: Good morning Commissioners. My name is Matthew Erickson, resident of Lahaina. While I agree that the expanded tennis court facilities at Lahaina Civic Center are warranted, seeing the downfall in all of the private and public courts via different developments, I am here to speak in support of the Villages of Leialii's request for intervention. I have friends and family that live in the Villages of Leialii. All of them have younger children. Most of them if the kids

want to go play wind up in the streets and I have on several times witnessed near accidents, children almost getting run over because they're playing out in the streets.

Now the nearest play facilities within the Wahikuli District would be Ainakea Park. It's about two and half blocks away. When I was growing up it wasn't uncommon to be able to walk throughout the neighborhood and be able to safely get to these play facilities but with the way our economy is and with the way of people are now turning their single family homes into multi family homes there's more and more increased traffic in the area thus making it unsafe for the children to be walking from the Leialii community out to Ainakea Park. Outside of that the only other playground facilities is about two, three miles away at the West Maui Recreational Center. And that would require mom or dad to have to drive them down there and then pick them up or utilize the county bus system. I personally wouldn't want to see a four, five-year-old jumping on the bus paying – oh, it's free of charge in Lahaina, getting down there and then coming back.

And so I personally would like to again, speak to the intervention request and hope that you folks are able to grant that. Thank you very much.

Mr. Starr: Okay, thank you very much for coming forward today. Next will be I believe it's Stanley Namoa followed by Elaine Gallant.

Mr. Stanley Namoa: Good morning everybody. My name is Stanley Namoa and I'm a local fitness trainer and massage therapist. I find tennis to be one of best sports that supports a healthy and active lifestyle. And I believe it could help bring go health and positive attitude. As a tennis player, I play local league. Tennis supported by the Maui District Tennis Association. And often invited to play with visitors and hotel guest alike. I play often and concern about closing of the 11 courts out at the Royal Lahaina Tennis Ranch and it's a resort court because some of my clients come from the people I play tennis with. I'm also part of a Tongan Tennis League made of players visiting from New Zealand and ...(inaudible)... We ...(inaudible)... our tournaments around the island of Maui and generally make it full day of it with the entire families, mothers, fathers, brothers and sisters and the children. Everyone love tennis. It's a really family affair. This have been going on for years. From my perspective the closing of the resort courts can only hurt my business and my tennis activities. So I strongly support the application for four new tennis courts at the Lahaina Civic Center and encourage you to approve the SMA for the Park and Recreation. So I hope that the decision that we making is not only just to benefit the small group of people but benefits all the whole communities so my son can drive from Napili and use the civic center and make sure my son have enough courts to play with. Thank you.

Mr. Starr: Okay, thank you very much for coming forward today Stanley. Next will be Elaine Gallant followed by Lisa Darcy.

Ms. Elaine Gallant: Good morning my name is Elaine Gallant and I don't have that much to say today for once and you'd probably be happy to hear that. But I am happy to say that yesterday when I went to the Lahaina Civic Center to play tennis, I actually had to wait for a court. All five courts were in use and I had to wait. And I'm going wow, this is pretty good. It's also pretty bad, but I had to wait. Got in to play and that was great.

I think the tennis community has shown clearly and outlined its needs. So we encourage you to support the permit in building those courts. In one sense it's kind of a wash. There are 11 public courts on the west side. Two in Napili, five at Lahaina Civic Center, four at Front Street. Those four at Front Street are slated for removal as we know at some point in time either next year, 10 years, somewhere in between. We know they're going to go and they're going for a good reason. Shaw Street floods period. Okay, so it needs to be reverted back to the archaeological site that it was and the historic value that it provided.

Building four courts at the Lahaina Civic Center takes us back to 11 courts on the west side. That doesn't address the additional population growth or the closing of the courts, it just simply takes the number back to zero. Okay, as far as public courts go. So if I can add that as an additional reason why I hope you will take that into consideration because we're talking years to get something done, years. So by the time, if we don't do this today and those four courts at Front Street are gone we're actually not only lost the resort courts which we relied heavily on but now we're reduced in the public courts and that's going to make it worse.

Maui's west side is a wonderful area for people to live, learn and grow with the game and it's a major part of its outdoor lifestyle. We've collected over 1,300 signatures to support this sport. There are certainly other needs in the community and I believe they are being addressed, but the Lahaina Civic courts expansion project its time is now and everything that's necessary has been done. Everything required has been provided and we remain hopeful that you will approve this permit. We invite everyone to learn the game and we will continue to extend our hand to anyone needing our services either to learn it, get to know it, get back into it or even how to go about this process of getting what you want. We just need to be asked. Okay, thank you.

Mr. Starr: Okay, thank you very much. Next testifier is Lisa Darcy followed by Mark Sheehan.

Ms. Lisa Darcy: Good morning everybody. My name is Lisa Darcy and I think I'm going to offer a unique perspective here. I want to encourage the planned expansion for the Lahaina Civic courts and I'm asking for the permit to be approved. I came to Maui over five years ago to develop psycho social rehabilitation programs. I don't know if any of you have tried to develop a psycho social rehabilitation program on Maui, but there are enormous, enormous challenges. Mental health and mental illness no matter where you are is a devastating illness and especially on Maui there's really not a lot of education about it. And I have to say I've had a really hard time which is why I'm actually not working right now. I've gone into early retirement.

But when I heard about what was going on with the tennis community I had to come up this morning because I said we're all working for the same thing here and I have actually found through this tennis community that people have gotten really better. I started playing tennis, I moved here I didn't know anybody and the tennis has been – it's been my family. It really has been my ohana. Jane is, I'm a JIT, I'm a Jane in training because she's so dedicated to everybody in her community, the kids to adults to the development of ohana. That really struck me. So when I started by rehabilitation program one of the things that was missing was exercise in people's lives and I work with people who are economically challenged and local, everybody's local. So they say, oh who is this person coming from somewhere else, she's all excited, she's always into exercise.

When I took the program on, about five people a day would show up for fitness day. I don't now about you but I wouldn't show up for fitness day, but I changed it to get healthy day and have fun day and we actually started going out to the Wells Parks courts. On an average day we had 17 to 19 people who have, you know, a good day for them was just getting out of their bed and to have people up, the entire tennis community donating rackets, balls, everything. Anything I needed the community came forward. I just picked up all the shoes from Wailea that were used and I have to tell you I work with aunties, I worked with children, I work with the entire array of people in our community. And if those courts weren't there, it wouldn't have made it very possible for this to happen. So you know Jean said tennis can change lives and it builds futures and it does.

And when I heard about the issue that was happening today I realized that we're really all on the same page. We're all trying to build lives whether it's your children and community or your aunty or whoever, we're all trying to do that and so I really kind of, I was excited to come down here. I just want to say that the economic climate today does not mean that people can go out and do a lot of things that cost money. Tennis is so easy to do. It's so reasonable. Savers has rackets. And like I said, you just talk to somebody. You can borrow a racket, get a racket. The gentleman before me too said that you know, he's about fitness and when you get your cardio up and you get your endorphins running, your depression lowers, your sense of with a team and a community you feel like you belong somewhere even if you got problems at home or your spouse.

Long story short is you know, kids getting on a bus having to go somewhere to a playground. No, make ...(inaudible).. with this tennis community and play tennis. Maybe we could have certain time with the community to play tennis in that area. So that they are ...(inaudible)... to this. It's such a wonderful aspect of Maui. I've never seen it anywhere else. I've lived many places and the tennis community here really is dedicated to everybody's health and happiness and I just would like to see some way that this works together really nicely because I think everybody's looking for the same thing. So we don't want to see people at odds. We want to definitely work together. So again, I'm asking for the permit to be approved and to somehow reach out to this community that feels like maybe this isn't really a great thing, but maybe we just haven't presented it in a way that really welcomes people. So I'm hoping that happens today. Thank you for your time and your attention.

Mr. Starr: Okay thank you.

Mr. Leonard Kimokeo Kapahulehua: I'm here before you this morning, my name is Leonard Kimokeo Kapahulehua and I'm here to testify in behalf of this that you have before you in reference to the tennis court out at Lahaina. I just want to say for you first of all that I'm a tennis player myself and I'm not against tennis. So I appreciate what was presented to you this morning and I continue to promote them to continue having physical sports in our community.

But I would like to add to that because of Leialii that as a person in Leialii that my son lives there and I often there and right now I was watching his home because he's a police on Molokai. But I want to share with that we have tons and tons kids there. And that we would like to see the tennis court gets built and we would like to see that something is made for the kids that we have around there. So if you approve that I know that the approval is probably already with the council and everything on whatever you have. But please consider that we now have a community connected Waihukuli and between ourselves all the way down to the sugar mill we have on that side of the

highway just that little park in Waihukuli above the park we don't have any other space there. So in this development we would like for you to consider the space.

We do have space at the gym, but we don't have a outside basketball. We don't have a lot of things that we would think that would fit with what they're doing and would like for you guys to consider that on your approval that some kind of conditions will be made that we would have an opportunity to have that. I personally wish you do not stop the project. I personally encourage you to move this project ahead but also consider that Leialii has and not just Leialii everybody on mauka side of the highway is developed and now it's going to be more development and we would definitely look toward you, the planning commissioners to consider the growth picture around the area for the children that we have across that. So appreciate you giving me this time and I thank you very much.

Mr. Starr: Thanks for being here. Hold on one second Kimokeo. Commissioner, Vice Chair Guard has a question.

Mr. Guard: Thanks for coming in. I was kind of on the same thought process that you were on not stopping this project and then I know in previous meetings there should actually be some pools of money through some West Maui organizations that got started. Is there anyone in the subdivision kind of thought about trying to contact some of those groups? West Maui Preservation.

Mr. Kapahulehua: I don't know about whether the board of Leialii had contacted the group but I look towards you the planning commissioners making contingencies on development in West Maui that money goes to the Parks and Recreation and that the Parks and Recreation, and which I know, I work really close with Horcajo here so this the reason why I say that you know, I particularly not interested in stopping the project, I'm interested in looking that we fulfill a community needs beyond tennis. You know. So that's what I'm here for. To make sure that you, as Commissioners, looking in your approval in bringing it forth any farther than this that the children mauka side of the highway not just Leialii, all the children we have in Waihukuli, up mauka Lahaina, once the school situation is over, we don't really have that for the public. Because you guys do know that our schools are getting vandalized and so it's just not easy to have our school open for the public when they continually just go to vandalize our schools.

Mr. Guard: Thank you.

Mr. Starr: Commissioner Mardfin first then Commissioner U'u.

Mr. Mardfin: I just want to make sure I understand what you're saying. When you say you're in favor of the project going forward, you're in favor of having tennis courts there?

Mr. Kapahulehua: Yes, I am. But I'm also in favor of you to consider beyond the tennis court and making sure that things are available for other than tennis. Not necessarily adjacent or anything. I think that's well needed in our community the tennis courts because we definitely lack tennis courts throughout the County of Maui, but I want you to consider that we have a community back there right now, we have children that's playing on the street and having basketball portables rolled out on the street in Waihukuli and Leialii when they shouldn't be on the street and the toddlers, I

don't know about any one of you but you should look at our toddlers. Our toddlers are 2, 3, 4, 5 and 6. Their toys now have wheels. So a two-year-old child is coming out on a 4x4 truck that's about six feet high that you cannot see that. And so this is one of the sites that I want to bring to you and I suspect where my son lives A'a Street I have to go down to two miles an hour because there's three or four toddlers not including the other street that do that you know.

Mr. Mardfin: Mahalo.

Mr. Starr: Commissioner U'u.

Mr. U'u: Good morning Bully. I'm not too familiar with the project site, Villages of Leialii, but I would prefer that a playground be built in that community area. Is there land set aside for a possible park within the community of Hawaiian Homes?

Mr. Kapahulehua: I'm not too sure but I know there was a lot of talk about that, but within the first project that we have Leialii there is no land set aside for any park at the moment. And I'm not so sure about the second phase, but I don't think that in the second phase that there is any land set aside for that because the board has been soliciting Department of Hawaiian Homes as a association to Hawaiian Homes and the developer to make a side a park for Leialii. So no, that was not.

Mr. U'u: Would the proposed tennis courts be a good site for playground for the kids?

Mr. Kapahulehua: Of course.

Mr. U'u: You know, I got the benefit of living right next to a park in my neighborhood in Paia. I mean, it's like my backyard. It's a huge benefit for my kids.

Mr. Kapahulehua: Most definitely and it of course, is adjacent to that you know, kind of deal. And again, it would definitely be a benefit, you know, but I personally would not want to see us just saying that this thing should not go through because the park will still be available for the tennis but something within the complex or close by that you guys consider that this move with the idea that there is going to be something for the kids in that community.

Mr. U'u: Bully I'd like to nominate you to work forward to get a park done in Lahaina. I think you'd be a great mediator.

Mr. Kapahulehua: I would definitely consider that whether they're ...(inaudible)... but I consider it for what I call the children of West Maui and the children of Maui because you know, recently we just had the canoe races in Lahaina and we had the Island of Lanai and Molokai and Hana came out. So we still responsible for those children to come to our community or your community to make sure that space is available for them to be able to come and be welcome by your community on our own island to come play in our playgrounds.

Mr. U'u: Last question. We heard from testimony earlier that the courts are being utilized. Is that a fact that the courts are being utilized, the tennis courts?

Mr. Kapahulehua: Of course.

Mr. U'u: Thank you.

Mr. Starr: I have one thing. First of all, I want to second Commissioner U'u's motion that you lead up a way to get more parks and playgrounds because you really do a lot of good work in our communities. I don't know if you're aware though, it's my understanding that Hawaiian Homes had sought and received an exemption from paying a parks assessment fees and usually everyone else who has property and develops it pays a parks assessment fee and the county uses that or they give land that the county uses to build parks. In this case, there was a special dispensation given to Hawaiian Homes with the expectation that they would create the parks necessary along with other infrastructure you know, since they were not paying the fees. So it may be necessary to find then a great solution to work with Hawaiian Homes, you know, Perry Artates guys and the Hawaiian Homes since they didn't pay the fees. So I hope you can help lead this forward.

Mr. Kapahulehua: Chairman Starr I would agree with what you said. I do know that Hawaiian Homes is exempt from very many things which I'm totally against that because you as the planning commissioner is responsible for our island and I understand this whole concept of DHHL, but I don't agree with that concept about them being exempt and not being able to make a park for its own people and not to be involved with the family or the ohana like you guys who are ...(inaudible)... over there. So I agree with some of the things that they have exemption with, but this is one of the exemptions that I totally disagree with Department of Hawaiian Homelands because that does not give us the advantage of being exempt and not being able to have a park for our children. So I think it's a little difficult to get into that part, but I disagree with that exemption and I don't think that exemption should be made for any of the Department of Hawaiian Homelands subdivision through the County of Maui and I don't think that's right for Department of Hawaiian Homelands dictate to all planning commissioners what they can be exempted on in the deal. And this one here is really one of them that I totally disagree about.

Mr. Starr: Okay, well, thank you for coming forward and thank you for all you in the community.

Mr. Kapahulehua: I thank you very much commissioners this morning and I appreciate that. Thank you. Mahalo.

This concludes the testimony received at the beginning of the meeting.

Mr. Starr: Okay, seeing none, the public testimony portion is closed. Mr. Buika, why don't you give the report and maybe by that time Mr. Munekiyo will be finished with the last condition.

Mr. Buika: Thank you Chair. Jim Buika again with the Planning Department. The Planning Department's findings on the mitigation alternatives built into this project, the department has determined that the applicant has designed the project to incorporate best mitigation practices in order to minimize impacts to the environment. I can list 10 of these, the parking, the lighting, the lighted paths, the drainage mitigation, underground utilities, reduction of water usage, grading and construction mitigated by an archaeological monitoring plan, landscape planting as visual buffer. Visual impacts will be mitigated by the topographic grading of the site. Public transportation is

available. Night lighting is limited.

So as far as the conclusions of law, the applicant complies with the applicable standards of the special management area use permit as set forth by the 12 criteria listed on pages 2 and 3 of your recommendations report. I won't list those but those are from the SMA rules for the Maui Planning Commission. The Planning Department based upon the facts presented in the department report finds that the proposed action will not have a significant adverse environmental or ecological effect provided mitigation measures are incorporated into the project. The proposed action meets the objectives, policies and guidelines of the SMA rules and the proposed action is consistent with the West Maui Community Plan.

The Maui Planning Department recommends approval of the Special Management Area Use Permit based on the 10 standard conditions that are listed in your recommendations memorandum from the Planning Department and 12 project specific conditions and then we'll add two additional ones from the Maui Planning Commission here today.

I would like to request that we change the first standard condition. The original condition was that construction of the proposed project shall be initiated by November 30, 2011. I would proposed changing it to January 31, 2012 to accommodate the three years from now. I won't read through the standard conditions and I'll just cite some of the project specific conditions.

There are wastewater contributions. Again, there are offsite improvements for the collection system and wastewater pump stations. There are three conditions regarding changes to plans requested by Department of Environmental Management. Water conservation will be incorporated. Landscape, will use native plants and that the applicant shall adopt best management practices designed to prevent pollution by minimizing infiltration and runoff from construction and operations and there were more details here. There will be no parking signs along the west perimeter road. I think the parking lot will alleviate much of that parking for emergency service vehicles. Those are the only ones I'll go over here

And in consideration of the foregoing the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendation prepared for the November 10, 2008 meeting and presented at the January 27, 2009 Maui Planning Commission meeting as the findings of fact, conclusions of law and decision and order and authorizes the Director of Planning to transmit said written decision and order on behalf of the Planning Commission subject to two additional conditions that we will state to you and get your approval on currently.

Mr. Starr: Okay, you ready with those two additional conditions? Yeah, we'll accept them from Mr. Munekiyo.

Mr. Munekiyo: Thank you Mr. Chair. Actually what I've done is I've consolidated the two requests into a single condition. So let me just read what I have and of course, we're open to any modifications that the commission may have.

First of all, this would be a new condition:

“That the Department of Parks and Recreation will use its best efforts to work with the Villages of Leialii residents and the Department of Hawaiian Homelands to plan for and develop implementation strategies for a neighborhood playground. Further, the Department of Parks and Recreation shall submit a letter report describing its best efforts for the planning and development of implementation strategies to the planning commission within one year of the granting of the SMA permit.”

And I know Commissioner Mardfin had asked for six months but I think what the department is asking for is a little bit more time just – some of these procedural things could take a while. So hopefully we'll move it as quickly as possible, but that is their commitment but in terms of the conditioning standpoint that we get back to you with a report within one year.

Mr. Starr: Could you fine tune that by expressing the urgency of the matter somehow. That it be, you know, using a word like urgently or quickly or something like that, expeditiously.

Mr. Munekiyo: I think if we can say just going back to the first sentence that the DPR shall be use its best efforts to expeditiously work with the Villages of Leialii residents and the DHHL to plan for and development implementation strategies for a neighborhood playground.

Mr. Starr: Members? Okay.

Mr. Munekiyo: And again, further that the DPR shall submit a letter report describing its best efforts for the planning and development of implementation strategies to the Maui Planning Commission within one year of the granting of the SMA permit.

Mr. Starr: Okay does anyone have any questions or wish to offer a motion? Commissioner U'u.

Mr. U'u: Motion to approve with added conditions.

Mr. Guard: Second.

Mr. Starr: Okay, we have a motion to approve by Commissioner U'u. Seconded by Commissioner Guard. That motion is Director?

Mr. Hunt: Motion to approve as revised with the extra condition.

Mr. Starr: Okay, and you have in your notes or someone has the – Jim, you have that all? Okay. Any discussion? Not seeing any, all in favor please raise your hand. Any opposed?

It was moved by Mr. U'u, seconded by Mr. Guard, then

**VOTED: To Approve the Special Management Area Use Permit as Revised with Extra Conditions.
(Assenting - B. U'u, J. Guard, K. Hiranaga, W. Mardfin, D. Domingo, W. Iaconetti, W. Hedani, J. Starr)**

Mr. Starr: Okay, congratulations, build a great facility and we'll all come out and help and tennis community, Parks, commissioners will come out and help support a playground.

Mr. Hunt: For the record, that was eight in favor and zero against.

Mr. Buika: Thank you very much.

Mr. Starr: Paul, do you need time to set up or can we go straight into it? Okay, we're going to take a recess until quarter after 11:00.

A recess was called at 11:13 a.m., and the meeting was reconvened at 11:20 a.m.

Mr. Starr: ... January 27th is back in session. We're ready for our next item which is in the able hands of Director Jeff Hunt.

Mr. Hunt: Your next item involves A&B Wailea LLC requesting a Step 2 Planned Development Approval for the proposed MF-10 multi-family use project at Wailea Resort consisting of, and your agenda says nine and it should be corrected to 10, improved single family residential lots, 36 multi-family units housed in four buildings, commercial center of approximately 64,000 square feet and related site improvements located northeast of Wailea Ike Drive and Wailea Ike Place at TMK: 2-1-088: 121 in Wailea. The file number is PD2 2008/0001 and Paul Fasi is the planner assigned to this project.

3. **A & B WAILEA LLC requesting a Step 2 Planned Development Approval for the proposed MF-10 Multi-Family Use Project at Wailea Resort consisting of nine (9) improved single family residential lots, 36-multi-family units housed in four (4) buildings, commercial center of approximately 64,000 square feet, and related site improvements located northeast of Wailea Ike Drive and Wailea Ike Place, TMK: 2-1-008: 121, Wailea, Island of Maui. (PD2 2008/0001) (P. Fasi) (Previously reviewed at the November 25, 2008 meeting.)**
4. **A & B WAILEA LLC requesting a Special Management Area Use Permit for the proposed MF-10 Multi-Family Use Project at Wailea Resort consisting of nine (9) improved single family residential lots, 36-multi-family units housed in four (4) buildings, commercial center of approximately 64,000 square feet, and related site improvements located northeast of Wailea Ike Drive and Wailea Ike Place, TMK: 2-1-008: 121, Wailea, Island of Maui. (SM1 2008/0007) (P. Fasi) (Public Hearing conducted on November 25, 2008.)**

Mr. Paul Fasi: Thank you. Good morning. Also, the next item on the agenda is also of the same project and it concerns an SM1 permit. So with the commissioners, Chairman's concurrence, perhaps we should discuss under the light of both permits at the same time.

Mr. Starr: Is that okay with all the members to join the together up until the point when we make a motion to vote? Okay, proceed that way.

Mr. Fasi: Okay, thank you. This project was brought before this body on November 25, 2008 but due to time constraints, we weren't able to finish the project and it was deferred and you did see a presentation on this project. The applicant is prepared to give you an overview, kind of a refresher, short presentation if you prefer. The project was –

Mr. Starr: Hold on one second Mr. Fasi, I'm going to ask the Director also read the second item into the record at this time and then I'll allow you to proceed. Go ahead Mr. Hunt.

Mr. Hunt: The second item just for the record under an abundance of caution the A&B Wailea LLC requesting a Special Management Area Use Permit for the proposed MF-10 Multi-Family Use Project at Wailea Resort consisting of ten improved single family residential lots, 36-multi-family units housed in four (4) buildings, commercial center of approximately 64,000 square feet, and related site improvements located northeast of Wailea Ike Drive and Wailea Ike Place, TMK: 2-1-008: 121 in Wailea. The file number is the same and Paul Fasi is also the planner assigned to this.

Mr. Starr: Take it away Paul.

Mr. Fasi: Also in addition for the record, the project was approved by the Urban Design Review Board on August 5, 2008. The subject property is owned by A&B Wailea LLC. State Land Use District is urban. The Kihei-Makena Community Plan is multi-family. The County Zoning is A-2 Apartment and it is in the special management area. Zoning requirements have been met by this project. It is an allowable use in this particular designated area.

The project basically consists of three areas. The single family component, multi-family component and a commercial component. The project will be developed in three separate phases. The department would like to stay that it is supportive of this project. The only concern we have is the stated water usage by this project and the concern of the department is monitoring their water usage for consumption as well as irrigation. Before we get into that, I'm going to let the applicant give you another brief overview if that's what the Chairman wants to see. If not, I'll start discussing the water issue.

Mr. Starr: Yeah, how long will that take?

Mr. Fasi: The consultants tell me five minutes.

Mr. Starr: Okay, they have five minutes to give us a overview. Thank you. Take it away Mich.

Mr. Mich Hirano: Good morning Chair Starr and Commissioners. I'd just like to give you an overview to refresh the memory of the project. The project is approximately 13.7 acres and this is Wailea Ike Drive, Piilani Highway. So it's to the north of Wailea Ike Drive just to the east of Wailea Alanui in the Wailea Resort.

This is the configuration. It's a one TMK parcel approximately 13.7 acres.

In 2005, the planning commission approved the project planned development step 1 which involved three parcels of land and it was a transfer of the zoning, the underlying zoning which is permitted

within the planned development to put A-2 Apartment zoning area in the eastern portion of the site, B-2 Business in the middle section of the site and again, A-2 Apartment in the western portion of the site.

For that, there was a single family component of 10 lots, a multi-family component which involves four condominium buildings with nine units in each building and a commercial component of approximately of 64,000 square feet. This is the project site plan and to the east is the 10 single family lots. The project site is bordered by single family to the east of this subdivision. In this particular area to the north of the property is the Wailea Town Center. This is Wailea Ike Place. Access to the project is from Wailea Ike Drive. This is the main driveway through the project and as well, access and egress, ingress on Wailea Ike Place and then again, intersecting with Wailea Ike Place and Wailea Ike Drive to the west.

There are two freestanding commercial buildings and then there will be a commercial component with a internal streetscape that has two-way traffic within the internal roadway and angled parking in front of the commercial area.

This is again, more parking for the project and into access off this main roadway, Wailea Avenue into this roadway and then there are four multi-family unit buildings with nine units within each building in the western portion of the site as well as a recreational building in this section of the site.

There's an existing irrigation well no. 2 for the golf course in this parcel.

I'd like to just to give the commission an idea of the elevations of the project. This is a 35-foot height limit for the commercial area and as you go from the top of the site which is in the eastern portion of the site, this is looking at the store frontages on the northern side of the project and we're starting from the top of the commercial area. This is mid section. And there are photovoltaic panels so power will be supplemented by photo voltaic electrical supply and system for the commercial component. There will be kind of a neighborhood commercial service area with likely a grocery store, some restaurants and food outlets and commercial shops and services for the Wailea residents and the Wailea visitor community.

Again, moving to the west, this is just at the western portion of the commercial area and then there's parking area and then this is the residential area. The residential units range in size from approximately 1,600 square feet to 1,500 square feet. There will be three units per floor. So this is a main floor plan of the commercial, I'm sorry, of the multi-family residential. There are two units on each end of the site as well as a middle units. The units are two-bedroom, two-bath with lanais on the front.

This is a elevation of the building, and as you can see there are three levels with three apartments in each building and there are four buildings in the multi-family component. The project had been reviewed by the Wailea Community Association and received the approval of the Wailea Community Association Design Review Committee.

This is again a streetscape of the project from Wailea Alanui. Because of the elevations of the site, at the top of the site you really look over the buildings as you come down Wailea Ike Drive into

Wailea Resort. So this is Wailea Ike Drive, I correct myself, I think I said Wailea Alanui, but this is Wailea Ike Drive looking to the north at the project site. So that's my wrap up. Thank you.

Mr. Starr: Okay, members, questions? Commissioner Hedani.

Mr. Hedani: Mich, with the commercial development that was built at the top of Wailea Ike Drive, there's been quite a bit of criticism of height of the roof line of the building although it was excavated down into the ground to reduce the height, the height of the building was dropped.

Mr. Hirano: Yes.

Mr. Hedani: Subsequent to that, you know, in reviewing this particular area, I noticed that as you drive down Wailea Ike Drive, the most attractive views towards the ocean probably cross this particular site. Has a view analysis been done of whether or not this would block the view of the ocean from that Wailea Ike Drive?

Mr. Hirano: Well, this is a partial view analysis. I think I have some more slides in the back of the slide presentation, but as you can see this is along Wailea Ike Drive. Right now there's quite – these are probably existing treescapes. There are existing landscaping as well vegetation within the site. And the topography is such that it drops down to the west and to the north from the elevation of Wailea Ike Drive. So at the top of the site, you're actually still looking over the buildings and that, I think, view would be maintained.

Mr. Hedani: So the answer is, you would still be able to see the ocean over the rooftops of the structure?

Mr. Hirano: Yes, in this particular area through these areas. At this point, the roadway drops down but there is also that view corridor at Wailea Ike Place and in this particular – because this is a flat area that is parking in between these two buildings.

Mr. Hedani: Okay, thank you.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Where are the proposed 16-foot high retention walls or retaining walls?

Mr. Hirano: Yes, I have a grading plan. It's very difficult to see, but this is the single family, 10-lot single family area. The higher retaining walls are actually at the entrance because when we looked at the elevations from Wailea Ike Drive as I mentioned, you're really looking over this particular building's roof and the reason for that is this area is much lower than Wailea Ike Drive and therefore, they are fairly large or high retaining wall in this particular area as well as on the makai side of this roadway along through there. So I think those are the areas of the highest retaining walls and then in this area, it's hard to see but there are the red, the retaining walls are kind of identified in this graph or in this slide by the red area. So there's also a retaining wall in this area, again, where it drops off. And this was that flat parking area. So that's where the higher retaining walls are and they're basically along this area.

Mr. Hiranaga: Is the 16-foot faces, are those going to be terraced or is it just a sheer face?

Mr. Hirano: I'd like Rick Quinn, the landscape architect, to just discuss that or Adrienne Wong is from ATA and she's also the civil engineer. So they're both working on it. And Clyde Murashige with A&B Wailea.

Mr. Clyde Murashige: Commissioner Hiranaga, the 16-foot retaining wall actually occurs in one situation and that's right along Ike Drive and actually it's going to be below the grade of Ike Drive because we've got a water line easement right along there that drops down. So that retaining wall won't be visible from the street. It actually drops down and that's why, I think in one of Mich's slides it showed the very top of the building being above Ike Drive. The other walls are lower and basically in here and here. It's a split retaining wall, it will be terraced so we could put plantings in between them.

Mr. Hiranaga: Thank you.

Mr. Starr: Mr. Fasi, I have a question for you. I understand that this project was actually an amalgam of several projects where the development rights from different parcels were put together and moved over to this site. Now, the single family portion of it I believe was moved over to here from somewhere else and although originally the subdivision of that had been approved a number of years ago, now it's moved over here the applicant is intending not to meet the workforce housing requirements. It seems that this should really be looked at as a new project and they should be meeting all of the workforce housing requirements could you speak to that?

Mr. Fasi: You are correct. However, the applicant is required to meet the residential workforce housing requirement. And if you look in the staff report, Exhibit 16, I'm sorry, not Exhibit 16, there is a letter from the Housing and Human Concerns which says that they are still applicable to the requirements of the residential workforce housing ordinance.

Mr. Starr: I'd like to read from page 10 of the report, "the single family portion of the project obtained preliminary subdivision approval prior to December 2006, effective date of the County of Maui's Workforce Residential Housing Ordinance. Included in the ordinance provision is an exemption for proposed subdivisions that received preliminary subdivision approval before the ordinance effective date. Compliance with workforce residential housing requirements will be required for the multi-family component." That seems to say that they will not be meeting it for the single family. I want clarification on that.

Mr. Fasi: In my ...(inaudible)... report I have a letter from the Department of Housing and Human Concerns saying that they are subject to meeting whatever their requirements will be. Give me a minute I can get that and hand you a copy.

Mr. Starr: Okay. In the meantime, can I ask Mr. Murashige are you going to be providing workforce housing for the single family as well as the multi-family?

Mr. Murashige: Our understanding was that the preliminary subdivision for this property met the requirements of the affordable housing for the single family lots. For the multi-family, yes we will

be subject to the affordable housing requirements. Being that we had met the provisions of the workforce housing for the single family prior to we had not planned to, however, if there is, our understanding if there is needed amendment to the subdivision, the single family subdivision, we would be subject for the single family portion to afford housing requirements.

Mr. Starr: I'm a little bit confused. I'm looking here at something, we'll pass it around to all the commissioners, but it says, this is from the Department of Housing and Human Concerns. It says that, "there are no exemptions." So I don't understand why you're telling me that the single family's exempt.

Mr. Fasi: The Department of Housing and Human Concerns, their comment letter to our request for comments on this project it does seem a little bit confusing when they say no exemptions, but then at the bottom they have additional comments which state, "pending residential workforce housing agreement for the multi-family component of the project." So they are subject to the multi-family component of the project. I think we're going to have to get clarification from the Department of Housing and Human Concerns as to why there seems to be this conflict on their response.

Mr. Starr: Can we get that right now? I know I would have trouble acting when it seems that they're trying to skip out on the workforce housing.

Mr. Fasi: That would be difficult to probably attain right now at this moment, but we will certainly get it as soon as practicable.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: Who has the copy of that letter?

Mr. Starr: Oh, I'm sorry. We're going to take a very short recess while members have an opportunity to look at that to the call of the Chair.

A recess was called at 11:41 a.m., and the meeting was reconvened at 11:44 a.m.

Mr. Starr: Commission meeting of January 27th is back in order. We now all have copies of Department of Housing and Human Concerns letter received November 17th. Members, any questions? Commissioner Mardfin, did you have something? Yeah, Mr. Fasi.

Mr. Fasi: During the break, the applicant said that they will commit to complying with any residential workforce housing requirement for the single family portion. So they will hold themselves accountable to any conditions that the workforce residential housing requirement requires for the single family portion of the project.

Mr. Starr: So in other words, you'd be crafting a condition that states that they will be providing workforce housing for the single family as well as the multi-family?

Mr. Fasi: Yes. So in other words, they would be – yes I will.

Mr. Starr: Okay, thank you. Director.

Mr. Hunt: My understanding is that the applicant believe that the subdivision for the single family was created prior to the adoption of the workforce housing and therefore it's exempt and there has not been any shift in the entitlements that were shifted around, this was not part of that shift. So I'm paraphrasing on behalf of the applicant. I'd prefer the applicant to speak to this.

Mr. Murashige: As the Director said, in terms of the technical aspect of the workforce housing provision here, that is true. The subdivision was approved prior to December '06 at which time the affordable housing requirements went into effect. And we recognize that for the single family portion it is a stated exemption in the workforce housing ordinance. However, realizing that we may have to change the single family subdivision alignment in terms of the recognition of 10 lots, our understanding is that triggers the need to conform for the single family portion also to the workforce housing.

Mr. Starr: So for clarity you will be providing workforce housing for the single family.

Mr. Murashige: If the change, if we have to do the change to the single family subdivision, yes.

Mr. Starr: I keep hearing an if. Either you will or –

Mr. Murashige: If it stays the same as was originally approved under the preliminary subdivision for the single family component we will not be providing that. If it has a change to meet whatever requirements in terms of the lot count, the lot configurations, so forth, then we recognize we have to comply.

Mr. Starr: Will you commit to complying and providing workforce housing for the single family as well as the multi-family? Yes or no.

Mr. Murashige: I guess the best way I can put it is that we will comply with the provisions of the ordinance, yes.

Mr. Starr: I wish you'd answer the question. Commissioner Hiranaga.

Mr. Hiranaga: What you're saying is you will comply with any conditions provided by the Department of Housing and Human Concerns as it relates to the workforce housing?

Mr. Murashige: Yes, and in addition to that, if because of the subdivision process if we have to change some component in addition to that, that will trigger the compliance.

Mr. Hiranaga: You'll comply with the law.

Mr. Murashige: Yes.

Mr. Starr: Members, other questions?

Mr. Mardfin: Can we ask anything?

Mr. Starr: Yeah. I don't think we're finished with that portion, ask anything you want.

Mr. Mardfin: I had a couple questions in terms of the overall project. This is intended for luxury housing isn't it?

Mr. Murashige: Well, if you consider when you look at Wailea as a whole, the single family lots are 10,000 square feet, so they're basically the smallest lots within the resort, smallest group of lots in the resort, square footage wise. The multi-family component is probably amongst the smallest units compared to more recent ones. I mean, it comparable to some of the first units that came up in the resort. Given today's market I'm not sure if you could call it luxury.

Mr. Mardfin: Half a million dollars?

Mr. Murashige: The condos would obviously be more. The single family lots I'm not sure on this market, on this current market. There are lots within the resort that are going for half a million dollars.

Mr. Mardfin: Is any of this intended to be timeshare?

Mr. Murashige: Timeshares aren't allowed within the resort.

Mr. Mardfin: TVR?

Mr. Murashige: No.

Mr. Mardfin: B&B?

Mr. Murashige: No.

Mr. Mardfin: The other big issue, there are two other big issues. One big issue was on water. And on page – there's a big issue about your water usage. On page 10 to 12 it talks about irrigation consumption and you have one number. I read this a while back, you have one number and I believe it was the department had sort of a different number in mind. How did that ever get resolved or has that been?

Mr. Murashige: The original number I believe that you're referring to is about 32,000 gallons a day, and that was taken off of the original plans. At the last meeting we had submitted revised calculations based on our landscape architect's revision to include a lot of drip irrigation and that gallonage count went down by 10,000 gallons so approximately 22,000 gallons.

Mr. Mardfin: And the note to myself with Exhibit 4, what's Exhibit 4 –

Mr. Fasi: I believe where the confusion exists is that in the application, the applicant proposing 22,000 gallons per day. But on the landscape planting sheet, it quotes 32,400. So that's where

the confusion lays.

Mr. Mardfin: What's the answer then, 32,400?

Mr. Fasi: It's 32,400.

Mr. Mardfin: And in Exhibit 11, OHA raises some issues dealing with water. It says, "A&B Properties is developing the Waiale surface water treatment plant. Water from this source will be allocated to the project in order that a long term supply of water can be verified." Is that accurate? I guess that's a response to OHA actually.

Mr. Fasi: Which paragraph are you referring to?

Mr. Mardfin: I'm sorry that was the reply. Exhibit 11, page 2 says, first full paragraph, "because this area is a ground water management area, HAR 13-171-13 requires that the applicant shall establish that the proposed use of water can be accommodated with the available water source and that it's consistent with state and county general plans. Applicant must also establish the water use is reasonable-beneficial which is defined as not being not wasteful and is both reasonable and consistent with state and county land use plans of the public interest. OHA is also concerned regarding the County of Maui ordinance 3502 which requires that a long term reliable source of water be verified." And I guess, again it's a water issue. And so what are they going to use for the source? The response letter says A&B Properties.

Mr. Murashige: The intent is actually to do with compliance with the show me the water ordinance in which a long term source of water has to be identified as part of the construction plan process or construction plan review process. We are, at this point A&B Properties is looking at the development of a fairly large surface water treatment plant and part of that plant's output would be intended to service this project.

Mr. Mardfin: Does that mean nothing will happen on this property until that water supply is constructed?

Mr. Murashige: That's my understanding unless there's another source of alternate water.

Mr. Mardfin: You have an alternate source in mind?

Mr. Murashige: There's always the issue of County supplied water because this is all part of the municipal system. What we're trying to do is actually generate another project that would provide additional source water.

Mr. Starr: Mr. Murashige, my understanding and this is from here say at this point, but the fact that this mentions Waiale is that A&B has negotiated an agreement with the County to create a reservoir at Waiale including the old reservoir but expand it greatly to the tune of 750,000 million gallons to 1 billion gallon reservoir and a very large treatment plant and that this is being planned, the engineering work is currently being done by A&B. And that the idea is that it will eventually be turned over to the County but that through time in memorial, half of the water from this plant and

from this reservoir will go to A&B project which would mean of course, for the next 20 years, so half of everything that gets built in Central will be built by A&B because they'll have half of the water. Is this where you are planning to get the water from? Can you tell us if this indeed in the cards?

Mr. Murashige: I can. In fact, just to clarify one point, I believe there's been no discussion at all about a reservoir or storage reservoir that at least I know of. The water treatment plan was intended basically to provide water source for several of our projects. Realistically A&B is the largest developer in the central valley and when you look at the allocation of ratio, I think it's more than fair that we look at our sources of finding appropriate water for development. That being said though, what we're trying to do is look for different ways of meeting the so-called show me the water ordinance. This was one project that could provide the water for it. I understand also that the Department of Water Supply has not ruled out other sources of water development. So we're not saying that this is the only source for this project, but I think what we're trying to do is be proactive and develop another water source to help feed the overall system.

Mr. Starr: Okay, members? Commissioner Mardfin.

Mr. Mardfin: There are two exhibits in there that recommend against your proposal. Exhibit 17 is from Barbara Henshaw Lemley and Gerry Lemley saying "my husband and I are opposed to any new structure of this nature. We don't believe that the Wailea infrastructure will support any more building." Exhibit 18, from Michael Kennedy and Mary Madeline Kennedy say, and I think this is a more damning recommendation, "opposition, extreme displeasure toward the proposed special management area. Further commercial and residential development on Maui will not solve our water shortage problems having more partially completed developments such as what presently exists at the Wailea Gateway. The residential pads above Kalai Waa Street and the deserted Renaissance Hotel will not beautify our island. Construction fences and stay out signs will not increase pride of ownership and/or attract visitors to Maui. Building more commercial space in a time of significant economic downturn fresh on the heels of such major businesses as Hilo Hattie declaring bankruptcy doesn't make sense." Often there are response letters, I didn't see any response letters. Care to respond?

Mr. Murashige: We believe strongly that in this economic time we need to move forward. I think we're one of the few companies with a willingness to move forward and look toward the future of this community. Secondly, the resort as a whole had been master planned to include commercial spaces. We wouldn't proceed ahead if we felt there was not demand for the commercial spaces. The point of projects not being done, I think they referred to house lots on Kalai Waa Street, we are actually, we restarted construction. We were waiting for county approvals on the utilities to restart the construct the construction and we're trying to put product on the market and be ready to address the demand when it comes forth, but I think everybody realizes that it does take time to get permits approved. It takes several years and we didn't want to lose the timing of sitting back and waiting to get a project like this where there's significant interest and demand from the community especially on the commercial part to wait five, six, seven years before we could start on it.

Mr. Mardfin: But you told me a minute ago that you'd be waiting on this water development before you'd go ahead unless you found an alternative source.

Mr. Murashige: I think we're looking at trying to push the project along in any way we can and to be ready for opportunities that come up and we're willing to take the risk on that. So if a water source does come up beforehand then fine. If we have to wait until we do the source development plan, then we'll wait, but we want to definitely get our permits ready to go in order.

Mr. Starr: Yeah, go ahead Mich.

Mr. Hirano: Commissioner Mardfin, I'd like to also just to add that prior to the SMA hearing there was a community meeting in Wailea with the community association. It was well attended probably close to 80 people were in attendance and I think at that meeting these plans were disclosed and presented and I think there was more support from the general Wailea community with respect to this project because it does offer the opportunity to provide services within the resort and I think most of the residents in the resort because it's becoming more and more a residential community now than a resort community with a fairly standard and stable residential, full time residential community, that they really do see a need for further services and more services and convenient services in the resort area.

Mr. Mardfin: But nobody wrote a letter in support of that?

Mr. Hirano: I believe at the last meeting, Wailea Community Association, Bud Pikrone, who is the General Manager came out and spoke in favor of the project.

Mr. Starr: And I think we'll have some testimony from Mr. Pikrone. I see him smiling. Anyway, I think it's time for us to take lunch. We'll go into recess until 1:00 p.m. is that okay? Go ahead Commissioner Hiranaga before we go.

Mr. Hiranaga: I had just one more question. Could you just recap the drainage system, proposed drainage plan and retention capacities?

Mr. Hirano: I have Adrienne Wong with Austin Tsutsumi, the civil engineer. She can just go over it and we do have a graphic on the grading.

Mr. Starr: Can we hold it till after lunch. I know I've been asked to try to break for lunch. Commissioner Hedani.

Mr. Hedani: I'd also like the applicant to see if there's any other view perspectives from Wailea Ike towards the ocean because in reviewing the elevations of Wailea Ike and because of the proximity of the commercial building, it doesn't look like you can see over the roof of the building.

Mr. Starr: So when we come back we'll a little bit of further presentation on view plane analysis, also drainage, I know I'll have questions about how people are going to be able to walk from there to the beach and Shops of Wailea and Mr. Fasi is going to try to get a hold of the Housing Human Concern folks. We're in recess till 1:00 p.m.

A recess was called at 12:03 p.m., and the meeting was reconvened at 1:02 p.m.

Mr. Starr: Good afternoon everyone. Maui Planning Commission meeting of January 27th is back in order and director remind us of we're working on.

Mr. Hunt: You're reviewing the MF 10 mixed use proposal. There's some residential and some commercial uses involved and we're at this point I believe we've had some questions of the applicant and the staff.

Mr. Starr: Okay, Mr. Hirano.

Mr. Hirano: Thank you Chair Starr and Commissioners. As we recessed for lunch there were some questions regarding the grading, view planes, drainage and housing and so I'd like to just ask Adrienne Wong with Austin, Tsutsumi who's the civil engineer to go over the grading plan and the drainage plan. We've put up the slide for it.

Mr. Starr: Okay, where'd the handheld mike or you're okay from the podium.

Ms. Adrienne Wong: Good afternoon Commissioners. I'm Adrienne Wong, I'm with Austin Tsutsumi and Associates. We'll start off with the single family area which is this area here. Basically what it is is I have an underground drainage system within the roadways and bio swale right on the mauka side of the single family and it drains right into this retention basin. This is where we've got the increase in retention and it outlets into an existing ditch right here.

As for the commercial area, it's an underground drainage system and it – the increase in runoff is intercepted by underground retention systems right here, right here and right here. It outlets again, this portion outlets into this ditch here. The remaining outlets into an underground drainage system right here.

For the multi-family, it's underground drainage system and a – underground retention system within this area and it outlets this way.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: It sort of been the trend I guess by the planning commission to see if the developer's willing to retain predevelopment as well as post development surface runoff. I'm wondering what the thoughts are of the applicant.

Mr. Hirano: The drainage study shows that the preexisting runoff is approximately seven cubic feet per second and the post development runoff is 65 with an increase. I'm sorry, the existing is 17 and the post development runoff is 62. So the net increase is 45 cubic feet per second and the drainage system has been designed to accept 52 cubic feet per second. So there's about a seven cubic feet per second retention above and beyond what is required per ordinance. So it's about a 21% increase over what is required.

Mr. Hiranaga: Is it feasible to retain the remaining 10?

Mr. Hirano: Excuse me, I'll have Adrienne.

Ms. Wong: Can you repeat that question again?

Mr. Hiranaga: According to your – you're retaining 52 cubic, was it cfs?

Ms. Wong: Roughly, yes.

Mr. Hiranaga: And so there's still 10 cfs that's flowing into various drainage systems be it the roadway or existing ditches. So is it feasible that you can contain the additional cfs on the project site?

Ms. Wong: Depending on where it is. I would say it might be a bit tight to do that. We could, in the commercial area would be a bit tight. We might be able to intercept a little bit more in the single family.

Mr. Hiranaga: Maybe you could discuss that with the applicant.

Mr. Starr: Yeah, Adrienne, you know, I don't know if you've been involved in this discussion before, the reason we ask it is because right now this is all undeveloped and in a natural state. There were no lawn chemicals, there's no fertilizer, there's no petroleum byproducts that are running off the parking areas that don't exist and so whatever runoff coming off of there is going into the ocean, but it has very little impact. However, after development any runoff that comes off that is going to be laced with fertilizer. It's going to have oil from the parking areas. It's going to have other chemical residues and you know, a lot of us are more and more aware of the fact that the reef and the nearshore waters are suffering considerably so we're trying to keep as much of it off of there. So maybe you could get back to us in a few minutes.

Ms. Wong: What I was planning to do was as far as this area here, this is the golf course, there's a swale right here. What I was going to do was design bio swale which would help to filter the sediment and petroleum and stuff like that and I was going to add the mechanical vaults to also address that issue. And in this area I'd be adding the filter type vaults as well to address those issues.

Mr. Starr: So you will be filtering?

Ms. Wong: Yes.

Mr. Starr: And you will try to find ways to retain more?

Ms. Wong: I will try, yes.

Mr. Starr: Okay, members? Drainage, anything else? Okay, yeah lets –

Mr. Hirano: There was discussion about view analysis that we had.

Mr. Starr: Yeah.

Mr. Hirano: And I'd like to ask the architect, Chad Okinaka to just come up and just go over some of the view analysis that was done.

Mr. Starr: Okay, yeah, have him come up and then Commissioner Hedani will have the floor. I know he had questions there.

Mr. Chad Okinaka: Good afternoon. Chad Okinaka from Inform Design, the architect of the project. We were talking about views? Get to the slide. We did make some site visits and took a lot of photos on the existing street. The sequence going down, so every, you know, 50 feet or so took some photos just to be sensitive to the views. What we found as we were designing the buildings as well is the overgrowth of the kiawe and the existing banyan trees that occur along Wailea Ike Drive is in essence blocks much of the view as you're heading the down the street. There's a slide – okay, in essence, we couldn't determine what it was that we could see beyond the site because of the overgrowth of the kiawe trees. But we tried to keep the building massing as low as possible while still maintaining kind of a retail and streetscape feel, there we go. So this is an actual overlay of the building massing onto some of the existing photos. So these are not photoshopped in, these are the actual trees that are there. The height of these to the top of the canopy is roughly, I think it's around 35 feet and that's fairly consistent as you run all the way down the street. What you're seeing here in the background is the overgrowth of kiawe trees. So you can see here in this area there's very little that you can kind of see beyond it, but when you input kind of the building massing and where the roofs are going to end up, you can kind of see that that's occurring pretty low relative to what the existing brush is, kiawe brush. So we believe that once it gets cleared and once the buildings do go in, that you know you'll be actually be seeing more than what exists out there today beyond, seeing beyond the buildings. Those are photoshopped in actually, just the palm trees.

Mr. Hedani: One of the questions that I had was what is the setback of the commercial area from Wailea Ike and the setbacks for the lots that are abutting Wailea Ike on the single family section?

Mr. Okinaka: The setback along this, along Wailea Ike to the retail is 20 feet. The setback from the single family in between the retail and single family –

Mr. Hedani: The single family on the top.

Mr. Okinaka: On the top, I'm not exactly sure what those, the setback is on that. But we have the access road that separates the single family lots from the – you're talking about here?

Mr. Hedani: Wailea Ike.

Mr. Okinaka: Oh here, it would be 20 feet I believe. So the 20 feet will run all the way down.

Mr. Hedani: ..(inaudible)...

Mr. Okinaka: There's a easement down right in here. Right, in addition, right. But that occurs within the 20 feet. Yeah.

Mr. Hedani: I guess my question would be if you increase the setback along Wailea Ike is there a

way to do that and still maintain the densities that you folks are looking at?

Mr. Okinaka: I might have to think about that for a little while. It's possible, you can kind of – I think there's a little bit of push and pull that we might be able to achieve here. It would definitely constrain us down here though, and we're pretty much hitting right up onto that streetscape there. I guess anything's possible it's just depends what kind of distance we're talking about.

Mr. Hedani: That's all the questions I had.

Mr. Starr: Okay, anyone else has questions on view plane issues, Commissioner Hiranaga.

Mr. Hiranaga: Now that the applicant's representative is back, we were talking about drainage and retention for development, post development, I don't think your consultant was able to provide the answer I was looking for. She said she was going to try.

Mr. Hirano: We can come back, Adrienne will maybe review that while we're still responding to questions and have some maybe order of magnitude about the amount that can be retained in those areas additional. As well, this is a planned development. So we will be coming back to the commission on Step 3 when we look at the design and you know, at that point too, we could report on how much more was designed into the program.

Mr. Hiranaga: I guess one final comment. You know if there is a will, there is a way.

Mr. Hirano: Yes, I agree with that.

Mr. Starr: I'd like to before we – are you ready to discuss that drainage issue, okay yeah, take it Mr. Murashige.

Mr. Murashige: In engineering the site, and maybe you've heard this portion already but we are retaining a 100% percent of the additional runoff. In addition to that we are retaining in excess of 20% of the existing runoff. In certain places it's going to be retained more, in fact, the single family is a good example where we're actually looking at creating a large retention basin for all of the lots so they will feed into one major lot.

Couple issues with the drainage. There's a number of drainage points that have been designed in adjacent projects including the Wailea Town Center where the easements were created to accommodate drainage from the site through. There's also the issue of – there's a lot on there for the golf course well which essentially we do not have control over. So you know, we can't really accommodate that one. We can try to retain some of that. But I think when we looked at the site plan we're pretty much at our square footage, pretty much there in terms of what works perform wise. To do additional drainage things I think it's going to cost us exponentially a bit more money and I'm not sure if we could make the numbers work. I guess, I'm sorry I wasn't here earlier, but in terms of what you're looking for in terms of additional drainage retention.

Mr. Hiranaga: 100% of the predevelopment.

Mr. Murashige: Right, which we are doing, I'm sorry, the additional. So you're saying a 100% of everything?

Mr. Hiranaga: Right.

Mr. Murashige: I think realistically no project could do that. Because you're saying no runoff at all from any project.

Mr. Hiranaga: Well, within the requirements of the county ordinance. I know if you have a larger storm you're going to have runoff because your system is designed for a certain type of a storm. So yeah, we'll never capture everything.

Mr. Murashige: I'd have to ask our engineer if that's possible. Offhand, I don't think that there's an ability to retain everything that's generated. That would represent the developed flow from the project based on the county standards to retain everything on site and that be extremely difficult to do. It's almost like saying your house can't drain at all into the street.

Mr. Starr: Okay, lets move along. I understand that they're saying they don't want to spend the money to keep our ocean clean, but that's their decision.

Mr. Murashige: I don't think we went to that point sir, but anyway.

Mr. Starr: Many projects are doing it though however Mr. Murashige. You want to?

Mr. Mardfin: I want to raise the water issue.

Mr. Starr: Okay, Commissioner Mardfin.

Mr. Mardfin: I know I raised the water issue earlier today before lunch. I'd like to revisit that. How much water are you anticipating using for irrigation?

Mr. Hirano: 22,000 gallons per day. It was the – the report, the preliminary engineering report and the landscape plan had 32,000 gallons per day for irrigation. However, in discussion with the Planning Department as we were preparing for the SMA and the expression of trying to reduce as much as we could the irrigation demand, we've reduced that number to 22,000 gallons per day for irrigation estimated.

Mr. Mardfin: Can I read from page 21 of the report?

Mr. Hirano: Yes.

Mr. Mardfin: It's at least in my report it looks like it was highlighted in yellow, two-thirds of the way down the page.

Mr. Hirano: Yes.

Mr. Mardfin: It talks about "the average daily demand for the project is 61,680 gallons a day. When irrigation is added at 22,000." So they're at your 22,000 number not the 32.

Mr. Hirano: Yes.

Mr. Mardfin: It rises to 83,680. "This is 35% of the," I'm skipping a little bit, but "it represents 35% of the total water demand. It is the department's opinion that 35% or 22,000 gallons per day is a prohibitive," I repeat, "prohibitive figure." Prohibitive for me means I should vote no. "For irrigation only and should be reduced especially at a time when the county requires a voluntary 10% cutback from its residents. To put 22,000 gallons per day into perspective, this is the equivalent total consumption for 36 single family homes daily."

Mr. Hirano: Yes.

Mr. Mardfin: I'm not happy with 22,000. I'm with the department.

Mr. Hirano: I'd like Rick Quinn, who's the landscape architect to just speak to that figure and what water conservation measures have been incorporated into the landscape design that has reduced that amount from the projected figures.

Mr. Mardfin: I want to hear, actually I want to hear, speak, but not how we got from 32 to 22, but how we go from 22 to something lower.

Mr. Rick Quinn: I'm Rick Quinn, I'm the landscape architect. The objection of the Planning Department over the water use I think was their estimate that it was much higher than 22,000 gpm.

Mr. Fasi: No, it was not the estimate of the Planning Department. The Planning Department relies on the figures from the application. The landscape planting sheet, sheet L2 quoted a figure of 32,400 gallons per day. The applicant in its verbiage quoted 22,000. So there's a discrepancy there. I would much rather rely on the landscape architect's figure of 32,400 because he is the one responsible for quoting that number.

Mr. Quinn: We did quote that number and then we adjusted that number based on the concerns we heard of reducing water usage. And instead of going with a conventional irrigation system typical of Wailea, we're relying heavily on drip irrigation. We're reducing the water intensive plant material, specifically lawn. We're reducing the use of turf grass and we're doing other means to reduce water consumption to get it down to that 22,000 gallons per day level.

Mr. Mardfin: But the department's position was that even the 22,000 is prohibitive.

Mr. Quinn: I think –

Mr. Mardfin: I'm just reading from page 21 of the report.

Mr. Quinn: Was that the ?

Mr. Fasi: Those are my words. In this planner's opinion, that is still a high figure of 22,000.

Mr. Mardfin: And if you're expecting, if you're saying that's 36 homes.

Mr. Fasi: 36 single family homes.

Mr. Mardfin: And we're expecting people to cutback by 10% that's 360 homes worth of savings that's being thrown away to cover this number.

Mr. Fasi: And bear in mind we're only talking about irrigation only.

Mr. Mardfin: That's correct. I'm only talking about irrigation. I'm not talking about the normal use of the properties.

Mr. Fasi: To be fair to the applicant, I will say this, the applicant has voluntarily met with representatives from the Water Department and they have reviewed their water consumption usage and the applicant has voluntarily agreed to abide by a monitoring system for three years whereby they're going to report their usage to the Water Department and possibly the Planning Department if we should choose to take that responsibility on. The intent of that particular paragraph where I said it is prohibitive was basically to hold the applicant and the users accountable for their unmitigated water usage in Wailea and there should be some accountability more going above and beyond just saying use drip irrigation. So in light of that, the applicant did meet with the Water Department. They are agreeable to being monitored for three years. Beyond three years, I don't know what's going to happen. I would like to see it forever because they are going to be using the water forever. I don't know if that's practical or feasible but we need to take this water situation to the next level and it needs to be monitored in some fashion.

Mr. Mardfin: And they're not talking about going below 22,000 for irrigation.

Mr. Fasi: I don't know how that 22,000 gallons per day, I don't know how that's verifiable. When the landscape architect quoted the figure 32,400 I don't believe I recall how you got it down to 22,000. I don't believe just saying using drip irrigation from 32,400 is going to bring it down to 22,000 with just drip irrigation alone.

Mr. Quinn: Yeah, let me explain that in detail. There's a number of approaches to reduce water consumption in landscaping. You can only take it down so far and then you don't have a viable landscape. But more than just using drip irrigation, drip irrigation is very efficient, there's less wind blown waste. There's less evapotranspiration to water when you apply it. So drip reduces water waste. You still need to provide a certain quantity of water. Other methods to help reduce water use would be to have rain gauges and moisture sensors in the soil that detect the amount of moisture there are and rain gauges that shut off the system during the rain. Those also help to conserve water and bring down the typical water use. Also, using less water thirsty plants, we won't call them drought tolerant because we're not talking about drought conditions where that implies no water, but less thirsty plant materials such as reducing turf grass which the Planning Department requested we do, will help greatly reduce water consumption. Those methods helped to bring down that number. Now there's a simple calculation you can do per square foot, annual precipitation rate

that would be viable for plants. They need a certain amount of water to be healthy. And so, in Wailea, that part of Wailea gets about 15 inches annual rainfall which is enough to keep the kiawe green when it rains beyond that there's no much that grows there. So you have to provide a certain amount of supplemental water. The question then becomes what's the proper amount of supplemental water that you would need to apply in the rate of precipitation rate inches per year to acreage? And you need about 80 inches of rainfall a year evenly distributed throughout the year for a healthy landscape. And so subtracting the 15 inches you get and presuming that that was fell in an equitable way then you would need to supply that much more water for a healthy landscape. So by using the most efficient irrigation system we can, by using less water thirsty plants, plant material, by using rain gauges and soil moisture gauges, by using best practices we reduce water consumption to minimize waste.

Mr. Mardfin: And we're still at 22,000?

Mr. Quinn: That's correct.

Mr. Starr: I'd like to make a comment here on something I just heard which is that this is a place where there's 15 inches of rain yet to maintain the type of landscaping that you as a professional landscape designer feel is fitting in this place you need to have 80 inches of land. I live in East Maui in a place where there's 80 inches of rain, it's a very, very wet place. You know, 80 inches of rain is like Hana. So in your opinion the kind of plantings that should be out here in one of the driest spots on Maui are the kind of plants that live in natural setting in Hana. You know, I wanted to make one other comment which is I want to commend the director and I want to commend the planner and staff on taking a firm position and providing some guidance on this. It's about time and thank you for doing that. Director.

Mr. Hunt: And Paul Fasi really took the lead on this, so he deserves the credit.

Mr. Starr: Anyway, what – Mr. Fasi, you know, it sounds like you've researched it, you know, if we were to take them at their number at 22,000 which may be a high number, may be excessively high, but if they were willing to live with that, what mechanism would there be to control that. I mean, is there a way to take away their meter if they use more or something like that or to have them unbuild the development, I mean, what happens?

Mr. Fasi: Without singling out this particular project and I think to keep the playing field level and it going forward, fashion the same requirements and standards need to be held to all projects of this nature in Kihei and Wailea particularly. In the department's report, actually after page 12, is the domestic consumption guidelines from the Water Department and these are the guidelines that are across the state and standards that the various Water Departments use to monitor water use within their perspective counties. So the big picture and the bottom line is, the whole point of my exercise in this particular part of the report is just to hold the users accountable to these standards and not to go above and beyond what their fair share of water usage is. Based on what was quoted in the application, I think it's far and above what their fair share should be. So that being said, I have drafted some amendments to the conditions whereby they would be held to giving maybe semiannual reports to the Water Department and/or the Planning Department for their water usage and consumption so it can be monitored and it can be regulated and make it fair for everyone

across this county so no one is using more than what they're allotted.

Mr. Starr: Members? Director.

Mr. Hunt: I think Paul's approach has a lot of merit. I would probably have used a different word than prohibitive in the staff report. That could be a little bit misleading. I don't think there's any standard that they're actually violating. I think what we're, as a department, what we're trying to do is trying to minimize the irrigation to a reasonable amount. You start getting into issue, okay, what kind of landscaping are we going to have? There's xeriscaping standards in some communities that require very little irrigation but the type of plan is more desert and is that the type of landscaping we want in Wailea. Would that have economic impacts on the tourists, etc.? We're kind of entering new territory here but I think it's a valid discussion. We wanted to bring it forward to you folks and if we can get the water level down to the minimum and still not have economic impacts, that's the ideal. Where that line is, we're not sure.

Mr. Starr: For the – I want to hear from you about your design basis. I know, you know, I spent some years involved with Palms of Wailea. I was president of the association there. We were using a huge amount of water and it turned out that when it was built there was only about an inch and a half of top soil. You know, it was scraped down to rock and then they put about an inch and a half of top soil on top of that and the only way to keep it green was to run the sprinklers a lot and it was because the way it was built was really on the cheap. And I'm wondering if that's the case here. If they reason it's using so much is because you're not properly putting top soil on mulch or if that – you know, if you just think that you really need 80 inches of rain equivalent?

Mr. Quinn: Well, the 22,000 gallons per day figure I think is well – I mean, I don't think it's excessive, I don't think it's unreasonable. I think it does represent best practices in terms of water management for the area that that 22,000 gallons per day is watering. We're taking the issue of water very seriously. We are trying to incorporate the best practices we can in terms of reducing water use. There's ways, soil is very important. How often you water and how you water, the timing of the watering at all affects the efficiency of that, of watering. So we're going to be looking at all and any and all methods we can reduce the water consumption and make it as most efficient as we can.

Mr. Starr: Okay, members? Dr. Iaconetti.

Mr. Iaconetti: There was another part of Mr. Starr's question and that is what happens if you exceed this? What are the penalties? He's suggesting turning the water source off which obviously can't happen. What happens when they exceed the amount?

Mr. Starr: Why don't we let Mr. Fasi take first shot at it?

Mr. Fasi: Well, in the event that the water consumption figures are exceeded, I would – it would be in the best interest of the applicant to meet with the Department of Water and see how they can come back into conformity with the guidelines and hammer out some kind of compromise in order to make the – to come under the consumption and meet the consumption guidelines. And then if that still can't go, be done, I would suggest that the Planning Department bring the SMA permit

back before this body to be reviewed and acted accordingly.

Mr. Starr: Did you have something to add?

Mr. Hirano: Well, I think we're charting new territory so as Paul Fasi had suggested, the applicant is willing to work with the Department of Water Supply and the Department of Water to look at the standards. To look at the irrigation and to monitor it for a three-year period, one year after the plant material has been established and to come to some, I think, determination as to what would be adequate, what is adequate with this and to as well, just monitor the applicant is living within the 2,000 gallons per day, I think, threshold for the irrigation water. And that could be done with this particular project because the water meters for irrigation will be separate from the domestic consumption. And this is new territory, but the applicant is willing to work with the department and the Department of Water Supply to monitor it and to come into some standards for this.

Mr. Starr: Okay Members? Okay, why don't we – it seems like, you know, it's a good first step, I don't know. Anyway members, lets move onto another area if we don't have anything else on this. I know there had been questions at the last meeting that were to be updated about how pedestrians and bicyclists are going to be able to travel from this which is, I understand is supposed to be smart growth project which means that people will be able to walk and use transit to get in and out, how it will be able to get down to Shops of Wailea and the beach and up to Piilani. So, what is the solution for these issues Mr. Hirano?

Mr. Hirano: As we mentioned at the last meeting, the Maui Bus stop, the public transit system, this is Wailea Ike Drive and it has in their South Kihei run they do come up into Wailea, Wailea Ike because this is a split roadway so when you're traveling eastward they come up into this intersection and they turn around. They have a bus stop right across the street at Mateo's or just down a bit from this area and they come up and they do a quick turn and go back down Wailea Ike Drive and to Wailea Alanui and South Kihei Road.

The long term plan for the intersection and traffic signalization on Wailea Ike Drive is to have a signalized intersection at Kalai Waa which is in this vicinity. There is a sidewalk from Wailea Alanui Drive on the south side of Wailea Ike Drive from Wailea Alanui Drive all the way up to Piilani Highway. On the north side of Wailea Ike Drive there is a sidewalk that will run with the completion of this project from Piilani Highway down to about to Wailea Ike Place. So the long term solution in terms of the pedestrian access and safety, in terms of crossing Wailea Ike Drive would be that, and this would have to be implemented in cooperation with the Department of Transportation but to extend the bus run along Wailea Ike Drive up to Kalai Waa. Have a bus stop at Kalai Waa on the south side as well as on the north side and so there are or it could be just on the south side and they could do the quick U-turn at Kalai Waa and Wailea Ike Drive and then come back down into Wailea Ike Drive and continue on into South Kihei Road. So that the long term pedestrian safety issue would be to go up to the signalized crosswalk, to the signalized intersection and cross Wailea Ike Drive at that particular juncture and then walk down to the Shops of Wailea or to take the public transit on that basis.

And as Bud Pikrone had mentioned the Wailea Community Association is as well trying to implement a resort wide pedestrian access points and pathways as well as bicycle routes, but there

is a section from this point to Wailea Alanui which is on private property, it's fronting the golf course and there is no sidewalk in this particular area. But as perhaps when the Wailea Blue Golf Course owners come for entitlements, those could be issues that could be brought up with Department of Public Works, Department of Planning and the Maui Planning Commission to just continue and just extend this piece of the sidewalk.

Mr. Starr: So my understanding of what you're saying is right now there is now way to either cross Wailea Ike Drive or to walk down to the beach or to get into public transit?

Mr. Hirano: There is a, and we mentioned and we discussed this with Public Works that this is a fairly, people do cross here but it's – there is no crosswalk in this particular area and people drive down Wailea Ike Drive at a fairly fast speed so it could be dangerous. There is, in terms of the champion, the golf villas, there's a multi family development on this side of the project and of course they have pedestrian access to the site.

Mr. Starr: So it's dangerous and it's illegal but people do it.

Mr. Hirano: I'd like to ask Mike Miyamoto, Public Works, if he could just kind of respond to that in terms of the long term plans of Public Works because we had discussed this and it's a concern that the applicant shares as well in trying to solve this issue.

Mr. Miyamoto: Thank you Mr. Chair. Regarding this issue, we had met with the applicant and you know, when Wailea Ike was dedicated to the County it did not have pedestrian sidewalks across the connection, the median break as indicated and along the golf course frontage there is no sidewalks at that point. I mean, the traffic signal does have the at the bottom at Wailea Alanui and Ike does have provisions for a sidewalk to come in. So as the applicant mentioned, if and when should the Blue Course come in for any entitlements we certainly would be looking at trying to get a sidewalk along that side of the street. At this point, the cross over of the median area was when we looked at it was extremely narrow. It may not even meet, if we tried to put it in on the existing conditions it may not even meet the ADA requirements as far as the width, proper width and everything. So it's a bigger project than just for this applicant. It's something we'll be looking at possibly having to do some kind of a culvert widening at that area to provide some kind of a sidewalk down the future. But at this point, it's not on our immediate schedule for work at this point.

Mr. Starr: Is it legal to cross? I mean, is that jaywalking to cross a road like that?

Mr. Miyamoto: Pretty much because it puts them in, you know, if they're walking on the paved area, there's if I'm not mistaken, I don't think there is a delineated shoulder in this area. Basically, you know, you're walking on the roadway yes. You shouldn't be walking in those areas.

Mr. Starr: So to try to get in or out of here without a car is illegal? You have to commit an illegal act.

Mr. Miyamoto: Well, as the applicant said, they are somewhat inner connecting to the further mauka intersection.

Mr. Starr: I thought that didn't exist though, the signalized –

Mr. Hirano: It's not signalized yet, but that's in the long term transportation plan network for the Wailea area, for Wailea Ike Drive.

Mr. Starr: Okay, I apologize for taking so much time. Members, any other questions? Or shall we go to testimony? Okay, public testimony, we're ready if any members of the public please step up. Angie, welcome, introduce yourself, thanks for being here.

Ms. Angie Hoffman: Aloha, my name's Angie Hoffman. You know, just listening to this project being proposed, there are many issues that were already talked about, water, the skimpy affordable housing, the drainage, so I'm thinking this project should not at the SMA permit or Step 2 Planned Development Approval.

And I just wanted to touch on the economy thing that was brought up. Someone from A&B, I think he was A&B got up and said in these economic times that they feel that they should move forward with this project. And one question I wanted to bring up is why are they pursuing this South Maui project after announcing that they are holding off on the Kahului ...(inaudible)... mixed use development which consists of a 103 residential condominiums above, I think, 19,000 square foot of commercial condominium space and that urban project was to be the first residential offering of A&B Properties as part of the proposed redevelopment master plan for Kahului Town. But they stated that due to the poor economic climate it was on hold. So that just a point I wanted to make. Thank you.

Mr. Starr: Okay, Members? Okay, thank you very much. Anyone else wishing to give testimony? Bud come on up, introduce yourself and welcome and thank you for being patient. It's good to see you.

Mr. Bud Pikrone: Good seeing you too Chair. Bud Pikrone from Wailea Community Association. I can maybe address some of the things that were brought up. This project is, we know what Wailea is. Wailea has been for years, it was developed, conceived and developed as an economic hub for the County. And it does that through visitors, revenues through the hotels, taxes through the expense of homes. And that's what Wailea is.

So what gets built in Wailea is going to fit that plan. It's not other areas. Everybody has, it's different things that they do in different areas. This particular project though is in essence kind of retrofitting Wailea into the mind set of today. Where you want to build communities, where you have a core to that community. Where you have shopping there so people don't have to drive, don't have to leave the community as often as they may have to do normally without that. So we're happy that this is coming in. This is something that we feel is overdue for the community especially as it changes and becomes more of a residential community. So the majority of the people are in favor of this.

We've had many community meetings. Clyde has been to over the last few years, proposing this to each of the different communities at all of their annual meetings and getting their feedback on it. He's met with all of them. We've had a general meeting to present the plans to the community and get their feedback and the community is in favor of having this type of businesses in the area.

As far as what we want to do with the area to make it even more accessible is yes, we are going to be looking at the golf course putting in a sidewalk at some point. They are looking at making some changes to that Blue Course. They will have to come in and get their SMA. That is something that's already being discussed and we will on our part, not just on yours but we will be pushing for a sidewalk. We would hope to have better crossings in the area. We do know that because of 670 that's why that traffic light is scheduled to be put up at Kalai Waa. If that would ever change there was discussion of possibly moving it onto the Ekolu Road there so that you could have an actual intersection there with crosswalks for the community. That's something that can be proposed at some point later on, but right now it's already been discussed and put on 670 to put a traffic light at Kalai Waa.

We are also looking at putting in and we're in the process of doing that now, of expanding our, what we have is a shuttle service and with a project like this in the Gateway Center, of having a shuttle service so that the community can get around to the shopping centers, to the beach accesses in that without having to use their own cars. So, this is something that we're all kind of looking at as a way to change our community a little bit and make it a little more of a community rather than just strictly a visitor spot.

So with that, I just want to say that we're very much in favor of having this type of a business and to plan on it now because it will take years for this to get, three years to get this thing in the works and the community needs it now. We need to get started on having that type of business in the community for the future. Thank you.

Mr. Starr: Thank you. Members? Okay, thank you. Anyone else wishing to offer testimony please make yourself known. Not seeing any, public testimony portion is now closed. Members, any other questions or comments? I think we had a few kind of unanswered items if anyone wants to get back on them. Now would be the time. Commissioner Hedani.

Mr. Hedani: I'd like to know from the applicant what the affordable housing commitment number is for the project in total?

Mr. Starr: Please –

Mr. Hedani: I would refer to my report, but I think it tossed it in November.

Mr. Murashige: The current requirement, just assuming that the market units are above the \$600,000 and the ordinance stays the same at this point, it's, I believe it will be, we're looking at 18 units for the multi-family. And realizing that we do have to probably go through an amended subdivision and do something for the single family, that would be an additional either five lots or – five lots. So 18 units and five lots.

Mr. Hedani: 23 units?

Mr. Murashige: Well, my understanding of the ordinance, it's lot for lot and unit for unit. So 18 units and five lots.

Mr. Hedani: That covers the multi-family and it covers the single family. How about for the commercial development? There's no requirement?

Mr. Murashige: There's no requirement for commercial.

Mr. Starr: Members? Commissioner Mardfin.

Mr. Mardfin: Is that workforce housing going to be in the terms of lots and not a cash in lieu of, pay cash in lieu of the lots or units?

Mr. Murashige: We haven't determined that yet, but typically we're leaning more towards lots and units.

Mr. Starr: Mr. Murashige would you be willing to commit to a minimum units, perhaps using the number you just quoted, condition of this?

Mr. Murashige: I think we'd like to be treated like everybody else that whatever the workforce housing requirement is, we will comply with that.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: I don't expect you to rewrite the ordinance on workforce housing Clyde, but from my perspective if you create, well, if you create 64,000 square feet of commercial space, you're going to generate maybe 300 employees within the shopping center, 300 to 400 employees within the shopping center. Is there some kind of incentive to create affordable housing for those employees or?

Mr. Murashige: Actually we didn't anticipate that high a generation of employees because two of the buildings are actually going to be commercial buildings so more service oriented and our anchor was going to be about 14,000, 15,000 square foot grocery store. So the generation wouldn't be that much nor are tied at this point to a type of tenants that will be going in. So you know, we felt that given the affordable requirements and providing those and it probably be off site, we've adequately met some of the issues that are raised with commercial development. But I think getting back to the previous question, all we're asking is that whatever is required by the affordable housing that we comply like everybody else.

Mr. Starr: Okay, members, any other questions? Comments? Anyone want to make a motion? Commissioner Hedani.

Mr. Hedani: One more question. I'm still a little concerned about the view planes coming from Wailea Ike across the project and I'm wondering if you could tell me whether or not increasing the setback from Wailea Ike say from 20 to 30 feet or something like that could be considered maybe in conjunction with also creating additional drainage, retention areas that you might be able to accommodate your onsite drainage question.

Mr. Murashige: Couple things on that. The intent of the look from Ike Drive.

Mr. Hedani: Before you respond Clyde, my thinking is down and away from Wailea Ike in order to improve the view of the ocean from that perspective.

Mr. Murashige: Couple things that I believe Chad had pointed out earlier was that once the buildings go in actually they'll be lower than a lot of the kiawe tree lines that are there now. In fact, we put up surveyor's poles at 35 feet from the point where the grading would start couldn't even see the top of the poles because they were covered by kiawe trees and they were set back to the point of where the most impact would be. So as a result in the design process, the buildings were staggered along Ike Drive and landscaping was put in to break up that massing. So an additional setback of 10 feet would not in my opinion create any more greater views of the ocean. In fact, just by having the units or the top of the roofs actually lower than the kiawe tree line, you'll be seeing some ocean.

On the issue of drainage and getting back to Commissioner Hiranaga's point, the County requires a 50-year storm, system for a 50-storm. That would – 100% of predevelopment, 100% of post development would be pretty difficult for us to achieve on this site. It is as you look at it a fairly odd shaped site that does have its own drainage issues, plus we're dealing with already 15-foot easement along the entire run of the frontage.

Mr. Starr: Okay, I'd like to call on Mr. Fasi to give our recommendation now.

Mr. Fasi: Thank you Mr. Chair. Something that wasn't discussed today, but I would just like to bring to your attention was that at the request of the Planning Department, the applicant agreed to build this particular project to LEED standards. And in addition, –

Mr. Starr: Hold on one second, I see Mr. Murashige has some comment to make.

Mr. Murashige: Just to clarify, our position was that we will try to incorporate all that we can to get the points up to a certified LEEDs standard. I think as we mentioned the last time there's no assurances that if we meet the points that we will get certification because it is a review and approval process.

Mr. Starr: Huh? In other words, you're not agreeing to LEED certification?

Mr. Murashige: No, what we're doing is we're saying that we will put in things that meet the LEED certification, but because it's not a guarantee that we can get it because it goes through a private certifying board, I guess technically we can't commit to saying that we will have LEED certification.

Mr. Starr: Okay, Mr. Fasi.

Mr. Fasi: Mr. Murashige is correct. Maybe I mislead you to say that he was going to have it registered as a LEED certified building. He is going to build it, incorporate a number of significant LEED standards into the project which the department was very comfortable with.

Before I get into the recommendations, I should mention that, not to kick a dead horse but getting back to the water issue very briefly. The department has gotten a very enthusiastic reception from

the Water Department in regards to partnering up with the Water Department in order to hammer out and craft some new language that would possibly become new standard conditions for developments in Wailea and Kihei or similar projects perhaps maybe in Lahaina. I don't know at this point. So at this point, we're putting the cart before the horse a little bit here and without having the discussion with the Water Department I don't know what the conditions are going to look like and I would hate to impose conditions upon the applicant retroactively without them realizing what they are prior to them actually reviewing the new proposed conditions.

Mr. Starr: Yeah, I understand we're breaking new ground here. Commissioner Mardfin.

Mr. Mardfin: If you need to confer with the Water Department on this and work with them, then we're not really ready to deal with this today are we?

Mr. Fasi: That could be a accurate statement, yes sir.

Mr. Mardfin: Appropriate for a motion to defer?

Mr. Starr: Yeah.

Mr. Mardfin: I'd like to make a motion to defer this until the planner has had a chance to work with the Water Department and the applicant can work out appropriate mitigation.

Mr. Starr: Okay, is there a second? Is there a second to the motion? No –

Mr. Iaconetti: I'll second it.

Mr. Starr: Okay, we have a motion by Commissioner Mardfin, seconded by Dr. Iaconetti, the motion is, Director?

Mr. Hunt: To defer the application to provide time for the Planning Department to work with the Water Department to work on mitigation measures.

Mr. Starr: I would request that if this motion passes, that whatever other questions or issues we may have we try to perhaps email them to Carolyn or to Paul so that when it comes back before us we can deal with it fairly briefly. Commissioner Hiranaga.

Mr. Hiranaga: This is a two-part application. I believe the applicant has met the tests for the Step 2 Planned Development Approval. I think we can give them time to address some of the concerns of the commission by deferring the SMA use permit application. So at this time, I will not be supporting the motion to defer. I'm assuming you're only addressing Item 3 on the agenda?

Mr. Starr: Yeah, my understanding is we're going sequentially so the motion that Commissioner Mardfin made Director, does that, is that limited to the Step 2?

Mr. Hunt: I don't believe the motion specified, but the order of your agenda is you would take the Step 2 first since that's the first item on your agenda.

Mr. Starr: Okay, Commissioner Mardfin, could you clarify? Were you referring to Item 3 only at this time? Is that –

Mr. Mardfin: I had intended to be for both, but –

Mr. Starr: I think we should separate them. I agree on that point.

Mr. Mardfin: I'm willing to have it separated and deal with it separately.

Mr. Starr: Okay, Doc?

Mr. Iaconetti: All right.

Mr. Starr: So just to be clear, there's a motion on the floor to defer the Step 2 Planned Development Approval for this project pending more work on the water.

Mr. Fasi: Chairman Starr, I believe Mr. Hiranaga was referring to exactly, a little bit maybe the opposite of approving the Step 2 Planned Development, Step 2, and deferring the SMA, the application.

Mr. Starr: Yeah, I understand that but we're following sequentially.

Mr. Fasi: Oh, I see, you're following the agenda sequentially. Okay.

Mr. Starr: We just have to dispose of the motion one way or another.

Mr. Mardfin: I'll withdraw my motion if that's appropriate. The motion was on the Step 2 and from what I understand the suggestion is that what we do is defer the Special Management Area Use Permit is that?

Mr. Starr: Well, that was suggestion by Commissioner Hiranaga.

Mr. Hiranaga: For discussion purposes of what my intent was going to be.

Mr. Starr: Yeah go ahead.

Mr. Mardfin: I'll keep my motion on the floor. I don't care which we defer or both as far as I'm concerned.

Mr. Starr: Okay, let's dispose of the motion, the motion to defer one way or another and then we can get onto further action. Okay Director.

Mr. Hunt: I'm not sure this would happen but it's conceivable that during your review of the Special Management Area permit concerning water, etc., it could affect the landscaping that would be approved in the Step 2. And it may be awkward to approve the Step 2 now and then to have an SMA permit try and revise that in the future. A more cautious approach would be to defer them

both. I don't see the hurry to approve the Step 2 and then defer the SMA. But it's up to you folks.

Mr. Starr: Okay, Members we ready to vote on this? Commissioner Hiranaga. I'm looking at page 4 of the staff report, sort of defines Planned Development Step 2 Approval, and maybe Corporation Counsel might comment but it seems like it's still a pretty preliminary design. So I don't see us locking in the landscaping plan by approving the Step 2 Approval. Maybe I'm wrong. I'm just looking at this little paragraph on page 4.

Mr. Starr: Mr. Giroux.

Mr. Giroux: If you look at the standards in the Step 2, I believe the sketch also includes things such as drainage, streets, utilities, grading, landscapes, open spaces, lots, land uses, recreation and community facilities, buildings and structures, and programming. So if you do vote and approve the Step 2, those things will be locked in and you'll have to do a procedural motion to undo that if the SMA needs to adjust those things. And I think you've discussed grading and drainage to some extent.

Mr. Hiranaga: So what I'm looking at on page 4, what is this? Because it says, "to prepare a sketch plan, a preliminary proposal of drainage, streets, utilities, grading, and landscaping." So, I mean, to me that's just this is a preliminary plan. So by approving it, we're making a final plan?

Mr. Hunt: This is your sketch plan. So this is the site plan, the sketch plan, the Step 2 which involves all the items that James referred to. So again, I think a more cautious approach would be to look at these permits together.

Mr. Starr: Okay, Members are we ready to vote on the motion. We do have a motion on the floor and lets stick to that. Commissioner Hedani.

Mr. Hedani: Is it staff's recommendation that we defer at this point or is it staff's recommendation that we consider the project?

Mr. Starr: Mr. Fasi.

Mr. Fasi: It is the staff's recommendation as the Director said, it be on the safe side and defer both. It does no harm to defer both time wise. You cannot have one without the other.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: I guess my question is what exactly are they supposed to do with the Department of Water Supply?

Mr. Fasi: What is the Planning Department?

Mr. Hedani: What is the applicant supposed to come up with between now and whenever the time we reconsider this?

Mr. Fasi: Nothing. The applicant has no input at this point other than to agree to the standards that the Water Department and the Planning Department come to terms with on their meeting. This meeting is scheduled for February 6th, so it is fairly soon and we could possibly bring this item back on the agenda fairly quickly. So it's just the department that's going to come to an agreement or some kind of an –

Mr. Fasi: It will behoove the applicant to have a little patience and agree to the deferral because that way we won't be imposing any unknown conditions upon the applicant that they are unaware of. And this way at least they can at least have a little bit of comment on the conditions that we're going to be crafting.

Mr. Starr: Okay, members we ready to vote? Okay, the motion is once again?

Mr. Hunt: To defer the Step 2 application to provide time for the Planning Department to work with the Water Department to work out mitigation measures.

Mr. Starr: Okay, all in favor please raise you hand. All opposed.

It was moved by Mr. Mardfin, seconded by Mr. Iaconetti, then

VOTED: Defer the Step 2 Planned Development Approval to Provide Time for the Planning Department to Work with the Water Department to Work on Mitigation Measures.

(Assenting - W. Mardfin, W. Iaconetti, K. Hiranaga, J. Guard, B. U'u, D. Domingo, W. Hedani, J. Starr)

Mr. Hunt: I had that unanimous in favor.

Mr. Starr: Okay, Commissioner Hedani.

Mr. Hedani: Since we're deferring this particular item into February, what I'd like to request is if the applicant could provide for us a visual representation of what the elevations of the roof tops of the buildings along Wailea Ike would be as it relates to the horizon line of the ocean along Wailea Ike Drive for us to review, if that's possible.

Mr. Starr: Yeah, have you got that Mr. Hirano? Also, I'd like you to look and see if there's some other way to get pedestrians in and out of here safely, you know, doing improvements for safety is not such an unusual thing. And also, some definitive answer as far as the workforce housing. Commissioner Hiranaga.

Mr. Hiranaga: Also, take a hard look at the performa to see if you can increase the drainage retention capacity of your proposed drainage system.

Mr. Starr: Okay, anything else? Commissioner Mardfin.

Mr. Mardfin: Can I make a motion to defer Item 4?

Mr. Starr: No, Commissioner U'u did you have a question?

Mr. U'u: Also to comment if we can have not only testimony from the Planning and the Water but to have somebody from Water to be present at the next meeting if possible.

Mr. Starr: Yes.

Mr. U'u: And also to comment that you know, the affordable housing, workforce housing ordinance as they see it, that it might not imply to a certain part of their project, that's still in conformance with the ordinance itself. So for that matter, they still following the workforce housing ordinance and we heard from A&B saying that if they would have to move around or shift around that portion of their project, that would trigger the workforce housing ordinance and I'll be satisfied with that also.

Mr. Starr: Okay, anything else? Commissioner Hedani.

Mr. Hedani: If they could also include an analysis on whether or not setbacks could be increased along Wailea Ike Drive to 30 feet from 20 feet. And if the height, the roof line analysis could also include the roof lines of maximum build out on the single family section also.

Mr. Starr: Okay, have you got all that? We're good to go.

Mr. Fasi: Chairman Starr, you had something on safety. Could you repeat that one?

Mr. Starr: For them to look for a mechanism to provide pedestrian and if possible, bicycle access in and out of this that's legal and safe. There's got to be a way. Okay, and you know, I'll see that it gets back on the agenda, that Clayton puts it as soon as it's – you know, they work this out. Okay, do we have another motion? Commissioner Mardfin.

Mr. Mardfin: We're on Item 4 which the Director already read in. I move to defer Item 4 to the same period that Item 3 is brought back.

Mr. Starr: Do we have a second?

Mr. Iaconetti: I'll second.

Mr. Starr: Okay, moved by Commissioner Mardfin, seconded by Dr. Iaconetti. Director.

Mr. Hunt: The motion is to defer the SMA application until the same time period as the Step 2 is brought back to the commission.

Mr. Starr: Okay, ready to vote? All in favor, please raise your hand. All opposed?

It was moved by Mr. Mardfin, seconded by Mr. Iaconetti, then

VOTED: Defer the Special Management Area Use Permit to Provide Time for the Planning Department to Work with the Water Department to Work on Mitigation Measures and be Brought Back at the Time the Step 2 is Brought Back Before the Commission.
(Assenting - W. Mardfin, W. Iaconetti, K. Hiranaga, J. Guard, B. U'u, D. Domingo, W. Hedani, J. Starr)

Mr. Hunt: I have that as unanimous in favor.

Mr. Starr: Okay, we'll see you back.

Mr. Fasi: Thank you.

Mr. Starr: Thank you everyone for your patience. Okay we're going to take a really short recess to set up.

A recess was called at 2:16 p.m., and the meeting was reconvened at 2:22 p.m.

Mr. Starr: ... January 27th is back in order. We turn to our hardworking Director to introduce the next item.

Mr. Hunt: Your next item involves Mr. Will Willett requesting a Special Management Area Use Permit for the Keawakapu Beach Lots/Clapp Residence, the construction of two single family residences at 3180 and 3190 South Kihei Road at TMK: 2-1-010: lots 11 and 31 in Kihei. The file number is SM1 2008/0002 and Jim Buika is the planner assigned to this project.

C. PUBLIC HEARINGS (Action to be taken after each public hearing item.)

- 1. MR. WILL WILLETT requesting a Special Management Area Use Permit for the Keawakapu Beach Lots/ Clapp Residence, the construction of two (2) single family residences at 3180 and 3190 South Kihei Road, TMK: 2-1-010: 011 and 031, Kihei, Island of Maui. (SM1 2008/0002) (J. Buika)**

Mr. Jim Buika: Good afternoon Chairman Starr, Commissioners, Corporation Counsel and Director of Planning. Thank you for your continued service to the people of Maui and for your expertise on your board. My name is Jim Buika, planner with the Planning Department. We would like to present this. This is the first time you've seen it. I'll first give you the purpose of the application and second, give you an assurance about the Planning Department's recommendation of approval on this project that it meets the special management area review criteria. Following my opening comments, I'd like to have, ask the Chair to have our consultants Chris Hart and Partners do a short presentation overview of the project and a discussion of the mitigation alternatives at that point my comments should be no more than five minutes long and the presentation should be no more than 10 minutes following me. And then finally, I'll present our Planning Department's recommendation of approval.

To begin the purpose of the application is to approve the applicant's request for a special management area use permit in order to construct two single family residences separated by a view corridor on adjoining lots. Both lots are owned by the same owner. The lots have been owned by the Clapp family since the 1970's. A member of the Clapp family is present here today.

The lots are located on the shoreline in the special management area along Keawakapu Beach in South Kihei. The location is at the furthest southern extension of South Kihei Road near Wailea. The lots are currently vacant and undeveloped except for an existing private drain line that is buried with a concrete headwall at the oceanfront. The consultants will address the proposed mitigation measures to repair and replace portions of the existing drain line.

The project will incorporate mitigation required of shoreline properties in order to mitigate any impacts to coastal waters and marine resources. The proposed project is consistent with the designated land use for the adjoining parcels. State Land Use Urban, Maui County Zoning is R-3 Residential, Community Plan is Single Family. Lot sizes are .73 acres and .71 acres respectively. The shoreline setback line is at least 95 from the shoreline which includes a topographic step down of the a step up of the houses from the shoreline. Finished floors will be 16 and 19 feet above sea level and the base flood elevation is seven feet at that location so they are well out of the flood hazard area.

The proposed cost for the homes are \$2.695 million for the residence. The main residence is approximately 5,640 square feet in floor area with a garage of approximately 594 square feet. Residence two will cost \$3,506,500. The main structure will be approximately 7,200 square feet in floor area and the attached garage will be approximately 908 square feet.

Cost to replace and repair the major drain line will be borne by the owner of approximately \$100,000. The drain line is private. There is no easement. It is not a public infrastructure.

Normally under the SMA rules each of these proposed homes as single family dwellings would normally be exempted from public hearing by the Maui Planning Commission. However, the owner wanted to combine both of the permits together as a major SMA permit and bring them before this body for approval.

Regarding testimony, to date on the application in your application there are two letters of inquiry that were received by the department about the project, about the drain line and about the view plane. They're exhibits 38 and 34. Two support letters were received by the department from the Wailea Community Association and the Kihei Community Association. Those are exhibits 39 and 40. No testimony against the project has been received by the department.

And finally to conclude my comments, opening comments, the Urban Design Review Board had no recommendations as additional conditions on the project. They concluded that the proposed project is appropriate for the lots.

So as I turn it over to Chris Hart of Chris Hart and Partners for the short presentation, I'd like to alert you to, there's an Exhibit 12, it's an 11 x 15 handout that it's just a better representation of Exhibit 12 which shows the drain line which the applicants will or the consultant will discuss in a moment.

So may we proceed? Thank you.

Mr. Chris Hart: Thank you very much Jim. My name is Chris Hart, Chris Hart and Partners and it gives us great pleasure to be able to present this project to you this afternoon. This is our Keawakapu Beach lots application and as Jim said, for a special management area permit.

Our project team, the Clapp family is the owner of the property and as Jim indicated to you they've been the owners of the property for almost 40 years. Joe Kenney is here present representing the owners. Frank J. Stiney Group Incorporated are the architects and Will Willett is the design consultant and Will is here present and our firm, Chris Hart and Partners are the SMA permit consultants together with the landscape architects and Jason Medema, he has been the project planner from our office and he will also be sharing in the presentation today. Stacy Otomo of Otomo Engineering has prepared the preliminary engineering report and drainage report. And with us today is Paul Mancini, Esq., who is the land use attorney for the project.

The project profile, we're proposing two single family residences separated by a view corridor on two adjoining lots. And I think that, I won't go through all of that information because I think Jim Buika did that. The total project area is 1.44 acres. The required permits are the special management area permit, grading permit, building permit, flood hazard area development permit.

Now I'm going to turn this over to Jason and Jason is a LEEDs accredited professional and he's going to discuss some of the LEEDs related issues.

But a couple of things that I would like to say is that the property was actually subdivided back in 2006. Also, as I indicated to you, the property has been owned by the Clapp Norton family since the – for almost 40 years. This area of Keawakapu, it's really, it's privately owned beach front lots, but there are portions of Wailea Resort that actually exist mauka of South Kihei Road. Wailea Kai is actually the subdivision that's immediately mauka.

One of the issues that was discussed, it's going to be discussed in greater detail is the issue of the drain line. Now Wailea Resort when it was under construction back in the last '60's and early '70's, mid '70's, in the mid '70's, constructed several drain lines and this one was designed as actually, it's about a six-foot diameter, 72-inch drain line and it's a corrugated metal pipe and it's going through a process of deterioration right now. When the lines were installed, Wailea didn't provide any easements. In other words, it becomes private because it was imposed upon the parcel by the developer and essentially, basically the private landowner has to assume responsibility for the drain line.

There is a little bit of history. Several of them have failed. There was one that failed not too long ago along Wailea Alanui Drive near Hoolei and there was another one that failed in Wailea Elua, going through the condominium. There was a lawsuit involving the County of Maui and involving the Wailea Resort and also Wailea Elua and the judge ruled that all three were responsible. Now in the context of this drain line, again, it is going to be fully repaired by the owner and the cost is going to be borne by the family. And also we have been in contact with the Department of Public Works about it and we have discussed it with them. During the course of our presentation or in your question and answer period if there is a need to, you know, ask the Public Works Department

about this project, they are familiar with it. With that, I think I'd like to allow Jason to take over and to present the project to you. Thank you.

Mr. Jason Medema: Thank you Chris. Good afternoon Mr. Chairman, Members of the Planning Commission. Thanks for giving us this opportunity to present the project. I won't go into great detail about the sustainable design features and principles in the interest of time, but if you have any questions, both Will and I would be happy to go over those with you after the presentation.

As you've learned already this project site is toward the southern terminus of South Kihei Road at the intersection with Okolani Drive. Kihei is largely in this direction. Wailea being to the south. Here's a little bit closer picture. You can see there's the property. There are beach accesses to the north and south. Okolani going up to Piilani Highway and Wailea Alanui. South Kihei Road proceeding to the north.

The site is in the state urban district. It's designated for single family use by the Kihei-Makena Plan. It's in the R-3 residential district. It's in the state special management area. Related to that, mitigation measures specific to this project, no work to be performed in the shoreline setback area. Flood hazards to be properly mitigated. No change or impact on public access to the shoreline. Best management practices during construction to protect the shoreline and the ocean waters. No increase in runoff caused by the project. Approved archaeological monitoring plan to be implemented. View planes will be maximized and preserved and the major drain line repair is going to extend the life of this, what is in effect a public utility and will not disturb the shoreline setback area. There also will be no decrease or alteration to the storm water flow characteristics of that drain line from what exists right now.

This is a picture of South Kihei Road facing north fronting the project site which is here and this is where the intersection v's off and becomes four lanes going up and down the hill to Wailea. This is facing south, Wailea Ekahi is ahead of you here. Wailea Kai Subdivision to the left. The project site to the right and then South Kihei Road proceeding to the beach access at Keawakapu Beach.

This is a view toward the site as you approach coming downhill on Okolani Drive. These are the approximate property boundaries. You can see the existing view through the undeveloped sites right now. Again, a little bit closer approaching directly across the street from the project site. So you can see views open up basically at the property lines. Facing mauka from the beach front and facing mauka to the southeast from the northwest corner also at the beach front.

Neighboring properties. This is to the south. This is a particularly stark example but essentially this is representative of mauka views throughout the neighborhood. I'm sorry, makai.

This is the landscape site plan that was approved by the Urban Design Review Board. As you can see, in consideration of the existing makai views the goal of this project is to preserve what's on this lot currently to the greatest extent possible. So the Lot 1 the home is set as far toward the northern setback as it can be and then Lot 2 the home is about three feet short of the minimum setback – three feet wider than the minimum setback, excuse me, to accommodate the realignment of the drain line through the southern side yard setback.

The conceptual rendering that better represents the view corridor shown through the center of the two homes. This is roughly 32 feet wide. The property line between the two lots being right about here and the aggregate view corridor is approximately 32 feet at the first floor level, 46 feet at the second floor level. And please note that the elevation at South Kihei Road is 23 feet. The base floor elevations step down in the homes but they're at the highest 20 feet on residence one and 18 feet on residence two. So you're already above grade, above the finished grade of the homes standing across South Kihei Road. So ...(inaudible)... the view corridors are further maximized because you're facing through the upper level setback largely. This is the mauka elevation showing both structures. ...(inaudible)... elevation of Lot 1 and Lot 2.

As Chris mentioned there is a drain line running through the property. The history on this line is really scant other than to the best of our ability to figure out where it came from. It was installed as part of the development of Wailea in the '60's or '70's. It's a corrugated metal pipe that's in a terrible state of disrepair right now and it enters the property from an inlet box that's in the road right of way fronting Lot 1. And the current alignment shown in blue continues through Lot 2 to a headwall at the shoreline. The line is going to be replaced throughout its entire alignment. It's going to be replaced here, realigned along the southern setback so as to pull the houses as far apart as possible maximizing the view corridor. It's going to hook into the existing portion of the drain line running beneath the shoreline setback area. This portion of the drain line is going to be replaced with a 72-inch diameter high density polyethylene. This portion running beneath the setback is going to be lined with a cured in place liner to avoid any sort of ground disturbing activity in the shoreline setback.

The drain line, this is an inlet basin at Wailea Kai directly across from the project site, behind this railing. And in addition to taking in drainage from inlet boxes along South Kihei Road it actually takes in drainage from a series of swales and green belts that come from just makai of Piilani Highway. So all the way up. It runs, those pipes run underneath South Kihei Road and then hook into this inlet box that's in the right of way fronting the property. It's much larger than Jim. There's a six-foot diameter pipe that's about 15 feet below the surface of this grading that you see and it outlets at a headwall that you can see kind of buried in this naupaka hedge at the shoreline.

The pipe is actually, it's – the route of the drainage is shown on the Wailea drainage master plan which I think originally dates from 1967. This version is dated 1995, and I apologize, this is as about as clear as I could get it. If any of you are interested I have 11 x 17 printouts I'd be happy to hand to you, but this shows, this is the approximate location of the subject property and there's drainage coming all the way down from these mauka subdivisions. Conceptual drain line plan, again, that's all I have for you at this point in time. Mr. Chairman, I'll turn it over to you to proceed as you see fit. Thank you very much.

Mr. Starr: Okay, Members questions? Dr. Iaconetti.

Mr. Iaconetti: I was wondering why are you just repairing a portion of that drain area?

Mr. Medema: The drain line, well, the drain line is being repaired through the entirety of the property. In terms of why are we not digging it up underneath the shoreline setback and replacing the entire pipe?

Mr. Iaconetti: No, there was a section there coming from under the road that I thought you said was not part of the repair area.

Mr. Medema: The repair area is from the inlet box in the road right of way fronting the project all the way out to the beach.

Mr. Iaconetti: Okay.

Mr. Medema: And then anything mauka of that is, you know, going underneath South Kihei Road and then up to a series of swales and so forth that are offsite.

Mr. Starr: I have – oh, Commissioner Hiranaga, go.

Mr. Hiranaga: What is Miratec roofing?

Mr. Medema: I'll let our design consultant Will Willett speak to that.

Mr. Will Willett: Good afternoon, the type roofing going on both buildings is tile roof. We do have some samples that we could show you. On the building to the north is a concrete shake and the building to south is a glazed type of clay tile.

Mr. Medema: ...(inaudible)... Miratec underneath the roofing.

Mr. Willett: Oh, the Miratec, the sheeting. That's a reflective sheeting that if it's applied and you're looking up at it, you're going to see a foil that's applied to the bottom of it. What it does is prevent heat loss as far as going up and penetrating back through.

Mr. Hiranaga: Thank you.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: On the pools, at first I thought that they were – you said that they were outside of the setback.

Mr. Medema: That's correct.

Mr. Mardfin: I think the closest one was 96 feet.

Mr. Medema: Yes.

Mr. Mardfin: You said there was a range of distances for the setback that went up to a 105 feet I think.

Mr. Medema: That is correct.

Mr. Mardfin: So if the 105 were there then the pool would within it. So are you saying that at the

point where the pool is, the setback is 95 feet?

Mr. Medema: No. No, sir. All structures are places outside of the shoreline setback. The setback varies and it's based on mostly the average erosion hazard rate with the various transects. There's a portion here, actually fronting the headwall where the average lot depth was – the computation of the setback by that ... (inaudible)... was actually greater. So this portion, that basically it's a composited mostly annual erosion hazard erosion rate, some average lot depth and based on the shoreline setback assessment which I think is included in the staff report, it does vary.

Mr. Mardfin: Yes, and the clearest one I think is this line that shows the pool is above it.

Mr. Medema: Yes. Correct. All structures and activities are taking place outside of the shoreline setback.

Mr. Mardfin: What's the height of the pool above sea level?

Mr. Medema: It would be about this. Will, do you know that?

Mr. Willett: It varies from Lot 1 is at a higher elevation which is 19 feet and on Lot No. 2 it is 16 feet.

Mr. Mardfin: For the pool?

Mr. Willett: Yes.

Mr. Mardfin: 16. Let me explain why I asked about the height is because OHA has in their testimony, let me see if I can find it quickly, no – it's the Division of Aquatic Resources Maui, it's Exhibit, I'm not sure what exhibit is it, I think it's Exhibit 24, about the third page in, Division of Aquatic Resources said, "although the document states that native plants be used for landscaping, there are pools which are 96 feet mauka of the shoreline. In past meetings with the Maui Water Department and meetings discussing the availability of water, swimming pools next to the ocean were not supported by most of the public. Size and amount of water for the two pools should be described fully." And I was just wondering if people don't think we ought to have swimming pools next to the ocean, we have swimming pools, two swimming pools next to the ocean.

Mr. Willett: I guess you're wondering why people have swimming pools next to the ocean?

Mr. Mardfin: Yeah.

Mr. Willett: I think in houses of these sort, and I think this is generally, generally true in most all of the houses of this type have pools. I know that comment was in there and I don't know what the answer to it is.

Mr. Mardfin: Except that you still want to have the pools?

Mr. Willett: Yes, that's correct. The owners want to have the pools. It's a very typical development, typical of that sort of thing.

Mr. Mardfin: Now I think, I think it was the Water Department, maybe it's Wastewater, it's Exhibit 17, from the Department of Environmental Management. It asks about water from the swimming pool and spa drain, backwash and outflow shall not be discharged to the wastewater system and the outdoor shower drain shall not be connected to the wastewater system. And on the back of it there's a response that you acknowledge that, it's from Chris Hart acknowledging that. What's going to happen to the water from the pool? You never drain it?

Mr. Willett: No, no, I think the water they're referring to is the backwash that you do when you're backwashing the filter systems. And the filter systems we use today don't require backwashing. The system is of filters that you don't do the typical backwashing that you did in years gone by.

Mr. Mardfin: So the water from the pool will never enter the ocean?

Mr. Willett: That's correct.

Mr. Mardfin: And it won't go into the wastewater system either?

Mr. Willett: No, and that's also true of the showers, the outdoor showers.

Mr. Mardfin: The pools never get drained is that?

Mr. Willett: Well, I don't know if you say they never get drained. If you filled a pool, if it's a plaster pool, probably it would have a life span of 15 years or so that you would replaster. If it's a tile pool, it's just about good forever. If you were going to pump the water out of there, you would go in and bring a pumper truck in and pull it out.

Mr. Mardfin: And at 16 feet above sea level you're not afraid of a tsunami washing a whole bunch of stuff into the ocean with the chlorine. I presume it's chlorinated?

Mr. Willett: At this present time yes, they're chlorinated pools.

Mr. Mardfin: I guess I'm concerned about somehow storms or something else pushing chlorinated water into the ocean.

Mr. Willett: At that elevation it would be a pretty good storm.

Mr. Mardfin: It would only have to be big enough to flush the pool.

Mr. Willett: Yes, and it would flush lots of pools if it did that.

Mr. Mardfin: What's the reef structure like out, right outside there?

Mr. Willett: The reef structure –

Mr. Mardfin: Yeah, is there a good healthy reef there or?

Mr. Willett: I don't believe there is at Keawakapu, to my knowledge, when we had the storms the sand will go in and out, and you'll get sand bar out there, but there's no reef to my knowledge out there.

Mr. Mardfin: Thank you very much.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Just curious. Why did the applicant decide to come in for a major SMA permit because isn't it – aren't you kind of rolling the dice? I mean, if the planning commission denied the permit would you still be able to build the house? I mean, it seems like you could get a single family homeowners exemption if you proposed them separately. So I'm just curious.

Mr. Hart: That was the original intent. Obviously the subdivision was a two-lot subdivision which was completed in 2006, and the thought was to basically file an SMA assessment application, but because as Jason indicated to you and we indicated in the slides, because of the intersection of Okolani Drive and people driving down Okolani with the opportunity of views to the ocean, it was felt that it would be more appropriate since the lots were both owned by the same family to basically look at the development of both lots and try to preserve a meaningful view corridor for the public and so that was the reason and he basically agreed.

Mr. Hiranaga: You could have done that independently without a major SMA permit.

Mr. Hart: But still you know, once you get one permit, you know, SMA permit, and you know, maybe five years later, you know, the idea is whether or not there's going to continuity you know, in terms of remembering that we wanted to maintain a view corridor. I think that, you know, there were issues involving this project that are a direct benefit to the general public. One being the drain line and the other being the issue of the view corridor. And so we felt in the context of both issues that it would be appropriate and agreeable to us to process it as an SMA major permit. It was nothing more than that, and we hope that you would, you know, look at it in a positive way not a negative way.

Mr. Starr: Commissioner Guard.

Mr. Guard: Thank you. I appreciate that you guys came in front of us because it is a nice project and I appreciate the large view corridor because that is right where people look at that and I think some of the houses around there, people have wondered how they got away with it. So it's a good-looking house, I guess following up on the pool question, I don't know if there's salt water pools that may be better to use in those environments to look at and with all of the other issues that you're doing with the aqua pavers for the filtration and that may be one other step if that – some people like salt water pools, some people don't.

Mr. Hart: You know, there are methods that can be used, basically other than and then chlorine and I think that's something that you know, we'd certainly be open to. The other issue too is that in the context of you know, basically the pools themselves, usually it's a matter of adding water to the pool and the filter keeps renewing the water, but you know, if there is a need, you know, dry wells, we

do have room where we could actually you know, install a dry well to basically handle any need to dispose of water other than having, you know, a tank truck come to basically remove the water from the pool.

Mr. Guard: I think, I believe that's why some people do go with the salt water pools for that type of lawn as well. So that be the only thing. Maybe with this project we can get our ratio of time to project number up if we can move forward quickly.

Mr. Starr: I have a question. I think it's probably the Corp. Counsel. It's kind of a philosophical question here and it's not an attempt to penalize the applicant on this, but you know, we have a lot of discussion about runoff and how it ends up in the ocean and affects the reef and here we're kind of at the tail end, the business end, you know, along a chain of pipes and it's being redone you know, right above the shoreline. Obviously the applicant isn't responsible for what goes into it, that all happens far above the property but you know, looking at the pictures I see you know, unfiltered it's coming in off the roadways. So anything that gets you know, dropped on the roadway ends up in it, and you know any oil that comes off of cars and then all the chemicals from up above, you know, all the projects that this drains into gets washed down and now it comes down through this and ends up you know, coming across the beach and, you know, I swim and snorkel down there. It's pretty much dead off of there. Now when you rebuild, you know, a house, it's in a shoreline area, you know, if it's a major project you have to kind of follow the best information you have. At what point do we, I guess it would have to be whether it would be Public Works which really utilizes the thing or do we deal with the responsibility of what this is carrying into the ocean if it's creating harm when it's getting rebuilt. Is there any concern or consideration that we can feel, Mr. Giroux, do you have any comments on that or is that just not our kuleana since we are doing an SMA. If we're approving the rebuilding of something that's doing harm to the shoreline where are we at with it?

Mr. Giroux: Well, we hate to answer hypotheticals but as far as the, you have to look at the purview of your permitting powers as far as, you know, under 205A, you have to look at the project and make sure that it's in compliance with all of the objectives and policies of 205A, but when it comes down to putting conditions that actually, you know, increase the cost of a project, you have to look at the rational basis. I believe there's a case that says that your conditions have to be, you know, reasonable. And I believe 205A also says that too. So you have to look at what is the impact of that development when you're looking at mitigation. You know, a situation where somebody just so happens to have a drainage line going through their property, you know, if you were to put a condition that would increase the cost of, you know, I guess filtering or whatever, it could come to the point where that landowner just says okay, we're not going to allow this drainage then. We'll just stop it. And then, you know, everybody else is going to have to deal with it. Because, you know, the thing about when you look at fees sometimes they start looking at like taxes. Sometimes, the whole idea is not to put the onus on one person that should be spread evenly amongst the community and that's where, you know, your rational basis and proportionality test is very useful in these situations. And that's I guess the framework of it.

Mr. Starr: Mike, Mike Miyamoto, I mean is there any mechanism, you know, are these a Public Works owned thing now or what?

Mr. Miyamoto: The current drain obviously is private, but yes, some of the roadway inlets when we accepted part of the roadways in Wailea we did accept the inlets. In looking at one of the applicant's slides, they showed you two inlets on the mauka side of the roadway, if you look at that slide you saw that there were – the swales that were feeding it were grass lined. So you know, when you're talking about water quality, you know, a grass lined swale is very good to capture a lot of the toxins. So they'll catch the first flush. I didn't see any grates on those inlets at this point to try and stop any debris from coming into that area at this point but that's for another discussion. But I think for this applicant, this line basically is just a pass through for them. Their responsibility is what happens on their property and they're being good stewards by taking this private line and rehabilitating it, making it even better by putting in this HDPE pipe which will have life span much longer than the corrugated metal. They're going to reline portions of this pipe that aren't being replaced. That's the cured in place piping is something that the County has used in several of our own pipes for wastewater. So that would create a better system and a more reliable drainage system for that service area.

Mr. Starr: Dr. Iaconetti.

Mr. Iaconetti: In line with this, I'm wondering why the owners are maintaining the ownership of that line and why they're not dedicating it to the County?

Mr. Starr: Mr. Mancini, can you comment on that?

Mr. Paul Mancini: I love that question. Paul Mancini. I'm sure if we ask Mike whether he would like that to be dedicated he would leave the room probably first. No, the County would not be interested in taking it. The problem we have here is not an uncommon problem in the Wailea area. In the '60's when Wailea was developed, I guess I've got three or four clients that found themselves to have drainage lines through their property and as Chris earlier said, one of them ended up in court because the County had been using that for approved subdivisions and homeowners associations were using it and then there's a question of who should be responsible for maintaining it. And that got very complex and it went through quite a bit of litigation and it got very expensive. We don't have that situation here. The Clapp family as was said earlier wants to do everything with transparency here. It's taking it over, it's maintaining it, it's not asking the County to take it, it's taking itself, absorbing a Public Works project. It acknowledges it is and it's trying to do it well and that's why we're coming in, you know, rather than playing a bit of gymnastics and coming in for separate SMA permits, we wanted to do all this with a great degree of transparency. That's why we're here. I hope I've answered your question.

Mr. Joe Kenney: If I could make a – I'm with the Clapp family, I'm a family member.

Mr. Starr: Introduce yourself.

Mr. Kenney: I'm Joe Kenney. I'm with the Clapp family, the owner and we mean no disrespect when we laughed at your comment. It was a spontaneous thing because it's the first question that I asked at one point in time is like why do we have this responsibility? The answer to this is we've been on this beach for 40 years. Actually we've been on this beach for 55 years. Grandfather owned a house farther up and sold it and bought this property. We're going to be here another 50

years. So we want to be good stewards and good citizens of Wailea and Kihei and we've taken responsibility for it. We're putting our money into it and we're certainly gone well beyond what the building code prescribes for a view corridor. We recognize those things are important to the community. We have a next door neighbor who some people have felt maybe went a little bit too far with the size of his house and we're very sympathetic to how people felt about that and we include everybody in the community that we could think of to let them know what we're building there, what we're building there, how we're going to build there, the quality of the materials and that we're taking care of this drain line. So I wanted to make sure that you understood, we weren't laughing at you, it was just a spontaneous kind of thing that all of us have been dealing with since three years ago when this whole concept came up.

Mr. Starr: Okay, thank you very much.

Mr. Mardfin: Before he sits down –

Mr. Starr: Okay, lets finish it up though Ward.

Mr. Mardfin: Mr. Kenney, I'm glad you're here and I commend you guys also for coming in and treating it holistically rather than piecemeal I really appreciate that. What's your intentions with this? Is the family going to live there or are you going to rent it out long term?

Mr. Kenney: No, no, it's not a rental and you know, we being here as long as we have been, we've seen all the iterations of short term rental, long term rental, our family size is relatively large, but not large. There's a total five people my age with families, young children. There's the next generation who is, there's three people who are in their 60's, 70's and one person in their 80's. And so that's basically it. It was originally intended when Norton Clapp our grandfather purchased the property to be a family compound. That's why we put water meters in there years ago. It was all intended, but everybody was at a much younger age at that point in time and nobody really knew what they wanted to do, and so we're now at the point where we're ready to basically have homes to accommodate the various parties within the family. But by no means is it a vacation rental. Obviously it's not. When you're building houses of this nature, you don't build houses like that for vacation rentals.

Mr. Mardfin: Thank you very much for candor.

Mr. Starr: Are we ready for public testimony?

a) Public Hearing

Mr. Starr: Okay, any members of the public wishing to offer testimony? Bud, welcome again.

Mr. Bud Pikrone: Bud Pikrone, Wailea Community Association. Even though this project is not under the purview of WCA, I think you've heard probably why I'm here is we have had a number of issues with drainage in Wailea over the years, collapses. We have a couple that are possibly close to collapse right now that are being worked on by Public Works. They're being engineered. So when somebody comes in and comes to us who isn't even in Wailea, and says that they're going

to do something to improve the drainage line that actually runs from Wailea, we were happy to see that. So we thank them for being the good stewards for doing this and so that's why we're – well, why I'm here is to say that we thank them for doing that.

Mr. Starr: Okay, thank you. Any other members of the public wishing to testify on this? Last chance for testimony. Seeing none, public testimony is closed. Members, any other questions before we get – Commissioner Hiranaga.

Mr. Hiranaga: The applicant mentioned that there's additional capacity for drainage retention. So I'm just wondering if they'd be agreeable to retaining the predevelopment and post development surface runoff on site?

Mr. Stacy Otomo: Good afternoon Mr. Chair and Members of the Planning Commission. My name is Stacy Otomo. To answer Commissioner Hiranaga's question, this area in this green right in here is basically the shoreline setback area. To the left of that is an existing naupaka hedge which forms a slight natural berm in the property. So runoff basically sheetflows from South Kihei Road toward the berm which serves as like a natural detention area. Because we're not able to do any kind of grading within the shoreline setback area, what we are willing to do is basically everything mauka of the shoreline setback area maintain the entire post development on site.

Mr. Hiranaga: How about the pre development runoff?

Mr. Otomo: Post development includes the pre development. So 100% of the developed runoff.

Mr. Hiranaga: Mauka of the shoreline setback.

Mr. Otomo: Mauka of the shoreline setback.

Mr. Starr: Commissioner Hedani.

Mr. Hedani: Just a clarification on that that the pre development doesn't include the water that's coming through the 72-inch drain line.

Mr. Otomo: That's correct.

Mr. Hedani: Because in the prior case we would have required them to keep all 72 inches on site.

Mr. Starr: Thank you for doing that. Commissioner Hedani.

Mr. Hedani: I just wanted to say that I think I like the attractiveness of the design of the buildings, the fact that they created the open space between the buildings. I did have some questions on the fencing that appeared to be between the two houses in that view corridor if there were walls and fencing in that view corridor.

Mr. Hart: Actually looking at the rendering, this most recent rendering, essentially this portion of the wall is – basically the wall together with the fence doesn't exceed six feet in height. So this portion

is basically is just about at eye level as you're driving by, little bit lower. We did have the fence designed with pilasters, I think in the original first slide it showed the pilasters but we decided that we would take those out and make it a continuous metal fence which basically is consistent with the Kihei-Makena Community Plan. The opportunity exists to provide a fence of six feet in height as long as it's the pervious portion doesn't exceed four feet and that's essentially what the Kihei-Makena Community Plan allows. So basically the intention is to allow as much, you know, opportunity to view the ocean through that metal fence. I'm not sure if it will be wrought iron or if it will be aluminum, but at this point it's a metal fence.

Mr. Starr: Are those light poles?

Mr. Hart: These, no, that shows the, Mr. Chairman, the actual property line.

Mr. Starr: Oh, okay.

Mr. Hart: And I think it's important on these sides because you know, you can see already that this is existing vegetation and this is existing vegetation and basically the view corridor is a significant open space.

Mr. Starr: Okay members? Commissioner Hedani.

Mr. Hedani: Chris what is the situation with the street frontage along this area? Are there curbs, gutters and sidewalks or is it just a situation where there's no curbs, gutters and sidewalks?

Mr. Hart: Why don't you show the pictures? Really there aren't – I think on the mauka there are some. On the makai side there aren't any.

Mr. Hedani: So there's no pedestrian traffic on the makai side?

Mr. Hart: Not really no.

Mr. Hedani: One of the things that I was going to ask the applicant to consider would be a beach access between the two homes to access the ocean, 10-foot wide beach access with a five-foot wide or six-foot wide path. Because I think beach access to the south is like 3,000 feet away and to the north it's like 2,000 feet away.

Mr. Hart: We can give you those dimensions. They're a little bit different. But just showing you – as you look at Okolani Drive. Okolani Drive basically has sidewalks down the mauka side, and then this is our property, you know, it's on the makai side, but this area, I indicated to you is basically, these are private lots along Keawakapu, but when Wailea Resort was planned the beach rights of way were planned and basically they're at the south, southerly end there is a beach right of way which I believe has 23 parking stalls and then at the north end which is near Kilohana at the intersection actually has 64 stalls and I think Jason will have to give you the exact distances but there was never, as I indicated to you also that the project went through a subdivision process in 2006 and basically there was no requirement for beach access and so essentially we're relying on the prior commitments that were made by Wailea Resort with regard to issue of beach rights of way.

So you have those?

Mr. Hedani: I'm sorry, I think the distances were 2,000 to the south and 1,000 to the north.

Mr. Buika: Actually I'd like to comment on that for the staff. Wayne, I think the numbers were too high in the staff report and that's where you're getting those from the staff report. We have discussed this beach access and Jason can give you numbers that are more accurate.

Mr. Starr: Mr. Medema, what are the actual numbers?

Mr. Medema: Thank you Mr. Chairman. The actual numbers are according to the surveyor who worked on the preliminary subdivision, it's 900 feet to the access at the south. Now I must take personal responsibility or full responsibility for those erroneous numbers because I did those early on basically in a drive by of the two accesses. The best I can come up with on using a GIS now is 1,200 feet to the Kamala Place beach access to the north with 64 parking spaces. It's 900 feet to the access to the south at Keawakapu Beach with 23 spaces and there are plans in place to add another 24 spaces. If you've been down there, I know you mentioned Mr. Chairman, that you snorkel down there. You can see some of that grass along the side of that, the road is used as defacto overflow parking right now too, and there are plans to develop that into actual parking. Yeah, I would agree that we have – you know, any time you have a shorefront property you have an obligation to look at opportunities for beach access.

But in addition to, you know, 2005, December 12, 2005 a letter was sent by Tanaka Engineers who were the surveyors who worked on the subdivision stating that they were asked to address the issue of beach access during the subdivision process which took place between 2004 and 2006 and they responded that Keawakapu Beach Park 900 feet to the south of the subject subdivision. It's a county-owned parking lot with direct access to Keawakapu Beach and they believe that the existing conditions comply with the requirements as outlined in Title 18. That subdivision was ultimately approved.

In addition to that there are some practical concerns with the location of the lot because you're at an odd intersection where the road v's off, it goes uphill, it goes from four lanes to two lanes here. There is no parking to speak of in the right of way and there's, as we've discussed there's ample parking not far to the south and just a little bit further to the north, there are issues with, you know, right now traffic may slow as they proceed to the terminus here but you have people trying to stop and park in the right of way. You could put all the signage you want out there, but in reality there's going to be people trying to stop and park in the right of way in front of the project.

Mr. Starr: Okay, thank you very much. But you did answer the question, it's over 2,000 feet between the two accesses. Commissioner Hiranaga.

Mr. Hiranaga: This is more a question for Public Works. I believe last year there was an SMA application for another house on South Kihei Road, existing house, came in for a major because they had an ohana. The director required curbs and gutters and sidewalks and we questioned that and you said it was the discretion of the director.

Mr. Miyamoto: Mr. Chair, curbs, gutters and sidewalks are not a discretionary item for the director. That wasn't the statement. The roadway right of way and the pavement width are somewhat discretionary as the community plan can override the state land use designation of the area. So I think the one you're referring to was off of Halama and that was –

Mr. Hiranaga: South Kihei Road and Keawakapu. Family had been there for 40 years rebuilding an existing beach house.

Mr. Miyamoto: Just to let you know, typically if you come in for a building permit and then the state land use designation will dictate the frontage improvements.

Mr. Hiranaga: So you're saying they may have to put in curbs and gutters and sidewalks?

Mr. Miyamoto: That's my understanding.

Mr. Hiranaga: When they come in for a building permit?

Mr. Miyamoto: Yeah. That's my understanding at this point because typically that's what would happen because of the state land use designation being urban it would be required for curb, gutter and sidewalk. This situation we'd have to look at because of the existing drain, that big drainage inlet that's there that we'd have to come up, we'd have to engineer something in that area not to impact the capacity of that facility.

Mr. Hiranaga: Okay, thank you.

Mr. Starr: Commissioner Hedani, did you have any follow up on that. I cut you off, I didn't mean to.

Mr. Hedani: No. From my perspective, you know, when I first looked at this project I thought that it would have been an appropriate area for beach access at that point because it's at the intersection with Okolani Drive and the bulk of the people if they were coming down that roadway that would be the quickest way to get to the beach. I do have some concerns about it though because it is a dangerous intersection and there's no crosswalks at that location. So from that perspective, and because there's no curbs, gutters and sidewalks on either side of the property or for the entire length it looks like a bad – of that area, personally I wouldn't insist on pursuing a beach access between the two projects.

Mr. Starr: I had a question with it. Isn't there supposed to be a beach access every 900 feet? That number sticks in my head. Director.

Mr. Hunt: Your zoning code doesn't really have any specific beach access requirements, the subdivision code, Title 18, I believe, correct me if I'm wrong Mike, it's 1,500 feet that they look for access. As has been noted this was subject to a subdivision and that issue came up and they felt it wasn't necessary. Now that does not preclude you folks from requiring it through the SMA process but you have to look at all the factors involved. The site itself and the subdivision review that's already gone on. We raised that issue and we talked about it a lot at staff, we agree that public access to the beaches are critical and what's happening over time with development is the

public keeps telling us what we're hearing is they're getting cut off from the beach. So we look at every opportunity we can and if the planning commission wants to go the other way and pursue this, we would help you pursue it. It's up to you folks.

Mr. Starr: Members? Commissioner Hedani? Okay, we ready for the recommendation? Okay, Jim, why don't you give us the analysis and recommendation.

b) Action

Mr. Buika: Regarding the department's findings regarding mitigation and all the agency comments from the department's analysis the department is satisfied with the mitigation alternatives for the project design to protect the environment.

Our conclusions of law, the special management area use permit application complies with the 12 applicable standards for the special management area as stated in your recommendations memo in front of you, the green copy. Through the special management area analysis the department finds that the development will not have any substantial adverse environmental or ecological effect except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health and safety and compelling public interest. The development is consistent with the objectives, policies and special management area guidelines of laws and guidelines enacted by the legislature that the development is consistent with the County General Plan and zoning. Through appropriate mitigation measures defined as SMA conditions for the project, the department agrees that they will minimize the impacts as outlined in the Coastal Zone Management Act, HRS 205.

The Planning Department based on the facts presented in the department report finds that the proposed action will not have a significant adverse environmental or ecological effect and complies with zoning in the Kihei Community Plan.

As far as the recommendation, as such the Maui Planning –

Mr. Starr: You don't have to read all of them.

Mr. Buika: Yeah okay, no. As such the Maui Planning Department recommends approval of the SMA Use permit application request subject to 14 standard conditions and 21 site specific conditions in the recommendation memo.

Mr. Guard: So moved.

Mr. Iaconetti: Second.

Mr. Starr: Okay, so we have a motion by Commissioner Guard, seconded by I believe Dr. Iaconetti. The motion is Director?

Mr. Hunt: To approve the SMA permit subject to the conditions of approval as recommended by staff.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: I thought we discussed another condition regarding the drainage, keeping the pre development, post development surface runoff mauka of the shoreline setback on site, retention of.

Mr. Buika: I think that is a – I mean, that is a condition. I think that is the engineering plan. Am I correct? I think that is – I think they were responding to you stating that the engineering is. Okay, I'll just write something up.

Mr. Hiranaga: I saw verbiage saying post development and the consultant said pre development is the same as post development. Is that correct? When you say post development you're also saying pre development? Is that the industry jargon that anytime anyone says post development all engineers mean pre development's included?

Mr. Buika: That the owner shall contain all runoff – or all drainage, all runoff? All runoff mauka of the shoreline.

Mr. Hiranaga: Setback.

Mr. Buika: Shoreline setback.

Mr. Hiranaga: On site.

Mr. Starr: To the maker of the motion and seconder is that acceptable as part of the conditions that were?

Mr. Buika: I'll read it back, just this one.

Mr. Guard: Is that acceptable to the client? That's a lot of runoff to catch.

Mr. Buika: That the owner shall contain all runoff mauka of the shoreline setback on site. Runoff on the property, correct?

Mr. Guard: All runoff mauka of the property is a lot of runoff.

Mr. Starr: They want to add 50-year –

Mr. Guard: Mauka is 10,000 feet? What are we talking about?

Mr. Buika: On site.

Mr. Starr: Generated on site.

Mr. Buika: Oh, for the site, not on site, but for the site, correct? For a 50 – I'm hearing little sweet nothings over my ear here. For a 50-year storm.

Mr. Starr: What is it, 50-year, one-hour?

Mr. Hiranaga: Want to take a 30-second timeout?

Mr. Buika: No, we're okay. I got it.

Mr. Starr: Are we good everyone?

Mr. Buika: That the owner shall –

Mr. Starr: Commissioner Hedani.

Mr. Hedani: It's clear we're not talking about the drain line?

Mr. Starr: Yeah, we're talking about everything generated on the site.

Mr. Buika: Okay.

Mr. Starr: You will double check the wording later Jim.

Mr. Buika: Yeah.

Mr. Starr: Okay, we ready to vote? All in favor please raise your hand. All opposed.

It was moved by Mr. Guard, seconded by Mr. Iaconetti, then

**VOTED: To Approve the Special Management Area Use Permit Subject to the
Conditions of Approval as Recommended by Staff.
(Assenting - J. Guard, W. Iaconetti, K. Hiranaga, B. U'u, W. Mardfin,
D. Domingo, W. Hedani)
(Dissenting - J. Starr)**

Mr. Hunt: I have that seven in favor and one against.

Mr. Starr: Okay, congratulations. Good luck. Beautiful place.

Mr. Buika: Thank you.

Mr. Starr: Members, I don't think – we have three more main items plus a couple of small items we need to get through and we're toast at 4:00 p.m. Perhaps the next item which is a fairly major subdivision might be best deferred to the next meeting?

Mr. Hiranaga: We should have the public hearing. Public hearing for that application. They're next on the agenda.

Mr. Starr: Okay, so open it for public hearing and then – okay.

Mr. Hiranaga: It's your call.

Mr. Starr: Yeah, I'm willing to do that. Mr. Abbott.

Mr. Thorne Abbott: Chairperson Starr, the applicant would be willing to defer to the next meeting for Sunset Estates, but was wondering if perhaps the public could testify since they had to come here. Thank you.

Mr. Starr: Yeah, what we're going to do is we're going to have the Director read it into the record, we're going to open the item just to receive any possible testimony and then we'll – I'll entertain a motion to adjourn if someone wants to make it.

Mr. Abbott: Thank you very much.

Mr. Starr: Okay, Director.

Mr. Hunt: Your next item involves the William Spence Company on behalf of MEH Limited Partnership requesting a Special Management Area Use Permit for the Sunset Estates Residential Subdivision consisting of 25 improved single family lots and related improvements in the R-3 Residential District on Waipuilani Street at TMK 3:9-046: 013 in Kihei. The file number is SM1 2006/0031 and Thorne Abbott is the planner assigned.

2. THE WILLIAM SPENCE COMPANY on behalf of MEH LIMITED PARTNERSHIP requesting a Special Management Area Use Permit for the Sunset Estates Residential Subdivision consisting of 25 improved single family lots and related improvements in the R-3 Residential District on Waipuilani Street at TMK: 3-9-046: 013, Kihei, Island of Maui. (SM1 2006/0031) (T. Abbott)

Mr. Thorne Abbott: Basically if you're coming from Kahului down to Kihei take the upper highway, you turn right into the Shop and Save Shopping Center those areas are residential in nature. This is a vacant parcel within those residential areas and this is to subdivide one vacant parcel surrounded entirely by residential and make it residential. They're not going to build any houses, they'll leave that up to the individual property owners. That will keep the property a little more affordable. The consultant would be glad to come back and do a presentation on the whole project at a later time, but we would like to facilitate public input. Thank you.

Mr. Starr: Okay, thank you for that. If it's okay with members, we'll take public testimony on this before any part of the process and then come back, we'll have the presentation at another time.

Mr. Abbott: I would frame this as a very much an infill project.

a) Public Hearing

Mr. Starr: Okay, I'll be opening public testimony to any members of the public wishing to testify on this item. Please make yourself known and come forward. Anyone here on this one? Please, and thank you for joining us. Please introduce yourself.

Mr. Joe Tamayo: My name is Joe Tamayo, home owner on East Waipuilani Street, a road actually. Good afternoon Chair, Commissioners. I'm in favor of this subdivision because it badly needs it. That's an overgrown property. However, I would like the commission as well, to support my recommendation of the road access.

Currently on East Waipuilani on the north side of the street there's 83 home lots that access Waipuilani and then on the south side, there's a new development that just got built about a year ago, it has about 20 plus lots. And then there's two cul de sacs that has 12 properties. So with this proposed development which is about 24 that will be added to those – traffic congestion in that area.

An option that I would like the commission to look at is that access road to the Meadowlands if I'm not mistaken that development, my understanding is that this is county road which I think the commission has a say in that. In fact, it will then balance the access for those residents. In fact, the Meadowlands has about 32 house lots in that area and this is based on just numbering not based on the amount of cars per residence.

I'm not recommending access through the south side of that development because they already presently have 88 home lots in that area and because of safety concerns by your experts in previous hearings Chair, as well as commissioners, is that I think that would help these Waipuilani because it's used heavily especially for the tourists as well as that stays at I think Maui Sunset and Waipuilani condominiums where they walk and shop at Safeway as well as the children playing in that street as well. So that would be a better scenario as far as a safety concern. Thank you.

Mr. Starr: Okay, questions? Okay, thank you very much for your testimony. Anyone else wishing to give testimony on this item? Last call for testimony on this. Seeing none, public testimony is closed. Members, anyone wishing to do any action on this? Go ahead.

Mr. Mardfin: I move to defer this item.

Mr. Starr: Is there a second?

Ms. Domingo: Second.

Mr. Starr: Okay, moved by Commissioner Mardfin, seconded by Commissioner Domingo. Director.

Mr. Hunt: James, correct me if I'm wrong, but if we defer to a date certain then we don't have to renotice?

Mr. Giroux: Yes.

Mr. Starr: It would be the next meeting.

Mr. Hunt: So I would suggest the motion include February 10th.

Mr. Mardfin: Correct.

Mr. Starr: That okay Donna?

Ms. Domingo: Yes.

Mr. Starr: Defer to February 10th, and we allow public testimony then but we don't have to renote. Okay, all in favor please raise your hand. All opposed.

It was moved by Mr. Mardfin, seconded by Ms. Domingo, then

**VOTED: To Defer the Matter to the February 10, 2009 Agenda.
(Assenting - W. Mardfin, D. Domingo, K. Hiranaga, J. Guard, B. U'u,
W. Iaconetti, W. Hedani, J. Starr)**

Mr. Hunt: I have that unanimous in favor.

Mr. Starr: Okay.

Mr. Abbott: Thank you very much Commissioners.

Mr. Starr: Sorry about that. Okay, members should we try to proceed with expediency to our next item here? Director.

Mr. Guard was excused at 3:36 p.m.

Mr. Hunt: Your next item involves Horace and Barbara Kline requesting a State Land Use Commission Special Use Permit and a Conditional Permit for the Hookipa Bayview Cottage project to use an existing cottage as a transient vacation rental at 1250 Kauhikoa Road, TMK 2-7-035: 010 in Haiku. The file numbers are SUP2 2002/0005 and CP 2002/0006 and Robyn Loudermilk is our planner and she's not here. What I would suggest Chair is that you allow the applicant to go forward and we'll try and get a planner here.

Mr. Starr: And once again we only have about 15, 20 minutes before we have to move on, so if we can handle this very quickly we might be able to get through it, but if it becomes late, we won't be able to. So please go ahead with that in mind Mr. Spence.

- 3. HORACE AND BARBARA KLINE requesting a State Land Use Commission Special Use Permit and a Conditional Permit for the Hookipa Bayview Cottage project, to use an existing cottage as a transient vacation rental at 1250 Kauhikoa Road, TMK: 2-7-035: 010, Haiku, Island of Maui. (SUP2 2002/0005) (CP 2002/0006) (R. Loudermilk)**

Mr. William Spence: Thank you Mr. Chairman, Commissioners. My name is William Spence, I'm here helping the Klines obtain their permits today. I need to set up a projector.

Mr. Starr: Do we really need the full presentation?

Mr. Spence: I think it would benefit the commission. They put a lot of work into what they wanted to show. In the meantime while I'm setting up, perhaps the staff planner would like to present her report. It will be brief.

Mr. Starr: Okay go ahead. Sorry to switch on you again Planner Loudermilk, it's not your fault. We swapped around.

Ms. Robyn Loudermilk: Is this a quick and dirty or a full on.

Mr. Starr: Well, –

Ms. Loudermilk: Quick and dirty okay.

Mr. Starr: Okay, this has been described as a quick and dirty Will.

Ms. Loudermilk: Good afternoon, I believe we're here for Horace and Barbara Kline. This is for our Hookipa Bayview?

Mr. Starr: Yes.

Ms. Loudermilk: First I'd like to introduce both Horace and Barbara, they're the applicants. And I want to let you know that they put a lot of time and effort and work into putting the application together. Did a wonderful power point. I'll make copies and give to you guys later. But basically they have a cottage on their property. It's a 527 square foot cottage with a lanai. They want to use that as a TVR. They live on the property.

They have an approved farm plan by the County of Maui. They do a lot of active agriculture, a wide variety. For example, the raised beds for the organic vegetables. It's a testament to what can be done even if your soil may not be quite as good as you think. They have the nursery and flower trees that they also grow on the property.

Within the, I believe, seven years that they were in operation before ceasing, there was no complaints filed with the Planning Department and that for the letters of support, they were all by the surrounding neighbors within the 500 feet, and that wasn't verified until after the staff report was completed.

They have also filed an application for a bed and breakfast. They meet that criteria and that concludes the department's report. You have any questions for myself or of the applicants?

Mr. Starr: Okay, Commissioner Mardfin, really fast question.

Mr. Mardfin: Two real quick ones. I think you implied one, that I was going to ask. They have stopped.

Ms. Loudermilk: Yes, they have stopped. Since the enforcement they've shut down.

Mr. Mardfin: Second question. Do they get a homeowner's tax exemption?

Ms. Loudermilk: No, they do not.

Mr. Mardfin: Okay, thank you.

Mr. Starr: Would you characterize this as a good example of what this –

Ms. Loudermilk: Yes, I would. I would characterize this as a good example.

Mr. Starr: Can we move right to public testimony is that?

a) Public Hearing

Mr. Starr: Yes, please come forward. Introduce yourself and welcome and we're trying to be really brief on this.

Ms. Claudia Ledesma: Yes, hi Chair, Commissioners, my name is Claudia Ledesma, I'm sure you remember me from two weeks ago. I'm glad I'm able to speak in a different manner than two weeks ago. I've worked with the Klines for the last two years on drafting that new ordinance that we're looking at now and that has become law. I can only support and hope you will be supporting what they have because it is very similar to ours except that their property's much smaller and they're concentrating on different things that they're growing, but they're one of these other people like the following one that are – should be setting an example. That's it.

Mr. Starr: Thank you very much for coming forward today. Anyone else wishing to give testimony? Come on up, keep it quick.

Mr. Thomas Croley: I'm Thomas Croley and I was asked by the Klines to read this letter from their next door neighbor and I think that it's important to read into the record.

"Aloha Commissioners, I'm Josh Holstein. I was born and raised in Makawao. I want to give testimony in support of Hank and Barbara Kline's Hookipa Bayview Cottage. My wife and I live next door to the Klines. Our home is the closest neighbor to the Kline's B&B cottage. Actually no other homes are really close. When they used to use their cottage as a vacation rental, it was always very quiet. Actually they are our quietest neighbors. Having a B&B next door is very convenient when we have guests saving lots of time in driving. Hank and Barbara are excellent, friendly neighbors. They share their fruits and vegetables with us and other neighbors and are always positive and helpful. Hank is really into farming, he even wants to plant some fruit trees on my lot because he's out of space. I am happy to support Hank and Barbara using their cottage as a B&B. If anyone deserves a permit, they do."

So I just wanted to read that into the record. Thank you.

Mr. Starr: Thank you Mr. Croley. Any other one else wishing to give testimony on this please be really brief.

Ms. Lori Evans: Hi, my name is Lori Evans. I live at 1248, next door and I'm totally in favor of it. They're great neighbors. Everything that was just said, I agree with.

Mr. Starr: Thank you very much. Anyone else wishing to give testimony? Seeing none, public testimony – okay.

Ms. Suzanna Brown: Aloha, I'm Suzanna Brown. I'm also a next door neighbor on the opposite side of the letter that was just read to you of the Klines and I agree 100% they are exemplary neighbors. I have never heard a sound coming from over there when they did have people in their cottage. They have lots and lots fruits and vegetables that they share with everybody and we are all of us in support of them having a permit for a bed and breakfast. Thank you.

Mr. Starr: Thank you very much. Okay, any other members of the public wishing to testify on this item? Seeing none, public testimony is closed. Planner Loudermilk, in brief the analysis and recommendation.

Mr. Hiranaga: Actually Mr. Chair, I had raised my hand to ask a question before the public testimony but I was not recognized.

Mr. Starr: Okay, apologize for that. If you want to ask it now or you can wait till after recommendation. Either way you get your shot.

Mr. Hiranaga: Okay, I just wanted to confirm that they've complied with the farm plan requirement for the B&B?

Ms. Loudermilk: Yes, they have.

Mr. Hiranaga: Okay, I guess my only, my one comment is when you try to speed a process like this through, to me this is a privilege and not a right – wait let me finish, so I'm just cautioning future applicants that they are at risk if they're going to do – think they're going to do a so-called quick and dirty and I'm going to give a rubber stamp of approval. That's my only comment. Because I think every application is a privilege and not a right and not specific to this but I mean, this is a very fast review of this application and I take special use permits and conditional permits very seriously.

Mr. Starr: Well said and it is a very serious matter and anyway, please proceed Planner Loudermilk.

b) Action

State Land Use Commission Special Use Permit

Ms. Loudermilk: For the Land Use Commission Special Use Permit the department does

recommend approval subject a number conditions that have been identified and that the commission authorize the director to transmit the approval as well as the report and recommendation memorandum to the applicant as its findings of fact, conclusion of law and decision and order. And that concludes the recommendation for the special use permit.

Mr. Starr: Okay, thank you very much. Members, any questions? Commissioner Mardfin.

Mr. Mardfin: What was the revenue from agriculture last year?

Mr. Starr: Come up to the microphone. Introduce yourself.

Mr. Hank Kline: Revenue was not great. I'm Hank Kline. And aloha Commissioners. Trying to be fast. We grow about \$10,000 worth of produce on our land a year. Basically we maintain a 4,000 square foot vegetable garden, over 30 fruit trees and hundreds of stalks of bananas. We produce thousands of pounds of fresh produce annually that does not have to be shipped in from the mainland or elsewhere. And we don't a 25-pound box of fresh produce to the Foodbank every week.

Mr. Starr: Okay, does that answer?

Mr. Mardfin: It does, and so they under the current rules they would be – current B&B, they would be ineligible because their revenue is too little is that correct?

Ms. Loudermilk: No, their property is less than five acres and it was in existence prior to the adoption of this B&B ordinance so they do not have to provide the \$35,000 of annual revenue.

Mr. Hunt: All they need, given the circumstances Robyn just described, all they need to do is have a fully implemented farm plan. I shouldn't say that's all they need to do, but that's the –

Mr. Mardfin: But that's what they need to do for what – for the TVR that they're asking for.

Mr. Hunt: For the B&B.

Mr. Mardfin: For the B&B.

Mr. Hunt: Technically that's not a condition before you, but given the fact it's recently adopted.

Mr. Mardfin: I know.

Mr. Starr: Okay, Commissioner Hedani.

Mr. Hedani: This is a question for staff. With the passage of the bed and breakfast law is this an application that could have been done administratively or does it require that they come before the commission?

Mr. Hunt: The State Special Use Permit would still have to come before the commission. That's

what you're acting on right now. We're going to suggest that you also act on the Conditional Permit just in case. We're still in that transition. Hopefully we'll start getting in the near future, these won't be coming to you because they will have been switched over the B&B. You'll still have to act on the State Special Use Permit.

Mr. Hedani: Move to approve as recommended.

Mr. Starr: Wait a second, is that both or just the State - probably better to do each separately. So why don't you do the State Land Use. Is that okay? Do we have a second?

Mr. Iaconetti: I'll second that.

Mr. Starr: Okay, we have a motion by Commissioner Hedani, seconded by Dr. Iaconetti, the motion is?

Mr. Hunt: To approve the State Land Use Special Use Permit as recommended by staff with conditions.

Mr. Starr: Dr. Iaconetti.

Mr. Iaconetti: I would like to agree with Commissioner Hiranaga. I read this over, I was very much in favor of it. I still am, but this is not the way to approve a project. We're speeding it up, I think it's totally unfair to the individuals that are developing this and I think it's more unfair to our community. We shouldn't be doing this in this manner.

Mr. Starr: Okay, any other questions or comments? Are we ready to call the question? All in favor please raise your hand. All opposed.

It was moved by Mr. Hedani, seconded by Mr. Iaconetti, then

**VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended with Conditions.
(Assenting - W. Hedani, W. Iaconetti, K. Hiranaga, B. U'u, W. Mardfin,
D. Domingo, J. Starr)
(Excused - J. Guard)**

Mr. Hunt: I have that unanimous in favor.

Mr. Starr: Okay we would be ready for another motion.

Conditional Permit

Ms. Loudermilk: Well the second recommendation is to recommend to the Council approval of the Conditional Permit subject to conditions and that concludes the department's recommendation.

Mr. Hedani: So move.

Mr. Iaconetti: Second.

Mr. Starr: Okay, moved by Commissioner Hedani, seconded by Dr. Iaconetti.

Mr. Hunt: The motion's to recommend approval to the Council with the conditions.

Mr. Starr: Okay, ready to call the question? All in favor, please raise your hand. All opposed.

It was moved by Mr. Hedani, seconded by Mr. Iaconetti, then

**VOTED: To Recommend Approval of the Conditional Permit to the County Council as Recommended with Conditions.
(Assenting - W. Hedani, W. Iaconetti, B. U'u, W. Mardfin, D. Domingo, J. Starr)
(Abstained - K. Hiranaga)
(Excused - J. Guard)**

Mr. Hunt: I have that unanimous in favor of the application, it passes or the recommendation passes.

Mr. Hiranaga: Actually I abstained from voting.

Mr. Hunt: According to your rules I believe an abstention is counted as an affirmative vote.

Mr. Hiranaga: Wouldn't you note the abstention for the record?

Mr. Hunt: We can do that.

Mr. Starr: Okay, thank you very much. Since there seems to be a feeling that we should take these slowly and get a full presentation, I think we should probably defer the next item until we have time to deal with it.

Mr. Mardfin: We only received it this morning.

Mr. Starr: Yeah, and we only received the info this morning as Commissioner Mardfin said. So if that's the desire we should probably.

Mr. Mardfin: I move to defer.

Mr. Starr: Is there a second?

Ms. Domingo: Second.

Ms. Loudermilk: I would just indicate if you're going to defer, we need to defer to a date certain. ... (inaudible - technical difficulties)...

Mr. Hunt: Take testimony.

Mr. Starr: There's a whole bunch of people wanting to testify.

Mr. Hunt: Traditionally, if they showed up we should give them an opportunity to testify.

Mr. Starr: Can I just take a straw poll, how many people are here to testify on this? I see six. I think that we should proceed with a vote on a motion to defer which we'll do. Commissioner Hedani.

Mr. Hedani: I'm sorry I'm kind of losing track of things. Are we going to finishing our meeting at 5:00 or at 4:00?

Mr. Starr: We have a workshop at 4:00 p.m. and we still have two housekeeping items to do before then and our workshop people just walked in.

Mr. Hedani: I see.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: How many people indicated they wished to testify?

Mr. Starr: I counted about a half dozen.

Mr. Hiranaga: That's 18 minutes. I mean, I think we should allow them to testify.

Mr. Starr: Okay, in that case, we have a bit of a problem because we have a motion on the floor to defer. The maker is gone. Perhaps we should vote on that. If vote down that motion, we'll take testimony quickly and then take another motion.

Mr. Iaconetti: If I take my second away is that –

Mr. Starr: Not good enough, but lets vote on that and my guess is we'll vote it down. So in all in favor of deferral please raise your hand. All opposed please raise your hand.

It was moved by Mr. Mardfin, seconded by Mr. Iaconetti, and

The Motion to Defer the Matter of Kutira Claudine Decostered and Fred D. Sharpte Failed.

(Assenting - none)

(Dissenting - K. Hiranaga, B. U'u, D. Domingo, W. Iaconetti, W. Hedani)

(Excused - J. Guard, W. Mardfin)

Mr. Starr: Okay, the motion fails which means we've not deferred. I'll ask the Director to read it into the record and we'll very briefly take public testimony which I hope will be short and concise and then we'll proceed.

Mr. Hunt: Your next item involves Ms. Kutira Claudine Decosterd and Fred D. SharpTE requesting a State Land Use Commission Special Use Permit and Conditional Permit for the Kahua O Mali'o Bamboo Farm and Eco Tourism Retreat in the State and County Agricultural District at 610 Huelo road, TMK 2-9-007: 036 in Huelo, Haiku. The file numbers are SUP2 2007/0005 and CP 2007/0002. Robyn Loudermilk is the planner assigned to this and apologize if I mispronounced any names.

- 4. MS. KUTIRA CLAUDINE DECOSTERD and FRED D. SHARPTE requesting a State Land Use Commission Special Use Permit and Conditional Permit for the Kahua O Mali'o Bamboo Farm and Eco Tourism Retreat in the State and County Agricultural Districts at 610 Huelo Road, TMK: 2-9-007: 036, Huelo, Haiku, Island of Maui. (SUP2 2007/0005) (CP 2007/0002) (R. Loudermilk)**

Ms. Robyn Loudermilk: So public testimony.

a) Public Hearing

Mr. Starr: We'll now open for public testimony on this item. Please members of the public wishing to testify, please come forward, make yourself known. One at a time, and thank you for joining us, thank you for being patient. Apologize for trying to move quickly and ask you to be as brief as possible.

Ms. Neola Caveny: Aloha ka ko. I'm Neola Caveny and I'm a close neighbor of Fred and Kutira's, have been for about six years now. And the before last January when they did shut down I was well aware that people were coming and staying at their place and they are the best neighbors I have ever had.

I've never heard any noise from there. Occasionally somebody would get lost trying to find their place, we're pretty far out in the boonies and on several occasions I actually got in my car and said, follow me and we'd take them up to their place.

They grow many vegetables and fruits. They're just about the best neighbors you could have and I would really, really like to see our local economy in our Huelo neighborhood get back on its feet because it's in pretty bad shape right now. And it would be a definitely positive thing to have them as a permitted legal bed and breakfast in our neighborhood. Thank you.

Mr. Starr: Okay, thank you for coming forward. Next testifier please come forward and thank you for being here today. Please introduce yourself.

Ms. Wendy Grace: My name is Wendy Grace and I own the property next to Kutira, and I have owned the property since about '87 and that's approximately the time Kutira also bought the

property. I have enjoyed terrifically her as a neighbor. She's helped me immensely in my understanding of the land. I have planted some of the plants on my land that she has in hers. I learned bamboo, I've learned about ecological, more ecological management of the land. I'm deeply grateful for her deep feeling of the Hawaiian spirit. She's held that there and I've learned a great deal from that.

I have never had a problem with her any activities on her part, on my land. And for me, the presence of her work as a B&B would just be an enhancement. So I cannot speak more favorably about her as a carrier of the Hawaiian spirit and as a good neighbor and a wonderful person.

Mr. Starr: Thank you very much for sharing that. Please introduce yourself and welcome.

Mr. Jeffree Trudeau: Hello, my name is Jeffree Trudeau. Been there before with the bamboo, we have the Bamboo Technologies. Kutira and I originally started the company together by building the first one that we ever had permitted in the county through this commission actually many years ago. So I'm here to just support her as far as we're still working together very closely as far as expanding the bamboo business and looking at all the different kinds of bamboo that are growing well here on Maui that can be used for structural building bamboo.

Mr. Starr: Okay, thank you very much. Please come forward, introduce yourself and welcome. Thank you for being here.

Ms. Claire Kellerman: Aloha, I'm Claire Kellerman, I wanted to be here on behalf of Kutira and her land because she's graciously invited the Maui Permaculture Network to her land many times to offer classes. So I've been teaching permaculture design there and I recently been studying the ahupuaa system and I'm happy to say that it is actually the Hawaiian version of permaculture which is a design template for any size human home anywhere on the planet to have the resiliency and stability of an ecosystem and provide for all of our needs. For Kutira having that class there, we've had people from all over the world studying permaculture and learning hands on. We've also filmed for Akaku and just been so incredible to have that land which is so beautiful. I lived in her neighborhood for a year and a half and I knew 35 of the neighbors and all spoke highly of Kutira and her history there and her contribution to not only the neighborhood but just the aloha spirit on Maui. And the Maui Permaculture Network has been going strong for two years and that's another reason I wanted to come and just, for anyone who doesn't know permaculture here, it's something I think we could all be fortunate to look at as a way of bringing back the ahupuaa wisdom into our lifestyle and into our planning. So thanks very much.

Mr. Starr: Thank you. Please come forward and welcome. Introduce yourself.

Ms. Shannon Careir: Aloha, my name is Shannon Careir. I'm a WWOOFER which is a Willing Workers on Organic Farms for Kutira and Rafael. I'm here to speak today. I do pedive gardens for Kutira and I just want to say if I wouldn't have had been able to have the opportunity to come to Hawaii and learn about organic growing I would have never had the personal experience of growing within myself that I have had here on their land. I hope that other people will be able to come and have the same experience that I have. Thank you.

Mr. Starr: Thank you very much. Please come forward and introduce yourself. Next testifier.

Ms. Deena Herman: Hello, my name is Deena Herman and I am also a WWOOFER growing workers on organic farm. I want to build another home and I am here to learn to go as green as possible when I do that and I thank Kutira for trying to help.

Mr. Starr: Okay, thank you very much. Anyone else? Chris are you testifying?

Mr. Hart: No.

The following testimony was received at the beginning of the meeting:

Mr. Starr: Next is Mark Sheehan. Welcome Mark.

Mr. Mark Sheehan: Good morning Commissioners. That was rather inspiring testimony. Maybe you want to take a break and run around the block here and get your endorphins going. I came to speak on Item C-4, the Decosterd and Sharpte application.

Mr. Starr: Mark introduce yourself first.

Mr. Sheehan: My name is Mark Sheehan and I have a history with this particular property and Ms. Decosterd. I sold her this property about 20 years. It was a very rugged piece of oceanfront property. Over the years I've watched it transform. I went out there on Saturday to see because she has been one of the pioneers in bamboo building and I went to see what her latest building looked like and I have to tell you I was tremendously impressed at what she's done. She had the first permitted bamboo structure in Maui County back in the mid '90's. I followed suit by building a couple of those buildings having seen what she did. Then I saw her latest buildings and improvements, but I also looked around and saw her and her partner's farm plan. It's a very inhospitable farming situation. It's steep. She's had to build terraces to put in her gardens. She's had to build wind breaks to get her bananas and papayas to be able to withstand the winds and so on, but she has done all this and created a situation where people who come and stay there have a rather amazingly beautiful place to stay where they learn a great deal about Hawaiian culture and agriculture. It's a pretty impressive situation if you really want to see an outstanding example of what can be done. And also I've looked at her books that the guests have to read and the agreements that they have to make to keep track of their energy output and it's all extremely well organized and pretty impressive situation so I recommend you approve that permit. Thank you.

Mr. Starr: Thank you very much for testifying.

That concludes the testimony received at the beginning of the meeting.

Mr. Starr: Okay, last chance for testimony on this item? Seeing none, testimony will be closed. Okay, I apologize. We are a little bit short of time today. Would have liked to have dealt with it. I think we're probably going to need to put it off. I think a recommendation might be to defer to the second February meeting. Mr. Yoshida, does that work. We just deferred a subdivision to the first February meeting if you haven't heard.

Mr. Yoshida: Yes, that's possible Mr. Chair. I understand it you have deferred the Wailea MF-10 project and also this project. We have one public hearing on that second meeting in February as well as the Council Resolution on the Paani Mai Park expansion in Hana.

b) Action

Mr. Starr: Okay, well thank you very much. Members do we have a possible motion to defer?

Mr. U'u: Motion to defer.

Ms. Domingo: Second.

Mr. Starr: We a motion by Commissioner U'u, seconded by Commissioner Domingo. The motion is?

Mr. Hunt: To defer to the second meeting in February.

Mr. Starr: Okay, what's the date of that, the 17th I think?

Mr. Yoshida: 24th.

Mr. Starr: 24th, okay. All in favor please raise your hand. All opposed?

It was moved by Mr. U'u, seconded by Ms. Domingo, then

VOTED: To Defer the Matter to the February 24, 2009 Meeting.
(Assenting - B. U'u, D. Domingo, K. Hiranaga, W. Mardfin, W. Iaconetti,
W. Hedani, J. Starr)
(Excused - J. Guard)

Mr. Hunt: I have that as unanimous in favor.

Ms. Loudermilk: Thank you.

Mr. Starr: And once again, I apologize for not being able to finish it up today. We have a workshop coming up in a couple of minutes. Just before we get to that, we have two housekeeping items I'd like to deal with if we can. One is the action minutes.

E. ACTION MINUTES OF THE JANUARY 13, 2009 MEETING

Mr. Iaconetti: Move to approve.

Ms. Domingo: Second.

Mr. Hunt: For the record, these are action minutes of the January 13, 2009 meeting.

Mr. Starr: Okay, so we have a motion by Dr. Iaconetti, seconded by Commissioner Domingo the motion is to?

Mr. Hunt: To approve the action minutes of the January 13, 2009 meeting.

Mr. Starr: Okay, all in favor please raise your hand. All opposed.

It was moved by Mr. Iaconetti, seconded by Ms. Domingo, then

**VOTED: To Approve the Action Minutes of the January 13, 2009 Meeting.
(Assenting - W. Iaconetti, D. Domingo, B. U'u, W. Hedani, J. Starr)
(Dissenting - K. Hiranaga)
(Excused - J. Guard, W. Mardfin)**

Mr. Hunt: I have that as five in favor and one against.

Mr. Starr: The one other item I'm hoping if there's no real concerns with it we might be able to deal with it quickly. If there are concerns we can put it off. This is director, your Item 1a of your report.

F. DIRECTOR'S REPORT

- 1. Planning Director notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of his intent to issue a time extension on the following request:**
 - a. HANA RANCH requesting a 2year time extension on the period to initiate construction of the Hana Ranch Store Improvements project at the Hana Town Center, TMK: 1-4-003: 056, Hana, Island of Maui. (SM1 2004/0020) (D. Dias)**

Mr. Hunt: This items involves Hana Ranch requesting a two-year time extension on the period to initiate construction of the Hana Ranch Store improvements project at the Hana Town Center, TMK 1-4-003: 056 in Hana. The file number is SM1 2004/0020 and I can try and answer any questions that you may have.

Essentially the SMA rules allow the planning commission to delegate down to the staff a time extension. We bring that up to your ability to either review it or waive the review. One way or another you need to let us know what you want to do.

Mr. Starr: And I do want to rely from Commissioner Mardfin who had attended a meeting in Hana on this that he seen that it was not a controversial item in Hana and wanted me to relay that. Commissioner Hedani.

Mr. Hedani: Move to acknowledge receipt of the request and file.

Mr. U'u: Second.

Mr. Starr: Okay, we have a motion by Commissioner Hedani, seconded by Commissioner U'u. The motion is?

Mr. Hunt: The motion is to acknowledge receipt of the request and to file the request, in other words waive the review by the planning commission.

Mr. Starr: Okay, we're going to be – Dr. Iaconetti.

Mr. Iaconetti: I was voting in favor of the motion.

Mr. Starr: All in favor please raise your hand. All opposed.

It was moved by Mr. Hedani, seconded by Mr. U'u, then

**VOTED: To Acknowledge Receipt of the Request and Waive Review.
(Assenting - W. Hedani, B. U'u, K. Hiranaga, D. Domingo,
W. Iaconetti, J. Starr)
(Excused - J. Guard, W. Mardfin)**

Mr. Hunt: I have that six in favor, zero against.

Mr. Starr: Okay, thank you. We'll be moving onto our workshop. We're going to take a really short recess till about five minutes after and come back and they'll be set up by then.

A recess was called at 4:04 p.m., and the meeting was reconvened at 4:07 p.m.

D. Workshop on Active Living Communities conducted by Mark Fenton, transportation and public health expert

Mr. Starr: We're back in session. We're looking forward to a special workshop. Some months ago, several of the commissioners had mentioned we were looking for some presentations on smart growth and good development how to build really positive, useful communities and I think today we have one of the people really in the forefront of a really good design and healthy living community. We're really lucky to have him. I've really enjoyed seeing his presentation on T.V. I'm glad to see it in person. I'd like to welcome with all the best aloha, Mark Fenton to join us today and present and also Sandy McGuinness who will also introduce him I hope and give us a very short description about the program that she's running here on Maui which is also an excellent and our local stuff too.

Ms. Sandy McGuinness: Thank you very much Chair Starr, Commission Members and Deputy Director Aoki, thank you for this opportunity. We're very grateful. We are – I'm representing the Maui County Nutrition and Physical Activity Coalition which was recently formed less than a year

ago. And of the four priority areas we're here today because we know now that the built environment has a huge impact on our health. If we design communities that are not conducive to walking and biking then people are less inclined to go outdoors and do these things. So it's very important. So we were very pleased that the Department of Health, Healthy Hawaii Initiative sponsored Mark Fenton to come in the summer. We actually did workshops throughout the County. And one of those tapings was what Commissioner Chair Starr saw and that's why we are back here today to meet with you folks. So I do want to thank you for this opportunity and have Mark Fenton here. He is a public health and transportation expert and has hosted a show on PBS and written numerous articles so I think you'll enjoy the presentation. Thank you.

Mr. Mark Fenton: Thank you very much Chairman Starr and Commissioners. It's a great privilege and honor. I serve on my local planning board in my community which is Acushnet, Massachusetts, a small town outlying Boston. So I have real good sense of the demands on your time and how much you want this about as much as a hole in the head. So my entire intent was to make this a useful and practical as possible. Please go ahead and call on me that if you'd like.

But as such, a summary of my comments will be two seconds on the Healthy Hawaii Initiative only so that you get a sense of why a public health agency has a guy who's back – I'm an engineer by training and I do a great deal of work in bicycle and pedestrian planning and transportation work in general. So where that connection with health and the built environment is.

And then talk about, I'll give you a context which is what I call the four aspects of a healthier community. There tend to be an awful lot of writings. There are a great number of articles. If you read Planning magazine or look at the Planners Journal or any of the other documents, you can see that there's a great deal of material out there. I boiled it down to basically four elements that I see in the research literature.

And then I'd like to talk a little about implementation because the fair question that any member of the public would ask is, you know, this is all well and good but who's going to pay for it? So I'd like to share some insights on what we're seeing around the country on that.

Chairman Starr I defer to you on whether you'd like me to present and then discussion or be interrupted. I'm happy to be interrupted if you prefer that.

Mr. Starr: Well, if anyone has anything really pressing raise your hand otherwise we will be taking questions afterwards. We have till 5:00 p.m. and we want to hear you. We're glad you're here.

Mr. Fenton: So from the perspective of the Healthy Hawaii Initiative which briefly as an aside, is an initiative of the Department of Health and is funded by the tobacco settlement dollars that is the money that each of the states got when they sued the tobacco companies years ago. I want to make, by the way a quick plug here, great credit to the State of Hawaii. It is really the only one in the 50 states that has set aside the bulk of that money for initiatives to affect public health from the standpoint of tobacco, physical activity and nutrition. You spend your monies in those three areas. Many other states allowed that money to disappear. They used it one time in their budgets and so on. So great commendation there.

As such, I can summarize the sort of the health perspective on this in three numbers and I actually encourage people to use this in public testimony when they go before a planning commission they say if you're making the case for a healthy environment these are three figures you can use, 30, 25 and 365. Thirty is the minutes per day that it is recommended all American adults be physically active. Now that's a minimum recommendation. Twenty-five is an estimate of the percentage who actually get that on any kind of a regular basis. That is one in four adults through what we call leisure time, physical activity and 365 although you might guess it's the days per year, I have bad news, add three zeros and it's an estimate of the number of premature deaths annually in the United States due to sedentary lifestyles and poor nutrition, 365,000. So about a thousand people a day die prematurely. The only thing that kills more people prematurely than inactivity and poor nutrition that is unhealthy lifestyles is cigarettes, tobacco use. So from a public health standpoint you can understand why the Department of Health is investing greatly in this.

Know that the Federal Government is deeply invested here. The Centers for Disease Control and Department of Human Services, Health and Human Services recently published just this summer new guidelines on physical activity recommendations again iterating that 30-minute per day minimum. Notable is the fact that we recognize children ...(inaudible - changing of tape)... because as you think about school sites and their design and the surrounding residential areas, I think it's relevant how kids for example transport themselves, whether they're a walkable neighborhood or not. One hour a day for children. And you can see at the bottom there, it provides a reduced risk for essentially all of the things that kill us prematurely now, cardio vascular disease, type 2 diabetes and it's complications, osteoporosis, dementia and old age, a growing list of cancers. Basically it's as close to the magic elixir of life, moderate, daily physical activity as we can get. And the problem is only about 25% of us get it and the yellow line here represents those who get out for that 30 minutes of exercise at least five days a week. You'll notice that the line is essentially flat. So for the last 20 years, although we've known physical activity is beneficial, a very small percent of the population and a fairly constant percentage, namely one in four consciously do it. I'm going to go out for my run, I'm going to go hop on my bicycle, I'm going to gym.

Hence, the Healthy Hawaii Initiative and the other innovative workers in this arena have essentially said maybe we have to do something more than tell people to go to the gym. And so what we're talking about is how do we build environments in which physical activity and healthy lifestyles in general happen more routinely. We could have an entire discussion around nutrition. We won't today. But I suggest to you that planning boards, planning commissions do have a role in that, thinking about things like placing fast food joints close to schools. There are some interesting studies that show that if you make – put a McDonalds right next to a school the kids are going to be eating at it. And so one can think about those aspects of planning. But I'm going to talk about it uniquely from the physical activity standpoint. However, I would suggest that as we talk about the health of the community the economic health should be a part of the discussion too.

Chairman Starr you alluded to smart growth and there's a great deal of writing about what the economic impacts of sprawling growth are particularly on our formerly downtown business district. So you know, the kind of sprawl that's happening all over the United States and you guys have it here as well as anywhere, sort of the big box development out on the perimeter and things like that absolutely does pull some of the economic life and energy out of the downtowns, the areas, you know, the former business centers of the community, the retail centers.

I'm not saying that doesn't mean we should have no Walmarts. I don't mean to make any presumption like that. But it means we have to make conscious decisions when we say yes to Walmart designed that way. Understand fully what the implications are for the downtown retail district that it's going to impact. You know, don't do that blindly.

So having said that I suggested the four elements of more active setting. I've boiled it down to this and this is based on a wide range of research literature. So there's been stuff published in the planning – Jane Jacobs wrote about this kind of stuff 40 years ago and arguably planners a hundred years ago and two hundred years ago were talking about design of healthy communities. But also architecture land use, I'm sorry landscape architecture, transportation engineering there's a growing body of literature and most recently public health. So journals like the American Journal of Health Promotion have articles about creating environments where people are more routinely physically active. I'm just telling you that because I'll reference a couple of those articles but I won't give you a lot of that science but it's out there if you want it. There's a great deal.

So essentially it's four broad categories. The mix of land uses, the network of facilities, site design and safety and access. Those three things. So let me summarize those to suggest that what we know about land use is more compact village centers, towns and villages and cities, whether you're talking about small village or right on up to an urban environment, the more compact and mixed the uses are, that is the more you have live, work, shop, play, learn, pray, all those opportunities close together, the more likely people are to be physically active. That shouldn't strike you as surprising. You know, anybody who thinks about this at all, would say sure, if a school is closer to a neighborhood more kids walk. If the post office is in downtown near where lots of people can get to it, then they might walk or bicycle or take the bus, but if it's out in the middle of nowhere, they're going to have to get in their car. So I don't think there's any rocket science in this. I think it's reassuring to know that the research tells us. By the way, you'll notice that I'm illustrating with pictures from here. I have been able to do that because there are lots of good examples in the State of Hawaii on the islands in general and specifically here in Maui. You know you have village centers, traditional village centers, think Lahaina and places like that that represent that exact design. Historically they were traditionally that way.

Second is the network of facilities. The most mundane of those is a sidewalk. Just having a sidewalk on every street that somebody can walk on. But there's a range of tools from multi-use trails. So the middle top picture there is actually your trail along the Mokulele Highway, the bicycle path there at one of the intersections. Urban as well as residential sidewalks, the two different types you see on the right. And on the left transit. In fact, on our way here I was ecstatic to see, and hanging out of the window of the car trying to take a picture of one of your buses with two bikes on the bike racks. So the bike rack on the front was full. Rainy day, somebody decides well, I don't want to ride the whole way. I'm going to use the bus and just ride the last five minutes and not get as soaked. There is research that tells us transit does extend the likelihood of people being more physically active. Let me say it another way. Studies have shown, regular transit riders are more likely statistically to get the 30 minutes of physical activity a day than people who don't. Again, it's logical. If I'm walking to and from the bus stop, I'm more likely to be physically active as part of my daily life.

And I want to point out that the bicycle network, many people talk about bike lanes and they are one

tool, but you notice here I point out there are three different ways, at least on the surface at the simplest level we can accommodate bicycles on low speed and low volume streets like the main drag in Lanai. You know, bicycles can share the road, right, there aren't enough cars and the speeds aren't high enough, it's not a problem. You get to a higher speed road or higher volumes like Kaahumanu Avenue, then needless to say you need a bicycle lane there. And there are places where a separate facility such as the Pearl Bike Trail or your Northshore Greenway here, is ideal. You don't have to have all of those everywhere. You need to build a system of whatever's appropriate for the environment. And I think some people – sometimes people get on a bandwagon and they become fixed on any one of those tools. Well, I don't think there's one right answer for everywhere. You're going to, you know, think about different tools and different locations.

So having said that, the third element is site design. So land use talks about things being close enough together that I might choose the physically active choice. The network is about connecting those destination sidewalks, pathways and so on. But the destination itself matters. There are some very interesting planning studies that show whether the designation is inviting to the bicyclists, the pedestrian, the transit rider may well determine whether they choose that option. So those again are two shots drawn the island here. That I could take them anywhere in the United States, a traditional downtown versus modern retail development, you know, strip or box style development. You don't need to have a degree in landscape architecture to know that things like bringing the building up to the street, things like street trees and awning and benches, the design, the details of design make it either more or less inviting for the bicyclist, the pedestrian. Again, not rocket science. It's good to know that the research supports that. The presence and availability of bicycle parking preferably covered and secure bicycle parking makes it more likely that people will bike as opposed to if that bicycle parking isn't there.

The top picture by the way is one of my few that's not from here. I show it because that's from Lawrence Kansas. That's a Talbot's, which is a large national women's clothing chain and you would normally see Talbot's in a big box stores. It would be right next to a Barnes and Noble and a Linens and Things, it would be a standard big box development. I know the guy who's the head architect for Talbots. He actually lives in my town. And while I was Chairman of our planning board, I actually set up a design review committee. A committee that sees architectural design before it comes before this board. So that architects are speaking to architects on a peer to peer basis about the details of design. And I said to him, all right dude you want to be, he was asking to be on our design review committee. He was going for one of the positions. He's the head architect for Talbots now, national clothing chain. He designs these stores all over the country and I said, I have seen lots and lots Talbots around the country, I'm going to call you on this Mike, I'm going to challenge you. Most of them I don't consider, you know, particularly appealing. They're the classic big box surrounded by asphalt. I said I've got one picture of a beautiful Talbots in Lawrence Kansas. It's on their main street, it's pulled up to the street, it's built in an architectural style that respects the historic architectural style of the community, why don't you build all your Talbots that way? And in fact, let me ask you guys, this is a moment of departure here. What do you think his answer was? Any guesses? Go for it. I had an answer back here behind me a whisper. Somebody says the public doesn't want it. What do you think? You're thinking something.

Mr. Hedani: Some places wouldn't want it.

Mr. Fenton: Yeah, some communities. Let me go a step further. It's not the money, right. It is that the ordinances often don't allow that. Ordinance requires a 155 foot, I mean, 150 or 200-foot setback. Ordinance requires four parking spaces per thousand square feet or six or eight, whoever knows what the number is. By the time they spend the money on paving all of that for parking and doing all the storm water handling, they don't have a dollar left. Their bean counters, you know, the finance people will tell you I can't afford the awnings and the trees and everything else. So forget it, give them the standard big box square.

In this town where the ordinance says bring it up to the street, give me bicycle and pedestrian accommodation and if you do that, I'm going to reduce the actual footprint of the parking area so you don't have to put as much asphalt on the ground and the area for the storm water isn't as great so the cost are lower in all those areas. His finance people said, we're happy to have you spend a little more on the quality of the design.

So I think in the end, the gentleman here asked isn't it sometimes that people don't want it. They're afraid of it. There is great fear of change and many people will push back on that until they get it and say, oh my God it's so much more gorgeous. It's like the traditional stuff we have. So visual, using visual tools like imagery and what we call visual preference surveys are very important when you go through the public discussion.

I show here by the way two Walgreens, one in one part of the country, the other in another and the point only is that, they're the same national chain and yet you get two very different buildings. In the lower picture it's pulled up to the street, there are street trees, the parking's behind the building and screened by the brick and plantings there. In the top you get the standard template, building on a corner, intersection, setback, parking all around it, lots of asphalt, very little pedestrian or bicycle accommodation and indeed the picture from the lower left is from Portland, Oregon which you might say, well Mark that's one of the socialist enclaves you know, where they do this kind of wacky stuff. And indeed, I would submit that their ordinances are pretty progressive there but what they've essentially done is said, we're going to reward you for giving us the right design. The design that's in a character with what we want. So I suggest that that's it's doable and even with the national chains, even the big boys, the Walmarts and the Walgreens and those folks will talk this language when you do it in a collaborative way. Yes, sir, I'm sorry.

Mr. Hedani: On the slide, is there a difference in the economic performance of the stores?

Mr. Fenton: It's interesting because folks are starting to look at that stuff and the early stuff that I'm seeing says, that the ones like on the bottom are performing as well or better. Because that was one of the fears. If you don't give me the big, obvious parking lot out in front, will customers not come in, right? That was one of the precepts that I need that giant parking lot and I need it in front of the building so customers know that they can scoot in, get out easily, purchase, but there's no compelling evidence that that's the case, that the lower left is an under performer. And in certain environments they're over performer. You know, the good example is the Walmart in Honolulu. You guys know about that Walmart, right? It's a two-story building. It has a double decker parking structure. Early evidence suggest that they have some of the highest non-motorized mode shares that is, pedestrian, bicycle and transit customers coming. Now admittedly that's in an environment. It's in that classic urban sort of fabric. But I think there's no reason to presume that that kind of

design. We don't have any data that suggest that they can under perform just because they're different. Great question though. The Smart Growth America website, smartgrowthamerica.org, have some pretty good research studies on that stuff and it's one of the resources I would use to look into that question.

The fourth element is safety, and I'll simply say this. This is where our peers, our colleagues, in my case, my peers in the transportation engineering world really come into play which is simply to say this, we know how to engineer environments that are safe and accessible for all four user groups. The pedestrian, the bicyclists, the transit user and the automobile, the motor vehicle. It is not like you have to design for one at the exclusion of the other. There are lots of tools out there such as curb extensions in the top left picture, median crossings, that's from Kailua Town on the windward side on Oahu and that's a nice median crossing there where it's a mid-block crossing for the pedestrian. By the way, that offset angle there, I don't know if you know this, this is a little design detail that I try to teach guys in traffic engineering to do this any time they do it. It forces the pedestrian as she crosses the street to look toward the oncoming traffic when she's in the island. So as you get to the middle there, your gaze is directed toward the oncoming traffic which makes it safer.

And roundabouts, the picture on the lower right there which I know for some people is just like, speaking Latin. You know, it's like the most horrifying thing you can suggest. But we have more and more evidence that these things perform very well. They reduce both the frequency and severity of collision, they work well for bicyclists and pedestrians. Single lane, well-designed roundabouts. I'm not talking about the big giant ones with three lanes that you get into them and you can never get out, but we have lots of evidence about how to do these well. My point only is again, the safety tools are there. And it is very relevant for a board like this, you say, well really that's transportation engineering, that's public works.

When I say yes to a new subdivision, I'm saying yes to road that look like that in the top left, that's in ...(inaudible)... I think and you'll see that there are speed bumps all up and down the road there. You know, those white stripes are crossings, crosswalks at the intersection but then further down the road that's a speed bump and there's another one 200 meters down. So essentially what the traffic engineer says is, I've designed a road that we're going to post for 25 miles an hour and I know that that's not going work so I'm going to throw speed bumps every couple hundred feet as opposed to at another section of that area, that neighborhood on the lower right, you see the section with the chicanes, where those two bump outs in the road by the way which have plantings in them so we have more permeable surface, those could actually be drainage swales. They could actually be part of your storm water handling system. That is what we call horizontal traffic calming, narrowing and deflecting the cars left to right as opposed to vertical traffic calming in the upper left which is making the cars go over bumps which by the way we all know that the 16-year-old driver does everything in their power to go as fast as possible so they can catch some air off those speed bumps. So they act as opposite of traffic calming with the very young driver. It's the 40-year-olds too, he's saying.

The picture on the lower left is drawn from Madison, Wisconsin. It's a small median island. I'm sorry a traffic island or mini circle we call them, we call them mini roundabout. You'll notice it's designed in such a way that even the largest fire truck in the fleet can roll over the curb. It's not

going to be a big deal. The point is, that road on the top could simply be redesigned with those little mini circles at each of the intersections. We would not only green up the street and create more permeable surface and take away asphalt, all good things from storm water handling standpoint, they would traffic calm the road and now it would be designed to the very speed that you want to point there which is that residential speed of 20 miles an hour or whatever.

So in as much as subdivision review happens here, although roadways sound like they are the purview of Engineering and Public Works Departments, I would argue very, very much that the Planning Department should be thinking about these things. These are all tools that I'm trying to bring, drag my planning boards kicking and screaming to. So I have no delusions that this is easy stuff to just nod your head and say yes too, but I think it all should be on your list of the possible.

I could not visit here with not at least giving a nod to those two young kids on the bicycles on the lower left who took their lives in their hands to show me how dangerous that intersection is. Basically down in Kihei. And only to note that you've got the beautiful bike trail along the Mokulele Highway going all the way down there and then it dumps you out into asphalt jungle basically. I can't help but think that the really innovative traffic engineer somewhere wanted to make that a wonderful modern, state of the art roundabout and they got squashed and told they couldn't do it but what a great treatment. And what a nice gateway to that section of your community that would have been and it would have also made it much easier to come down that bike path and then get into the community safely as a bicyclist rather than do what these two kids did which was more terrifying than I wanted to show you the picture of because you would think to yourself why didn't you run out there and just get them off the road before they ran in front of Nalani's car while you were doing that. Maybe it was Sandy who was driving.

So to recap and I don't mean to be, sound to lighthearted here. I essentially have a checklist in my mind when any application comes before me and I ask these four questions:

"Is this application going to create more different kinds of destinations within walk, bike and transit distance of one and another or am I separating it?" So am I missing uses up or am I separating them more.

Second thing I ask is, "are those different uses connected well by these kinds of facilities, sidewalks, trails, bike lanes, just simply safe street crossing?"

Third, "is the destination, is each of the actual parcels in the plan and inviting destination for the physically active traveler, the healthy traveler?"

And last but not least, "is it safe and accessible for all users?" And I use accessible in terms, in the same sense as we use for the Americans with Disabilities Act, universal access. So you know, for the person in a wheelchair, the person with a walker.

The third question that one would ask after hearing this checklist is, "Mark, that all sounds well and good, but man, that's going to cost a lot. How do you pay for it?" So let me just share with you six or seven ideas about how I'm seeing communities do this all across the country. And the first and most important is what we call routine accommodation. They're not trying to go out and fix all this

stuff tomorrow. They're just making it a matter of course and all the new work that they do, anytime we build something new we try to accommodate all the users. Again, the pedestrian, the bicyclists, the transit rider and the motor vehicle user, all we're thinking about that. So every time something new comes in, we think about all of those groups and every time we build it, that's on our radar. And in deed you could even build a system that rewards the developer who does that stuff.

So you may have heard the term "complete streets," is that by the way familiar? Is that a term that anybody here has heard? No? Okay. It's a national campaign. The idea is simply that every street is only complete when accounts for all four user groups, again, the pedestrian, the cyclist, transit and the motor vehicle. And any time we touch a street we should make it complete or more complete and you try to match the physical design to the speed. Well, it turns out there's a national initiative and in fact, you guys have a resolution in the state legislature that said we'll try to make all streets complete, but it's not binding and it doesn't tie dollars to completeness. So it doesn't say, you won't get state or federal dollars to build a road if it's incomplete. Doesn't say that. It just says it's a good idea. But there is hope to see that go to the next level. There's hope to see more certainty around that so that dollars are associated with completeness if you will.

An example would not be far from here. Where we did a workshop actually at the community center just up the road there, this side of the hospital, that's Mahalani. And so the hospital is on the right, the Maui News is on the left there. I would argue this is a fairly incomplete street in the sense that I wouldn't want to send my son or daughter to have to cross the street if they were doing something at the community center and wanted to go over to Maui News. I'd be challenged to let them cross. However, perhaps with paint, we could give this road a diet. In fact, the term is being used, "road diet" all over the country where you take a road that is a four-lane road, convert it to three lanes, that is one travel lane in each direction and a center turning lane and by the way what you get out of the deal is a center refuge island there potentially, you get bicycle lanes and it's safer for traffic because you've taken the turning vehicles out of the travel lanes, brought them into the center turning lane.

My point though is that that can be done with paint. This is not like that's a million-dollar retrofit. I would have loved that road to have been built complete in the first place but my second best choice would be to go back and retrofit it to this design. So I'm just trying to give you a sense of how communities around the country, there are communities that are actually going out and retrofitting their four-lane roads to these three-lane design, gaining bicycle lanes and making it work better for motor vehicles as well by reducing both the frequency and severity of collisions that occur when a vehicle turns left because they are now in a turning lane.

And another example of this would be sort of establishing village planning districts, you know, village development codes. So I use actually a photo here from Molokai because I think, you know, the traditional village center there still exists. You know, they don't have the big box, the Walmart out on the perimeter, they're just too small. But that – they still are having their first flavor of sprawl. I mean, in a sense, this is modern suburban style design where the retail is pushed back and the parking out front, that's their first glimpse into it and they've got their first fast joint coming in just across the street here. So even there the character of the community is changing. But you could build a code that says, we simply don't want that. We want that building at the street, we want the parking out back, we want to maintain the character of the community that's been historically there.

Whatever you do, I would suggest the historical villages in the county are a great guidepost. I mean, using the historical village designs would be not a bad thing to replicate as you move forward.

The second category of sort of funding sources is opportunistic improvement. We're digging up the street away for the sewers, now's the time to widen the sidewalk or put in the curb extensions and I use the picture on the right of Ashland, Kentucky because that's exactly what they were doing. This is a small town in the eastern part of Kentucky that does not have two nickels to rub together. They are very impoverished and yet they're going to have a beautiful main street redesign that includes curb extensions and bump outs at the intersections, wider sidewalks, they're going to put in bicycle parking, all of this for very modest cost because they were tearing up the street anyway for sewer work. They had gotten some federal funds to do that. It was really easy for them when that work was being done anyway to also add in this redesign on the sidewalks. Things like bicycle lanes and so on, they can be done that way. So look opportunistically. In my world what I do is when an entity comes in for site plan review and they want to reconfigure their parking or they're going to change their signage, you know, one of the more rudimentary site reviews, that's my chance to ask for, "where's your bicycle parking? Could you put in a couple bike racks?" I don't try to make it onerous or in any way punitive to the applicant but I think it's an opportunity to say this is going to benefit you too Mr. Applicant your retail environment because you've got bicycle parking and as a part of site review, I think it's a reasonable thing for me to ask. So that's one opportunity for what I call opportunistic improvements.

This one I think is very important, it's off site mitigation which is to say when new development comes before our planning board and I am urging planning agencies all across the country to do this and many are starting to embrace it, we don't just ask for a traffic analysis if it's large enough to merit that, we ask for a multi modal transportation analysis. That may sound like semantics but it's very important because it means instead of just telling me the traffic count that your new store is going to develop, how many cars, you're going to actually tell me how many possible bicycle, pedestrian and transit trips could emanate from this destination. And that by the way transportation engineers know how to do that calculation. It's called trip generation and they do it all the time. But if we don't ask them to, if all we ask to do is look at automobiles then they'll tell you it's going to generate 3,000 automobile trips so you gotta signalize the intersection and make them pay for all that.

The interesting question I want to know is, when those subdivisions went in down the street from the Wailuku School there, the elementary school, right, and by the way, you've got nice painted crosswalks but they take you to nothing. There is no sidewalk along the road there as you guys well know. But the interesting question would be, when some of the housing was being developed just down the road there, might it have been appropriate to do some trip generation studies and say, we're going to create hundreds, perhaps thousands school age kids, these are single family homes that are going to have families in them, kids are going to be going to that school, would it be appropriate not again to punish the developer but to ask them to make a donation toward that impact. This is impact mitigation is all it is and we do it all the time for motor vehicles. We require the signal light. Why wouldn't we require some help toward building that sidewalk so those kids could walk or bicycle to school rather than because there's going to be a traffic impact, rather than all of those parents lined up at that school picking up and dropping off every day creating by the

way a traffic jam and a major impact to the community at large, let alone the greenhouse gases and everything else.

I used that as an example. I may have it dead wrong. You may say, Mark it works great. They all walk, they use that crosswalk, the walk on the shoulder of the road, but I'm going to guess that I'm not. That I'm probably more on target than not.

Fourth category is that there's lots of money out there for this stuff. In the transportation enhancements program, in an area called CMAC, the congestion mitigation and air quality, there are recreational trails funds for the greenways and trails. There are new safe routes to schools funds. Highway transportation safety funds. I only gave you that list to remind you that I think this board can be a voice. I think of myself as a planning board member in my community. I should be a voice of this kind of positive change. So I've actually helped out community to get a safe routes to school fund and we're going after some transportation enhancements money for some bicycle and pedestrian facilities.

Nobody knows better than you guys where the biggest challenges are and the opportunities. Where there are groups of kids that could walk to school if only we finished this section of sidewalk or pathway. Now you may be better suited anybody in the community because you kind of have to operate at that 10,000 foot level and look at the big picture. So I would urge you to avail yourselves and work with the other partners who want to go after those kind of monies.

Having said that, how do community go to the next step and be more proactive as they say, we should actually do betterments or create special improvement districts or do tax increment financing and I only mention that because the character of the county have these kind of defined community centers like Wailuku Town here, but others, Lahaina, historically all over the island you had these small village centers. Those might be places to look inwardly and say what can we do to improve it. Notable is the improvements that just happened on Market Street in Wailuku Town and you know they have this whole first Friday event thing. I think they should celebrate those. They should be saying look at what we've done to this main drag here on Market Street and how we've made it far more friendly for bicyclists and pedestrians.

The Fifth idea is anything else you can think of basically category. Special funds, fund raising, foundation grants, and sweat equity. So we have communities where scout troops and local churches have adopted a section of trail, a pathway or things like that where they use events like community street parties and festivals and so on to raise awareness and raise funds and so. My picture from Lahaina, interestingly enough, I have a sense that it's fairly regular that they close off the street, that that wasn't a special event that that is very common they close off the street and essentially create a pedestrian mall there and it begs the question why don't they just do it all the time if it really works best, why not make that permanent. The world doesn't come to an end when cars aren't allowed to go through there. So maybe that should be their design, you know, just a thought.

And last but not least and I offer this challenge to elected officials in particular because they're the ones that have to make the hard decisions on the capital improvements but here are many communities across the country that have just said a certain amount of money in our annual budget

is going to be devoted to continuing to make these improvements. I couldn't help but over in Kaunakakai, when we were over on Molokai, you know, look at the young lady with her walker there trying to negotiate that disintegrated sidewalk and say, boy that's a sidewalk that's ready for repair particularly if you've got senior housing nearby and shopping, we can do better for our elders than to make or to try to prevail against those conditions.

So I guess the important principle would be, I don't believe, no one can tell me we can't do this stuff because it costs too much. I just don't believe it's about the money. I believe it's much more about the will. You've got to be a community that says this matters and that means by the way groups like the Healthy Hawaii Initiative and Sandy's Nutrition and Physical Activity Coalition they have to get people in here so that when it's time to testify they can line them up and you guys can hear testimony that supports you guys making the right decision. And I know as a planning commission member by the way that you need that. That you can't just do this and make it look arbitrary. It has to show public support. And I show that picture by the way because of the bench that's there and the lady is using the bench. It looks like such an afterthought and yet it tells you how much demand there is. It looks like that bench was just thrown in there. How nice if there had been a slightly larger green space, a couple of trees and a little sort of place for people to wait when your wife or your husband was in there shopping for whatever it is that you didn't want to go in for. To create a spot where she can hang out and do that or wait for the bus or whatever it is that she might be doing there.

And I'll leave you with a final story, I mentioned the Wailuku Town improvements. Let me throw out one of the wild ideas. I don't know if this came up. They did the curb extensions and so on. You have diagonal parking there and in fact, diagonal parking is a nice way to narrow the street, act as traffic calming, but let me tell you an interesting thing. It may not be the best choice. There is a new moment to go from conventional diagonal parking – I'll ask you two questions. When a person is parked to the left of that suburban right there and they open the car door where is a child directed in this style of parking? The door is open now and where does the kid end up moving? Out into the street because the door is between them and the sidewalk. And when my mother-in-law goes to put her groceries, she's in her 80's, in that blue car, where is she standing? She's putting them in the trunk. She's standing in the street, right? And when I go to pull out where am I looking? I'm facing the building and I have to kind of ask my son in the back seat, how's the traffic look out there buddy, right, as I back out. That's, and honestly what I have to do if I'm next to that big vehicle.

In some communities they're doing reversed diagonal parking where you actually pull past the spot and back in. You can see on the picture on the upper left, those signs are installed to explain it to drivers. Now think about it, in the blue car down in the bottom picture when the car door is open where is the child directed.

Mr. Starr: The sidewalk.

Mr. Fenton: They can't go in the street. The door is in the way. And when my mother-in-law is putting in her groceries in the trunk where is she standing? Sidewalk. And when I go to pull out, where I am looking? At the road. So I can see the traffic. They have seen fewer collisions and less severe collisions. It's much safer for bicyclists who are almost invisible to a backing out car on the top picture but perfectly visible in the lower. So if you're in an environment where you're

trying to encourage bicycling by far the bottom is a better solution and you keep pedestrians off the street because they aren't forced out there by the door opening or the trunk. I know that looks like totally wacky and your first reaction is, well nobody could back in. They can't do that, it's too hard. But all the data tells us that people figure it out within a couple of weeks and Des Moines, Iowa by the way, it's not Portland, Oregon or Boulder, Colorado. One of the sort of the communist enclaves where they do all this wacky innovative stuff. That's a regular city in the middle of America and their traffic engineering department now won't do anything but reverse diagonal. They don't conventional diagonal parking. Performs so much better. Sir.

Mr. Hedani: Did it cause more robberies in the stores because they get away faster?

Mr. Fenton: I just want to make sure everybody heard that. He said, "are there now more robberies in the stores because get away is faster for a criminal?" They seem a much happier in Des Moines, they're ecstatic. So I leave you with that because, okay, it's too late for it to happen up on Market Street right now but when they go to repaint those stripes, you could change it. Yeah, another question.

Mr. U'u: The only flaw I would see in that reverse parking is some of the cars in Wailuku, the exhaust would face directly into the coffee shop and some of those cars don't belong on the road.

Mr. Fenton: It's a very good point. Yeah, the very old vehicles with the exhaust. It's an excellent point and in fact, some communities they've gone so far they have a idling policy so the sign just below the back in one says no idling. And the other thing is they put in curb stops to make sure that overhang, because the other possibility not only is that tailpipe right there, but if I backed in all the way my Suburban, my pickup, I could be three feet over the curb. So those are two very important points that, right, you don't want that tailpipe any closer than it has to be so you might put curb stops out and secondly a no idling possibly, you don't want that engine running any longer. A very good point. These are the kinds of things you learn and that's why what communities tend to do is they experiment with it. Do it on one street where there's not a lot of traffic. Try it.

I saw Mr. Chun today, the one who's – is it A&B Development is the proper name. He came and spoke at – we had a Nutrition and Physical Coalition had a meeting today and he was kind enough to come and talk about some of the innovative smart growth oriented principles in some of the application that they're – and I'm not taking a position on the application. You know, but I would say this, they've got a lot of diagonal parking and said to him, here's you chance man, do reverse diagonal all down through those two main. They're essentially restoring two grid streets that are gone in the mall down there right now, you know, where the all the shopping malls are. They're restore, their application restores two of those roads and it has all diagonal. So I plant that seed in your heads there that it might be a neat opportunity because it's a fairly controlled setting to test this style because remember it's only the paint. Sir.

Mr. Mardfin: I could see another advantage to this, if you have front in parking you just pull in. If you're backing in, the cars behind you, you know, if you get to an area where they do it, the cars behind you have to keep a little bit greater distance.

Mr. Fenton: It does tend to slow speeds on those roads because –

Mr. Mardfin: Because people are going to be backing in.

Mr. Fenton: Yes, sir. So what happens is you're creating – in a residential or commercial or retail downtown district where you don't want cars blowing through this is actually a form of traffic calming. That's exactly right because you follow distance has to be a bit greater and when I stop to back in, you know, the pull in isn't as quick so there's that hesitation. Yeah, exactly. Again, I didn't mean to go, you know, to get too specific in detail. I only wanted to plant the seed in your minds because this is the kind of board that you can lead the discussion on this. You can be the ones that sort of say, have you thought about, you know, to the applicant, and really encourage it or require it.

And I'll leave you with this young man who I met yesterday. So I'm staying down at the Maui Beach Hotel and they sent the van out to pick me up at the airport and I met Isaiah. He lives up in Wailuku Town, and he rides his bike down to work down there and he rides on Kaahumanu and I would suggest to you that by virtue of a series of things that's a more reasonable trip. There is a bike lane. I mean, that's big wide road with a lot of cars, but at least he's got big five to six-foot bicycle lane. At the hotel, they allow him to store his bike indoors. So even on a rainy day like to day, he could stick it inside and at least it's protected, it's not going to get stolen or vandalized. Certainly those are carrots, right, incentives. There's a stick, the carrots and sticks we talk about so often. The stick is gasoline costs or costs to maintaining an automobile, right, and those are only going up. I would love a step further if, and this we talked about at the Nutrition and Physical Activity Coalition meeting if maybe his employer rewarded him to doing it. A little bonus or maybe if he gets healthcare paid for by the employer or if he shares his healthcare cost maybe they give him a break, a discount because he's going to be a more healthy and physically active kid if he's riding his bike to and from work. Even if he never goes to the gym, if he never lifts a weight, right, he's more physically active by virtue of how he travels and we love him because he's one less car on the road. His carbon footprint is lower. He doesn't add to congestion. He will cost us all less in healthcare costs by simply being more physically active and healthier. He will be a more productive employee by the way. We know that about more physically active employees.

My point is only this many of the decisions you make routinely may not see at any one time to be the critical decision but by their compilation, by the compilation of impacts you help determine whether he chooses that or not, and whether as a community people choose the active lifestyle of not. There are many, many reasons to do it, I think the Healthy Hawaii Initiative talks specifically about the health benefits, but I more broadly define the health of the community as the economic health, the environmental health, the social health.

So with that, I thank you so kindly for your attention and your willingness to hear this and I invite any discussion or questions. Thank you Mr. Chairman, and thank you Commissioners very much.

Mr. Starr: Okay, and thank you and I just want to acknowledge two of our really forward thinking council members, Mike Victorino and I did see Sol Kahooalahala here as well and I know they'll help us move forward on this stuff.

I want you to talk a little bit about roundabouts because there's been a lot of struggle on Maui. The Kihei Community Association has been pushing for it, the state and two or three very vocal

individuals have fought it. Could you describe different sizes and how they function?

Mr. Fenton: You're right on target with the different sizes and function. It's only in the last five years that I think really we figured out good design here. Now, I'm putting on my transportation engineer hat. I come from New England by the way, the northeast, outside of Boston where we have old-fashioned rotaries. These big, giant road, multiple lanes, they invited speed, they were horrible. And the people who pushed back against rotaries are right on target. They tended to have very severe collisions when you had a collision. They invited bad driver behavior, everything about them.

The new style designs not unlike the one pictured here, this is actually a fairly large one. We're seeing the radius even smaller and smaller now, they're bringing them tighter and tighter, they bring speeds down, you generally only do a single lane. If you do multiple lanes you have dividers and so on that dictate when a vehicle comes in and out. They have the entry and departure islands so these entry and exit islands on the larger ones. This creates a pedestrian refuge. So from a pedestrian safety standpoint, when a pedestrian is crossing only one lane of traffic at a time. This pedestrian, she'll walk down there, she'll look to the left for entering vehicles. You'll notice the vehicle yield line is up here. So the first yielding vehicle actually protects her. The vehicle that's yielding to enter the circle is causing the vehicles behind to hesitate, so she crosses. She then focuses on exiting vehicles. Again, she's only looking at one lane at a time and she completes the crossing task.

These have been shown to reduce both frequency and severity of collisions. Let me say it again, both the frequency and severity of collisions compared to signalized intersections that they've replaced. So that's generally, most of the data is on pre and post studies. I've got a signalized intersection and now I move to this. They can often reduce delay time because as opposed to having to sit through a signalized signal phase, you're yielding into the traffic flow and they're really good, my understanding is for offset intersections where the two primary flows are here and here rather than directly across. So it's one thing if you have a major road this way and lesser road this way, but if for example the primary traffic flow is to the left or to the right, they can be a good alternative there. So we know much more about roundabouts, and this by the way, these are large, sort of best could be potentially a signalized intersection.

Remember that I showed those mini circles, the little neighborhood circles. That's a different beast. They tend to be designed on the neighborhood scale, let me see if that slide is there, there they are, so the one on the lower left. Often the reaction here is from the emergency response folks, they say, but this is a primary response route, I need to be able to get there if there's a heart attack or a fire down that street, so we worked very closely with the fire department for example. Often, what we'll do is, if we're going to do one of these, get out there with some paint and some cones, lay it out, bring the biggest truck in the department, run over the cones, you know, sort of trash it. Bring a school bus down through there. Hey, that's a neighborhood, we have a school bus going to pick up kids. Okay, lets drive it through and try it, figure it out. And that's when you can determine what the radius ought to be noticing that there's a difference between the apparent radius, the driver, the prudent driver is going to go all the way around the circle and deflect, but the school bus can roll over. That's called a mountable curb. No, problem, they're going to do it slowly, but that's the goal. You know, people will sometime argue against these, saying – this is really going to slow people

down. Yeah, exactly. That was our goal. So we have to remember what the goal is with an undertaking like this and why we might design that. Other questions about roundabouts? Sir.

Mr. Hedani: In the roundabout that you showed us earlier.

Mr. Fenton: Yep.

Mr. Hedani: Why is the circle so large?

Mr. Fenton: Yeah, in a case like that I think they have really, really big truck traffic. I mean, big truck like tractor-trailers and you can see actually the black marking around here. They're letting that tail rear tire, but I still think this is too large. I think this is one generation. This was up in Wisconsin where we were doing workshops and I would have recommended they could probably narrow that up a little bit more. I'm not pretending to be a roundabout expert by the way. I'm just telling you what I'm learning from the reading. I try to read the literature on this stuff and talk to the guys and I'm seeing a lot of people say, yeah, I might go one step, one degree smaller on that. But this is an – there's an industrial site, my recollection, we were doing a workshop in the community and in front of us there are series of paper mills. This is the part of Wisconsin where they still do a lot of paper manufacturing so they have big trucks coming through, really long ones even the ones carrying those logs on the back and sometimes they're actually longer than a standard tractor-trailer truck. You know, it's those two articulated pieces that carry giant trees, and so I think they had to accommodate those and let the tail roll up over is my recollection. Good question.

Mr. Hedani: I'm absolutely convinced that there's no such thing as a smart signal.

Mr. Fenton: Yeah, the smart signal situation. Yeah, I think you're right about that. But that's a whole other discussion.

Mr. Starr: Bicycling in Wailuku, I know you talk about how Market Street is much improved.

Mr. Fenton: I haven't been over there yet. I only have the word. I'm going over right after we finish so I'll tell you my verdict.

Mr. Starr: I get scared to death trying to ride a bicycle through Wailuku especially on Main Street where there's parking on the side and it pushing you out into the traffic. There's always, some kind of debris and construction. It's really bad and it's a slope. What's a solution because you know, I like to feel like old towns work but sometimes in some ways they're difficult.

Mr. Fenton: To my mind the biggie is speed, right? If we can bring speeds down enough in a downtown in a village center like that, you should be a vehicle. Vehicles shouldn't be going much faster than 15, 20 miles an hour right. And your bicycle can comfortably right close to 10, certainly 6 or 7 or 8. The speed difference isn't that great. Essentially what should happen in traditional village designs what we say is, the bike is a vehicle it takes the lane. Now if it's a larger downtown area, we might say, lets create a seven-foot bike lane or what we call a 12-foot parking lane with an actual guideline so it's wide enough that the cyclists can ride to the outer edge and be afraid of

getting doored, right? Because that's what the cyclist, the rational cyclist is waiting for that door to swing open, right? So if you give them a guideline that's out far enough, defines a bikeable lane, they can ride there. That's one of the treatments. But depending on sort of where we're talking about here, you may well be on street where in reality it should be designed well enough that the actual speed of any vehicle is so slow that it's appropriate for a bicycle to take the lane and be riding in the street. And this speaks to another reason that I'm – the Healthy Hawaii Initiative is involved here, and I don't mean to put you guys in the spot, but they tend to think, you know, public health people are social marketers, they're the ones that helped us stopped smoking and get us to wear seatbelts, and if you think about many of the national – we need bicycle and pedestrian education as much as we need driver education. I mean, yes, I want drivers to drive more slowly and respectfully but I also want bicyclists to know how to ride properly and how to be a vehicle, take that lane, be perfectly out there. I want all kids to have properly fitting helmet and know how to keep a bike where the brakes are working and to my mind that's part of an integrated program for the county that you guys should be doing that programmatic stuff at the same time as doing the infrastructure stuff like you were talking about make that street work. So depending on the width of the street and so on, the answer might well be, the bike deserves and should be out on the road and I don't mean to over simplify because I know the area well enough, but I'm happy to – you and I can take a walk over there or ride over there and look at it.

Mr. Starr: We time for a couple more questions, anyone in the audience got anything? Thorne.

Mr. Abbott: You mentioned some sample ordinances, ...(inaudible)... could you mentioned a list of places ...(inaudible)...

Mr. Fenton: So where is starting to do this? Yeah, yeah. So interestingly enough, okay, let me think top of my head because I want to think about different scale. Charlotte, North Carolina is doing some really interesting stuff because they're doing some stuff with an innovated, for example, bicycle parking ordinance where they're rewarding, employers – developers if they create bicycle parking, transit access and so on, you don't have to create as much surface parking. Somerville, Massachusetts is one that I actually worked a little bit where they actually just rewrote their code around that and parking, we didn't talk much about parking, but lets do two seconds on that. Parking is the 900-pound gorilla in the room. You guys know it. I mean, it's amazing how it drives conversations with commercial and retail development, right? So we all know that but yet we don't do anything innovative with it.

Both the March and May 2008 issues of Planning magazine had some great stuff on it. There's a guy named Donald Chu who's written a very insightful look at really how to price parking and so and charging the real cost of parking and how much parking you need and the alternative things you can do with those dollars would have instead of building. And you can look at that A&B development as a great example of this. You know, the interior of every one of those parcel squares that he's creating is all parking. So on the one hand it's very innovative he's bringing buildings out to the street and having housing above retail. Those are all good things. Mixed use, all good. But you're devoting an awful lot of surface area to automobiles still.

One could make the case that if instead we invested some of that money and increased transit frequency and reliability for that district. Lots of bicycle parking, how about a bicycle fleet, a

municipal bike fleet. What if there were bicycles colored whatever, you know, yellow bikes, different communities have done different, you know, or bikes mounted in bike racks with swipe cards that you could take a bike and use it to ride to a destination and then return it afterward, shared bikes all those kinds of things.

Those are the kinds of innovative things that we're seeing people do and indeed so again, Charlotte, Somerville come to mind as two communities that have gone down that path on parking. That's one arena. I would offer that a group, a location that has some interesting stuff is called the Local Government Commission out of Sacramento, California, their website is lgc.org and they really kind of keep tabs on innovative ordinance work in this arena. I mean, there are lots of others, but that's not a bad place to start.

I'll offer another website by the way, activelivingbydesign.org which most of you wouldn't stumble upon because it's in the public health realm, but they have really done a good job of trying to compile the best literature out there and then they're a great start to – place to link to other websites. Their resource page is very, very large. So activelivingbydesign.org is maintained by the Robert Wood Johnson Foundation which is a national healthcare foundation but it's a good website to sort of tie into this trunk of literature.

And then one more is the complete streets website, completestreets.org and I mention them because they've got interesting ordinance language around complete streets, but interestingly enough California, the State of California ...(inaudible - changing of tape)... which essentially says what I talked about which is when you do transportation analysis you do a complete street analysis for all new development. So it sounds like it's Engineering, Public Works, but it ends up being in the realm of Planning and planning and zoning commissions are the ones that are doing it. So they have a state level ordinance, which I want to see Hawaii pass by the way, but that's another whole story, but you guys should be doing it, that requires at the local planning level your comprehensive plan include how you're going to do bicycle and pedestrian accommodation and how you're going to see complete streets implemented and that's a state level requirement now. And it was not punitive, in other words, it was over the coming essentially eight-year cycle in which comp plans are updated, comprehensive plans are updated across the State of California they're going to be required to include some of that. So was that a good start Thorne? I can give you more, but that was sort of – I tried to catch a few different ones. Some good places to look for language so you're not starting at zero. I mean, it's the right question to ask and they're not just Portland and Boulder and those guys. Cause Charlotte for example has very much taken an economic development angle on this. Charlotte, North Carolina is interesting because they really think about – they say show me the money. I'm not writing an ordinance if it's not going to be healthy for our local economy, if it doesn't work very well. It's a great way to go. I mean, you know, what could be more logical? Great, good question, thank you for asking.

Mr. Starr: Okay, anything else? Okay, I just want to ask Sandy and I don't know the name of your partner to come up and tell us how people can get involved here on Maui with this stuff.

Mr. Fenton: I'll reintroduce them. Sandy McGuinness is with, and I'm going to reintroduce my friend, Nalani too, Sandy McGuinness is with the Nutrition and Physical Activity Coalition here on the island and she works with the Healthy Hawaii Initiative and my friend, Nalani Aki is with the

State Department of Health and I can't give her enough credit for having the great privilege of being involved. It's because of her that I'm able to do all this, her and her team.

Ms. Nalani Aki: Hi, I just wanted to just take a few minutes. Again, my name is Nalani Aki. I'm the Community Programs Coordinator for the Department of Hawaii, Healthy Hawaii Initiative. For the last year and a half or so we've been looking at the built environment and really trying to make the linkage between health and the health impact related to our environment. So we've spent some time over in Hawaii County. We've actually been able to work with their Planning Department very closely and this year, are funding a Balanced Transportation Coordinator position that will bring together the public health perspective with planning. So we're really excited to see what's going to happen with that.

We've also been able to work very closely with Sandy McGuinness who is the coordinator for the Nutrition and Physical Activity Coalition and we're really looking forward to doing additional work here on Maui, Molokai and Lanai actually and also working collectively with Mark. So we've been trying to build our capacity, learning more about the planning work, learning more about engineering concepts, have been working with the Department of Transportation and so, you know, we definitely welcome any opportunities to continue to do presentations, capacity building, work with community groups and agencies so you can definitely contact us. Visit our website, it's www.healthyhawaii.com and if anybody wants to contact me, I can't be reached at nalani.aki@doh.hawaii.gov. And so Sandy I don't know if you wanted a few minutes? Thank you.

Ms. Sandy McGuinness: Thank you I have a new cell phone in my purse that hasn't been activated so I don't have a phone number right now for the coalition so I apologize, but my email address is smcquinn@hawaii.edu. I work for the University of Hawaii and we just convened our largest coalition meeting today involving the community. We had about a hundred people there and it was very exciting because there was a lot of interest and enthusiasm around various topics that we consider high priorities including the built environment and especially the built environment. I feel the time is really here for us to work toward making improvements in the way we design our communities. So I would be happy to come again to meet with you folks or provide any resource material. We did provide testimony, oral and written to the General Plan Advisory Committee when they were talking about land use. So we have a lot of sites and information available. I'd be happy to share that with you. It's eight pages long but if you want to take the time and look at what's happening elsewhere and what has worked and other as Mark mentioned, the Robert Wood Johnson Foundation is collaborating with the University of North Carolina, School of Public Health, and there's in Minnesota also, Blue Cross/Blue Shield is also looking at that. So we're seeing really large movements across the country looking at how important the built environment is. We really have engineered physical activity out of our daily lives so this is really the time. So Nutrition and Physical Activity Coalition is our name and I think you probably have our email address and I'd like to share information with Deputy Director Aoki.

Mr. Starr: I have a question for you. Can you serve as a resource to the department if, you know, maybe and maybe this is something I could ask Kathleen or Ann Cua, you know, when – in lot of process, processes, the planners go out for comments to different agencies on different areas, you know, whether it's archaeological or whether it's you know, traffic. Maybe this is an area where in relevant cases we could ask for a comment on something, on how a project will work in terms of

pedestrian and bicycle. Is that something we can do Ann?

Ms. Aki: Also along those lines wanted to let you folks know within the Department of Health we have a Built Environment Working Group and the group has been working the last several months to come up with healthy community check list which is also going to be available on the Department of Health website and so we're really hoping that folks who look to that website for water issues and clean air issues will also look to it because it will have these elements that we've been talking about today.

Mr. Starr: Kathleen.

Ms. Aoki: No, I think that's something we can definitely explore. You know, I know we do send out for agency comments with the Department of Health on certain applications and perhaps by working through them we can direct the comment request to you folks or in addition to get additional comments, so yeah.

Ms. Aki: Be happy to do that. Thank you.

Mr. Starr: Well, thank you so much for coming. Thank you for doing what you're doing. Mark do you have time after the meeting to go for a walk with some of us?

Mr. Fenton: Okay. Love to, if anybody would like. I'm always up for a walk.

Mr. Starr: Thank you so much. That's everyone, and Kenny Hultquist thanks for being here videoing for us. Aloha. We're adjourned.

F. DIRECTOR'S REPORT

2. Planning Commission Projects/Issues

a. Requiring Project Application Signs for Major Permit applications

3. Discussion of Future Maui Planning Commission Agendas

a. February 10, 2009 agenda

4. EA/EIS Report

5. SMA Minor Permit Report

6. SMA Exemptions Report

The above items were deferred due to the meeting being adjourned.

G. NEXT REGULAR MEETING DATE: February 10, 2009

H. ADJOURNMENT

The meeting was adjourned at 5:08 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Jonathan Starr, Chairperson
John J.B. Guard IV, Vice Chairperson (excused @ 3:36 p.m.)
Donna Domingo
Wayne Hedani
Kent Hiranaga
William Iaconetti
Ward Mardfin
Bruce U'u

Others

Jeff Hunt, Planning Department
James Giroux, Department of the Corporation Counsel
Mike Miyamoto, Department of Public Works