

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
FEBRUARY 24, 2009**

Approved: 5/12/09

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Jonathan Starr at approximately 8:30 a.m., Tuesday, February 24, 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 Maui Planning Commission meeting of February 24, 2009. I want to thank everyone for joining us today. We have with us so far and we will have some more commissioners as time goes on. Commissioner Kent Hiranaga, Commissioner Bruce U'u. We have Corp. Counsel who today is representing the interests and duties of the Maui Planning Commission, Mike Hopper. I'm Chair, Jonathan Starr. We have Director of Planning, Jeffrey Hunt. We have Commissioner Donna Domingo and Commissioner Dr. William Iaconetti. We have secretary to the Commission, Carolyn Takayama-Corden. We have Mike Miyamoto, Deputy Public Works Director, Kathleen Aoki, the Deputy Director of Planning. We have a number of our great planners who do all the hard work today, Paul Fasi is here, Robyn Loudermilk, Danny Dias and Jeff Dack, anyone else back there? But anyway, we will proceed with our agenda today.

Members of the public will have two different opportunities to testify on agenda items, certainly public hearing items in particular. They can either testify before we begin the first agenda item which will be in a couple of minutes that way if they have to leave, you can't wait around they can testify, we'll have their comments and they can move along or stay if they wish or they can wait until we're actually on each individual agenda item and after the description and presentation of the item, we will accept public testimony before we do any decision making. So you can pick one or the other. We ask that testimony be kept as short as possible, under three minutes in any case because we do have a full agenda and it should be an interesting and very full meeting today.

One comment about the agenda, in addition to the hearing items and discussion items we have a special presentation that will be done regarding matters related to cultural resources, burials, artifacts and so on and that will be presented by Kahu Charlie Maxwell, who's the Chairman of the Burial Council, Hinano Rodrigues from SHPD, the Historic Preservation Division and Stan Solamillo, who's the cultural resources planner, who staffs Cultural Resources Commission. Those three agencies handle most of issues regarding cultural aspects and artifacts and burials. And I know we've, I, for one, am often confused over which agency we should be hearing from or referring something to, this should help clear it up. So we're looking to do that about 11:00. I'm not sure how the first several items on our agenda will go, but I do ask for your forbearance if we need to move things around so we can have that presentation and we are appreciative of Uncle Charlie Maxwell and Hinano Rodrigues. Had a busy schedule and they were able to come in about 11:00 and they'll be here a little later. Without further ado we'll move onto public testimony. I do have some sign ups so far and I'll go down the list and thank everyone for coming and for offering to share your manao.

The following individuals testified at the beginning of the meeting:

Mr. Fred Rugge - Item C-1, Draft EIS for the Proposed Puunani Subdivision, EAC 2006/0022

Mr. Sam Araki - Item C-1, Draft EIS for the Proposed Puunani Subdivision, EAC 2006/0022  
Mr. Dick Mayer - Item C-1, Draft EIS for the Proposed Puunani Subdivision, EAC 2006/0022  
Mr. Dick Mayer - Item B-1, Kahului Airport Parking Lot Expansion and Airport Access Road, SMA  
Mr. Mitch Gagerberg - Item C-1, Draft EIS for the Proposed Puunani Subdivision, EAC 2006/0022  
Mr. Paul Logue - Item C-1, Draft EIS for the Proposed Puunani Subdivision, EAC 2006/0022  
Mr. Jimmy Rust - Item C-1, Draft EIS for the Proposed Puunani Subdivision, EAC 2006/0022  
Ms. Irene Bowie - Item C-1, Draft EIS for the Proposed Puunani Subdivision, EAC 2006/0022  
Mr. Michael Kovich - Item C-1, Draft EIS for the Proposed Puunani Subdivision, EAC 2006/0022

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

Mr. Starr: Anyone else wishing to offer testimony who hasn't already testified? Okay, not seeing any at the initial portion of the meeting is now done. Anyone wishing to testify on an item can testify before decision making on that item when the item comes before us. We'll now move along to our first item and to introduce that item I turn it over to our honorable Director of Planning, Mr. Jeffrey Hunt. Take it away.

Mr. Hunt: Thank you Chair. Your first item today involves the State Department of Transportation, Airports Division requesting a Special Management Area Use Permit for the proposed Kahului Airport Parking Lot expansion and airport access road from Hana Highway to Kahului Airport project at TMK 3-8-001: portion of 019 and 3-8-001: 123 and 38-001: 239 and 3-8-079: portion of 21 and portion of 999 in Kahului. The file number is SM1 2008/0022 and Paul Fasi is the planner assigned to this project.

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

- 1. STATE DEPARTMENT OF TRANSPORTATION, AIRPORTS DIVISION requesting a Special Management Area Use Permit for the proposed Kahului Airport Parking Lot Expansion and Airport Access Road from Hana Highway to Kahului Airport Project at TMK: 3-8-001: 019 (por.), 3-8-001: 123, 3-8-001: 239, 3-8-079: 021 (por.) and 999 (por.), Kahului, Island of Maui. (SM1 2008/0022) (P. Fasi)**

Mr. Paul Fasi: Thank you and good morning. This matter arises from an application for a Special Management Area Use Permit filed on October 27, 2008. The State of Hawaii, Department of Transportation, Airports Division proposes to expand the existing parking lot at the Kahului Airport and to create a new access road from Keolani Place and the Airport Loop Road to Hana Highway.

Implementation of the proposed parking lot expansion will result in approximately 1,900 additional parking spaces. Work associated with the expansion of the parking lot will also include grading, utilities relocation and related site work and also perhaps not mentioned in the applicant's or the department's report is a water feature at the entrance to the airport.

The project will be done in two phases. Actually done in four phases, Phase 1, 1A, 2 and 2B. There are two departments involved in this project, the Airports Division and the Highways Division. Phase 1 in speaking in general terms is the airport expansion parking lot and Phase 2 consists of basically the highway from Puunene to Hana Highway.

The Airports Division will cover the parking lot expansion and the Highways Division will cover the connecting highway from Puunene to Hana Highway. There is a slight modification to the phasing of this project and you'll see it during the applicant's presentation. It is that the airport parking lot road will fall short of reaching the Hana Highway and so from that section that's incomplete to the Hana Highway and crossing Hana Highway and going over to Puunene will be completed by the Highways Division.

You probably want to ask the State of Hawaii, Department of Transportation, Highways Division if they plan to phase these two phases concurrently at the same time. It's still unclear whether or not the two phases will be started concurrently and end concurrently.

It should be noted that the portion of the airport access road between the section of the highway that is going to be falling short of Hana Highway to Puunene is not within the SMA. Basically the Highways Division's portion of the project is not within the SMA.

The project did have two reviews at the Urban Design Review Board. On February 10<sup>th</sup>, the Urban Design Review Board had four conditions. This is Exhibit 4A in the department's report. They basically had some issues with the proposed light pole height. They wanted to have it reduced to about 15 feet and that the light fixture itself, the design of it be changed to a more contemporary design that's more befitting the contemporary architecture of the airport.

Also included or not included in the department's report and we are still a little unclear on is the underpass section of the highway to the airport. There will be an underpass just before the airport so we want to see the presentation on that portion of the highway.

The other item of concern that you want to know is the non potable irrigation water supply from HC&S, the proposed water supply from HC&S. There is no firm commitment that the Planning Department is aware of from HC&S to provide non potable water for the irrigation.

I would like to turn it over to the applicant and have them do their presentation. A picture is worth a thousand words. I think a lot of these things can be cleared up once you get a visual picture of what is being proposed. That concludes the department's report.

Mr. Starr: Mr. Fasi, before you turn it over. Who is here today as resource? Is DOT, Highways here or who do you have?

Mr. Fasi: I see the Airports Division is here. I'm not sure about Highways. No, Highways is not here. We did make a request through the consultant to have Highways here.

Mr. Starr: So just to be clear what is before us today is the Phase 1 which is the parking lot and kind of a road that goes about half way from the airport to Hana Highway and then stops in nowhere?

Mr. Fasi: It's my understanding, I've been told that the actual connecting to Hana Highway will fall short of several hundred yards and it's still unclear at what point Phase 2 will begin as the funding for Phase 2 is still unclear at this point and so Phase 2 is not being properly represented by Highways at this morning's meeting.

Mr. Starr: Is there even a project for Phase 2?

Mr. Fasi: Is there, I'm sorry I don't quite –

Mr. Starr: Does DOT have a project for Phase 2?

Mr. Fasi: It seems that from my impression that the Phase 2 of the project is still in the design phase and it's still unclear as to when that part of the phase will start as I mentioned earlier the funding for it is still unclear.

Mr. Starr: And will that come before us?

Mr. Fasi: I don't think it will come before you because it's not in the special management area although it is tied into the overall project.

Mr. Starr: Thank you. About how long is the power point just so we know.

Mr. Fasi: About five to 10 minutes.

Mr. Starr: Yeah, no problem, take your time and please proceed. Thank you.

Ms. Mike Munekiyo: Good morning Mr. Chair and Members of the Commission, my name is Mike Munekiyo. We are the planning consultants for the Department of Transportation, Airports Division. I hope our presentation will clarify many of the questions that were raised earlier today. So this is the proposed airport expansion, airport access road and parking lot expansion project. It is a project of the State Department of Transportation, Airports Division. So if I can get the first slide Kyle.

We do have resource personnel here this morning. Representing the DOT, Airports Division is Gene Matsushige and Marvin Moniz, our Airport Manager here. Of course our company here representing Airports Division. Our civil engineer is Conrad Shiroma, he's here this morning as well as Mike Miyabara our landscape architect.

What I want to do is just go over three really key points and that is the airport access road implementation context. How is it that this project relates to the DOT Highways project. Secondly, to talk a little bit about the SMA action more particularly and finally discuss project phasing which Paul had alluded to earlier in his staff report.

So this is an area, regional representation and it may be hard to pick up but let me just give you an orientation. Here's the airport here. This is Keolani Place right there. This is the road that now we all take to get to the airport right here, Hana Highway here and this is Dairy Road right here. So this is the intersection of Dairy Road and Hana Highway. So I think that kind of gives kind of an overview of where we are. The airport access road will actually start at Puunene Avenue here. This is Puunene Avenue and this is represented by this yellow line. It's somewhat hard to see but kind of following this path here. So from Puunene Avenue all the way to the airport, that's the

extent of the overall airport access road project. It is considered a single DOT project. It is divided into phases based on right of way jurisdictions.

As Paul had mentioned, the Department of Transportation will construct a roadway segment from Puunene Avenue to just makai of Hana Highway on the airport side of Hana Highway and the Airports Division will pick it up from that point taking it all the way to the Kahului Airport.

Hopefully this graphic comes out clear to you, but again, here's the airport access road right here. The Highway's section, DOT Highway's section will start at Puunene Avenue, follow along this alignment and as Paul mentioned take it beyond Hana Highway here. So this is the Highways Divisions limit right here. From this point here to the airport, just picking it up from the intersection here, makai of the intersection to the airport would be the Airport Division's section. So two segments of road. Again, this delineation is based on right of way jurisdiction. The Highway Division has the jurisdiction over the right of way from this point to Puunene Avenue and similarly Airports Division from this point here to the airport. So there are both Highways right of way, jurisdictional distinctions and funding distinctions and that's how it is that the two segments of roadway were created. But still as far as DOT is concerned it is one highway project.

Just to give everyone an orientation of where the project starts at Puunene Avenue because I think there has been in the past some confusion as to how the alignment will run. Now at the bottom of the page is Puunene Highway. This is Kings Cathedral here. Home Depot right here. Wal Mart. Dairy Road is right here and this green path right here really, actually this portion here is actually how Dairy Road connects into Puunene Avenue right here. So the airport access road will intersect at Puunene Avenue and then veer off to the right and some of you may have noticed that clear pathway that runs between the Maui Market Place and Wal Mart and that is the path for the airport access road. Hana Highway lays roughly about here and so the airport section would take it beyond down to the airport here. But I thought it was important just give you an orientation of how the alignment would actually run for this highway.

So lets talk a little bit about the SMA action itself. What the DOT, Airports Division seeks to construct is a portion of the airport access road and I'll delineate that portion in a minute as well as expand the parking lot, the public parking lot area. The access road will span about three quarters of a mile from roughly makai of Hana Highway to the airport and the parking lot component will result in about 1,900 additional parking stalls. And of course, during the times when we were fairly busy at the airport we experienced a shortage of parking and this is to accommodate what's needed today as well as some of the longer term parking needs for the airport.

Okay, let me just give you an orientation here. Here is Keolani Place so as we come into the airport today what we do is we drive along Keolani Place and come down this way and then in front of the terminal here. So this is the airport access road right here, Keolani access today. Here is the parking lot, current parking lot. This is our terminal area as it stands today. The project limits for the DOT, Airports Division encompasses that area roughly delineated by this black line here. It includes the additional parking area right here. This is the right parking area which would accommodate that roughly 1,900 parking stalls and then this portion of the airport access road just short of Hana Highway. Hana Highway is here. The Airports Division right of way ends here, the DOT – I'm sorry, the Airports Division right of way ends here, DOT Highways right of way picks up

right here. So this is why the project limits are defined as such. So we've got a couple of components. Again, the parking lot expansion here and then a portion of the airport access road up to the limits of the DOT Highways section.

Paul did mention that the DOT section is not within the SMA and this really, I apologize, doesn't show up really clearly but this is the SMA boundary right here roughly. So this section here, a portion of the airport access road and the parking lot is within the SMA, the remainder including all of the DOT, Highways section is beyond the SMA and so as Paul mentioned, the DOT, Highways project would not come before the commission.

Just wanted to give a little bit of overview of the roadway section looks like. We've got a two-lane travel lane configuration going in and out, and a roughly 20-foot median. So that's generally what the roadway would look like and of course, we've got landscape components included in the plan as well. But I thought it might be important for you to understand what the section would look like.

So this is a little bit more of detailed plan for the parking lot and short segment of the airport access road on the Airports Division side. Just give you an orientation. Keolani Place here. As we come into the airport today we go this way. So Keolani in here. Here is the existing parking lot. As I mentioned earlier, the expansion would take the parking lot to this area here. So what happens is the loop road around the parking lot will be extended like this.

The airport access road will come in from Hana Highway and let me just explain a little bit about that operation. This is Haleakala Highway and so there would be an off ramp which would allow connection to Haleakala Highway because this is the divided highway ...(inaudible - changing of tape)... would take this road here. The car rental returnees would take this exit as well and proceed to Aalele Place via an underground tunnel condition this way and that would take them back to Keolani Place. So if I were a car renter and I wanted to get back to the car rental area, I would take the airport access road, take this exit, turn left, go under the airport access road, under that via the tunnel structure, get on Aalele and connect back to Keolani and then that will give me access to the car rental areas. That will avoid the car rentals needing to circulate and really add traffic to this loop area which is somewhat problematic in high traffic conditions.

Secondly, this is reflected as a temporary connection to Haleakala Highway. While this tunnel structure is being constructed Haleakala Highway access will remain open via this temporary structure right here or temporary roadway right here. So if I'm coming down Haleakala Highway past Costco I would go this way, I would need to, of course, make a couple jogs but it will ultimately get me back to Haleakala Highway. When this tunnel structure is completed, then this temporary roadway would be removed and so the ultimate configuration would just be having this tunnel structure under the airport access road.

I think that kind of covers circulation pattern, but I think it was important for all of us to understand how circulation works because later on when we talk about the phasing, and I might just mention it now that the Phase 1A as Paul referred to is really just the parking lot expansion and the connections to Haleakala Highway. That is Phase 1. So that is a stand alone project. If just the Phase 1A were to be completed, the airport parking lot and circulation functions would be operational and without the need for this extension at this point and I'll get into that a little bit later.

This is a little bit more detailed getting closer to the ground of the parking lot expansion area. As I mentioned, during the interim or ultimately if one were to want to enter the parking lot we would come via the airport access road this way and there is a main parking entry area here with the covered gates and ticket dispensing area here. If you were coming down Keolani it's a little bit more ...(inaudible)... route but would go around and enter here. So that's kind of how the parking lot function would occur. Exiting would continue as it is today or actually it will go where, further down yeah, yeah, actually the exiting location remains the same as it is today. So that's generally how the parking lot area would work.

If I could have the next slide just to talk a little bit about this is what the parking lot entry building will look like. As we come into the parking lot there will be the gate, ticket dispensing areas here. So this is one the structures that would be included in the project overall.

Okay, a little bit about phasing, and this slide really doesn't show it that well, but again, Phase 1 is the airport section from this location here to the airport to include the parking lot and that portion of the airport access road up to this location. Phase 2 is the Department of Transportation, Highways Division section which takes it from this point back to Puunene Avenue. So two major phases based on right of way and funding jurisdictions.

Lets talk a little bit about the airport access road phasing. As Paul mentioned there are two sub phases for the airport access road. The red outlined area is Phase 1A and that is basically to allow construction of the parking lot and connection to Haleakala Highway and Phase 1A as I had mentioned earlier is a stand-alone project. In other words, once Phase 1A is completed, access to the airport will be provided, parking lot area will be fully functional, connection to Haleakala Highway would be fully implemented. So that's Phase 1A. Phase 1B is that section of the project from the edge of Phase 1A taking it to the end of the DOT, Highways right of way jurisdiction. So two phases within the airport access road project.

This is how it is that the DOT, Airports Division and the Highways Division have been coordinating implementation of the project and by the way, both divisions have been coordinating quite closely to make sure that it all comes together in a timely fashion. Phase 1A is that portion that I spoke of the parking lot and taking it up to Haleakala Highway section, that stand alone section. The idea right now is to have that project start as soon as possible. The funding is available and it is one of those so-called shovel ready projects once we get through the SMA process. Rough schedule probably 18 months or so at which time Phase 1B will start. Phase 1B is that second segment of the airport access road just beyond the parking lot expansion area. That will take it to the DOT, Highways right of way. At the same time, Phase 2 DOT, Highways project will begin. The DOT, Highways funding program calls for this project to start in 2011 as does the funding program for DOT, Airports Division for Phase 1B. And the idea is to have both phases of the highway, the roadway portion, completed at the same time. You know, there may be a month or two where there might be an open area but the idea is to have it in construction concurrently ready to open fairly close at the same time. So that's kind of how it's been worked out and as I mentioned both divisions of the DOT have been working quite closely to make sure it works in a manner that's going to prove to be timely and of course, from a function standpoint get it ready all at the same time. So that's the phasing element of it. I think that's it.

So that's the overview of our project and we do have our civil engineer, we do have representatives from Airports Division and we'll be happy to answer any questions that the commissioners may have.

Mr. Starr: Okay, members who's got some questions on this? Commissioner Mardfin.

Mr. Mardfin: Mike, could you go back to the slide where you showed the old Haleakala Highway tying in. I think that's the right one actually because I know many people from Hana go in that way. We don't go all the way down to Dairy Road and cut back. So show me how we would drive in under the new plan. We're coming in from the lower left.

Mr. Munekiyo: Right, you're coming in this way. Now lets not – this is just a temporary connector while this structure is being completed. So once the project is completed, Phase 1A, traffic entering this way would proceed on Haleakala Highway through an underpass condition.

Mr. Mardfin: So we can't get to the terminal without doing that?

Mr. Munekiyo: In order to get to the terminal from Haleakala Highway one would need to get onto Aalele Place, Keolani and back this way. So yes, DOT, Airports did consider whether a right turn, well, entry to the airport access road here would be feasible but the geometrics, the spacing limits just didn't make that possible. So if we are going to airport terminal from Haleakala Highway it would require the traveler to get onto Keolani and back this way.

Mr. Mardfin: Now suppose I'm coming from this building. I come down turn left at Dairy Road. Well, actually before Dairy Road.

Mr. Munekiyo: This is the, again, the regional roadway network. Hana Highway here. So there's a couple ways that one traveling Wailuku to Kahului could access the airport via the new road. One could travel down Puunene Avenue of course and take the new roadway from this point all the way in or one could travel along Hana Highway and this would be a signalized intersection by the way, and then head down to the airport from here. Alternatively a traveler could continue just as he does today along Keolani and along the expanded loop road.

Mr. Mardfin: Okay, now go back to the other side, that third option, the last option you gave me, show me how it ties in?

Mr. Munekiyo: So this is how we normally get to the airport today. This is the current entry point and then here's the terminal. So here's the guard shack right around here to the parking lot. But rather than – what would need to be done to access the terminal from Keolani under the Phase 1A condition would be to get back on the loop road here go around and back to the terminal here. So as a matter of convenience I think visitors to the airport or users of the airport would probably take the airport access road because it's probably more an expedient way to get there, but there is this alternative that would be available.

Mr. Mardfin: I had to pick up my wife the other day and she hadn't quite come in by the time I hit the airport. I didn't want to go into the parking lot so I went around and around and around. Show

me how that would work.

Mr. Munekiyo: Whether you are entering from Keolani or the airport access road you would be then placed on the loop road that encircles the parking lot and so if you were to come here. This is the terminal right here to pick up a passenger, the passenger is not there and you choose to maybe get a few minutes of time then you would need to basically go around like this. So the pattern remains the same except the length of travel around the loop is lengthened.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Two questions. I believe you provide temporary parking if your passenger is not available you can enter the parking lot and if you leave within 30 minutes there's no charge.

Mr. Munekiyo: Right.

Mr. Hiranaga: So I would assume you would still offer that.

Mr. Munekiyo: I think that probably would continue. There's also, I think, that some of you may be aware of a cell phone lot which allows right now people picking up passengers if that time is right to kind of wait there and be called. So there's a couple options.

Mr. Hiranaga: My other question is, so how would someone leaving the airport facility get back to Haleakala Highway if they wanted to go upcountry because you explained how we would get to the airport, but if you could explain we would get from the airport.

Mr. Munekiyo: So I chose to use Haleakala Highway to get back to upcountry and I get out of the parking lot or continue on the loop road what I'd need to do is actually get back onto Keolani and Aalele and then back this way.

Mr. Hiranaga: So a left turn will be allowed at Keolani?

Mr. Munekiyo: Yes, right here. So you know, I can get out –

Mr. Hiranaga: Right there. That left turn will still be allowed?

Mr. Munekiyo: Yes.

Mr. Hiranaga: Okay, thank you.

Mr. Starr: Commissioner U'u.

Mr. U'u: Yeah, two questions. The Dairy Road tie into the airport access road, you would veer left going to the Lahaina bound?

Mr. Munekiyo: Right here you're talking about, Commissioner?

Mr. U'u: Yes.

Mr. Munekiyo: So what happens is, say I'm coming down Kuihelani Highway and I get onto the airport access road and really want to get onto Dairy Road what I would do is, this is the road that takes us to Wal Mart right now, I'll make a left turn here and this is where I think that automotive motorcycle facility or retail outlet is and make a left turn here and then get onto Dairy Road here. Similarly if I'm on Dairy Road and I want to get back either to Mokulele or Kuihelani I'd come this way and go this way.

Mr. U'u: Next question. Where would be the traffic light signals be located on this project and how would it affect the traffic in that area?

Mr. Munekiyo: If I can get to the regional map Kyle? There are actually going to be three sets of signals. Here's Dairy Road which is a signalized intersection right now. At this airport access road would be the second signalized intersection and Mr. Mayer had referenced the Hookele Street extension which is from the Maui Business Park project, A&B's Maui Business Park project. That would come down probably over here and Pulehu Road by the way, this is Pulehu Road would intersect with Hookele Street at Maui Industrial Park Phase 2 project, and so there would be one, two, three – actually when you look at it just from a spacial standpoint the airport access road roughly bisects the Hookele Street intersection and the Dairy Road intersection. So there would be an intersection here, here and here.

Mr. Starr: Mr. Munekiyo, is there an EA or EIS that's been done for this with the details that you're showing us?

Mr. Munekiyo: The EIS for the Kahului Airport was completed with the overall Kahului Airport Master Plan, as part of the overall Kahului Airport Master Plan EIS, and what we did was do a project assessment report to provide the details to reviewing agencies.

Mr. Starr: So once again, you're attempting airport expansion without an EA or EIS for what you're actually proposing?

Mr. Munekiyo: Actually the airport EIS for the master plan did address this roadway.

Mr. Starr: It was on it?

Mr. Munekiyo: Yes, it was part of it. For that reason, rather than go through the 343 project for the SMA process, we instead went through a more detailed project assessment report route just because that 343 requirements were previously met.

Mr. Starr: Can you provide a copy of that to?

Mr. Munekiyo: Sure.

Mr. Starr: Okay, I noticed that there are no pedestrian or bicycle lanes. I'm wondering how you expect people to be able to travel by multi modal, by bicycle or by foot. And right now it's very, very

dangerous to try to get in or out of the airport area by bike or foot and it looks like it's now going to be impossible.

Mr. Munekiyo: The airport access road really isn't intended for pedestrian or bicycle use. There will be shoulder space, but it is a higher speed type of roadway and – or actually we expect higher traffic volume so we are actually, DOT, is actually not really encouraging pedestrian or bicycle use along that way although it is possible. The preferred route for pedestrian and bicycle use would be Keolani where we do have sidewalks throughout and so that would be the preferred route for those modes.

Mr. Starr: So you're building a major road without any ability for pedestrians or bicyclists to travel back and forth on it, is that correct?

Mr. Munekiyo: Bicyclists can use the shoulder if they choose so but it wouldn't be designated as a bike lane and there would not be any pedestrian facilities that's correct.

Mr. Starr: It will be dangerous.

Mr. Munekiyo: Without providing those facilities.

Mr. Starr: We had the branch of the Department of Health from the state government recently come before us and tell us that it's now state policy that all new roads will have pedestrian and bicycle access. This seems to be in conflict to that.

Mr. Munekiyo: Yeah, I'm not familiar with that particular policy but this roadway has been in the design phase for a long time, and again, the pedestrian element was always intended to be accommodated via Keolani.

Mr. Starr: A lot of what you're showing us is part of the highways project, but yet you're not representing the Highways. Are you working with Highways on their portion of it because the Hana Highway crossing with the cloverleaf and all that – I mean, it's not part of this project yet you're showing us drawings of it.

Mr. Munekiyo: That's correct. The reason I showed the entire project was to give some context to the commission because I think it makes it easier to understand the relationship between both sides but as Paul had mentioned DOT is not, DOT, Highways is not within the SMA so it wouldn't be subject to the SMA permitting requirements.

Mr. Starr: So are you working with DOT Highways? Is there a plan?

Mr. Munekiyo: There is a plan. We are their consultant for the National Environmental Policy Act compliance requirement, NEPA requirement so that's our responsibility on the Highways side.

Mr. Starr: Okay, and a question relating to the SMA aspect of it, all my understanding is that everything that gets build in Maui County if it creates additional runoff that runoff must be retained and captured inside the project. Yet here, at least in the documents you gave us there's no mention

about capturing the additional runoff but instead it's going to be diverted into ditches which will take it into directly into the ocean. So all of the automotive based runoff that hits this parking lot, that hits this roadways will go straight into the ocean and onto the reefs as well as the chemicals used for the plantings and the water features and all of that. Are you aware that this is in conflict with the County ordinance that requires all increase in runoff to be retained.

Mr. Munekiyo: We are familiar with that requirement and perhaps I can ask the civil engineer to explain what is being done with respect to drainage. There are some extenuating circumstances at the airport which I think might be helpful to understand.

Mr. Conrad Shiroma: Hi, I'm Conrad Shiroma, civil engineer from Kim and Shiroma Engineers. In regards to drainage, we have looked into trying to detain water within the system but at one time we did look into it. We got deferred on that issue because of the trying to prevent bird habitats within the airport area because something happened last month with regards to fowls getting ingested into engines, things like that have happened. So we've been instructed not to create this type of habitats by creating detention basins or retention ponds.

In terms of addressing pollutants into the ocean we are designing a system that will remove what we're looking into is about 80% of total suspended solids out of the parking lot, silts we be retained within the system. There will also be as part of the system an oil/water separator is being implemented into the parking lot.

Mr. Starr: We hold all of our developers and all of our county agencies to a standard of retaining at least the increase and this is something that we do as part of the SMA and every time something comes before us we have very in depth discussion of this and those developers are retaining not only the increase but additional and yet here the State comes before us and they're not even going to bother putting an underground system to retain the increase. Why do you think we should not hold the State to the same kind of standards that our laws require and that we hold all of the project developers as well as the County of Maui to?

Mr. Shiroma: The increase in runoff goes directly back into the State system. It is not exiting the State system. It goes from the gulch system is all part of the airport's drainage system.

Mr. Starr: And where does the State system go to?

Mr. Shiroma: It goes into Kahului Harbor which is also part of the State system.

Mr. Starr: So it does go into the ocean?

Mr. Shiroma: Eventually yes.

Mr. Starr: And it does pollute the ocean.

Mr. Shiroma: With the removal of the solids and the oils it should be at much reduced.

Mr. Starr: How about the chemicals used for all of the plantings and the remainder of the petrol

chemical that don't get taken out?

Mr. Shiroma: Those go along the highway system, it goes into drainage swales which are at least 100 feet long which according to EPA guidelines should be removed within the storm system.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: It might be helpful if the applicant provided us a presentation on the current drainage system and the proposed improvements versus us just kind of – If you could do that please? You have a presentation? I know you had an exhibit back here.

Mr. Shiroma: There is a drainage report in the SMA application. Currently runoff is discharged I would say in the easterly direction toward Haleakala Highway and to – We are looking currently at the – I guess this is the first 11 x 17 sheet.

Mr. Mardfin: What figure is it?

Mr. Shiroma: It just says "existing runoff map."

Mr. Hiranaga: You don't have a slide to show us?

Mr. Shiroma: No, we do not.

Mr. Hiranaga: It's unfortunate.

Mr. Shiroma: Okay, in this photo here, every photo here, right now the runoff in general all runs toward Haleakala Highway. This portion of the airport property here drains out here to the A&B ditch in this general area. Other than that, that's how the general pattern is. This area here right now runoff goes through Aalele Street and eventually gets into Kalialinui Gulch, the gulch right here. With our proposed drainage system, runoff on this half of the access road, this area here, actually follow this area here will continue – will now be going to the gulch. We have box culvert located here that will connect up to the gulch and another box covert along here to connect to the gulch. All the drainage system within this parking area will go to catch basins and into – this area here will be treated before the storm waters go into the gulch. Along this area here we have drainage swales along both shoulders that will pick up the runoff that – as I said the swale length are about 200 feet long in between each inlet, remove the pollutants from that and be able to go back into the drainage system and back to the gulch here. That's basically how our drainage system would work.

Mr. Starr: Members? Commissioner Hiranaga please continue.

Mr. Hiranaga: You mentioned that some of the runoff would end up in Kahului Harbor?

Mr. Shiroma: Eventually all the runoff will end up there no matter where you are in this area.

Mr. Hiranaga: Kahului Bay not Kahului Harbor.

Mr. Shiroma: Yes. I'm sorry. I stand corrected.

Mr. Starr: Do you have – what is the current health of the shoreline and reef at Kahului Bay where this system already empties out?

Mr. Shiroma: We have not gone to that extent to look into that area.

Mr. Starr: You're on a shoreline management issue. You know, you're aware that it's completely clogged with seaweed and algae and the reef is dead and that's due to runoff from a large portion of that outfall along with the sewage plant?

Mr. Shiroma: But the sewage plant does not discharge into that –

Mr. Starr: Yes, well it does. Injection wells.

Mr. Shiroma: It has its own discharge point.

Mr. Starr: Okay, but you don't feel that this will incrementally add to the problems by taking additional nitrates and phosphates into the nearshore waters?

Mr. Shiroma: Well, we are going according to the guidelines put out by EPA on –

Mr. Starr: Mike, excuse me, I was just about to ask you a question. I'm sorry, but my understanding is that our requirements under County Code are that increase in runoff are to be retained. Could you comment on that?

Mr. Miyamoto: Thank you Mr. Chair. Our drainage guidelines also provide for that if there is an existing drainage system that can handle the increase in runoff that an applicant can connect into an existing drainage system as long as that drainage system can handle the increase in flow. So not only do we try to mitigate that but there is also provisions that allow them if they have an existing drainage system as the airport system does have that they can connect into, it's provided that system can handle the increase in flow. There is that provisions. Typically we haven't been – a lot of the developments that have come forth haven't had a drainage system in their vicinity that they could connect to and this commission has provided comments regarding cleaning up that water, any water that would get into an existing system such as adding the filtration and the petroleum product catchers to try and reduce that impact. But it does provide for connection to an existing drainage system.

Mr. Starr: Does your department have any comment on a major new thoroughfare being added that does not allow for pedestrian or bicycle access?

Mr. Miyamoto: The classification of the type of roadway that they're providing, for example, you would not want to see bicycles or pedestrians on a freeway. This roadway that they're providing has controlled access. There's no – it's a roadway that is intended for higher volumes, higher speeds. It's not like a Dairy Road. It's a replacement to process vehicles primarily. You know, it's not a Piilani Highway. This roadway will have a controlled access. There won't be any other

access points than the major intersections so that's why the pedestrian and bicycle traffic on this is very limited.

Mr. Starr: Commissioner U'u.

Mr. U'u: Question, will it be capable of handling the runoff with the added development?

Mr. Shiroma: Yes it is.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Mike, I understand what you're saying about the limited access at the highway, but does – the way I'm looking at this, it looks like it cuts off the whole airport or will somebody coming in from the – suppose I brought a bike on a plane and landed here, would I be able to get out of the airport and then back into the airport later on with a bicycle?

Mr. Miyamoto: You know, you can do that currently and that path will not be eliminated. You can go off of, what is it, Keolani.

Mr. Starr: You can't cross Keolani.

Mr. Miyamoto: You can go down to Keolani along that path and as Commissioner Mardfin had indicated, you know if you're going towards the East Maui area there is that other access road with Aalele that will go under the airport access road so you can head in that direction or if you're going to continue on to Central or West Maui you can continue down the Dairy Road corridor which would probably be a much better corridor because with the airport access road you're going to be taking a lot of the traffic that's on that roadway off. So there should be less traffic.

Mr. Mardfin: So when I look at this diagram that's on there now, the two lanes coming in and the two lanes going out you wouldn't have a bicycle on, but once you got into that loop you'd be able to use your bicycle there?

Mr. Miyamoto: Well, the internal roadway is not really intended if I'm not mistaken for bicycles. But you know, typically once you get into that loop you're going to look at trying to get into the terminal. So I guess if the applicant can explain how.

Mr. Shiroma: Along Keolani Place the bicycle access can come here. Where we show the handicap parking which would be just about where the existing access is, there'll be a – I'm sorry right here, there will be a walkway system that will connect Keolani Place to the terminal. And along that route there's also will be a accessible parking right in here and so there will be a paved walkway going to the terminal.

Mr. Starr: How bout crossing on Keolani. I recently tried to ride a bicycle into the airport area and it took me about 20 minutes to Keolani and I almost got killed. It was not easy. Are you going to be creating ways to get across Keolani because right now you can't?

Mr. Shiroma: We can look into that. Right now, the process is to provide a right turn movement here to be able to get from the loop road out to Keolani Place there. That would not be a good place for a crossing there. It might have to be further up maybe by Aalele Street, we'll have to look into a crosswalk there. If not, then it would probably have to be back here at the intersection to the rent a cars.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Going back to drainage. In the staff report on page 21 on the first line there's a statement I guess it's from the applicant, "the drainage improvements will not increase runoff from the site." What does that mean?

Mr. Munekiyo: Actually that's a misstatement and I accept responsibility for that. It is as the civil engineer had mentioned we are increasing runoff from the site.

Mr. Hiranaga: So just to clarify, the additional runoff created by this project, 80% will be treated but the entire runoff will be I guess funneled into the existing storm drainage system that flows directly into the ocean?

Mr. Munekiyo: That's correct.

Mr. Hiranaga: So there's zero retention?

Mr. Munekiyo: That's correct. And just to point out, the reason this approach was taken the Kalia Gulch was actually designed as part of the master plan a number of years ago as many of you recall and that was really intended to accommodate the stormwater system for the entire airport. So it was something that has been on the plans, on the books for a number of years and this is how the connections are intended to be made for this project.

Mr. Starr: Please keep going.

Mr. Hiranaga: So then on page 15 of the staff report the last sentence, "this runoff is collected by drain inlets and piped underground beyond runway 523 into several drainage ditches where flows are allowed to dissipate on undeveloped airport property." Where is that area?

Mr. Shiroma: That would be the area probably on the – probably from about this part of the airport north. All of drainage area here goes out past 523.

Mr. Hiranaga: So there's no way you can send the additional runoff into that system?

Mr. Shiroma: No. The ground on this area is much higher than the ground on this area.

Mr. Hiranaga: Thank you.

Mr. Starr: Members, we ready for public testimony? We'll do public testimony.

**a) Public Hearing**

Mr. Starr: I'd like to invite any members of the public who wish to testify on this item, if you want to make yourself known, and give testimony please come forward.

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

Mr. Dick Mayer: The other one is the airport access road being – coming before you today with a hearing. My concern is what happens at Hana Highway. Right now this road is going from the airport to Hana Highway and by the Department of Transportation's Airports Division, the Highways Division of the same department is constructing the road apparently from Hana Highway between Wal Mart and the motorcycle place onto Dairy Road where it will intersect Dairy Road.

It's unclear as to what will be happening at Hana Highway. As you'll see from the diagrams it seems that they're only up to Hana Highway without making it clear as to what will happen at Hana Highway whether it will be a traffic light or a clover leaf, an overpass, an underpass or what will happen at that point.

And the reason why I raise this issue is that we already have Dairy Road which is a major intersection, then this road could potentially become another major intersection and a third road just Hana side of this bypass, of this airport access road is where the road that now runs behind Home Depot will continue to Hana Highway and form another intersection there with probably traffic lights and a fourth one is where Pulehu Road comes down from Kula and intersects the Hana Highway. We'll potentially have four traffic lights in a row. Before you go ahead and approve whatever design they're going to be giving you, and I have not seen the details of it, I would urge you to get a complete diagram of what the four traffic lights will do, whether there's space even there for four traffic lights. Otherwise, all traffic from East Maui from Hana, from Paia, Haiku, Kula, Pukalani, Makawao will all go through four traffic lights in very rapid succession and I'm not sure that that highway can handle the traffic given the growth that's being predicted for those areas. So that's a concern that I have, not the design at the airport.

The other concern that I have though with this project, they're building a big parking lot and I understand that the Department of Transportation at airport is talking about relocating the rent a car facility. I would urge you to urge them to move the rent a car facilities to the resort areas, to Kaanapali, to Wailea, Makena area and have tourists coming in taking a shuttle, a bus, some other transportation system out there. It would even reduce the need for this road altogether. I would hope that they have considered that movement and the relocating of the parking facilities of all the rent a cars. If we can get the tourists into a van, into a bus after their long flights, they'd probably would be a lot happier than having to find a rent a car at 7:00, 8:00 in the evening and then having to drive all the way to Kapalua or Kaanapali, Wailea, etc., and spend the first day without a car. We'd have a lot less cars on the road. We may not even need this road in and out of the road which is mainly for the tourists. Thank you.

Mr. Starr: Okay, members? Thank you very much Mr. Mayer.

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

Ms. Brianna Davis Hookano: My name is Brianna Davis Hookano. I'm here on behalf of Hawaii Operating Engineers Industries Stabilization Fund and on behalf of Local 3. I'm here to testify in support of DOT's Kahului Airport access road and the related improvements. So here's what I know now that I've got my numbers straight. Our Maui membership consists of 387 members which a 187 are on the bench. That number should be higher but we keep losing membership as they are not able to pay their bills, their mortgages. They have exhausted their unemployment and annuities so dues are the last thing on their list.

Here's what I also know, the economic stimulus package is coming down from Washington. If the projects are not shovel ready with permits signed and ready to break ground, we lose the money. Here's a project that's ready. Once approved, it will go out the door to bid and get our people back to work. Looking at the pros, beautification, first impression, last impression, good for Maui. Parking, we all know how hard it is to find parking driving around and around would solve this problem and with our future needs in mind. Traffic, we've all driven on Dairy Road, been stuck in traffic so this would alleviate the traffic problem. Most importantly it would provide jobs. So beautification, parking, traffic, jobs. I humbly ask for your support 187 times.

Mr. Starr: Thank you for coming down Brianna. Anyone else wishing to give testimony on this? Please come forward Mr. Duey. Introduce yourself and it's good to see you here.

Mr. John Duey: Good morning. My name is John Duey. Just one comment, question. If they can put an underpass under the new road to go back to the rent a car, why can't we put an underpass under Hana Highway? I hate stop lights, and that's adding one as Mr. Mayer said, it might add two or three or four stop lights in that area. I had heard some time back they were going to put a clover leaf or something over there so the traffic wouldn't be restricted on Hana Highway. That's all I have to say, thank you.

Mr. Starr: Thank you. Anyone else wishing to testify on this item? Please come forward and welcome.

Ms. Irene Bowie: Irene Bowie, Executive Director Maui Tomorrow Foundation. I would just ask since this is for a special management area use permit that you do look again at the storm runoff situation going into Kahului Bay. You know, coming to these meetings you hear so often about things like this, that things are going into the bay and we've got fishermen out there and you know, our reefs are in a mess and we really, I would really ask that that be looked at and some resolution, conditions put on that there's a better solution to what's running off and going straight into the bay. Thank you.

Mr. Starr: Thank you Ms. Bowie. Anyone else wishing to testify, please make yourself known. Seeing none, public testimony portion is now closed. We're going to take a recess until 10:10 a.m.

A recess was called at 10:00 a.m., and the meeting was reconvened at 10:10 a.m.

Mr. Starr: ... is back in session. We're still on Item – the first item on the Department of Transportation Airports Division. We've just had public testimony. Now is the time for commissioners to ask additional questions if they have any. Commissioner Mardfin.

Mr. Mardfin: I notice that you said you're adding 1,931 stalls. How many stalls are there existing currently?

Mr. Munekiyo: There are about 2,000. So we're doubling the capacity.

Mr. Mardfin: Is this going to have any impact on – who gets the revenues from the parking?

Mr. Munekiyo: I believe – I wonder if I could ask Gene Matsushige and if there are any questions in respect to airports operations this would be the gentleman to ask.

Mr. Gene Matsushige: Name is Gene Matsushige. Yes, the airport revenues from our concessions go to fund our capital improvement at the airport. So all of our concessions.

Mr. Mardfin: Would there be any anticipated change in the price because of the \$15 million you're going to spend on the extra parking lot?

Mr. Matsushige: The price has already gone up. I think it's gone up \$2.00 a day.

Mr. Mardfin: Did it go up in anticipation of the extra parking lot?

Mr. Matsushige: No, this is statewide.

Mr. Mardfin: So you're not anticipating that the additional parking will have an immediate impact on pricing?

Mr. Matsushige: No.

Mr. Mardfin: How is the \$15 million and then \$30 million for the road paid for?

Mr. Matsushige: Previous concession revenues.

Mr. Mardfin: This whole thing is concession revenue. It's not coming out of direct tax payer?

Mr. Matsushige: No taxes.

Mr. Mardfin: Thank you very much.

Mr. Starr: Members other questions? Commissioner Hiranaga.

Mr. Hiranaga: I would like a more detailed explanation of the proposed surface runoff filtration system that is proposed by the applicant.

Mr. Munekiyo: If I may, Mr. Chair, I'll ask our civil engineer to come up.

Mr. Starr: Please, and introduce yourself once again.

Mr. Hiranaga: Stress toward details.

Mr. Shiroma: I'm Conrad Shiroma, Kim Shiroma Engineers, Civil Engineers. The proposed system that we want to use in the parking lot would be a vortex type of system which will be a swirling action that would remove the silts. The silts would settle to the middle in a swirling action. The oils would be separated out in the same chamber and only – there will be a baffle to prevent the oils from leaving the chamber. So the oils would sit in the chamber, the silts and finds would be settled to the bottom in a cone shape and would be removed by a vacuum truck and taken probably would have to go to the treatment plant for disposal.

Mr. Hiranaga: So this filtration system would collect, would treat all the water from the proposed parking area as well as the new highway?

Mr. Shiroma: It is not intended to remove from the highway portion because of the grass swales that would be implemented. The grass swales would be removing the oils and the particulates.

Mr. Hiranaga: So the runoff from the proposed highway section would not enter the storm drain channel?

Mr. Shiroma: It would. Eventually it would end up there. But it would be – the parking lot itself would – because of it's pavement structure the entire area just being paved we would have to implement a method to remove the oils and the particulates from them. The roadway system, the access road, you have grass swales lined on both sides which will be used to remove this when the comes, the rain would fall to the side of the roadway and the grass swale to remove the silts and oil particulates.

Mr. Hiranaga: So this ...(inaudible)... filtration system that's like a dry well?

Mr. Shiroma: No, it's – it would be giant vacuum truck that would suck, that would have to remove –

Mr. Hiranaga: No, the collection. You have to collect the water to treat it, right?

Mr. Shiroma: That is correct. It would be drawn together in a drainage system in the parking lot and it would go to this one or two vortex systems to be treated.

Mr. Hiranaga: Is that like a drywell?

Mr. Shiroma: No, it's not a drywell.

Mr. Hiranaga: To the open basin.

Mr. Shiroma: It will be a box structure probably about 12 to 15 wide and about 20 feet long. The water will enter from one side and exit the other side.

Mr. Hiranaga: I'd be buried in the ground.

Mr. Shiroma; Yes.

Mr. Hiranaga: So 100% of the surface runoff from the parking area would be funneled, directed to these systems?

Mr. Shiroma: Yes.

Mr. Hiranaga: Thank you.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I want to follow up to that. Do you have an existing system like that for the existing?

Mr. Shiroma: No. That was completed I believe in the early '80's.

Mr. Mardfin: Before that was required?

Mr. Shiroma: Yes.

Mr. Mardfin: Will you be taking the runoff from the existing parking lot and treating it in your vortex system or only from the additional?

Mr. Shiroma: Only from the additional. If there are any I would say drainage connections that we have to intercept then they would also be treated, but if it's not intercepted, – what is existing and go off to Keolani Place –

Mr. Mardfin: So if bad stuff is coming off the existing parking and you're putting this new system in, you're not going to directly try to reduce what's already going out?

Mr. Shiroma: That is correct. Because the system that we're implementing on our side will be designed just strictly for the additional – for the improvements we are constructing. We are not trying to redesign the entire parking lot and pick up all the additional flows from that side. That is going by it's own system in the channel.

Mr. Mardfin: I don't know whether this is for you or for Paul or for somebody. But a couple of weeks ago, somebody proposed some parking and we deferred the whole project until we got better answers for what they were going to do with the runoff. They were proposing it just go into a wastewater ditch and out into the ocean and we were very unhappy with that result.

Mr. Starr: Yeah, I'd like to ask Mr. Fasi to address, and before you do, how much additional runoff is being created by the parking lot and the roadways on a 50-year storm?

Mr. Shiroma: I can give it to you for a 10-year storm.

Mr. Starr: A 10-year storm? We usually 50-year but okay. What is it for a 10-year?

Mr. Shiroma: Okay, for the parking lot there will be an increase of about 40 cubic feet per second for the parking lot.

Mr. Starr: And for the roadways?

Mr. Shiroma: For the roadways about 12 cfs.

Mr. Starr: So about 52 cfs?

Mr. Shiroma: Yes.

Mr. Starr: Okay, Mr. Fasi, can you put it in a perspective to other projects we've had this discussion on?

Mr. Fasi: Well, I believe you're referring to the Foodland expansion project where they were expanding their parking lot by 30 parking spaces and as I recall, this commission deferred the matter because they weren't – you were not satisfied with their handling of the runoff being handled on site for this 30-car parking lot and the discharge from that parking lot was going into the county wastewater system. A little different from this project and not being discharged directly into the ocean. The 30-car parking lot in my opinion has much less impact than 1,900 car parking lot and the matter was deferred for those very reasons.

Mr. Starr: Members. Commissioner Mardfin.

Mr. Mardfin: Totally different point. You're doubling the capacity of the parking lot. I don't park there. I use the MEO van to get to the airport.

Mr. Starr: Does anyone have a cell phone on the table?

Mr. Mardfin: But is it usually full, is it half full, is it 90% full? I don't know.

Mr. Munekiyo: May I ask Mr. Matsushige to respond?

Mr. Starr: Okay, and then we'll also call on Commissioner U'u as a resource.

Mr. Munekiyo: We'll have our airport manager, Mr. Moniz, respond to that question.

Mr. Marvin Moniz: Good morning my name is Marvin. In regards to the parking, the 2,000 parking stalls, of the 2,000 about 800 is employee related and that covers airlines, rent a car employees, etc. Also capacity, yes, we've exceeded it. We notice a lot of times with airlines having their \$29 and \$19 specials we do run into problems with parking and then we opted to the overflow. I don't know if you guys seen that overflow parking lot we created which is a gravel pit that helps us in long weekends and also summer season. So yes, it does get full most of the time and now with the down turn in economy it's kind of tapered off a little bit, but we do have an impact on it.

Mr. Starr: Commissioner U'u had something.

Mr. U'u: Just to comment. I catch the plane about once a week, and maybe Donna can attest to this but even with the down turn in the economy, I was thinking that going be more parking spaces open, I still book my flight at the first flight in the morning so I can assure myself of a parking space. If you go at 10:00 a.m., good luck. But we was in dire need of parking for some years, so I would appreciate parking.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Let me keep following up. So you said of the roughly 2,000 lots, 800 were for employee parking. That shouldn't go up significantly so that would be a fixed, so you have 1,200 of parking for other people and you're adding another 2,000 roughly. So you're increasing it by two and a half, well adding one and a half times the non-employee parking portion. The anticipation is that that's going to be sufficient for how many years?

Mr. Moniz: We looked at I think was the next 20.

Mr. Mardfin: It will be sufficient you think for the next 20, and that of course, depends on the economy. I got that. I'm concerned about, a little concerned about safety. I was told during the break that you have to have the parking a certain number of feet from the terminal, and I gather that's all been taken care of.

Mr. Moniz: That's 300 feet, yes.

Mr. Mardfin: And as you go in, are all cars searched?

Mr. Moniz: Currently they all are because of the 300-foot rule that was implemented by Homeland Security. So anything under that 300-foot rule, all vehicles need to be inspected. But in this case, I think we would be able to setback some of the parking and employees parking would be on the far south side of this, the new parking facility.

Mr. Mardfin: So some cars won't need to be searched because they're –

Mr. Moniz: They're out of that 300 feet.

Mr. Mardfin: But it's a unified parking. I presume it's a unified parking lot once you're inside.

Mr. Moniz: Yes, it is. I think the alignment will take that back, the front parking lot we plan to move currently where the terminal is now, we plan to set back a little bit so we fall out of that 300-foot range.

Mr. Mardfin: I tell you, it sounds like you're close.

Mr. Moniz: Real close.

Mr. Mardfin: You're more than doubling the capacity in terms of residents using it. I couldn't tell, are you expanding the exit lines or is it exit capacity going to remain the same?

Mr. Moniz: It's actually going to be expanded, but also I just wanted to add on the volume, what we've noticed also with the Super Ferry, we've seen an increase in passenger usage from the Super Ferry parking at the airport as well because Kahului Harbor terminal lacks the parking facilities. So just a point of interest I wanted to share.

Mr. Mardfin: So people park there and then take the bus to the Super Ferry.

Mr. Moniz: Speedy Shuttle provides a service that goes from Kahului Airport to Kahului Harbor to drop passengers off that catch the Super Ferry.

Mr. Mardfin: Then this would be primarily residents. You're not having Honolulu people come in.

Mr. Moniz: No mostly residents and we do have some tourists that travel out for a day or two that actually leave their car at the airport and come back to Maui.

Mr. Mardfin: Thank you very much. You were going to tell me about the exit situation.

Mr. Moniz: Is that the one you were speaking about? The exit, –

Mr. Mardfin: If you describe it will be enough, you don't have to find the diagram. You currently have what, four lanes, four ways?

Mr. Moniz: Three and a credit card exit yes.

Mr. Mardfin: You're not going to change it to five or six?

Mr. Moniz: No, that should be sufficient for us.

Mr. Mardfin: Are there normally lines there exiting? I can remember being in a line trying to exit.

Mr. Moniz: There used to be lines and I think what we had them do is increase the manpower, the staffing at peak periods and they know the peak periods of the day, and also we put in a credit card exit. I don't know if you've seen that where you can just put your credit car and get out. It's a real quick process.

Mr. Mardfin: So even though you're going to more than double capacity, you think that you won't encounter major blockages at that point?

Mr. Moniz: I think we'll have the option probably if we do see the need to put in another lane. We've got the space to do it, so I guess we'll have to study it to see how much people actually leaving the facility at the same time.

Mr. Mardfin: Thank you very much.

Mr. Starr: Commissioner U'u.

Mr. U'u: Quick question Marvin. One more. The credit card payment, sometimes you go up and it's not working and the other I guess people in the working in the booth they get one green light above that says you can use that lane. Would it possible to put a green light on the credit card one? Because I know there's a light there but at times you go over there for pay with the credit card no work, no more nobody there and then you gotta reverse.

Mr. Moniz: Good point. I'll let them know because normally, you're right we put a light above that and Standard Parking actually is our vendor that handles the parking but I'll address that with them. It's a good point. At least that way have some idea whether it's working or not.

Mr. Starr: Will employee parking be increased?

Mr. Moniz: No. We actually increased it a dollar for Maui. Neighbor islands was a dollar and Honolulu and was two dollars.

Mr. Starr: For employees?

Mr. Moniz: Yes.

Mr. Starr: Is there any movement to try to get employees to carpool or to use public transit and so on, etc.?

Mr. Moniz: You know, I think we brought that up in a staff meeting with the carriers at one time and the problem was that there was so many overlaps in shifts and a lot of airlines with part-timers would come up for three hours, leave and come back for three hours again. So it was pretty hard to time that among all the carriers and of course and the rent a car employees.

Mr. Starr: Okay, members now probably would be a good time for any motions or you know, any last questions? Motions could be approval, denial, deferral.

Mr. Iaconetti: We haven't had the recommendation.

Mr. Starr: Oh, that's true. Commissioner U'u do you have a ?

Mr. U'u: I'll wait for the recommendation.

Mr. Starr: Mr. Fasi, and I apologize for jumping the gun there.

**b) Action**

Mr. Fasi: The department recommends approval of the Special Management Area Use permit subject to the following conditions and I would just like to make a few changes to the conditions that you have before you. And that would be standard condition no. 7 would not apply because the State is self-insured. Condition no. 7 addresses private developers and that does not apply in this case.

The other condition that I would like to modify is condition no. 10, and it's the third paragraph where it says, "a final compliance report shall be submitted to the Planning Department for review and approval prior to the issuance of certificate of occupancy." A certificate of occupancy does not apply in this case and I would like to change the wording, after the word, "approval," to say, "within 60 days of completion of construction." Would be more applicable.

The last item that need to change is condition no. 16, and that is just to eliminate Department of Public Works, and it says, "and Environmental Management." I would just delete "and Environmental Management."

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 February 24, 2009 meeting as it's findings of fact, conclusions of law and decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission. Thank you.

Mr. Starr: Commissioner U'u.

Mr. U'u: I'd like to make a motion to approve with come comment. I know it's not a perfect project being the drainage situation. I don't think we can afford to vote no on this project. Talking to Na Hale O Maui, they told me that a few months ago we're losing – there's one foreclosure a day on Maui and a lot of them is coming because of lack of work, lack of jobs. We had people testify in favor of the project saying that their people are out of work. I think it would behoove us to shoot down the project. I think when you have a stimulus package available that everyone of all states are fighting for money to increase the stimulus package and you come before the planning commission or the County Council and we shoot it down, it goes against what we fighting – what the monies are for especially when it comes to our island because we always share it with the different islands or states. We cannot avoid it. I would strongly urge members on the commission to put people back to work, get them to save their homes, put food on the table, I think above all is a number one concern I have being this would affect tourism and construction, the number one and number two stimulus for the entire community on this island. Thank you.

Ms. Domingo: I second.

Mr. Starr: Wait, wait, Commissioner U'u, that was for approval with conditions as per recommended?

Mr. U'u: Yes.

Mr. Starr: Okay, Commissioner Domingo.

Ms. Domingo: I second.

Mr. Starr: Okay, so we have a motion by Commissioner U'u, seconded by Commissioner Domingo, and Director the motion is?

Mr. Hunt: The motion is to approve the SMA permit with the recommendations of staff as revised.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I'd like to move to amend condition no., I think it's probably 14, condition 14, says, "appropriate filtration measures to separate petroleum products and other potential contaminants shall be incorporated in the project's drainage plan and should be regularly maintained by the owner." That's kind of silent on whether they're just doing the additional project. And I would like to clarify that and expand if it wasn't the intent to expand it to include "the entire parking system would have appropriate filtration measures to separate petroleum products and other potential contaminants."

Mr. Starr: I'd like to suggest that be a separate condition because it should be on a project specific and perhaps Mr. Fasi could create wording to that.

Mr. Mardfin: I'm perfectly agreeable to any way to alter it for clarification.

Mr. Starr: Okay, so the motion is to create an amendment that would add an additional condition that all runoff from existing as well as new parking.

Mr. Mardfin: Correct.

Mr. Starr: Be filtered. Is there a second to this? The proposed amendment dies for lack of a second. Okay, Commissioner Hiranaga.

Mr. Hiranaga: Could you just explain in more detail what the national pollutant discharge elimination system permit is?

Mr. Fasi: I'm going to redirect that to Public Works. Sorry Mike.

Mr. Hiranaga: Or the applicant if they know.

Mr. Fasi: That would be project specific condition no. 15. I believe that this permit is – never mind Mike.

Mr. Shiroma: I'm Conrad Shiroma, civil engineer. National – the NPDES permit is a national permit enforced by the State Department of Health. We normally call it the NOI Form C which is a permit to control construction discharge during periods of rain so to control silts, runoffs, from construction activity. This is a permit that is required for our project because there's a – once you exceed one acre in construction then you're required to get this permit.

Mr. Hiranaga: Thank you.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: I'm just wondering if there's some way to strengthen the language of condition no.

14. They said that they would basically channel all the surface runoff for the new area through the filtration system. So I wondering if we can make that more specific based upon their statement.

Mr. Fasi: Do you want to modify condition 14 or create a new condition?

Mr. Starr: Lets ask Corp. Counsel. Being a standard, can we modify a standard condition without creating a precedent of a standard condition then becomes different or are we better to create a project specific?

Mr. Hopper: I'm unaware of anything that would in altering that standard condition, I mean, calling them a standard conditions, I mean, the department may feel that those are appropriate conditions but I think you're free to modify or to change them or create a new condition whatever you feel is appropriate and that wouldn't limit the department and what it could recommend in the future. I wouldn't see that as a problem.

Mr. Starr: So we can keep it standard condition. Go ahead Commissioner Hiranaga, I'm sorry.

Mr. Hiranaga: It's correct the applicant stated that the surface runoff from the new parking area would be channeled through the filtration system. So I'm wondering if the applicant and the staff can work up some language to make that more specific within the recommendations.

Mr. Munekiyo: Mike Munekiyo. I wonder Commissioner if we can suggest this and I'll read through the whole condition. "Appropriate filtration measures to separate petroleum products and other potential contaminants shall be incorporated into the project's drainage plan and shall be regularly maintained by the applicant. Specifically all runoff from the expanded parking lot area shall be processed through the filtration system."

Mr. Starr: Is that a –

Mr. Hiranaga: I have to make a motion to amend?

Mr. Starr: Well, is that intent of your amendment?

Mr. Hiranaga: Yes.

Mr. Starr: Okay, so an amendment has been offered. Is there a second to that amendment?

Mr. U'u: Second.

Mr. Starr: Okay, so we have an amendment offered by Commissioner Hiranaga, seconded by Commissioner U'u. That amendment please restate it Director.

Mr. Hunt: To add to the existing language in condition 14, specifically all runoff from the parking, new parking lot shall be filtered.

Mr. Starr: Okay, members any discussion? Any additional amendments? Seeing none, we ready

to vote? We are voting on the amendment and on the amendment only that will filter the expanded parking area. All in favor of the amendment please raise your hand. All opposed.

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

**VOTED: To Amend Condition No. 14 to read, "That appropriate filtration measures to separate petroleum products and other potential contaminants shall be incorporated into the project's drainage plan and shall be regularly maintained by the applicant. Specifically all runoff from the expanded parking lot area shall be processed through the filtration system."  
(Assenting - K. Hiranaga, B. U'u, W. Mardfin, D. Domingo, W. Iaconetti, J. Starr)  
(Excused - W. Hedani, J. Guard)**

Mr. Hunt: That was six in favor and zero against.

Mr. Starr: Okay, we're onto the main motion unless there's any other amendments to be offered. Commissioner Mardfin.

Mr. Mardfin: I just wanted to express how intend to vote. I intend to vote no on this because I believe that to try to be – I'm not always perfect on this but I try to be consistent and a couple of weeks ago we gave problems to an additional 30 parking lots and required that they take care of all of the water. My motion to amend on this project to take care of the existing parking failed. I think they can do better than that so intend to vote, even though I think it's a good project, I think they're trying to do good things. I think they ought to go the extra step and take care of all the runoff from all the parking. So I'm going to vote no on this with regrets.

Mr. Starr: Commissioner U'u.

Mr. U'u: Just a comment. I think the difference between the last project that came before us and this one is that the last project in Kihei you got three-foot difference between your top of your grade of your parking lot to your water table down below so the percolation issue is a slightly different that this project. That's just a comment.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I'd like to just make a comment. The other applicant, Kihei, basically a private entity that is there to make a profit. This is a state agency that is proposing infrastructure improvements for this island which will benefit the entire island and our primary industry which is tourism. So I think there is a major difference as far as how funding is allocated. If we do not approve this project those funds may be used on another island.

Mr. Starr: Okay, are we ready for the vote? All in favor please of the main motion, please raise your hand? All opposed.

**It was moved by Mr. U'u, seconded by Ms. Domingo, and**

**The Motion to Approve the Special Management Area Use Permit with  
Conditions Failed.**

**(Assenting - B. U'u, D. Domingo, K. Hiranaga, W. Iaconetti)**

**(Dissenting - W. Mardfin, J. Starr)**

**(Excused - W. Hedani, J. Guard)**

Mr. Hunt: That's four in favor, two against. The motion fails.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Guess I'll make a motion to defer to a project specific date since we don't have the votes.

Mr. Starr: Mr. Munekiyo.

Mr. Munekiyo: Thank you Mr. Chair. I wonder Mr. Chair, if we may just have five minutes just to discuss there might be an option here with the client?

Mr. Starr: Okay, we can take a recess. Before that I just want to make a comment that you know, I'd like to see more parking. I've gone there on a Saturday morning and not been able to park. This is an important project though this is a new entry to Maui and you know, the statement that it makes is really a very strong. It's a \$45 million project and it should be done right. We are asking that runoff be retained from people who are, you know, our own citizens who are digging into their pockets to put underground piping and do what's necessary to retain it and to filter it and also we are requiring pedestrian and bicycle access and there's no plan for that. I really would like to see this project happen. I'd like to see it done right. We will take a five-minute recess.

A recess was called at 10:47 a.m., and the meeting was reconvened at 10:53 a.m.

Mr. Starr: ... February 24<sup>th</sup> is back in session. We are still involved with Item B-1 DOT, Airports Division parking lot and new access road. The motion that was made has failed. The applicant has asked for a few minutes and I now go back to Mr. Fasi to see if there's any way to have a meeting of minds here.

Mr. Fasi: Thank you. I believe the applicant is prepared to propose some amended modifications to the condition.

Mr. Starr: Please, Mr. Munekiyo.

Mr. Munekiyo: Thank you Mr. Chair and Commissioners. First of all, the reason we are hopefully be able to get some favorable consideration on this project today is that this is a quite an important project from a funding standpoint and any delays of course would be problematic for the Airports Division. I think what we want to do and to the extent that we can address the concerns of the

commission we'd like to do that. So if I may, just offer this condition if the commissioners would consider it. This would be a new condition to read like this, "To the extent practicable, the applicant shall connect offsite drain lines to the expanded parking lot's drainage filtration system provided that such offsite drain lines fall within the project limits." Now what that means is that there is a physical limit for the project that are qualified for funding for this particular project. Anything beyond that cannot be funded. The civil engineer, and if you wish he can come up has identified possible connection points from offsite locations which may not necessarily before from the parking lot but from an equivalency standpoint, he believes if we make those connections from these offsite parking drain lines which are nearby and hopefully fall within the project limits could be an equivalent of about 60% of the runoff from the existing parking lot. In other words, we're looking at ways to address the concern. We can't do it in its entirety just because of the way the funding is worded, but if we are able to connect these offsite drain lines to the expanded parking lot drainage system we can actually from an equivalency handle quite a bit of the parking lot's flow. So that's the rationale for the language and if there's any questions, the civil would be more than happy to answer that.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I move to amend the main motion to include this additional condition proposed by the developer.

Mr. Starr: You would need a new main motion. Before we do it, can we have some questions on this proposed condition. Commissioner Hiranaga.

Mr. Hiranaga: I'd like to suggest the applicant work with the staff to prepare language which they might modify Condition 14 again to what they're proposing.

Mr. Starr: I have a question too. Would there be a willingness without tying to any amounts or anything to utilize where practicable other methods of retention including, you know, if applicable, pervious surfaces and underground retention systems to reduce runoff?

Mr. Munekiyo: That's something that could be looked at Mr. Chair. The issue of course is the above ground retention, and again, what makes this somewhat complicated is that there is a fixed amount of funding, of course, as any other government project and the basis of design was for having the runoff go into Kalialinui Channel. However, if a condition is crafted such that it is to the extent practicable and that the practicality of course is based on funding availability I think what Mr. Matsushige has indicated is they would consider it. Now, again, we're dealing with a fairly important project and that is why we really hope that we can come to some agreement as to what might be acceptable to the commission.

Mr. Starr: I have a question on another matter, would there be a willingness on the part of the applicant to add a condition related to a study and mechanism for pedestrian and bicycle access to, from and around the airport without being any specifics but just that a plan being done and mechanism created.

Mr. Munekiyo: Mr. Chair, again, one of the constraints is how it is that funding for the project has

been set aside and right now there's really not that opportunity to conduct such a study unfortunately.

Mr. Starr: So there's no willingness to allow access for pedestrians and bicyclists to the airport?

Mr. Munekiyo: There is that willingness it's just that there's no opportunity to conduct a study for that area to see how best to provide such. And as we mentioned Keolani Place is the alternative for pedestrian and bicycle access because it will now be the secondary and lower volume roadway.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Rather than a study, maybe language could be crafted where the airport traffic design would encourage pedestrian and bicycle users to use Keolani Street and you could stripe the bike path up to the boundary of the project on Keolani. Somehow direct them to that street, signage.

Mr. Munekiyo: Again, the signage that are within the limits of this project and which is fundable by this project can help direct bicyclists and pedestrians to the appropriate pathways to the airport. Again, once we get outside of the limits of the project, in other words, putting signage on Dairy Road and other locals however, that would be problematic, but within the limits of the project certainly and perhaps DOT, Highways as well, as it pertains to their side of it could do that, but within the jurisdiction of the Airports Division and its funding for the project we are fairly much constrained, pretty much constrained actually.

Mr. Starr: Okay, Director do you have wording for that drainage condition now?

Mr. Hunt: We're okay with the language that Mike Munekiyo suggested.

Mr. Starr: Can we hear it again?

Mr. Hunt: To the extent practicable the applicant shall connect offsite drainage lines to the new parking lot drainage system if they fall within the project limits.

Mr. Starr: Was there going to be additional wording to –

Mr. Hunt: Some of the discussion ensued was also to utilize where practicable pervious surface and underground retention. There was also discussion that add a condition to encourage bike/pedestrian users to include Keolani Street.

Mr. Starr: Okay Commissioner Mardfin.

Mr. Mardfin: I'd like to make a motion to approve this project with the additional condition that was read into the record by Mike Munekiyo and the Director.

Mr. U'u: Second.

Mr. Starr: So we have a motion by Commissioner Mardfin, seconded by Commissioner U'u.

Director.

Mr. Hunt: As I understand it, the motion and the second is to add the condition, "to the extent practicable the applicant shall connect offsite drainage lines to the new drainage parking lot drainage system if they fall within the project limits." Now I also discussed to also have some language, "utilize where practicable pervious surface and underground retention." Was that part of the motion? We need to make that clear.

Mr. Mardfin: It's actually not part of my motion because that's a mechanism and I'm willing to leave that up to the engineers as to the best mechanism for accomplishing their goal.

Mr. Starr: Okay, so we have a motion on the floor that's been seconded. Are we clear what that motion is? Commissioner Mardfin.

Mr. Mardfin: I'd like to move to add a condition, "that in the design of this project within the boundaries that they're allowed to deal with that they make efforts to improve bike and pedestrian access."

Mr. Starr: Okay is there a second?

Mr. U'u: Would that be by signage that was discussed earlier or striping?

Mr. Mardfin: My motion doesn't say that. My motion is to just have them work on it. I don't want to micro manage how they deal with this stuff.

Mr. U'u: Second.

Mr. Starr: So we have an amendment offered by Commissioner Mardfin, seconded by Commissioner U'u, the amendment is?

Mr. Hunt: Within the design of the project efforts will be made to improve bicycle/pedestrian access.

Mr. Starr: Are we ready to vote? We'll be voting first on the amendment. All in favor of the amendment which pertains to bicycle/pedestrian access, please raise your hand. All opposed.

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

**VOTED: To Add an Additional Condition, "That Within the Design of the Project Efforts will be Made to Improve Bicycle/Pedestrian Access."  
(Assenting - W. Mardfin, B. U'u, K. Hiranaga, D. Domingo, W. Iaconetti, J. Starr)  
(Excused - W. Hedani, J. Guard)**

Mr. Hunt: Six in favor, zero against.

Mr. Starr: Yes, go ahead Counsel Hopper has a comment.

Mr. Hopper: Thank you Mr. Chair, I just want to clarify because I do not believe it was part of the original motion that these 17 conditions would applied as modified by staff explained to earlier and I wanted to clarify if – there was an original amendment to condition 14 that I think it did not pass or did. That was the only amendment. I just want to be clear, yes.

Mr. Starr: So I'll go back to the Director to read back the motion. The main motion which we're now going to vote on.

Mr. Hunt: The main motion is to add a condition –

Mr. Starr: No, the motion is for approval with the conditions and so on.

Mr. Hunt: Move to approve the project with the added condition, "to the extent practicable the applicant shall connect offsite drainage lines to the new parking lot drainage system if they fall within project limits."

Mr. Starr: And how about the recommended conditions? Isn't that part of it Director.

Mr. Hunt: I assume that was part of the –

Mr. Starr: Please state so. Please restate the main motion.

Mr. Hunt: The main motion is to approve the project with the conditions as recommended and revised by staff with the added condition as I just read previously.

Mr. Starr: Okay, Mr. Hopper, Mr. Mardfin, everyone happy?

Mr. Mardfin: The one condition was in the main motion about the drainage. The second by amendment we included the one about the access.

Mr. Starr: Okay, is everyone clear? Okay, we're voting on the main motion as amended. All in favor please raise your hand. All opposed.

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

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

Mr. Hunt: Six in favor, zero against. The motion passes.

Mr. Munekiyo: Thank you very much Commissioners.

Mr. Starr: Build a good project. Okay, we have Uncle Charlie Maxwell and Hinano Rodrigues with us. I'm wondering whether we can do our workshop before lunch. I thought we'd be delayed but members is that – if so, would someone make a motion to move that up onto our agenda now?

Mr. U'u: I make a motion to move up the workshop to 11:00 a.m.

Ms. Domingo: Second.

Mr. Starr: Okay, we have a motion by Commissioner U'u, seconded by Commissioner Domingo, the motion is?

Mr. Hunt: The motion is to move the workshop which is Item D on your agenda up to 11:00 a.m. or current.

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

**It was moved by Mr. U'u, seconded by Ms. Domingo, then**

**VOTED: To Take Up Item D Currently.**  
**(Assenting - B. U'u, D. Domingo, K. Hiranaga, W. Iaconetti, J. Starr)**  
**(Excused - W. Hedani, J. Guard, W. Mardfin)**

Mr. Hunt: That was five in favor, zero against.

Mr. Starr: Order, order please. Quiet it down. I want to move to our next item right a way because lunch is calling in about an hour and we're really fortunate and honored to have Uncle Charlie Maxwell, Hinano Rodrigues and I also believe, we also will have one of the planners who staffs the Cultural Resources Commission to address us. Director, why don't you give a really brief overview of what we're trying to do and understand with us.

**D. Workshop led by Agency and Board Representatives regarding their roles on matters related to the discovery of cultural resources and artifacts**

- 1. Charles Maxwell - Chairperson, Maui-Lanai Island Burial Council**
- 2. Hinano Rodrigues - Department of Land and Natural Resources, State Historic Preservation Division - Maui Office**
- 3. Stan Solamillo - Department of Planning, Cultural Resources Planner staffing the Maui County Cultural Resources Commission**

Mr. Hunt: From what I understand the issue has come up in regards to an exemption that the Planning Department issued to the Parks Department regarding some work in one of their parks. A little bit of background, the Planning Department has been besieged might be a good word to streamline the permitting process to look for areas where we can streamline the permitted process.

As a result of that, the department issued a policy that says, certain types of development shall be exempt from SMA requirements. As a result of that, one of the project was issued an exemption. As a result of that exemption, they went and did their construction work. The construction work exceeded what the exemption was for, they dug way deeper than what was originally intended. That has led to some discussion about the policy itself and from there, the resulting actions and review by the different boards, the Burial Council as well as SHPD, as well as the County Cultural Resources Commission. So these folks are here before you today to explain their roles. There may be some discussion about that actual project and the department policy. We can discuss that if you'd like.

Mr. Starr: Director, I beg to differ with you in this one case though I appreciate hearing that, but I think that the request for the expertise from these experts came from quite a number of different issues that have been before us where we've had discussion regarding burials, regarding historic sites and regarding the historic areas of the island. We've not really had the clarity. I know, I, myself am confused over when we should be looking toward the Burial Council, when we should be looking to SHPD and when we should be looking to Cultural Resources Commission because they all have important roles. I don't think this is about trying to streamline anything, I think this is trying to understand our responsibilities and to understand the process and to be able to properly interact with these other bodies. I guess, you know, other issues will come under that.

Mr. Hunt: I didn't mean to paint this as a discussion strictly about streamlining. I was trying to give some background as to how we got here. It was a streamlining versus an exemption issue. I don't mean to limit debate at all. I was giving you to the best of my knowledge the information and the background that got us to where we are.

Mr. Starr: But I do want to ask Uncle Charlie Maxwell, Kahu Charlie Maxwell to come forward and I'd like you to begin the discussion perhaps with a little bit of a broader overview on how we can interact with all the old ohana guys and what they've left behind and honor them and not desecrate.

Kahu Charlie Maxwell: First of all, I'd like to thank the Chairman and the Members of the Board for asking us to appear to clear up some misconception, some understanding of the ka po'e kahiko, the people of old that occupy this land. In a broad sense the land was their relative, it was part of them.

Interesting enough, the Island of Maui if you go from Waihee all the way down to Makena if you go up 50,000 feet you will see the shape of the sand dunes which is called the mo'o. Mo'o is a legendary lizard but it really connects to the genealogy of the Hawaiian people. The tail starts down from Waihee and in the tail there's a 165 vertebra which represents a thousand generations back. The back feet of the mo'o represents the kupuna because it's always they know where they going they know where they putting their feet. The first two legs, the front legs and the head is always searching and so that's the 'opio, the youth. But interesting enough, the mo'o our genealogy is called mo'o ku au hau, mo'o ku, the back of the mo'o represents the genealogy, the head is down in Big Beach call mo'o muku, the cutting of the head. Now everywhere that you have the sand dunes you have burials and the burials, the sand is called kuu one hanau which is the sands of my birth. So Hawaiians bury in sand matrix. Several reasons because if you was kahuna, if you was a fisherman, other people would try to get some of your bones to make fish hooks and get the

mana, your good luck from your spirit. So they used to bury it in the sand and that evening the winds would come in and cover up the grave. That's why Hawaiians, there's unmarked graves all around.

In a sense my father grew up – born and raised in Waikapu and before the kiawe trees came he says one evening there would be huge mountains of sand and the next morning the wind would transfer it and it would be gone. But if you notice all through the central area where this undulating, this mo'o is found there is numerous burials through Maui Lani through all the way down to Makena.

I think this is a perfect time to make aware the planning commission and the Planning Director and the planners that any disturbance of the ground should be checked. Any time you issue out a permit they should check for archaeological for bones or archaeological sites. Our people were buried all over and that's a fact. Land is becoming so important now so they're coming out by the hundreds. Right in Maui Lani area we got several hundred that came out and we had preservation areas throughout Maui Lani. But it's apparent all around. The Planning Director I think you're speaking about Hanakao'o. Are you speaking about Hanakao'o? And it was really disturbing for that thing to come before the Burial Council which incidently I'm the Chair of the Burial Council because 10 feet away from the digging of this sidewalk there's burials. It's a known burial ground. It has stones. It's a burial ground. So the planners, the people that were in charge would think automatically that wow, it's a burial ground, I'm going to hit burials. But no, they didn't and they dug up and they did hit burials.

I think it's really important that each planning commission, commissioner, has that mind set whenever like this road, the airport, I was involved – there's a whole area I preserved way back in 1973 with burials and moved the buildings from the airport. I came late but I don't know if there was an insistent for checking for burials in the road before it's done. I don't know if that stipulation was put in. But I'd like to call our cultural person for SHPD, Hinano Rodrigues and he can elaborate more.

Mr. Starr: Welcome Hinano. Thank you for coming.

Mr. Hinano Rodrigues: Aloha mai ka ko. My name is Hinano Rodrigues and I'm the Cultural Historian for the Islands of Maui and Lanai and I'm also the District Manager for State Historic Preservation for the same islands.

I wasn't too sure what the subject matter was for this morning's presentation but what I'll do is I'll give you a brief history of how SHPD, the role that SHPD plays in the planning process with you guys and CRC.

Our authority is under 6E-42 and the Burial Council's authority is more specifically 6E-43. So lets just move swiftly to ^E-43 because we're here to talk about burials. As a general rule, there are two kinds of jurisdictions. One is a Burial Council jurisdiction and the second is a SHPD jurisdiction. So the question now is, well, what's the difference?

The Burial Council has jurisdictions over only two items. The first item is recognition of lineal and/or cultural descendants to a specific burial. Their second jurisdiction is to make a determination with

respect to a burial that is found as a result of an archaeological inventory survey. In almost all other instances jurisdiction switches over to SHPD. Now the question as to well, why do we have these two jurisdictions? I think, and Uncle Charlie was involved with this back in the 1990's. Burial laws did not exist before the 1990's, and because of that significant find over Kapalua the Hawaiian community and the State of Hawaii decided that we need to have laws to protect these burials. Back then if you really think about it, if you gave jurisdiction solely to a commission I would have doubted whether the law would have passed and that why you have two separate jurisdictions.

When a burial is found, SHPD is the first one to be notified. I still don't have jurisdiction. I show up at the burial discovery and ask two questions. I can ask these two questions either from an archaeologist who is working on that project or I bring in my own archaeologist if there is no archaeologist there. My two questions are, number one, is this human? And number two, is this 50 years or older? If the answer is no to any one of those questions, I step back, I look at the police and I say, this is yours. I only have jurisdiction if it's human and it's 50 years or older. Once that is decided that is what I call an inadvertent.

So lets go back again, Burial Council has jurisdiction over burials found as a result of an archaeological inventory survey. SHPD has jurisdiction over burials found inadvertently. Okay, so now we have to two separate jurisdictions but we have two same responsibilities and those responsibilities are, does the burial stay there or is it to be relocated?

With respect to whether or not the burial is to be relocated, there are certain significant factors that we apply and one is, well, is the burial of someone extremely important in Hawaiian history? Is the burial found in an area that has a high concentration of Hawaiian burials? What do the lineal and cultural descendants of that are say? Once that determination is made whether it's a previously identified that it is to say it is under the jurisdiction of the Burial Council or whether or not it is under the jurisdiction of SHPD, nevertheless a burial treatment plan must be developed. And in that burial treatment plan is number one, is a description of the burial, number two, a description and design of the re-interment site or the preservation site, number three, well, number three would be, well, how do we make this place look? Do we build a Hawaiian style platform? Do we say nothing? Do we just put a plaque there? It all depends where the burial is. It is our opinion and I'm sure the opinion of the Burial Council that Hawaiian burials are sensitive and they are confidential. So we don't want to attract attention to that area. The most important thing though is that we require that all burial treatment plans be recorded with the Bureau of Conveyances and that easement or that encumbrance runs with the land. Any questions?

Mr. Starr: Why don't we let Uncle Charlie take it and we'll get to questions after the full presentation.

Mr. Maxwell: What I wanted to do was give a little more background history as to what happened with law 6E and the NAGPRA Act. Back in 1986, Colin Cameron and then Hannibal Tavares called me that there was 30 burials at Honokohua. They planned to build the Ritz-Carlton Hotel. And when they took me out to the site I told them, you know, I was born one mile away from here in Napili. My father said this is a massive burial grounds and that the bottom is a leina, it's a jumping off point for the spirits. We changed the name of it from Jaws to – what's the name we changed, in front of the Ritz-Carlton? Anyway we changed the name to reflect what the real name is so that guidebook don't send people down there. Anyway, they wanted just me to be involved and said,

no Dana Hall and Isaac should be involved in this. And low and behold, the planning commission at that time in 1978-79 ruled against us to stop the digging of the burials so we had a massive protest. All island protest. We closed that whole area and low and behold they had taken out over 800 remains and there was a 1,000 yet in the ground. So after protesting and bringing everybody over from all the islands, we met with the Governor then, John Waihee, over a 20-hour period in his office upstairs at the State Capitol while a vigil was being held and finally from on the phone Colin Cameron decided to give up the area if the State paid him \$6 million for it. So we paid for the 13 acres at Honokohua. The State paid Colin Cameron \$6 million to keep the iwi in place.

Then in 1990 we all went up to Washington, D.C., myself, ..(inaudible)... Kanahela, about 12 of us to testify in the U.S. Senate for the NAGPRA Act, Native American Reparation Action Act and that became law and Honokohua, we were just fresh off in Honokohua and there were about 400, 500 people but a lot of Native Americans in full dress and when I mentioned how the iwi was taken out and how disrespectful they were, you know, tears would just fall from the eyes. And so Honokohua, because of Honokohua, it affected nationwide and even in Samoa and Tahiti of treatment of native burials. So you know, that's a shining thing.

Now there's another law in the legislature right now that wants to give the Burial Council the full, not the inadvertent, give them the right to decide about inadvertent because right now a lot of things are going directly to Honolulu and they're eliminating the Maui Burial Council and the archaeologists here on Maui. So we're trying to change that. And if you wonder, six of us have this, this is made out of the whale. I wrote two songs about Honokohua. One where the last night we buried, the whale came in the bay and slapped the waters, Ka Ho Ailona and these are made from whale's tooth, Levan Sequeira carved it and it's tying of the bones of our people, of the iwi of our people.

Mr. Starr: I see that, you know, burials as a first issue. The second issue is when it comes to old structures and artifacts and then the third issue will be the historic districts. So when it comes to archaeological and artifacts does the Burial Council?

Mr. Maxwell: Only if there's burials associated with these items then the Burial Council. But we've been successful like the Lahaina bypass there were like 29 acres of archaeological sites and we insisted that they move the bypass on the premise that there might be burials in these archaeological sites which is a very normal thing.

Mr. Starr: Hinano, why don't you to archaeological and artifacts?

Mr. Rodrigues: The problem is that the burials co-mingle with archaeology and basically they are the same. Before I said that 6E-42 in terms of historic sites kicks in and then 6E-43 in terms of burials kick in. These are state statutes. It would be unconstitutional to not have rules and try to apply law. So what the State had to do was they had to pass what is known as Hawaii Administrative Rules and the Hawaii Administrative Rules for burials is 13-300. So if you look at those rules, it's about maybe 30 pages, it is those rules that I use to apply the law.

When you look at archaeology you would apply 13 – I think it's 274 – 275 to 284 and those are the archaeology laws. I need to caution you guys that when it comes to archaeology, State Historic Preservation has no jurisdiction until something is triggered. I'm going to read you what that trigger

is. This is 6E-42, "Review of Proposed Projects. Before any agency or officer of the State or it's political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision or other entitlement for use which may affect historic property, aviation artifacts or a burial site, the agency or office shall advise the department," that is to say, DLNR, "and prior to any approval, allow the department an opportunity for review and comment on effect of the proposed project on historic properties, aviation artifacts or burial sites consistent with Section 6E-43 including those listed in the Hawaii Register of Historic Places." Basically that's just legal language saying that if any one of these things happen for all intents, for all purposes dealing with just you guys you have to ask us for our comment. Our comments are strictly recommendations. We can only make comments and recommendations.

And so what happens is, I think Jeff was alluding to that with respect to Hanakao'o it was an ADA access improvement project and so normally that request would come down to us, we would look at and we would go like, whoa, Hanakao'o, Canoe, it's in a cemetery. All right, it's in a cemetery, that would have been the red flag right then and there. But I do understand the County's position that there are certain projects that need to go on and this was one of them. In defense to the County, there was a clause in that memorandum that said that if there was any ground altering activity that it was to be monitored by an archaeologist. The problem in this case was that I'm hoping that was the reason, the problem was that no one contemplated actually digging a deep hole. The overall project was to replace the sidewalks and the showers at Hanakao'o. And I'm glad it happened because we need to look at what happens when a contractor submits his plans to the County of Maui and subsequent to that submittal, the plans change? Do we not – is there not an obligation and responsibility to recontact SHPD and say, oh, oh, we're going do something different?

One more thing Chairman Starr, Uncle Charlie mentioned NAGPRA, NAGPRA is the counterpart of our State laws when it comes to burials. NAGPRA is only applicable on State – Federal property. So when we find burials up at Hawaiian Homes at Keokea and Waiohuli, I go up and out of courtesy I deal with them and then I step back and I say, Hawaiian Homes, you guys are Federal, this is yours.

Mr. Starr: Uncle Charlie you want to comment, like say there's you know, there's a known heiau in an area where there's a project or something? What should people be doing?

Mr. Maxwell: Could you repeat that?

Mr. Starr: Say there's a known heiau in an area or there's known sites, I mean, do you have comments on that?

Mr. Maxwell: Well the mere fact that there's a heiau, that's very significant. Very significant in itself because the heiau could either be lono heiau, agricultural heiau or sacrificial heiau and so if it's a sacrificial heiau, it has bones, pits with bones in them and that, you know, that's sacred. That cannot be touched especially if there's a heiau or even house sites or cairns or you know, through Kanaio and through the lava area there's all different ways the Hawaiians used to bury, you know, that's why it's good to check with SHPD.

Mr. Starr: Before we go to questions I'd like to ask Stan Solamillo who works for Department of Planning, he's a planner here and he staffs the Cultural Resources Commission and he can explain I guess as to the kind of the third leg of things. I believe they deal with historical districts and I don't know what else so Stan why don't you explain what CRC does.

Mr. Stan Solamillo: Good morning, essentially CRC or the Cultural Resources Commission is established by Chapters 2.88 in the Maui County Code which gives up purpose and intent and it's to essentially protect and preserve historic properties and artifacts in the County, to encourage where appropriate through adoption for appropriate and feasible use, to encourage the restoration, rehabilitation and continued functional use of historic properties, to encourage the identification, preservation, protection and enhancement of those historic properties which and it's kind of a blanket statement represent or reflect distinctive elements of cultural, social, economic, political and architectural history and to encourage the designation of historic properties thereby insuring that our cultural and historic heritage will be imparted to present and future generations of residents and visitors alike.

The other thing which is probably the most important thing and that is going on now is to formulate countywide comprehensive historic preservation policies, programs and plans. In this case it's being done under the terms of the general plan update.

We carefully monitor only three districts at present. The Lahaina NHL which is also a federal district but that has been broken for the purposes of the County into two smaller districts, Historic District Nos. 1 and 2, and we also monitor activities in Historic District No. 3 which is in Wailuku. We work closely with SHPD to look at the effect of proposed actions on historic properties and specifically in the case of today we get a lot of demolitions because that seems to be an ongoing thing and it's probably especially in times like today it becomes more possible or plausible because we're in bad economic times and I think I told the commissioner three or four weeks ago that because when times get rough, people turn on their historic properties to clear the improvements for new development. We also review cases that come to us from the Current Planning Division and right now we are in the process of resurveying Maui County, that's all three islands and making recommendations for new historic districts as well as nominations. Are there any questions? That's kind of a general statement.

Mr. Starr: Okay, we'll go to questions from the Commissioners and you can ask questions to any of the three, but I want to ask Kathleen, could you give that mike to Uncle Charlie because I don't want make him keep getting up. So he can sit there. Members? Commissioner U'u.

Mr. U'u: Question I guess for Uncle Charlie. The Island Burial Council, if I not mistaken did it originate on Maui?

Mr. Maxwell: No, actually yeah, because with the Honokohua Burials we were in – that was one of the proposals the temporary Burial Council. We had a temporary Burial Council before the Act even passed. And Liebert Langraff who was the head of DLNR at that time and he saw the need for us to create Burial Council. So myself, Leslie Kuloloio, Dana Hall and several of us was on the original Burial Council.

Mr. U'u: Second question would be, do all islands have a Burial Council?

Mr. Maxwell: Yes, they do. All islands finally have a Burial Council.

Mr. U'u: Lanai and Molokai also?

Mr. Maxwell: No, Maui represents Maui, Lanai Island Burial Council.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Uncle Charlie it's for you too. I'm from Hana and I know two places where bones are being constantly exposed due to wave action. One is where – I don't want to be too specific, I'll talk to you during the break because I don't want it on the formal record, but one is I believe a Hawaiian area where battles were fought and another is an old Chinese-Japanese graveyard. If we know of, I know there's skulls being revealed constantly, do we contact you?

Mr. Maxwell: Contact Hinano, in fact he will talk to you right after this on the break and get the information and we'll start getting that remains. There's several other places that we do this that during high waters the remains washing out, but you know, because of the cuts in the budget with the State, it's really, really difficult but we're trying our best to retrieve all of the iwi.

Mr. Mardfin: Then Hinano is the one that we should be talking about these kinds of things.

Mr. Maxwell: Yes.

Mr. Mardfin: Thank you. I appreciate that.

Mr. Starr: Members, go ahead commissioner.

Mr. Mardfin: This is for Hinano. Just before you came in we dealt with an issue about airport plan for parking and an access road and often I find in these a report from your office approving things. In this case, all I found were two kind of cryptic references if bones, if things are found, they'll contact you. Do you not get direct input into these sorts of things, this particular thing?

Mr. Rodrigues: Okay, this is going to take three minutes but this is how the process actually works. Okay, so you got a permit lets say in this case the permit, there is an obligation on the part of the County to send the permit down to SHPD. We look at the permit and we go Kahului Airport, Kanaha, I think we should order an inventory survey. We call it an archaeological inventory survey so the County hires an archaeologist who goes out there, walks around, does inspections and says, oh, but there's nothing. That turns into an archaeological assessment very similar to an EIS. An EIS starts off as just an assessment, ends up an assessment but if you have problems then it turns into an EIS, right. Well, the same thing with an archaeological inventory survey. You do a survey, it will either be an AA or AIS.

So lets say that they do find a lot of stuff out there and you have your contractor, the archaeologist, your contracted archaeologist makes a recommendation to SHPD, one of two recommendations.

The first one is, we'll preserve what we found or the second recommendation is we will data recovery what we found. Data recovery is another word generally speaking, to infer that the site or the find will be destroyed. We'll just find as much data, we'll take as much data as we can and that's it.

So lets say the archaeologist says lets preserve archaeological features A through F. They right what is known as a preservation plan. Now when they do an AIS, we approve an AIS, when they do a preservation plan, we approve a preservation plan. Now it's time to go forward, your Kahului Airport by motion I think was accepted with certain conditions. If we feel that there might be a archaeological sites that might have been missed then we would require a monitoring plan. So it goes AIS, preservation or data recovery and then monitoring plan.

When a permit comes down we cannot go out to every site because we don't have the staffing to do that. What we do is we go and look at adjoining or adjacent sites. We go through our records, we do some research and that will give us an indication as to whether or not, it will give us an indication as to the chances as to whether or not you will find any archaeological sites. Contrary to what most people think we cannot trench – or part of the archaeological procedure is to do trenching and we actually go down maybe about three feet and we look for midden, we look for charcoal deposits and in many cases we do find burials. You cannot reasonably trench 100 acres. And at this point, we'll request that maybe the archaeologist trench 3% of the property depending upon the size of the property. So we really don't know what we're going to find. Keep in mind that there has to be a trigger for an AIS. There also has to be another trigger for the burial laws to kick in and that trigger is, you gotta find a burial. No such thing as I think there's a burial there because you can think as much as you want, I had no jurisdiction unless I actually see a burial there.

Another thing you want to keep in mind too, is that the State has jurisdiction over archaeological features on its own property. We do not have jurisdiction over archaeological features on private property. In fact, I gotta give a land owner five days notice for me to enter onto his property and inspect lets say a heiau. He can deny me that access. I would have to go to Circuit Court to get onto that property. The good new is that Maui no ka oi and nobody has ever told SHPD no. It's always yeah, come, come look what we might have here.

Mr. Starr: I want to open questions up to our planners because I do see we have a lot of our good planners here and if any of you have a question, I just ask you to step up to the mike. Please Ms. Cua.

Ms. Ann Cua: My question is, the Planning Department follows the normal process and I guess this question is maybe – maybe it's not even a question, maybe it's more a comment and just to put it out there. The Planning Department most always sends out an application that we receive to SHPD and we get a number of comments, kinds of comments. You know, we had a situation that I was the planner on where we had two approved monitoring reports that we had gotten from SHPD. You know, in that situation we didn't take the application to the Cultural Resources Commission because we relied on SHPD and we do that a lot. They're our first line when it comes to archaeology and cultural resources and so we kind of take off of their comments and we proceed in whatever direction based on their comments. And so in that particular case, we had people coming and testifying saying that this area had burials and there was that, you know, going back and forth. So

for the Planning Department, you know, we don't want to be caught in a situation where we didn't send something some place where we should have yet you know, we're trying to go based on the recommendations from SHPD which if they have two approved monitoring reports then we would think that it's pretty much covered. You know, in that case we had commissioners asking to go to CRC, we did, but then at some point, you know, I guess people had approached the Burial Council as well and so I guess I would like direction or just some response from maybe SHPD, maybe Uncle Charlie as to how can we be better. Again, we take our lead and we'll ask Hinano and we have a really good working relationship I feel, one of the best so far, but we don't want to be remiss in not sending it somewhere but that's kind of how we practice.

Mr. Maxwell: You know, you're very correct. The same people that came to testify before you testified before, you know, us and you know, kind of, you know, knew the history and the archaeologist was there. There was no weapons of battle, no injuries to any remains with, you know, the holes in the head or spear marks indicating that there was a massive battle there. So you know, the problem is too, the Planning Commission can refer to the Cultural Commission but when it becomes to burials it should come directly to us. That was the problem there and she missed – one of the ladies misused your name and said that you said nothing and I called you and clarified it. So you know, Ann. That if we can keep that kind of rapport because if I'm not mistaken the Cultural Commission is an advisory commission, right? It's an advisory commission while the Burial Council it's not and it's in a state statute. So it would eliminate confusion to the people and to the different, you know, to the planning commission and to you guys I think. What you think Hinano?

Mr. Starr: How does Cultural Resources Commission and then other entities like OHA kind of fit in. I know that they get asked and it sounds like Cultural Resources is doing a plan as far as ancient stuff. I mean, what happens, like we had a lot of discussion say in the Makena area where there was a very large complex of sites but they're on different property owners and there was no way to kind of create a connectivity. In that kind of case where it's not specifically burials, and it's you know, an area, is that something the Cultural Resources Commission is looking at?

Mr. Solamillo: I mean, we do look at them but we haven't had the occasion I think since I've been the planner associated with the CRC to actually look at something like that in the depth that it really needs. We usually get things further on down the road after they've been through some SHPD review.

And in the cases of I think the battleground issue that was coming up where that had already been approved project by the planning commission the only thing that we could do is probably implement or at least start looking at creating policies that deal with issues such as that which is – and this is a question I've had with SHPD, what constitutes a Hawaiian burial ground. There are ...(inaudible)... and this is just not for Hawaiian burial grounds but these are also for burial places who over time lose their markers. There are Filipino and Japanese and Chinese and Portuguese cemeteries, family plots all over these islands that suddenly the identifying markers and monuments are gone and what is the status of these burial grounds as well.

And I think as far as a policy that has been developed there has not been one yet and that's probably a gray area. That's something that, I know the current Cultural Resources Commission

this year will probably want to look at. How do we treat these areas? They're important to the culture of all our people here. In the cases of Makena and areas like that, I think you're probably gathering from what Hinano has said, I mean, we've got very minimal staff and we're kind of stretched over three islands as well.

And in cases of Hawaiian history, Hawaiian culture, I usually defer to SHPD. With archaeology I defer with SHPD. I usually am dealing with historic period, plantation period remains so that's architecture, engineering, things of that nature. And so I will always defer specifically to SHPD for advice and for recommendations.

Right now, our last surveys I believe were in the early '80's and the '70's and right now we don't know clearly there's been a loss of a lot of material here on our islands and that's what the whole purpose of being involved in ...(inaudible)... cultural resource management update which is part of the General Plan is about. But right now we're in the survey component of that whole process which means we're going out and surveying and seeing what we do have because we have lost a lot. Once we know exactly and I keep telling a lot of people, you know, our islands are full of history and it's everywhere where you look, whether it's a place name or a beach or an old plantation house. There are stories here from families that have come down through generations and our Hawaiian history is over a thousand years of age and so everything here has some history to it. And it's really, I think it's kind of an underlying cause that we should all remember that everything that we do that impacts something on the ground impacts our history. I hope that answers.

Mr. Starr: Uncle Charlie.

Mr. Maxwell: Yeah, if I can answer your question sir. Like I told the GPAC they gotta treat the entire island of Maui as a cultural sensitive area. Likewise there's no corridors, there's no burial grounds, but there's massive burial grounds in the entire island some more, some less. Wailuku, Lower Main Street with the two heiaus was referred to in ancient times as the Washington, D.C. of Maui and one of the oldest ...(inaudible)... were found in the fort sentry so you're looking at 2,500 years of history only when they came but it goes back to ...(inaudible)..., to New Zealand, to Tahiti, that's where our history comes from. So it's thousands of years old. But that's how you gotta realize that there's burials all around Maui. There's no cluster. There's no cultural reserve area. It's all around. That's the mind set you gotta get.

Mr. Starr: Planner Loudermilk do you have something?

Ms. Robyn Loudermilk: Yeah, I would just wanted to respond to the questions that you had in terms of who reviews and what role do the planners play. OHA we do send a majority of our applications to OHA. It is required by our rules, but statutorily OHA has no jurisdiction over anything, but they can provide us additional information that we can then incorporate into the report, relay to the applicant, the archaeologist and quite often you are going to find that a very big difference of opinion between OHA and SHPD. So that first of all is we do send to them, their comments have no statutory, but we do recognize that their comments are valuable and will incorporate them accordingly.

In relation to SHPD, the 10 years that I've been here we have had the most successful relationship

between any county entity and SHPD and they ... (inaudible)... all that time. The situation that happened at Hanakao'o was sort of unfortunate because this policy memo we worked in consultation with the Historic Preservation archaeologist. So again, it was not done in a vacuum and something like this will have us go back with SHPD. Do we need to sort of modify and that's the positive thing. And the other thing is like Hinano said the larger issue with this type of situation is, eh plenty time contractors they get three different sets of plans going on at the same time and we had had that copy of the plan that indicated trenching an exemption would not have been given until SHPD had reviewed and make a determine. So this is a good setting for all of us. You have a better clarification of terms of the roles that different departments play as well as the divisions within the department that I think in the long run will help us better to serve the needs that you folks have.

Mr. Maxwell: You know Mr. Chairman, just to speak about OHA, it's a prime example, with Honokohua, we fought against OHA. They wanted to remove all the burials and our little group fought OHA, the Maui Planning Commission and everybody else. So OHA just signs off and we know of a lot of incidents where there is important features and they'll just sign off. They're in Honolulu and that's what we're trying to get back here on Maui.

Mr. Rodrigues: Mr. Chair, let me explain the role of OHA in all this. Remember I told you gotta do an AIS and when you do the AIS you find archeological features that you now determine should be saved. Okay, so you're going to do a preservation plan, how do you determine whether or not those features should be saved? Well, we use Federal law and in Federal law there are four significant factors, A, B, C and D. That comes under Federal law because all State historic laws are a byproduct of the 1967 I think NIPA Act. So we look at the four items, Hawaii has a fifth item and that fifth item is called significance E. Anytime a burial is found significance E applies. It is at that stage when the archaeologist and SHPD accepts a significance E that OHA, that the trigger now occurs for OHA's participation. But until that happens OHA is not involved except when it comes to inadvertent discoveries, remember I said, the first thing I do is go out there, show me what you found, is it human, is it 50 years or older, okay SHPD has jurisdiction. I go back to my office and the first email that goes out of my computer goes to OHA to let them know that we have an inadvertent, but their role is extremely limited as the laws are written.

Mr. Starr: Okay, thank you. Members? Commissioner Mardfin.

Mr. Mardfin: I'd just kind of like to make a comment here. I happen to be the treasurer for the Hana Cultural Center. I got a letter about two months ago from a company in Honolulu. This happens to be for – they sent a letter saying do you know of anything to do with a particular – it happen to be a bridge replacement, but do you know anything about cultural and traditional usage of this area. Before I got on this commission I would have taken that letter and gone, throw it away. Now I know that I don't do that. But I also know, I've only been in Hana since 1961, so there's a lot I don't know about went on the 50 years before that. But I do happen to know some people that might know, so what I've taken to doing with this one thing, there's a man who owns some property right near there who's in a situation, he knows that area very well. I've found another person who grew up just near there and a third person who knows all about a lot of real estate in the area and I passed the letter on to them because as Chris Hart and others know I hate to see these things come back saying well, we sent these letters out and nobody responded therefore, there's no cultural impact

and I just don't believe. I just think they didn't some how respond or didn't get to the right people. I think we need to do, the planners and the consultants need to do a better job of really tracking people down who might know about cultural usage, to say nothing of bones and iwi and other kinds of things. But we need to really push to get this because people are busy. They have a hard time to respond some times.

Mr. Rodrigues: I cannot help you out on that question. What you're talking about is a CIA which is a cultural impact assessment. The trigger for a CIA is an EIS. That is where that law comes from. Unfortunately, that law is not too old. I think it's about six years old, six or seven years old. So there has been no change in the administrative rules such that there can be a reviewing agency for the CIA. So at SHPD, we've been doing it out of courtesy, but there's not much we can do because the law has not changed to accommodate that. And I agree with you 100% and that's why all the contracted archaeologists hate me. From now on, when you send a CIA information request to me a letter goes out of my office saying why don't you try the media? Why don't you put it in the Maui News? Why don't you go on Akaku and look for people who have knowledge of certain areas? Don't just send out a letter and, oh we got no response and then when you do your CIA say, we got no response from Hinano. We're not playing those games any more. Utilize the people in the community. You don't have a lead, go ask around Hawaiian style. You gotta send an emissary in. You cannot just go in by yourself. You gotta find somebody from that area and then you start it out. We're working on that.

Mr. Mardfin: Thank you. Do you need extra legislation?

Mr. Rodrigues: Yes.

Mr. Mardfin: Do you have a proposed draft bill?

Mr. Rodrigues: No. It's on my list of a thousand and one things.

Mr. Mardfin: If you get that, I think we all have friends in the legislature. We could get it introduced. I don't guarantee it would get passed.

Mr. Starr: Anyway that's out there. Jim Buika.

Mr. Jim Buika: Thank you Chairman Starr for arranging this session with the presenters today. I have a procedural question that I'd like clarified from SHPD. I understand that the Administrative Rules give SHPD 45 days to respond and review to a project forwarded to SHPD from the Planning Department. And there are cases where SHPD does not respond back to us within 45 days and personally I'm very reluctant to approve a project where I have not heard back from SHPD even it takes much longer than 45 days. That's kind of my policy. Just two questions to SHPD.

Hinano, is the SHPD 45-day review period the legal requirement first of all for review? And second question is, is SHPD comfortable with the Planning Department approving an SMA permit for instance after the legal 45-day review period without SHPD written approval? Are you comfortable with that?

Mr. Rodrigues: Jim is right, there is a 45-day limit. We suffer from the same things that you guys suffer and that is manpower. I want to remind you though that the holder of that 45-day limit is the County of Maui. So if we don't respond within 45 days it is within your purview to say, well, then we're going to let it go through. The County so far has been very nice and I think Jim said he feels a little bit uncomfortable when that 45-day tolls and not going ahead and I agree with him. But again, the holder of the 45-day rule is the County of Maui.

With respect to SMA, I think the reason why we have SMA is because somehow when that legislation occurred we all felt that it was important and thus it was necessary to have SMA which means that it's more a red flag than anything else. So in that situation if at all possible the County should hold back and – let me say it this way. I was only named the Maui District Manager on May 1, before that Maui never had a District Manager and I suppose you could interpret that to mean, there was really nobody where the buck would stop. I'm there now. So all you gotta do is call me and say, Hinano, we're having problems with this application, it's really important. It's an ADA thing or whatever. It's for the health and welfare of the people of Maui, what can you do? And I'll fast track it for you. Really, we can do that.

Mr. Starr: Okay, thank you. We have about two minutes. Not seeing anything else from our members or our planners, I'll allow Chris Hart to have a real quick one. Come on up Chris and then Uncle Charlie got last word.

Mr. Chris Hart: Could I just say a couple of things about Honokohua. I was the Planning Director between 1986 and 1991, January. In 1986, we received the application for the development of the hotel and it was a 600-room hotel. At that time, in terms of how the process had evolved the archaeologist was Paul Rosendahl and basically at that time on that site, there was basically they had found in terms of the archaeological inventory level survey 12 graves. They estimated that there were something in the neighborhood of 20 to 30 graves. They said 26.

We negotiated with Maui Land and Pine in terms of the staff. We reduced the size of the footprint of the hotel and the number of units from 600 down to 400. You know, initially there were other concerns besides the cultural issues. There was traffic and so on. But we went through to the hearing and we basically had the hearing. At that hearing, even after SHPD had commented on Paul Rosendahl's work, Dana and Isaac came up as representative of Hui Alanui O Makena. And in the context of that hearing, you know, there was a deferral and we, myself and the Corp. Counsel drafted one of the first Memoranda of Understanding or Memorandum of Agreement and it involved SHPD and Liebert Landgraff at the time, well he wasn't Bill Paide was actually the Chair, but Liebert was involved kind of a as right-hand man of the Governor and then it involved Maui Land and Pineapple Company and it involved the Hui Alanui O Makena. Essentially the SMA permit was approved subject to the condition that more research be done in terms of the issue of burials and archaeological and cultural issues related to that site. At that time the SMA permit was good for two years and so over a period of two years this basic digging, you know, was done, excavation. You know, I have to say that there were other individuals involved like Leslie Kululoio and so on and it was my understanding in terms of Maui Land and Pine being the basically covering the cost that the iwi were protected with respect. I'm not saying they weren't excavated but there was respect.

Mr. Starr: Hurry it up Chris.

Mr. Hart: Okay, but all I was going to say is that at the end of the two-year period there were actually over 800 burials and as a result of that issue, you know, the hotel was moved and basically you know the Burial Council and so on came into being. But you know, there are some facts that I think that need to be corrected in terms of what was said. Thank you very much.

Mr. Starr: And Uncle Charlie you have last words.

Mr. Maxwell: Yeah, okay. You know, Chris Harts brings up some sore spots when he mentions Rosendahl who is the worst archaeologist on Maui because Chris don't know that he use high pressure hoses to take out the burials from the pits so that he would make his contract. So I don't want to be bitter. I think it was a fantastic session that we have and we're moving on, but someday Chris we'll sit down and talk about what went on and what didn't. But thank you Mr. Chairman, thank you Commissioners.

Mr. Starr: Okay, I want to really thank Uncle Charlie Maxwell and Hinano Rodrigues, also Stan Solamillo and also all of our planners not just for being here today but for the seriousness and the hard work and efforts you put into it and I know that you really do try to do the right thing with those who came before us and trying to preserve for the future and I really want to thank you for that and this was good today. I also want to recognize for those of us who don't know, Warren Shibuya is in the back row. I think we're going to be seeing a bunch of him. Anyway, to lunch. Aloha everyone we're in recess until 1:15 p.m.

A recess was called at 12:15 p.m., and the meeting was reconvened at 1:20 p.m.

Mr. Starr: Good afternoon everyone, Maui Planning Commission meeting February 24, 2009 is back in session. I turn to our good Director, Jeffrey Hunt, to introduce the next item.

Mr. Hunt: Your next item involves Towne Development of Hawaii Inc., Endurance Investors, LLC and Association of II Wai Hui, LP, requesting comments on the Draft Environmental Impact Statement prepared in support of a petition for a State Land Use District Boundary Amendment and anticipated applications for a Community Plan Amendment and Change in zoning for the proposed Puunani residential subdivision located at TMK 5-5-002: 003 in Wailuku. The file number is EAC 2006/0022. Jeffrey Dack is the planner assigned to this project. I just would like to take the opportunity to remind the commission and the audience that this document is just an environmental document. It is not the actual application and the discussion should focus on the merits of the information within the document and whether it's adequate as opposed to the merits of the project itself.

Mr. Starr: Go ahead Mr. Dack.

### **C. NEW BUSINESS**

- 1. TOWNE DEVELOPMENT OF HAWAII, INC., ENDURANCE INVESTORS, LLC, and ASSOCIATION OF II WAI HUI, LP. requesting comments on the Draft Environmental Impact Statement prepared in support of a Petition for a State**

**Land Use District Boundary Amendment and anticipated applications for a Community Plan Amendment and Change in Zoning for the proposed Puunani Residential Subdivision located at TMK: 3-5-002: 003, Wailuku, Island of Maui. (EAC 2006/0022) (J. Dack) (Draft EISs circulated at the February 10, 2009 meeting.)**

**The EIS triggers are the Community Plan Amendment and the use of State or County lands. The State Land Use Commission is the accepting authority for the Draft EIS.**

**The Planning Commission is being asked to provide comments on the Draft Environmental Impact Statement.**

**A public hearing on the anticipated Community Plan Amendment and Change in Zoning will be scheduled for a future date after the applications for these have been received and processed and the Chapter 343 process has been completed.**

Mr. Jeffrey Dack: Good afternoon. The full Draft Environmental Impact Statement was distributed to the Commissioners at your meeting two weeks ago. You were supposed to have a transmittal memo in your packet but unfortunately I apologize for some confusion within the department, you didn't receive until it was placed on your table today. So I'll probably go – It's very brief, but I'll probably go through a little more thoroughly because it's possible not all commissioners had an opportunity to review the just two-page transmittal memo.

It states that the Department of Planning is transmitting the Draft EIS for the Puunani Subdivision project prepared by Munekiyo and Hiraga on behalf of the petitioners, applicants whom the Planning Director named.

Please note that the proposed action, the overall project involves first a petition to the State Land Use Commission for the State Land Use District Boundary Amendment to change approximately 114 acres of land from the state land agricultural land use designation to a state urban designation and to change approximately 94 acres from a state agricultural designation to a state rural designation.

The petitioners or applicants anticipate a subsequent application to the County of Maui to change the current agriculture and single family designations for the property in the Wailuku-Kahului Community Plan to a combination of rural, single family residential, multi family residential, park and open space and an application for a change in zoning from Agricultural to a combination of RU 0.5 Rural, A-1 Apartment, R-3 Residential, R-1 Residential, R-2 Residential, PK1 Park, OS2 Open Space and RU 1.0 Rural. The acreages of course are listed in your memo as well as in the document itself.

As the first agency to receive an application for the proposed action, the State Land Use Commission is considered to be the accepting authority for the Draft EIS instead of the Maui

Planning Commission. However, in 2006, the department commented upon the project's environmental impact statement preparation notice recommending that the applicant consult with the Maui Planning Commission on the Draft EIS. A Final EIS will be in the environmental review document which all agencies will use during their consideration of the respective applications which may come before them.

The commission now has the opportunity to provide comments which the department will forward to the applicant and which will then be addressed in the Final EIS. The department will also be commenting separately.

The project description section of the Draft EIS states in part that the majority of the subdivision will consist of approximately 127 half-acre rural lots to be sold in fee simple. Conceptual land plan also provides for approximately six, one-acre rural lots, 145 single family residential lots, 473 multi family lots which include affordable units, a portion of which would be for senior and veteran housing as you heard testifiers speak to this morning, 11 ½ acre park, an approximately 9.6 acre storm water retention area, setbacks along Kuikahi Drive and Honoapiilani Highway and a 30-foot no-build zone at the southerly border of the project area.

Related improvements include site grading, subdivision roadway and utilities installation, the provision of vehicular access points from Kuikahi Drive and Honoapiilani Highway and the development of an onsite water source and related structures.

As applicable triggers under Chapter 343 of HRS, the proposed action involves a community plan amendment to the Wailuku-Kahului Community Plan as well as the use of State and County lands.

The Office of Environmental Quality Control (OEQC) publication date for the Draft EIS was January 23<sup>rd</sup> of this year and the 45-day public comment deadline is March the 9<sup>th</sup>.

The department has reviewed the Draft EIS document and finds that pursuant to the Department of Health, Office of Environmental Control the document meets the requirements for a Draft EIS.

The applicant is requesting comments from the commission on the Draft EIS after their consultants make a brief presentation of the project. During your comments, I'll keep notes of them probably brief them, confirm them back to you and then I'll be able to prepare a letter on your behalf by the March 9<sup>th</sup> deadline. Any questions or move onto the presentation?

Mr. Starr: I want to once again clarify our role, and correct me if I'm wrong or right that we, the accepting agency is the State Land Use Commission. They have asked that we comment on this and that the comments will be utilized by them in their review is that correct?

Mr. Dack: Actually it was the Department of Planning in 2006, asked that the Maui Planning Commission be provided an opportunity to comment upon the Draft EIS. So it is the department that made the request for this opportunity and the applicant and consultant have agreed to that. Any comments that you make will be addressed within a Final EIS which will be used not only by the State Land Use Commission but it will be the basis for all the technical work and environmental analysis and conclusions by the project proponents and their consultants that will go into your future

consideration of a community plan amendment and change of zoning presuming one makes its way to you at some point. We don't have applications for those entitlements yet, but we anticipate that if – the consultant might be able to provide better information about if and when they would be providing those applications but I would certainly as staff expect, – at least should the State Land Use Commission accept their petition that then they would make an application if not before that. So this is an opportunity you have to ask questions early in the environmental review process fairly early on questions which could help you in your decision making probably a good year or more down the road ultimately when a future community plan amendment and change in zoning application makes it way to you.

Mr. Starr: This process for us to give comments is this going to be on all of the EAs, EISs for state land use on Maui projects or is this just on this one case?

Mr. Dack: I can't speak to the generality of any policy on that. All I know is that in 2006 a request for this opportunity was made. It's a reasonable policy, but I'm not sure the department has taken that – has made a clear policy one way or the other on that question.

Mr. Starr: Yeah, but I'm saying was that request made for all EISs or just this specific project?

Mr. Dack: In this case there was a comment on this, the environmental preparation notice for this specific project making the request for them to bring it you and give you an opportunity to comment and give you an opportunity to comment, just to specifically comment – specific project in this case.

Mr. Starr: Okay, thank you. Members? Okay, we can have our presentation now. About how long will that run Mr. Munekiyo?

Mr. Munekiyo: Five to ten minutes. Commissioners are you all able to see the slide okay? Okay thank you. Good morning, I'm sorry, good afternoon Mr. Chair and Commissioners, my name is Mike Munekiyo. I'm here on behalf of the applicants, Towne Development of Hawaii, Endurance Investors and the Association of Il Wai Hui.

This action as Jeffrey had explained is currently before the State Land Use Commission. In June of 2006, we did file with the State Land Use Commission an environmental impact statement preparation notice and in July, the Land Use Commission determined that they would be the appropriate accepting authority for this environmental document. And so over the past couple of years we've been working on, working through the issues, some of the infrastructure issues, so forth and we've come to a point now where we do have the Draft EIS completed. Again, there are three land owner applicants involved and I'll go through that in a minute. And again, this is a Draft EIS for your comment.

Just an overview, this is Honoapiilani Highway and I think more from a location standpoint there, this is Kuikahi Drive that goes up to Wailuku Heights, Waikapu here. This is the Waikapu Gardens projects, Mr. Spencer's project. The Valley Isle Fellowship here and Emmanuel Lutheran parcels here which are urban parcels proposed for those two nonprofits. We do have the Waiolani Subdivision here. Waiolani Mauka Subdivision and an agricultural subdivision here. Kealani Project District is in this location. So I think that kind of sets the regional context for the property.

There are two tax parcels involved, parcel 2 and parcel 3. Parcel 3 is owned by Towne Development of Hawaii. This parcel is approximately 148 acres. It goes to the bottom of the Wailuku Heights Subdivision and this darker shaded area, parcel 2 is owned by two entities, Endurance Investors and the Association II Wai Hui. So two distinct owners. However, they have been in collaboration over the past couple years because I think both entities felt that a collaborative master plan approach would be preferable in this instance.

This might be a bit hard to see but what it is, is an oblique aerial photo and you can kind of make out Wailuku Heights in this location, Kuikahi Drive, Honoapiilani Highway and the two church properties here, Waikapu Gardens, Waikapu Mauka. Again, more to kind of indicate the more from a photographic standpoint what the location might look like.

This photo takes us up a little higher in altitude but it's intended to give the commission an understanding of the regional context and particularly the regional roadway context in which this property is located. Again, Honoapiilani Highway here. This is Kuihelani Highway here. This is Waiko Road right here. This is the Waiale Drive located - this dash line is actually a dotted line here is a representation of the extension of the Waiale Road extension. So that's more from a longer term traffic planning standpoint. But again, kind of shows you how all of the roadways are interconnected.

This is Kuikahi Road extension here right here and it connects ultimately to Maui Lani Parkway. So again, it kind of gives you an idea of how it is that this parcel is situated within Wailuku-Kahului and its surrounding roadway networks.

The project proposes a total of 754 units. I'll just run through this real quickly. There will be six, one-acre lots rural designation. Approximately 127, one-half acre lots rural designation. About 47, 10,000 square foot R-3 lots. Approximately 42, 7,500 square foot R-2 lots and the R-1 lots at 56. There are a couple of, or actually when you see the master plan, you'll see several multi family areas designated, 476. Total acreage 208 acres. Total units again, 754. Of this 754, we expect that 50% in accordance with the workforce housing policy would be affordable. So that will be 377 and as indicated by some of the testimony this morning, a good portion is intended for veterans and senior housing. So that kind of gives a summary of the unit count.

Again, as we move through the process we are basically at the front end of the process from an entitlement standpoint. As we move through the process, we'll need to get into more detail with respect to the affordable housing agreement.

This is a map that shows the existing Wailuku-Kahului Community Plan for the project area and I show this map because there is for the most part the property is designated agriculture by the community plan. There is an approximately 25-acre area here next to Waiolani Mauka which is designated in the community plan as single family. So community planned both ag, agriculture and single family. The state land use designation for the entire property is agriculture, agricultural. This area is agricultural and this here zoning is interim. So we've got a combination of zoning categories.

This is somewhat hard to see but the colors are not really distinguishable. Let me just explain a little bit. Property here, this is the one-acre rural lots here. All of this area here are one-half acre rural lots. The darker red here are multi family designated areas. These purplish type designated areas are single family areas. So we've got one-acre rural, one-half acre rural, multi family, single family. This is the 11-acre park site right here and this is a roughly 9.6 acre retention basin and it's at the low point of the property.

Couple things to call out in this site plan. Number one, there is an existing reservoir in this location some of you may notice that going up to Wailuku Heights. There is a area set aside for a second storage, I'm sorry water storage tank and there is also within that area a proposal for a new domestic water well site. And with respect to water the applicants have been working with the Department of Water Supply. They do have a letter of intent within which the applicants have agreed to develop the well site and as part of that arrangement they would be able to get a source allocation which would help to service the project. The water source agreement is still in process. However, the letter of intent has been executed. A copy is in the Draft EIS document. We are now working through the agreement phase of that I guess that particular process.

Another point of interest, this is the old Waikapu Road. This is an existing government road and if you follow the laser pointer here this is the alignment of the existing government road. What the applicants plan to do would be to actually use a portion of this existing government road, realign it and extend it to connect to Kuikahi. So the old Waikapu Road would be, come then a standard county roadway which would terminate here. We have met with the Waikapu Community on a number of occasions and one of the concerns is that any traffic that might traverse old Waikapu Road not be allowed to actually go into Waikapu area. So this road is actually terminated here, although the Waikapu Road, government road alignment actually continues from a practical standpoint it would extend beyond this point. The road would terminate here and serve as one of the major interior collector roads.

Just to recap what Mr. Dack had indicated. There are approximately 94 acres which would be redesignated from agriculture to rural. This would be the rural areas here. The balance 114 acres, actually encompasses this area so this area here where it would have the multi family, single family, and park and retention basin, that would be the urban areas. The balance would be the rural areas from a Land Use Commission standpoint.

This is really hard to see but basically let me just summarize that as Mr. Dack indicated there are a number of land use categories that we are dealing with. The state land use we are seeking reclassification from the agricultural district to the urban and rural district. Zoning categories, we have community plan categories would include the various residential districts RU 0.5, RU 1.0 for the rural designations and the various single family residential districts as well as the A-1 Apartment districts. The retention basin would be open space designated or zoned.

So just a summary of what some of the key points of the project include. Number one, the commitment for affordable housing. As I mentioned, right now it's according to the workforce housing policy, 50% or 377 units and a good portion of that would be targeted to veterans and seniors. There is an 11.5 acre active park which would be equipped with restrooms, parking, site grading, irrigation, so forth. The 9.6 acre retention basin. The construction of a new potable well

as I indicated up near the water tank site that would yield approximately 2 mgd. And actually 75% of that water would be for the County of Maui. And that well site is really intended to disperse the draws from the lao aquifer not necessarily creating new source but dispersing the draw because Shaft 33 which is located right above Wailuku Elementary School will I think ultimately be closed down if not already. Finally, the realignment and upgrade of old Waikapu Road which would also include the elimination of connection to Waikapu Town.

That's our brief presentation. We do have – actually I'd like to call on Mr. Lloyd Sodetani who is one of the principals in this project he has a few words to talk about and then we'll be happy to answer any questions Mr. Chair.

Mr. Starr: Yeah, Mr. Sodetani why don't you come up and talk to us for a few minutes. Welcome

Mr. Lloyd Sodetani: Mr. Chairman, Members of the Commission, my name is Lloyd Sodetani. I am one of the principals for II Wai Hui, Association of II Wai Hui. I'm sorry I was not here earlier this morning when the veterans were here to testify. I am a veteran myself and I served as the Chairman of the Office of Veteran Services, State Advisory Board under the Governor.

When the workforce housing requirement became law we reviewed our project and decided that there was a strong need for senior housing but at the same time I also realized that policies and rules that been established under County and State requirements have never included veterans as a special category and therefore, I made it a point to ensure that in any of our projects we would certainly consider veterans as a special category. I intend to do this here in this particular project.

As you were informed we have 25 acres on the south side of our property that we would like to use for this particular purpose. I'd like to see that switched over to the north side so that we can try to keep a more or a less dense area for Waikapu residents and that is our goal.

As far as senior housing is concerned, I've been monitoring this for the many, many years and I find that for example, the operations at Hale Mahaolu has a wait list of anywhere between two years or more constantly in spite of the fact that there have been other projects throughout the county being built there's still a wait list constantly. I don't think this need can be filled immediately.

Also, I own Maui Realty Company and I can tell you that from past traditions, Maui Realty has been the only one that I know of past or present has developed housing specifically or primarily for veterans. I point to this Hale Koa Subdivision which is right here up on the ridge. Where it was created or developed for our returning veterans during World War II and the Korean War.

As Michael mentioned, Michael Munekiyo mentioned we met with the resident at Waikapu three times, Wailuku Heights residents twice and the Kaha Lani residents once to determine what their concerns were.

I have some reservations about maintaining property under the ag zoning requirements. I think it would cause us to look at what sort of means we could use to generate revenue to insure that we would remain solvent if we were to keep this in agriculture. I think that currently we have such a delicate balance of agriculture here on Maui for our truck farmers especially and hopefully we would

not be forced to compete for raising of crops and livestock to compete with the existing farmers. In addition to that if we were to continue or if we were to start an agricultural operation that would be full force the fear that I have would also be that it would be a creation of nuisance for our neighbors, Waikapu especially with dust, noise, smell, flies and other inconveniences. Our water consumption rate also for the proposed project that we have is estimated to be 600,000 to 700,000 gallons a day as opposed to operating under agriculture which would exceed a million gallons a day. So these are some of the pros and cons of I think keeping it in ag and going into a more urban and rural type of development.

Maui has been my home all of my life pretty much except for the nine years that I was away in college and also in the military. I wouldn't want to see it destroyed. I grew up right below this area. It's been my home pretty much all my life. And I'd like to insure that any changes that occur would not be harmful to our island community here. I would like to be a part of that change. I'd like to also insure that the people who are my neighbors, my friends and my family would also be provided for adequately.

As we go through this process, I hope that we can review and communicate with a common sense approach and to achieve harmony and good growth. Thank you.

Mr. Starr: Okay, thank you Mr. Sodetani.

Mr. Munekiyo: And if I may Mr. Chairman, I'd like to ask Chris Lau just to say a few words. Chris is the other principal.

Mr. Starr: How long?

Mr. Munekiyo: Just a couple minutes.

Mr. Christopher Lau: Mr. Chair, Mr. Planning Director, Commissioners. My name is Christopher Lau. I am Vice Chairman of Towne Development of Hawaii, one of the applicants. I'd like to confirm that we share Mr. Sodetani's sentiments with respect to this project. We also support the development of senior housing and veterans housing on the property.

In the Draft EIS there are some numbers. With respect to the numbers, the number of units for senior or veteran housing, I would say that those numbers should not be limiting numbers if the demands are such that we can develop housing for more seniors or more veterans, we're certainly going to do that. Thank you very much.

Mr. Munekiyo: So Mr. Chairman, we do have our resources here and are available to answer any questions the commissioners may have.

Mr. Starr: Okay, members do we have any questions? And I also see that the Department of Water Supply is very well represented. Go ahead Dr. Iaconetti.

Mr. Iaconetti: I have a economic question. At what price range do you expect the senior citizens veterans properties to be sold at?

Mr. Munekiyo: The prices specifically have not been developed. However they will be in the range of the workforce housing guidelines and just as an example, just to give the commissioners an idea of where that might fall. It's probably in the \$300,000 range, plus range at 100% of median family income. But you know, that number varies over time because it's based on the HUD median income category. So as time progresses and as the project becomes firm then we'll have those numbers fixed but it will be tied to the income guidelines and cost pricing set forth by the Department of Housing and Human Concerns.

Mr. Iaconetti: Do you have any idea of the percentage of veterans that are going to be looking for this housing, where they fall in the economic range here. Are they going to be able to afford the price range that you're talking about?

Mr. Sodetani: Direct those questions to me I'd be happy to answer any of them. First of all, on the affordable requirements. I'd like to see a combination of rentals available just like Hale Mahaolu provides for both the veterans and for any other seniors. Also if there's an opportunity to do a life interest type of sales that would be affordable and fall like Michael says within the guidelines of the workforce housing requirements I certainly would be looking at that. Anything that would be making it affordable for our residents here. And in order for us to do this, we gotta be able to sell those lots so that we can subsidize this project and I think you're fully aware of that.

You know, I do a lot of nonprofit work. I work with youth, I work with veterans. I also do a lot of work with senior citizens to get them into housing because I feel that it is a – there's a strong need there. I see a lot of seniors who have – the children are gone. They're no longer residing here. They have a big house and they need to get rid of that because it's an expensive proposition for them. Cost them a lot of money to maintain that house, but it's also I think provides a better quality of life if they can move into a facility like Hale Mahaolu where they can social interaction with others in there who will share the same interests, etc. And this is the kind of environment that I'd like to see for our seniors so that, again, we can improve their quality of life, make it safer for them too. I'd like to see a wellness program put in there. I'd like to see a clinic for geriatric medicine. If you look at the demographics surrounding that property you'll find that most of the people are growing much older as the years go by that are probably my age category, 60's and 70's and these are the veterans that I'm concerned about too because no one's ever taken care of them.

Mr. Iaconetti: Thank you.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: This is kind of a follow up. I think the number on page 8 was 50% or 377 units for rent or sale for affordable income, 200 would be dedicated to seniors and veterans. Are you possibly double counting there?

Mr. Sodetani: No.

Mr. Mardfin: If I'm a Korean Vet. age 70 would I count as both a senior and a veteran?

Mr. Sodetani: Well, you need to be a senior in order to get in there. Because we're talking about

senior housing. We're talking about a place like Hale Mahaolu as an example. To be eligible for the workforce housing program, you need to fit into that category, seniors.

Mr. Mardfin: And then within the seniors you're specifying you want –

Mr. Sodehani: 50% of that.

Mr. Mardfin: 50% of the senior to be –

Mr. Sodehani: Not 50, yeah 25%, 50 units of the 200 units would be for specifically for veterans.

Mr. Mardfin: It says 50%. You don't –

Mr. Sodehani: No, 50 units it should be, 25% of the 200.

Mr. Mardfin: Okay, that's a mistake in this report. I would urge your consultant to make that note, 50 units. This is on page 9 I think.

Mr. Sodehani: In addition to that, I believe Mr. Lau also represented that if there is additional requirements for senior housing and veterans he would alter his plans to include that. My gut feeling tells me that we have a stronger need for that than anything else right now.

Mr. Mardfin: If these units are, Mike gave a rough ballpark of \$300,000, what would the P and I on a \$300,000? Is this with a house? This is with a house or a building unit. This isn't just raw land. At \$300,000, that does seem lower than a lot of things but what would your P and I have to be?

Mr. Sodehani: You know, I haven't even looked at that kind of stuff at this moment. But let me say this, my concern is that when the time comes, when it actually is developed that the affordable housing requirements are met for the seniors, and that's my whole target area for the workforce housing program.

Mr. Starr: We have –

Mr. Sodehani: I mean, you know, to talk about \$300,000 and all of that, you know, it's something pie in the sky right now. You know, the affordable housing can be \$500,000 or a \$150,000, who knows at that particular time.

Mr. Mardfin: I understand that. Prices go up, sometimes prices go down, we kind of noticed particularly on the mainland but even out here. It's just that I can picture people that already have a house, selling it and moving down a little bit in terms of the ...(inaudible)... Those I can picture. I have a hard time picturing the ones that were described this morning as a living in the hills as being able to move into this under any circumstances. I know you weren't here when the testimony went on, but somebody talked about there are a huge number of vets spread throughout – by the way, thank you for your service and I also am a vet, I'm a Vietnam vet. But they talked about vets being spread throughout the island in nooks and crannies and it didn't sound like any of them are likely to have where with all to be able to even get affordable housing.

Mr. Sodetani: Well, that's why it's guys like me who gotta pull them out of there and bring them to the clinics and to make sure that they receive the type of service that they need so that they can reintegrate into society.

Mr. Mardfin: You also mentioned wellness villages in here, did you – is that in the direct – maybe I didn't read it as thoroughly as I might. Is the wellness villages in here?

Mr. Sodetani: No, wellness center.

Mr. Mardfin: Wellness center in here?

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: Couple of clarifications. So you're saying based upon your proposed density, you're looking at approximately 377 affordable units as mandated by the current ordinance.

Mr. Sodetani: Right.

Mr. Hiranaga: And then you mentioned 200 of those would be prioritized towards seniors. Is that correct?

Mr. Sodetani: Right.

Mr. Hiranaga: And of that 200, 50 if you can qualify for the affordable income level and you're a senior and you're a vet, then 50 of those 200 would be prioritized towards vets.

Mr. Sodetani: Right.

Mr. Hiranaga: Okay, just wanted to make sure I understood what we were talking about.

Mr. Starr: We have Mr. Yamaguchi here from the Department of Water Supply, our able Deputy Director.

Mr. Sodetani: Yamashige.

Mr. Starr: Yeah, yeah, Yamashige. I'm sorry. Second time I've done that recently and I apologize.

Mr. Eric Yamashige: That's okay, Jonathan, I've been called worse.

Mr. Starr: It's been a long day already. Anyway, I know I have a couple of questions on water, but I want to offer it to other members first. Go ahead Commissioner Mardfin.

Mr. Mardfin: It seems to be that they would help dig a well, I presume that would be – would that be on their property?

Mr. Yamashige: Yes.

Mr. Mardfin: And from that they would keep 25% and give 75% to the County or sell 75% to the County.

Mr. Yamashige: No, as I understand it's not sell. We enter into these agreements with developers and this would be a source agreement that has to go through the County Council. This one the bottom line is 25% is what they are looking at retaining. At this point, the most beneficial to the department and the County has been 33%. I'm not sure if – If I can walk you through the calculations that we do. In this case they're proposing a 2 million gallon a day well. County uses 45% of that as the yield which is two-thirds for running the well only 16 hours out of the day, so 16 divided by 24. And then something called the max daily use which is the inversion of three halves. So it's 45%. And our previous agreement with another developer was they would get 75% of that 45% which equates to 33%. In this case, and I don't know what the percentage would be but they'll end up with 25% of that 2 million gallons a day, so 500,000.

Mr. Mardfin: Is that projected to be sufficient for this property only or would that include excess that could be used for other properties?

Mr. Yamashige: Actually at 500,000 a day, according to I guess the EIS, that would not be sufficient for their complete build out. I think I saw a number 691,000 gallons a day, some calculation like that. So based on that, this well would not completely satisfy their requirements and it will either be that they would have to pay source assessments or they would have to pull back on their development to something that would fall within 500,000.

Mr. Mardfin: Thank you.

Mr. Starr: No, I want to continue this line of discussion, 2 million gallon a day pump capacity, 45% of that two-thirds times, two-thirds for operational, two-third for peaking factor, means that the well will actually yield about 900,000 gallons a day. Over time that's the amount that will get used. Out of that 900,000 gallons a day, 500,000 gallons or 25% of the pump capacity is going to be utilized by the developer. That leaves 450,000 gallons a day for use by the rest of the county which means that – you know, some places in here it seemed to allude to the fact that the county would get 75% of the water, but that is really misleading in that the county will not get 75% of the water but rather the county will be getting you know, a much lower amount. I am correct with that?

Mr. Yamashige: That's correct. If you consider 45% is what the well can sustain, if they're getting 25% of that.

Mr. Starr: The county gets 20%.

Mr. Yamashige: 20% yeah.

Mr. Starr: So now we're getting, the county gets 20% for new and existing users, they're getting 25% of the total pump capacity. Now this well will be drilling out of lao aquifer.

Mr. Yamashige: That's correct.

Mr. Starr: And right now lao aquifer is being used 100% by existing customers of the county. However, you're changing facilities, you're getting rid of shaft 33 and replacing it with other wells. So what's happening to my understanding is that the county which is now getting well, 20 million gallons what is usually derated by about 10% or about 18 million gallons we'll be giving up about a half a million gallons that's being given right now to existing users. Meaning that somehow, existing users will have to stop using a half a million gallons a day to make room for this out of the allocation from lao which is fixed and not going to rise. Am I correct with that and could you expand on that a bit?

Mr. Yamashige: Yeah, let me expand on that a little bit. The sustainable yield determined by the commission for lao aquifer is 20 million gallons a day. They have not awarded or allocated all of that sustainable yield. Can't remember the numbers but we are somewhere around 17 million gallons a day. You know, you're right, if we the department has or have applied to the commission for that remaining sustainable yield. I'm sure you've seen it in the paper. The source agreement that is being proposed specifically states that only upon the department getting some of that allocation we'll just be able to move forward, will they be able to get that allocation. So, it is not taking away from our current customers. We certainly cannot do that. It is helping us spread the pumping and we anticipate that shaft 33 will fail some time, we hope not soon, but we are trying to poise ourselves to that inevitable day when the shaft decides to stop pumping and we'll need to pick it up elsewhere.

Mr. Starr: Now in the very near vicinity there was a well drilled on upper Waiko Road that was drilled about nine years ago was when it was first drilled, eight, nine years ago. That well is not producing water and I understand there was some issues with that well and I'm wondering why since that well is so close by and over eight, nine years it's not been able to issue water. Why is there an expectation of a 2-million gallon a day pump capacity on this one?

Mr. Yamashige: The well you're referring to is our Waikapu tank site well. I didn't realize it was built that long ago.

Mr. Starr: Kent and I were on the board then.

Mr. Yamashige: Okay. We are in the final stages of developing that well and by the end of the year we anticipate that we'll be able to draw from that well and put it into the system. So there's nothing wrong with that well, it just took us a while to do that final stage where we're developing it for production. So that's one of the wells. You know that we have another well at the lao tank site. So that's kind of two ends of that spectrum and Kehalani is developing a well. Potentially Poonani would develop a well and the department is looking at developing another well. So five wells will replace the shaft and spread the pumping.

Mr. Starr: What's the capacity of that Waikapu well?

Mr. Yamashige: I think we're developing it for 2 million gallons, but you know, the actual running of it will be less.

Mr. Starr: 900, yeah.

Mr. Yamashige: And keep in mind that just because we compute max daily and 16-hour pumping doesn't mean that we're restricted to that. We do have permits with the commission and you know, we feel we're in the best position to move our pumping around and you know, when we see a well not producing as well, we can move the pumping. So we can utilize our resources.

Mr. Starr: And why did the county get such a bad deal on this compared to other – you mentioned that in the past the county always got a larger share and this is one is the lowest share we've ever done.

Mr. Yamashige: No, actually we're getting the most out of this one. They're only getting 25% of the well capacity. Our previous one they got 33%.

Mr. Starr: Oh, okay. Commissioner Mardfin.

Mr. Mardfin: Picking up on something our Chairman just said and that you said. Right now well 33, shaft 33 is producing 17 million?

Mr. Yamashige: No, I'm sorry.

Mr. Mardfin: Did I get something wrong?

Mr. Yamashige: Out of the entire lao aquifer the department, you know, and I wish I had a better memory, it's not quite 18, I want to say it's almost 17 million gallons a day.

Mr. Mardfin: Okay, I went with the 17.

Mr. Hiranaga: 17.709.

Mr. Yamashige: Thank you. 17.709.

Mr. Starr: Pretty close to 18.

Mr. Yamashige: Yeah, but we have several well fields. We have Waiehu which is above Waiehu Heights, we have Waihee which is not quite to the Waihee aquifer and really from the Waihee aquifer all the way to Waikapu Stream is the lao aquifer.

Mr. Mardfin: What is shaft 33 producing?

Mr. Yamashige: It is, little over 4 million, under 5 million.

Mr. Mardfin: Okay, that's close enough. So if you take – so instead of 17 million, it's 4 million from there and if you're getting 400,000 from this project that means you need 10 such projects to be able to shut down 33, and kind of be break even? Is that?

Mr. Yamashige: May not quite –

Mr. Starr: No.

Mr. Mardfin: Did I get it wrong? 400,000 into 4 million is 10.

Mr. Starr: Yeah, but then the private developers would be getting 5 million gallons which now is going to the county because shaft 33 isn't split. The county gets all of it. Anyway, go ask –

Mr. Yamashige: If you look at it that way and every developer is going to get that 500,000 gallons, yeah, you know, 4. But we are developing lao tank site, the department is, the county. We are also developing Waikapu and we will develop another one somewhere in between that. So it's not that we're only going to get 400,000 gallons out of a well, we'll get more.

Mr. Mardfin: So you don't need 10 projects like this, you might only need five projects like this?

Mr. Yamashige: That's correct.

Mr. Starr: Yeah, Commissioner Hiranaga.

Mr. Hiranaga: Just clarification. When you say 18 million gallons a day, that's the daily sustainable yield over an annual average.

Mr. Yamashige: That's correct.

Mr. Hiranaga: And the annual period moves, is it moving.

Mr. Yamashige: Yeah, they call it the 12-month moving average.

Mr. Hiranaga: Thank you.

Mr. Starr: Okay, Commissioner Mardfin.

Mr. Mardfin: Do I take it that the Water Department is happy with this arrangement. They'd like to see – all other considerations of this project aside, if it were only a water project you'd be happy with what's being proposed?

Mr. Yamashige: Yes, I know they have a lot more challenges than water in this case, but yeah, I think we are looking at pursuing this source agreement with those stipulations in there, so yes, it is something we want to pursue.

Mr. Mardfin: So from the water angle alone, water facet alone, this is looking good to the county.

Mr. Yamashige: Yes.

Mr. Mardfin: Thank you.

Mr. Starr: Okay, thank you very much Mr. Yamashige. You have anything else to add on this?

Mr. Yamashige: No, thank you very much.

Mr. Starr: Okay, thank you for coming down on short notice and keep doing the great work you're doing. Appreciate it.

Mr. Yamashige: Wow, thanks.

Mr. Starr: Okay, Mr. Munekiyo.

Mr. Munekiyo: Any other comments we'd be happy to receive Mr. Chair.

Mr. Starr: Yeah, I'd like to call on the director for a moment to explain the department's position regarding the urban boundary and the green space buffer zone around Wailuku and the ag use of this property and so on. Director.

Mr. Hunt: The Maui Island Plan by law has to establish urban growth boundaries and the department has worked through a model where those urban growth boundaries would accommodate, the acreage of those urban growth boundaries would accommodate population growth and be based on the population growth, no more, no less.

The amount of population growth that we anticipate in Wailuku based on jobs and population increase can be sufficiently accommodated with a certain amount acreage. So the department set out to determine where is the best acreage and we looked at many, many factors and one of the factors is community plan policies and I believe the Wailuku Community Plan speaks to some kind of green belt in that area. So that was one of the factors in determining that the urban growth boundaries at the first draft at the Planning Department level would not include this property.

There's an urban growth boundary to the north and the urban growth boundary to the south. As was mentioned by Dick Mayer this morning, the GPAC Subcommittee has agreed with that definition or delineation of the urban growth boundaries and they have recommended to the full GPAC that it also, this area also not be included in the urban growth boundaries.

I would just like to say that my father was a veteran, my uncle was a veteran and I fully support and realize the needs of the veterans and I would hope that the development that occurs within the urban growth boundaries accommodates veterans and affordable housing and other people need, poor families, single mothers, etc. So this is not anything against veterans. This is just a policy on where is the best areas for future growth to occur on our island. That's the intent of drawing urban growth boundaries.

Mr. Starr: Commissioner U'u.

Mr. U'u: Question towards the director. So prior – would it be given support prior to them going to the Land Use Commission hearing, this project, the comment on your staff would be what?

Mr. Hunt: If they went to the State Land Use Commission right now, we would likely not support it because it's outside the urban growth boundary, draft urban growth boundary.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Mike, I want to deal with the old Waikapu Road issue a minute. I saw in your draft write up and I think what you said was being realigned.

Mr. Munekiyo: Yes.

Mr. Mardfin: And expanded maybe. So you're fundamentally changing the character – are you realigning the road, you pointed out that it went – started from the left-hand side, went down and it currently cuts down and that you're going to expand to the right of that. Are you doing anything – I'm not talking about the part to the right because I understand that's kind of new, but the existing Waikapu Road is that being changed in any fashion?

Mr. Munekiyo: No, and in fact, the road itself, I think in this area more of a paper type of road. There may be a dirt road but it's very much unimproved. And so, in fact, the whole old government road is pretty much an old cane haul road. So what is being done is to get it up to county standards along this new alignment here but nothing – there wouldn't be any access to Honoapiilani and it wouldn't be functional as a road, this segment here.

Mr. Mardfin: But the rest of it from that top point to the left, from there up to the left is currently dirt?

Mr. Munekiyo: Yes, it's an unimproved road.

Mr. Mardfin: Unimproved and you're going to be improving it. So as a historical entity, it's going to change its character.

Mr. Munekiyo: From past use, yes.

Mr. Mardfin: Okay.

Mr. Starr: Mike, in the document we're here to comment on, there's quite a bit of discussion about extending the road down to Honoapiilani Highway and having a right in and right out. Now you're saying that there will not be a connection to Honoapiilani Highway. How come you have it in the document but you're saying it's not the case.

Mr. Munekiyo: I really should have explained the access configuration but there is going to be a right in, right out movement at this location here. So this is the old Waikapu government road. It wouldn't be used as such. However, there would be a new roadway aligned which would run in the makai/mauka direction, it would intersect the old government road in this location and that access via right-in and right-out would be envisioned at this location here. The other locations for access is along here, here and here off of Kuikahi Drive.

Mr. Mardfin: Where would road signals be?

Mr. Munekiyo: Traffic signal would be at Honoapiilani and Kuikahi Drive and again this is right-in, right-out so that would be something that can be accomplished without signalization.

Mr. Mardfin: Is there an existing traffic light at that one?

Mr. Munekiyo: There is right now, yes.

Mr. Starr: Members should we go to public testimony? Dr. Iaconetti.

Mr. Iaconetti: This probably ought to be directed to Jeff, but have we looked into the actual present need for housing with the economic slowdown that we are now experiencing. Have the figures changed where the number of houses that we're behind?

Mr. Hunt: The figures based on the amount of acreage needed to be included in urban growth boundaries is based on population projections. So as the population increases we need more units. There's – it's a complex model. We take into consideration the amount of units that we currently have on the land, the amount of units that are currently entitled and then we estimate the amount of units that we need to entitle beyond that. It has not – to answer your question, that model has not been changed to say we need more units because of the economic downturn.

Mr. Iaconetti: Well, the question is, do we need fewer units than we thought we needed because of the economic downturn that's what I was getting at.

Mr. Hunt: I don't believe the model's been changed one way or the other based on the economic downturn.

Mr. Iaconetti: Do you think that's an important consideration?

Mr. Hunt: I don't believe the economic downturn would affect our long range plans on the amount of acreage we need to accommodate population growth. It's a 20-year planning period and through that 20-year planning period we have population projections and then we back that out – there's formulas that we can estimate the amount of land needed to accommodate that population and that shouldn't be affected by hopefully a short term economic downturn.

Mr. Iaconetti: Depending upon who you believe.

Mr. Hunt: I suppose.

Mr. Starr: I have a question for the director. A while back I participated– actually I represented Maui County at the State Biofuels Task Force meetings in Honolulu and as part of that I researched how much ag land would be necessary if we were to grow fuel crops for generating electric and also fuel crops for fuel for vehicles and it turned out that we could just barely provide if we took every acre we have in ag right now we could just barely provide one of those two needs not – you know, not even think about both of them, but that where reducing our viable ag lands by over 2,000 acres a year. I'm wondering if you have figures on how much prime ag land there is such as this and how much we've reduced it in the last few years. I want to get an impact of what's happening with that.

Mr. Hunt: We have figures on the amount of prime ag land and other ag land. I believe we have figures that have been converted. In other words, through zoning or other development proposals

and we could work with the applicant and include that in the environmental impact statement.

Mr. Starr: Okay. Commissioner Mardfin and then we could go to testimony and then have some more discussion.

Mr. Mardfin: The bunch of the questions I've been asking and I've got a couple more have to do with this letter that we received from Walette Garcia Pellegrino and he's raised a bunch of issues and I'm kind of – she. I don't know this person, but I've been putting it on the – sort of getting it on the record because these are concerns for the EIS and so we're supposed to be giving you on the EIS and so that's why I've been asking them so that they'll be on record that these are things that ought to be addressed in the final.

Mr. Starr: Okay, I just want to discuss process for a minute and see if we have a consensus on the process we'll use which my intent was that we would have public testimony and then ask a few more questions then we would go into a stage where we could bring up comments that we want added to it, get a list of them and then if any of the members want to separate out some of them for further discussion we can do that and then those that we agree on we can pass along. So I was kind of thinking that we weren't quite at that stage of developing that list but we're getting there. So if it's okay, lets go to public testimony and then we can proceed and I see Mr. Duey has been waiting very patiently, chomping at the bit, please come introduce yourself and thank for being here John.

Mr. John Duey: Thank you. Good afternoon, my name is still John Duey. I still live in Iao Valley. Walette Peligrino was here this morning. She had to go to work. I'm a 48-year resident of Maui, 40-year resident of Iao Valley. We own land there. The last five and a half years I've been involved in the water issue. Some of you know that, some of you don't. What I've handed out to you, oh, I'm sorry, thank you Mr. Chairman and the other commissioners for listening to me. The little handout, I handed out to you is a fact sheet that I put together. It's not facts that I thought up, it's facts from the website from the DWS, the Department of Water Supply, USGS, the Commission on Water Resource Management and other places.

Before I got into this I wanted to make a couple comments about this map over here. I'm curious to what happened to Waihee ditch which crosses the lower part below the old Waikapu Road and also what happened to the drop ditch from the reservoir up by Wailuku Heights down to Waihee ditch. There's nothing shown on there. There's two ditches cross that property, there's nothing saying what happened to them.

The fact sheet, I hope I have more than three minutes, but anyway, I wish Eric was still here. As he said the sustainable yield for Iao aquifer is 20 million gallons. And in 2003, the Commission on Water Resource Management or the CWRM said that we should only pump 90% or 18 million gallon out of Iao aquifer. This 17.7 million gallon you see here in the fact, I didn't number them, but about the third one down, in the CWRM staff submittals – let me back up a little bit. There were four, five WUPAs, Water Use Permit Applications, submitted to CWRM for the meeting which was last week. Three of them from the county, hang on just a minute, two from private sources, two private wells and the rest from the county. They were – as you see from this thing the 17.709 million gallons is on a 12-month moving average leaving a balance of 2.91 million gallon in the

aquifer and that's including the 20 million not 18 million. So the new submittals were but in the new WUPAs were for a total of 2.383 million a day which is .092 gallon more than what is there. So out of that 2.291 mdg was a request from DWS, the Department of Water Supply and the balance from the two private sources. If all the four, if all the water had been allocated that's down there, 20 million gallon would have been allocated, the whole shooting match and that's 2 million gallon a day above what CWRM should be pumped. So what they done, they give the county 60% of what they wanted which is 1.374 million gallon and they give the other two guys 3,000 gallons each was a domestic which they're allowed to get. So at the present the total pumping allowed now is 19.83 million 19.083 million gallon and total of .917 million gallon left in lao aquifer.

When you see in the paper about 25 or 24 million gallon from Central Maui bear in mind that the lao tunnel and Kepaniwai well is what they call high level water. It's not aquifer water. It would be if it got down there, but they take it before it gets there. So the 17.7 is actually pumped water.

On the next page at the top DWS signed a letter in March of 2008, as Eric has stated and the statement of putting a 2 million gallon well is, if you just look at it sounds great but as Eric was explaining the water, all this water, all they're doing is spreading out the pumping because shaft 33 last I seen was 5.771 million gallon a day. So they want to get rid of that by moving the pumping around. By putting a 2 million gallon well down all you're doing is changing the water. You're pumping the same water from a different source. It's not any new water, it's just the same water you're trying to draw up from a different well.

Jeff Eng had told me, the second fact on the second page, that from two-thirds and two-thirds as Mr. Starr related to, that would wind up at 885,780 gallons per day of reliable from the supposedly 2 million gallon well.

The next fact down I put an an "x" on cross that out because – third one down, Central Maui the average household is 616 gallon. I had figured up that 464,000 gallons a day and a little bit for the park at 500,000 but they were saying they're using between 600 to 700,000. So at the capacity of the well actually it ends up winds up nothing for DWS. ...(inaudible)... the well capacity at 885, leave very little left for the County of Maui.

The EIS sounds good but if DWS can't get the .917 million gallon how does somebody else expect to get it?

On the back two sheets of your handout, the back sheet shows all the aquifers in Central Maui. And the other sheet shows where the project is which is right in the lao aquifer. So the well that they're proposing putting down is in the lao aquifer there's no question.

Mr. Starr: I'm going to have to ask you wrap up.

Mr. Duey: See where I should go. Anyway, the County doesn't want to go north because the reliability of water is not as good towards Waihee north and Waikapu is only 2 million gallon and the developer down there has already scooped up 1.6 million of that water. So there really isn't much left.

The only thing I have to say is well, Waihee has been over pumping by – they only supposed to pump about 4 million gallon at Waihee and they're pumping 5 million gallon a day.

In response to the developer's question or statement about they had to do something with the land, they didn't have to buy it. Thank you very much.

Mr. Starr: Thank you. Any questions for Mr. Duey? Thank you very much. Any other members of the public wishing to give testimony on this? Please come forward, introduce yourself.

Mr. Russell Gushi: Good afternoon Commissioners. My name's Russell Gushi. I'm a resident of Waikapu. I just wanted to kind of give you a, paint a picture as to what our community is like so that you can see what kind of impact one of the roads might have on the community. I did attend a community presentation meetings that the developer did provide and we appreciate their response to some of our comments.

I think what I'd like to know a little bit more, is a little bit more detail as how they propose to terminate the road, the old Waikapu Road that they're utilizing and appears to be continuing on to the south side. The neighborhood that they're impacting is over a hundred years. There's homes that are over a hundred years old. There's families that's been there for over four generations. One side of the road is lined with old dry stack rock walls with old mature trees, the other side has an old, remnants of an old auwai system and we're concerned that if the volume of traffic were to increase and the speed was to also increase that would impact the neighborhood, it would destroy some of the character of the neighborhood. We're not against the project, it's just that we're trying to preserve what we already have in a old traditional neighborhood. So I think how that termination is addressed and how that's going to be detailed is of interest to our neighborhood. I think that's the only comment I have.

Mr. Starr: Dr. Iaconetti has a question for you.

Mr. Iaconetti: Has that road been utilized at the present time?

Mr. Gushi: As was described, it's a dirt road.

Mr. Iaconetti: Yeah, is it being used?

Mr. Gushi: For vehicular traffic?

Mr. Iaconetti: Yes.

Mr. Gushi: No. Just portions of it where that recent Waikapu Pikaki Subdivision was developed, they improved the road from that subdivision onto towards the south side or towards West Waiko Road. So that parts been utilized now, but the rest of it has been partially utilized, I take that back, partially utilized. There's couple of residences that's already been there and the road's been partially improved. In other words, it has a black top surface but it's not to any standards that I can determined and so it's been used by couple of the residences and beyond that it hasn't been used by the public. It's a dirt road.

Mr. Starr: Commissioner U'u.

Mr. U'u: Question. Does Waikapu have a community association?

Mr. Gushi: Yes they do.

Mr. U'u: And what are their feelings towards this project?

Mr. Gushi: I don't think anybody opposes the project. All the testimonies I've heard at the meetings I don't think anyone has opposed it. I think we have concerns. I think we're looking for a quality project, quality project in the sense that it addresses the needs of the community but also addresses the existing needs or the existing community and so we're trying to strike a balance and I think it's a – from the testimonies I heard this morning from veterans I think it's a great project. I think it's something that just has to be a little fine tuned a little bit more. Again, I'm here not against it or for it, I'm just here expressing some of the concerns that we had and to give you a better picture of the character of what's going to be impacted because I think if you look at the plans you don't get that. You don't get that feeling of the neighborhood.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Russ, I wanted to ask you, what's your thoughts of the proposed rural zoning they're trying say that's going to create separation from Wailuku Town and Waikapu Town and the majority if it is half acre lots which I guess could allow 700 square foot cottages so you'd end up with two dwellings on half an acre, but from your personal and professional perspective, what's your thoughts about the proposed change in zoning?

Mr. Gushi: In some ways I think it's a compromise, a good compromise. You know, in an ideal situation I think everybody in Waikapu would like to see a open space separation. I don't think that's realistic because I've never seen the County come forward with money to purchase the land to create that separation and I don't think the private developers see any motivation to do that. So I think this is a reasonable compromise in a sense that they're providing large lots residences versus, you know, I guess they could go in for a different type of zoning change to get more denser development.

Mr. Starr: Okay, thank you Mr. Gushi.

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

Mr. Fred Ruge: Good morning. My name is Fred Ruge. I'm also a board member of the Salvation Army and I'm a Korean War Veteran and Veterans Advocate and I want to support Item No. 1. I've been told by the developers that they're going to give special preference to veterans on their affordable housing. There are 11,000 veterans here approximately on Maui. A lot of veterans are going to be coming back from Iraq and so we want to totally support this. I've talked to a lot of members of the board of the Salvation Army and while they can't officially approve anything, individually there are a lot of the members that we do a lot of work for the veterans and the Salvation Army. So I urge you to give a lot of thought to how the benefits the veterans will receive

if this project goes through. Thank you very much.

Mr. Starr: And thank you for coming forward. Members any questions? Not seeing any, next testifier is Sam Araki followed by Dick Mayer.

Mr. Sam Araki: Good morning. My name is Sam Araki and I'm past State Commander for the Veterans of Foreign Wars. I heard of this project and you know, it has a portion where it mentioned the veterans. Any time there's any kind of project that mentions veterans and it includes veterans, I'm for it because a lot of times the veterans are forgotten. This is one of the first projects I've heard of that includes veterans. I'm for this project and I don't think so it's going to benefit me but it's going to benefit the veterans that's coming back from war and like I said, I hope you know, it will benefit them because I'll testify for this, you know, it will be more for the future veterans that's returning. Thank you.

Mr. Starr: Thank you. Next is Dick Mayer and Dick I noticed you signed up to testify on two items, two separate items and I will allow you to testify twice, but try to help keep it brief as you can.

Mr. Dick Mayer: I will try to do that. First one I would like to talk about is the project that was just mentioned the Towne Development between Waikapu and Wailuku. First of all, I want to say I'm Vice-Chair of the GPAC. And I'd like to make a few comments related to that position and then I'd like to make some comments on my own separately.

As you may remember about a year ago, the GPAC voted a resolution and sent it to you asking that you hold back on making any decisions on large projects until the general GPAC recommendations come to you, until you get to see the overall picture for all the developments in Central Maui as well as all of the Maui Island projects. And I would hope that you would hold yourselves to that position rather than making any particular recommendation at this time.

As you may know we have a deadline, the GPAC this week, we're finishing up on Saturday with our recommendations. And let me give you the status as of right now. The department recommended that this particular area not be developed and left it outside the urban growth boundary. The GPAC has divided itself up into IRCs, Investigative Review Committees to look at these things and the IRC dealing with land use in Central Maui did not recommend this area for inclusion because there were so many other developments in and around this area ranging from Waiale to the areas in Waikapu, Kealani, Maui Lani, etc., they felt there was enough units in the area that did not warrant an additional project.

Another concern was the location of this project between Wailuku and Waikapu. One of the major goals of the recommendations that we'll be making is to create separate and distinct communities from each other so that one community does not just run into the next community. And the feeling was that Wailuku and Waikapu could be forced to run into each other with no boundary line between the two with this project. And if you read through the EIS as I did last night, it makes the statement that this community will form a buffer between Wailuku and Waikapu. This is hardly a buffer with 754 units in the project plus ohanas which are not counted in the number, and I would urge you when you go through the EIS and make a recommendation regarding the EIS that you add in whether it be 50% of the housing units having ohanas, but we're probably talking of over a

thousand units, that's hardly a buffer in this area.

The vote will be taken on Saturday as to our final recommendations which you will get probably in April when you folks have six months to make your recommendations on the Maui Island Plan and I would hope that you would consider this EIS in that context.

On a personal level, I think that the traffic situation on the highway between here and Waikapu is extremely bad. Many of the intersections are rated "F" or will be "F" in the future and this project will only add to some of the problems rather than detract from it. And I think there are many, many other concerns and in the few minutes I have I don't want to go through them all. But I would urge you take a good look at the EIS and not just waive it through to the State Land Use Commission. That's my three minutes on that one.

Mr. Starr: Questions for Mr. Mayer? Commissioner Mardfin.

Mr. Mardfin: Mr. Mayer, on the first project you spoke about did GPAC look at all these various projects that were coming in specifically?

Mr. Mayer: The developers gave us their presentations, we looked at them and depending on who the individual was some people looked at them very carefully each one of them carefully, others you know, just saw the overall impact of them, but the IRC which did take a look at the urban growth boundary and where they were going to be drawn, did look at each of these sites and decide whether they should be in or should be outside of an urban growth boundary.

Mr. Mardfin: So these developers had a chance to make their pitch before your committee?

Mr. Mayer: Yes.

Mr. Mardfin: Thank you.

Mr. Mitch Gagerberg: I want to thank you for having this hearing. My name's Mitch Gagerberg, President of Vietnam Vets of Maui County. I'm here to support the Poonani project. It's a project that I've talked to the developer that's include 50 dwellings for senior veterans. We've been talking about the need for senior veteran housing here for about eight years now. We have 12,000 veterans, 11 or 12,000 on the island. About 50 to 60% of those are over 62, 5,000 are Vietnam veterans. We have had numerous problems with veterans without housing here and I'm talking about married veterans who have been here for quite a while, 10 or 15 years and have been jumping around from rental unit to rental unit, bounced around, kicked out. They're getting to the point where their health's poor. So we need this type of housing now on Maui. The developer has promised to earmark 50 units for this type, for veteran, elderly veteran over 62, 60 or 62 with a wellness center and a on-premise nurse and of course, the attraction of this is it's going to be close to the VA Clinic and the VA Vet Center where they can get other help through the VA for their disabilities or whatever else needs they have.

We have never had this proposed before on Maui. We have tried to get the federal VA in this but to no avail. You know they've invested millions of dollars in our clinic and our vet center which has

been a life saver. We have 3,000 veterans now using our clinic. We have two doctors and five nurses. So we've made a lot of progress but I would urge you to look at the positive effects on elderly veterans and ...(inaudible)... I've also told Town House would follow suit and build another 50 units. So that would be a hundred units for the veterans. The Vietnam Vets are pretty much saying we need this for sure and I know the Korean War Veterans do to, some of them. So please consider this before you make your final decision and thank you.

Mr. Starr: Thank you. Next testifier will be Paul Logue.

Mr. Paul Logue: Aloha mai ka ko, ..(inaudible).. And I'm here for the veterans on this project that Mitch was just talking about. I want us to all keep in mind for a moment that it's the land of the free and the home of the brave because of the brave. The veterans are people who are everybody, all religions, all backgrounds, all creeds who have earned the right to ask for a little preferential housing in an area that you guys can do something about. Guys who have been to war and have been in the service have gone through things that aren't all always readily apparent. There's degrees of reaction. There's things that happen over time that aren't apparent that you may not see that affect those individuals forever. And part of that effect is keeping this country free and we can do nothing better than to support our veterans and thank them for the job well done and to show the future generations that we know how to take care of those people who have taken care of us. Thank you.

Mr. Starr: Mr. Logue I have a question for you. Did you read the document that we're reviewing today?

Mr. Logue: I looked at the document and my only concern actually really and one thing I'm glad that you brought that up is what I'd really like to see is I would like to see a situation where the planning commission in all cases gives a preferential housing for at least 25% of veterans.

Mr. Starr: Are you aware that as far as I could tell there's no mention of veterans in the document that we're reviewing today.

Mr. Logue: I was told Mr. Sodehani that there was going to be, as Mitch pointed out a housing segment for senior veterans. Now is that not correct?

Mr. Starr: We're just reviewing a document today, but anyway, thank you for your testimony. Commissioner Mardfin.

Mr. Mardfin: I want to thank you for your service. I also am a vet. I served in Vietnam from 1967 to 68 in the U.S. Army. Are there – in existing housing projects I take, are there any others that give preference to veterans of any sort?

Mr. Logue: Not that I know of.

Mr. Mardfin: And how are they able to do that legally?

Mr. Logue: You can discriminate in behalf of numerous things. There are things that you cannot

discriminate against such as race, religion, color, creed, etc. As you notice in some housing you can discriminate in behalf of people 55 years and older in senior housing. So discrimination is fine in certain areas and it's not fine in certain other areas. And I think Mr. ...(inaudible)... has the segment on the housing.

Mr. Mardfin: Thank you.

Mr. Starr: I believe I may have misspoken, anyway, I'll turn it over to Commissioner U'u.

Mr. U'u: Paul, question, they say 200 units will be dedicated to seniors and veterans. As far as the veteran count on the island, how much do we have that potentially need a home or for that fact would qualify for a home?

Mr. Logue: You know, I really don't know. What I'm hoping for is that these senior veterans get the first bite of the apple and anything left on the apple for the rest of the people.

Mr. U'u: Thank you.

Mr. Starr: I do want to first of all comment that your service is certainly appreciated by everyone and there is mention on page 9 which I didn't see that – of the affordable units approximately 200 units will be dedicated to seniors and veterans which is a good thing.

Mr. Logue: Thank you and I also want to point out that there are a lot more veterans here who are probably not going to talk who are here who have given tremendous service. Thank you very kindly.

Mr. Starr: There certainly is a need for that and thank you. Who else would like to testify, please make yourself known. Please raise your hand or stand up. Please come up and introduce yourself, good to see you. How about the handheld mike.

Mr. Jimmy Rust: Yeah, good morning. My name is Jimmy Rust. I just want to reiterate the two guys before me about veterans having a chance to have something here. I'm a Vietnam Vet. I have service connected diseases. Yeah, I am in support of this project. I'd like to see it get preferential treatment. This is one of a kind. I don't think anything like this have been offered to veterans before. So I'd like to ask this commission to take a good hard look at it and possibly put it on the fast track. Thank you.

Mr. Starr: Thank you Mr. Rust, good to see you again.

Mr. Mardfin: Can I ask a question?

Mr. Starr: Hold on Mr. Rust, Jimmy hold on. Commissioner Mardfin.

Mr. Mardfin: I want to thank you for your service also. But more than that, would you be a person that would want one of these units or do you already have your housing?

Mr. Rust: Yeah, I already have thanks to DHHL I have a lot up in Waiohuli.

Mr. Mardfin: What made you come down to testify? Are you a member of a veterans organization that was notified about this?

Mr. Rust: Yes, I'm the Jr. Vice for the Disabled American Veterans.

Mr. Mardfin: I mean, if you don't need the housing. How did you hear, your organization was notified that this would potentially offer some special.

Mr. Rust: Exactly. We found out at our meeting yesterday for the Veterans Council.

Mr. Mardfin: Do you have any idea how many veterans on this part of Maui actually need housing?

Mr. Rust: I know one thing there's a whole bunch of them. I don't know if they can afford even the affordable but there's a whole bunch of them. We got a lot of them out there in bush. Lot of them up on the mountain. Lot of them in hiding. You got them throughout Kaupo, Kipahulu, Koale, Hana, Nahiku, Keanae, all up in the mountains.

Mr. Mardfin: Thank you very much.

Mr. Starr: Okay, thank you Mr. Rust. Anyone else wishing to offer testimony on any agenda item? Ms. Bowie please come forward. Welcome and introduce yourself.

Ms. Irene Bowie: My name is Irene Bowie, I'm the Executive Director with Maui Tomorrow Foundation. I'm just going to speak on this issue with Towne Development personally and not for Maui Tomorrow. My father was a veteran of World War II. He served honorably in the Marine Corp on the Battle of Guadalcanal and Peleliu. I have great respect for the veterans of this country and all the servicemen that are coming back now and will be coming back from Iraq and Afghanistan but I'd like to say that I think this is so much bigger of an issue to say that we have 11,000 veterans on this island and many that are need of affordable housing just speaks to me of the great need we have for affordable housing on this island. And rather than saying that one development should be pushed through because this person is saying they're going to do that, I would ask these folks here and the veterans organizations to please meet with housing for the local people, Face Maui and the people on this island right now that are trying to get affordable housing. Every housing development on this island ought to be incorporating things to serve people like this. So I just felt moved to share that. That's all I have to say on it. Thank you.

Mr. Starr: Okay, thank you very much. Any other members of the public wishing to offer testimony please come forward, introduce yourself. Welcome.

Mr. Michael Kovich: My name's Michael Kovich. I've been a veteran's activist on this island for about 20 years. For a long, long time we've been trying to work out this issue. It's turned into a political issue because there are segments of the community that simply don't want to help the veterans out. So we're going past that. This is the first development, and we've talked to a lot. I've talked to A and B and B and this one and that one, this is the first development that actually offered

to put those 50 houses there. Now do we really need, is that many veterans that need housing? Well, yes. But the reason problem is this, there'll be a lot of people that want to go from their bigger houses to small houses. Maybe let their family move in. Be part of a community. We have the President of Vietnam Veterans of Maui County, Mitch Gagerberg is the ...(inaudible)... face. So we're looking at those possibilities. So far this one is the one that's offered us the best. So we're going to be putting our energy behind it. It's that simple for me.

Mr. Starr: Thank you very much.

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

Mr. Starr: Do we have any other members of the public wishing to give testimony on this, please come forward? Not seeing any, public testimony is now closed. Members, other questions or discussion before we start going onto a list of comments. Commissioner Hiranaga.

Mr. Hiranaga: I may have missed this through this document, are you proposing house and lot or homes on the proposed lots on the entire project or is it just the single family zoned area and the rural would be vacant lots? I'm not sure if it was specified.

Mr. Munekiyo: It hasn't been defined to that level but in general the larger lots would be sold as lots only. Again, depending on the lot sizes for the single family it may be more appropriate to do house/lot packages but at this point all we're saying is this is the kind of unit type that we're looking for in terms of products and we haven't really gotten to the point where we actually defined the packaging process at this point.

Mr. Hiranaga: Wouldn't that be part of your performa analysis though – to determine your, you know, how many units you need to create in order to make this project financially justifiable. I would think you're looking at vacant lot versus built out.

Mr. Munekiyo: I know that the applicants have done that. I'm not sure if Mr. Sodetani or Mr. Lau might be able to respond, but as far as the EIS document is concerned what we're doing is presenting what it is that the master plan is envisioning. Didn't really get into the financial elements, but it's been looked at.

Mr. Starr: Very briefly Mr. Sodetani please.

Mr. Sodetani: We haven't really looked at it from any specific perspective but all of our calculations have been based on vacant lots.

Mr. Starr: Mr. Munekiyo, are all three owners intend to develop and subdivide and develop or is there an intent to gain entitlements and then sell it for others to do that?

Mr. Munekiyo: The intent is for the developers to develop.

Mr. Starr: All three?

Mr. Munekiyo: Right.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Mike, could you go to Figure 3, it's the aerial photo. That's the one. It doesn't quite look like that on the screen.

Mr. Munekiyo: Yeah, it's kind of skewed.

Mr. Mardfin: What we have in our book shows a very green area. Can you tell me what's growing there?

Mr. Munekiyo: The property is currently fallow agricultural lands. So it was formerly in sugar cane a while back more recently in pineapple, but it's basically it's grasses and weeds that have been overgrown.

Mr. Mardfin: So all that green area is grasses and weeds.

Mr. Starr: No, and pineapple.

Mr. Mardfin: I'm sorry? And pineapple.

Mr. Munekiyo: These are remnant. Most recently it was cultivated as pineapple. But you know, those have been overtaken substantially by weeds and grasses.

Mr. Mardfin: So even though it's prime agricultural land it's not being used for agriculture in any sense?

Mr. Munekiyo: There is a small area I think being used for grazing and I think small area being used for I think some kind of crops but certainly from an agricultural standpoint underutilized at this point.

Mr. Starr: Okay, I have – Commissioner Hiranaga you got one?

Mr. Hiranaga: Can you provide more information regarding the Waikapu Ranch Ag Subdivision, number of lots, lot sizes?

Mr. Munekiyo: You know, I'm not familiar with that project. Possibly though as a comment we could detail characteristics of surrounding properties in greater depth in the document.

Mr. Hiranaga: And what's proposed to the right of the Emmanuel Lutheran Church?

Mr. Munekiyo: The Valley Isle Fellowship, I'm not sure what they have specifically proposed.

Mr. Hiranaga: No, to the right of Emmanuel Lutheran.

Mr. Munekiyo: Oh, I think that is, oh okay, according to Mr. Lau this is part of a property that is

unzoned. I think in the community plan it's designated as agriculture isn't it? I'll just verify if I can have a minute. But it's vacant, undeveloped. That's to the immediate south of Kuihelani Highway.

Mr. Hiranaga: Kuikahi Drive.

Mr. Munekiyo: I'm sorry, yeah, Kuikahi Drive. So it is designated as agriculture in the community plan unzoned.

Mr. Hiranaga: But it's part of the Kehalani Project District.

Mr. Munekiyo: Actually the project district boundary ends at Kuikahi Drive here and I think this is just a separate tax parcel which is zoned agricultural.

Mr. Hiranaga: Okay, thank you.

Mr. Starr: I have a question. What is going to be the policies regarding multi modal access and connectivity in terms of making sidewalks, bikeways and ability to move through this area with connectivity. Is there such a policy?

Mr. Munekiyo: Not in terms of a policy but I think from a land planning standpoint, that's something that the applicants have taken into consideration and let me just move to the masterplan. You know, one of the things that I probably should have also mentioned is that there is a 50-foot setback here along Kuikahi, 50-foot setback along the Waikapu, I'm sorry the Wailuku Heights boundary along these one-acre lots, a 30-foot no build zone here, 25-foot setback along here but within this setback along Kuikahi there's certainly opportunity for pedestrian/bicycle access although as many of you know, it is quite a steep climb to Wailuku Heights. Similarly I think as we develop the internal major roadways then the opportunities for providing for pedestrian and bicycle access would be considered. At this point – in other words, the plan, the setbacks, the roadway layout, so forth, would provide for that at this point we haven't gotten to the detailed even preliminary – definition of a typical section but certainly the way it's laid out it's meant to include that kind of provision.

Mr. Starr: Are there any policies regarding energy efficiency and water efficiency throughout this project?

Mr. Munekiyo: Again, not in terms of specific policies. What we're going through right now at the stage that we're at, the draft EIS is to disclose to the public what it is that the master plan looks like. As we receive comments, as we have from Water Department and as well from this commission, we'll see what it is that we need to consider as move into the final EIS phase and if it is that energy conservation, multi modal access is something that we need to incorporate in the document as well as the plan then we'll do that. We're just trying again, develop the project to the point where through the comment process that we think that everybody can be comfortable with what it is that's being presented.

Mr. Starr: Okay, we ready to start making some comments? Mr. Dack, you're ready to receive them? Okay Commissioner Mardfin I think you had some stuff before. Now is the time.

Mr. Mardfin: I was advised by our counsel, that this person, Walette Garcia Pellegrino can write to the I guess to the consultant and have their letter of comment down in full and they should be advised to do that but if the person's not here I will still ask some of the questions if it's okay. This person was concerned about –

Mr. Starr: I would hope you're not asking questions at this point but rather making comments which will be answered in the document.

Mr. Mardfin: Yes. One question to be answered is about what's happening to the old Waikapu Road if it's historically significant. A second question would be, does the EIS or EA, EIS excuse me, deal with scenic corridors that go to the West Maui Mountains? A question would be how to deal with, and this goes to something our Chairman mentioned, children traveling to school, how will that be done so they can be done safely without adversely affecting traffic in the area. And I guess another one is, is an 11 ½ acre park with 20 parking spaces sufficient for this community? I'll stop there. Let me add one more. The water, Mr. Duey, I think brings up a really important point and I think there should be in the EIS a complete analysis of water usage that will deal with the total capacity for the system and whether this is just a diversion or whether it's I gather it sounds like it's a diversion rather than a generation of water.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: I guess what I'd like to see under alternatives to the proposed action, you can tell me that if this is appropriate or not, but I'd like to see a scenario where rather than a rural designation it's an ag designation so somehow there is a balance between ag and single family with the concentration of the ag designation along the south boundary. Understand what I'm asking for? Right now they're saying rural single family. So I just want to see a proposed, you know, alternative to the proposed action based upon ag and single family because that would create some type of green buffer if you have a agricultural subdivision between Waikapu and this project. And I would think that you'd want to concentrate the single family designation along Kuikahi Drive but I'll leave that up to you.

Mr. Starr: Okay, I'll add a couple. Want to see an analysis of how much prime ag land there is on Maui Island. How much it's being reduced each year and over the last 10 years and what the impact will be by removing this prime ag from the agricultural inventory if the need comes to grow food and/or fuel crops for our own utilization in the future. Commissioner U'u.

Mr. U'u: I'd just like to add to that.

Mr. Starr: Okay, wait, lets give him a sec to write it. As soon as you see his pen stop moving, go.

Mr. U'u: Add to that, the prime designated land which is designated A and B, I would like to know the total I guess acreage in that study of what is prime at A and B.

Mr. Starr: Yeah. So in other words, of the ag land inventory, how much of it is for prime, how much of it is designated A and how much is designated B. What is the impact of the 500,000 gallons a day of water from the limited amount allocated from lao aquifer to be used for this project. What

is the impact on the existing municipal user base. You ready Mr. Dack? Commissioner Mardfin.

Mr. Mardfin: Switching directions if the developer is going to talk about wellness villages, I'm sorry wellness centers in connection with this project I would think something like that should be included in the EIS.

Mr. Starr: Commission U'u.

Mr. U'u: Yeah, I'd also like to have an updated report on the capacity for school enrollment. It has a projected enrollment which surpassed. It's dated '06-'07 and '08 and '09 and see if the estimated projected enrollment for the three schools in Wailuku is on track with the potential I guess added with this development.

Mr. Starr: Okay, ready Mr. Dack? Would like to see a policy regarding connectivity and multi modal access and now that we're asking for connectivity, I'd like to ask about the impact on the adjoining community of Waikapu to the impacts of connectivity on the old Waikapu Road. And would like to see a policy regarding energy and water efficiency throughout this project, you know, like possible LEED or some such.

The big one now is the – this land has been designated as the open space buffer for Wailuku, examine the impact of removal of the potential for a green space buffer around Wailuku.

Mr. Dack: You mean around Waikapu?

Mr. Starr: No, this is a green space buffer for Wailuku, am I correct Director? Am I using the right term?

Mr. Hunt: I think it's one and the same. You have one on one side, one on the other.

Mr. Starr: And what is the impact if the – if this is left out of the urban boundary and the process is completed. What is the impact? A further comment on that is right now there is no entitlement. There is no expectation or entitlements since it's ag – development since it's agricultural, but once the process is completed, there becomes that entitlement. Is that clear?

Mr. Dack: I think so.

Mr. Starr: Any more? Director any suggestions here? Did we capture the gist of the department's feelings regarding the urban boundary argument?

Mr. Hunt: I think your last question that you alluded to I think would give an opportunity for the applicant to discuss that in the EIS.

Mr. Starr: Yeah, and once again, the department I hope will send in its comments based on where the process is regarding the GPAC. Commission U'u.

Mr. U'u: Just a question, when does this go before the State Land Use Commission?

Mr. Munekiyo: As mentioned by Mr. Dack, the 45-day comment period on the draft EIS concludes on March 9<sup>th</sup>. We'll probably need a couple months to complete the final EIS and then once that final EIS is submitted to the State Land Use Commission they generally schedule a meeting before the commission within a month. So generally, probably some time this summer is what we're looking at.

Mr. Starr: I have one more which is I used to live right above this in Wailuku Heights and I heard from a number of my neighbors, one of whom wrote a letter, Mr. Tony Takitani and they are not thrilled about the impacts. So I want to understand what the remediation of the impacts will be on the people who live in Wailuku Heights and the people who live in Waikapu who will be – have their expectation of peace and quiet from the ag use interrupted by construction and a crowded neighborhood. Okay, members any more? Okay, so we have a list. Do we need them read back or can we just – do we want to separate any out, what's your pleasure? Should we just go with it?

Mr. Dack: I have 17 right now. I'm fairly clear if you're comfortable with proceeding, I'm sure I can put a letter together.

Mr. Starr: I mean, I'd be happy to go with it. Should we have a motion that those be our comments as stated? Someone wants to make such?

Mr. Mardfin: I move that those comments go forward as reactions from commissioners.

Mr. U'u: Second.

Mr. Starr: Okay, we have a motion by Commissioner Mardfin, seconded by Commissioner U'u. Director.

Mr. Hunt: Motion is that those comments be forwarded as comments from this commission.

Mr. Starr: All in favor, raise your hand. All opposed.

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

**VOTED: That the Comments of the Commission Be Forwarded.**  
**(Assenting - W. Mardfin, B. U'u, K. Hiranaga, D. Domingo, W. Iaconetti,**  
**J. Starr)**  
**(Excused - W. Hedani, J. Guard)**

Mr. Starr: Okay, done. Thank you very much and I want to thank the applicant for their patience.

Mr. Munekiyo: Thank you for your comments commissioners.

Mr. Starr: And thank you Mr. Dack, well done. Okay, we're going to take a 10-minute recess. Come back for more fun.

A recess was called at 3:00 p.m., and the meeting was reconvened at 3:07 p.m.

Mr. Starr: Back in order, February 24<sup>th</sup>. I will sit in for the director and introduce the next item is Nona Lani, LLC requesting an Environmental Assessment Determination on the final Environmental Assessment prepared in support of the etc., etc., etc. The Planner is Mr. Jeffrey Dack. I turn it over to Mr. Dack.

2. **NONA LANI, LLC requesting an Environmental Assessment Determination on the Final Environmental Assessment prepared in support of the Community Plan Amendment applications from Multi-family to Hotel and Change in Zoning from R-2 Residential to H-1 Hotel District for the existing Nona Lani Cottages located at 455 South Kihei Road, TMK: 3-9-041:001, Kihei, Island of Maui. (EA 2006/0002) (CPA 2006/001) (CIZ 2006/0001) (J. Dack) (Draft EA was reviewed by the Maui Planning Commission on April 22, 2008 and copies of the Final EA were circulated to the Maui Planning Commission members at the February 10, 2009 meeting.)**

**As stated in the Draft Environmental Assessment, the EA trigger is the Community Plan Amendment. The accepting authority for the Environmental Assessment is the Maui Planning Commission.**

**The public hearing on the Community Plan Amendment and Change in Zoning will be scheduled for a future date after the Chapter 343 process has been completed.**

Mr. Jeffrey Dack. Okay, this final environmental assessment for the community plan and change in zoning requests in support of the requested of those land use entitlements for the Nona Lani project. The Nona Lani Cottages project was actually prepared by Chris Hart and Partners on behalf of the applicants, Nona Lani LLC.

You have previously reviewed a draft EA, commented upon that and now you have the final in front of you ready for your consideration, acceptance.

Changes from the draft include comments received during the 30-day public review period along with applicant responses by way of letters and text changes to the draft EA. Applications for change in zoning and community plan amendment were filed and have been held in abeyance by the department pending completion of this Chapter 343 HRS process.

Note that no development is proposed at this time. You only have one, you have one agency comment on the table in front of you in addition to those which were in the draft EA, excuse me, in the final EA because that comment letter was received after the filing period for the draft EA in fact received only very recently. It was received from the Department of Water Supply and you also have a response letter from Chris Hart and Partners to that Department of Water Supply comment letter, again, on the table in front of you.

You have options to, at this point, either accept the final EA and issue a Finding of No Significant Impact Determination. You can defer the final EA or you could require the applicant to prepare an environmental impact statement.

The Planning Department's reviewed the final EA concludes that the environmental document meets the various criteria for acceptance of an EA and we recommend that the commission accept the final EA and issue a Finding of No Significant Impact Determination.

But before you take action, the applicant's consultant would like to make a brief presentation highlighting comments received on the draft EA and their responses. Any questions?

Mr. Starr: Yes, how long will their presentation be and I hope it's short.

Mr. Dack: Ten minutes is what Chris Hart is saying.

Mr. Starr: Cliff Notes version please.

Mr. Chris Hart: I know Jonathan. Thank you very much Mr. Chair and Members of the Commission I know it's been a long day but we really appreciate the opportunity to be here and to present Nona Lani Cottages to you again and this is in the context of our final EA and the acceptance of a Finding of No Significant Impact. With me today is Nona Kong and her son David and her daughter Cherlynn and Mr. Kong, David Kong, Sr., is not available today, he's ill, and Raymond Cabebe of our office has been the planner on this project.

This is a Chapter 343 final Environmental Assessment and it's in support of community plan amendment and a change in zoning as Mr. Dack has said. The environmental assessment was prepared to analyze the potential impacts related to the community plan amendment for the Kihei Community Plan designation from multi family to H Hotel and a change in zoning from R-2 Residential to H-1 Hotel.

The purpose. The intent of the owners is to establish conformity and consistency between the county's Kihei-Makena Community Plan and county zoning land use designations and the existing and nonconforming transient vacation rental use that currently is on the property.

The location map. This is South Kihei Road. This is basically north Kihei. And this is the Maui Lu, Ka Ono Ulu, that's the vicinity. Again, South Kihei Road and the ocean and the parcel, 2.27 acres.

In July of 1985, the parcel was identified in the community plan as multi family and it's also, you should note that it's basically a parcel that exists at the northerly end of a long line of hotel zoned parcels. At the time in 1985, it was still allowed to do transient vacation rentals as a motel use in the apartment district. But subsequent in 1989, the Council basically removed that use, the transient vacation rental use from the apartment district. So when the Kongs came to talk to us we suggested that the best option for them since the use has existed as an existing and nonconforming use to basically amend the community plan to move the hotel district, hotel designation.

This is our zoning map which actually shows the project site, you can see that this is the 1969

zoning map, it's pretty old. The site was identified as residential and of course, the area to the north was apartment.

The state land use classification is urban. The Kihei Community plan is multi family. The county zoning is R-2 Residential District and the flood zone designation is A-4 and it's in the special management area.

This shows the site, actually in 1972. This is the Maui Lu to the south and you can see that very little of the area has been developed but you can definitely see that the cottages existed in 1972. These were basically built by the family and the purpose was to essentially rent them and at that time there was no prohibition or no definition of short term or long term rental in Chapter 19 of our comprehensive zoning ordinance. So it's been considered as an existing and nonconforming use.

This is basically a 2007 aerial. Shows the development of the Kihei Holiday, a hotel zoned parcel to the south, the Maui Beach Resort continues to the south and the Maui Lu as a major hotel project to the south.

The Kai Makani project is a recently completed project. It also involved park improvements to the Mai Poina Oelau Park on the ocean side and that is an apartment condominium project.

The intention of the family is to again, achieve conformity and consistency as far as the land use designations are concerned that would be hotel and zoned H-1 Hotel and there's no proposal to do any changes to the project. And if there were in the future, because it's in the special management area you would see it as an application for a special management area permit. So at this time, we're just looking at the issue of entitlements.

This is the landscape plan. There are 12 existing units and any proposed expansion would require an SMA major permit as I indicated to you. Again, this shows the configuration of the 12 units basically that were built and there's couple inside the residence as well and basically it was done in the context of the allowable density in the R-3 Residential District in 1970 – well, actually 1972.

Raymond, you want to take over from there.

Mr. Starr: Okay, lets quicken it up though.

Mr. Hart: Okay, fine.

Mr. Raymond Cabebe: Okay, in the final EA we talk about hypothetical full build out that's for H-1 zoning and in H-1 zoning floor lot area ratio is 50%, lot coverage ratio is 25% and height is not to exceed two stories. We came up with 8,500 square foot hotel units as the hypothetical full build out with about 4,700 for back of house stuff.

The agencies that were asked to comment. There will 11 of them counting the state agencies and Environmental Management, Parks and Recreation there were no comments. Public Works and Water Supply they had some comments relating to development of the site and those would be addressed in the future development of the site. Fire acknowledged that the existing fire protection

appears to be adequate. Police had no comments. DLNR also had some comments regarding future development of the site also. Planning Department had a few comments regarding roadways and traffic. In the document, the final EA it talks about would a full build out generate as far as net morning trips, peak hour trips and afternoon peak hour trips. Traffic impact assessment report would be required of a development of a 150 units or more. Even though that would not probably not happen on this property one would be prepared in the future, for any future development. Another comment from the Planning Department was about waste water and we approximated about 20,000 gallons per day and the net estimation would include the deduction from whatever they use now. The current capacity of the Kihei waste water reclamation facility is about – I think their excess is about 8 million gallons per day right now. Also in water, our hypothetical full build out had a demand of about 28,000 gallons a day. The Water Department letter indicates that the current consumption is about 8,000 gallons so the net would be about 20,000 gallons per day. Of course, any – if there were meter requirements as far as getting a larger meter it would be contingent on whatever water availability is at the time. Right now they have a one-inch meter and there's a 12-inch water line along South Kihei Road.

At your April meeting, the one comment the commission had was about the appropriate number of units, what is that. Our hypothetical full build out was 80 units. We could have less units with a larger size units say, if you had thousand square foot units, of course, you would have 40 units there or smaller units.

In the area the units per acre range from about 11 units per acre at the Kai Makani development about 25 units per acre at the Kihei Holiday right to the south. Nona Lani has a current density of about 5 units per acre. The appropriate number of future units would depend on market conditions. Of course, right now, market conditions wouldn't be very good to develop any units there. And the family's choice of development whether they would a hotel, apartment hotel, condo a time share which are all allowable uses on hotel property.

So in summary, the action that we're asking for the community plan amendment from multi family to hotel and the county zoning from R-2 Residential to H-1 Hotel. There's no additional development. The existing transient vacation rental use is legally nonconforming. And we don't anticipate that these actions will result in substantial adverse environmental or ecological effects. So today we're asking for your acceptance of the final EA for the Nona Lani Cottages. Thank you.

Mr. Starr: Thank you Mr. Cabebe. Members any questions for the applicant or for staff?  
Commissioner Mardfin.

Mr. Mardfin: I have a quick one. It's actually for the applicant because when last you were here you said you were doing this really just to bring yourself into conformity so if some tragedy should happen to the existing units you'd be able to rebuild. Is that still your intent to –

Ms. Cherlynn Kong: What was the last part of your question? If some tragedy were to happen?

Mr. Mardfin: If we don't approve this, and some tragedy were to happen to the units then you wouldn't be able to rebuild because you're nonconforming use.

Ms. Kong: Correct.

Mr. Mardfin: And your statements the last time you were here was that basically you don't want to change, all you want to do is make sure that you stay legal. Is that still your intent?

Ms. Kong: Correct.

Mr. Mardfin: No intent to –

Ms. Kong: No intent. No intent to sell off entitlements. We just want it for our family.

Mr. Mardfin: Okay, my second question. This is probably not for you, well maybe it is for you, how much water do you use for irrigation there?

Ms. Kong: That would have to be something my – we don't have a figure for that. It's not something I look at every year or once a month or something.

Mr. Mardfin: I'm asking now for an impression, is the impression that you use a lot of water for irrigation?

Ms. Kong: We have an irrigation system that's, you know, it's on a timer and we do it so that it follows the cycle of not watering in the middle of the day. You know conservation is key.

Mr. Mardfin: I was just curious. The reason I asked that is because we had another project that came and they wanted to put enough water in to make the land look like Hana. So I just wanted to know if you're doing the same thing.

Mr. Starr: Members, can we go to public testimony? Okay, I'd like to call up any members of the public who wish to testify on this item at this time, please come forward. Not seeing any, public testimony portion is closed. We are now at the point of the meeting we can ask additional questions, discussion or we could have a motion if anyone wanted to make one. Commissioner U'u.

Mr. U'u: Motion to approve.

Mr. Iaconetti: Second.

Mr. U'u: To accept the statement and FONSI.

Mr. Starr: Yeah. Director. We have a motion with a second. What is the motion?

Mr. Hunt: To accept the final environmental assessment and issue a Finding of No Significant Impact.

Mr. Starr: Okay, any discussion, amendments? Seeing none, we're ready for the question. All in favor, please raise your hand. All opposed.

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

**VOTED: To Accept the Final Environmental Assessment and Issue a Findings of No Significant Impact (FONSI).  
(Assenting - B. U'u, W. Iaconetti, K. Hiranaga, W. Mardfin, D. Domingo, J. Starr)  
(Excused - W. Hedani, J. Guard)**

Mr. Hunt: That's six in favor, zero against, the motion passes.

Mr. Starr: Congratulations, good luck, enjoy.

Mr. Hart: Thank you very much. Thank you.

Mr. Starr: We ready for the next or do we need a time for setup?

Ms. Loudermilk: We need time to setup.

Mr. Starr: We're going take a short recess to the call of the Chair to set up.

A recess was called at 3:25 p.m., and the meeting was reconvened at 3:30 p.m.

Mr. Starr: Ask the director to introduce the next item.

Mr. Hunt: The commission's next item involves Ms. Kutira Claudine Decosterd and Fred 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 in Haiku. The file numbers are SUP2 2007/0005 and CP 2007/0002. Robyn Loudermilk is the planner assigned to this project.

Mr. Starr: And before we begin, I want to apologize last time for trying to rush through so fast. We were trying to finish an agenda but we are interested in seeing your presentation and we'll give you ample time today.

## **E. UNFINISHED BUSINESS**

- 1. 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) (Public hearing conducted on January 27, 2009.)**

Ms. Robyn Loudermilk: Thank you Mr. Chair. We have two power points. The initial power point will be from myself and this will provide the background of the project and the land use request.

The second power point will be done by the applicant and they will go more into detail into the activities occurring on the property. Together should be about 10 to 15 minutes of power point.

Mr. Starr: Please proceed.

Ms. Loudermilk: Okay thank you. What we have here is the property Kahua O Mali'o Bamboo Farm. It's off of the Door of Faith Road in Huelo. It's in the state agricultural district. It's community planned agriculture in the Paia-Haiku Community Plan. It is zoned agriculture and the SMA it is located inside the SMA so that is an error.

What we have up there is a diagram of the property. The surrounding uses are basically agricultural lands with farm dwelling and different types of cultivation.

Those are exhibits 4 and 5 in your report. Unfortunately they're coming up upside down backwards on the power point. Basically there's two houses being utilized. The main house is the Opuia House which is a two-story, 2,200 square foot structure with four bedrooms and the Opuia House is the house that the applicant lives in and that would be the house on the right-hand side of the power point. On the left-hand side is the Eco House, the two-story cottage with the one bedroom.

As indicated, we have the Opuia House has three rooms available. The Eco House has one room available. The maximum number of guests allowed is eight. The minimum stay on the property is from one week to one month. No meals are served. The applicant lives on the property. No special events are held on the property. The property has been in operation for 12 years with no complaints filed with the department. And since the completion of the department's report and recommendation, five additional letters of support were received.

Additionally, we have the Kahua Hawaiian Institute located on the property and the institute provides eco-retreat and research and sustainability. They are participants in the Willing Workers on Organic Farm Programs known as the WWOOFERS. So these were some of the persons who testified at the meeting in January. The applicant usually holds two WWOOFERS at one time throughout the year. And in relation to the WWOOFERS they usually stay in two of the four rooms. One correction to the report is that we indicated there was a swimming pool. There is no swimming pool. The applicant has requested to add their son on as a permit holder and they have submitted a completed bed and breakfast application with the department.

We have two maps. On your left-hand side, in the middle is the property. Surrounding the property are the letters of support received by the department within the 500-foot radius. And then this map, portion of the property also within 500 feet and I believe it's located more on this side of the property. So the applicant does have unanimous support from the surrounding property owners.

Now, I'm going to turn it over to Kutira and she'll talk specifically about her operations.

Ms. Kutira Decostered: Thank you very much that I can present it. I really wanted that because I'm from Switzerland but I live here since 25 years and my name is Kutira Decostered and this my husband Rafael. We also as Fred and Claudine and Fred also Rafael because we also musician. We are artists. And when I took on over 20 years, that piece of land actually everybody thought that

insane because it had no roads, no water, nothing. But I wanted to take you a little a journey of what took me over 20 years. I wanted to show you because I'm an extremely proud of what somebody can do with perseverance and everybody thinks you're out of your mind.

And so this the Kahua O Mali'o Bamboo Farm. Just to introduce that's some of the WWOOFERs and my helper in the office so you see that the WWOOFERs and I just make that picture a few days ago and to show you how willing workers look and I know maybe you remember some of the testimony of the other months.

I'm sorry, you can't – can you turn those lights out because this is a really interesting picture. This is just a piece of jungle that's how I got the land with no roads, no water, no electricity literally only hau bushes, christmas berry and the invasive ink berry which I pull about every month out with the WWOOFERs, the ink berry are very strong.

So this is the plot and the upper part nothing on and I needed the great vision and especially to figure out how I bring alternative energy and to make it work. So I have to bring in bulldozer, earth, sand and even build a road and take out the lots, the lots of hau bushes which was not easy. I'm sure some of you know what hau bushes mean.

And then I started with my Hawaiian teaching. What you see here, the ipu and ...(inaudible)... lokahi that's all grown on my land. The bamboo stick where I actually printed my ...(inaudible)... for chanting. I am a member of a halau. We danced on the land. We had the lauhala weaving. I really wanted that land to embrace what Hawaii has to offer and we have that part very much too.

Now we needed water so we put in a 120,000 gallon rain – from our rain catchment, that pond with the vision that we can irrigate our land. But it was not enough to run the farm and we had to bring in a well driller. We drilled 450 foot deep, and by the way this the Opuia House you see in the back and Opuia means in the Hawaiian the roof who catches the water to fertilize the earth. That's why we named it because we use the roof entirely for catching water and also for our solar system. But that's our solar system on top of the roof, but just recently I run out of solar system and now my next project is wind generator. I'm actually investing in a wind generator because we need more power out there.

We also have a bio diesel generator but that one get slowly old and he runs too much lately and that's why the wind power is important and finally new things coming out. Here came the WWOOFERs, the Willing Workers on Organic Farms. I could have never reached a place if I would not have young people who want to come and learn about sustainability, about how can you live on the land totally off the grid and concentrated on bamboo. Why bamboo? Because in my early years I lived in India and I was very impressed about what you can do out of bamboo. I saw scaffolding, you know like those, in Thailand and everywhere where I saw, my God this bamboo is really strong. So I brought in clumping bamboo. Took me very long because the certify you cannot bring anything into Hawaii if it's not really approved by the agriculture. So what you're seeing right now is clumping bamboo and structural bamboo and they're very expensive. They're not runners. They're not like the bamboo you may be know from Hana or what you see on the side roads. They are spreading bamboo. This is a bamboo which really you can at the end and work with it. Bamboo has many, many good things for agri forestry and I just heard that Kalani English

has introduced a bill in Honolulu that the bamboo maybe can be used here which can be harvest here so I hope then I can maybe deliver you bamboo for building some of your housing.

This is bamboo which came in not from Hawaii. It was not grown, but we started to experiment with the bamboo and out of that bamboo technology it's a young company, got created and I can proudly call myself, I'm probably the visionary mind behind on those man to think differently out of the box and I wish him luck because I kind of like I'm already onto the next. I'm the green frontier and here I know that the county has approved in the meantime bamboo buildings and I would say it has started right there on our land that vision.

We tried with fruit trees and we're not giving up but what you see this our fruit trees since three years. I'm very poor, we don't have enough water because it's expensive to drill out, to pump out water and the catchment is not enough. We have experienced droughts and so I want to find out more potential to give more water. And here you see wind breaks because Huelo means also fiercely wind. The bamboo right in front is giving protection to the papaya grove right behind, but I'm constantly battling with wind and not enough water. But we have bees on our land which I have since about three years and we get twice year we can harvest some honey. Like to get three more bee hives in and here we have – we have great coconuts, they grow fine and some great bananas and the chico tree which comes in about fruit, I mean harvesting about two weeks. We have pineapple but they also want lots of water so I don't have that many. And then we have the edible gardens which we really tried to get more in it. I want to within a year completely off Mana Foods, I mean, I buy Mana Foods, but I don't want to shop my groceries there anymore for food.

This is our state of the art vermiculture which our guests can go and put the food in. We have about a million worms in there and we get the best worm casting out and we don't have to sort out the worms. We just every three months we can rotate that ...(inaudible)... when we get the liquid black gold and with our worms start over. Then we have also the normal composting. We do have only organic and we use everything. We have a recycling station. We teach our guests how to recycle. We have very, very little garbage to the county. We recycle most of it and what we look for in the tourists, we look for responsible travelers who want to contribute to sustainability who like to offset the carbon footprint, who loves learning, interested in social culture of the island and enjoy the fruits of the land. And what do we offer, the greenest spot on Maui with more visions to come. Thank you for letting me introduce my land, my passion, everything I have worked for.

Mr. Starr: Thank you. It looks like a beautiful place and you're living a wonderful life. Members, any questions for the applicant? Commissioner Mardfin.

Mr. Mardfin: I have kind of a checklist I go through for these things that I've kind of developed recently. Has it been operating as a TVR? Has this place been operating as a TVR?

Ms. Loudermilk: Yes, however, they did shut down when we requested the shutdown.

Mr. Mardfin: That was my second question. They have an ag plan.

Ms. Loudermilk: Yes.

Mr. Mardfin: They have a history of doing agriculture.

Ms. Loudermilk: Yes.

Mr. Mardfin: They are the owner/manager on site.

Ms. Loudermilk: Yes.

Mr. Mardfin: They get a home tax exemption.

Ms. Loudermilk: No.

Mr. Mardfin: Good. They pay their GET and TAT?

Ms. Loudermilk: Yes.

Mr. Mardfin: Neighbor complaints?

Ms. Loudermilk: None.

Mr. Mardfin: Do neighbors have TVAs themselves or TVRs?

Ms. Loudermilk: No.

Mr. Mardfin: Because if they were doing it, they might want to –

Ms. Loudermilk: Yes, no.

Mr. Mardfin: They have building permits for the existing buildings?

Ms. Loudermilk: Yes.

Mr. Mardfin: And I want to add one. Part of the criterion is that it be unique and educational and I think their report clearly showed that it's a very unique sort of thing and I'm very proud of it.

Ms. Loudermilk: Yes, thank you.

Mr. Starr: Is that a 100%?

Mr. Mardfin: They got everyone.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: Just wondering because this property is located out in Huelo and you are basically involved in a commercial activity. What is the fire protection system there if any?

Ms. Loudermik: The fire protection is they have the sprinklers and it's been reviewed and approved from the Fire Department. So part of the water comes from the pond and then it gets pumped in through the sprinklers throughout the house.

Mr. Hiranaga: Okay, and how do you dispose of your sewer?

Ms. Loudermilk: They have two septic systems that have been reviewed and approved by the Department of Health.

Mr. Hiranaga: Okay, thank you.

Mr. Starr: Okay, is that it for questions?

Mr. Hiranaga: One more question.

Mr. Starr: Go ahead Commissioner Hiranaga.

Mr. Hiranaga: What is RLL?

Ms. Loudermilk: Robyn Lee Loudermilk.

Mr. Hiranaga: I thought it was like a LLC or something.

Ms. Loudermilk: My dad's from the south so Robyn Lee.

Mr. Starr: Okay, we will now go to that point in the meeting where we invite public testimony. If there are any members of the public wishing to testify please come forward. Okay, we did have some good testimony last time and we do remember that. So public testimony portion is closed. I would like to ask Planner Loudermilk first go over what we're being asked to do and before – why don't you do that, before you give your recommendations Mike Hopper, Corp. Counsel had a comment to make. But why don't you first clarify what we're being asked to do and then I'll turn it over to Mr. Hopper.

Ms. Loudermilk: Today we have before you two applications. The first application is a Land Use Commission Special Use Permit for the property as it's located in the state agricultural district. The second permit that we have before you is the County Conditional Permit to allow for the establishment of the TVR/bed and breakfast use on the property.

Mr. Starr: Okay, Mr. Hopper your comments please.

Mr. Hopper: Just wanted to be clear for a state land use commission special use permit which you actually are taking the final action on, I want to read you a portion of HRS 205-6 just to give you the standard. Hopefully this is in your report but I wanted to give you a legal standard that you can review. It states that, "the county planning commission may ...(inaudible)... such protective restrictions as may be deemed necessary, permit the desired use but only when the use would promote the effectiveness and objectives of this chapter," that being HRS 205. "A decision in favor

of the applicant shall require a majority vote of the total membership of the county planning commission.” So it’s that first part where there’s a finding that the use would promote the effectiveness and objectives of this chapter, I think you should pay particular attention to in reviewing your staff report and in taking action on the permit because I think that’s an important part of HRS 205.

Mr. Starr: Just a question. So you’re saying that in our discussion it’s for us, say we were to approve one it would be good to have mentioned somewhere in our discussion that meets the goals and objectives or if we were to deny one we would explain that it doesn’t met those goals and objectives and as outlined in the HRS.

Mr. Hopper: It’s an important standard and in discussing with the Office of Planning’s Attorney General, he mentioned that this was one that, in me learning about these permits, that’s an important part of that finding. So yes, in your consideration, and certainly in looking through the staff report seeing that those facts would meet this standard just for your protection, either way you go, I think you would need to consider that.

Mr. Starr: It’s always good to make that statement.

Ms. Loudermilk: And the department would just like to note that we do have conclusions of law for the special use permit as well as the conditional permit as part of our recommendations. For the land use commission special permit the department has determined that the permit complies with the applicable standards for an unusual and reasonable use within the state ag district as it is not contrary to the objectives and policies of 205 and 205A Hawaii Revised Statutes. The proposed use will not adversely affect surrounding property. The proposed use will not unreasonably burden public agencies to provide infrastructure and further, Police and Fire protection will not be unreasonably burdened. Fourth, since the adoption of the district boundaries and rules, there’s been trends in the visitor industry have evolved to include overnight accommodations in more nontraditional types of settings and then lastly, the proposed use is compatible with the existing agricultural uses on the property. Based upon that, the Planning Department recommends to the commission approval of the land use special permit subject to I believe we have 17 conditions. And at this time, the department would like to amend condition no. 1 in terms of the valid date of the permit as this was initially scheduled before you in January. So we had the January 31<sup>st</sup> date and we are here in February so we’d like to change the date from January 31, 2012 to February 28, 2012. That concludes the department’s recommendations.

Mr. Starr: Okay, Commissioner U’u.

Mr. U’u: I got a question. I like the project. Really do. Does it change, do they need a SMA major?

Ms. Loudermilk: No, they do not.

Ms. U’u: Why is that?

Ms. Loudermilk: We have been advised that if structures have been built as either single family residence or farm dwellings for residences with the passage of the B&B ordinance which this

property also qualifies for, the primary use of the structures still remain residential. That should this applicant or future applicants come in for additional types of structures at that time it will then be reviewed for compliance with the special management area.

Mr. U'u: How much rooms do they have again? For rental, short term rental?

Ms. Loudermilk: Four.

Mr. U'u: And how much residential rooms do they have?

Ms. Loudermilk: Total they have five.

Mr. U'u: So that's the basis for the SMA, the trigger would be that if it would outweigh the residential side of it, it would not require an SMA?

Ms. Loudermilk: No

Mr. U'u: I just curious but that's fine.

Ms. Loudermilk: And maybe the director can speak to this, but what I recall staff being advised from our coastal zone shoreline planner because this was the exact type of question that we had, regardless of major, minor assessment that if the property also qualified under the B&B ordinance which this property qualified, does qualify, first and foremost you have to be a resident and the bed and breakfast ordinance didn't necessarily change that. You're still a residence but the zoning had been changed or I should say the law had been changed to allow you to open your house to paying guests up to a certain number of rooms and period of time.

Mr. U'u: Next question. How far is it away from the ocean?

Ms. Loudermilk: I would say, the house itself about 600 to 700 feet if not farther.

Mr. U'u: Thank you.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: This is sort of picky, but it says, "the property," this is on page 5, "the property's developed with a farm dwelling and accessory unit, etc., etc.," is a farm dwelling a legal term?

Ms. Loudermilk: Yes, farm dwelling is a legal term under the county zoning code in the agricultural district. If you go – state law does not allow for single family dwellings in the state ag district, it allows for farm dwellings.

Mr. Mardfin: So this is just semantic game that we play?

Ms. Loudermilk: Yes.

Mr. Mardfin: So they could put a big mansion up there, not them, some person could put a mansion on these things and then call it a farm dwelling because it's an agricultural unit?

Ms. Loudermilk: Yes.

Mr. Starr: Yeah, director.

Mr. Hunt: I would like to clarify that a little bit. As Robyn mentioned, the county code says that farm dwellings are allowed in the agricultural district not just a single family dwelling or residence. In order to qualify as a farm dwelling, there's definitions that you have to meet and one of those is the farm plan implementation that we've been talking about. So it's not like you can just come out and put in a mansion. You could put in a mansion if it was in conjunction with a farm plan that was approved.

Mr. Mardfin: So I'm going to grow some radishes and lettuce and a little 5 by 5 plot and I can put up a 10,000 square foot building?

Ms. Loudermilk: No, no.

Mr. Hunt: Well, the law requires that a majority of the property be in a farm use. So that's kind of a trigger.

Mr. Starr: If you were going to cultivate kikuyu grass. Anyway, lets move along. Commissioner U'u.

Mr. U'u: I'll make a motion to approve.

Mr. Mardfin: Second.

Mr. Starr: We have a motion by Commissioner U'u, seconded by Commissioner Mardfin. The question is.

Mr. Hunt: Motion to approve as recommended by staff with conditions as revised.

Mr. Starr: Okay, I have a technical question which is, as far as the date, if this gets approved today, does a permit get issued today? Because to make it from, you know, the anniversary date is now February 24<sup>th</sup>.

Ms. Loudermilk: No, it does not necessarily get issued today. I go back, I do the approval letter, give it to director, director signs. My understanding that's why historically we've usually given the end of the particular month in which the permit was approved.

Mr. Starr: I mean, counsel suggested that you know, it would make sense if the date were the date it's issued, but I guess that becomes difficult to do because you have a moving target and you can't draft it –

Ms. Loudermilk: Unless there's any proposed language Mike that you have for that to – from date

issued to ending date.

Mr. Starr: Okay, Dr. Iaconetti.

Mr. Iaconetti: Are we moving to approve both the special permit and the conditional permit, is it all in one motion?

Mr. Starr: I believe the motion was just for the special.

Mr. Hunt: We would suggest you take them separately.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: So the applicant is applying for a B&B permit?

Ms. Loudermilk: They have an application in with the department right now.

Mr. Hiranaga: Just as a side note, I guess it would be interesting to know when the director signs off on B&B permits we can just get a list similar to the SMA permit type of thing? Because you know, you have the administrative power, so we'd just like to know where these B&B permits are going out.

Mr. Hunt: Yeah, we can give you regular updates.

Mr. Starr: Just a comment that the special use permit will still have to come before us.

Ms. Loudermilk: Yes.

Mr. Starr: Anyway, we ready to call the question? Director.

Mr. Hunt: Robyn, you stated they wanted to include the son as a permit holder?

Ms. Loudermilk: Yeah.

Mr. Hunt: Could you elaborate on that? Is the son part of the property owners or how does that work?

Ms. Loudermilk: He is not a property owner, so after discussion, we decided that we'll not do that at this point in time. Should it occur in the future, we'll come in and make the proper amendments for that to occur. Thank you for that clarification.

Mr. Hunt: Also, I just wanted the commission to be aware of, there's the community plan policy in the Paia-Haiku that says something to the effect that B&Bs should not be located near the shoreline. Something like that. The department will likely if the B&B meets all the standard B&B criteria, we will likely find that this application meets that community plan policy due to several factors. One is the distance from the shoreline. The shoreline itself is rocky and a cliff. There's

no other B&Bs in the area. Just that it seems like a stellar application for lack of a better term. Everything seems to be proper and in order. It's a good application. A real solid farm plan. If some of those things had not gone as strong, if it were not a stellar application we may not approve it based on that policy or if some of those criteria I just listed were different. So we just want to be up front and let you know there's been a lot of talk, a lot of push from the community and the Council to enforce the community plans and don't just give a blanket red stamp of approval on these applications. So that's where we're headed on that particular policy.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Can I ask the Director, I know we did this a couple of weeks ago, which is more advantageous for them, to have this TVR special use permit or to have a B&B?

Mr. Hunt: If you can meet the B&B criteria, I would think it would be advantageous because it's a lot simpler process. So if you can meet the requirements of having the owner on site and only renting out the ohana and your own house, if you're willing to serve breakfast, if you can put up a – if you can deal with having a 45-day notice sign in your yard then in my opinion that's a lot better way to go.

Mr. Starr: My understanding is that they would, even if they were not going for the conditional use permit, they were going for the B&B they would still need this special use permit. In other words, each B&B application is going along with the special use permit. So they would meet this either way, am I correct?

Mr. Hunt: On agricultural land.

Mr. Starr: Yes, on agricultural land.

Mr. Hunt: And to follow up on the second permit you'll be dealing with, at this point they've submitted an application for a B&B. We have not approved it. We just felt it would be better for you to go ahead and hopefully recommend approval of the conditional permit. If we then subsequently approve the B&B permit we can go through the procedures to void the CP. But we don't want to be in the scenario where perhaps we deny the B&B and you guys hadn't acted on the conditional permit.

Mr. Starr: And my understanding is that that's where having the son on the application would make it difficult to get the B&B permit.

Ms. Loudermilk: Yes.

Mr. Starr: The conditional permit they could get but not the –

Ms. Loudermilk: Yes, so based upon that, they've dropped that request and should that emerge in the future we'll go through the appropriate channels to change that.

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

State Land Use Commission Special Use Permit

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

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

Mr. Hunt: It's six in favor, zero against. That motion passes.

Mr. Starr: Okay, congratulations and continue doing a wonderful stuff.

Mr. Hunt: One more.

Mr. Starr: Oh yeah.

Ms. Loudermilk: The conditional permit.

Mr. Starr: Yeah, we have to go to the next part now. Recommendation.

Ms. Loudermilk: The conclusions of law is that the conditional permit complies with the standards and that based upon that the department would recommend to the commission that you recommend to the Council approval of the conditional permit subject to six conditions. Basically those conditions are housekeeping conditions as well as the inclusion of the 17 conditions approved for the special use permit and that concludes the department's recommendation.

Mr. Starr: Commissioner U'u.

Mr. U'u: Motion to approve conditional permit to operate a transient vacation rental.

Mr. Starr: To recommend.

Mr. U'u: To recommend to Council.

Mr. Mardfin: Second.

Mr. Starr: Okay, we have a motion by Commissioner U'u, seconded by Commissioner Mardfin, and I assume that's with the conditions. Director, you want to read back the motion?

Mr. Hunt: Recommend approval of the conditional permit to Council with conditions as recommended by staff.

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

Conditional Permit

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

**VOTED: To Recommend Approval of the Conditional Permit to the County Council, with the Conditions as Recommended by Staff.  
(Assenting - B. U'u, W. Mardfin, K. Hiranaga, D. Domingo, W. Iaconetti, J. Starr)  
(Excused - W. Hedani, J. Guard)**

Mr. Hunt: It's six in favor, zero against. The motion passes.

Ms. Loudermilk: Thank you very much.

Mr. Starr: And thank you for patience and well-done Ms. Loudermilk. Are we ready, Mich, we ready to go right into that? We're ready to move right into our next item. So without further ado our Director Hunt will introduce the item.

Mr. Hunt: Your next item involves a communication from Ms. Dawn Lono, Chairperson of the Hana Advisory Committee to the Maui Planning Commission transmitting the Hana Advisory Committee's recommendations on the following request, the Planning Director transmitting Council Resolution No. 08-92 containing the following bills relative to the Paani Mai Park expansion project at TMK 1-4-006: 025 and 1-4-006: portion of 001 in Hana. The planner assigned to this is Danny Dias.

**F. COMMUNICATIONS**

1. **MS. DAWN LONO, Chairperson of the Hana Advisory Committee to the Maui Planning Commission transmitting the Hana Advisory Committee's recommendations on the following requests:**

**MR. JEFFREY S. HUNT, Planning Director transmitting Council Resolution No. 08-92 containing the following bills relative to the Paani Mai Park Expansion Project at TMK: 1-4-006: 025 and 1-4-006: portion of 001, Hana, Island of Maui: (D. Dias)**

- a. **Community Plan Amendment for Parcel 1 from Multi-Family to Park (CPA 2008/0004)**
- b. **State Land Use District Boundary Amendment for Parcels 25 and portion of 1 from State Ag. District to State Urban District (DBA 2008/0003)**
- c. **Change in Zoning for Parcels 25 and portion of 1 from Interim District to PK-2 Park District (CIZ 2008/0005)**

Mr. Danny Dias: Good afternoon Chair and Members of the Commission. I'll try to keep this pretty short. The applicant has prepared a power point presentation and so I'll just focus on the permits involved and what we've done to this point.

Like the Director mentioned there's a Council Resolution 08-92 that involves community plan amendment from multi family to PK Park. There's a state district boundary amendment from agriculture to urban and a change in zoning from County Interim to PK2 Park. The park is located in the special management area so this project will come back to the commission for further review at a later date.

So as far as what has happened to this point, about a year ago an environmental assessment was prepared by Munekiyo and Hiraga, Inc., on behalf of the Department of Parks and Recreation. This EA ultimately resulted in a finding of no significant impact which was issued on October 30, 2008.

With respect to the resolution time line, on October 15, 2008, Resolution 08-92 was initiated by Councilmember Bill Medeiros. It was adopted by the full Council on November 7, 2008 and the Council then referred the land use changes to this commission for review and recommendation. On November 15, 2008, this commission voted to refer the resolution to the Hana Advisory Committee and that meeting took place in Hana on 22<sup>nd</sup> of January. The project was also reviewed by the Urban Design Review Board in December and they had no comments.

The last thing I want to point out is that by law this commission has a 120 days to transmit its findings to the Council and I believe that period is going to occur the beginning of March. So we're sort of up to that deadline. So with that, I'll hand it over to Mich for his presentation.

Mr. Starr: Mich, how long is your presentation?

Mr. Mich Hirano: I'll be very brief Chair Starr. Just wanted to give the particulars of the project. I'll be five minutes.

Mr. Starr: Give a little extra though on as far as the safety issues and access to it.

Mr. Hirano: Thank you Chair Starr, my name is Mich Hirano with Munekiyo and Hiraga. Just like to quickly go over the power point. This is the subject property. It's adjacent to Hana Highway just as you enter Hana. This is kind of Hana Town. The park is just before you enter Hana.

There are two parcels Involved with the park. The existing park is approximately one acre. It's parcel 25. The application and the project is to expand the park to the west and to the north with this "L" shaped parcel. It's approximately 1.9 acres that will be added onto the park and the zoning and the entitlements would be to bring consistency to the community plan, district boundaries, state land use designations as well as the zoning.

Paani Mai Park is an existing one-acre park. There's a comfort station in the park that was built in about 2000. The rest of the park is just a grass area and some landscaping and a little swing set and a park bench, very minimal sort of facilities.

Proposed plan is to maintain this area as the park. Existing comfort station, build pathways, put in a skateboard park. Access to the property because Hana Highway is very narrow and parking to the side is very limited, part of the idea would be to as the improvement for safety for access to the park is to take the main access into the park from a subdivision roadway Kauiki Road and enter the park through an existing right of way, 25-foot right of way through the park and build a driveway from the subdivision road into the park and then have the parking at the eastern portion of the park with a parking lot and another comfort station and the open pavilion area and a grass area and some children tot playground.

This is the existing park, this is the existing comfort station. As you can see, it's very level. Just grassed and this is the expansion area off to the north. Again, similarly this is the swing set at the corner of the park. The picnic bench – this Hana Highway as it runs along adjacent to the park and then the westward expansion would be in this direction and this area is just kind of scrub vegetation. It hasn't been in agricultural use. This used to be part of the Hana Ranch cattle area and it used to be used for cattle grazing.

Again, as you can see this is Hana Highway. This is the access into the comfort station. The park is fenced. Very limited parking area and very limited shoulder area off of Hana Highway. The other difficulty as well is as you come around the bend the sight distance is very short. So it's very dangerous. You come around the corner on Hana Highway and you don't have a lot of sight distance to the park.

This is a photograph of the access road that will be built. It's kind of cleared and people have been landscaping it and using it. But the access road runs along this power line. This power line is along the right of way and so the idea would be to build a driveway into the park and this will be a driveway that would be maintained by the County Parks Department and then just past the telephone pole, it would turn into the park property and the parking lot.

Again, this is a photograph Kauiki Drive that is the main access area into the park. This roadway goes through the subdivision and intersects with Hana Highway. This is Noenoe Place and it will be to extend this roadway into the park with a driveway.

The existing land use entitlements. Parcel 25 is the existing park. It's in the state agricultural district. The community plan is park but the zoning is interim and parcel 1 is agricultural in the state land use district. The community plan is multi family and the zoning is interim.

So the proposed land use entitlements would be to do a district boundary amendment for both parcel 25 and parcel 1 to take it from the agricultural district into the urban district. There will be a community plan amendment which would only affect parcel 1 because that is now multi family so the idea would be to change that from multi family to park and then the zoning would be changed for both parcels from the existing interim zoning to the PK2 Park.

Just in terms of a project summary, we did the draft environmental assessment. It was published in May 8, 2008. The final environmental assessment was published just at the end of the year, November 11, 2008 – November 23, 2008. The district boundary amendment, change in zoning, community plan amendment have been initiated by Council, Council person Medeiros. After those

designations are approved, the project will come back to look at the development parameters for the SMA approval. After that entitlement is successful, the final subdivision will be completed and the land will be transferred from the existing owner, Hana Ranch to the County Department of Parks and Recreation. That's the summary. Thank you.

Mr. Starr: I want to make a brief comment. It was about 13 years ago I was Chair of the Mayor's Hana Advisory Committee under Mayor Lingle, I was Vice Chair of the Hana Advisory of the Planning Commission and we went to the Mayor on behalf of the community to get funding for the bathrooms there. You know, luckily we got the funding and at that time there was a dream to expand the park and make it more of a facility and it was really a dream at that time and it really kind of moves me to see this happen and I want to thank Parks and the consultants and everyone who's worked on this and the planner. Commissioner Mardfin.

Mr. Mardfin: In the interest of openness and transparency I have to announce that prior to being on the Maui Planning Commission I helped out with the Paani Mai expansion plans. I sold pizza in Hana at the ballpark to raise funds for this, but since I've been on the commission, first they haven't had any meetings, but secondly, I haven't gone so, I don't intend to recuse myself from this issue. I have no financial stake in it.

Mr. Starr: Okay, I have a question and I know it's one that Commissioner Mardfin shares which is regarding the safety. The roadway is really dangerous there. There have been quite a few serious accidents. People are scared to walk along there. Is there a way to maybe prohibit parking on one side and make it a sidewalk or something like that?

Mr. Hirano: Well part of the improvements Chair Starr would be to at least do the minor improvement to widen the shoulder to about five feet to provide a little more area for parking, but the idea really would be to try and encourage primary access through Kauiki Road and not through the highway.

Mr. Starr: I know there was some discussion about having a sidewalk fronting the park and not allow parking right in that frontage so kids can at least walk in or out. Is that something that can be done?

Mr. Hirano: I'm not sure if there's enough room to do that, to do both. I'm not sure.

Mr. Starr: Well if you eliminate the parking, then that allows –

Mr. Hirano: Oh, I see. I think it can be done if it's so desired.

Mr. Starr: Commissioner Mardfin, you were at those meetings and you know that intimately.

Mr. Mardfin: I did go to the meeting of the Hana Advisory Committee and I think the report indicates what happened pretty well, but I asked Dias to prepare three google maps I downloaded. The first one kind of, because the problem with the report is it doesn't really show the surrounding streets very well and I wanted you to see what was going on. The first one is the largest scale, highest view showing the most and it shows where Hana Highway and Ua Kea Road diverge those are the

two main roads into Hana and where the 360 button is the corner right by the park where it turns into Kauiki Street and that's what we call the subdivision. When you say the subdivision you know things are going okay. The second photo shows a closer view of it. It shows Kauiki Street to the north, I don't know about north and south, yeah, I guess to the northwest of it shows where the existing park is and you'll go outside of that. But they're proposing that you not go in through Hana Highway, that you go in through Kauiki Street and by the way you can see in that second shot how blind things are. If you're driving along from the right to the left, you make the turn and the walk is right on you. But they're proposing that we pull everybody down into Kauiki Street. If you go to third photo, it's the closest vision to it, you can still see the existing part of the park there, the expansion would be outside of that. Now currently, according to the report that's a 28-foot wide road on Kauiki Street. If you have –

Mr. Hiranaga: They have to come back for the SMA permit, we can address –

Mr. Starr: Commissioner Hiranaga, I'll get to you in a minute, be patient.

Mr. Mardfin: I just wanted to point out that if you have parking on both sides of the – this is something the advisory committee didn't deal with. If you have parking on both sides of the road you can't have two-way traffic. I mean, if somebody – if there's parking on both sides of the road, somebody is coming up, the other guy has to wait to go down. That slows traffic down but I'm not sure it's the best thing. There is a sidewalk on the – as you're going down Kauiki on the right-hand side, there's no sidewalk on the left-hand side. When you get to where Noenoe Place and Kauiki Street meet that's where they're going to turn left into the park and people are very concerned about speeding. At Noenoe Place at that same intersection there have been at least two children hit and several dogs. I would like them to consider at least for that, where Kauiki and Noenoe cross that they try maybe a turnaround, roll over curb sort of thing, a roundabout as a way of slowing traffic down and make it safer for children to cross. But I can't show that on their documents because they show this roadway.

Mr. Hirano: I think when we come back for the SMA we could maybe have more definition and detail in that particular area.

Mr. Starr: I think that's what Commissioner Mardfin is getting at is that as this progresses, I don't think we want delay necessarily, this portion of it but as it evolves the traffic calming and making it safe to walk along the frontage of it you know, like a refuge area, possibly no parking right in front of it. If you come back with those and we know you're working on that, I think that will lend a certain amount of confidence.

Mr. Hirano: Yeah, those are good points.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: My second issue is, it says on page 9 that you're consolidating this and then subdividing it.

Mr. Hirano: Yes.

Mr. Mardfin: And you're going to subdivide it so that it's – I think it said Lot A, Lot 1A currently Lot 1 is owned by Hana Ranch Partners.

Mr. Hirano: Yes.

Mr. Mardfin: Lot 1A I presume is the part that they're going to donate to the County.

Mr. Hirano: Yes, Lot 1A, yes.

Mr. Mardfin: Because I don't see a – on this thing – there was no map showing how Lot 1 gets cut up and it says Lot 1 will be divided into three lots. I can see the 1A, I don't know where Lot 1B and Lot 1C I'm guessing would be.

Mr. Hirano: This parcel 1 is this whole gray area.

Mr. Mardfin: And the darker gray area.

Mr. Hirano: Yeah, so I believe the subdivision will have Lot 1A which is the dark area which will be transmitted to or transferred over to the County. This is Lot 2A this piece on the, I guess, the mauka side of the right of way and then this will be another parcel that will be left and that will be Lot 2B. So these are the three parcels, one, two and three.

Mr. Mardfin: Well, the way you've described this, we're going to change the zoning on all of Lot 1, combine it and then peel off 1A for the park and what will happen, will the zoning on 1B and 1C be changed?

Mr. Hirano: No, no it will just be for this portion. This portion, that's the portion of the lot.

Mr. Mardfin: So the land that Hana Ranch Partners is retaining won't have any effective change.

Mr. Hirano: No.

Mr. Mardfin: In zoning or land use or anything else?

Mr. Hirano: Yes, yes, that's correct. It's just for the 1.9 acre parcel.

Mr. Mardfin: Okay, thank you.

Mr. Starr: Okay, any other questions? Commissioner Hiranaga.

Mr. Hiranaga: I was little surprised to read that this park is in the tsunami inundation zone.

Mr. Mardfin: May I?

Mr. Starr: Yeah.

Mr. Mardfin: I was surprised to see that too. It is in a flood zone. Water floods down there.

Mr. Hirano: There's a flood channel that goes down this way.

Mr. Mardfin: A tsunami's not going to get up there.

Mr. Hirano: I have Ron Fukumoto who's the civil engineer on it just to talk.

Mr. Ron Fukumoto: I'm Ron Fukumoto, civil engineering consultant. Just to clarify, we reviewed the flood maps and the flood zone is Zone C which is a minimal flooding area and there is no tsunami zone within the park site. So I'm not sure where that statement came from.

Mr. Mardfin: It's in the report.

Mr. Hiranaga: Well, then you may want to correct your report because it has communication from Munekiyo and Hiraga that they'll comply with that tsunami inundation requirements regarding improvements.

Mr. Hirano: I'm reading from the environmental assessment that they did and we say that it's in the Flood Zone C and it's located beyond the reaches of the tsunami inundation zone. That's the staff report. That's the staff report.

Mr. Hiranaga: Yeah, it was in the staff report.

Mr. Hirano: Staff report.

Mr. Hiranaga: No biggie.

Mr. Starr: Can we just ask that they check it and correct it if necessary.

Mr. Hiranaga: Yeah.

Mr. Starr: Okay, is that it?

Mr. Hiranaga: One last comment.

Mr. Starr: Go, go, go.

Mr. Hiranaga: If the county just could be sensitive to again drainage retention. You know when governmental agencies come to us and say the project is shovel ready so you guys need to approve this without major comments. I want you guys to be proactive and look at not just say, since it's in the SMA area, no just a post development for the additional area, but say the post development for the total area be retained since it is a park. You know, like we had the experience with the tennis courts in Lahaina and now with the Airports Division this morning. You know, putting the pressure on us saying, oh we're shovel ready so please just give us the approval. Just be sensitive to the drainage issues in the SMA area.

Mr. Starr: I have a question. Is there a policy about using or limiting the use of fertilizer, chemical fertilizers in there, Mr. Matsui. Gotta put you under the gun once.

Mr. Patrick Matsui: I don't know if we have any policies but if there's fertilizers it's all applied according to the requirements of the fertilizer. We don't over fertilize or under fertilize. You know we go by the rates that you need to disperse it.

Mr. Starr: Is that something that we could possibly put as, you know, in the SMA area that they county can look at where possible minimizing and avoiding application of chemical fertilizers and other products that could end up on the reef? We're not looking to put a condition but just that the department look at it.

Mr. Matsui: Yeah, I guess we could do that.

Mr. Starr: Okay, we ready for some public testimony if any? Okay, any members of the public wishing to give testimony on this, please come forward. Seeing none, public testimony is closed. We ready for recommendation. Mr. Dias please.

Mr. Dias: Okay, the Department of Planning recommends that the Maui Planning Commission adopt the Hana Advisory Committee's recommendation that the Maui County Council approve Resolution 08-92 in order to change the community plan from MF Multi-Family to PK Park, change the State District Boundary from Agriculture to Urban and Change the Zoning from County Interim to PK2 Park for the expansion of the Paani Mai Park.

Mr. Starr: Okay, do we have a motion?

Mr. Mardfin: We want to do this in pieces don't we? I move that we approve a community plan amendment for Parcel 1 from Multi-Family to Park.

Mr. Starr: As recommended.

Mr. Mardfin: As recommended by the Hana Planning Commission, they made four additions to the department report and I don't see them in here, but maybe they are.

Mr. Dias: What they wanted were specific conditions. So that's what's going to come back with the SMA. We don't think it's appropriate to put specific conditions on changes in zoning and so forth. That should be placed on the SMA.

Mr. Mardfin: Okay, I can live with that.

Mr. Starr: And the applicant is taking those conditions in mind and our discussion in mind when they come back for the SMA.

Mr. Hirano: Yes, I think they'll be part of the SMA conditions and we'll be looking as well at the comments today.

Mr. Starr: So is there a second to the motion?

Mr. Iaconetti: Second.

Mr. Starr: So the motion made by Commissioner Mardfin and seconded by Commissioner Iaconetti is, Director?

Mr. Hunt: I believe the motion is to recommend approval of the community plan amendment to the Council.

Mr. Starr: Okay, and there are no conditions on that. We ready to vote? All in favor please raise your hand. All opposed.

Community Plan Amendment

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

**VOTED: To Recommend Approval of the Community Plan Amendment for Parcel 1 from Multi-Family to Park to the County Council.  
(Assenting - W. Mardfin, W. Iaconetti, K. Hiranaga, B. U'u, D. Domingo, J. Starr)  
(Excused - W. Hedani, J. Guard)**

Mr. Hunt: Six in favor, zero against. The motion passes.

Mr. Starr: Okay is there another motion?

Mr. Mardfin: I move that we approve as recommended by the department the State Land Use District Boundary Amendment for Parcel 25 and a portion of Parcel 1 from State Ag District to State Urban District.

Mr. Iaconetti: Second.

Mr. Starr: Moved by Commissioner Mardfin, seconded by Dr. Iaconetti. The motion is?

Mr. Hunt: To recommend to the Council approval of the State Land Use District Boundary Amendment from Agricultural to Urban for – I forgot the second part.

Mr. Mardfin: Parcel 25 and portion of – I'm just reading from the notes, Parcel 1. I'm reading from the agenda.

Mr. Hunt: And portion of Parcel 1.

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

State Land Use District Boundary Amendment

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

**VOTED: To Recommend Approval of the State Land Use District Boundary Amendment for Parcels 25 and Portion of 1 from State Ag District to State Urban District to the County Council.  
(Assenting - W. Mardfin, W. Iaconetti, K. Hiranaga, B. U'u, D. Domingo, J. Starr)  
(Excused - W. Hedani, J. Guard)**

Mr. Hunt: It's 6-0 in favor. Motion passes.

Mr. Starr: Okay, Commissioner Mardfin.

Mr. Mardfin: I move with regards to the department's recommendation the change in zoning for Parcel 25 and a portion of 1 from Interim District to PK2 Park District.

Mr. Iaconetti: Second.

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

Mr. Hunt: To recommend approval to the County Council for a change in zoning for Parcels 25 and portion of Parcel 1 from Interim District to PK2 Park District.

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

Change in Zoning

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

**VOTED: To Recommend Approval of the Change in Zoning for Parcel 25 and Portion of 1 from Interim District to PK-2 to the County Council.  
(Assenting - W. Mardfin, W. Iaconetti, K. Hiranaga, B. U'u, D. Domingo, J. Starr)  
(Excused - W. Hedani, J. Guard)**

Mr. Hunt: It's 6-0 in favor, motion passes.

Mr. Starr: Okay, good work everyone.

Mr. Hirano: Thank you Commissioners.

Mr. Mardfin: May I make a ?

Mr. Starr: Yes, Commissioner Mardfin has a comment.

Mr. Mardfin: For the planners, I'm sorry for the consultants. The Hana Advisory Committee made a comment about fencing, they made a comment about the culvert, and some other things. They also recommended speed bumps on Kauiki. I think some sort of traffic calming device would work and a roundabout might be preferable to speed bumps.

Mr. Hirano: We'll look at the roundabout, see if there's enough room.

Mr. Mardfin: I'd also think about the one side of the road parking only.

Mr. Starr: Really look at what's the best traffic calming measures. Okay, we'll see you back on that, thank you. Do we need a break? Or are we ready to keep going? Okay, we're keep going forward. Director, please introduce our next item.

Mr. Hunt: Your next communication item involves approval of a Special Management Area Settlement Agreement relating to the following matter: Mark Murakami, Esq., of Damon Key Leong Kupchak Hastert representing Troy and Susan McCasland appealing the Director of Planning's Notice of Violation NOV 2008/0001 for the unpermitted operation of a transient vacation rental within the special management area at property located at 451 Ilikahi Street, TMK 4-6-006: 039 in Lahaina. The planner assigned to this Trish Kapuaala and I believe she went home sick. I think we have enough staff here and also Mimi Johnston from the Corporation Counsel.

**2. Approval of Special Management Area Settlement Agreement relating to the following matter:**

**MARK M. MURAKAMI, Esq. of DAMON KEY LEONG KUPCHAK HASTERT representing TROY AND SUSAN MCCASLAND appealing the Director of Planning's Notice of Violation (NOV 20080001) for the non-permitted operation of a transient vacation rental within the Special Management Area at property located at 451 Ilikahi Street, TMK: 4-6-006:039, Lahaina, Island of Maui. (T. Kapuaala)**

Mr. Starr: Okay, and just to be clear Mimi is representing Corp. Counsel and Mike's representing the commission even though I know he helped draft the agreement, he's now on our side and she's on that side but we're all working together.

Mr. Hopper: That's correct.

Ms. Johnston: That's correct. Deputy Corporation Counsel Mary Blaine Johnston appearing on behalf of the County. You should have had in your packet a copy of the proposed settlement agreement settling the matter of the running of a TVR without a permit in the SMA area by the McCaslands. The commission needs to vote to approve or I guess you could vote to not approve the settlement agreement.

Just to give you a little bit of background on this, McCaslands own three houses on the island, two in Kihei and one in Lahaina. The SMA violation was given for the house in Lahaina. At the same time there was also a Maui County Code Title 19 Notice of Violation given for operating a TVR in an area where it was not permitted. So that was also appealed to the BVA. That's not before you. That's already been disposed of with stipulations signed to dismiss that case. So in addition to the fines that you see that have been agreed to in the settlement agreement I wanted to let you know that the McCaslands have also agreed for the matter at the BVA to pay a fine and I'll let you know what the amounts of that are. For the Title 19 violation, the initial fine was a \$1,000 and the agreed to fine, total fine was another \$5,380. So that was the total fine for the Title 19 of \$6,380. The proposed settlement in this case again, is a initial \$10,000 fine and the daily fines, additional daily fines of \$4,500 or a total of \$14,500 for the SMA violation. So the total fines that the McCaslands will pay to take care of this matter is \$20,800. I don't know if you have any questions about any of the terms of the resolution agreement. I'd be happy to go over them or answer any questions if you have them.

Mr. Starr: Members? Commissioner Hiranaga.

Mr. Hiranaga: Move to approve.

Mr. U'u: Second.

Mr. Starr: Okay, any discussion or further questions. I assume this is an item we don't need any public testimony on. Anyway we have a motion and a second. Director, why don't you restate the motion.

Mr. Hunt: The motion is to approve the settlement agreement.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I just want to make sure I understand. The settlement was to pay a fine and not do the bad things, to stop their operations?

Ms. Johnston: Right. In fact the way it's set up that even though the violations, the notice of violations was given for only the Lahaina property, part of this agreement is they also cannot use their other two properties and if they do, this resolution agreement can be set aside and we can go back and seek the full amount of the fines would be considerably more than what they're settling for. So it's got a lot of teeth in it.

Mr. Mardfin: What should the full amount of the settlement be?

Ms. Johnston: I haven't computed it. I think, I don't know. I'm not good at computing the fines and I don't have that in front of me.

Mr. Mardfin: Okay.

Mr. Starr: Okay, Director.

Mr. Hunt: Just real briefly on these fines and TVRS. Prior to starting to enforce these as directed by the Council we didn't really have any fines to go off of and so we were starting to enter new territory. The first couple of fines that we've settled to in hindsight were too small. The comments that we're getting from people, is once you include that in the cost of doing business and some of these people are getting thousands of dollars a night, that it's not much of a deterrent. So we just want to let you know that this amount we feel is small and in the future we will probably be settling for a larger amount given the fact that they've agreed to settle on this so quickly.

Ms. Johnston: Could I add just a comment to that?

Mr. Starr: Yes, please.

Ms. Johnston: I think the goal here is primarily to stop the illegal activity and make these people come in and do what the law requires them to do. I agree the fines are – the last two that we've settled that – well, there was one before the BVA that we settled for a little bit more money than this but there were a lot of – the situation was a lot more flagrant, there was a lot of complaints and so forth. We're learning our way on how to deal with these matters and hopefully with this settlement we get some publicity, a couple more hopefully will escalate the amount of the money, but the real goal is to stop the illegal activity and get these people to come and get squared away on that.

Mr. Starr: Okay, members we ready to vote on the motion?

Mr. Iaconetti: I have a question.

Mr. Starr: Oh, yes, go ahead Doc.

Mr. Iaconetti: Where does the money go? Where is it deposited?

Mr. Hunt: It goes into the general fund. There's talk about actually having it dedicated to a specific line item which then could be used for further enforcement even using sting money or hiring people or providing more tools, credit cards, etc., but that has not come to fruition.

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

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

**VOTED: To Approve the Settlement Agreement.**  
**(Assenting - K. Hiranaga, B. U'u, W. Mardfin, D. Domingo, W. Iaconetti,**  
**J. Starr)**  
**(Excused - W. Hedani, J. Guard)**

Mr. Hunt: I have that as six in favor, zero against. The settlement motion passes.

Mr. Starr: Okay, thank you. Well done. We have our next item is some minutes specifically action minutes from January 27<sup>th</sup>, regular minutes of January 13<sup>th</sup> and minutes of the site inspection

workshop of September 30, 2008.

**G. ACTION MINUTES OF THE JANUARY 27, 2009 MEETING, REGULAR MINUTES OF THE JANUARY 13, 2009 MEETING and MINUTES OF SITE INSPECTION/WORKSHOP OF SEPTEMBER 30, 2008.**

Mr. Starr: Does anyone have corrections or motions?

Mr. Hiranaga: In my packet I received action minutes for February 10, 2009, but it's not on the agenda.

Mr. Starr: Carolyn?

Mr. Hiranaga: I don't have a copy of the January 27<sup>th</sup>.

Mr. Starr: Okay, I think we should not act since it's not agendaed for those.

Mr. Hiranaga: I did have a correction on it. I'll do it off the record for the February 10<sup>th</sup> since it's not on the agenda.

Mr. Starr: Okay, so what we'll do is we'll bring there back and meanwhile you'll give the corrections so they can be corrected. So we'll move past Item G.

Mr. Hiranaga: We can do the –

Mr. Starr: We can do the other ones.

Mr. Hiranaga: Well, January 13<sup>th</sup> and the site inspection.

Mr. Starr: Okay, ready to make a motion on those?

Mr. U'u: Motion to accept.

Mr. Iaconetti: Second.

Mr. Starr: Okay, Motion by Commissioner U'u, seconded by Dr. Iaconetti. What's the motion Director?

Mr. Hunt: To accept the regular minutes of the January 13, 2009 meeting and the minutes of the site inspection workshop of the September 30, 2008 meeting.

Mr. Starr: All in favor please raise your hand. All opposed.

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

**VOTED: To Approve the Minutes of the January 13, 2009 Meeting and the Minutes of the September 30, 2008 Site Inspection/Workshop.  
(Assenting - B. U'u, W. Iaconetti, K. Hiranaga, W. Mardfin, D. Domingo, J. Starr)  
(Excused - W. Hedani, J. Guard)**

The Action Minutes of January 27, 2009 Meeting was approved at the February 10, 2009 meeting.

Mr. Hunt: 6-0 in favor, the motion passes.

Mr. Starr: Director, we call on the Director's Report.

Mr. Hunt: No report today. I'm sorry I got confused with GPAC where we have a standing agenda item. The Director's Report involves the 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 time extensions on the following: Milton Arakawa, Director of the Department of Public Works requesting a two-year time extension on the Special Management Area Use Permit period to initiate construction of the Kaholopoo Bridge project at TMK 1-4-007 in Hana. The file number is SM1 2001/0019 and Jim Buika is the planner assigned to this.

#### **H. 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 time extensions on the following request:**
  - a. MILTON ARAKAWA, Director of the DEPARTMENT OF PUBLIC WORKS requesting a 2-year time extension on the Special Management Area Use Permit period to initiate construction of the Kaholopoo Bridge project at TMK: 1-4-007, Hana, Island of Maui. (SM1 2001/0019) (J. Buika)**

Mr. Hunt: Essentially the request is to acknowledge receipt of the request and the commission may review the time extension or waive its review.

Mr. Starr: I have a question which is since I've not been a good student and I haven't memorized the order of all the bridges, which one is this? And please come introduce yourself.

Mr. Joe Krueger: Hi, I'm Joe Krueger, Public Works. This is the one, near Hamoa Beach and you can bypass it by going through Hamoa Beach.

Mr. Starr: Okay. So it's like above Koki.

Mr. Krueger: Yes. And what we're requesting now is a four-year extension instead of the two because the two will bring us up to 2009. Because I asked for this two years ago. So can I have

a four-year instead of a two-year.

Mr. Starr: Okay, Commissioner Mardfin.

Mr. Mardfin: I do want to say one thing. I talked to people in Hana and we certainly don't want to kill the project but we do encourage you to get on with it as quickly as you can. I'll make a motion –

Mr. Starr: Lets just see if there's any public testimony before. I'd like to see if there's any members of the public wishing to testify? Not seeing any, public testimony is closed. Go ahead Commissioner Mardfin.

Mr. Mardfin: Maybe we should hear from the director on the request for it to change from a two-year extension to a four-year extension.

Mr. Hunt: I would defer to Jim Buika, the staff planner.

Mr. Jim Buika: Yes, I had, unfortunately I hadn't coordinated fully with Joe and I was attempting to get more than two years because this project had lingered with another planner and the time extension is already coming up and I picked it up to finalize the time extension, but under our new Maui Planning Commission rules expediting the time extension reviews we can only allow a two-year time extension. Right now we can't extend it to three years or four years unfortunately so they will have to come in with another time extension request similar to this one soon to extend it for another two years unfortunately. But if we want to expedite it by waiving your review and allowing us administrative approval, we need to keep it at two years, two-year time extension.

Mr. Starr: I want to ask Mr. Krueger if by doing that, that messes you up.

Mr. Krueger: By waiving the requirement it actually helps me.

Mr. Starr: No, what I'm saying is – we're being told that by our rules we can only do it for two years.

Mr. Krueger: Right, so I'm going to have to ask for another extension.

Mr. Starr: Yeah. I doubt you'll difficultly then but who knows?

Mr. Krueger: Correct, no I don't think that's a problem because the project is scheduled for 2010.

Mr. Mardfin: Thank you.

Mr. Starr: Commissioner U'u.

Mr. U'u: Just make a recommendation, I was wondering if we can take them at the beginning of the meeting for his next – he has to come before us for his next meeting. When would that be or when it does occur can we take it up first thing.

Mr. Starr: Yeah, give it Clayton for what is it, February of 2010? Go ahead Commissioner Mardfin.

Mr. Mardfin: I move we waive review of this and leave it in the director's capable hands.

Mr. Starr: Is there a second?

Mr. U'U: Second.

Mr. Starr: Okay, motion by Commissioner Mardfin, seconded by Commissioner U'u to waive review. All in favor, please raise your hand. All opposed.

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

**VOTED: To Acknowledge Receipt of the Request and to Waive Review.  
(Assenting - W. Mardfin, B. U'u, K. Hiranaga, D. Domingo, W. Iaconetti,  
J. Starr)  
(Excused - W. Hedani, J. Guard)**

Mr. Hunt: It's six in favor, zero against. The motion passes. The next item involves pursuant to the Maui Planning Commission's Special Management Area Rules, the notice of the filing of the following SMA Appeal: Hana Beachfront Associates appealing the Planning Director's decision to require a Special Management Area Major Permit (SMX 2008/0321) for the proposed residential structures at Mauka Haneoo Road, Koki Beach in Hana. The application number is, appeal number is 2008/0004. Trish Kapuaala is the planner assigned. This is just information purposes only.

**2. Pursuant to the Maui Planning Commission's Special Management Area Rules, the notice of the filing of the following SMA appeal:**

**HANA BEACHFRONT ASSOCIATES appealing the Planning Director's decision requiring a Special Management Area Major Permit (SMX 20080321) for proposed residential structures at Mauka Haneoo Road, Koki Beach, Hana, Island of Maui. (APPL 20080004) (T. Kapuaala)**

Mr. Mardfin: May I?

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: May I ask a question? Was this appeal filed in a timely manner?

Mr. Hunt: I can't answer that.

Mr. Starr: Yes, Ms. Johnston.

Ms. Mary Blaine Johnston: Yes, Mary Blaine Johnston, Deputy Corporation Counsel, I'm the attorney assigned to handle this case and I've been working with Thorne Abbott who is the planner

that dealt with this. I know there's a note that says it was untimely filed, but when I looked at the file, the return receipt, from the date he received, yes, the appeal, in my opinion, the appeal was timely noticed.

Mr. Mardfin: It was timely.

Ms. Johnston: Yes. And having said that, and this is why I hung around, we probably will be stipulating to continue the matter because Mr. Stice who is the principal in this has indicated that he would like to work with the department on the issues before putting this whole letter through an appeal process. So we'll probably be moving this off so it won't come back again to you guys for a while if at all.

Mr. Starr: And I just want to comment that this is something that really difficult to – a very large percentage of the Hana population and it's kind of been – hasn't really hit the press or the grapevine. If it does, there'll be hundreds of Hawaiians very emotionally concerned about it. So you know, take that for what it is, but it is a really touchy thing out in Hana, but it's been quiet. No one knows about it.

Ms. Johnston: Okay, I think that Mr. Stice is very sensitive to that and that's one of the reasons that he has decided that he wants to see what can be done within the parameters of what the letter has decided. You're required of course, if you want to reserve your right to appeal, you've got to file within the time line, but it doesn't mean you have to go all the way through the appeal. You can maybe resolve it, but he's just preserved that right, but I think he has indicated a great desire not to have to go that route.

Mr. Starr: I want to thank the Director for really trying to do the right thing with this.

Mr. Hunt: You're welcome.

Mr. Mardfin: I concur.

Ms. Johnston: If you haven't read the letter, it's a very good letter. A very good letter.

Mr. Starr: Okay, anyway lets keep going. Thank you very much Ms. Johnston.

Mr. Hunt: The next item is Planning Commission Projects and Issues.

### **3. Planning Commission Projects/Issues**

Mr. Hunt: I'd like to just mention that we have reserved a number of meeting dates for the planning commission in regards to reviewing the Maui island Plan. The third Thursday, of every month starting in April for six months we are scheduled to meet in this room. It has been reserved. And then the first Tuesday of every month, we have reserved one of the outlying regional community centers.

Mr. Starr: Wait, wait, wait, that's the third Thursday?

Mr. Hunt: Third Tuesday is here.

Mr. Starr: Third Thursday or third Tuesday.

Mr. Hunt: Third Tuesday is here.

Mr. Starr: I thought you said Thursday.

Ms. Domingo: He did say Thursday.

Mr. Hunt: Sorry. The third Tuesday is here in this room. The first Tuesday of each month is in a regional community center with one exception and I'll go over it just real briefly. May 5<sup>th</sup> is Haiku, June 2<sup>nd</sup> is Hana.

Mr. Starr: June 2<sup>nd</sup> is Hana?

Mr. Hunt: We can send you this information. July 7<sup>th</sup> is Kihei. August 4<sup>th</sup> is Lahaina. The one exception is September 2<sup>nd</sup> is a Wednesday in Pukalani. We couldn't get the Tuesday.

Mr. Starr: And are all those the community centers?

Mr. Hunt: Yes.

Mr. Starr: Okay, I'd like to congratulate whoever got that worked out.

Mr. Hunt: There's one more October 6<sup>th</sup> is Wailuku. So they're all community centers except for Lahaina is the Civic Center.

Mr. Mardfin: And the third Tuesday in April is our first extra meeting?

Mr. Hunt: Yes.

Mr. Mardfin: So that's April?

Mr. Starr: Commissioner U'u.

Mr. U'u: I'm just wondering if we could have that written form prior to the next meeting.

Mr. Starr: And maybe Carolyn can you email that out to everyone? Okay, I want to – I didn't think that would be possible to set up with all the community centers. Whoever did that, did it well. So thank you.

Mr. Hunt: Carolyn deserves the credit.

Mr. Starr: It's a puzzle I know trying to work on it. And just one that I've been kind of stopping off at the GPAC meetings and it's like – I'm a little over awed by what it's taking them to get through

it and I'm getting a little cold feet in hoping that we're going to be able to do this in our 12 meetings we've got put aside for it and I know we'll all try our best, but it's, quite frankly a little scary. It's taken them about 50 meetings.

Mr. Hunt: If I could, the advantage you folks have. You have a couple. One is you're a much smaller group. Nine is much more manageable than 25. Plus used to dealing with agendas and time lines and parliamentary procedures and you're more businesslike and that's not a cut at the GPAC, that's just an observation.

Mr. Starr: Dr. Iaconetti.

Mr. Iaconetti: I just wanted to let you know that I have complete confidence in this group and just glad that you're going to be able to do it.

Mr. Mardfin: Will you attend the Lahaina meeting.

Mr. Iaconetti: We'll see.

Mr. Hunt: That was the only issue I had. If there's any issues the planning commission has this is your opportunity.

#### **4. Discussion of Future Maui Planning Commission Agendas**

##### **a. March 10, 2009 agenda**

Mr. Starr: We have some items on our agenda for the next meeting and frankly this is a pretty slim agenda and I believe that this is everything that's ready. I don't think we've ever quite been this far ahead of the loop which I guess is where we want to be in terms of clearing the deck for the General Plan. I had some discussion about having Mike Miyamoto give us a little bit of a explanation about roadway standards and different kinds of roadway standards because it's a little bit confusing and if we can set that up for the next meeting we might add that onto it, you know, whether you need 36-foot or 24 or whatever.

Mr. Hunt: I'll talk to Mike and see if we can arrange that.

Mr. Starr: Commissioner Domingo.

Ms. Domingo: I just wanted to ask you know that meeting on May 5<sup>th</sup>, Haiku, what time was that planned for, just for a point of time.

Mr. Hunt: At this point, we've reserved the meeting room from 12:00 p.m. to 10:00 p.m., and once we get closer to April, we'll come back with a proposed schedule and see what are the actual starting and end dates that the commission wants.

Mr. Starr: I think the conceptual plan was to start like at 1:00 or 1:30 and then kind of do – you know during daylight hours do kind of technical type stuff and then open testimony, you know, at 5:30 or

so and that way public can come at 5:30 and we can still get some stuff done of a more technical nature before people get out of work and flood us with testimony. We'll see if that works. Anything with the EA/EIS, SMA?

Mr. Hunt: Could I go back to Mike Miyamoto? What was that regarding? I didn't scribble it down.

Mr. Starr: Roadway standards and you know, how the different entities that do roads and stuff on Maui. Just like a short primer on how that works.

5. **EA/EIS Report**
6. **SMA Minor Permit Report**
7. **SMA Exemptions Report**

Mr. Hunt: The rest are your standard EIS, SMA Minor, SMA Exemptions if there's any questions on those?

Mr. Starr: Not seeing any.

Mr. Hunt: Then lastly we ask if there's anyone who will not be here for March 10<sup>th</sup>? Thank you.

Mr. Starr: Okay, good work everyone. Good meeting. Thank you.

**I. NEXT REGULAR MEETING DATE: March 10, 2009**

**J. ADJOURNMENT**

The meeting was adjourned at 2:38 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**Present**

Jonathan Starr, Chairperson  
Donna Domingo  
Kent Hiranaga  
William Iaconetti  
Ward Mardfin  
Bruce U'u

**Excused**

Wayne Hedani  
John J.B. Guard IV, Vice Chairperson

**Others**

Jeff Hunt, Planning Department  
Michael Hopper, Department of the Corporation Counsel  
Mike Miyamoto, Department of Public Works