

**MAUI PLANNING COMMISSION  
REGULAR MEETING  
SEPTEMBER 26, 2006**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairman Wayne Hedani at 9:08 a.m., Tuesday, September 26, 2006, 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. Hedani: We'll take public testimony at this time on any agenda item in order to accommodate those individuals who cannot be present when the agenda items are considered by the commission. Public testimony will also be taken when the agenda item is taken up by the planning commission. Maximum time limits on individual testimony is three minutes. A person testifying at the beginning of the meeting will not be allowed to testify again when the agenda item comes up before the commission unless new or additional information will be offered. Are there any members of the public that would like to offer testimony at this time? Seeing none, well move onto the first item of business under Item B-1.

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

- 1. WALKER FAMILY KIHEI LIMITED PARTNERSHIP requesting a Special Management Area Use Permit for the construction of the Walker 2<sup>nd</sup> Residence and related improvements on a 0.465 acre parcel of land in the A-1 Apartment District at 1270 Uluniu Road, TMK: 3-9-008: 006, Kihei, Island of Maui. (SM1 2005/0022) (T. Abbott)**

Mr. Thorne Abbott presented the Maui Planning Department's Report.

Mr. Hedani: Questions from the Commission? Okay, proceed.

Ms. Maria Isotov-Chang: Hello, my name is Maria Isotov-Chang and I'm representing the client Wanda Walker and Richard Walker. Wanda Walker is here today sitting here. I have a short power point for you. Basically just going to go through some site photos and show you where exactly these structures are going to be on the land. The Walker Family is aware of the proposed recommendations and conditions and doesn't have a problem with complying with any of them.

The project is located here in North Kihei. Subject parcel is behind Azeka's Marketplace the beach access is Keolanui and there's the government beach reserve lands. There's about over a hundred feet between any of the proposed structures and the shoreline well outside of any imposable setback which would be about 45 feet on the parcel.

Here's the Walker property. Can I get a little arrow on this screen? Anyway, – well, this is one of the apartments across the street from the subject parcel. Thorne, this thing is going through kind of quickly here. This is the beach access, you can see there's an incline toward the back of the access on the shoreline side of the property, the Walker property is here on the right side and the Hackler property, residential property is on the left side.

And this is when you enter the property at this time. This is the driveway into the parcel. There's the workshop that shall be demolished with the main dwelling in the back and the carport onto the right there and that shall be removed also. All these structures were built in the mid-1930's, 1935. And that's the existing dwelling. It shall remain. There will be some improvements done on it in the future. I'm not sure why this is skipping ahead here.

This is the tank house. There used to be a tank on top of this structure. Now it's just the tank house when the water used to come from upcountry and you can see then to the right there between the carport and the tank house is the pump house. It's about a four-foot deep well. It's a brackish water well. Thorne, I would appreciate it if you could help me with this. It's just kind of going through.

This is the beach access looking from the end of the Walker property boundary toward Ulunui. So here we have Walker residence and you can see the beach access on the side. The second residence will be in between the two inside the setbacks.

Here we have a long shot looking north of the government beach reserve lands and then the ocean off to the side there on the left. And then this is looking south, the top photo looking south and looking north along the shoreline, the sandy shoreline, the berm, sandy berm in front of it.

Here's looking from the shoreline area toward the residence. This is the stairway and the walkway that is inside of the beach reserve lands. They were built at the same time that the house was but shall be removed during the construction phase by hand most likely as it's pretty old. It shouldn't be too hard to remove.

Here's we're looking at, we're on the left side of the residence looking down toward the tank house and you can see on the top photo there's a sand berm in front of the house that extends across between the shoreline and the residence.

So here we have where the new cottage is located. I'm giving some of the distances of the setback to the shoreline at the top part of the property boundary is about a 150 feet from the shoreline and the new garage will be over 200 feet, existing dwelling is around 145 feet from the shoreline. The next cottage is around a 150 feet from the shoreline.

This is a location on the parcel of where the new cottage will be. It is on the south side. This is a photo of the rendering of the new cottage. It's wood shingle. It will have – it's undecided at this point if it's going to be asphalt shingle or copper shingle, one of the two. The living area is upstairs. It's around 920 square feet and the lanai is about 280 square feet.

Here's a location for the detached garage which will be between where the existing tank house is and the pump house but the tank house will be removed. That's where the concrete parking lot will be. And then here's another location shot of where the detached garage will be.

Here we're looking at the front of the parcel. The ironwoods is the Walker parcel and there will be a four-foot CMU wall. The ironwoods will be removed and the driveway instead of being on the south end of the property will be moved to the north end and there will be two columns at the end of the rock wall. The columns are at this point unless it's determined otherwise about seven feet in height and the side yard wall will be six feet in height above grade. There will be some retaining wall as the slope goes up.

The beach access area has been graded over the years by the county, by the state and it used to be full of sand and that berm that you'd seen in earlier photos in front of the house used to exist all the way along this area and into the beach access area but it has been graded out so there's a significant change in elevation. So there will be some retaining wall in that portion. Here's a shot of the walls. There's the front yard wall which is four feet high and then in the middle here you have your side yard wall. The maximum height will be six feet above grade. There will be some retaining portion that will go down into the ground. It will be subsurface in order to maintain the sand that is on the property at this time and then there's a rendering of the gate column. Questions? That's it. Pretty straight forward.

Mr. Hedani: Questions from the commission? Thank you very much.

Ms. Amarin: I have a question.

Mr. Hedani: Commissioner Amarin.

Ms. Amarin: Thank you Chair. Thank you for the presentation. This resident has been there since the 1930's?

Ms. Isotov-Chang: Yeah, it's actually Dick Walker's father who originally built the house and owned the parcel.

Ms. Amarin: So the walkway?

Ms. Isotov-Chang: Was built with the house.

Ms. Amarin: At the same time.

Ms. Isotov-Chang: Yeah, at the same time.

Ms. Amarin: So how long, how many years has that not been in compliance then, I mean, existing there and it should not have been?

Ms. Isotov-Chang: It was built in 1935, so pre statehood. The Maui Land Agent felt that it should be removed because it appears as though the land is private and they're trying to reestablish that it's public land and so they asked that it be removed.

Ms. Amarin: And that is a good gesture only because there has been instances that I'm aware of of people trying to enjoy the beach area and have been disturbed to move out of the area. Thank you.

Mr. Hedani: Any other questions for the applicant? Commissioner Iaconetti.

Mr. Iaconetti: The coconut trees that are in the beach area they will remain?

Ms. Isotov-Chang: Oh, yeah. Yeah.

Mr. Iaconetti: And the ironwood trees are being?

Ms. Isotov-Chang: Removed.

Mr. Iaconetti: All of them?

Ms. Isotov-Chang: It's not for sure yet that they're going to be removed, but they do want to get permit to do that at this time in case they choose to go and put in a rock wall. They haven't decided that yet.

Mr. Hedani: Any other questions for the applicant? Commissioner Amarin.

Ms. Amarin: Thank you Chair. One more question. As far as the pathway, what is the width as far as the public access? And then you're going to have another wall on the opposite side.

Ms. Isotov-Chang: There is an existing wall on the south side of the beach access. The access itself is roughly 10 to 12 feet wide, somewhere in there. I hadn't measured it. But

it's roughly 10 to 12 feet wide. As you – because it's been graded, the topography is not what it used to be, so you have the Walker's property with a berm. If you just take an elevation plan you have a berm like this of sand. And that used to extend into and across onto the adjacent parcel and down the shoreline. Now it's been graded out. So what happened is that used to be a buffer for when water would rush from the ocean for one, and it was the natural grade. So what the Walker's are proposing is to put in a rock wall and then bring in retaining wall much of which is going to be subsurface because it's continually being graded and they want to retain their land. The neighbor, I'm not sure when they built their wall. Do you know when they built that wall? About five years ago. See, the height restrictions have changed last year.

Ms. Amorin: So where the trees are at, is that going to be the retaining wall that's going to go up?

Ms. Isotov-Chang: No. At the roadway it will be six feet. It's flat from the Walker property to the beach access, the grade is all the same. Once you get toward the ocean area at the end of the parcel that's when the grade changes and you have in some places you have like a four-foot elevation change.

Ms. Amorin: Okay, my concern was for the width.

Ms. Isotov-Chang: Within three or four feet.

Ms. Amorin: But the width will be about 10 feet, be maintained as far as path.

Ms. Isotov-Chang: Oh setbacks, of the setback of the building, oh yeah definitely. Definitely, yeah. All of the rules of the State shall be followed.

Mr. Hedani: Any other questions for the applicant? Okay, seeing none, thank you very much.

**a. Public Hearing**

Mr. Hedani: Lets open for public testimony at this time. Are there any members of the public that would like to offer testimony? Seeing none, the public hearing is closed. Staff recommendation.

Mr. Foley: Thorne, one quick question. On the drawing the beach access is listed as Keolanui Place. Is that publicly owned or privately owned?

Mr. Abbott: It's publicly owned. It's shoreline access point number 119.

Mr. Foley: Okay.

**b. Action**

Mr. Abbott presented the Recommendation.

Mr. Hedani: Questions for staff? Commissioner Guard.

Mr. Guard: Thank you. Thorne, just on Condition 24, is there a way just to I guess state what type of machinery would either be allowed or not allowed in there so they don't disturb the rest of the landscape? Because it looks like it's all grassed around that right to the rock, whether it be cut up and hauled out manually instead of bringing in a bobcat or bulldozer to do it?

Mr. Abbott: Sure we could do that. We could under Best Management – using Best Management Practices and no track equipment.

Mr. Guard: That's up for discussion. I think it's easy enough to cut it and haul it out. It would take a little extra time but it won't compact the surrounding area.

Mr. Hedani: Any other questions for staff? Commissioner Amarin.

Ms. Amarin: Thank you Chair. No, I just had one question. Public access you have 119 and 118, how far away are they from each other?

Mr. Abbott: I can't answer definitively in terms of feet. I can answer that I've walked between the two in less than five minutes time. It's about four or five houses.

Ms. Amarin: Oh, okay thank you. I know that's a popular area that's why and while reading the report I didn't see that.

Mr. Hedani: Thorne, can you explain to me the government beach reserve? Where does the property line end and how many feet from the edge of the vegetation line is that?

Mr. Abbott: If I may go back to a graphic here, you'll see the top left-hand side where it's pretty much blank space and you have some contour lines on the far left-hand side. What you see going perpendicular to the house is the walkway. The topography lines are the end of the parcel. That's about 150 feet away from the ocean and in between those two is the government beach reserve. Actually it's just a coconut grove and on the makai side of that is a sand dune. So this sits quite well behind the sand dune. It's about a 130 feet behind the sand dune and you know, basically it's ocean, sand dune and then a nice coconut grove and then their parcel. So they're quite far away.

Mr. Hedani: How does a government beach reserve get established or what determines the property boundaries of the government beach reserve? Is it "x" number of feet from the edge of the vegetation?

Mr. Abbott: No, the government beach reserve has its own TMK. It's actually an established parcel.

Mr. Hedani: So it was subdivided as a beach reserve.

Mr. Abbott: And it behaves as a dune system. So the dune moves and ebbs and flows and it's currently covered in natural vegetation. So it's behaving as it should and frankly the Walkers have built appropriately behind and far mauka of that area which is what we want to have happen generally.

Mr. Hedani: The other question that I had was in this particular case what is the zoning for the property and does it permit a second residence?

Mr. Abbott: As far as I know, yes it does. It's zoned apartment. To the applicant's credit, this is just my personal opinion if the commission would bear with me, we have a number of properties like this where the old 1930's, 1950's ...(inaudible)... house is torn down and a much larger house that pretty much builds out the lot is put up. In this case, the applicant's gone through the process of getting a SMA major to put a second home up and retain quite frankly a very nice 1930's style architectural bungalow. I know it's been rather arduous as far as time for them compared to what they could have done. But as far as I know it's zoned apartment and so they're permitted a second residence.

Mr. Hedani: Is the intended use of the property for transient accommodations?

Mr. Abbott: No, I don't believe so.

Mr. Hedani: It's for single family residential use.

Mr. Abbott: I believe it's for their extended family, but I'll let them speak to that specifically.

Ms. Wanda Walker: Our son is career military and gets out of the service in January and we had hoped to have a building for him and his wife by that time. We're not going to make that date, but anyway, that's for him and wife who's now living at our house to live in. We're never going to rent to anybody.

Mr. Hedani: I see. Thank you. Commissioner Shepherd.

Ms. Shepherd: Move to approve.

Ms. Freitas: As amended, seconded.

Mr. Hedani: Moved by Commissioner Shepherd, seconded by Commissioner Freitas.  
Discussion? Commissioner Starr.

Mr. Starr: I'll be voting against. I feel that we don't want to be increasing the density in the shoreline area. I don't think more houses with walls around them and retaining walls to lock in the sand is what we need. I think it's going in the very wrong direction. Although I sympathize with the family and would like to see a place for the son and wife to live. I really don't want to encourage more density in the shoreline there with walls around it and trees cut down.

Mr. Hedani: Thank you. Commissioner Freitas.

Mr. Freitas: I have a comment to Commissioner Starr's comment and that is, is there is a thing called private property rights and they have that zoning. And with that, as you know, you are permitted to do certain things. So to deny that is something.

Mr. Starr: I believe that there is –

Mr. Hedani: Commissioner Starr, is there any other discussion?

Mr. Starr: Excuse me, can I answer the comments that were put to me?

Mr. Hedani: Commissioner Starr.

Mr. Starr: There is adequate use of the property and has been since 1935. Where property rights are taken away is when no use is allowed to be given, but since there is a residential unit there already and has been, we're not taking away anyone's property rights by now allowing a second house. Thank you.

Mr. Hedani: Is there any other discussion? Ready for the question?

**It was moved by Ms. Shepherd, seconded by Ms. Freitas, then**

**VOTED: To Accept the Recommendation of Approval of the Special  
Management Area Use Permit, as Amended.  
(Assenting - D. Shepherd, S. Freitas, J. Guard, J. Amorin,  
W. Iaconetti)  
(Dissenting - J. Starr)  
(Excused - P. Eason, B. U'u)**

Mr. Hedani: One nay, motion carries. Thank you.

Mr. Abbott: Thank you commissioners.

## **C. COMMUNICATIONS**

- 1. Clarification as under what circumstances the Maui Planning Commission Chair can vote pursuant to the provisions at the Maui County Charter, the Maui Planning Commission Rules, Robert's Rules of Order. Matter was brought up at the September 12, 2006 Maui Planning Commission meeting.**

Mr. Foley: The second item on the agenda is a issue that came up at the September 12<sup>th</sup> meeting having to do with the planning commission's rules and Robert's Rules of Order with respect to when it's appropriate for the planning commission chair to vote. I'm not sure who wants to start this off, maybe James, have anything to add?

Mr. Giroux: I pretty much stated everything I wanted to state at the last meeting. I mean as far as the chairman's vote when we have a situation where we either have a bear minimum quorum like five people it's obvious that the chairman's going to vote and if the body wants the chairman – to know that the chairman is going to vote, I mean it's obvious to all present that he's going to have to vote. So as matter of formality we have the chairman just state that there's a minimum quorum and that he will be voting.

In the matters where there is more than minimum quorum where we don't know whether or not there's going to be a tie, you know, at that point we could also make note that at that time there is the possibility that the chairman is going to vote but it's not necessary that he will vote because if there's six members present and all five members vote in favor of a project then the chairman doesn't vote. So, you know, as far as – you know Robert's Rule of Order is a guide for us to help to proceed with order not to cause chaos.

If we are trying to deal with property rights with people who are here, who are asking for us to have action and if we try to interpret Robert's Rules of Order to create non-action I think that's a very abuse of our process because within our very rules it says that our rules are supposed to be interpreted for efficiency and for public justice. So we need to keep that in mind. So we need to know that when people come here and they're asking us to make decisions that those decisions are based on matters that are – we do want to use Robert's Rules of Order as a guide but we also have to look at the Constitution, we have to look at the State laws, we have to look at our own rules and we have to make decisions based on justice and equality. Robert's Rules of Order should not be used as a tool to cause non-action unless it's absolutely something totally out of order.

As far as when we come to a situation where the chairman may or may not be voting and we come to a situation where the vote just so happens to be four to three or something like that, to say that the chairman can't vote because he didn't declare that he was going to vote to start with I think would be a total abuse of our process. We are a public service here. We are being asked to conduct ourselves in such a way that we can have action and I think we should interpret our rules in such a way.

Mr. Hedani: Okay, thank you very much James. Any further comments, questions, discussion? Commissioner Amarin.

Ms. Amarin: Thank you Chair. No, just my own comments. I wasn't here during the discussion on this, but as a body, and we're all members, the chair is a member and whenever a project comes before us it's our decision making whether to approve or not. And sometimes it goes right down to the wire, it goes down to the last instant where we can change our mind on our decisions. And it's our right as a body and as a commissioner and I just wanted to throw it in because I agree that the Robert's Rules is a guideline and it shouldn't be something that is going to enforce negativity among the members and everybody's trying to make a decision on the project and when it comes to a tie I believe the chair needs to step in. And I don't think he can't advance his decision at all, because I like said, it comes down to the wire to make a decision. Thank you.

Mr. Hedani: Any other discussion? Questions? Comments? Does the commission have a preference as to when I vote?

Mr. Iaconetti: I would just assume have you say I'm going to vote on every issue.

Mr. Giroux: But he won't unless there's a tie or he needs to make quorum.

Mr. Foley: Is there any prohibition of him voting on every issue? I mean, some commissions operate that way where the chairman always votes on every issue, but I don't know if they're operating under different rules.

Mr. Hedani: Generally I'll withhold voting in order for the commission to reach their conclusions and decisions and try to be as objective and as neutral as possible in conducting the meeting. At such time as we come to an impasse where a vote is required to make five votes or in order to make quorum then it's my intention to vote in every such instance unless there's an objection from the commission. I think that's why they set up nine commissioners instead of eight so that items don't get deadlocked essentially. Okay, I think we beat that one to death.

Mr. Iaconetti: I think so.

#### **D. MINUTES OF THE JUNE 27, 2006 MEETING**

The term, “view plain” corrected to “view plane.”

**The minutes were then accepted as circulated with the above correction.**

#### **E. DIRECTOR’S REPORT**

##### **1. August 18, 2006 memo from Coastal Resources Planner Thorne Abbott regarding Shoreline Rule Amendments**

Mr. Foley: The first item is just a transmittal to the commission from Thorne regarding shoreline rule amendments and unless the commission has any questions – If you do have any questions, we can ask Thorne to come back. Okay, so you might want to hold that for a minute and go on to talk about the scheduling of the November 13<sup>th</sup> site inspection. Thorne’s back. Thorne, do you want to outline your August 18<sup>th</sup> memo for the commission?

Mr. Thorne Abbott: Thank you very much commissioners for your patience. I sent a memo to you. We’ve advertised in the Maui News some amendments, proposed amendments to the shoreline rules. One of these amendments is clarifying how you actually determine your setback and I want to give you some background, just background information as to why that proposed was developed.

As you know, there’s two different kinds of shoreline loss, there’s where you have on the right side unstabilized land where you have coastal erosion which is a chronic problem. It comes from sea level rise and high surf and wave action. On the left side is the stabilized area where you have beach erosion as opposed to coastal erosion. Beach erosion is normally or under many circumstances facilitated by impounding sand which normally would move up and down the beach or would move from a dune system makai out to the ocean and then when our seasons change is pushed back into the dune. So if you put up a seawall and impound that sand or you put a house on it or a structure on it, it’s available to replenish the beach. So you either save the land and lose the beach or you keep the beach and you lose the land.

Now our erosion rate is an average of one foot per year. The highest is 5.5 foot per year in general. As you noticed at Baldwin Beach we had substantially bigger losses than that. We’ve lost five miles of beach since 1949 and three miles of road are threatened by erosion. This is a graphic out in Paia where the shoreline was in 1912 not far from Baldwin Beach. You can see a substantial amount of erosion. This is Baldwin Beach itself you’ll see August 9<sup>th</sup> in the lower right-hand column, in the lower right-hand graphic where the showerhead is and there’s about 10, 12-foot of beach in front of it. Two weeks later, three weeks later, August 30<sup>th</sup>, you can see the shoreline’s moved back behind the showerhead

and this happened all along Spreckelsville and the north shore. There's major erosion events as we know.

We do depend on recreation not only for tourism but also for our own personal livelihood. It's kind of difficult to recreate you'll see in the top right-hand corner the former shower and the tour boat in the far background there.

So there a lot of the private response to the shoreline erosion or beach erosion was substantial shoreline armoring. This commission was empowered by the Coastal Zone Management Act not only to address coastal erosion but also coastal hazards like reducing risks to new structure and enhancing public safety, preserving beach access and also minimizing adverse impacts on coastal ecosystems. You're empowered to protect beaches and shoreline areas for better protection of sandy beach resources, decrease the need for shore protection of new structures. Decrease risk of hazards to lives and property. We wanted to bring the County into compliance with State and Federal CZM laws, community plans and also FEMA requirements and this also allowed us to enjoy some rate reductions on insurance for oceanfront properties.

So as you recall, back on October 28, 2003 this commission adopted new rules for shoreline setbacks. They're some of the most innovative in the United States at this time. Regulates use and activities of land within the shoreline area to protect health, safety and welfare of the public by providing minimum protection from coastal natural hazards, ensures public use and enjoyment of the shoreline resources are preserved and protected for future generations.

Now there's two ways to do this, average lot depth and annual erosion hazard rate. Now the average lot depth is based on measuring the left side of a parcel, the right side of a parcel and the center line, add those three up, divide it by three, you get an average lot depth, 25% of that is dedicated for your shoreline setback.

Now for lots that are less than a hundred-foot deep on average, the minimum setback is 25 feet. For lots from a 100 to 160 feet it's 40 feet. For lots over a 160 feet it's 25% of the property up to a 150 feet.

Looking at the erosion rate based, based on the maps the Chip Fletcher came up with, you take the erosion rate, you multiply that by 50. We added a buffer of 20. And that buffer really was in case of acute events like we had up in Spreckelsville. It served as an additional buffer. There's another reason for that is that the State suggests that you can't build a hardened structure unless a habitable structure is eminently threatened. Eminently means the ocean is within 20 feet so that 20-foot number had a number of reasons for being in there. So as I've shown this graphic to you before, it's kind of difficult and challenging sometimes for the public to figure out what their setback is. Here we have a

proposed building. We have two brown buildings that are already there. We have a rock revetment. We have four erosion rate transects. If we look at the average lot depth based on a lateral that's shown here in blue. If we look at it in the sense of perpendicular, it's shown in green. If we do the erosion base which is shown in purple, it just connects the plotted points. So what's the setback? This is very confusing for the public. Our interpretation and our policy backed up by the State and this commission is to use the most conservative of those which is the overlay of all of those and the most conservative or the most mauka line.

There's one inconsistency is if you take the average lot depth method and look at a lot that's less than a hundred foot, then the minimum setback is 25 feet. However, if you have an annual erosion rate, based setback you use 50 times, lets say you don't have an erosion rate, lets say you have a seawall then your erosion rate is zero, plus a 20-foot buffer. Well, if you add that up, zero times 50 is zero, plus 20 is 20. That would imply the setback is 20 feet not 25 feet. So which is it? Now by law it's 25 feet, but that creates confusion for the public. So I recommend correcting that by making that buffer 25 feet. That way you'd always be consistent both within the rules and within the logic of the rules.

We also have some things that aren't quite addressed with the average lot depth and I'm surprised no one's addressed it before. What do you do if you have an oddly shaped lot or an irregularly shaped lot? Now one of the comments made by the public from our initial publication of the amendments, proposed amendments was we should define irregularly shaped lots and I believe we will do that in the future and present that to this commission. Although flag-shaped lots are defined.

What do you do with peninsulas or spits or places where there's water on more than two sides? The average lot depth says you measure the left side, you measure the right side and you measure a center line, well, how do you that when you have ocean on three sides of you? Where are you measuring from? Where do you measure the setback from? What about a bluff or a cliff? Mike loves to send the surveyors over to do this because it's a bit of challenge. I don't want to drop my keys off this guy's deck. ...(inaudible - changing of tape)... where it's dangerous to measure the shoreline the director shall have the authority, the discretion to determine 25% of the lot has a setback because that's what the average lot depth is really intended to do.

Here's a really great example. I really like this one. You'll see on the left-hand side where the shoreline is, follows along the rocks. The dotted red line is the property line. Behind that is a seawall built quite some time ago. Behind that, you see where this big arrow is that says weep hole, well, this seawall has held up specifically cause coastal waves during high storms crest over this wall and when they do they drain down that hole and go back out otherwise, they'd build up behind the wall much like other seawalls this commission will be reviewing and the seawall will collapse and it will scour underneath the wall. So it's quite clear that waves crest this wall. It's quite clear that there is a coastal hazard here.

In this case the property does not abut the shoreline, therefore, they claim the rules don't apply to them. Recall that under HRS 205A of the objectives, one is for this commission to reduce coastal hazards. Well, I would say a large wave cresting a seawall that's been shown to drain for many, many years is a hazard. In this case, the property owner wanted to use a six-foot setback. I think that would be placing structure in harm's way. Thus the proposed amendment suggests removing the word, "abutting." This should apply to all coastal properties, all of them.

So in summary, rule amendments clarify the minimum setback, the amendments protect all properties from coastal hazards not just those that have actually lost land to the ocean. Protection under HRS includes avoiding hazards from large surf and high waves. It uses the most conservative setback when there are two or more setback calculations that are overlaid such as the average lot depth and the erosion-based setback. It provides the director with discretion for unanticipated circumstances such as oddly shaped lots or peninsulas or irregularly shaped lots and provides the director discretion when safety becomes an issue.

I want to thank you very much for your time and I really applaud the commission's proactive stance on protecting our beaches and shorelines.

Mr. Hedani: Questions from the Commission? Commissioner Freitas.

Ms. Freitas: So Thorne, the Maui Planning Commission actually has the authority over the whole coastline of Maui then I take it?

Mr. Abbott: Up to the State's certified shorelines, yes.

Ms. Freitas: Okay, so then how come we didn't get anything on like the ships and stuff and what's going on at the pier?

Mr. Abbott: Okay, the ports are under jurisdiction of the Department of Transportation, they're exempt from the Special Management Area Rules. They will have to seek consistency with the Coastal Zone Management Act that's decided by the Office of Planning, the Coastal Zone Management Program in the Office of Planning at the State. So we don't have jurisdiction there.

Mr. Foley: Just one minor clarification. The Kahului Harbor is under the jurisdiction of DLNR and – sorry, Department of Transportation and the other harbors throughout the county are under the jurisdiction of DLNR.

Mr. Abbott: And there are times when they give us the jurisdiction over that, for example, the Kihei Boat Ramp. The dredging project that will occur there, the State has provided

us jurisdiction for within the harbor itself. So there are occasions when we do have some regulatory authority over certain harbors and ports.

Ms. Freitas: So do we have anything to say when it effects like transportation or anything? So it –

Mr. Abbott: If they're going through the special management area process, yes. And usually if they're just seeking a determination of consistency from the Office of Planning, the Office of Planning will send us that document for us to review and make comments on. Similar to an EA when the commission makes comments on an EA but is not the accepting authority. But we are limited for the Kahului Harbor. That's really out of our jurisdiction. Unfortunately, for some of us.

Mr. Hedani: Commissioner Starr.

Mr. Starr: What action is requested of us on this?

Mr. Abbott: There is no action. This is a reporting item. This will be coming up on the October 24<sup>th</sup> hearing date I believe for public discourse. I would anticipate, you know, I mentioned some of the comments such as we should define what an irregularly shaped lot is. There will be some concerns about, you know, adding – taking the buffer from 20-foot to 25-foot that will only apply to places that actually have an existing erosion rate. However, you know, that will only apply to people that have already lost land to the sea in essence. It's prudent that we protect them to the maximum percent possible.

Mr. Starr: At that meeting, will we be looking to take action? Are we recommending to the Council? What are we doing?

Mr. Hedani: What are you requesting?

Mr. Abbott: Okay, right now, I'm just providing information. On the October 24<sup>th</sup> agenda we will ask that you recommend approval of a rule amendment. If you approve that it will go to the Mayor's Office. If the Mayor signs it, it will go to the Coastal Zone Management Program Office, if they approve it, it becomes the new rules.

Mr. Foley: It doesn't go to the Council.

Mr. Abbott: Doesn't go to Council.

Mr. Starr: Oh, okay. I have another question which is has any thought been given to instead of going to a solid 25 feet, going to say, 40 feet?

Mr. Abbott: There is that consideration. We're moving incrementally. I would say as a shoreline planner, the commission considered a 50-year multiplier for the erosion rates based on one of FEMA's recommendations as to the life span of a house. If you look at all the other states in the nation of which there are I believe are five using erosion-based rates they use 30 or 60, 30 for minor structures like garages, 60 for residential. My home state oddly enough that has a huge shoreline of Lake Erie has a erosion rate based on 50 years for residential, 75 for commercial and 100 years for industrial. Kauai is currently looking at a 70-year multiplier for those erosion rates and that is what the State recommends, that's what FEMA recommends. So in some respects, we're using the 50-year multiplier is not as precautionary as most of the government agencies are recommending now.

Mr. Starr: So you think that would be a better shot at getting support for raising the multiplier than in raising the minimum footage?

Mr. Abbott: I think there's greater logic behind raising the multiplier given that a number of Federal and State agencies support a 70-year multiplier. However, that is not what we're proposing here. We're just proposing to correct some inconsistencies in the rules as they exist.

Mr. Starr: If any commissioners were to propose raising the 25-foot number, would there be departmental support?

Mr. Foley: I think we'd need to look at that and talk about it some more.

Mr. Abbott: Yeah, and there would also need to be public notification of that and I think frankly it would be best to meet with the public, have some educational processes, some presentations and I would envision that to be – and get input from them. But I'd envision that to be a six-month time frame.

Mr. Starr: So that would best be handled as a subsequent process?

Mr. Abbott: Yes, that's what I would recommend. For right now, this is really about you have great rules, very innovative rules. Far ahead of the curve. There's some problems with them and they need to be corrected. They're pretty minor inconsistencies but they can be corrected very well and Corp. Counsel has had a lot of influence on this and I thank them.

Mr. Hedani: Commissioner Shepherd.

Ms. Shepherd: There was an article I believe in the Advertiser a couple weeks ago about how despite all the evidence of dangers from erosion and storms, etc., that construction on the coastline in Hawaii is going gang busters and what's happening is these places are

being built and then sold so whoever is building is hoping they'll be out of there before damage happens.

Mr. Hedani: Thorne, this doesn't address the problem of – like taking the case of the Maui Lu case, they put in an illegal structure on the beachside to protect their property and then government comes along 40 years later and says, oh by the way that's okay. This doesn't address the question of illegal seawalls, illegal structures and those kinds of things, right?

Mr. Abbott: No, it doesn't. However, we have introduced amendments that Corp. Counsel is currently reviewing to deal with and correct some of those inconsistencies and make the rules more inconsistent.

Another thing that again I'd applaud Director Foley and his department for is that we – and Zoe Norcross, we've started working very closely with the State. It used to be a lot of times applicants would play the State off against the County and said well, he said, she said, they said, and try to mix up the answers. We're currently working on a memorandum of agreement between the State and us. DLNR Office of Conservation and Coastal Lands in which decision making would be much more seamless. So that the State wouldn't come out and say okay, yeah, it's all right, you can have your illegal seawall and we'd turn around and say, well, no you can't. So now that's going to be integrated to have one consistent decision.

Mr. Hedani: It would be nice for the system to be logical.

Mr. Abbott: It would be, yes.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, this kind of relates to part of your presentation. I was wondering if any other damage occurred on the north shore with the recent events particularly pertaining to the area where we recently approved a seawall repair, the Haines one?

Mr. Abbott: Well, you haven't approved the Haines seawall. They're currently in the draft EA process. You'll have an opportunity to review that and determine the outcome of the draft EA and the seeking of a FONSI. And then subsequent to that you'll have another meeting where you can determine whether they get a shoreline setback approval and SMA major. Other damage, I think a lot of people, you know, frankly we've had a tsunami that lost a lot of lives in Southeast Asia. We've had big hurricanes in Florida. We've had big floods in New Orleans and people are waking up. And you might recall Zoe creating a presentation here where she showed some inundation data. You know she gave a presentation over in Oahu at the conference center there and it was going to be underwater in 50 years. We've been arguing as scientists about this for a long time and promoting this

concern and I think that we're getting a lot of support in Mother Nature and that's causing people to want to move away from the ocean and recognizing the importance of that.

Commissioner Shepherd however, has pointed out a really important fact which is if you're building a house with the intent of selling that house very quickly there's no financial incentive for you not to move away from the ocean and that's where we become the last line of defense. And that's why it's important to have very tight rules that we can show not only people proposing houses but also any attorney that might be supporting their claims. Does that answer the question? A little bit. Aside from major erosion and loss of lots of trees. No, we've had some people come in and pull their proposals and decide to move their house lot further back.

Mr. Starr: Retreat is ultimately the answer but you shouldn't leave your house and lawyers behind.

Mr. Hedani: Okay, my concern is that we insure that adequate notice is given to the public of the proposed rule changes so that they can make themselves available at the meeting to provide testimony.

Mr. Abbott: Correct. And they'll have that opportunity on the 24th. Fortunately, these rules have been advertised twice now. So they'll have the opportunity of the 24<sup>th</sup> and I look forward to that.

Mr. Hedani: Okay, the concern that I have is you know, if you just arbitrarily change it from say 20 to 25 feet, it essentially affects, could affect a ton of people out there that have structures that are within the existing guidelines, and you know, the question is do you grandfather those people in, does the rule become ineffective based on everybody being grandfathered or what happens?

Mr. Abbott: First, I would refrain from saying it's arbitrary. One of the reasons I wanted to present this early was so we could have some fundamental discussions about this part of the public hearing. It would not change any of the existing treatment of any structure or building. Those buildings would be treated the same as they are now. It would only - out of the 56 miles of coastline we have, we'd only apply to those that already experience erosion. So, i.e., they've already lost land to the sea. And I wouldn't say it's arbitrary because for two reasons. One, is internally it's consistent. Your shoreline setback would be 25-foot anyhow based on the average lot depth.

Mr. Hedani: I only said arbitrary because the 25-foot may be arbitrary. You know, why not make it 20 feet instead of 25 feet?

Mr. Abbott: Okay, why not make the multiplier 70 instead of 50?

Mr. Hedani: Right.

Mr. Abbott: That is a number that's just chosen based on life spans of structures. So you could argue, why not use 30 as opposed to 50? The commission chose that 50 based on the insurance rate reductions that we get from FEMA and also some FEMA recommendations.

Mr. Hedani: Any other questions for staff? Any other last comments?

Mr. Abbott: I would hope there's a lot of public testimony and support. I would expect a lot of public testimony and I just, again, really want to recommend, applaud the commission for these rules. It's really an innovative step. The public's very, very accepting of the idea that it makes sense. If we know there's erosion there, we want to locate behind it, but there are some inconsistencies we need to correct.

Mr. Hedani: Commissioner Guard.

Mr. Guard: So at the 20 feet if a person's built 20 feet back and they lose half a foot of land and it's considered an eminent danger.

Mr. Abbott: Correct.

Mr. Guard: So by being 25 feet at least we have a five-foot buffer before they have the right under State jurisdiction to protect their property?

Mr. Abbott: Yeah, it also provides a little sliver of buffer room for them to take action. You know, that doesn't leave a lot of room for action.

Mr. Guard: Well, five feet more than 20 feet.

Mr. Abbott: Well, yeah, the Kaanapali for example, requires 18 feet of staging area. That only gives them two feet. That's not a whole lot, you know, to sound the alarm. And we don't necessarily want to wait till there's that last little sliver left. It really limits your options at that point. You want to have the ability to consider different options rather than just steel plates. And there will be other amendments that Corp. Counsel is reviewing right now that will be coming to you that again, clarify how these rules are enacted so that other people picking up these rules can understand them very clearly, very concisely to the best of our ability and make common sense judgements.

Mr. Hedani: One concern that I've always had is that it almost seems to work to some degree against itself, you put in an illegal wall, your erosion rate drops to zero, 50 times zero is zero, so your setback is 20, 25 feet. So it rewards the people that take the action

opposite of what you want.

Mr. Abbott: Well, we've taken some pretty strong action against some applicants that have allegedly put in unlawful walls. If it's an old wall say 1919 wall like Mr. Loughead that was here not too long ago then that is "grandfathered in" if they can prove it's nonconforming. But if they can't prove it's nonconforming, it's unlawful and the erosion rate does not stop at the bottom of their wall. They basically have a mythical thing there and they got to take care of it usually by getting an easement from the state or taking it out.

Mr. Hedani: Okay, we should have an interesting meeting then. There's no lack of interesting meetings here.

Mr. Abbott: Well, thank you for letting me have a bit of your time today.

Mr. Hedani: Director.

- 2. Scheduling of the November 13, 2006 site inspection in West Maui of not only the Kapalua Mauka Phase 1 site and related improvements but the following other sites including: (A. Cua)**
  - a. Kapalua Commercial SM1 site (newly completed)**
  - b. Residences at Kapalua Bay site (under construction)**
  - c. Former Rainbow Ranch site (potential site of affordable units to help meet Kapalua Mauka affordable housing requirement)**
  - d. Kapalua 6-0 site (potential site of affordable units to help meet the affordable housing requirement for Kapalua Mauka)**

Mr. Foley: The next item on the agenda is the scheduling of a special meeting of the commission for a site inspection in West Maui of four different projects proposed by Maui Land and Pineapple. The projects are listed on the agenda and also you've got a handout that describes a very full afternoon from 1:00 p.m. to 4:00 p.m. and then I believe there's a meeting that evening as well. So the schedule will be presented by Ann Cua.

Ms. Cua: Mr. Chair, Members of the Commission, at your last meeting or two meetings ago we discussed the scheduling of Kapalua Mauka the first phase and we were shooting for an October meeting and then the Doc mentioned that he is going to be unavailable and so you voted to have the public hearing scheduled for the evening of November 13<sup>th</sup>. Since that meeting we have finalized the place, it's going to be at the Lahaina Intermediate School and we've scheduled it for 6:30 p.m. We figured that's a good time to allow the public to come.

At your meeting you talked about wanting a site visit. I think Commissioner Starr raised the

question. As a result of that we did indicate that we would attempt to schedule a site meeting, we'd coordinate it and that we'd look at what else is out there that you could look at in West Maui that would be of interest to you and upcoming on your agenda. And so as a result, we've come up with four additional projects that we thought it would be worthwhile for you to see.

The first of this would be the Kapalua commercial project which you've reviewed and approved the SMA permit. The project has been constructed. It's located on Office Road. You've visited that site before in the context of another workshop that we did on Kapalua projects. So that has been completed. I believe they're going in for certificate of occupancy. I've seen the buildings. I think you're going to be pleased, but I thought it would be good for you take a look at that. So we're looking at starting the day as we've done before in the conference room at Kapalua at the Village Course. Start there and then have you walk over to the Kapalua commercial project as we've done before. Take a look at that project, very briefly and then board buses provided by Maui Land and Pine because in order to get to the Kapalua Mauka site they need to have I believe four-wheel drive. So they're going to provide the shuttle buses for us.

So at that point we'd board the buses and then we'd leave for the Kapalua Bay Hotel site. The reason why I thought you should take a look at that is they're almost completed with demolition. Their best management practices are in effect. I stopped there and I was able to see that and I thought that would be something good for you to see. You'd see a project completed, you see one in the process and then you'd be visiting projects that are going to be coming before you. So that would be our second stop. Again, very briefly because you can't really go on the site. It's just going to be looking at the site from the road.

After that point we'd take you to the Kapalua 6-0 site which this is a site that is a potential site to provide the affordable housing for Kapalua Mauka Phase 1 which you're going to be reviewing and there's two sites that's in question. I thought it would be important for you to take a look at that site because one thing I had communicated to the applicant when they put their application is, is when we come before you for the Kapalua Mauka 1<sup>st</sup> Phase application, I want you to have a very good understanding of where the affordable units are going to come from. So again, the first site is this Kapalua 6-0 site. It's within the SMA. It's a planned development. They have the applications in our office at this point in time. So we're going to take a look at that site.

The additional site is the former Rainbow Ranch site and that is mauka of the highway not within the SMA, not within a project district. So basically that site only requires building permit application. But even though that site is not going to come before, I want you to be familiar with it, I want you to see it, so you can see the two sites that the affordable units may be provided on for the Kapalua Mauka project. And which site it is fulfilled on is going to be depend on the permit processing so it's kind of like a race to the finish at this point.

Which one gets there first and that would probably be the one that they begin to satisfy the up-front 40 units that are required by Council of the change in zoning for Kapalua Mauka.

So again, that's the schedule that we're proposing and then we'd end up back at the Village conference room at 4:00 p.m. Then at that point, take a dinner break and then have you back at the Civic Center, hopefully by around 6:00 p.m. for the meeting to begin. I'm sorry, not the Civic Center, the school for the meeting to begin at 6:30 p.m. So we've worked this schedule out for you in response to your questions and requests and we're looking for your concurrence with the schedule that we've outlined.

Mr. Hedani: Any comments, questions from the Commission? Commissioner Starr.

Mr. Starr: Yeah, first of all, what time do we meet and exactly where?

Mr. Hedani: 1:00 p.m.

Ms. Cua: If you need a ride here – we have to be in Kapalua at 1:00 p.m. If you need a ride, we probably want you here by noon. If you're going to meet us there, you just park at the Village Club House and you come to the conference room by 1:00 p.m. So I would need for you to get a hold of myself or Carolyn if you're going to be needing a ride there and we'll try and make sure we have – we have a couple of County vehicles we can take commissioners down and we can also you know, bring you back after the public hearing that night.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I had put in a request and I believe some of the other commissioners were interested as well in looking at sewage treatment and water and other infrastructure facilities in West Maui whether that can be accomplished that same day or not, I'm not sure, but I still very much, in fact more than ever want to do that.

Ms. Cua: Okay, well that's your call. I think one thing we tried to be sensitive to is Commissioner Shepherd. I know that a whole day is quite difficult for her to be away and so we tried to consolidate all this stuff from 1:00 p.m. so that we wouldn't have to have you out there from the morning. It is your choice. If you want to be out there from the morning we can fill up your morning as well. But I leave that to you. I definitely felt the two sites that were related to the Kapalua Mauka application was very important for you to see. And then when I went out there to see the sites, and when I saw the commercial project and the hotel, I thought that can be really quick but you really should see that.

Mr. Foley: We can partially address Commissioner Starr's concerns when we talk about the off site utilities at 3:45 p.m., but you know, Kapalua has a lot of their own utilities so we can

probably address that as we address each of these projects because they're not using County water and County sewer for all these projects.

Ms. Cua: Although I think you're – I don't know if I'm understanding correctly, but I thought you were looking globally not specifically at Kapalua projects, you're looking at West Maui?

Mr. Starr: Yeah, I would like – I've never ever seen any of the Kapalua infrastructure at all and I really would like to see it. I also want to see the Lahaina, the County facilities. I've seen some of the water stuff, but never the sewage plants and some of the water stuff I've never seen. I think maybe some of the other commissioners might be interested as well. I don't know.

Mr. Hedani: Are there other commissioners that are interested in taking a tour of the West Maui sewage treatment plant? Commissioner Freitas.

Ms. Freitas: We could we just set something, decide what we want to see and set it up for another time because I can't where we could tack it on unless we come in the morning and the meeting doesn't even start till 6:30 p.m.

Mr. Hedani: Or it doesn't have to involve all of the commissioners only the commissioners that are interested can try to arrange something with Public Works.

Ms. Freitas: Lets do it another day and do it all.

Ms. Cua: Well, maybe what we can do is we can see what Maui Land and Pine can squeeze in this time for infrastructural facilities or improvements that they've put in or service Kapalua in general as opposed to – see this here pretty much deals with Kapalua Mauka.

Mr. Starr: My preference would be to do what Ms. Cua suggests which is to try to see what we can briefly in Kapalua that day. Maybe a quick detour or two and then we'll schedule another day for the Lahaina infrastructure.

Mr. Foley: We might be able to stop somewhere between the 4:00 p.m. and the 6:30 p.m. meeting. We may be able to stop some place on the way to dinner. Do we have concurrence for the schedule as it stands?

Mr. Hedani: Yes.

The commission concurred.

Mr. Foley: We will arrange a dinner at probably at 4:30 p.m. or 5:00 p.m. Any objections

to going back to Castaway where we've gone the last couple of times? You want to go some place different?

Ms. Cua: Maui Land and Pine is asking how many people. The answer to that is we have the commission here, we have the attorney and then whoever from the public. So, you know, maybe you should prepare for 25? I don't know or 30. I don't know. The public is always the question and we never know how many people we're going to get there. But if we get people there then transportation would also need to be provided for them.

Mr. Foley: At least 15 but it will be between 15 and 25.

Ms. Cua: Last time there was not too many people when we toured Kapalua Mauka, Pulelehua but again we need to accommodate whoever shows up.

Mr. Starr: If we have capable four-wheel drive vehicles can we take our own vehicle.

Ms. Cua: We like to try and keep the commission together because in case things are being said, it's being said at the same time. But we try and not have things said until you're all together anyway.

Mr. Starr: I'd like to go on record with saying that I kind of have a problem with the commission all being together, you know, kind of privately in restaurants and vehicles. I really feel it's kind of against the spirit of the Sunshine Law. And although I know the commissioners are very careful not to discuss any business when we're not on the record it still could give that appearance. And I for one prefer to eat and travel alone for that reason.

Mr. Hedani: Ann, could you arrange for individual vehicles for all of the commissioners?

Ms. Cua: I won't respond to that.

Mr. Hedani: Okay, moving on.

Ms. Cua: Thank you.

3. **Scheduling of site inspection of the Central Maui Baseyard site which is the subject of a community plan amendment from Light Industrial to Heavy Industrial and a change in zoning to M-2 Heavy Industrial District for property situated adjacent to Mokulele Highway at Puunene, Island of Maui. (R. Loudermilk)**
4. **Scheduling of site inspection of the Keaka LLC 71-unit condominium**

**site in Makena. A Special Management Area Use Permit application is being processed by the Planning Department. Matter of the site inspection raised by the Maui Planning Commissioners at their September 12, 2006 meeting. (C. Suyama)**

Mr. Foley: The second scheduling question relates to the Central Maui Baseyard and this is also a request for a site inspection in relation to a application for community plan amendment and change in zoning. This issue will be addressed by Clayton Yoshida.

Mr. Clayton Yoshida: I guess when the commission reviewed the final EA for the Central Maui Baseyard they did request a site inspection. So we're planning to schedule that. Your meeting schedule for October looks like 3<sup>rd</sup> to 5<sup>th</sup> is the Statewide Planning Conference, 10<sup>th</sup> is your regular meeting, 24<sup>th</sup> is your regular meeting. We would suggest perhaps the afternoon of the 23<sup>rd</sup> so if Commissioner Eason comes out from Hana she can stay overnight, attend the meeting on the 24<sup>th</sup> and then go back to Hana.

Mr. Hedani: What time Clayton?

Mr. Yoshida: Again, if we move to item no. 4, for the sake of economy because we're going to be going to Puunene and when the commission dealt with the final EA for Keaka they did request a site inspection. So we would suggest that the two be done on the same afternoon.

Ms. Shepherd: I will not be here on the 23<sup>rd</sup> and I definitely would like to at the Keaka visit.

Mr. Iaconetti: Ditto, I won't be here and I would very much like to be here.

Mr. Starr: I would prefer another date also.

Mr. Yoshida: Well, could we I don't know maybe move it to like the 30<sup>th</sup>?

Mr. Guard: Doc doesn't get back.

Mr. Foley: There's a Council Planning Committee meeting that afternoon.

Mr. Hedani: Some of the comments are is it possible to do it before that?

Mr. Guard: Or November.

Mr. Yoshida: When will you return?

Ms. Shepherd: I'm going the 19<sup>th</sup> through the 24<sup>th</sup>.

Mr. Foley: How about the 17<sup>th</sup>?

Mr. Iaconetti: I won't be here in October. I'll be back on 30<sup>th</sup>.

Ms. Shepherd: November.

Mr. Starr: How about the first week of November?

Mr. Yoshida: Again, this is a three-day work week.

Mr. Foley: The 7<sup>th</sup> and the 10<sup>th</sup> are both holidays.

Ms. Freitas: November's bad, we got to go sooner.

Ms. Shepherd: Why not the 6<sup>th</sup>?

Mr. Starr: Yeah, 6<sup>th</sup>.

Mr. Foley: November 6<sup>th</sup>?

Mr. Hedani: We may not be able to get everybody in. November 6<sup>th</sup>?

Mr. Yoshida: November 6<sup>th</sup>.

Mr. Hedani: Does that work for everybody?

Mr. Guard: Might not.

Ms. Freitas: Might not for me too.

Mr. Yoshida: So can we do the two together. Central Maui Baseyard and Keaka?

Mr. Hedani: Pick a date ladies and gentlemen.

Ms. Shepherd: Well, it doesn't have to be a Monday does it?

Ms. Freitas: No, but the doctor leaves in a week and he won't be back.

Mr. Starr: How about November 21<sup>st</sup>?

Mr. Iaconetti: What's the rush? Why can't we do it a little later in November?

Ms. Freitas: Well, November is short month and a lot of people are gone. We have a lot of holidays.

Mr. Foley: The 7<sup>th</sup> and 10<sup>th</sup> are holidays.

Mr. Yoshida: The commission is already committed to the Kapalua site inspection on the 13<sup>th</sup>.

Mr. Foley: Yeah, you got meetings the 13<sup>th</sup> and 14<sup>th</sup> and then the 23<sup>rd</sup> is Thanksgiving.

Mr. Starr: How about the 21<sup>st</sup> Tuesday?

Mr. Yoshida: I believe that the Central Maui Baseyard item would be scheduled for the 14<sup>th</sup> of November.

Ms. Freitas: November 14<sup>th</sup> we have a regular meeting.

Mr. Hedani: So it should be done before the 14<sup>th</sup>?

Mr. Foley: Yeah.

Mr. Yoshida: Yes.

Mr. Hedani: So the ideal date would be, give me a date? November 6<sup>th</sup>?

Mr. Yoshida: I don't know if the 6<sup>th</sup> is – Well, I guess we also have another application which is for the County abandoned vehicle processing area at the old Puunene Airport site.

Ms. Freitas: At the what site?

Mr. Foley: Puunene Airport.

Mr. Starr: How about we do it on November 13<sup>th</sup> and do it a few hours earlier and then cruise out to Kapalua.

Mr. Hedani: We have the Kapalua site inspection.

Mr. Starr: Start maybe at 10:00 a.m. and do a couple in central and then drive up to –

Mr. Yoshida: That's going to be all day and into the evening.

Ms. Freitas: You know that meeting in Kapalua doesn't even start until 6:30 p.m.

Mr. Hedani: It will go all the way into the night.

Mr. Starr: When I go to the dentist I'd rather have them do it all at once.

Mr. Hedani: Commissioner Shepherd.

Ms. Shepherd: Well, we don't need to do the Central Baseyard. I mean, it's just down there. Makena is a little further. We don't need them the same day. So go ahead do the baseyard when we were first talking about it.

Ms. Freitas: Well, we could do the baseyard and the abandoned, real close, they're right next to each other. Quick, in and out.

Ms. Shepherd: Keaka in November.

Ms. Freitas: November. Okay, lets do that. That sounds good.

Mr. Hedani: You got that Clayton.

Ms. Freitas: Okay, so what would the first one be?

Mr. Yoshida: So the Central Maui Baseyard is on the 23<sup>rd</sup>?

Ms. Freitas: Doc, do you have a problem with not being here for the Central Baseyard one?

Mr. Iaconetti: No, not at all.

Ms. Freitas: Okay, but you want to be here for the other one?

Mr. Iaconetti: Yes.

Ms. Freitas: Okay.

Mr. Starr: So October 23<sup>rd</sup>?

Mr. Foley: For Central Maui Baseyard.

Ms. Loudermilk: And the abandoned vehicle facility.

Mr. Guard: What time?

Mr. Starr: Can we do it as late as possible?

Ms. Freitas: And the other one is November 6<sup>th</sup>?

Mr. Hedani: Set a tentative time Clayton.

Mr. Yoshida: Maybe 1:00 on the 23<sup>rd</sup>?

Mr. Starr: Can we do a later 3:00?

Mr. Yoshida: It's up to the commission, 3:00 on the 23<sup>rd</sup>.

Mr. Hedani: Does that work for everybody? 2:00? Cut the baby in half. Poor choice in words. 1:00 p.m., does 1:00 p.m. work? Just pick a time and let us know Clayton.

Mr. Foley: Makena is November 6<sup>th</sup>. Central Maui Baseyard and abandoned vehicles is October 23<sup>rd</sup>. Does that work for you Don?

Mr. Fujimoto: That's fine.

Mr. Yoshida: So what time do you want to start the November 6<sup>th</sup> inspection?

Mr. Hedani: Pick a time and let us know.

Mr. Yoshida: Okay, fine.

**5. 2006 Hawaii Congress of Planning Officials (HCPO) Conference -  
October 3-5, 2006, Honolulu, Hawaii**

Mr. Foley: I just wanted to mention that if anybody intends to go over just for the day, Thursday the program includes transportation right after lunch and their rural agricultural debate at 3:15 p.m. So Thursday is probably the best day if you want to just go for one day. You need to make sure that you let us know as soon as possible if you're going or not going. So that we make reservations and registration if we already haven't done so. Any questions about the conference?

Mr. Guard: What's on Wednesday? I wouldn't be able to go on Thursday.

Mr. Foley: I don't have my – well, most people go for both days, but you know, sometimes it's easier to go over in the morning, come back in the afternoon. I don't have the schedule with me. Does anybody have the? I have Thursdays but I don't have Wednesday.

Mr. Starr: Those of us who had applied to go to some of the pre-conference programs on Tuesday, how do we find out if we got our primary request?

Mr. Foley: Yeah, we'll have somebody call you. I'm not sure. I think it's probably Kathy at City and County, but I'm not absolutely sure who's confirming the number of registrations. I'll ask somebody to call you. Those are on Tuesday, right?

Mr. Starr: Morning and afternoon.

**6. EA/EIS Report**

No questions or comments on the report.

**7. SMA Minor Permit Report**

**8. SMA Exemptions Report**

Mr. Foley: The last item is the SMA list and as a consequence of our meeting last week or last time, we had a staff meeting about this list and agreed to make some modifications to it so that for one thing we have more of a description for some of the projects so it's easier to understand what the projects are. And also, we're going to update who the planner assigned is so that we have a more accurate description of who's working on it. It doesn't include a couple of people that have left the department. We're basically going to try to make this much more user friendly. It's quite an effort to keep this up to date, but we're going to make an effort. Are there any questions about specific projects today, Thorne and Clayton are both here, they might be able to answer questions that I cannot answer regarding specific projects. Any questions?

Mr. Hedani: I had one question Mike. I don't know that's on the list but there was a five-lot subdivision in Kaanapali in the middle of golf course. When I was going through my notes on that particular project, one of the notes that I saw was that although they could – the projects were such that they could avoid the SMA process they voluntarily committed to those projects coming back before the commission? Is that still the case?

Mr. Foley: My recollection is that it went on to the Council. ...(inaudible - changing of tape)... I think the project is being marketed for sale as one parcel because the regulations approved by the County had to do with multiple, well, the five units all having two driveways and also having very compatible architectural style and building materials and so I think the project's for sale and probably will come back after a new owner proposes some development. I haven't heard anything about it other than that for six months.

Mr. Hedani: I just wanted to make sure that it comes back before the commission if that was a requirement. I don't remember specifically that requirement but if the SMA review was one of the requirements then, you know, the project will come back either in one piece or in multiple pieces. It's conceivable somebody could try to build one or two of those houses separately but it seems more likely somebody will try to build all five at the same

time. But I haven't seen anything about it in months.

Ms. Freitas: Can I just ask for an update on Kahoolawe?

Mr. Foley: I haven't heard anything. Clayton, have you heard anything from our contacts at Kahoolawe?

Mr. Yoshida: No.

Ms. Freitas: Could you check?

Mr. Foley: I think we've submitted something or they did to the State Attorney General and we're waiting for a response, but yeah, we'll check.

Ms. Freitas: Would you please?

Mr. Foley: Clayton, could you call again and ask what the status is?

Ms. Freitas: Thanks Clayton.

**F. NEXT REGULAR MEETING DATE: October 10, 2006**

**G. ADJOURNMENT**

The meeting was adjourned at 10:42 a.m.

Respectfully submitted by,

CAROLYN J. TAKAYAMA-CORDEN  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

Present

Wayne Hedani, Chairperson  
Diane Shepherd, Vice Chairperson  
John Guard  
Suzanne Freitas  
Johanna Amorin  
William Iaconetti  
Jonathan Starr

Excused

Patti Eason  
Bruce U'u

Others

Mike Foley, Planning Department  
James Giroux, Department of the Corporation Counsel  
Michael Miyamoto, Department of Public Works and Environmental Management