

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
JUNE 9, 2009**

Approved: 9/22/09

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Wayne Hedani at approximately 9:01 a.m., Tuesday, June 9, 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. Hedani: Planning Commission meeting for June 9<sup>th</sup> will come to order. We'd like to welcome the public and open it up to public testimony at this time on any agenda item in order to accommodate those individuals that cannot be present at the meeting when the agenda item is considered by the commission. Public testimony will also be taken up when the agenda item is taken up by Commission. Maximum time limit is three minutes and a person testifying at this time will not be allowed to testify again when the agenda item comes up before the Commission, unless new or additional information will be offered.

The following individuals testified at the beginning of the meeting:

Ms. Irene Bowie - Item B-2, Keaka LLC, amendment to Condition 4, of SMA

Ms. Leslie Bruce - Item B-2, Keaka LLC, amendment to Condition 4 of SMA

Ms. Lucienne deNaie - Item E-1, Peter Martin, appeal of Director's Decision on SMA Assessment

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

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

- 1. COUNTY OF MAUI, OFFICE OF THE MAYOR, requesting a Special Management Area Use Permit for the proposed South Maui Emergency Ambulance Station consisting of a single-story, 1,500 square foot building for the South Maui Emergency Ambulance Station and related improvements at 300 Kilohana Drive, TMK: 3-9-038: por. of 026, Kihei, Island of Maui. (SM1 2006/0024) (L. Callentine)**

Ms. Livit Callentine: Good morning Mr. Chair and Commissioners. My name is Livit Callentine. I'm a staff planner with the Department of Planning and I first of all, I'd like to really thank all of you for your time and dedication to the county. I know and we ask a lot of you. We appreciate it.

I'm here today to help you to review an application for a Special Management Area Use Permit for a proposed ambulance station to be located at 300 Kilohana Drive in South Maui. The application was filed by Munekiyo and Hiraga on behalf of the Office of Mayor, County of Maui. The Wailea Community Association is involved to the extent that they are funding the project and upon completion of the improvements they plan to convey them over to the County of Maui.

We'll ask that you approve the Special Management Use permit and consider adopting the recommendations made by the Planning Department. Both standard and project specific conditions have been included in the recommendation report you received. However, we will be proposing

several amendments to those recommendations. Some of them, well, all of them fairly routine which I will get to when you ask me to give you the recommendations.

The land use designations. This project is consistent with our state land use designation of urban with our Kihei-Makena Community Plan designation public/quasi-public. Zoning is also P-1, public/quasi-public.

Surrounding the property are single family residential lots to the north. Wailea Fire Station and the highway and Maui Meadows Subdivision are to the east. To the south you have Kilohana Drive and Wailea Resort. And to the west, you have single family residences and lots.

I'll summarize the scope of work for the permit application and then I'll ask that the applicant's agent, Mich Hirano of Munekiyo and Hiraga, follow my remarks by presenting a few illustrations and to answer any questions that you may have. Also with us today are representatives I believe from the Wailea Community Association and members of the project team and Mich will be introducing them as well.

So the County of Maui, Office of the Mayor, proposes to construct a single-story, 1,500 square foot building to house an ambulance station and related improvements. This is going to be constructed on a one-acre portion of a parcel identified as TMK:, I'm going to double check to make — 3-9-38:26. That parcel is about three – little over three acres but they're using a one-acre portion of it. The project – in addition to the ambulance garage, two sleeping rooms, an office, a kitchen and a medical storage area will be provided. The station will be operated 24-hours a day, 7-days a week.

Related improvements includes site grading, installation of underground utilities, seven parking stalls, drainage improvements and a paved driveway off of Kilohana Drive.

Other regulations involved were the – and since the proposed project involves the use of county lands for the development of the new ambulance station, an environmental assessment was prepared as required by Chapter 343, Hawaii Revised Statutes. The Office of the Mayor, County of Maui, was the approving agency for the EA. And the final EA was handed out to you on May 26<sup>th</sup> just before your meeting. I hope all of you got it and had a chance to review it.

This, real briefly, in 2001, the Wailea Resort Company Ltd., dedicated three land parcels to the County of Maui to satisfy a conditional zoning requirement and that is how this particular parcel came to be County of Maui land.

On March 3<sup>rd</sup> of this year, the Urban Design Review Board reviewed and recommended approval of the project as proposed to them with four conditions which are shown in your recommendation report.

There were a couple of significant comments from agencies or issues that the Planning Department raised with the applicant and we've talked about. One is drainage. The applicant has proposed to retain a 100% of the post development runoff on site. The Planning Department had conversations with the applicant regarding trying to retain a little bit more, trying to retain the predevelopment runoff on site. I have been told, although I haven't seen the revised drainage

report, that they are going to be able to speak today to retaining another 20% of the predevelopment runoff. I'm sure that they'll be able to explain that in much more detail than I can at this time. The applicant will submit a detailed and final drainage report with the grading plans and the grading plans will have to comply with the provisions of the rules and design of storm water facilities in the County of Maui.

The second issue was water. The Department of Water Supply commented that calculated water demand for the one-acre project site as proposed would be about 6,000 gallons a day based on system standards. The applicant countered that the project is more like a residential building and it would use more like on average of 600 gallons a day. That's quite a difference and I'm hoping that we will be able to come to an understanding of why that difference exist.

As of May 19<sup>th</sup>, when the report was turned in, the department had received one letter in support of the project and that's shown as your Exhibit 43 in your report that is I believe from the Kihei Community Association.

I would like to at this time turn the podium over to our – to Mich Hirano. Thank you.

Mr. Mich Hirano: Thank you Livit and good morning Commissioners. My name is Mich Hirano with Munekiyo and Hiraga and our firm is assisting the applicant both the Office of the Mayor and the Wailea Community Association with the Special Management Use permit for the South Maui Ambulance. We've prepared a power point presentation for the commission's review and I'd like to just maybe ask if the lights could be turned down we can start the presentation. Thank you.

The Office of the Mayor, County of Maui is the applicant as well as the Wailea Community Association. And the reason for this arrangement is of course is that the fire station site where the proposed ambulance will be located is owned by the County of Maui. So as land owner, we thought it would be appropriate that the county be co-applicant and the Wailea Community Association is the, as well, the co-applicant because the Wailea Community Association will be building the ambulance facility. They will be doing a fund-raising campaign to fund the project and at the completion of the project turn the project, the property or turn the improvements to the County of Maui who in turn will lease the ambulance station to the emergency ambulance provider. Currently that ambulance provider is American Medical Resources. They have nine ambulance stations throughout Maui County including Molokai and Lanai and the South Maui ambulance station is just one of the nine that they operate.

The project architect is Laressa Farrer. Landscape architect, Mayberry Associates. Civil Engineer is Silversword Engineering and of course, our firm, Munekiyo and Hiraga is the entitlement consultant. The project team is available today to answer any questions the commission may have. Representing the Wailea Community Association is Bud Pikrone and Larry Clark.

In terms of the project need, the current South Maui ambulance station is operating out of a rented premise in Maui Meadows and this is a residential community and it's a very temporary situation until they can find a more permanent home. There is a need for a permanent ambulance station since the cottage that they're renting right now is a rental premise and not suitable really for ambulance station. As well, there is a need to have the ambulance station more centrally located

with easy access to Piilani Highway and to South Kihei Road. The Wailea ambulance station site is an ideal location for the future ambulance station.

This is a regional location map of South Maui. This is Piilani Highway. This is Kilohana Drive and this is where the Wailea ambulance station is being proposed. It's right next to the Wailea Fire Station. Currently this is Maui Meadows off to the east of the location, the proposed location of the ambulance station and this is the area in which the ambulance station is currently located in the rented premises in Maui Meadows.

The project site is about a one-acre parcel which is just to the east or just to the west of the Wailea Fire Station. As you can see, here's Piilani Highway. This is a controlled signalized intersection. Kilohana Drive westbound. Kapili Street which is a north-south roadway through Wailea Resort. And this is the existing fire station and the proposed ambulance station is just located to the west of the fire station.

This other area is undeveloped at this point in time. The whole site is approximately a little of five acres. This parcel, there are two TMKs. This is one TMK and this triangular piece and this little piece at the western portion of the site is all under one parcel that is where the fire station currently is located.

This is a air photo of the area. As you can see, Piilani Highway off to the east. This is Kilohana Drive. There's surrounding properties include single family residences to the west. There's a condominium development, a 28-unit condominium development to the south of the project site. To the north of the project site there's undeveloped land. It's currently designated in the Kihei-Makena Community Plan as single family. It's owned by A&B Properties and eventually Kapili Street will be extended through beyond Kilohana Drive and to access this future single family residential area.

There's a drainageway that kind of runs to the southwest of the project site and this drainageway takes water under a culvert under Kilohana Drive and down through this drainageway.

This is a county water tank and this is Kilohana Park off to the sort of the southwest of the proposed ambulance station. Kilohana Park is owned by the County of Maui but the Wailea Community Association as well has funded many improvements within Kilohana Park. They recently just improved park with a dog park facilities and improvements and as well are looking to further enhance the facilities at Kilohana Park. So that's another fund-raising effort that Wailea Community Association is undertaking to the community of South Maui.

This is the project site looking at it from Kilohana Drive. As you can see, it's fairly level, just sort of scrub vegetation and a few trees. There's the drainageway that kind of runs along the Kilohana Drive area and then diagonally kind of cuts across. What I'd also like to point out is from the single family residences to the west, they're fairly well-screened with, you know, heavy landscaping and vegetation right now. So, visually, the ambulance station will be screened by the existing vegetation from the single family residences to the west.

This is a picture of the existing Wailea Fire Station. This is another close up picture of the Wailea Fire Station and the reason we bring this picture up is that the South Maui ambulance station will

be finished architecturally would kind of be similar and the finishing details will be exactly the same as the Wailea Fire Station so that this area would really be a public/quasi-public campus with integrated buildings and style and character and color. However, the Wailea ambulance station is more of a residential scale building than the fire station.

This is the project site or site plan of the fire station. As you can see, this is the extension of Kapili Street and Kilohana Drive off to the bottom of the screen. Primary access to start with will be through Kilohana Drive and there'll be a driveway – culvert and driveway into the fire station site, seven parking stalls and then the ambulance building. There'll be a garage for the ambulance station, office, kitchen and living quarters for the paramedics.

This access is a temporary access and when Kapili Street gets extended through the site to access the residential area behind the Wailea ambulance station and the fire station then this driveway will be abandoned and long term permanent access will be off of the Kapili Street extension. And the reason for that is that it makes it a four-way intersection, Kapili Street and Kilohana Drive.

This is the floor plan of the fire station. As you can see there's the garage for the ambulance. I'm sorry, for the ambulance station, there's a garage for the ambulance. There'll be some storage space in the garage for storage of supplies. This is an office area, kitchen, because the paramedics will be living in the station. It will always be staffed with emergency personnel. There are two-person teams on the paramedic's station to operate the ambulance and respond to emergency calls and then there are two sleeping quarters, washroom facilities and shower. So in terms of water use, we really think that the water use is really more like the residential water use as opposed to, you know, looking per acre demand for water.

This is an elevation of the fire station. I'm sorry the ambulance station. This is where the ambulance will be housed. It's a single story structure. Be less than 24 feet to the top of the roof and then a lower portion where the living quarters and offices will be located.

In terms of the ambulance operations, the ambulance responds to the 911 emergency calls. There are two paramedics on site. The station is staffed 24-hours a day, 7-days a week. Approximately responding to a 150 calls per month or between four to five calls per day. All emergency patients are transported to the Maui Memorial Medical Center for treatment.

In terms of medical waste, this was commented on regarding the environmental assessment. From the ambulance operators, they indicate that all medical waste is properly disposed of at the Maui Memorial Medical Center. No medical waste is disposed of at the ambulance station. Another feature in terms of a safety feature for the building is that although not required by code at this time, the Wailea Community Association proposed to – the building will be equipped with a fire sprinkler system.

In terms of sustainable building design features in the ambulance station there's advanced insulation techniques to air seal the building. This will result in lower energy consumption and a downsizing of the AC equipment. Only the living quarter area will be air conditioned, the rest of the – like the garage where the ambulance is stored will not be needed to be, you know, air conditioned. There will be as well, advanced techniques for air filtration for the living space areas. There will be a high efficiency polyethylene water heating tank. It's very energy efficient. There will

be double-pane windows to reduce heat gain and the building as well, the roof will be insulated to reduce heat gain throughout the building.

This is the drainage plan. As you can see, from the picture that we showed earlier that the site is fairly level and slopes naturally right now in kind of a westerly direction and the idea would be to just grade it out to have a developable area for the parking and for the building. The two driveways will be built at this time. There'll be a culvert under the – or a culvert to allow the drainage, the existing drainage to flow through the site. Later this will be abandoned and the permanent access will be off of Kapili Street.

In terms of drainage, the existing drainage easement as I mentioned is running through the site in a westerly direction. The increase in runoff will be captured by underground drainage retention system. The applicant proposes to filter and provide filter in the drain inlets to screen pollutants and petro carbons from entering the drainage system. In consultation with the civil engineer and Wailea Community Association, the drainage could be increased to retain, you know, 20% more of the development flows. That's something that the applicant would consider. It's a cost item, and as I say, the Wailea Community Association is fund raising for this ambulance station.

In terms of noise mitigation, there's a – you know, the existing Wailea Fire Station responds to approximately 40 to 50 calls a month. So there is that existing traffic with the fire station. There is as well, a heli stop behind the fire station. This is used approximately six times a year. Very infrequently and the uses of it is mainly for brush fires or using the helicopter in emergency situations, responding to fire emergencies.

In terms of the proposed ambulance operations, as we mentioned, the ambulance responds to approximately four to five calls a day. And normally the siren is not turned on when responding to emergency calls. They only use the siren during heavy traffic. So when they exit and enter the ambulance station, it would be very unnoticeable. It just be like a car leaving the site. The ambulance has been operating in the residential area since 2004. It has not received any complaints due to noise or due to sirens.

That ends our presentation and as I mentioned, members of the Wailea Community Association and the project team area available to answer any questions you may have. So thank you.

Mr. Hedani: Thank you very much Mich. Any questions from the commission? Commissioner Starr.

Mr. Starr: Yeah, I notice in one of the letters there was a mention about energy efficiency measures and I see in your response you mentioned that they'll be a polyethylene water heating tank. Are you saying there's not going to be – is there going to be solar hot water?

Mr. Hirano: I'd like the civil engineer to come up because we talked about whether or not solar would be efficient in this situation. I think that the conclusion was that the polyethylene tank for hot water because there's so limited use of the hot water that it would be efficient. Mike Conway.

Mr. Michael Conway: Good morning. My name is Michael Conway. The mechanical engineer on the project also. We did take a look at utilizing solar water heating, but obviously the water

consumption on this project, domestic water consumption is such a small extent I would estimate it at the worst case being 200 gallons per minute for domestic use per day. That the solar water heating was not – I did not think it would be economically feasible. LEED which many people are obviously are designing for now will give you a LEEDs point for any kind of electric water heater that has a energy efficiency of 92% or greater. The tank that we have specified has a energy efficiency of 94%. So for the limited use, the payback on the limited use we deemed that that was satisfactory.

Mr. Starr: I believe that there's ordinance, state ordinance that should be going into force before this is built that will require solar hot water. Have you taken that into account?

Mr. Conway: Well, that state ordinance is for residential and this technically is not a residential project. So, it really wouldn't apply.

Mr. Hedani: Any additional questions? Commissioner Starr.

Mr. Starr: Yes, it's really surprising that you're not putting solar hot water. What other energy saving measures are you using or not using in this facility?

Mr. Conway: Again, in accordance with the LEED credits, points as I pointed out, we're using the more energy efficient polyethylene water heating tank. We are air sealing and providing a insulation that actually downsizes the air conditioning unit by air sealing and providing a better type of insulation that will not only eliminate conductive heat, it eliminate convective diffusion radiation heat. We are doing very similar things to that that goes in conjunction with that. We're doing variable refrigerant flows for the air-conditioning system which basically downsizes and provides a more energy efficient compressor system that will actually operate only on the demand use. So there's a lot of things that are entailed in doing this to kind of bring it to a LEEDs classification including the windows that, again, would be LEEDs required.

Mr. Starr: So you're going for LEEDs certification then?

Mr. Conway: No.

Mr. Starr: Then why are you using the LEED terms if you're not going to utilize their system?

Mr. Conway: Because people are familiar with LEEDs and therefore using those terms. I thought it would be more easily discernable.

Mr. Starr: Lipstick on a pig.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Mr. Conway.

Mr. Conway: Yes.



Mr. Shibuya: Thank you. I just wanted to find out a little bit more in following up with Jonathan's line of questioning here. He was asking more in terms of not conservation but generating electricity or some power source. Is there any photovoltaic system that's planned because you now have a sunny location, south facing roof and the opportunity for that photovoltaic is very much so that you can put in a net metering type of system.

Mr. Conway: Very true, but I'll have to turn that back over because I'm not the electrical engineer. So I can't really respond, you know, appropriately respond to that because I was not involved in that. But of course, you know, even when you put lipstick on a pig, at least it makes a pig kissable.

Mr. Starr: Not to me.

Mr. Hedani: Mr. Hirano.

Mr. Hirano: Thank you Michael. With respect to photovoltaic again, I'd like to just have Bud Pikrone from the Wailea Community Association just respond generally to sort of the, I guess the design philosophy that went into this building.

Mr. Hedani: Mr. Pikrone.

Mr. Bud Pikrone: Good morning, Bud Pikrone from the Wailea Community Association. We have looked carefully at photovoltaic. We've looked at solar water heating. The building has been designed that it could incorporate any of these. We would incorporate these if financially we can do it and that's still a question. We want to get this built, the ambulance station. If we can incorporate photovoltaic, why not.

Big question though is, do you build something just to build it if it's not going to really be the most efficient way of doing things like the hot water. We didn't feel that the hot water, solar hot water heating was the most efficient way of doing this at this point. The system that was being put in seemed to be satisfactory for the job at this time. That's when we started looking at well, can we do photovoltaic instead of the solar hot water. Again, if we can do that with cost we will do that. At this point, we've designed the building so that it can be incorporated. You look at the building, it does have a lot of area where it would work on the roof, but again, it's a cost factor for us at this time. So we'll look at that as we move along with the project.

Mr. Hedani: Additional questions? Commissioner Shibuya.

Mr. Shibuya: Thank you Mr. Pikrone. As you know, the photovoltaic modules that you place on the roof are actually shielding the roof and the structure from heat, radiant energy so what it is is converting that radiant energy into electricity. So you have a double type of advantage there or benefit both having a cooler roof as well as generating renewable power.

Mr. Pikrone: Correct.

Mr. Shibuya: But you're well aware of that.



Mr. Pikrone: Yes, we have a number of homes in the Wailea area that we review the plans on a regular basis as they come in. Many of them are installing photovoltaic today. In those cases, when they install because of their usage they are installing nearly the entire roof is being covered, their south side face of the roof is being covered and that does have that effect. In this case because there wouldn't be that much use, we probably wouldn't have that much of the roof covered with photovoltaic so I don't know if it would quite have that same effect, but yes, I'm aware of that.

Mr. Shibuya: Yeah, it would be a step in the right direction. Not only talking about it but actually demonstrating it, doing it. Thank you.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Mich, did you say there were going to be two people 24/7?

Mr. Hirano: Yes.

Mr. Mardfin: And do you know what length of time, are they for 8-hour periods or 12-hour periods?

Mr. Hirano: I think there are three shifts.

Mr. Mardfin: So generally eight, maybe a little overlap. And they're living there?

Mr. Hirano: Yes.

Mr. Mardfin: Are they going to be showering there?

Mr. Hirano: Yes. There are showers and washing --.

Mr. Mardfin: And you have a kitchen. Are they going to be -- they're going to be cooking there?

Mr. Hirano: Yes.

Mr. Mardfin: So they're going to be washing dishes there.

Mr. Hirano: Yes.

Mr. Mardfin: So they're using hot water for showering, they're using hot water for -- this sounds like a normal residential home with two people in it that could benefit from solar hot water heating and yet you don't want to do that or you're not planning to do it.

Mr. Hirano: We're not planning to do it. I think that you heard from the mechanical engineer that the type of water system, heating system that's being proposed is fairly efficient.

Mr. Hedani: Any additional questions? Commissioner Mardfin.

Mr. Mardfin: You know, my understanding from solar hot water is that it pays off even for a two

person or a one person family. I find it hard to believe that this doesn't pay off. Now cost was cited. Yes, there's an up front cost but you save it down the road. So I don't see cost as an issue of why you're not doing it.

Mr. Hedani: Additional questions? Commissioner Starr.

Mr. Starr: Who will be paying the electric bills on this?

Mr. Hirano: Well the building will be leased back to the American Medical Response or the emergency response provider. So it will be a lease back situation I believe for them. So I guess they'll be lease payments and rental. There'll be some revenue coming to the county.

Mr. Starr: And so ultimately it will cost the county whatever the electric bill is.

Mr. Hirano: But they'll be getting rent from it too. I think that would offset some of the operating costs.

Mr. Hedani: Additional questions from the Commission?

Mr. Starr: Yes, Mr. Chair, can I continue?

Mr. Hedani: Commissioner Starr.

Mr. Starr: Thank you very much. You know, I spent half of yesterday at a meeting on energy efficiency in county facilities. This is very much the priority of the Mayor to reduce the cost to the county on you know, of electricity and other utilities. And to try to save a few dollars in building something on the cheap that the county will operate either directly or indirectly for decades is really against the policy of Maui County at this time. The solar hot water no matter how much you think that having a PVC hot water tank will save is no where as efficient as solar hot water. The payback is in the range of two to three years in operating expenses. This is a project that should be a model even in a small way. It should be LEED certified but you're not doing that. But to not even put in solar hot water or you know other simple measures really is wrong and I can't support it in that mode because it's against our policy.

Mr. Hedani: Commissioner Starr did you have a question?

Mr. Starr: Yeah, once again I'm asking them to at least as a bare minimum put in solar hot water.

Mr. Hirano: Yeah, they will do it. They'll put in solar hot water.

Mr. Hedani: Any additional questions for the applicant? Commissioner U'u.

Mr. U'u: Yeah, good morning Mich.

Mr. Hirano: Good morning Commissioner U'u.

Mr. U'u: Question on zoning. It's zoned P-1 and public/quasi-public. And when you get two separate zoning, I just searching, would it be in conflict or hinder you in getting your building permits?

Mr. Hirano: No, not this particular situation Commissioner U'u. The zoning designation district is public/quasi-public. It allows for government use and public use.

Mr. U'u: And one last question.

Mr. Hirano: Yes.

Mr. U'u: As far as irrigation use, is there reclaimed water you guys using?

Mr. Hirano: There is no reclaimed water available to the site. So it isn't reclaimed, no, not on the long term.

Mr. U'u: Okay, thank you.

Mr. Hedani: Any additional questions from the commission? Commissioner Hiranaga.

Mr. Hiranaga: Just curious. Why is the garage section of the building 24 feet high?

Mr. Hirano: I have to ask the project architect. I'll have Bud Pikrone answer.

Mr. Pikrone: Again, Bud Pikrone. The building was designed to house not just the existing ambulance but any larger ambulances that could go into this in the future. There are some bigger box ambulances that could go in there so we had to have the garage door higher. The other reason was, is too, there's windows in the back that are much higher. Those open up so we can an air flow to go through the building and also to help with the cooling in that particular building, the ventilation.

Mr. Hiranaga: Thank you.

Mr. Hedani: Any additional questions from the Commission? Commissioner Mardfin.

Mr. Mardfin: Mich, I was looking through the EIS and there are two things of concern to me let me deal with them one at a time. On the Department of Planning letter of January 10, 2007, in the EIS, it said, "how long do you foresee the level of emergency services provided by the proposed ambulance station being adequate for the Kihei-Makena region." And your response to that was "the existing one was established in 2004 and the current service provider indicated that the expansion of the South Maui emergency ambulance station will not be required in the foreseeable future." That to me isn't a direct answer to the question. Can you tell me how long it's projected that this will be adequate? Foreseeable future could be four weeks from now.

Mr. Hirano: I think it's a – the adequacy is really built on the life of the building. And that if more ambulance facilities are needed they'll be another station that would be more located to central service area so that it can respond within time for the service area. Right now there are two

ambulances in South Maui. One in North Kihei, one in South Kihei. I think if there was a higher density or more development in that area, then another station will be built.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Mich, I thought I heard a catchment on rainwater being caught there and stored and reused. Is that—

Mr. Hirano: That's not —

Mr. Shibuya: I didn't hear that?

Mr. Hirano: No, you did not.

Mr. Shibuya: I was leading onto the other point here that I was going to ask you about. If you did put such a catchment system and reuse the water then you'd become very energy dependent. You'd have pumping for that, you'd have air conditioning and also you would use electricity to heat your water. Also electricity to insure that your communication systems are operating as well as the lighting. So strategically looking at it, I would think that electricity generating would be the first thing that you would do. Would the community consider putting in the photovoltaic type system before even putting solar hot water heating systems because once you put that photovoltaic you're providing the energy for almost everything, the whole operation of that unit, would it not?

Mr. Hirano: I'd like again, Bud Pikrone I think. It's a consideration that will require some discussion with Wailea Community Association.

Mr. Hedani: Bud. It's getting more and more difficult to donate anything to the County of Maui.

Mr. Pikrone: I'm going to pass the hat around here in a little bit. We're — like I said, we designed the building and we are looking at that. And as we go out for bids, we're looking at incorporating that so we can get an idea of cost of what it will take to do that. I'd be happy to do it. We actually are encouraging that in our community like I said, I'd be happy to do it for this building if all it's going to come down to can we afford it now or do we have at least the building designed and prepared to do that if we can get those funds at a later date. I want to get the building started and then as we collect the funds on it, I'd be more than happy to add that in there. Because it is something I believe in and also the community does, so I would like to do that. And actually, if we do that, that would take the place of the hot water heating because then we could, you know, power everything using that.

Mr. Hedani: Commissioner Starr.

Mr. Starr: And Bud, first of all I want to thank you for getting this going and it's been long overdue and I know you've been working on it. I just want to ask you about Kilohana Street. I know for many, many years there's been a lot of problems with the paving of it. I want to know if that's ever been fixed up and if there's any way with this thing going and the fire station to maybe, Mr. Miyamoto could mention what the county's plans are but what's the status of Kilohana as far as the

paving.

Mr. Pikrone: We have two issues there. This section is actually state, the road. The main section down below on Kilohana is owned by A&B and they've been working with the county now for a number of years. My understanding is they're very close, of course, I've been hearing that for years of having that agreement with the county to repave the road, bring it up to standard, put in new sidewalks, new trees along the road. That's what it's come down to is replacing basically the entire roadway including the sidewalks and the trees there. They're very close on that. I don't have any deadlines. I don't know what their schedule is on it, but they have made progress over the last couple years, more progress than probably the first 10. So I'm hoping that will happen soon. As far as the upper section, that is state and where the fire station and what requirements would come out of that probably are going to be incorporated into the widening of Piilani if that ever takes place. And that intersection then changes whether it's sidewalks or whatever along that particular portion of it.

Mr. Starr: Can we ask Mr. Miyamoto to –

Mr. Hedani: Any additional questions for the applicant at this time? Commissioner Sablas.

Ms. Sablas: Hi Bud, as South Maui resident I would like to commend you and your organization for spearheading this in the community. So my question is how's your fundraising efforts going and when do you anticipate having the building completed? Because I, again, applaud the efforts of what you're doing in Wailea. I'm a South Maui resident, so I have personal interest and I do see by the calls it's needed, you know, to have that many calls and I'm aware of, because I hear the sirens all the time being a resident there. So we do need this project and you know, certainly I'd like to support moving it along and commend you but again, my question is, the fundraising efforts and when do you think ideally it would be open so we can all enjoy that facility.

Mr. Pikrone: Well, I would have started this a couple years ago, but it's taken us five years to get to this point. Our fundraising efforts, we have commitments for about 50% of the funding on this. We are working on, we have a committee that's putting together fundraising. We have the support of our community and resort, the hotels, that will be helping us in that effort. We're looking at hopefully having the remainder of the funding by early next year so we can – I'd like to actually break ground on this early next year. At that point then we're talking, what about nine months to build it maybe. So it's possible the end of 2010 that it could be completed, early 2011.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Mich, back to the Department of Planning letter. Based on the Maui Planning Commission, Item 4, "has emergency air ambulance service been taken into consideration?" And your response was, "that basically the existing designated zone is near the technology park. No plans to use the Wailea Fire Station site as a designated landing zone." And yet, you pointed out where the heli stop was there. Why aren't they using this for helicopter for the ambulance?

Mr. Hirano: I think at the time there was concern with the noise. There was also a designated heli stop that American Medical Response has designated in South Maui. So that's where they were

using it. The heli stop right now is just primarily, exclusively for the fire station. I phoned the fire station this morning just to get an update on the project and things. They have – I understand there are some discussion whether they can share that, but no decision has been made on that.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yes, I'd like to ask Mr. Miyamoto to tell us about Kilohana, the Wailea community has been up in arms over it for about a dozen years.

Mr. Hedani: I think we can save that question for when we're debating the issue of the approval and getting staff input from the resources of the county. At this point, what we're asking is are there any questions for the applicant that haven't been answered in their presentation.

Mr. Starr: And I'm asking for a question to our staff.

Mr. Hedani: And I've answered that we can take that up at the time that we discuss the project application and ask for additional input from staff.

Mr. Starr: I know part of your policy you like to stifle discussion and our obtaining knowledge but –

Mr. Hedani: Commissioner Starr, I don't like to stifle discussion, I like to keep discussion on track and on point and the point at this point is to answer any questions that you have from the applicant.

Mr. Starr: Thank you Mr. Chair.

Mr. Hedani: It's not an opportunity to debate the issue on the floor. That will happen when we take the motions up on the application itself.

Mr. Starr: I'm not trying to debate the issue. I'm trying to ask a question of our staff here.

Mr. Hedani: Are there any additional questions for the applicant at this time? Commissioner Hiranaga.

Mr. Hiranaga: So where does the drainage go? Storm runoff?

Mr. Hirano: I'll just pull up the – this is the drainage. This is the grading plan. Currently there is a drainage channel that goes down through the site and into the drainage channel through South Maui. The onsite drainage there's a dry well that's located in this location that will capture the onsite runoff.

Mr. Hedani: Follow up question Commissioner Hiranaga.

Mr. Hiranaga: So the surface runoff that's not captured onsite where does that go?

Mr. Hirano: It goes through the drainage channel and eventually I think it goes into the ocean.

Mr. Hiranaga: So I'm curious why the Wailea Community Association is not concerned about capturing all predevelopment and post development runoff onsite since whatever's not captured will flow directly into the ocean?

Mr. Hirano: I'll have Michael Conway.

Mr. Conway: Thank you. Good question. The question basically comes down to Maui County engineering policy. You know, the drainage, the engineering policy or the rules and regulations for Maui County allows for all predevelopment water to drain just the way it goes to and that any new project obviously has to handle any additional water flow. Again, it's a matter of economics. Again, if we're in a situation where we're in an area where the ground is not sandy, it is probably full of rocks and boulders. So any kind of excavation would be costly, add to the cost of the project. As it is, we are providing a dry well, a hole in the ground to handle that additional runoff that meets basically the rules and regulations ..(inaudible)... grading ordinance for Maui County engineering ordinance.

Mr. Hirano: ... capture all predevelopment ...(inaudible)...

Mr. Conway: to capture all predevelopment it would be substantially bigger obviously because the ground itself again is fairly hard so the runoff was fairly great. As I recall, it would probably be about let me go through the calculations on this, probably about 20 times larger than the current dry well that we have. So it would be a substantial cost including the problematic situation of making holes in rock.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: If you look at page 26 of the staff report, it says, "that the current runoff generated is 62.6 cubic feet. With the development it will increase to 30.1, total, 92.7," and you're going to capture 73.2. So you're letting 19.5 continue on into the ocean. You're saying to capture the 19.5 cubic feet it's going to take a system 20 times larger?

Mr. Conway: Where are you looking at?

Mr. Hiranaga: Page 26, third paragraph, just after Exhibit 48.

Mr. Conway: Okay, this was a drainage report prepared by Pacific Islands Engineering. The drainage report that we prepared specifically for the project based upon the design, the specific design layout of the hardscape, the building and so forth, as I recall, required – there was an increase of about .04 cubic feet per second. And we have to hold onto that water for one hour. So the volume obviously you know, is 60 times, 60 times, times that .04, but the runoff itself was or the predevelopment if I recall right was about one and a half cubic feet per second. So it was substantially larger than the increased amount. The runoff of the undeveloped site of which as far as I know there has been no negative feedback or any problems that have derived from the existing flows as far as I know.

Mr. Hiranaga: Your calculations are not provided in the staff report?



Mr. Conway: No.

Mr. Hirano: No, I'd like to just correct that. The environmental assessment was done in 2007 and we used the preliminary engineering report that was provided at that time by Pacific Engineering. Silversword Engineering is now the project engineer. They've done some recalculations on that. That report was not available when we did the environmental assessment. It's not in the staff report. The staff report was based on the environmental assessment I think.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Right now there's runoff going into the drainage and working out to the ocean. But there's nothing on the land, it's scrub basically.

Mr. Hirano: That's correct.

Mr. Mardfin: Now you're planning to put an ambulance there which will have some petroleum products. It's an ambulance, they might have some chemicals and other sorts of things so the runoff is potentially much more harmful. Are you separating –

Mr. Hirano: Yes.

Mr. Mardfin: You might have mentioned this and I was just kind of missed it, but what kind of separation are going to have to make sure –

Mr. Hirano: We said that there'll be filters in the drain inlets so the runoff – the runoff is designed from drain inlets to take water from the parking area and driveways and channel it or direct it into a dry well. So there'll be filters in the drain inlets that will filter the petrochemicals that are in the runoff from the surface, from the hard surface and then it will be disposed of in the dry well.

Mr. Mardfin: So zero petrochemicals will work its way back into the drainage.

Mr. Hirano: Well, they'll be captured. I understand these filters take approximately 90% of the chemicals out.

Mr. Mardfin: So 10% of the petrochemicals will flush out into the ocean?

Mr. Hirano: No, they'll be contained in the dry well and then they'll be percolated into the ground.

Mr. Hedani: I have a question Mich. There's a drainage easement that runs through the property.

Mr. Hirano: That is correct, yes.

Mr. Hedani: So when you're considering the question of predevelopment runoff it takes into account the fact that there's a drainage easement running through the property. Does the drainage easement service off site properties?

Mr. Hirano: Yes, it takes all the mauka properties, it's quite a large area actually.

Mr. Hedani: So the volume of water going through the site comes from sites offsite?

Mr. Hirano: Yes.

Mr. Hedani: Okay. Thank you. Additional questions for the applicant? Commissioner Hiranaga.

Mr. Hiranaga: Could I just have clarification of what just discussed? You're saying that surface runoff coming mauka of the property, it flows through the drainage easement is included into the calculation of the predevelopment runoff?

Mr. Hirano: I'll have the engineer.

Mr. Conway: Do you have a handheld microphone? To hopefully completely explain this, basically as you can see here, there's a channel, a dry awai, a gully that runs through here. Water as mentioned from the mauka area comes through, comes across Kilohana, comes through here and drains basically around the property and it also captures the runoff that comes off of this property that also goes into this drainage channel and then goes on its way where it continues to capture water from the lower developments and so forth until it finally exits to the outfalls to the ocean. The way this has been designed if you take a look at the grading plans or the grading lines is there is a low point, a channel right in here with two catch basins in here. So all the water on the concrete basically runs to these two catch basins that then exit to a small dry well at this location. So the two catch basins as mentioned will have filters to filter all petrochemicals. The dry well, is basically a dry well that has a top that can be opened, can be assessed for people to go inside to clean out. So the answer to your question is that drainage channel or the existing drainage channel will – accepts water from the existing site as well as water upstream. And of course, the same channel going downstream accepts more water from the developments adjacent to it. I think that answers your question. Or could you repeat your question again then if I –

Mr. Hiranaga: My question is, the surface runoff coming mauka of the property that enters the drainage easement is that included in your predevelopment runoff calculation?

Mr. Conway: No, it's not. That would only be included for sizing the existing channel.

Mr. Hiranaga: Thank you.

Mr. Hedani: Any additional questions for the applicant. Seeing none, thank you very much. Staff. Oh, I'm sorry, we'd like to open it up for public testimony at this time.

**a) Public Hearing**

Mr. Hedani: Are there any individuals that would like to offer testimony on this item, please step to the microphone. Seeing none, public testimony is closed. Staff recommendation.

**b) Action**

Ms. Callentine: Thank you Mr. Chair. I'd like to just bring to your attention the comments that were made by the Urban Design Review Board who recommended approval and they had four basic conditions. They are shown in Exhibit 42. I didn't cover those really in the earlier presentation, but you didn't see colors on the slides but the project is proposed to match the colors of the Wailea Fire Station. There's going to be a guardrail across the bridge traversing the drainage easement and the Urban Design Review Board had quite a discussion of that guardrail and wanting it to be painted not just a rough galvanized steel kind of color. So they agreed to paint either a dark shade of green or brown. They didn't specify which they wanted as "they" being the Urban Design Review Board. There was only shade tree shown on the landscape planting plan and the applicant agreed to provide two shade trees. Since there will be seven parking stalls they would be required to provide two. I have not seen an updated landscape planting plan. They also were concerned that the waste disposal facility would be adequately sized. I think we've had discussions about that and are satisfied that will be met. We discussed Chapter 343.

So at this point, the Planning Department would like to recommend approval of the project as proposed based upon the facts presented in the department report and additional information presented here today. We find that the proposed action will not have a significant adverse impact or ecological effect provided mitigation measures are incorporated into the project. The proposed action meets the objectives, policies and guidelines of the Special Management Area Rules and the proposed action is consistent with the Kihei-Makena Community Plan.

Your report actually was incorrect, it stated West Maui Community Plan so I just wanted to call it to the commission's attention that it was Kihei-Makena and it was a slight mistake.

I'd like to draw your attention to three additional, conditions of approval that the department wants to add they are part of the set of standard conditions that we normally impose on every Special Management Area major permit and so I've reviewed these with the applicant this morning and they understand and are amenable to them. They are, one is regarding appropriate energy conservation measures. You see that on all of our applications. Unless the commission wants me to, I will not read that in total.

The second one is, "that all exterior illumination be full shielded to provide downward lighting through the project."

The third is, "that appropriate filtration measures to separate petroleum products will be incorporated into the project."

So I want to add those three conditions to the standard conditions and then we would renumber the remaining conditions accordingly. And then the second set of amendments I propose is part of the project specific conditions. There were three conditions that were repetitive and they're regarding the landscaping. So I'm going to propose that you keep Condition no. 34, which is, "that native plants be incorporated into landscaping on the proposed building site and that non potable water be used wherever feasible during construction and for landscaping."

And that you eliminate Condition no. 29 which also speaks of the landscaping. And that you eliminate Condition no. 36. And the reason those were repeated is because I tried grouping, I

grouped the conditions based upon the agency that presented them and I think in the future I will group according to topic rather than the agency so we won't have this situation again. But those are the department's recommendations. Thank you.

Mr. Hedani: Commissioners? Commissioner Starr.

Mr. Starr: Yeah, I'd like to ask Mr. Miyamoto to speak to us about Kilohana and explain why it hasn't been turned over and why A&B has not fixed this roadway as they had committed to the community about 12 years ago.

Mr. Hedani: Mr. Miyamoto.

Mr. Miyamoto: Mr. Chair, why A&B has done what they've done I cannot answer as I do not control them. What I can say is that we are working with them. We can inspect the roadway, we can provide our comments regarding the roadway conditions as it pertains to meeting county standards that would be acceptable by the Council. That's about as far as our activities can be accomplished at this point.

Mr. Hedani: Follow up question, Commissioner Starr.

Mr. Starr: So, we are correct that it is a private road and it has not been brought up to County standards, is that correct?

Mr. Miyamoto: I can say it's a private road as to what level of the roadway condition has to meet County standards, I'm not fully aware of it at this point. But it's not up to dedicatable standards at this point.

Mr. Starr: Thank you.

Mr. Hedani: Mr. Mardfin.

Mr. Mardfin: This is for Livit. You mentioned that you wanted to modify some of the conditions and I just want to, since it's going to be rewritten, it's going to be rewritten, but I want to make a couple of points with regard to that.

Ms. Callentine: Sure.

Mr. Mardfin: 29 mentions xeriscape, but 34 does not. And 34 doesn't really mention the water usage. I mean, we don't want to see a fern forest there. We're talking about this is Kihei so we want low water usage plants. And there's a similar concern about you were going to eliminate 36 and I like that it should be incorporated to reduce water usage and I think that ought to be kept in there so that when you rewrite – and then the last thing about 34 it says, "and non potable water be used wherever feasible." I would put possible rather than feasible. The feasible stuff often doesn't get done. They say, oh we'd like to do it but it wasn't feasible and that isn't satisfactory to me in general.

Mr. Hedani: Okay, couple things. First of all we don't have any recommendation on the floor right now. We don't have any motions on the floor for either approval or disapproval of the recommendation. With that, Director.

Mr. Hunt: I was just going to suggest we need to be precise in our procedure and if that is a motion, so be it but to simply give direction to a staff to change a condition of approval, that's problematic.

Mr. Hedani: Commissioners, what's your pleasure? Commissioner Hiranaga.

Mr. Hiranaga: So it is correct that we do not have the appropriate drainage report for this application? That what was provided to us is outdated?

Ms. Callentine: That's correct Mr. Hiranaga.

Mr. Hiranaga: So because this property is in the SMA area in South Kihei I'm going to have difficulty with any type of a motion for a positive action because this SMA report is incomplete. We're given information in the staff report that's contrary to what's being presented verbally.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: I agree with Commissioner Hiranaga. Therefore, I'm making a motion that we defer this motion until we receive the water report or the drainage report.

Mr. Hedani: Is there a second?

Mr. Hiranaga: Second.

Mr. Hedani: Seconded by Commissioner Hiranaga. Discussion? Commissioner Starr.

Mr. Starr: I'll be voting against the motion although I do feel that a better job should have been done in completeness and I don't like dealing with it partially. I do understand the situation with this project where the community is rising up to work to help the county try to get it done. I'd like to see it get on the road.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I'll be voting for the motion to defer in hopes that one, they will get more information in there that's current and applicable. Secondly, a deferral will allow for them to revisit the issue of photovoltaic and solar hot water and it will also give the staff planner a chance to consider how to construct the condition on landscaping.

Mr. Hedani: Additional discussion? Director Hunt.

Mr. Hunt: Livit, do you want to have an opportunity to explain the different drainage reports and why you didn't get the drainage report or?

Ms. Callentine: Sure, I'd be happy to Mr. Hunt. The drainage report that was provided to staff was provided as part of the environmental assessment which was prepared a number of years ago. We talked about this a little bit. I remember I went over the calculations to understand them with the applicant and I was told at that time there was a new report underway and I asked for the new report to be provided when it was ready. I didn't ask again yesterday for the new report though. So even though I did ask for it, I was not able to get a copy. This was the first time I actually saw this grading plan as well.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Is the new drainage report available? I mean, we could look at it.

Mr. Hirano: There is a recalculation, a new one available. It's not available at this particular time, but Michael Conway is the engineer. He discussed it today for the commission.

Mr. Hiranaga: I'd like to see it.

Mr. Hedani: Additional discussion? Commissioner Starr.

Mr. Starr: I'd like to ask if this – if the SMA were approved would this project be in a position where if say stimulus funds were found available for it, it could move ahead rapidly or is there other process that it will need to be gone through before that because I know that there may be monies looking for projects such as ambulance stations.

Mr. Pikrone: Bud Pikrone. We're looking for any monies, and yes, I have talked with Roz Baker on this. It's not in the near future. It's not in this term and it probably wouldn't be till next year.

Mr. Starr: I'm talking about Federal.

Mr. Pikrone: Federal funds. Well, she's been trying to help us with –

Mr. Starr: CDBG.

Mr. Pikrone: We're looking at all sorts of options on getting stimulus funds too, but it wouldn't happen right now. We probably couldn't get it till next year. That's why I was saying we wouldn't start till next year. So it's not going to happen that rapid, but it's going to happen as soon as I can get it going. If we did get more funds we could start it as soon as I get the permits, but I'm not sure on that.

Mr. Hedani: Additional discussion? Commissioner Hiranaga.

Mr. Hiranaga: I have a question on procedure. Is it possible to be re-agenda this item to a later this day, today, to give them an opportunity to provide the drainage report versus deferring the matter to some other calendared meeting?

Mr. Hedani: Whatever is the commission's pleasure.

Mr. Hiranaga: So how would you do that procedurally since Commissioner Shibuya made a motion. Could he just defer it to the end of the meeting?

Mr. Shibuya: I don't mind deferring it to the end of the meeting, but I have no assurance that we're going to get the data. What I'm concerned about Mr. Chair is that we're making – setting a precedent here of passing judgement on a project with a half vast information. I'd like to have the data which we normally would have.

Mr. Hedani: Is that half ass?

Mr. Shibuya: No, it's vast.

Mr. Hedani: Okay, would you like to amend your motion to defer it to the end of the meeting to see if we can get some additional drainage information?

Mr. Shibuya: I would like to have the assurance of Mich and Mr. Conway that we will get that data probably lunch time?

Mr. Hirano: Yes, we'll make every effort to get it to the commission.

Ms. Callentine: By lunch time?

Mr. Hirano: By lunch time yes.

Mr. Shibuya: We need to review the data once we get it so if you can give it us by lunch time then yes, I'll agree to defer this until – and take up this matter after lunch.

Mr. Hedani: Is there consent by the second? Discussion? All those in favor signify by saying aye. Opposed nay.

**It was moved by Mr. Shibuya, seconded by Mr. Hiranaga, then**

**VOTED: To Defer the Matter to be Taken Up After the Lunch Break in Order for the Commission to Receive and Review the Updated Drainage Report. (Assenting - W. Shibuya, K. Hiranaga, B. U'u, W. Mardfin, L. Sablas, J. Starr)  
(Excused - D. Domingo, J. Guard)**

Mr. Hedani: Carried. Thank you. So this item is deferred and taken up after lunch. Thank you very much. Director. There's a request for a five-minute break. So we'll reconvene in five minutes.

A recess was called at 10:24 a.m., and the meeting was reconvened at 10:31 a.m.

Mr. Hedani: I'd like to apologize to the public for being grumpy as Chairman today, but the person that was supposed to bring refreshments today is absent and so that's why we get so grumpy when we don't have any donuts. With that, I'd like to turn it over to the Director.



Mr. Hunt: The Commission's next item involves Keaka LLC requesting an amendment to Condition No. 4 of its Special Management Area Use Permit for the Lot H-1 Maluaka project to replace the plans dated October 2006 to plans dated January and February 2009 for property situated in the vicinity of the Makena-Keoneoio Road and Makena Alanui intersection at TMK: 2-1-006: 037 and 113 (formerly portion of 056) and 2-1-005: 084 in Makena. The January and February 2009 plans reduced the project density from 71 units to 13 single-family residential units and 2-multi-family units. The project planner assigned to this is Ann Cua.

- 2. KEAKA, LLC requesting an amendment to Condition No. 4 of its Special Management Area Use Permit for the Lot H-1 (Maluaka) project to replace the plans dated October 2006 to plans dated January and February 2009 for property situated in the vicinity of the Makena-Keoneoio Road and Makena Alanui intersection at TMK: 2-1-006: 037 and 113 (formerly portion of 056) and 2-1-005: 084, Makena, Island of Maui. The January and February 2009 plans reduces the project density from 71 units to 13 single-family residential units and 2-multi-family units. (A. Cua)**

Mr. Starr: Mr. Chair. I have a disclosure.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I'd like to make a disclosure before we begin. When this matter came before us the first time about a year and a half ago I had a contractual relationship with one of the applicants and at that time I recused myself because I felt that was the right thing to do. I no longer have that business relationship in force, and as such, I don't feel I need to recuse myself.

Mr. Hedani: Thank you. Ann.

Ms. Ann Cua: Mr. Chair, Members of the Commission, back in November of 2006 the planning commission approved a Special Management Area permit and a Special Accessory Use permit for the development of a 71-unit multi-family development, a recreation building and related improvements at TMK: 2-1-006: 037 and 113.

I've attached for your information and review the approval letter dated November 17, 2006 as Exhibit 2. What I also have attached as exhibits because some of the commissioners that are here today were not commissioners in 2006. And so to give you some background information without making this report 60 pages, I attached the planning commission's or Planning Department's report to the planning commission dated September 25, 2005 and that's attached as a separate document, Exhibit 38.

In addition, there was an addendum report prepared and a recommendation dated November 14, 2006, and I've attached that as Exhibit 39.

Construction of the project commenced on July 3, 2007. The applicant states that approximately 72% of the onsite work and 27% of the offsite improvements for the original project has been completed including installation of potable water lines for the project. The applicant is continuing

with construction on the portion of the project that remains unchanged from the original approval. I did go down and visit the site, walk the site and you know, construction is occurring but again, just on the options of the project that remain unchanged and the applicant is going to go into the entire project. I'm not going to do that at this time.

What I do want to mention before I turn it over is the reason why we're here and holding a public hearing. An intervention was filed by Maui Tomorrow during the initial public hearing on the 71-unit project. The intervention was denied by the planning commission. However, the commission's rules Chapter 12-202-17 states that a public hearing is required for the proposed amendment because an intervention was filed on the original application and that's something that the department is in the future looking at changing because I think the intent was if intervention was granted.

We do want to note as Ms. Bowie mentioned that Maui Tomorrow did submit a letter dated April 21, 2009, and that's attached as Exhibit 37. They were the – they were the ones that submitted a petition to intervene and they've indicated that they prefer this lower density alternative to the previously approved 71-unit project.

So at this point in time I would like to turn it over to the applicant. They're going to take you through the project as it is proposed right now. They're also going to talk about the impacts of this project as opposed to the original project and then I'll come back and present a little bit more information. Thank you. Gwen.

Ms. Gwen Hiraga: Good morning Chair Hedani and Members of the Commission. Name is Gwen Hiraga from Munekiyo and Hiraga. We will do a very short power point presentation for you this morning.

As Ann mentioned, and the Director mentioned, the request before you is to amend Condition No. 4. Condition No. 4 had initially stated that final construction shall be in accordance with preliminary architectural plans dated October 2006. And we are requesting that the condition be amendment to reference revised preliminary plans dated January and February of '09 and this would represent the reduction in the number of units from 71 to 15.

This is the project site. And what we've included for orientation purposes and location purposes, again, this is the project site. This is the Makena, the Maui Prince Hotel. This is part of the golf course. This is the 17<sup>th</sup> hole, 16 and 15<sup>th</sup> and this is the project site. Surrounding are single family residences.

Real quickly, as Ann mentioned in November of 2006, the Maui Planning Commission did approve a Special Management Area permit for the 71 multi-family units and Accessory Use permit for the recreation building. Subsequent to that and a couple of months ago, we presented to the Maui Urban Design Review Board design guidelines and the revised plans and the Board approved it. The Board's approval letter is included I believe in your packet.

Very briefly, this is the original reviewed project site plan with the recreation buildings and with two units on top of there and then the remainder were the multi-family, 13 multi-family buildings.

In terms of the project component, and I'm sorry if I'm repetitive, but again, it is 71 units. The original was 71 units including two, multi-family units within the recreation facility and we are now proposing 13 residential buildings, 11 – I'm sorry, that should be single family. These are single family units or lots. The 13 residential in the original project, that's what we're talking about. I apologize. There were 11 multi-family buildings for which there were multi-family units and two single family units.

Okay, the revised project major component is 15 condominium units. We have two single family sites and two multi-family units in the recreation building and we are converting the 11 multi-family buildings shown on the previous slide to 11 single family sites.

This is the revised site plan. The location of the recreation building is here and these are the single family sites. This is the other two that is not being proposed for change and they are single family as well.

This is a comparison between the original site plan and the revised site plan.

We wanted to show a view from Makena-Keoneoio Road. I'm sorry, this slide is really hard to see but as you can see the white are the original building and there is a black border fronting each of these buildings which show the new views, depicting the new views.

Original view corridor diagram. We showed a corridor here and a corridor here. This is the original corridor showing the north view and this is the new north view corridor that's being proposed with the new plans. Similarly we have south view. Again, the original corridor and the new proposed corridor.

In terms of development standards, the revision or the downsizing of the project from 71 units to 15 units represents, you know, less impact and just to highlight, this first column is with the 71 units. The second column represents the 13 single family and two multi-family condo units for a total of 15, and the third column represents the reduction of 58 units. So basically what we're saying is that in terms of density it is a reduction from seven units per acre to two units per acre representing a 5-unit per acre difference for FAR at 76%, 70.6% FAR with the original 71 units down to 32% FAR representing a reduction of 54%. Lot coverage, 26.65 and with the 15 units, it's 21.8% representing an 18.2%.

And finally heights. The original plan proposed buildings with stories ranging from one to five stories. The new plan proposes one to three stories maximum and the reduction is up to three lower in height.

In terms of other infrastructure requirements and the reduction in project impact, we did this chart that looked at water, sewer, drainage and traffic. With the first column again, it's prepared the same way with the 71 unit condo. We have a reduction going across of 30,840 gallons per day representing a 52% decrease. For sewer, the reduction is by 12,995 gallons per day representing a 37% increase, decrease I'm sorry. And the drainage after retention represents a 20% decrease. Traffic from the 47 trips a.m., p.m., that has been reduced to three a.m. trips and four p.m. trips representing a 93.6% reduction in a.m. trips and 91.5% in p.m. trips.

Again, just to reiterate, the request before you is to amend condition no. 4 to state "that the final construction shall be in substantial compliance with preliminary architectural plans," and these are the revised plans, "dated January and February '09." This concludes my brief presentation. We are open to questions and we have project consultants also available to respond to any questions you may have.

Mr. Hedani: Questions for the applicant? Commissioner Starr.

Mr. Starr: Yes, my recollection and I may be wrong was that this was originally going to be LEED Silver and that now there are CC&Rs that are looking for LEED certification. Could I get a clarification and is there a possibility for the CC&Rs to be raised to LEED Silver level?

Ms. Hiraga: I'd like to have Jennifer Stites respond to that question.

Ms. Jennifer Stites: Hi Jennifer Stites with Dell and Company. The CC&Rs do require LEED certification. Buyers that we have talked to have expressed that they will be pursuing other levels of certification but minimum requirement is certified.

Mr. Hedani: Additional questions for the applicant?

Mr. Everett Dowling: If I could just add to that.

Mr. Hedani: Mr. Dowling, could you identify yourself for the record?

Mr. Dowling: Everett Dowling the owner of Keaka. The recreation building was originally planned to be LEED Silver, we've stepped that up to LEED Gold and then we're well underway on that.

Mr. Hedani: Thank you.

Mr. Starr: Could I make a follow up on that?

Mr. Hedani: Commissioner Starr.

Mr. Starr: Are the units, the multi-family originally going to be silver or certified?

Mr. Dowling: Most of them were Silver. Some of them were certified.

Mr. Starr: Could we ask that you consider whether you would raise the CC&Rs to Silver since that was part, I believe part of the consideration that they were going to be Silver.

Mr. Dowling: We could do that on individual home sites, but we couldn't do it on all of the home sites. In other words, there would be five home sites I could not do that on because those people are, they have signed off the CC&Rs. The other people have not, the other units have not been signed off. So I could step those up to Silver. Legally I could step those up to Silver but I couldn't step five of them.

Mr. Starr: I think if you could, that would be more in keeping with the – and we understand about the five that have already been contracted.

Mr. Dowling: I will commit to units, maybe we should write it down, “that it be Units 1, 2, 3, 4, 6, 7, 8, 13, we’ll modify the CC&Rs to they be Silver.”

Mr. Starr: Thank you.

Mr. Hedani: Additional questions for the applicant? Commissioner Mardfin.

Mr. Mardfin: I saw what I think was the guidelines for building the house. These are being sold basically as lots?

Ms. Hiraga: Yes.

Mr. Mardfin: And then people will build their own family houses on them?

Ms. Hiraga: For 11, yes.

Mr. Mardfin: Would they have, all have pools? Would each lot? Or are they not going to do pools and they’ll have a common pool area or what’s the plans on that?

Mr. Dowling: It’s up to the individuals. I would say, of the people that we’ve talked to to date, it’s about 50/50. Some people, some of the units for instance, 13 was originally designed and approved with a pool. They don’t want a pool. The other units 9 for instance, will be adding a pool. So it’s individual preferences. Most of the –and people who are adding pools that I’m aware of are adding plunge pools as opposed to swimming pools because of the proximity of the recreation building and that’s taken into account in our water calculations. So the reductions you’ve seen, the reductions you’ve seen assume people are adding pools.

Mr. Hedani: Additional questions for the applicant? Commissioner Mardfin.

Mr. Mardfin: This actually is for the applicant. For Mr. Dowling. I’m going to ask the question, you don’t have to answer it. This strikes me as a very strange thing to do – to take a much less density. And the economist in me is very curious about your motivation. Now your motivation should have nothing to do with my vote because I should be voting on the merits and I will. But I’m curious why you decided to do this. You know, some things went through my mind. Maybe it’s because of Maui Tomorrow and it would avoid litigation potentially. Or there was a comment in here about development mauka of this and maybe it will provide better views so that you can sell the mauka ones at a higher price. The whole thing strikes me as very strange.

Mr. Dowling. It’s a fair question. I’ll be happy to address it. Our motivations comes from, I guess generally speaking two angles. First one is, we on the 71 units we had over half of them sold, binding deposits, non refundable deposits. We had a fixed price, guaranteed maximum construction contract. We had all permits in hand. And then the financial crisis came and our cost of financing went up considerably which we could bear that. But, and we talked to a 126 lenders.

We found one lender willing to make the loan. So we were very happy. It was a long process. We were very happy. Then – and we signed a commitment letter and we spent about \$530 – actually we spent exactly \$535,000 in loan fees documenting that loan. Then The Wall Street Journal had an article about the bank and it wasn't a very favorable article about the bank. As part of this process, in the development I have to provide personal guarantees. So I've got to personally guarantee the completion of the project to the other lenders, to the mez lenders, which kind of junior lenders, think of it as a second mortgage. I have to personally guarantee that and that's the first money to be spent. So we spend our equity, then we spend this mez loan and I have to provide, I had to provide a personal guarantee to the mez lender that I would complete the project. I was dependent on the senior lender's funding to complete the project. So when I saw this article in the Journal that wasn't very favorable about the senior lender it concerned me because if I got into the project and spent through all the equity and I spent through the mez loan and now I'm ready to draw down on that first mortgage construction loan, if that bank had gone bankrupt, what do I do? I got a half-completed project, I've got a personal guarantee to the mez lender, if I don't have the construction loan to finish the project, I'm sunk. Literally I'm sunk.

So, you know, it's one of those things you don't want to believe. So while I was trying to convince myself not to believe it, the San Francisco paper came out with an article entitled, "The Seven Banks Most Likely to Fail Next." Guess who's on there? So then I called the chairman of the bank and it was a very awkward conversation because his family controlled the bank, had controlling interest in the bank. So I felt like when I was questioning the viability of the bank it was kind of a personal attack or question or whatever. I was questioning his viability. So I suggested as a solution just to make me feel more comfortable what if we escrowed the whole proceeds? What if we took that first mortgage, the proceeds from that loan which was a \$196 million and we put it into a escrow company, mutually agreeable escrow company. We would start paying interest day one even though we're going to have to spend through the equity, spend through the mez loan before we take a first dollar, we'd pay interest day one. I looked at it as an insurance cost. He said no. And the only reason I could think of that he would say no to that would be if he didn't have the capital. Just last week an offer was made to buy all the assets of the lender. So it was a right decision. So one, it was just, I was concerned about financing.

Second decision, is we bought these two properties from Seibu prior to buying Makena Resort and I think the original plan was the right use, looking at that property as stand alone property, but looking at it in the context of owning the 1,800 acres and how that works with the Prince Hotel, we think this is the appropriate use. I hope you answered your question.

Mr. Mardfin: Thank you. I have much better picture of what's going on. Thank you very much.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Thank you Mr. Dowling. I just wanted to know the range, price range for the remaining units that you have for sale?

Mr. Dowling: 4.2 to 6.25 I believe.

Mr. Shibuya: Million?

Mr. Dowling: Million. And then on top of that people will probably spend in the neighborhood of \$4 to \$5 million on home construction.

Mr. Hedani: Additional questions? Director Hunt.

Mr. Hunt: Everett, I understand the zoning and the community plan provides for single family in the hotel district. I appreciate the reduction in density and the reduction in impacts that result particularly for the specific site. But speaking long term or overall, it seems what we're doing is we're taking a hotel zoned designation and we're building single family residences on it and while that may be a short term solution, are we creating a long term problem by saying – are we going to have to create more hotel designations somewhere else in order to accommodate growth for our tourist industry?

Mr. Dowling: I can't answer that question, but I can say that when we were here last, the planning commission did not want short term rentals on that property. We were told that not only no hotel, we were told no short term rentals. So in our CC&Rs we prohibited short term rentals. As a matter of fact we prohibited all rentals, not short terms, we prohibited all rentals. As we were going through the rezoning process on big Makena just last December, the County Council put a condition on parcel H-2 which is just mauka of this site, hotel zone, that we could not develop a hotel on that property nor could we have time share or ...(inaudible).. on that property. So I can't answer your question in terms of will Maui eventually need more hotel property. I don't know the answer to that, but I will say that in relation with regards to this property and with regards to the property, the only other hotel property that we own, undeveloped hotel property that we own, both of those have a, at the request of the county have a prohibition on hotel zoning.

Mr. Hedani: Director Hunt.

Mr. Hunt: Just speaking intellectually, again, it's not this project, maybe legal counsel will let me know if I'm getting off base, but aren't we defeating the purpose of a hotel district then if we're putting single families and furthermore putting a condition on them that you can't short term rent them?

Mr. Dowling: I think it's – I don't know, like I said, I think that's a personal opinion.

Mr. Hunt: A question I think.

Mr. Dowling: In my opinion, no. In my opinion, I look at Makena and the approach that we've taken to Makena, at some point as we were going through the bidding process to buy Makena Resort, we came to a fork in the road. The price got to a point, got to a level where we had to make a decision and it was down to of us at that point. The decision was either do we go high density and we go time share in order to make the economics work or we take the theory less is more and we go lower density but extremely high priced and that's the decision we made when came to that fork in the road. In this market, even in this market I continue to believe we've made the right decision. This is what's right for that property. I'm not saying a hotel is incorrect for other areas of Maui, Kaanapali, Kapalua or Wailea, they ...(inaudible)... near the airport. I think there are places on Maui where a hotel is appropriate. I'm just looking at the plan for this property, looking at the sensitivity



of this area. We made the decision that a hotel was inappropriate, a second hotel was inappropriate.

Mr. Hunt: And I didn't want to really come across as not supporting this project. I mean the recommendation is approval. I'm just using this as an avenue for future discussion looking long term. So thank you for your comments.

Mr. Dowling: You're welcome.

Mr. Hedani: Commissioner U'u.

Mr. U'u: Question for the Planning Director if I may. If we would have passed that stacking bill about restricting the single family homes in the hotel district, how would it in turn affect a project like this?

Mr. Hunt: It could potentially given the wording of the bill, and that's one reason why I wanted to have this conversation is the community's wrestling with some pretty big issues. So depending on the specific wording of that anti-stacking bill, it could have conceivably or could conceivably affect a project like this.

Mr. Hedani: Additional discussion? Commissioner Starr.

Mr. Starr: Once again for Mr. Dowling, the CC&Rs make mention about using organic products for care of the lawn and the greenscape but it's only a suggestion. Would you be willing at least on the units that are still available to firm up that wording because it is in proximity to the shoreline?

Mr. Dowling: Yes, absolutely.

Mr. Starr: So I'll let you suggest that. And the second question, I know that you just did extensive work on the golf course that's a buffer between this property and the ocean. My understanding was that that was to reduce the need for watering and chemicals. Could we get a little explanation on what was done there?

Mr. Dowling: Sure, we replaced the grass. We're in the process of replacing all of the grass on both golf courses. We started with the south and we started with the holes in front of this project, to the south and makai of this project. So we replaced the turf. We went with the seashore paspalum grass that requires, upon completion it requires 50% less water. It requires – it's more salt water tolerant and we have 12 brackish wells within Makena Resort. So we use a combination of the effluent from the wastewater treatment plant mixed with the brackish water to irrigate the resort. This grass is more tolerant brackish water. So since it's more tolerant of brackish water you don't have to overcome the issues that the current grass, the prior grass that we were used had. You know they would use fertilizer and chemicals to overcome the impacts of the brackish. We no longer have to do that. So it's – it's the only golf course on Maui that uses this grass. I think eventually everybody will follow suit, but it's less expensive to, it's better for the environment, it's less expensive to use because you can use less water and even though we're using brackish water and effluent, we still have to pump it. So it requires less energy and it's less expensive because

we don't have to use anywhere near the amount of fertilizers and nutrients because they were being used to overcome the situation, the problems that arose from brackish water and plus it's a prettier grass. I mean, literally just the color of it, it's just a more attractive grass.

Mr. Starr: Your leadership in these green areas really is appreciated.

Mr. Dowling: We're having so much fun with this stuff.

Mr. Hedani: Additional questions for the applicant? Commissioner Mardfin.

Mr. Mardfin: I notice that there were fees that were mentioned, park fees and workforce housing fees, those – you've already paid them so they don't change. You're not going to be going back and saying well, we're having fewer units so please give us some of the money back or anything like that are you?

Mr. Dowling: We did on the park fees. We will not on the affordable housing fees and we also did on the building permit fees also.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Actually this question's for Gwen since you're paying her I figure I'd – What is the Maui Economic Concerns of the Community, LLC or Inc.?

Ms. Hiraga: Okay, at that time, when the SMA was approved back in 2006, it was Ka Hale a Ke Ola. You know the facility, the resource facility down on Waiale Road and they have one in Lahaina. Charlie Ridings project. At that time Charlie Ridings was the Executive Director. So they have their Waiale facility. They developed the Wainee facility and at that time they were looking to developing a facility in South Maui. So the Department of Housing and Human Concerns had recommended I guess that the funds, affordable housing contributions from this particular project be designed to the Maui Economic Concerns of the Community.

Mr. Hedani: Additional questions for the applicant. Commissioner Hiranaga.

Mr. Hiranaga: I'm just wondering because you've gone to a lower density project, why you're unable to retain all predevelopment and post development surface runoff on the project site, especially taking into consideration your close proximity to the ocean.

Ms. Hiraga: Commissioner Hiranaga, I'm going to have the project engineer respond to that.

Mr. Stan Watanabe: Good afternoon, Stan Watanabe with Austin, Tsutsumi and Associates. To answer your questions, the drainage system is 90% completed and initial project design exceeded the county standards. We're some place in the neighbor of 42% I believe and currently we're at 76% of the predeveloped flows. As far as being able to retain the additional flows, just by from the standpoint of construction and economics I don't know if that's possible at this stage.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: From an engineering standpoint based upon the land area is it possible?

Mr. Watanabe: From the land area as it's earmarked now, no.

Mr. Hiranaga: Earmarked?

Mr. Watanabe: As far as the development.

Mr. Hedani: Mr. Dowling.

Mr. Dowling: At this point, we've reduced the runoff from this property by 76%. In addition to reducing the runoff, we've added for the first time in the State of Hawaii we've added a filtration system. So not only is there 76% less runoff leaving this property, the runoff that does leave this property first goes through a mechanical filter system which takes out 90% of the petrochemicals of the site. So right now, these roads right outside here, this parking lot right outside here, when it rains all of the oil and crud that's on this asphalt gets washed into catch basins and it ends up in the ocean. Every road on Maui, every parking lot on Maui with exception of this project. This project we filter the runoff, we take 90% of that out before it ever leaves the property. So we've reduced the runoff predevelopment when it was – there was nothing there. We reduced it by 76% and in addition to that, we're the only project in the State of Hawaii that filters runoff. That's something that we're committed to repeating and doing throughout Makena Resort. I know we're doing the correct thing in Makena in terms of water quality and runoff. And when it does leave this property by the way, where it ends up is it ends up on the golf course in a depressed area on the golf course. So 24% of the predevelopment flows will leave this property but that doesn't mean it goes into the ocean. That means they're going into a depressed area on the golf course. So it's less runoff, better quality runoff and it's still be retained on another property.

Mr. Hiranaga: So your civil engineer is willing to certify that that offsite retention basin does capture the additional 24% of runoff that leaves the property?

Mr. Dowling: I don't know if it captures all of it, I guess it would depend on how much rain it is. Eventually that could get filled and then it would go into the ocean just like every other property on Maui.

Mr. Hiranaga: For a 50-year, one-hour storm? I mean, you could make it deeper.

Mr. Watanabe: Based on the design storm, we feel that we can. We haven't done a full calculations on ...(inaudible)... but it does ...(inaudible)...

Mr. Hedani: Commissioner Hiranaga.

Mr. Dowling: At this point we spent probably, on drainage we have spent an incremental, above and beyond any county requirements, we have probably spent two and a half million dollars incremental above and beyond any county requirements. We have probably spent two and a half million dollars incremental. There is no money left in this project to do any more drainage work. We've gone from 71 units down to 15 units. We've exceeded requirements in the neighborhood of \$5 million. We've

greatly exceeded any requirements in terms of runoff. We're the only project that is filtering runoff in the State of Hawaii and there is no more money to do any more drainage improvements. We've gone way above and beyond, but at some point, the numbers don't work, the economics don't work and when you're only dealing with 15 units, I can promise you it doesn't work.

Mr. Hiranaga: When you have large vacant land area which is the 16<sup>th</sup> hole I guess, 16<sup>th</sup> fairway, can't you just enlarge that depression to insure the 50-year, one-hour storm, none of that project runoff enters the ocean?

Mr. Dowling: We just spent, we just finished renovating that hole. We've done the grading on that hole, we put in a new irrigation system on the hole, we've brought the new turf into that hole, we've just spent \$5.5 million on 15 and 16. So if you're asking if we're willing to dig the hole up and do it again, no.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I think this is for Gwen. I'm reading the Exhibit 33, about – from your office to the Department of Planning regarding the status of different things. And I'm particularly concerned about Condition No. 32, "public roadside parking is allowed along Makena-Keoneoio Road to provide for beach parking." Can you show me on the diagram, where the parking is, where the gate is, where the access to the ocean is for the public? Well, the gate's to keep out the parking. The parking for the public and the right of way to the public.

Mr. Dowling: Parking for public here, parking for public here and also parking along side of the roadway.

Mr. Mardfin: And then how does the public access the beach?

Mr. Dowling: Same way they do now. Basically through the King's Trail. Here's the restroom which is maintained by Makena down this path to the ocean.

Mr. Mardfin: Where's the gate to the property?

Mr. Dowling: Right there.

Mr. Mardfin: So they don't have to go through the gate. They can just go along the road and down the little trail?

Mr. Dowling: We haven't changed the beach access at all.

Mr. Mardfin: Okay.

Mr. Dowling: Where we are on this project just to kind of in a nutshell. We have two choices. We can either wait out this economic storm and build 71 units. We've got our building permits, we've got – all the earthwork is done. Since this report's done, we've finished another probably 8% of the earthwork, so our choices, we either wait out this economic storm and we build the 71 units or with

your consent, we downsize the project to 15 units and we build that project.

Mr. Mardfin: I understand that. I'm just trying to – there were some concerns raised and I just wanted to insure that there was adequate public access to the beaches and adequate parking for that and I also read the sort of letter of, call it complaint, I don't know, by Janice McCormick and then Keaka I presume is your company that is doing it and your response to it and the response seemed reasonable that you're not blocking off access. That you are allowing people to go down there and that the access that was blocked is a temporary thing.

Mr. Dowling: Correct. I'm not aware of us ever blocking access.

Mr. Mardfin: I think it was during construction or something.

Mr. Hedani: Additional questions? Commissioner Starr.

Mr. Starr: You know, we've had a number of projects come before us where we were being told that there was going to be filtration on the drainage. I think what we were being shown was a two-compartment inlet and they would throw a white bag of something in there, and my understanding is you're doing something a lot more – you know, a real solution to it, so my request is that when we do do a commission site visit in that area that we be shown the drainage separators so we can understand it.

Mr. Dowling: Do we have a photograph? I would love to do that. I'm very proud of these and they are huge. They are – we've got, is it four or five? We have four of these chambers and these chambers are probably the length of this room and probably two-thirds the width and you can stand up in them. I mean, they're underground vaults that these filters are in and it's pretty neat. Every opportunity I have to show that off, I show it off. It's neat.

Mr. Hedani: Additional questions for the applicant? Commissioner Mardfin.

Mr. Mardfin: I'm looking at the Maluaka document that I presume this is marketing for the potential buyers?

Mr. Dowling: I think that's the design guidelines.

Mr. Mardfin: The design guidelines and I'm looking at page 18.

Mr. Hedani: What's your question?

Mr. Mardfin: I wanted to find it. And the diagram there's a illustration there in the lower right and at the very lowest part of the right it says, "shallow reflective pool utilizing gray water provided evaporative cooling." I presume, is that a condition that they use gray water?

Mr. Dowling: It's a condition that they use gray water for irrigation. It's not a condition that they use it – everyone has these pools. What we're trying to do and I think we've been successful to date is we're trying to create an environment and peer pressure that this is not a burden, that it's

something to take pride in. Based on at least two of the families, I think we've done. I mean, all of the units, for instance, 13, the house at 13 produces more energy than that consumes. Right, well then number 11, is now taking that one step further. They've contacted Tesla Motors to see if they can buy batteries so that not only will they produce more energy than they consume, they can store their own energy. So I think it's picking up a life of its own and that's fun to see because a lot of these people are people we can learn from. You know, initially we're providing information, we're teaching them, but it comes back to us also, the thing that they're doing.

Mr. Mardfin: I notice in the design guidelines you mention zero net metering and I was very impressed by that, that looks very good.

Mr. Dowling: That's our goal for the ....(inaudible)... acres.

Mr. Mardfin: Thank you.

Mr. Hedani: Additional questions for the applicant? Seeing none, thank you very much. Staff recommendation.

Mr. Starr: Testimony.

Mr. Hedani: I'm sorry, are there any members of the public that would like to offer testimony on this item? I have four people that have signed up for testimony, I'm sorry three people that have signed up for testimony. The first person is Maile Luuwai.

**a) Public Hearing**

Ms. Maile Luuwai Aloha. Boy we getting old. I haven't seen some of you for a very long time. Last time I came here I wasn't wearing glasses. Now I'm wearing glasses and I have arthritis. Let me get my papers in order for a second. I gotta go to page 1 here and put on my glasses. Aloha, I just flew in here from Hawaii Island where I live now. A very beautiful place. A lot of warriors on that island.

My name is Maile Luuwai. My ancestors lived in this project area prior to western contact. My father is John "Boogie" Luuwai. My grandfather is John Kukahiko. My grandfather changed his last name to Luuwai in part to honor his Uncle Kalehua Luuwai Kukahiko who actually raised him. My great grandfather five times, I'm not going to say great, great, great, great is Alapainui, son of Kowawa and grandson of Mahi Ololi, the chief who lead the battle of Keoneula at, I'm nervous, I haven't testified for a while, at Pahaku Maneo when the Chiefness Keakealani was ruler. My great grandfather five times over, Alapainui was chief who once ruled the Island of Hawaii. He traveled to Maui with the chiefs to fight the wars and some of descendants which is our family settled in part in Honuula and that's how we're connected and that's how we're connected to this area.

My great grandfather was a good ruler who was loved by the common people and his favorite wife was Keaka, my great grandmother, five times over. It is disturbing that the developer uses my great grandmother's name, Keaka. This is part of the Hawaiian language labeling process that developers use to give their project credibility. There are those among us who are acutely aware

of this facade and deception. That's the only negative thing I have to say. Everything else is positive.

I spoke to my father early this morning and we talked about cultural access trails. And said, "Dad, had access trails across this golf course, right?" And I know that because when I was small child I walked those access trails with my father and I'm going to show you what he gave me this morning. First I want to address the Kihei-Makena Community Plan. The Kihei-Makena Community Plan implementing actions under cultural resources on page 24 states, "that development projects are required to identify all cultural resources located within or adjacent to the project area prior to application as part of the county development review process." The Makena Community Plan also requires, that traditional access routes be protected to, "preserve and restore historical roads and paths as cultural resources and require such resources to be available to the public." This is one of the largest black holes in this project and I think this is why the voices started to call me and told me to get on a plane and get here today. The Makena south golf course in front of and incorporated into this project covers traditional and ancient cultural access trails used by all the families and visitors to this region.

Mr. Hedani: Maile.

Ms. Luuwai: Yes.

Mr. Hedani: Can you conclude your remarks?

Ms. Luuwai: Okay. I want to give, first let me give you this is an important point to make if you can take a look at this. So my father who is a kupuna in this family is 77 years old, those are the cultural access trails that he has identified for me that my ancestors used and he used those trails to fish in front this project with my grandfather and his uncles. Since I have to cut it short, to be consistent with the Makena Community Plan and more importantly with access rights mandated by the State of Hawaii the planning commission must require that Dowling provide a plan to insure that these cultural access trails are identified and protected. It is the planning commission's kuleana to insure that our cultural access trails are protected. You must have all the data and cultural access maps prior to approving of this amendment.

Another big issue here is the restricted water sources that this project is using. This project is dependent of water from the Central Maui system, from Na Wai Eha region and Dowling will assure you today that this project will have minimal impacts because he has significantly reduced its residential density. And lets think on that -

Mr. Hedani: Maile can you conclude your remarks please?

Ms. Luuwai: Okay. I think this project has been rebranded and unfortunately I can't address the fact that their beach club is now the focal point of the project and that's where they're going to be making their money. You ask some tough questions about that beach club and the water use for that beach club. He's talking about the reductions associated with the residential use, as about the increase of the resources and the amount of pollutants that are going to be coming out of that beach club that is going to be available for anyone who has money and can pass the membership

test and that the question that the planning commission should be asking.

Mr. Hedani: Thank you very much Maile.

Ms. Luuwai: So to conclude, unfortunately, I only had one page left. I didn't know I was on a time scale.

Mr. Hedani: Maybe you want to come back after everyone else has testified.

Ms. Luuwai: I'm going to say thank you. Mahalo for letting me testify here today. I brought my grandfather with me and I am going to show him. This is my grandfather fishing in Makena, net fishing in the twilight of the morning near this area that this project is on.

Mr. Hedani: Thank you very much.

Mr. Starr: I have a question Mr. Chair.

Mr. Hedani: Question Commissioner Starr.

Mr. Starr: First of all, thank you for coming over and sharing and thank you for bringing grandpa as well. I was down there snorkeling last week and there is, you know, access to the shoreline, you have to go, you know, down by where the bathroom is and then you can go lateral along the shoreline. So it is possible to access laterally and to fish and all that. Do you feel that that's insufficient and what would you suggest?

Ms. Luuwai: You know what, I going to walk it today and see. See if it's along the rocky shoreline or above where the original access trails were. Because if it's along the rocky shoreline those were not the original access trails.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I just saw the photo where you showed the access trails and the access trails seem to be along the golf course. It seems outside the boundaries of this particular project because the golf course is not part of this particular project.

Ms. Luuwai: I know but I thought it was really important to make that point because it was my understanding that Dowling, he just talked about the golf course, so I thought that it was incorporated and if you look at the Maluaka website it's part of the promotions for this entire project and it was my assumption that it was incorporated into this project. And some of the testimony from Dowling today referenced the golf course.

Mr. Hedani: Additional questions? Seeing none, thank you very much. Geoge Aikala.

Mr. George Aikala: Good morning Mr. Chairman, good morning Commissioners. My name is George Aikala. I'm the Field Representative for the Laborers Union Local 368 here on Maui. I have a testimony that was given to me by our Director, Clyde Hayashi.



“Dear Chairman Hedani, Hawaii Laborers Employers Corporation and Education Trust strongly support Keaka LLC request to amend its SMA Use permit for H-1 Maluaka. Hawaii LECET is a partnership between Hawaii Laborers Union, Local 368 and our unionized members, contractors, I’m sorry. From what we understand this amendment request is necessary due to the tough economic times and the loss of some crucial financing. The request will reduce the density within the area from 71 units to 15 units. We’re asking the planning commission to move this project forward. This project will provide desperately needed work for our union members and contractors. The Dowling Company has been a great partner for us. Mahalo for this opportunity to share their support. Clyde Hayashi, Director of Hawaii LECET.”

Mr. Hedani: Thank you very much. Questions? Thank you very much. Next person to testify is Claire Apana.

Ms. Claire Apana: Hello, Claire Apana. I have a question about the homeowner’s recreation building. As Maile Luuwai said I’m wondering what exactly it is because it’s listed as a homeowner’s recreation building but on the website it says it’s a private 35,000 square foot club at Maluaka with various services and then the monthly dues are estimated at \$1,250 and an annual food cost of \$2,000. So obviously it’s not for me. So what exactly is the intention and the scope of the impact to the rest of us who go to the beach, who just go to the beach, what is the impact to us and exactly how much water does it take to run a spa? Cause then you got all your water features as well as your baths and pool things that you’re doing. How much water will that really take? I didn’t see on the calculation that she put up anything about the spa itself and how much that was going to take. I would just imagine it takes a lot. So just to be real up front about what this is and I believe that there has to be some kind of a substantial compliance with the representations made to the commissions when the special management area permit was made. So I’m wondering what is the difference between what is here and what was represented to you and how much water is going to actually be used. Thank you very much.

Mr. Hedani: Questions from the Commission? Thank you very much. Next person we have to testify is Lucienne deNaie. Lucienne testified earlier but she testified on a separate subject so she’s being allowing to testify on this item.

Ms. Lucienne deNaie: Thank you Chair Hedani and thank you for this opportunity to testify again. My name is Lucienne deNaie. I’m testifying on behalf of Sierra Club Maui Group that has tracked this project for a while. The Sierra Club is pleased to see that the Maluaka project will have less density and this little packet that’s being handed out to you, some background information. We, too, are concerned about the trail access being restored. It’s our understanding that condition 11 gives you an opportunity that if what was presented earlier has shifted. You have a chance to then make sure that you can make your decision with full knowledge of that new information. What has shifted here is, there was request made by the cultural impact assessment for this project. One of the seven mitigations was that there be a, some sort of pedestrian easement created if that could be negotiated with the neighboring landowner which at that time was Seibu. Well, of course we know now the neighboring landowner for the golf course section is not Seibu, it is the applicant and so that condition has shifted. Also, a number of folks requested knowledge about what this lateral access would entail including your own Planning Department and I’ve provided those documents there for you and highlighted the sections that refer to this. I know it’s a lot of reading but rather than

look through the EA and all these other things, basically all these requests were met with the response that the property was not owned by the applicant and it wasn't a shoreline project, so there was really no obligation to address any kind of lateral access issues. Well, this area is a traditional access besides the fishing there's also salt pans right below it that were in use even up until 20 or 30 years ago. It is a very rocky shoreline and the access I've walked it many times myself is not safe along a large portion of the shoreline. It's dangerous and rocky and as Ms. Luuwai mentioned, traditionally people used an upper pathway. This is your opportunity under condition 11 to realize that conditions have changed here. You have new information. There are new sets of circumstances and so we would ask you that you would consider amending the existing conditions and adding the recommendation of the cultural impact statement. It had seven mitigations and this was the only one that really couldn't be met at that time but now it could be met. So if you have it within your power to do that, we would urge you to take that action and insure safe, public access between the Maluaka Beach Park which is a public park and the state park at Makena and this golf course area is what connects those two areas. Thank you very much.

Mr. Hedani: Thank you very much. Any questions for the testifier? Commissioner U'u.

Mr. U'u: Just to comment Lucienne. I'm familiar with that area. And I thought it was pretty safe because what is pretty funny is I took my family portraits there with my family. So maybe I should have tell Makena earlier that I took my family pictures on my property. No, I took my kids, my nephews, we all had walk through that site, park at the golf course, took family portraits and maybe to the end of the property of Makena side that we got our portraits taken with a photographer and that was for Christmas. It was accessible even with my nephews who was seven and eight. So I don't know what access or what problems you had, granted it's rocky but we stayed on the upper portion and was relatively safe in my eyes, but you know, I have no idea. But it's just a comment that I took – I recently went there in fact and it was pretty safe.

Mr. deNaie: I appreciate that. Did you walk the entire length from the Maluaka Beach Park all the way to Dark Sands Beach?

Mr. U'u: I went to past the middle where you had that I guess naupaka in that area. So quite a distance, maybe 7/8ths we walked. I'll be honest I didn't go all the way to the end, but it was reasonably easy accessible. I think the beginning was more of the rocky area, but was still accessible in my eyes, but you know, I don't know what would be accessible in other people's eyes.

Ms. deNaie: Well, it was a condition that was asked for by two people in the cultural impact assessment and it was recommended by the consultant. So for what it's worth, those things I think should have some consideration in your deliberations. Thank you.

Mr. U'u: And I agree.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Lucienne, I just want to make sure I understand your point completely. You're concerned about the same thing that Maile talked about, the trail, the lateral shoreline access trail?

Ms. deNaie: Yes, that a traditional trail be reestablished whether it – you know, it doesn't have to be on the golf course.

Mr. Mardfin: And your point was that well, it looked – actually from those photographs it looked like it wasn't on the golf course. It looked like it was makai of the golf course.

Ms. deNaie: No, it doesn't have to be. Yeah, there is room there.

Mr. Mardfin: And the concern was that at one point they said Keaka LLC has no control over it and now you're saying that since they basically control the golf course also, that that condition changed and so we can put a condition that that be --

Ms. deNaie: I'm not an attorney so you'll have to ask your Corp. Counsel. But if you read your condition no. 11 which is was a standard condition it says that if what was presented to you should be what the continuing conditions are. Now, what was presented to you was truthful at the time but it has changed and there is now this request that was part of the cultural impact assessment. The reason we have these cultural impact assessments is to meet constitutional requirements to satisfy Hawaiian cultural needs and it's a specific request. You'll see it there. It's condition –it's mitigation five, now is the time when you actually could meet it because conditions have changed. So that's my point.

Mr. Mardfin: And if you've walked the trails and seen conditions, it wouldn't interfere with the golf course per se would it?

Ms. deNaie: No, what would have to happen is that the area that is now rough and overgrown and in the past it had kiawe branches and things thrown on it would just need to be maintained as a passable fishing trail so people could use it.

Mr. Mardfin: Thank you.

Mr. Hedani: Any additional questions for the testifier? Seeing none, thank you very much. Are there any other members of the public that would like to offer testimony at this time? Please step to the microphone and identify yourself for the record.

Ms. Deanna Davis: Aloha, my name is Deanna Davis. I'm here on the behalf of Hawaii Operating –

Mr. Hedani: Can you pull the microphone up please?

Ms. Davis: Can you hear me now? Did you get my name? Deanna Davis on the behalf of Hawaii Operating Engineers Local 3. I'm here to testify to ask for your support on this project. We are now 75% on the bench and we badly need the jobs. Mr. Dowling has always used our union members so we'd like to put our local families back to work. Thank you.

Mr. Hedani: Thank you. Questions from the commission? Seeing none, thank you very much. Please step to the microphone and identify yourself for the record.

Ms. Patricia Nishiyama: My name is Patty Nishiyama, Patricia aka "Aunty Patty Nishiyama" here on my left is Aunty Olive Silva and in the back of me is Uncle Stanley Chock. Aunty Olive will do our testimony today.

Ms. Olive Silva: Aloha, my name is Olive Silva. I represent Na Kupuna O Maui. Good morning everybody. I think it's still morning. Chair Hedani and Members of Maui Planning Commission. I am testifying today to express our support for the reduction in units at the Maluaka project. The applicant Keaka LLC has met with Na Kupuna O Maui to discuss the proposed reduction in units from 71 to 15. As their cultural stewards for the Makena Resort Na Kupuna O Maui fully support the SMA amendment to reduce the number of units. Mahalo malama pono for your kind attention.

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

Ms. Silva: Thank you.

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

Ms. Irene Bowie: Good morning Commissioners, thank you for the opportunity to speak on Maluaka before it comes up on the agenda. I'm rushing to catch a flight, so I appreciate this opportunity. Back in April of this year, Maui Tomorrow submitted a letter to Planning Director Jeff Hunt and also a copy of that letter to planning commission Chair Wayne Hedani regarding the Maluaka project. The letter stated our preference for the new lower density Maluaka.

Over the past few months Maui Tomorrow and the Dowling Company has established an ongoing dialogue regarding how Makena Resort is to be developed and exploring ideas on how this development could benefit the community.

During the course of our discussions Everett Dowling shared with us his goal that Makena Resort be developed in a fashion that will result in it being recognized as one of the most sustainable communities in the country. Maui Tomorrow in turn has shared our concerns about the project, including our concerns related to its potential impact upon the cultural sites in the area. We have agreed to work closer with the goal of creating a win-win situation that benefits Maui.

Mr. Dowling shared his plans to reduce the density of the Maluaka project down from 71 units to 15 units and also down from a four-story project to a two-story project. This reduction in density would permit more residence's energy requirements to be provided with rooftop full of photovoltaic panels in conformance with the previously approved design guidelines. We see other benefits include lessening the impacts upon the ocean view corridor, along with water, sewer and traffic demands.

We understand that all residential and commercial buildings will be LEEDs certified. That Maluaka's Design Guidelines will be indirected, shielded exterior lighting to prevent light pollution and that native and drought-tolerant plants will be incorporated into the landscaping plans along with the use of non potable water for irrigation.

Maui Tomorrow believes that smart growth must include a smart energy plan and that this project

will be a positive model not only for Makena Resort but for future development in Maui County. We hope to continue discussions with the Dowling Company and in create a least impactful development possible with special attention paid to the health of our near shore waters and the protection of Maui's natural and cultural resources through a cultural landscape preserve. Again, Maui Tomorrow Foundation prefers this lower density alternative for Maluaka instead of the previously approved 71-unit project. Thank you.

Mr. Hedani: Thank you very much. Questions for the testifier? Seeing none, thank you very much. Next person we have to testify is Leslie Bruce.

Ms. Leslie Bruce: Good morning, my name is Leslie Bruce. I was born in Waikapu in 1938, and I have hiked, fished and camped in this area. About 1972 I would with the Bishop Museum on Palauea doing a survey and excavation. The Dowling Company development there has destroyed the sense of place, the view plane and the archaeological sites have become curiosities. We thank you for the Maluaka downsizing, support that. There are very important resources in that area for native gathering rights. Have to have all trails in both directions parallel to the shore and mauka preserved both for gathering food and medicine. Thank you very much.

Mr. Hedani: Thank you Leslie. We have one question from Commissioner Mardfin.

Mr. Mardfin: Leslie, are you working with Maui Tomorrow to insure that – so that they know what trails to preserve?

Ms. Bruce: Right now, when I volunteer I have been doing some community –(due to mechanical difficulties, portion of Ms. Bruce's answer was not recorded)–

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

Mr. Hedani: Are there any other members of the public that would like to offer testimony at this time? Seeing none, public testimony is closed. Commissioner Mardfin do you have a question?

Mr. Mardfin: I wanted to ask a previous speaker one question. Is that possible?

Mr. Hedani: Commissioners? State your question.

Mr. Mardfin: I'd like to ask Lucienne one more question if I might. We talked about the access trail. Another part of your written stuff was about the non – not the trail along the ocean but the other trail further inland. You didn't mention that. Is that sufficient the way it is now?

Ms. deNaie: Could you define the other trail further inland?

Mr. Mardfin: You mentioned it in, you had a diagram.

Ms. deNaie: Oh, yeah, okay.

Mr. Mardfin: And the diagram showed the –

Mr. Hedani: Kings Trail.

Mr. Mardfin: I think it was the Kings Trail and that probably goes along the Makena-

Ms. deNaie: Keoneoio Road. That's regarded as the old Kings Trail.

Mr. Mardfin: Okay, and that's okay there's no issues there are there?

Mr. deNaie: Well, the only thing I would bring up is during the earlier discussion of this project it was stipulated that there would be an extension of the Kings Trail as it is now going in front of the Maui Prince that as it went along the existing parking lot there that is the eastern edge of this project boundary that it would kind of continue in the flavor and so, you know, I hope that that will be the case but I was very disturbed that there's a wall there that's now so high that when you walk along that wall and you're just a person, you actually cannot see the ocean any more and I never recall that being discussed. But that's what's existing there right now. So no, I don't have issues with that. The developer did go and ask for the Urban Design standards to be conforming with the community plan where that road was not widened, it was not required to have, you know, the type of level of improvements that an urban road would and that was something that we had all supported early on and they agreed with that and they went forward and wrestled with that with the county and got that taken care of.

Mr. Mardfin: Thank you very much.

Mr. Hedani: Any additional questions? Seeing none, public testimony is closed. Commissioner Starr.

Mr. Starr: I have a question for the applicant.

Mr. Hedani: Proceed.

Mr. Starr: Okay, whether there would be a willingness to allow that shoreline – you can get through right above the ocean, but whether there would be a willingness to allow that to be maybe made part of that Na Hele Trail program or something so it could be fixed up or whether the applicant would be willing to maybe, you know, bring that up a notch for safety sake.

Mr. Dowling: Sure. I'm not sure what the program is that you're referring to so I can't commit to that specific program just because I'm not aware of it. But in terms of that trail, I use that trail just last night and it was at night. It was in moonlight and there is no issue. But we certainly want to maintain that trail. We are committed to maintaining that trail. You know, we look at that trail as a resource for the Makena owners and the greater, you know, the visitor population and the local population. So that's something that we are committed to. I'll research that program if you could write down the name for me I'll be happy to research that program and if that's something that we need to join or whatever I can look forward to doing that. But in terms of maintenance of that trail, and they're conflicting opinions too. At one point during the, I think it was during the original SMA there was a suggestion made that it be a sidewalk similar to the sidewalk that's in Wailea and in discussing that concept with some people who have historical ties to it, they said, you know, that's

something they would not like to see. So it's trying to find that balance. You know, it's trying to provide a safe trail as opposed to something that looks manufactured and loses its primitive nature.

Mr. Hedani: Thank you very much. Any additional questions? Commissioner Mardfin.

Mr. Mardfin: Let me, I think you've answered this but I just want to make it absolutely clear. You'd have no problems if we attached a condition that this trail be maintained and open to the public?

Mr. Dowling: We already have that condition. We've got that condition as part of our Makena Resort rezoning that was approved on December 17<sup>th</sup>. So we have that condition, so you want to pose it again, it's no –

Mr. Mardfin: Okay, thank you very much.

Mr. Hedani: Additional discussion? Commissioner Sablas.

Ms. Sablas: I have a question for Mr. Dowling. Earlier testimony we heard from a family member of the use of the name Keaka. On what basis was that name chosen for the company number one, and if that was a family name, was consultation done with the family members before that name of the company was chosen or decided upon?

Mr. Dowling: Any time we use a Hawaiian name I go back to some members of the Hawaiian community that I respect and I can't tell you specifically if it was Dana Hall or Uncle Charlie Maxwell that named that entity for us but I can assure you it was one of the two.

Ms. Sablas: Either Dana or who did you say?

Mr. Dowling: Uncle Charlie Maxwell.

Ms. Sablas: They provided the name.

Mr. Dowling: Whenever we, you know for instance if we're naming a street, those are two I turn to. If we're naming a entity, those are two I turn to.

Ms. Sablas: So do you or any of your staff members remember again, you know in naming of Hawaiian places is very important. In respect it's good that you are respecting the place by giving it the ancient name, but it's also very respectful that you do consult the lineal, I mean, decedents. So this is where I'm getting at. Do you know if Dana or Uncle Charlie had contacted the local family of the name?

Mr. Dowling: I do not.

Ms. Sablas: Does anyone in your staff know?

Mr. Dowling: They do not. That's something I would be the only one to know.

Ms. Sablas: Okay, thank you.

Mr. Dowling: And certainly no offense was intended. I don't know, I don't consider myself capable of coming up with those issues. So that's why I turn to those two because I respect them.

Ms. Sablas: I just bring up this issue because I see so many names now in commercial entities that use the Hawaiian names and I think we just need to be sensitive to always go and look to the source of the names to understand and do research in that area too so that if consultation was done with the family perhaps then we wouldn't have issues like this. That they'll understand they would bless it. It's just some suggestion for the naming of projects with Hawaiian names and I understand maybe you went to one source, perhaps you know, they needed to go to other sources as well from the area. That's my suggestion.

Mr. Dowling: Okay, thank you.

Mr. Hedani: Any additional questions for the applicant at this time? Thank you very much Mr. Dowling. Staff recommendation.

**b) Action**

Ms. Cua: Mr. Chair, Members of the Commission before I go onto the recommendation I would like to highlight just a couple points under the department's analysis which was not covered yet. First of all, the reduction in unit count from 71 to 15 units will reduce the building mass of the property and enhance ocean view corridors, decrease runoff, reduce building heights, lower traffic, water and sewer impacts.

Construction of this project must be completed by July 3, 2012 which is five years after the date of its initiation. The applicant has indicated that 13 of the single family units will be built by individual owners and therefore, it is not possible to predict at this time when construction of these individual units will be completed. The department therefore, has no objection to a five-year completion date for these 13 units from the date of the planning commission approval of this SMA amendment or by June 30, 2014 and we will be making that as part of our recommendation to you.

We also want to mention that the zoning and community plan of the property does permit the use that is intended.

I'm on page 13, as was mentioned by the applicant they do have an executed agreement regarding affordable housing. I have attached that as Exhibit 30. In addition, the applicant has paid the Maui Economic Concerns of the Community a monetary contribution of \$720,000 for its South Maui Resource Center project as satisfaction of the affordable requirements for the project and confirmation of that is attached as Exhibit 31.

As you also heard, the applicant has paid its park dedication requirement for the 71 unit project and you also did hear that they are going to ask for or they have asked for some reimbursement of that. But acknowledgment from the Parks Department of fulfillment of the park dedication for the previous project is attached to your report as Exhibit 32.



We've also, we requested when the applicant came in for the amendment, an updated compliance report. They have provided that. Some of you have talked about it a little bit. That's attached as Exhibit 33.

In addition, the design guidelines that I believe Mr. Mardfin was looking through is attached to your report. We took these design guidelines to the Urban Design Review Board because we wanted to assure that the vertical construction would be in keeping with the surrounding area. And so, although the applicant had always intended when they revised the project to have design guidelines we thought it would be beneficial to have the Urban Design Review Board look at it and confirm that those design guideline were acceptable. So the Urban Design Review Board's approval letter dated April 13, 2009 is attached as Exhibit 29.

In as much as the area of vertical construction on each building pad site is identified in the January and February 2009 amended plans that you're being asked to approve and further that all vertical construction must comply with approved design guidelines. The department believes that additional SMA assessments will not be required for each of the individual single family dwelling units. They will just have to comply with the design guidelines and the plans that are before you show the building pads already where these dwellings are going to be located.

The last point I want to bring is that, as of today, the department had received two letters of concern from Mr. Tom Savage, Exhibit 34, and Janice McCormick, Exhibit 36 and one letter of support from Maui Tomorrow, Exhibit 37. That was, excuse me, not as of today, as of when the report was prepared. In addition, we received response letters from the applicant to Mr. Savage and to Ms. McCormick and those are also attached as Exhibits 35 and 40 for your review. Are there any questions before I go onto the conclusions and recommendations?

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: You talked about completion dates which you're going to do in Condition 34, that you have no problem with 2014 being the completion date for the individual buildings. If they're not all sold, what would happen? If somebody didn't build on it it would evaporate, they wouldn't be able to build?

Ms. Cua: They'd have to come in to extend. And so, you know, the point that we were making and the applicant raised was that currently based on when they initiated construction and you're very familiar with your standard conditions. You have two dealing with construction. One is they have to construct normally within three years from the date you give your approval. Once that initiation date is set and confirmed by the Planning Department, they have five years to complete construction. And the applicant has no problem doing that for everything that is in their control. What is not totally in their control is the individual single family dwellings and so they have asked that the time start basically from this approval. We cannot support, you know, an open-ended like you can construct, you know, whenever. There has to be some kind of time sensitive deadline. And so if they do not construct, if they don't complete construction of the project by June 30, 2014, like any other project that has a completion date, they would have to come in and extend that. They just know that that completion date of July 3, 2012 is not reasonable for that other units, and who knows, maybe the 2014 is not reasonable, but you know, that's as much as we can give.

Mr. Mardfin: Thank you.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, there were three areas where the applicant expressed a willingness to either condition or change the guidelines and CC&Rs and I'm wondering whether it would be possible to work with the applicant to get wording to condition that so that – and if the department feels that that's part of their recommendation that that just come forward.

Ms. Cua: I haven't talked to the director, I believe some of what I heard was reasonable. I started jotting down language, that's why you keep seeing me going back and trying to check with them because I didn't understand when you were talking about the soil conditions. You know, I fully understood which units Mr. Dowling agreed could be LEED Silver. So I think how we could approach this is, you know, the department will give its recommendation. Lets see if, you know, where the commission is coming from in terms of the other comments and we're definitely willing, we've started already to craft some language and can work with the applicant. It's probably going to be on the floor a little unless you give us a two-minute recess.

Mr. Starr: Mr. Chair, can we ask for a couple of minute recess for them to craft the three amendments regarding the LEED Silver for specific buildings, for those specific buildings, that wording mandate organic greenery maintenance techniques and also maintenance and allowing perpetual public access to the shoreline.

Mr. Hedani: Ann, it's 12:00 and I'm wondering if you want to give your recommendation and analysis now or if you want to take a break for lunch.

Ms. Cua: Now.

Mr. Hedani: Now. Please proceed.

Ms. Cua: Could I just turn my back to you for a second just to confirm something and I'll come right back.

Mr. Hedani: Of course.

Ms. Cua: Okay, I think we're ready for you now.

Mr. Hedani: Proceed.

Ms. Cua: Director, would you like me to check with you on that? I think that's probably a good idea. Real quick.

Mr. Hunt: I'm okay with the concepts. We'll work out the details. But I think shouldn't somebody make a motion to I would assume approve and then we'll work on the conditions or you want to work on the first?

Ms. Cua: How about if I give my recommendation first and then we'll go from there.

So first on the conclusions why we're able to give our recommendation. The proposed amendment to reduce the number of units from 71 multi-family residential units to 15 units, 13 of which will be single family units and two multi-family units will reduce the lot coverage, density, floor area ratios, and heights of the project. The decreased density will also reduce infrastructural demands in the areas of water, wastewater, drainage and traffic.

The proposed amendment complies with the applicable regulations for the Special Management Area Use Permit amendment pursuant to Section 12-202-17, Amendments and Determinations to Permits, Terms, Conditions and Start Time Stipulations. And as a result, the Planning Department is recommending approval of the Special Management Area Permit amendment subject to the following conditions.

First that full compliance with the original conditions of approval dated November 17, 2006 shall be rendered with the exception of Condition No. 4 which shall read, "that final construction shall be in substantial compliance with preliminary architectural plans dated January and February 2009."

In addition, the department proposes the following new conditions, and we're going to go beyond 33 and 34. And if you could bear with me on the language and we'll work it out on the floor.

33. That all vertical construction associated with plans dated January and February 2009 is covered by this SMA permit and shall comply with the design guidelines approved by the Maui Urban Design Review Board as identified by letter dated April 13, 2009.
34. That construction of the 13 single family residences shall be completed within five years of the date of this approval or by June 30, 2014. All other construction shall be completed by July 3, 2012.

Then we'd like to proposed Condition 35.

35. That as represented by the applicant, the project's CC&Rs be amended so that units 1, 2, 4, 6, 7, 8 and 13 are required to be LEED Silver Certified.

Condition 36.

36. That the project shall comply with an organic landscape maintenance plan.

And Condition 37.

37. That the existing shoreline trail fronting the golf course shall be maintained.

That concludes the department's recommendation.

Mr. Hedani: Commissioners? Commissioner U'u.

Mr. U'u: Motion to approve as recommended by staff.

Mr. Hedani: Is there a second?

Mr. Shibuya: Second.

Mr. Hedani: Seconded by Commissioner Shibuya. Discussion? Commissioner Starr.

Mr. Starr: Yeah, I've done some soul searching over this. On level emotionally it's really disturbing to see this area developed and close to the shoreline and also you know, I do have feelings that hotel zone is probably not the right place for a single family residences. On the other hand, the development here and especially you know, close to the shoreline it's not going to be undone today and it is buffered from the shoreline. I do feel that it's better to lower the density than it was. We're not going to gain, you know, hotel rooms there which would have been the reasoning to not want to see it go single family, but I do think in the principle, we are on the right track with the discussion we're having on the stacking ordinance.

I also really appreciate the leadership this organization has shown toward creating the least impact possible with the green practices. With the efficiency in terms of energy and creation of energy with the efficient use of water and trying their best to put it all together. So I will be in support of this, but it still does break my heart to see that wonderful quiet place get built up.

Mr. Hedani: Additional discussion? Commissioner Hiranaga.

Mr. Hiranaga: So, this project is a condominium property regime?

Ms. Cua: I believe it is. I would have to have the applicant – they're nodding.

Mr. Hiranaga: So has the final report been issued or you need to do vertical construction in order to get the final report, final public report?

Ms. Cua: I think their attorney can respond to that.

Mr. Hedani: Will you state your name for the record please?

Mr. Tom Welch: Morning Mr. Chairman, Tom Welch. Yes, Kent. Yeah, we have a final public report.

Mr. Hiranaga: How were you able to obtain the final public report without vertical construction?

Mr. Welch: We've defined the pad sites as spacial units and the documents give the individual owners of the spacial units the right to build their houses in conformance with all the standards and requirements set forth in the public report and the declaration.

Mr. Hedani: Additional questions, discussion? Commissioner Hiranaga.

Mr. Hiranaga: I'm just wondering. My personal opinion is I don't believe they'll be able to construct 13 single family residences in five years. And so I'm wondering why you just don't make them come in for a SMA Assessment when they want to start building because it could take five or ten from now. I mean, if you look at it from a practical standpoint, these will be custom designed residences correct? Custom designed residences. Owners can pick their own architect. Whoever can answer it.

Mr. Hedani: Mr. Dowling.

Mr. Dowling: Yes, of the – 13 and 12 are already designed and they already have building permits. The 9, 11, 5 and 3 have executed contracts with architects and they are already working. I suspect with possibly two exceptions, 4 and 8, I think that all the houses will be built. I say with possibly two exceptions because the individual who we're talking to on those two, have indicated to me that they intend to put the homesite in a trust for the, both of them have indicated they're going to put the homesite in a trust for the children. So I don't know what their intentions are in terms actually completing construction by end of 2014. The other ones I feel like they are – I mean, it's a lot of money, and they're moving, they want to enjoy their home.

Mr. Hiranaga: Okay, thank you.

Ms. Cua: If I could just add to that, in terms of the department, you know, we always prefer to do a cumulative review. That's what we've done here and before we were able to come to you with a positive recommendation on this amendment, seeing it through, I mean, I may be retired by the time last unit gets built, but you know, we felt it was important that you, as commissioners, and the public have an understanding on what's going to be developed on that site. That's why the building pads are in place. There's a site plan that identifies that and that's why we felt it was really important to have those design guidelines go to the Urban Design Review Board, be incorporated into the discussion here today and incorporated into your approval and carried out for whatever planners is going to be doing approvals into the future. So again, the department really prefers to do a comprehensive review rather than individual site reviews.

Mr. Hedani: Thank you. Additional questions for staff? Commissioner Mardfin.

Mr. Mardfin: This isn't a question so much as a comment. I do appreciate comprehensive reviews. I much prefer seeing what's really going to happen than people coming in with this piecemeal lots only and then we'll do the rest. It's much better to see the full picture and deal with that as far as I'm concerned.

I want to share with the director my agreement with the concern of what we discussed two weeks ago about if we let single family dwellings be on hotel zoned property then we may have to expand hotel zoned property elsewhere and I share that concern in general. But I also like the idea of much lower rise development on properties makai of the road. If we want to high density and high buildings mauka of the road is perfectly fine with me and so that's what makes this one look very good to me. Particularly in this case we're given two options. We're not given a nothing option. We're given an option of higher rise versus lower rise and higher density versus lower density and so to me this makes a lot more sense.

Mr. Hedani: Additional discussion? Commissioner Starr.

Mr. Starr: Yeah, I just want to do a tiny bit of clean up on the new conditions. The public access I think I forget what was stated.

Ms. Cua: You want me to restate?

Mr. Starr: Yeah.

Ms. Cua: That's the final condition, yeah 37. "That the existing shoreline trail fronting the golf course shall be maintained." That was just my start.

Mr. Starr: I think I'd like something more that it be kind of a two-part thing. That public access lateral to the shoreline from the beach park to the State of Hawaii beach boundary be maintained In perpetuity. And that the trail shall be improved in keeping with the – in a way suitable to the natural shoreline area.

Mr. Hedani: Mr. Starr, Corp. Counsel advises me that because there's a motion and a second, that has to be proposed as amendment at this time.

Mr. Starr: Well, okay, I'll be happy to make that as an amendment.

Mr. Mardfin: Second.

Mr. Hedani: Seconded by Commissioner Mardfin. I think there may be a problem in that the property between the state park on the black sand beach side is not connected to the developer's property. There's some single family residences in between the two.

Mr. Starr: It is. I'm looking at it.

Mr. Hedani: Discussion on the amendment? Mr. Dowling.

Mr. Dowling; Thank you. We'll be happy to conform with, comply with what you're requesting with one small modification. We can do it from Maluaka Beach to the end of our property and our property ends at the 15 green and then there's a single family project between the golf course and the black sand beach.

Mr. Starr: LD LLC.

Mr. Dowling: I'm not sure.

Mr. Starr: You're right, your property actually touches the edge of the beach so.

Mr. Dowling: I'm not sure.

Mr. Starr: To the end of your property.

Mr. Dowling: To the end of our property.

Ms. Cua: So can I make sure I get that language and is there agreement that we're not going – we're going to delete what I had recommended and we're going to write it differently.

Mr. Starr: It's an amendment that we'll vote on.

Ms. Cua: Okay, let me kind of read what I have and you might need to help me out here. "That public access lateral to the shoreline from the beach park," did you specify which beach park?

Mr. Dowling: Maluaka

Mr. Starr: Maluaka Beach Park.

Ms. Cua: "From Maluaka Beach Park to the end of the 15<sup>th</sup> green be maintained in perpetuity and that the trail shall be improved in keeping with the natural environment."

Mr. Starr: That's fine for me.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: "In keeping with the natural environment," what I want it to do is go along with the traditional trail and I don't know how to exactly how to phrase that.

Mr. Starr: I think the traditional trail is where the – part of it goes into where the golf course was, but I think everyone felt that it would be suitable as long as a trail was there. I'm looking for help to get to refine the wording because we don't want a paved highway there. But it should be safe.

Mr. Dowling: When we were looking at this issue before –

Mr. Hedani: Mr. Dowling can you speak into the microphone please?

Mr. Dowling: When we were looking at this issue before we spoke to the entity which sued Seibu to preserve the Kings Trail and their input and the word they used as primitive. So that's ...(inaudible)... my word, but that was the word that they suggested.

Mr. Starr: Safe but primitive.

Mr. Hedani: Okay, we have an amendment on the floor. Ann, you want to read what you have?

Ms. Cua: Sure. That public access lateral to – Shouldn't we just say, lateral public access? "That lateral public access along the shoreline from Maluaka Beach Park to the end of the 15<sup>th</sup> green be maintained in perpetuity and that the trail shall be improved in keeping with the natural and primitive environment."

Mr. Hedani: Discussion? Further discussion? Ready for the question? All those in favor of the

amendment signify by saying aye. Opposed nay.

**It was moved by Mr. Starr, seconded by Mr. Mardfin, then**

**VOTED: To Amend Condition No. 37 to Read, “That lateral public access along the shoreline from Maluaka Beach Park to the end of the 15<sup>th</sup> green be maintained in perpetuity and that the trail shall be improved in keeping with the natural and primitive environment.”**  
**(Assenting - J. Starr, W. Mardfin, K. Hiranaga, B. U’u, W. Shibuya, L. Sablas)**  
**(Excused - D. Domingo, J. Guard)**

Mr. Hedani: Carried. Thank you. Additional discussion on the main motion? Commissioner Starr.

Mr. Starr: The second to last, the one about organic, did we – do we do right so that it will fit with the documentation that the owners will have to comply with? Could you read that again?

Ms. Cua: Well, I said comply but I’m thinking we should say implement. “That the project shall implement an organic landscape maintenance plan.” Or do you want to go back to “comply with the.”

Mr. Starr: I think too that the – we can only do it – we’re talking about the unsold house sites that they must.

Mr. Dowling: I think we can say, “the applicant will modify its CC&Rs and design guidelines such that each unit will implement an organic landscape maintenance plan referring to Units, 1, 2, 4, 6, 7, 8 and 13.”

Mr. Starr: I make that an amendment.

Mr. Hedani: Is there a second?

Mr. U’u: Second.

Mr. Hedani: Seconded by Commissioner U’u. Discussion? All those in favor signify by saying aye. Opposed nay.

**It was moved by Mr. Starr, seconded by Mr. U’u, then**

**VOTED: To Amend Condition No. 36 to Read: “The applicant will modify its CC&Rs and design guidelines such that each unit will implement an organic landscape maintenance plan referring to Units, 1, 2, 4, 6, 7, 8 and 13.”**  
**(Assenting - J. Starr, B. U’u, K. Hiranaga, W. Mardfin, W. Shibuya, L. Sablas)**  
**(Excused - D. Domingo, J. Guard)**



Mr. Hedani: Carried. Thank you. Any further discussion? We getting hungry yet? Are you ready for the main motion? All those in favor of the main motion as amended signify by saying aye. Opposed nay.

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

**VOTED: To Approve the Amendment to Condition 4 of the Special Management Area Use Permit with the Recommended Conditions as Amended.  
(Assenting - B. U'u, W. Shibuya, K. Hiranaga, W. Mardfin, L. Sablas, J. Starr)  
(Excused - D. Domingo, J. Guard)**

Mr. Hedani: Carried. Thank you.

Ms. Cua: Thank you very much.

Mr. Hedani: Going to take a break for lunch and we'll be back at 1:15 p.m.

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

Mr. Hedani: The next item that we have on our agenda is Hawaii Fueling Facilities Corporation. Director.

Mr. Hunt: This item involves Hawaii Fueling Facilities Corporation requesting a Special Management Area Use Permit in order to install a fueling facility with four above-ground Jet-A aircraft fuel storage tanks and pumps, an operations building, a pipeline to the airport apron, a load rack to transfer fuel to aircraft refueler trucks and related improvements at TMK 3-8-001: portion of 019 and also 189 in Kahului. The file number is SM1 2008/0018 and the planner assigned to this project is Jim Buika.

- 3. HAWAII FUELING FACILITIES CORPORATION requesting a Special Management Area Use Permit in order to install a fueling facility with four (4) above-ground Jet-A aircraft fuel storage tanks and pumps, an operations building, a pipeline to the airport apron, a load rack to transfer fuel to aircraft refueler trucks, and related improvements at TMK: 3-8-001: 019 (por.) and 189, Kahului, Island of Maui. (SM1 2008/0018) (J. Buika)**

Mr. Jim Buika: Good afternoon Chairman Hedani and Commissioners. My name is Jim Buika, planner with the Planning Department. Your purpose today on this application is to review the Special Management Area Use Permit application for the Kahului Airport fuel tanks, operations building, pipeline and load rack installation. It's filed by the Hawaii Fueling Facilities Corporation and also to consider the department's recommendation of approval for the SMA Use permit.

The applicant is here along with the project engineers. Ms. Karlynn Fukuda of Munekiyo and Hiraga is the planning consultant on the project. She will provide you a short presentation on the proposed project and along with mitigation measures to protect the environment. I will ask Karlynn

to introduce the project team at the appropriate time.

To begin, I'd like to provide some opening remarks, background data and then with the Chair's permission have Karlynn do a presentation on the project.

Mr. Hedani: Sure.

Mr. Buika: This is the first time that you've seen this application. It is an essential part of a series of airport projects that you have seen recently. The objective of the project is to improve safety at the airport and also at the same time protecting the environment. The fuel tank farm will be located off the main entrance road to the airport off of Keolani Place. There will be a fuel line that will connect to the fuel tanks and will be buried and pass under Keolani Place to the airport apron.

The county zoning is Airport, the community plan is Airport, the state land use district is Urban. The project is being privately funded. It is a \$14 million project and the project is at the airport and it is located on lands that are owned by the State of Hawaii, thus the trigger for an Environmental Impact Assessment. Regarding the Environmental Impact Assessment Chapter 343 that was completed or this project was completed along with the series of other airport improvement projects in an EIS dated September 1997. And again, the proposed fueling facility and pipeline were part of that scope of that EIS.

The airport load rack has been considered exempted from Chapter 343, HRS requirements by the State Department of Transportation and that is your Exhibit 12. And also, there has been preparatory site work completed under a previous Special Management Area permit approved dated February 28, 2005. It's SM1 2000/0030 and that is your Exhibit No. 7 which was related to the alien species inspection building and fuel storage tanks, etc., existing warehouse. So the site preparation work, the grading, the archaeological inventory survey, etc., was all done earlier under the EIS.

The fuel tank facility will meet all Federal Aviation Administration requirements and it will also meet all the applicable National Fire Protection Academy Code requirements.

We have gotten letters of written testimony. I think at the time of the report 10 are included in your report, five have been handed out. I have an additional letter that I can hand out from Hawaiian Airlines. All 16 letters are in favor of the project. The department has received zero letters against the project.

Regarding agency comments, really the only substantive comments were received by the County Department of Fire and Public Safety. Val Martin who did this, did these fuel storage facilities, Val here is. He reviews our SMAs. He had done this in a previous life, so he gave it a very rigorous review and the applicants here are fully cognizant of all the NFPA requirements and will comply with everything. So it's just a good check for all of us to have someone with so much knowledge review the project here.

In essence, the letters of support, the review, it is a project that will substantially lower risk to the public and improve airport operations. So that concludes my opening comments and I would like

to at this time ask Karlynn Fukuda, Munekiyo and Hiraga to provide the project overview for you.

Mr. Hedani: Thank you.

Ms. Karlynn Fukuda: Good afternoon Chair and Members of the Maui Planning Commission. My name is Karlynn Fukuda of Munekiyo and Hiraga, Inc. We are before you today to present the proposed Kahului Airport fuel tank facility and load rack installation.

Joining me today are Mark Emmons and Jason Maga of Hawaii Fueling Facilities Corporation, the applicant. Project manager Joelle Dubois of Bowers and Kubota. Our civil engineer is Doug Gomes of Engineering Dynamics. Our fire safety engineer is Brent Shoji of SS Danoway and Associates. Our mechanical engineers is Peter Schubert of Mechanical Engineering and Design LLC and I am the planning consultant for the project.

Currently jet fuel is transported from Kahului Harbor to Kahului Airport in 5,000 gallon fuel trucks throughout the day. In many instances, the trucks are traveling during peak hour traffic because many flights are scheduled around these times. These trucks travel on our public roadways and mixed in with regular vehicle traffic. The applicant is proposing to construct a fuel storage facility near the airport with an underground pipeline and a load rack facility on the airport apron. A load rack is similar to a gas station pump where fuel tankers would fill up to service a waiting aircraft at the airport. With the installation of the proposed project, the number of trips by the jet fuel tankers would be reduced on public roads and would likely occur during off-peak traffic hours thereby increasing safety on our airport travelways.

The proposed project includes the installation of four fuel storage tanks with a capacity of about 273,000 gallons of fuel for each tank. The three tanks would contain an approximately 5 to 7 day supply of jet fuel for aircraft serving the Kahului Airport, while the fourth tank would serve as a backup storage tank to allow for periodic cleaning and inspection of the other tanks.

So parcel 189 here, this is the location where the fuel storage tanks would be situated. Additionally, there is an operations building proposed that will contain an office, a laboratory area and related uses as well as load rack facility to permit the loading and potential – sorry, to permit the unloading and potential loading of fuel to the storage tanks. The tanks, operation building and load rack would be located at parcel 189, and then an underground fuel line is also proposed which would allow for the direct delivery of fuel from the storage tanks to the load rack at the airport apron.

So the dotted line represents the approximate alignment of the underground fuel storage line, sorry, the fuel line. This square here represents the approximate location of the second load rack at the airport apron. The second load rack on the airport apron would allow the refueling trucks on the apron itself to just go there, fill up like a regular gas station pump and service the awaiting aircraft. And the fuel line and the second load rack are located on parcel 19.

This slide is an aerial photograph of the Kahului Airport area with an overlay of the recently approved new airport access road and parking lot addition and I just wanted to point out for our new commissioners that when this airport access road is operational, basically the main traffic into the airport would now come off of Hana Highway. There is a connection from the opposite site of Hana

Highway which would ultimately connect to Kuihelani Highway so most the traffic headed to the airport would now access through this airport access road as opposed to Keolani Place which is the only entryway right now to the Kahului Airport.

Additionally we note that the proposed parking area would require the filling of this area here in order to provide a level site and that is in the vicinity of the proposed underground fuel line. As such, the applicant is communicating with the State Department of Transportation and will work with DOT to coordinate construction schedules upon receipt of approvals. Again, for the commission's reference, here's the approximate location of the storage tanks. The dotted line represents the approximate alignment of the underground fuel line and this square here represents the location of the load rack on the airport apron.

The following slides are photos of the project site to provide you with some background. As noted in the staff report and in Jim's presentation he noted that the site work had been previously approved under a separate SMA permit that the State Department of Transportation had received for the alien species building. So this is parcel 189 where the fuel tanks, the operations building and one of the load racks would be located. This is looking southwest and what we have here adjacent to the site is the Roberts Hawaii baseyard. Next slide please.

This is looking in the same direction, again the fill of the site has been mostly completed at this point so we just wanted to show you a before and after and this is what the site would look like currently if went to the site. Next slide please.

This is Kaonowai Place which would be one of the entry access points for the site. Again, the Roberts Hawaii baseyard is located here and this was the site of the former Thrifty Car Rental. Next slide please.

This is a shot of the site looking back towards the airport. Keolani Place is along here. Again, the former Thrifty Car Rental here, the Roberts baseyard is here. Next slide please.

This is looking from the opposite direction now looking back towards Kanaha Beach Park. This would be the approximate location of the future storage tanks. Again, the Roberts Hawaii baseyard is here on the left. Next slide.

And this is the finished condition, what it looks like today looking from that same angle.

This is a photo of the entrance to parcel 189 from Keolani Place which is located here. The future pipeline would be located in this vicinity. Again, serving from the fuel tanks there would be underground fuel line that would head out this way and then back towards the airport. The airport is located on this side.

This is a photo of the proposed load rack location for the airport apron. As I previously noted, this would area and beyond will be filled as part of the previously approved airport access road and parking lot area. So although it's sloped right now, again, the applicant is working with State DOT to coordinate construction schedules. So you see here the end of the Kahului Airport terminal building right now.

This is a shot looking up towards where the load rack facility would be. Again, the approximate alignment of that underground fuel storage tank would be in this vicinity here and would cross over, the Kalialinui Gulch which many of you are probably familiar with is that channelized concrete gulch. It is buried at this point. So the fuel line would actually be located on top of that buried area and then also covered with additional fill. Again, the Kahului Airport terminal building is here. This is the alien species building and the load rack would be located in this approximate area here between.

This is a photo looking at where the fuel line would probably cross Keolani Place underground again. This barbed wire and fence is – on the other side of this fence is the Kalialinui Gulch. So we won't cross the gulch where it's open here, but we will continue underground here.

This is our site plan for the fuel storage tanks operation building and load rack facility. Again, this is on parcel 189. That entrance to Kaonowai Place is here. Keolani Place is actually located beyond here. This is the location of the operations build, the four storage tanks would be here, Roberts Hawaii is here. We do note that in the preliminary plans for the project that there were, it has been sited for six tanks but at this time, the applicant is only asking for four tanks and should the applicant decide to come in and build the additional two tanks it would go under its own separate SMA review. There are two drainage basins that are being provided on site. There will be oil/water separator that would process any runoff before it entered those retention basins. Landscaping is being provided here.

This is just a elevation of the storage tanks. What we have here is the load rack facility so you see this is where the tanks unload fuel. I may have this backwards. If you really need to know we can get it corrected. But I believe this is where the trucks from the Kahului Harbor would come in and unload the fuel to the tanks and this is a contingency plan if for some reason, you know, the load rack on the apron, if the trucks ever needed to load from this tank site this is kind of a backup that we have. So again, we show the two future tanks but that is not part of this project. We're only talking about the four tanks, the operations building and the load rack at parcel 189 as well as the underground fuel line and the load rack at the airport apron.

This is an elevation of the operations building. It's 600 square foot building. Basically will house an office, a laboratory, restroom for the employees. So it's a relatively small building.

This slide just provides you again with a more, a closer of what the alignment would be like for the underground fuel facility. So here we see in bolder black the four tanks. This is the approximate location I believe of the operations building but the fuel line would come out from the site, go along Keolani Place, again cross Keolani Place before it got to Kalialinui Gulch where it's open. It would cross before that and come along here, along the gulch. Now from this point on, the gulch is underground. So we'll be along that gulch and again, the gulch is underground, the line will cross and be buried and reach load rack here on the apron.

There are several features that are being incorporated to insure the integrity of the jet fuel underground line. It's a 12-inch pipe schedule with STD, and these terms can be explained in further detail to you by our mechanical engineer. There's cathodic protection as well as rust resistant coating and I would like to note that there is a similar pipe in service in Honolulu that has

lasted for 40 years without any corrosion failure. So these methods you know are tested and are being used. In addition to that, the applicant is willing to go above and beyond the U. S. Environmental Protection Agency requirements and they are willing to do these additional preventative maintenance features which would be right-of-way inspection twice a month, cathodic protection rectify readings monthly and cathodic protection survey annually.

This is a rendering of the proposed fuel tank facility at its initial opening and the next slide is a rendering at, you know, at ultimate completion and build out.

Drainage highlights. As I noted earlier the project site will retain a 100% of the increase in the post development runoff on site. The runoff will be treated by the oil/water separator. Retention basins will empty via evaporation and percolation. And additionally, there is going to be a 1,000 cubic feet in additional storage provided which is approximately 20% above and beyond what's being required by the County of Maui. So we are retaining, able to retain additional besides the increase.

The project is voluntarily including the following energy and water efficiency measures which is reflective light colored roofing on the operations building and canopies. Grass paver stones for employee parking areas, low flow toilet and motion activated faucets in the restroom. One other item which I forgot to add on here is high efficiency motors for the pumps. So that's also being incorporated and has been looked at.

As Jim mentioned, we have received several letters of support for the project. In addition to the various airlines, we have received a letter of support from the Federal Aviation Administration, the State Department of Transportation, Airports Division, the Tourism Liaison Office as well as the Maui Hotel and Lodging Association.

To conclude my presentation I'd like to briefly go over the features and benefits of the proposed jet fuel storage facility, underground fuel line and load rack facility at the Kahului Airport. First and foremost, it will increase safety on our roadways. Jet fuel deliveries will be reduced and generally will occur during off-peak travel times. It will provide for the efficient delivery of jet fuels to aircraft. The load rack will be located at the airport apron. The fuel tank facility will include several mitigation measures, containment walls, automatic shut off valves in case of a spill. The load racks will also contain spill mitigation measures. The fuel tank facility and load racks will meet all National Fire Protection Association requirements as applicable. The fuel line mitigation measures to prevent leaks will include mitigation measures to prevent leaks and the applicant will implement monitoring actions of the fuel line above and beyond what is required by the EPA.

The project was included in the 1997 Airport Master Plan Update and the load rack at the apron facility was deemed exempt by the State Department of Transportation. The site has been elevated outside of the flood and tsunami inundation zone. However, we will comply with the Maui County Code Flood Hazard Districts as applicable. There will be security at the site. The site will be fenced around the perimeter with 24-hour surveillance camera recording and a risk hazard assessment performed by a third party, but I would also like to note that the operations building will be manned 24-hours a day, seven days a week. Drainage, we are taking in the increase in runoff and it will be filtered and accommodated on site and we do have additional capacity for approximately 20% additional storage above what is required. And we are voluntarily including

energy and conservation features in the project. This concludes my presentation and the project team is here to answer any questions you may have. Thank you.

Mr. Hedani: Commissioners? Commissioner Mardfin.

Mr. Mardfin: You mentioned that the deliveries, jet fuel deliveries will be reduced. How can it be reduced?

Ms. Fukuda: Because right now what happens is the 5,000 gallon trucks need to go to the airport whenever a aircraft needs to be refueled. What will happen now with the storage facility is that there will still be deliveries on the roadways but they don't have to occur during all hours of the day. They can be scheduled at various times or during off peak times. The tanks will be filled and when an aircraft comes in, they'll go to the – the refueling trucks at the airport itself, at the apron, will go to the load rack there fill up and then go to the aircraft. What happens right now is that 5,000 gallon truck has to come Kahului Harbor, travel along the roadways to the airport, enter into the airport apron and then refuel the aircraft.

Mr. Mardfin: The only way I can see it being – now maybe I can see how it would be reduced. You're filling up a tank instead of filling up a plane. So suppose a plane, I don't know how much they use, but say it's 4,000 then you'd had an extra 1,000 and you'd back it up, but you'd unload. I think it's going to be minor in terms of reduction of them. The time adjustment does make sense. You can do at off peak times.

Ms. Fukuda: Right. We did ask what the current average number of deliveries are per day. Currently it runs between 35 to 40 deliveries, truck loads per day. And with the proposed fuel tank storage facility, it could be reduced down to 25 truck trips per day. So that's about a 60% reduction and again, those trips are occurring during not, you know, 7:00 in the morning, 12:00 in the afternoon, you know, they can be spread out more during the off peak hours.

Mr. Hedani: Additional questions? Commissioner Shibuya.

Mr. Shibuya: Karlynn, I had a couple questions here and it deals with you coordinated with Val Martin you had mentioned.

Ms Fukuda: Yes.

Mr. Shibuya: For the fire thing. Was there any coordination done with the Kahului Airport fire fighters because they are actually hydrocarbon type fire fighters and Val Martin is more of the housing and brush fire.

Ms. Fukuda: It's my understanding right now that the Kahului Airport Fire Department, I don't know if it's actually called the department, but that personnel currently do the inspections on the fuel tankers right now. So I believe that there is continued communication with the Airport Fire personnel.

Mr. Shibuya: But they did not interact or inspect the plans for the whole tank farm facilities.

Ms. Fukuda: Let me have our fire safety engineer. Let me bring him up and respond to that question.

Mr. Buika: From the department, we did not send it to the – the department did not send the application to this group that you're talking about.

Mr. Shibuya: What is that?

Mr. Buika: I wasn't aware of this other group. I would imagine Val Martin would have commented to that.

Mr. Hedani: Karlynn if you could have your engineer offer testimony. If you could identify yourself for the record please?

Mr. Brent Shoji: Thank you. My name is Brent Shoji from SS Danoway Associates. Once we do get into the design of the project we will be communicating with the Fire Department as well as any other agency that needs to be review the plans and we'll be incorporating any design criteria that they have in additional NFPA standards as well as any building code requirements.

Mr. Hedani: It hasn't been designed yet?

Mr. Shoji: Not at this time. There's a preliminary layout that has been reviewed by the Fire Department but once it gets into a more in-depth design then we'll be involving more people in.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: From the safety standpoint, you're just delivering the tank closer to the airport with these pipelines and then you have a refueling rack on the apron, but you don't have a hydrant system at where the aircraft is actually parked. Is there any consideration for placing the hydrant system along the way where the aircraft is actually parked and all you need a truck with a filter, connects to the underground hydrant and it connects right into the aircraft.

Mr. Shoji: Well, the fire protection system that we have for this project is to protect the tanks, the storage tanks, as well as the diked area that is containing any spills from the tank.

Mr. Shibuya: Yes, we're talking two different things now.

Mr. Hedani: You're talking about a fuel hydrant.

Mr. Shibuya: That's correct. Does that include the design of a fuel hydrant system?

Mr. Shoji: No, it doesn't.

Mr. Shibuya: And will that be part of the development later on?

Mr. Hedani: If you could identify yourself for the record please and speak into the microphone?



Mr. Brian Bowers: Yes sir. My name is Brian Bowers, Bowers and Kubota. I'm the principal in charge of the project. It's our firm that's the architect and engineer designing the project on behalf of HFFC. In answer to your question is, that hydrant system that would exactly what you said was reviewed by the owner and at this point the volumes of fuel that are necessary to be delivered does not justify the economics of building that pipeline at the airport and currently with the number of flights and the quantity of fuel that's needed at the airport for the level of traffic, the most economical design solution is to have this – is to design a load rack system. What you're talking about the only airport in Hawaii that has a hydrant type system is Honolulu and the volumes there are significantly larger probably ten times as high, significantly 10 or 20 times higher than what's going to be delivered at the airport right now.

Mr. Shibuya: Well, that's the cumulative volume that you're talking about, but all we're talking about is per hydrant area that area is comparable, would it not be? I think we're mixing apples and oranges here. You're talking about total volume that is actually pumped out at the Honolulu International versus this one section which could be used by four aircraft.

Mr. Bowers: I guess I'm not quite sure of your question. With respect to the cost to build that pipeline underneath the hardstand.

Mr. Shibuya: That's correct.

Mr. Bowers: Because there is so little volume of petroleum that's needed it just doesn't – the economics just don't justify at least from the owner's standpoint. Not to say it can't be in the future, but at least you know, at the present volumes today it doesn't justify it.

Mr. Hedani: Thank you. Commissioner Mardfin.

Mr. Mardfin: Karlynn, what's the altitude of this facility, the storage facility?

Ms. Fukuda: When you talk about altitude I'm assuming you mean –

Mr. Hedani: Elevation.

Ms. Fukuda: Current elevation.

Mr. Mardfin: Yes.

Ms. Fukuda: The site I believe has been filled to approximately 17 feet.

Mr. Mardfin: 17 feet above sea level?

Ms. Fukuda: Yes.

Mr. Mardfin: And how far down is it to the water table?

Ms. Fukuda: I'm not sure.

Mr. Hedani: Probably 17 feet.

Mr. Buika: 17 feet.

Ms. Fukuda: I'll ask Doug Gomes the civil engineer to respond.

Mr. Douglas Gomes: Douglas Gomes with Engineering Dynamics. Yeah, the site has been filled up to elevation 17 mean sea level. I would think the water table would probably be at zero, maybe plus one or two. It depends on tidal action.

Mr. Mardfin: And in the pipeline that you're going to take it from the storage facility to the load rack how close to the water table does it get?

Mr. Gomes: The fuel line will probably be built with a couple, two, three feet of cover. So it would be at an elevation – I'm not sure what the airport elevation of the runway is, but whatever that elevation is, would be three feet, four feet below that elevation. Well above the water table.

Mr. Mardfin: The reason I ask is because we know the water table is going to be going up due to the global warming and all kinds of other things so we don't want to build a facility now that in 40 years we're going to have to move. It sounds like you're right at the border line to me.

Mr. Gomes: Well, if we're at 17 and we go down three feet of cover and allow a foot for the thickness of the pipe that will put us four feet below the existing grade. That will put us at a 13 foot elevation. Lets say some areas may drop down to 10 or 12, so we're several feet above the water table.

Mr. Mardfin: But we expect the water table to go up by a good three, four feet over the next 50 years probably?

Mr. Hedani: Additional questions? Commissioner Starr.

Mr. Starr: Yeah, I have a real concern. This is about the most sensitive spot on Maui. On one hand it's right next to Kealia Pond Wildlife Sanctuary, wetlands right next to what's a gulch that's been concretized and points right out to one of our few viable offshore reefs. It's a very sensitive place. It's being put in the flood zone. That's a spot that's susceptible to tsunami although past tsunamis haven't gotten that high. It is conceivable. It seems that the site selection was really ill-conceived. That this is not a great location for storage of lot of petroleum products. I'm trying to understand what the background of selecting this site instead of a site also on state or airport property that would have been further inland and higher up. What was the logic in placing this thing right here behind the beach park?

Mr. Hedani: Karlynn.

Ms. Fukuda: I'll have Joelle Dubois from Bowers and Kubota respond to that question.

Ms. Joelle Dubois: Joelle Dubois with Bowers and Kubota. I'm the project manager. This was

approximately the fourth site that we analyzed for this location. The other sites were closer to the airport. One of the sites that we looked at was by Gate 39 which is at the opposite end of the terminals but because of its proximity to airplane operations it was decided it really was not as safe a site. We wanted – there's a fine line between having them be far enough from flight path, but close enough for the fuel to be able to get to the airport in an efficient manner.

The other criteria for choosing this site is the one that it was passed in the EIS 10 years ago. So because of that, that was one of the reasons it was chosen.

Mr. Hedani: Additional questions for the applicant? Commissioner Shibuya.

Mr. Shibuya: I'm concerned in terms of our growth and use of the terminal and then we start looking in terms of the parking, vehicle parking facilities. There are some being planned where would they be located. Also about the taxis and bus type and shuttle type of facility areas in relation to this as well as where would the mass transit facilities be located to service the visitors as well as residents going to the airport?

Ms. Fukuda: If I can just get that to the – you know again Commissioner, I apologize I should have gone into a little bit further detail, but the State Department of Transportation did get approval for an addition to the parking area which would be located here and that was part of the airport access road approval. I can't remember exactly the number of additional stalls, but it's over a thousand stalls that are going to be added here. In terms of the county bus service, I believe the county bus you know, does right now come to Kahului Airport and you know, picks up and drops off at the terminal area here. As far as the group travel with say, you know, Roberts Hawaii for example if they had a tour bus group, I'm not sure what the master plan for the location of where those operations are going to move, but again, you know, the taxis and the like, I see those as being further down towards the baggage claim area you know for the most part.

Mr. Shibuya: Karlynn I believe you understand where I'm coming from then? I'm looking at a global total picture and growth because now what you're doing is you've replaced the automobile rental vehicle agencies with now fuel tanks and now you have the tourists or visitors that have to go somehow to their destinations and yet you're not accommodating for mass transit much less buses much less for shuttle services. So this does not really help the whole situation. It confuses the issue.

Ms. Fukuda: Right. You know, and I guess the difficulty is you know, in terms of this project it's hard for me to say exactly what the, you know, the uses at the airport are going to be because it's dealing just with the fuel tanks and the fuel line and the load racks. I understand your concern about that, I cannot imagine that the State Department of Transportation, Airports Division would overlook the use of buses because I think that's a key component still of our tourism market and I'm sure that the group transportation is going to be accommodated as well as, you know, currently there is Maui Bus service to airport and don't see that stopping anytime soon.

As far as the rental car agencies, it's my understanding that there are still rental car agencies in this vicinity here when you come around the loop road. All of those are continuing to remain. And I believe although Thrifty Car Rental has closed down their operation that that maybe replaced by

Enterprise Rent a Car now. So there are still rent a car facilities available and transportation options. But unfortunately I don't have the information to provide you as far as what the mass transit and group travel plan for the airport is.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: You partially answered my question, the question I'm about to ask when you talked about cathodic protection, but I'm really concerned about leaks from this. How do you know, how would you detect whether or not there was a leak? And what would you do about it if you detected it?

Ms. Fukuda: I will defer to Peter Schubert, the mechanical engineer on the project.

Mr. Peter Schubert: I'm Peter Schubert, with Mechanical Engineering and Design. Mechanical designer of the fuel system. The pipeline is a 12-inch pipeline of 3/8 inch wall thickness. The code for federal regulation requires a strength that would have been satisfied with about a little over 1/16 inch of wall thickness as far as pressure is concerned. So we can consider the rest of the steel as corrosion allowance for one thing. The other thing is that the pipe will receive a fusion bond epoxy coating as a first coating around the outside of the pipe against corrosion. And since this coating is somewhat brittle and susceptible to damage in transportation and handling during construction we are going to put a second layer over it which is a soft either polyethylene or polyvinylchloride coating that will protect the corrosion protection coating underneath.

Besides that, we are going to provide cathodic protection which is a requirement of the code for federal regulations. Cathodic protection would only be effective or only work if we have actually penetration or protrusion through both of the coatings to the outside of the pipe then we would have some exposed steel and that will then be protected by the cathodic protection. So these are provisions that we have provided in the design to address corrosion even to the extent that if the pipeline would ever be under water it would still be adequately protected. The same system of piping, corrosion protection, including the cathodic protection has been employed for protection of piping under water.

Mr. Hedani: Additional questions?

Mr. Mardfin: Follow up.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: As you know we have a lot of earthquakes here, what's to prevent an earthquake from – if a strong earthquake came about is there possibility to get a catastrophic failure of the pipeline?

Mr. Schubert: It's a bit hard to predict. It truly depends on a, on the nature of the earthquake if would rip apart at that place where the pipeline runs it's conceivable. But I cannot really answer that. I do not have – I'm not qualified to address seismic conditions as they apply to pipelines.

Mr. Mardfin: Thank you.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Mr. Schubert, on the pressure in that pipeline what is the range that you'll be operating with?

Mr. Schubert: We will be operating around a 100 psi from the storage facility that pumps at the storage facility down to the load rack at the apron. It varies somewhat but not a great deal because we will start up the pumps against ...(inaudible)... head at which point the pressure is the highest and then when the flow goes to the tanker trucks it would drop somewhat. And at the trucks themselves it's only about 15 psi. We reduce the pressure down when we fill the tanker trucks with the loading arms.

Mr. Shibuya: Okay, so its range between 15 and 100 psi?

Mr. Schubert: Yes.

Mr. Shibuya: Thank you.

Mr. Hedani: Additional questions? Thank you very much. Commissioner Hiranaga.

Mr. Hiranaga: Is it possible to have leak detection sensors installed on the pipeline?

Mr. Schubert: You know, I'm sorry I didn't quite answer your mention of that. Yes, it is and we are thinking of incorporating that in the design. We will have a SCADA System between the load at the airport and the tanks and the pumps. Our pumps will be remotely operated from the load rack by a SCADA which is Supervisory Controlled And Data Acquisition System. That system is capable to detect fluctuations in pressure that are abnormal. It can be programmed to register and supervise a pipeline within a certain pressure range and if changes that would indicate a release of the pipeline occur then that SCADA System can enunciate in various ways and actually even record the event ...(inaudible)...

Mr. Hedani: Additional questions? Commissioner Mardfin.

Mr. Mardfin: In the event of a catastrophic failure is there a shutoff ability?

Mr. Schubert: Yes. We do have a number of valves at the mechanical equipment island at the tank farm that would be able to isolate the pipeline from the fuel supply from the tanks and there is also various valving at the load rack at the airport itself. But I think you would be more concerned about the upstream valving to shut off the fuel flow to the pipeline.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: I'm concerned because these valves are actually electrically controlled, do they not? Not manually controlled.

Mr. Schubert: The valves would be manually controlled because we do have an operator at the

facility 24 hours a day, but the signal to the pumps that I referred to earlier is an electrical signal, yes.

Mr. Shibuya: That's what I'm driving at. Any time you expose as you know, the fuel to its elements plus heat or flame then you have a problem. So, we've frequently experienced electrical outages how will this fit in scheme of moving fuel to the aircraft and power outages. How does this work out?

Mr. Schubert: If the fuel supply to the airport is your biggest problem in a power outage then you are still pretty well off. If you have a power outage it's conceivable that much more will be affected by it than the fuel supply. However, if we do have a power outage at our storage facility, the tanks are able to fill the refueler trucks at the fuel rack at the tanks by gravity and so we can in that case fill the refueler trucks by gravity and take the fuel by way of the roads to the aircraft.

Mr. Shibuya: Right, now we have the backup system of backup generators for the terminal. The power outage occurs, backup generators go on, but that does not give you the power to run your fuel system.

Mr. Schubert: Correct. We do have our own backup generator at the site.

Mr. Shibuya: The reason why I'm asking these questions is because economically this is the weak link and it's a risk in terms of moving passengers to Maui and away from Maui. Economically this is a showstopper and if we don't deal with this now then we're going to start pointing fingers later on.

Mr. Schubert: As I mentioned, I didn't say that before but we do have a emergency generator at the site that would automatically kick in if we had a power failure from the net.

Mr. Hedani: Additional questions? Commissioner Hiranaga.

Mr. Hiranaga: Changing the subject to drainage. I just wanted to understand the drainage system. You said you're going to capture all additional runoff created by the improvement as well as 20% of the existing surface runoff. The 80% existing surface runoff, will that be treated before it leaves the property or does it just flow into the ocean?

Ms. Fukuda: I'll have Doug Gomes, the civil engineer, respond to that question.

Mr. Hedani: Mr. Gomes.

Mr. Gomes: The drainage system that we're proposing is basically going to capture almost all of the water that falls on the property. You know, there is a containment system around the tanks which would capture all the rainfall on the tanks within the containment area. We're also picking up the water off of the pavement that leads into the property and around the loading racks. All of this water would be collected. Would go through all water separator which will essentially remove 99% of the any fuel that may be in that water and that water will then go into the two retention basins. You are correct in the fact that we sized the retention basins based on the current Maui

County Code to contain all of the increase that result in the property from the development which with additional capacity ...(inaudible)... so not all of the water currently is being contained with the retention system.

Mr. Hiranaga: Do you have a reasonable land area to enlarge the basin to capture more?

Mr. Gomes: There is sufficient area to increase the retention basin capacity and possibly contain all of the runoff that falls on the property.

Mr. Hiranaga: Is that something the applicant is willing to do?

Mr. Gomes: I think they would consider it if it's made a requirement.

Mr. Hiranaga: It's made a requirement?

Mr. Gomes: Yes.

Mr. Hiranaga: Yes, if it's made a requirement or yes, you're going to do it.

Mr. Gomes: Yes.

Mr. Hedani: Additional questions? Commissioner Starr.

Mr. Starr: Yeah, what are the oil/water separators look like?

Mr. Gomes: In this case we have a large tank that is buried underground. It has a settling basin – it's multiple compartments. The flow, the drainage runoff flows into the oil/water separator. Oil has a tendency to float on the water, so the flow rate through the oil/water separator is controlled such that the oil is allowed to rise to the surface. There's some sediment that will settle into the bottom of the containment and such that the exiting water is essentially removed 99% of any petroleum products that may have entered the water.

Mr. Hedani: Commissioner Starr.

Mr. Starr: What happens if a large amount of oil goes into that? Will it flow out the other end?

Mr. Gomes: If it entered the containment and it exceeded the capacity of the tank, it would. But the flow through the oil/water separator is controlled. Lets say there's for instance a broken fuel line or a leak in the tank, that's the reason for the containment. You know, all that fuel would be retained within the containment area. It would not be allowed to go through the system.

Mr. Starr: Doesn't the containment area have drains for rain?

Mr. Gomes: They do.

Mr. Starr: And so what's to prevent the fuel from flowing through those drains into the separator

overpowering the separator and flowing out into the environment?

Mr. Gomes: There is a shutoff monitoring system that would detect that ...(inaudible)...

Mr. Starr: If the operator happens to be awake at the time and watching.

Mr. Hedani: If you could state your name again for the record please.

Mr. Peter Schubert: I'm Peter Schubert, ...(inaudible)... engineering and design. The inlet valve to the oil/water separator is normally closed. So when it rains and we have runoff from the rain, the operator would allow that water to go to the oil water separator. If we have a catastrophic release from the tanks within the spill containment there are four drain holes that would go towards the oil/water separator. That release would not automatically go into it, but would be kept from going to it by a closed valve and then the spill would be addressed by pumping it out.

Mr. Starr: So if the proper procedure is followed and the operator actually does keep that valve closed then theoretically it would be kept in a containment area.

Mr. Schubert: You're right sir, it's an operational concern, yes.

Mr. Hedani: Additional questions? Commissioner Mardfin.

Mr. Mardfin: I think this is for Karlynn or maybe she'll call somebody else up. A decade ago I wouldn't have asked a question like this. But now we have to think about these sorts of things. What if there were terrorist attack, it looks like this would be pretty easy to take out. You've got six-foot high chainlink fence with three strands of barbed wire. I can picture a seal team going in there and within five minutes they're inside and could blow the thing up. What are we doing to prevent that?

Ms. Fukuda: I guess what the applicant has committed to is that there will be 24-hour camera surveillance. The operations building is manned 24-hours a day. There will be a security risk vulnerability assessment performed by a third party and I think that you know, the parties that will probably consulted would be the Police Department, the security at the airport themselves and so mitigation for that would be provided by the recommendations of those security experts.

Mr. Mardfin: Thank you for your answer. But I think a good terrorist team could get in there and blow the thing up with very little work. And a surveillance camera isn't going to stop that. I mean, you'd have to do much more than that.

Ms. Fukuda: You know, I believe that there are no security requirements for the site. It's not where Department of Homeland Security has said, if you have a fuel tank site, you know, it has to be like this. So, it's certainly a consideration, security of the site, but it's to the extent best possible I think and recommended by the security experts that would be consulted.

Mr. Hedani: Commissioner Shibuya.



Mr. Shibuya: Karlynn, can you tell me how you're actually separating or protecting from spills from the four tanks individually as well as at the racks how you are containing spills at both racks. Thank you.

Ms. Fukuda: Okay, I'll start and then pass onto Mr. Schubert and Joelle to give you further detail, but the four tanks as I understand will be constructed on a concrete floor and there will be a 5-foot high concrete wall surrounding it to contain any oil spills within that area. Beyond that, I will let the mechanical engineer and Joelle talk about the load racks.

Mr. Schubert: You mentioned spills from individual tanks, we do have besides the perimeter spill contain wall that Karlynn was mentioning, 5-foot wall, we have an inner rim or in between separation wall which is somewhat less in height, but which would prevent that if one tank breaks that that fuel would spill throughout the entire area. So there is that separation. As far as the spill containment on or at the loading racks, the loading racks have a concrete apron with curbs that contain a certain amount of fuel right on the load rack or on that apron. From where it is taken also to the oil/water separator and treated there as Mr. Gomes explained earlier. And we have the spill containment provision at the load racks as well up at the tanks as well as down at the airport.

Mr. Shibuya: Thank you. I would like to have this project reviewed by the Chief, Fire Chief there at the Kahului Airport and that's Scott Perry. He's the Fire Chief there. Any time you have hydrocarbon fires they are the foamers. They're the only foamers. They're the only ones that deal with this kind of fire. So I would like them personally to have the review of your plans. Thank you.

Mr. Hedani: Additional questions for the applicant? Seeing none, thank you very much Karlynn. Staff?

**a) Public Hearing**

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

**b) Action**

Mr. Buika: Regarding conclusions of law, the application complies with the applicable standards for a Special Management Area Use Permit as set forth by the 12 criteria listed on pages 3, 4 and 5 of your recommendations report A thru L. I won't read through those.

Findings of fact, the Planning Department based on the facts presented in the department report finds that the proposed action will not have a significant adverse environmental or ecological effect provided mitigation measures are incorporated into the project. The proposed action meets the objectives, policies and guidelines of the SMA Rules and the proposed action is consistent with the Wailuku-Kahului Community Plan.

Recommendation, the Planning Department recommends approval of the Special Management Area Use Permit application request subject to 12 standard conditions and 16 project specific conditions. I would like to amend two of the standard conditions and we have them conveniently

on the power point slide here.

Standard Condition No. 4, it's just changing the wording of one word, "that final construction shall be in substantial accordance with the preliminary architectural plans submitted with the SMA application received by the Planning Department on September 17, 2008 and as presented at the March 3, 2009 Urban Design Review Board meeting." So adding the word "substantial" because they are only at 30% design.

Mr. Hedani: September 17, 2009, right? 2008. Okay.

Mr. Buika: 2008.

Mr. Hedani: Okay.

Mr. Buika: And then No. 7, on your green sheet in the recommendations the Condition No. 7 regarding liability is for a public entity and the Hawaii Fuels Facility Corporation is a private entity. So this is a comment, the one listed on the power point here is the more common liability clause that the county requires of private owners and would you like me to just read through it? Or no? Okay, the chairman says no. But it requires a \$1 million bond here. So those two standard conditions are changed. I want to share those with you.

And then project specific conditions are listed 13 thru 28, 13 is archaeological, 14, refers to the design and construction of the fuel storage facilities, 15 are specific mitigation measures that were discussed today. Other important ones, No. 18, is that they will comply with the National Fire Protection Academy standards, various standards. No. 20, water conservation measures. 22 is the requirement for national pollutant discharge elimination system permit and then No. 25 requiring lighting by FAA requirements for on top of the fuel tank and some other Urban Design Review Board considerations. Any additional ones?

Mr. Hedani: Commissioner Starr.

Mr. Starr: Due to the fact that this is in such a sensitive area both in terms of the wetlands and the shoreline and the gulch right next to it and that it depends on operators following a certain procedure to maintain its integrity, I move for denial.

Mr. Hedani: Is there a second? Any other discussion? Commissioners? Commissioner Hiranaga.

Mr. Hiranaga: What did the applicant agree to do regarding additional surface storm water runoff retention on site? He said yes. I wasn't sure what they said yes to.

Mr. Buika: They will contain 100%. Contain what they agreed to. So I can make that a condition of approval to contain 100% of predevelopment and post development. The owner is saying yes.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: I just wanted to ask staff do you have any concerns about the height of the tank's 38

feet and how they fit in to the surrounding areas? Since it is a SMA area.

Mr. Buika: However, it's the – I'm not sure whether the – the tanks at the airport it's not like a business district or there is not much a view plane, I don't think it is affecting the view plane and they required the 38.

Mr. Hedani: Jim is it – are the tanks viewable from the airport access road?

Mr. Buika: Yes, they will be. Karlynn, let Karlynn – I think they will be, yes.

Ms. Fukuda: I think there is a potential for it to be viewed from Keolani Place, but we will be set back 200 feet from Keolani Place. We're not right up against. Additionally, we are providing landscaping along the Keolani Place side of the project site to mitigate visual impacts. And then the color of the tank, there was some discussion at the Urban Design Review Board about the appropriate color and so that's why there are the three conditions about the color of the tank and the operations building. So it's more, you know, kind of a natural kind of a color.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: I'm concerned as I initially identified this little problem here. The integration of the airport apron load rack and the future expansions of the Kahului Airport facilities for mass transit, bus, tax and shuttle transportation services and the location of the vehicle parking facilities. Currently, the parking facilities are inadequate. And so, we need to start thinking in terms of parking structures. So how are you going to integrate this together and safely accommodate this loading rack along the inspection area? And this is down by the airport –

Mr. Buika: This has been addressed by the Airport Master Plan. They are adding, I believe it's 1,900 car stalls. They are expanding the, as Karlynn explained, they are expanding the parking area that will be filled. The pipeline will run underneath the parking area and the – so the mass transit and parking is being accommodated through the master plan as another SMA application separate from this but both of these are integrating one with the other so that both are done, you know, that fuel line gets laid down before the final parking is completed on top of it, but they are kind of at this point, they are in sync and I do believe the master plan is covering those concerns of the commission.

Mr. Shibuya: So I am assuming that it's being taken care of, but I would like to see the plan where you have dotted lines or some lines drawn that shows this. That would be very helpful.

Mr. Buika: We have showed it twice already. And we can show it a third time here.

Mr. Hedani: I'm sorry, Commissioner Shibuya, you want a display of what?

Mr. Shibuya: I'd like to see where the vehicle parking structure is, the route in which the mass transit is going to have a terminal there, where the buses are going to load and unload, where the shuttles and taxis will be accommodated. I don't see anything.

Mr. Hedani: The applicant in this case is Hawaii Fueling Facilities Corporation. They're not the developer of the airport.

Mr. Shibuya: Understand. You're just showing me a finger. I want to see the whole hand. I want to see how everything is integrated into a understandable and efficient flow of passengers, fuel, material, that sort of thing.

Mr. Hedani: Director Hunt.

Mr. Hunt: Commissioner Shibuya, I appreciate your concerns. At the same time I think what the request would be, would be starting to expand beyond what this project is proposing into the review of the whole airport master plan and there has been some of that review at this commission previously. I can appreciate wanting to have that information, but I think we need to be precise in what this application is for and also recognize that we already have reviewed that master plan.

Mr. Shibuya: I have not.

Mr. Buika: I can show you where the extended parking will be in relationship to the fuel tanks if that will be helpful here.

Mr. Shibuya: I would appreciate that.

Mr. Buika: Here's the runway. You can see the plane and the runway and here are the terminal buildings. You can see the little dots, I don't know if you can see it from there, but this is the extent, this is the parking, the parking as it exists I believe at this point. The entire parking lot will come all the way, will encompass this entire region. It looks to me visually from this that it will double the size of the existing parking there. I'm not sure, but I think the number is 1,900 additional parking spots. So that will have the new entrance, the parking will be here and the pipeline will run directly underneath the parking structure. I believe the parking was passed several months ago, Director? Yeah, several months ago prior to this. So these two projects are meant to be constructed in coordination with each other so that the pipeline is laid prior to finalizing the parking lot on top of it.

Mr. Shibuya: And where are the mass transit and bus terminals going to be?

Mr. Buika: I cannot answer that but maybe someone else can.

Ms. Fukuda: If I may make a suggestion Chair, to answer Mr. Shibuya's question I think that's a question that has to be posed to the State Department of Transportation and perhaps a letter from the commission to the State Department of Transportation requesting that information may be the best way for you to get that information.

Mr. Hedani: Is the representative here today, Karlynn?

Ms. Fukuda: We do have Marvin Moniz, the Kahului Airport Manager.

Mr. Hedani: Marvin enlighten us.

Mr. Marvin Moniz: Good afternoon, Marvin here. Okay, let me tell you little bit about the – obviously he was correct on the parking stalls, a 1,900 stalls. As far as the ground transportation goes, the taxis are managed by Roberts Hawaii Tours and they're responsible for the staging areas, the restroom facilities, etc., for their taxis. Currently we have 114 registered taxis at Kahului Airport which on a given day probably 70 checks in for service. So having said that, you probably notice some of them parking along side the roadway and we've met with Roberts on a few occasions to let them know that they're actually responsible for providing parking for the taxi. I think each taxi pays approximately \$200 a month to this services provided by Roberts. So anyway, Roberts base yard which is off to the left side of this project houses the County buses that provide service for Maui as well as the school buses and tour buses. If you remember a few months ago, the T-Shirt Factory, the Coral Factory and all of those businesses vacated the areas that they were in. That particular area is designed in the future to accommodate additional rent a cars as well as possible storage of buses as well as possible taxi staging areas. So that's quite a big area and I think long term we're looking at setting that up. And of course with Advantage Rent A Car who recently went bankrupt, one of the areas was actually going to be cleared out for them so they could actually operate on the airport. On July 3, June 3<sup>rd</sup>, Enterprise moved into the airport where Thrifty Rent a Car used to be. So we've actually been able to accommodate the rent a cars as well as the bus operators. So in respect to those operations, we've been able to accommodate them as well.

Mr. Hedani: Mass transit.

Mr. Moniz: On the city bus.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: In partial response to Commissioner Shibuya, we've used – you used the term and then the planner used the term parking structure, there is no parking structure, it's a horizontal expansion. They're not going up. So that area they showed you is there.

Mr. Hedani: It's on grade parking.

Mr. Mardfin: In discussions among the commission the last time we had a go with this, the problems were not so much mass transit and rent a cars, it was no bikeways, no pedestrianways. So those were concerns and they weren't really addressed. But I agree with the director, that that's not for this issue. This issue is dealing with a pipeline not a –

Mr. Shibuya: I understand, but the future location if you are going to make accommodations for a mass transit and I'm not talking buses, buses are separate, mass transit would be some way of bringing people from the destination areas, the tourist destination areas so that they don't have to clog our highways. That makes more sense than trying to expand more lanes of highway on very valuable Maui land. So that's the issue here.

Mr. Hedani: I think we need to focus our discussion on the applicant and the applicant's proposal at this point as well as the staff recommendation. Commissioner Hiranaga. We're going through

a lot of discussion but we have actually no motion on the floor for consideration at this time.

Mr. Hiranaga: I just wanted to ask Jim again, so the department has no concerns about the height of the tanks. I didn't get quite a clear answer from you.

Mr. Buika: Well, the FAA, it's state land, it's the FAA is coordinating closely with the applicant. So the Planning Department has deferred to the FAA as far as their requirement for the height. The department has no concerns as far as the elevation. There really is – I've been to the site, there is no – I mean, they will be visible certainly from the highway going in, Keolani Place, but they will not be visible. There's no view to the ocean from there. It's all vegetated and it's a fairly isolated location. And they are coordinating with the height in terms of FAA and planes and lighting on the – for the height of the tanks.

Mr. Hiranaga: So from a visual and aesthetic perspective, the department has no concern?

Mr. Buika: We have no concerns.

Mr. Hiranaga: That was the answer I was looking for.

Mr. Buika: Yes.

Mr. Hedani: Director Hunt.

Mr. Hunt: It's important to remember that in the SMA applications go to the – larger applications go to the Urban Design Review Board and that's what they specifically look at. They did review this project and they made their recommendations.

Mr. Hedani: Commissioners what's your pleasure? Commissioner U'u.

Mr. U'u: Motion to approve with amendments.

Mr. Hedani: Is there a second? Seconded by Commissioner Sablas. Discussion? Ready for the question? Commissioner Mardfin.

Mr. Mardfin: I would like – if Commissioner Shibuya would like to add an additional condition as an amendment such that it be approved, I don't know the terms that's why I want you to do it, such that it be approved by, and follow the recommendations of the Airport Fire Department, whatever it's called.

Mr. Shibuya: Yes. I would like to at least add another condition that these plans be reviewed by the Kahului Airport Fire Department which is a state agency. It's not a county agency because they have the capability of foaming.

Mr. U'u: Second.

Mr. Hedani: Moved and seconded to add a condition. Corp. Counsel.

Mr. Hopper: Just want to make a comment that I'm not sure what the Airport Fire staff's position is. If they're either not willing or not able to review there would be a noncompliance with the condition and the situation – we have problems in the past with counsel saying another agency which it has no control over review something. It's not to say that they couldn't ask them to review, but I think the condition should be worded such that if the agency is unable to review it or refuses that that wouldn't require the applicant to come back for either an amendment to the condition or would be in breach of the condition. Just would want you to be careful.

Mr. Shibuya: Accepted rewording.

Mr. Hedani: You got that Jim?

Mr. Buika: I have two. I have two amended conditions. First one, "that the applicant will retain all predevelopment and post development drainage on site." Second, "that the project will be reviewed by the State Kahului Airport Fire Department for comments at discretion of the agency or at the – to the agency's satisfaction." If they don't want to, can we leave it at that, to the agency's satisfaction.

Mr. Mardfin: May I make a wording suggestion?

Mr. Buika: Sure.

Mr. Hedani: It's Commissioner Shibuya's motion.

Mr. Shibuya: Go ahead.

Mr. Mardfin: I would suggest, "given the opportunity to review."

Mr. Hedani: There you go.

Mr. Buika: Okay.

Mr. Mardfin: I think that would shorten it up considerably.

Mr. Buika: Okay. That the State Kahului Airport Fire Department will be given the opportunity to review the project and comment.

Mr. Hedani: Additional discussion? Commissioner Hiranaga.

Mr. Hiranaga: Just wanted clarification. Were the applicant planning to install pipeline leak detection sensors? I know we had discussion about that. I wasn't sure they were planning to do that or is it an option?

Ms. Fukuda: Karlynn Fukuda, Munekiyo and Hiraga. I believe that detection system is SCADA System that Mr. Schubert had discussed and so that is part of the project.

Mr. Hedani: Okay, the amendment on the floor is to add a condition that the State Airport Fire Department will be given the opportunity to review the plans. All those in favor by saying aye. Opposed nay.

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

**VOTED: To Add a Condition, "That the State Kahului Airport Fire Department will be Given the Opportunity to Review the Project."  
(Assenting - W. Shibuya, B. U'u, K. Hiranaga, W. Mardfin, L. Sablas, J. Starr)  
(Excused - D. Domingo, J. Guard)**

Mr. Hedani: Carried. Thank you. Any additional discussion? Commissioner Mardfin.

Mr. Mardfin: I'd just like to say, I think I'll be voting for this motion, but I do have concerns about where terrorist attacks. I think the security on this woefully lax but maybe there are better targets around anyway. And the reason I'm voting for it, it's sort of a tradeoff. I like the idea of getting the fuel vehicles off the roads during prime peak hours and reducing the number of trips they have to make. So I think you're getting better safety on one side and you're increasing risks on the other. It's a toss up.

Mr. Hedani: Personally as a terrorist I would attack the main tank farm at Kahului Harbor. Commissioner Shibuya.

Mr. Shibuya: I'd like to make a motion that we consider the layout because I haven't seen the master plan for the Kahului Airport that it accommodate mass transit, bus, shuttles, taxis and the parking of the vehicles that are safely situated so that they – safely situated from the loading, proposed loading racks.

Mr. Hedani: Okay, but you're not making that a requirement of the applicant at this point, right?

Mr. Shibuya: No, no.

Mr. Hedani: Additional discussion on the main motion? Commissioner Starr.

Mr. Starr: Yeah, I cannot support it. I think that the location is wrong. It's in a too sensitive spot. It was picked for convenience whereas strategically it should have been on the other side of the runway.

Mr. Hedani: Additional discussion? Commissioner Hiranaga.

Mr. Hiranaga: I kind of missed what Commissioner Shibuya was talking about the mass transit. Is that part of his motion?

Mr. Hedani: No, he was just discussing the mass transit for the airport master plan. Additional discussion on the main motion on the floor? Ready for the question? All those in favor, signify by



saying aye. Opposed nay.

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

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

Mr. Hedani: One nay. Motion is carried. Thank you.

Mr. Buika: Thank you.

Mr. Hedani: Going to take a five-minute recess.

A recess was called at 2:40 p.m., and the meeting was reconvened at 2:47 p.m.

Mr. Hedani: Meeting of June 9<sup>th</sup> is back in session. What we'd like to do at this point is complete discussions on the South Kihei ambulance station. We do have a request from staff I believe at this point if you could address the commission.

The commission returned to the following item:

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

- 1. COUNTY OF MAUI, OFFICE OF THE MAYOR, requesting a Special Management Area Use Permit for the proposed South Maui Emergency Ambulance Station consisting of a single-story, 1,500 square foot building for the South Maui Emergency Ambulance Station and related improvements at 300 Kilohana Drive, TMK: 3-9-038: por. of 026, Kihei, Island of Maui. (SM1 2006/0024) (L. Callentine)**

Ms. Livit Callentine: Yes Mr. Chair and Members of the Commission, Livit Callentine, Staff Planner. We received and distributed to you just prior to lunch a revised drainage report prepared by Michael Conway and dated June 9, 2009. Staff in consultation with our Public Works Department and with the applicant is unable to determine the validity of the assumptions used in this report and we don't wish to bring this forth in a discussion with the planning commission. We recommend that you defer this project while we work out the differences and determine exactly what is the correct information prior to your going forward on an action other than deferral.

Mr. Hedani: Commissioners? Commissioner Mardfin.

Mr. Mardfin: I move we defer.

Mr. Hedani: Is there a second?

Mr. Shibuya: Second.

Mr. Hedani: Seconded by Commissioner Shibuya. Discussion? Commissioner U'u.

Mr. U'u: Is it all right with the applicant that we defer it?

Ms. Callentine: I have not yet had a chance to ask them.

Mr. Hedani: Applicant.

Ms. Callentine: Please come and address the mike.

Mr. Bud Pikrone: Bud Pikrone, one of the applicants speaking for Wailea Community Association. No, I was unaware that this was going to be requested to be deferred. I thought we had discussed with the Planning Department a little while ago these issues mentioned, assumptions. So no, it's not. I'd like to move forward with this and find out what we need to do to get going on this project.

Mr. Hedani: Additional discussion? Commissioner Starr.

Mr. Starr: Yeah, I'm kind of unclear about what information we're lacking and if that really has relevance to us. I personally would prefer to move forward with it if we could, but I'm a bit confused so maybe we could get a better understanding.

Mr. Hedani: Livit.

Ms. Callentine: Yes, Commissioners if you will look at your – the report that was handed to you at lunch time, on page 5, under existing conditions and I did have a chance to talk about this with the applicant but what I needed to do was to be able to get the applicant together with Public Works with Mike Miyamoto so that we could – so they could discuss their differences and I would ask Public Works to step in Mike if I, I know I'm not going to be as clear as you could be. It's under the first section of numbers under existing conditions, you have the pervious areas and then you have a list of various items and numbers. Under development type, there's a number given of .55. It's 0.55, is everybody with me on that. That is – this is the vacant land. Under the developed conditions if you look down further on the page towards the bottom you see development type and the same number is given there, 0.55 that is for the developed land. The question Public Works posed to me which I in turn posed to the applicant was, how can those numbers be the same? Shouldn't the vacant land be lower? The answer that the applicant gave me was that this is development type as in this is the zoning that it would be allowed not what is existing but what is allowed. On the project that you just reviewed on the airports, the development type was shown and the number was shown for development type as .15 supporting the Deputy Director of Public Work's statement. So you see, we have just a little thing, few things to kind of work out. If you commissioners feel that you have the ability to sort this out, one other way to look at it is, all of this is going to be thoroughly reviewed at the building permit stage. So you could say as far as the SMA is concerned we're satisfied. We don't need to talk about this anymore and we think that it's going

to be handled at the building permit application. That would be an option of yours as well.

Mr. Hedani: Commissioner U'u.

Mr. U'u: I'd just like to add a comment. I understand the importance of drainage and it is up there on the agenda for myself including and including for most of the commission. But life and safety is probably at the very top, so I would hate to stall any project that would benefit the entire region of South Maui any issues whether it be drainage or sewage, what have you, I was wondering if we could implement some wording in some type of condition that would make this project move forward and we can come out the proper wording to add so we could accommodate both the commission and the applicant?

Mr. Hedani: Mike, is there anything that you can offer at this point to help clarify anything? .55 versus .15 for starters.

Mr. Michael Conway: Thank you. Name is Michael Conway. This drainage report has already been submitted to Engineering, DSA and they have reviewed and made comments. So they have accepted it with the exception of the fact that they wanted more information on the culverts that go under the driveway. So have to add that which is not in the report. But all the other information has been accepted already and reviewed by DSA or Engineering Department. Again, the question about development type is taken straight out of the manual for drainage. In the case of course, the airport, lot of the lands surrounding the airport is existing agricultural therefore it was zoned agricultural basically, and you know, they're changing it to go to a business development type. In this case, where this location of the ambulance station is already zoned for this type of development and it's been zoned like that for a long time so it's not a change of development. The actually, the concern I think happens in that if you look on page 5 again, that upper area, the fact that it's undeveloped land at the moment and bare and so forth is handled by infiltration relief and vegetal cover and as you can see under developed conditions that changes. That goes higher because that does change. There's a lot more – less infiltration, there is a lot less vegetal cover, relief is basically the change in contour and that hasn't changed to all extents. But again, the major point I think is the fact that it has been submitted to the Engineering Department, they have reviewed it. We do have to amend this by adding information on the drainage culverts under the temporary access to the site but that was basically their only comment.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: It sounds like the motion to defer may be defeated but I'm going to for anyway in large part because I still want the question of solar water heating and photovoltaic considered and I don't know if any of that's been done. I do know that over lunch I think there was some movement or some – the way to combine some of the conditions on landscaping but I don't know that the electrical thing has been addressed.

Mr. Hedani: Mich, do you have anything constructive to offer?

Mr. Hirano: I'll try. I think earlier just to refresh the discussion as I understood it, I we said that we would look at solar, that solar will be part of it. It's because of the polyethylene tank was not

sufficient enough in terms of a energy conservation measure. So we would do solar.

The other thing is with respect to the drainage report, the project will be required to adhere to county drainage standards and I think in the environmental assessment we make reference to county drainage standards it will be. I think what is at issue is really the retention of the project. And it's a cost item that is of some consideration and some considerable cost as we looked at it. Translating this information to what's in this drainage report to the capacity of a drainage requirement, right now the engineering report states that drainage to meet the code to retain the increased flow will be about a thousand-gallon capacity. To capture and retain the predevelopment flow and this is the discussion we had over lunch would be a capacity of about 30,000 gallons. So it's a substantive increase in capacity. Translating that into actual cost, the site is probably blue rock, there's rock under the soil. It will be very difficult and costly to develop the capacity. So I think the condition as it – as Commissioner Hiranaga wanted was a substantive cost to the project. And if the wording can be made of trying to accommodate some of the concerns that they commission may have with respect to drainage I was wondering if that may address Commissioner Hiranaga's concern.

Mr. Hedani: Mich, from my perspective – I don't think what the commission – what the commission has done in the past is it's asked applicants in general to retain both pre and post development flows on site so as not to pollute the ocean. If you have a river flowing through your property, it's not the commission's intention to require you to stop the river and hold all that water on your site. In this particular case if you have a drainage easement running through the site and the drainage easement is capturing a 100,000 acres mauka of the property we're not expecting you to hold that on the site as hostage for an ambulance station, what we're asking is to minimize the amount of drainage pre and post development exclusive of those other properties on site. And that's basically the question if that can be retained.

Mr. Hirano: Well, that's what I referred to Commissioner Hedani is that that would require 30,000 gallon retention basin or retention area.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, first of all, I want to compliment on picking up, I do believe there is a problem with these calcs and I think that they can be reviewed after the fact if we create a framework that we can agree on. I know my own personal feeling is that I'd like to see the thing move along and I understand that you know, it's difficult and expensive to keep going through the process when there's not a paying entity funding it. My own – I would be satisfied if in addition to the delta + increase in runoff say another 25% were to be retained and then we're assured that everyone in staff and engineering get together and make sure that the calcs come out right because you know, although I would like to see the entire 50-year runoff retained I do realize that for 49 of those years, probably the 25% would do a lot of good. So that, and solar hot water heating would satisfy this commissioner.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Mich, you've accepted solar, but that has two components, solar – did you mean hot

water heating?

Mr. Hirano: I'm sorry, yes, solar hot water.

Mr. Mardfin: Not solar photovoltaic?

Mr. Hirano: No, I don't think it was solar voltaic. Solar hot water.

Mr. Mardfin: Okay. I'm willing to withdraw my motion to defer.

Mr. Hedani: Second?

Mr. Shibuya: The seconder does that too, agrees.

Mr. Hedani: Okay, so what's your pleasure? Commissioner Starr.

Mr. Starr: I move to approve with and there will be additional two conditions that I'll add as an amendment later.

Mr. Hedani: Is there a second?

Mr. U'u: Second.

Mr. Hedani: Seconded by Commissioner U'u. Discussion? Commissioner Starr.

Mr. Starr: I defer to Commissioner Hiranaga.

Mr. Hiranaga: I'm not a civil engineer, but I'm just looking at their original report on page 26, they said that the existing runoff is 62.6 cubic feet, increase of 30.1 cubic feet to 92.7 cubic feet due to the increase in pervious surface. That's a 50% increase in runoff and then I'm looking at the new report and it goes from 1.17 cfs to 1.13 cfs which is like a very minimal increase in surface runoff. So I'm just wondering is the land there, the vacant land is that just blue rock and nothing goes into the ground? I mean, there's very little incremental increase in surface runoff. I'm just kind of wondering if someone could answer that?

Mr. Hedani: Mich.

Mr. Hirano: On page 26 is cubic feet. They're talking in the volume whereas the engineering report that was handed out, the drainage study was cubic feet per second so that 1.14 difference was cubic feet per second. I think we could translate that into cubic feet.

Mr. Hiranaga: So what's the incremental change? Is it a 50% increase in surface runoff or is it less?

Mr. Hedani: Could you use the microphone Mike? Identify yourself for the record.

Mr. Conway: Michael Conway and again, civil engineer on the project. The 1.13 cubic feet per second, that means, you know, in one second that one cubic foot. So obviously in one minute what happens is you have 67 almost 70 cubic feet of water coming off and again, what we end up designing for is one hour of volume. So as you can see, his – I think his range between –initially was 30 cubic feet.

Mr. Hiranaga: Right, 30 to 92.

Mr. Conway: 30 to 90, you can see I'm at 70 which is basically cubic feet in one minute. So all I can say is it would appear that what he's going for are designing or what he put in that report was kind of for, you know, a one-minute period of time. Of course, we have to do it for an hour. So the reality is you know, we're talking about 4,000 cubic feet of water coming off of the site in one hour's time, you know, predeveloped which basically is over 30,000 gallons of water.

Mr. Hiranaga: So what is the percentage increase?

Mr. Conway: The percentage increase from develop –

Mr. Hiranaga: Predevelopment to – the additional surface runoff because of the development.

Mr. Conway. Okay. It's about 4%. An increase of 4% of water.

Mr. Hedani: That's the delta, Mike?

Mr. Conway: Delta, right.

Mr. Hiranaga: That's after you've built the building, the driveway.

Mr. Conway: Right, the amount of water running off would be about a 4% increase. Of course as you are aware, the site is mostly rock, the existing site is rock. The slope is not changing on this property so there is not really a change in contours or anything like that. The only thing that is really added to this and again, by being added is the basically the roof, the concrete pavement and so forth. But even that, the water is routed to a catch basin that then is routed to a seepage pit basically, holding tank. And so part of – I guess I gotta get a little technical, part of what happens in doing water calculations is basically you play raindrop. You pretend that you're a raindrop and you hit this particular site and you go through the course of how long it takes you from the farthest edge of the property to where you're getting discharged, the routing you go through, the time. And so water basically comes in through a quantity and time. As you can imagine the rain first starts at that zero and both time and quantity and as it continues to rain it picks up and it peaks and it goes down. As you make the passage more convoluted or traveled for farther distance, in this case you're going from the top of the roof to gutters, going down draining into the concrete driveway and then going through that into the drywell, the path it takes is longer. So it takes a little more time. So what you're kind of doing is shifting some of the water in that graph to a further time period. So you're not changing the quantity of water, you're – I mean, the peak of water, you're changing the quantity of water. It's just like dragging silly putty, instead of one clump you kind of spread it out a little further so that it does not affect the drainageways or does not create any more problems and

basically that's the way that Maui County and generally all the county's drainage systems work. Is you're not allowed to increase that peak. So there are those two ways of mitigating it obviously, one is by changing the infiltration rate, one is changing the time of concentration by moving things around and so forth.

But in this case like I said, it's about 4%, 4.5%, 4.5398230%, engineer.

Mr. Hedani: Okay, motion on the floor is to approve. With amendments that were to be considered. Are there any amendments to be considered at this time? Commissioner Starr.

Mr. Starr: Yeah, I move that additional conditions be added. The first one, "that solar hot water shall be utilized." The second being, "that drainage calculations shall be resubmitted and the project shall retain 25% of the pre-existing runoff in addition to all of the newly generated runoff."

Mr. Hedani: Is there a second?

Mr. Mardfin: Second.

Mr. Hedani: Seconded by Commissioner Mardfin. Discussion? Applicant. Is there any comment from the applicant?

Mr. Pikrone: Thank you. Bud Pikrone again. On the amendment for the hot water heating, solar heating. I'd like to actually offer that we make that solar hot water heating or photovoltaic whichever we are capable of doing at the time. Because I think if we do have the funds if we do photovoltaic I think that will – we can utilize that for the hot water heating and eliminate the hot water solar.

Mr. Hedani: So the request is for either or?

Mr. Starr: Can I modify my amendment to include solar hot water heating or photovoltaic producing in excess of the –

Mr. Hedani: We know what you mean.

Mr. Starr: Yeah, power needed to heat the water.

Mr. Mardfin: Acceptable to the seconder.

Mr. Hedani: Additional discussion on the amendment? Drainage.

Mr. Pikrone: Drainage. Still concerned with the 25%. That's still a fairly high number which is going to be fairly costly to us to make that change.

Mr. Hedani: Okay, the proposal as I understand it, the proposal that was made was for post development runoff being retained a 100% plus 20%.

Mr. Pikrone: 25% was asked.

Mr. Hedani: No, your proposal was 20%.

Mr. Pikrone: 20%.

Mr. Hedani: What we're asking for is 25% instead of 20%.

Mr. Hirano: The 20% that was offered was of the developed flow. If the developed flow was a thousand gallons would be 20% greater than the thousand. That's 1,200 gallons. And when we discussed it this afternoon, the existing predevelopment flows retaining those would be 30,000 gallons. So 25% of 30,000 gallons would be about 7,000 gallons. And again, this will be putting in retention basins or dry wells and digging it in probably you know, rocky conditions, maybe some blasting might be required. Be very expensive to do that. That's a bit of cost concern.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, there are many ways of doing it including – it can be done through pervious pavement, it can be done through reuse of rainwater with above ground tankage, I think that this is something that just about every single developer has come up to the plate on and especially since this is something that we're trying to do to prevent damage to the shoreline and reefs in the Wailea area. It should not be –

Mr. Hedani: I think we're running into a problem of misinterpreting what we're saying when we say 25%. Can you clarify what the application proposal was? You would accommodate a 100% of the delta plus –

Mr. Hirano: 20% increase or 20% more than that which was –

Mr. Hedani: A 100% of the delta plus 20% of the delta.

Mr. Hirano: Delta, yes.

Mr. Hedani: I see. In other words, 20% beyond what was required by the county.

Mr. Hirano: Code, yes.

Mr. Hedani: Okay. And the motion on the floor is for 25% of pre-existing development flows.

Mr. Starr: Plus the delta +.

Mr. Hedani: Okay, let me ask a question, at 25% of pre-existing development flows does that stop the project?

Mr. Hirano: It's a matter of fund raising.

Mr. Pikrone: We are not a developer. So our funds we're going to have to figure out what our funds are and collect those funds. We don't have a predesignated number that hey, this is what we're



going to have to reach and this is what we're going to have to build to, this is what we're going to do. When we keep trying to look at things that we would like to do to assist photovoltaic now the pre existing, we're now adding on where we're going up to possibly \$80,000, \$100,000 onto this project, possibly more. We're looking at this project only costing us \$600,000, \$650,000 to build. That's a big number. And you know, though we would all like to do this, we're not a developer, we don't have that. Wailea, – how this came about is I, working to get the second ambulance for South Maui decided to take on that we needed to do this, we needed to come up with a place for the ambulance. My association gave me the time, said yes, it's a good thing for us to do as a community, lets start working towards it. Basically giving me the time to do this right now. Okay, they didn't say, here's the money, go do it. Okay. That's not the way it works for us. So just having the name Wailea doesn't mean this is going to get built with their money. So yes, we'd like to try and help with that but to make that a condition, that's going to make it pretty difficult. That's adding more monies to what we've already budgeted.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Mr. Chair, I'd like to withdraw motion. I'm more in favor of deferring it at this point.

Mr. Hedani: Okay. Motion is withdrawn. Is there any further discussion on the subject?

Mr. Starr: Does the second agree?

Mr. Hedani: Any further discussion on the project? Commissioner Starr.

Mr. Starr: Move to defer.

Mr. Hedani: Moved by Commissioner Starr to defer.

Mr. Hedani: Seconded by Commissioner Mardfin?

Mr. Mardfin: No.

Mr. Hedani: No? Is there a second? His motion to approve was withdrawn. Did you withdraw your amendment or the main motion?

Mr. Starr: The motion.

Mr. Hedani: His motion to approve was withdrawn.

Mr. Mardfin: The amendments were on the floor.

Mr. Hopper: If the main motion has been restated that motion is then property of the body as I understand Robert's Rules. Now Mr. Chair, that's your interpretation of the rules, but if that motion has been restated by the Chairperson then the motion to approve it's considered I think –

Mr. Starr: The motion was not restated by the Chairperson.

Mr. Hedani: Your motion to withdraw was to withdraw the amendment?

Mr. Starr: Was to withdraw the main motion.

Mr. Hedani: As well as to withdraw the main motion. Basically both, right?

Mr. Mardfin: Mr. Chairman.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: There was a motion on the floor to approve the whole procedure. Commissioner Starr then made a motion to amend.

Mr. Hedani: Correct.

Mr. Mardfin: I seconded that motion to amend. Maybe he can do this or not, withdraw that or we can vote it down.

Mr. Hedani: It doesn't matter. If you're withdrawing the main motion, you're withdrawing the main motion.

Mr. Mardfin: He can't withdraw the main motion.

Mr. Hedani: Okay.

Mr. Mardfin: We have an amendment on the floor.

Mr. Hedani: Is there any further discussion on the amendment?

Mr. Starr: Could you restate the amendment? Because I forgot what it was.

Mr. Hedani: You agreed to withdraw the amendment? The amendment was to add solar and to retain 25% of pre-existing development flows.

Mr. Starr: Okay, yeah that's correct. That's the amendment.

Mr. Hedani: So you'd like to withdraw the amendment?

Mr. Starr: Yes.

Mr. Hedani: The consent of the second?

Mr. Mardfin: Yes.

Mr. Hedani: Main motion is still on the floor. Discussion? Commissioner Mardfin.

Mr. Mardfin: I move to amend by adding a condition that they use either solar hot water heating to heat all their hot water and/or they use photovoltaic to the extent that it would offset all the costs of producing that hot water.

Mr. U'u: Second.

Mr. Hedani: Moved and seconded by Commissioner Mardfin and seconded by Commissioner U'u to add a requirement for solar water heating or photovoltaic net equivalent. Discussion? Commissioner Hiranaga.

Mr. Hiranaga: I guess personally as far as photovoltaic or solar water heating I can see if they designed and built the building so that that could be added in the future when funds become available. To me the additional retention on site is more important and immediate. You know, every private developer or entity that has come before us in Kihei so far for SMA permit has basically agreed to retain predevelopment runoff on site as their contribution to the coast line in South Kihei. This property is directly above Keawekapu Beach and the water flows, I guess, straight downhill right into Keawekapu Beach and I would think that the applicant would like to also contribute to saving the coastline on the south shore of Maui. I know it's a financial burden but to say well we'll just meet the County Code because it's a financial concern I'm not sure if that's good enough for me. A lot of times that's the argument we get from the County and State entities, it's a cost consideration. Of course, it's a cost consideration to the other entities that are private.

Mr. Hedani: Additional discussion. What we're discussing is the amendment to add solar. Ready for the question? All those in favor of the amendment, signify by saying aye. Opposed nay.

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

**VOTED: To Add a Condition that they either solar hot water heating and/or photovoltaic be implemented to the extent that it would offset all the costs of producing hot water.**  
**(Assenting - W. Mardfin, B. U'u, K. Hiranaga, W. Shibuya, L. Sablas, J. Starr)**  
**(Excused - D. Domingo, J. Guard)**

Mr. Hedani: Carried. Thank you. Commissioner Mardfin.

Mr. Mardfin: I'd like to ask Livit to give the modified condition that combine three subconditions on landscaping and I will make a motion to approve what she's about to read.

Mr. Hedani: Okay, you're going to have to enlighten me on this Livit.

Ms. Callentine: Staff had made a recommendation earlier that we eliminate Condition 29 and 36 and include Condition 34 in its entirety, but upon consultation with the commission and working it out at lunch time I came up with a condition that actually combines kind of the best of all three of those conditions which address landscaping. So it would just be one new condition.

Mr. Hedani: Which would read?

Ms. Callentine: Which will read, “that native plants, xeriscape and groundcover shall be incorporated on the proposed building site to reduce water usage and that nonpotable water shall be used wherever possible during construction and landscaping and that landscaping shall be coordinated with construction activities so that vegetated areas are planted and irrigated as soon as possible.”

Mr. Mardfin: So move.

Ms. Sablas: Second.

Mr. Hedani: It’s been moved by Commissioner Mardfin, seconded by Commissioner Sablas to add a revised language for what is now Condition No. 34 it would be reordered to whatever number.

Mr. Mardfin: And to delete the three related conditions. She’s deleting three conditions and adding this as a substitute.

Ms. Callentine: Yes, that’s correct.

Mr. Hedani: Discussion? All those in favor signify by saying aye. Opposed nay.

**It was moved by Mr. Mardfin, seconded by Ms. Sablas, then**

**VOTED: To Add the Condition, “that native plants, xeriscape and groundcover shall be incorporated on the proposed building site to reduce water usage and that nonpotable water shall be used wherever possible during construction and landscaping and that landscaping shall be coordinated with construction activities so that vegetated areas are planted and irrigated as soon as possible.” And delete Conditions 29 and 36.**

**(Assenting - W. Mardfin, L. Sablas, K. Hiranaga, B. U’u, W. Shibuya, J. Starr)**

**(Excused - D. Domingo, J. Guard)**

Mr. Hedani: Carried. Thank you. Any other discussion on the main motion? Commissioner Starr.

Mr. Starr: Yes, I cannot support this main motion. The applicant before us even though we’re being told that it’s being done by fund raising is the County of Maui, Office of the Mayor. If you look at your document you’ll see that it’s the County of Maui that is requesting this SMA and you know, am – I did feel strong support for this project but if they’re not willing to do the bare minimum for shoreline, protecting our shoreline resources, and I don’t even see a County of Maui representative here, I don’t think that the right spirit is being followed with that. I cannot support it at this time. Maybe next time they submit I will.

Mr. Hedani: Additional discussion? Commissioner Hiranaga.

Mr. Hiranaga: I wanted to ask Public Works a question.

Mr. Hedani: Go ahead.

Mr. Hiranaga: Is he okay with the procedure as far as not having the current drainage report in hand?

Ms. Callentine: Sorry, I would answer that for Public Works. I mean, I will just answer to tell you that he's not in the room right at this moment and I will go and see if I can bring him back.

Mr. Hiranaga: We can I guess ask for other discussion if you wish.

Mr. Hedani: Corp. Counsel just has to get a word in sideways at this point, so Mike Hopper.

Mr. Hopper: Well, under abundance of caution I think Commissioner Starr's original motion was simply to approve. I think ...(inaudible)... it was not to approve as recommended by staff or with condition as recommended by staff. That being the case to add the staff conditions I believe you would need to have an amendment to adopt the staff report as your recommendations if that was the intention because the approval at this point seem to be an open-ended blanket approval here without any conditions other than the ones you just amended to put on.

Mr. Hedani: Commissioner Starr. Would you clarify what your main motion was?

Mr. Starr: Yeah, my main motion was to approve with conditions per staff report.

Mr. Hedani: Per staff recommendation.

Mr. Starr: Yes.

Mr. Hedani: Additional discussion?

Mr. Starr: Though staff recommendation at that point was to defer. So I'm not sure where that leaves us.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: If it will clarify and if the main motion is to approve –

Mr. Hedani: The main motion was to approve as per the staff recommendation subject to two amendments were supposed be have been made.

Mr. Mardfin: May I move to amend to include not only the recommendations of the staff but the conditions they have modified by what we've previously done.

Mr. Hedani: That's what we have on the floor right now.

Mr. Mardfin: I think our Corp. Counsel said we don't have the conditions.

Mr. Hopper: Well, the specific language we had from Commissioner Starr was motion to approve. That's the only language. If you look back on the minutes, I believe that's what's going to be there. Now, if he says his intention was staff recommendation, based on the recommendation in writing to us or the recommendation at the time, I mean at this point –

Mr. Hedani: Thank you Mike. The clarification is that Commissioner Starr's motion was to approve as per the staff recommendation. Additional discussion? Commissioner U'u.

Mr. U'u: I'm actually not even confused. Where was I? So having said that –

Mr. Hedani: Join the club.

Mr. U'u: I understand the frustration of some of the commissioners because it is the approximate location and the runoff and we've held private or anybody prior to coming to us to that standard of no runoff and I agree with Commissioner Starr, you know, County of Maui, Office of the Mayor, in I guess, the government body, the body that overlaying body that would oversee this development that failed to have any representation here. I mean, there's private citizens doing the good deed without representation from the Office of the Mayor. I don't know how it works, but I was hoping to get backing on Wailea Community Association from the Office of the Mayor, but I guess it will be with staff recommendation to approve, maybe that would be it. So I'm swayed between yes and no. I mean, you can take the good with the bad. The good is ambulance service for that region which is needed. The bad might be the runoff. So anybody got a quarter?

Mr. Hedani: Additional discussion? Commissioner Mardfin.

Mr. Mardfin: The applicants have come back into the room, do they have anything that they'd like to proffer to us?

Mr. Hedani: Additional discussion amongst the commission? Commissioner Hiranaga.

Mr. Hiranaga: Just to clarify there is ambulance service currently serving South Kihei Road. So this is not like – this is to improve the service, but the applicant failed to provide us a complete application and I don't want that burden placed on me because they failed to provide a complete application and Public Works I guess is still not available.

Mr. Hedani: Additional discussion? Commissioner Hiranaga.

Mr. Hiranaga: Point of order. Is the staff recommendation to defer? Because didn't you make a recommendation to defer?

Ms. Callentine: Yes we did.

Mr. Hiranaga: So is that your – your motion is?

Ms. Callentine: We haven't changed our motion, our recommendation, sorry.

Mr. Hiranaga: So is Commissioner Starr's motion that we have on the floor to defer?

Mr. Hedani: Commissioner Starr's original motion was to approve the project subject to staff recommendations. The staff recommendations that were in the green paper in front of you subject to additional amendments which were to be made. Commissioner Starr.

Mr. Starr: Yeah, perhaps for clarification since the last staff recommendation we got was to defer, perhaps we should start fresh because I think we're –

Mr. Hedani: Livit, is it staff's recommendation to defer this project at this time?

Ms. Callentine: It was until the commission decided to take up the issue of the drainage. It sounded like you were going to get resolution of it. As for me, having spoken with our missing Public Works representative right now, and they are looking for him I'll let you know, I feel that this whole issue of drainage will be handled at the building permit stage. So I would feel comfortable changing my recommendation. One of our standard conditions is all government regulations and laws and rules will be met. That is, they will have to meet the requirements of Public Works before they get their building permit, before they actually before they get the grading permit.

Mr. Hedani: Thank you Livit. Okay, we have the Deputy Director of Public Works here and I think Commissioner Hiranaga had a question for him. Kent.

Mr. Hiranaga: Are you satisfied with the process of not having I guess earlier opportunity to review the revised drainage report and to handle it at the building permit level?

Mr. Hedani: Mr. Miyamoto.

Mr. Miyamoto: Thank you Mr. Chair. Typically that's what we would pretty much do, handle it at the design phase because then we have more details regarding the development, but given the concerns that were raised by the Wailea Community Association regarding funding, you know, at this point I think they really need to know what the implications are going to be. Whether this commission chooses to you know, impose a condition that requires more than what is required by the County Code, that's certainly up to this commission. As far as Public Works is concerned, we just want to make sure that the appropriate number is given to them so that for budgeting purposes so that they can understand what they need before they, you know, assume that they're only going to have a certain design when in my review it's going to be much bigger than what the initial computation says.

Mr. Hedani: Additional discussion? I have some comments. We're dealing with an non profit organization that basically wants to produce an improvement for the community that's probably going to cost in excess of what, Mich?

Mr. Hirano: \$750,000

Mr. Hedani: \$750,000 to improve ambulance service for the community. We have in the past required a 100% retention on both pre and post development on site. And the commission has gone along with that. From my own perspective, I don't believe that that's – my own personal perspective is I don't believe that that's correct. I don't believe that we should be legislating from the commission as opposed to administering laws that are already on the books. The laws that are on the books, the code requirement is that you retain post development runoff and they have indicated that they have met that requirement as well as 20% in excess of that requirement from their perspective. And just personally my own perspective is, something like an ambulance station with or without runoff is a no-brainer. Commissioner Mardfin.

Mr. Mardfin: I'd like to ask a question of the applicant as to what they are willing to offer in terms of water retention.

Mr. Hedani: Mr. Pikrone.

Mr. Pikrone: We have discussed many ways that we could possibly do this. We even talked about pervious paving. Though from my department's research in that, that may not be the best answer. There's little known about its effectiveness after a few years. It is something that we may look into, we'd like to look into for this particular project. My concern is cost. It's always going to be cost on this. Again, it's something that we're trying to do as a community. Yes, the ambulance station or the ambulance is housed right now in an ohana. How long? It bounced around actually for the first year, three, four different locations. Our idea here was to make sure it had a permanent location for the county, for the people of Maui. So what are we going to do with this? I really don't want to give in to 25% ...(inaudible)... I'm serious about that. But if that's the only way that you are going to allow this to go through for this county, I might have to and I really don't want to do that. I think that is setting a bad precedent as was mentioned by the Chair.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I understand the comments of Mr. Pikrone and of the Chair, but this commission is the sole entity that's responsible for protecting our shoreline resources and we're here on an SMA which is a shoreline management permit which is all about protecting the shoreline. That is our one actual purview. That's why we're here. It saddens me that the Wailea Community Association has stooped so low that they don't care about the shoreline anymore.

Mr. Pikrone: I think that's not at all true.

Mr. Starr: Or public opinion. But you know, I think I remember a time when it was different. However, I feel very strongly you know, that almost all of the developers in the Kihei area have stepped forward over the last few years to try to retain as much of this as possible because we do know that it is lawn chemicals. It is what's being applied onto developed grassy areas that's doing a lot of the damage to the reef and that by retaining it, we can reduce the amount of that damage and I, for one, do not feel also that documentation and calcs that have been given to us are correct. It seems to be somewhat amateurish and not correct apart from the fact that they were provided to us, you know, after – at lunch time instead of before the meeting. So I cannot support it unless you know, some measure is being taken in addition to the basic increase in runoff that is part of the



Title 19.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I'd like to ask a question of Livit. In your recommendations, what does it say about runoff at this time?

Ms. Callentine: Yes, Condition No. 16, addresses runoff and you might want to amend this to make it stronger language. I'm not sure what it reads. "That verification shall be provided by a registered civil engineer that grading and runoff generated by the project will not have an adverse effect on adjacent and downstream properties." That was taken directly from Department of Public Works and Environmental Management which it was at the time comment that was provided during the review of the draft Environmental Assessment.

Mr. Hedani: Thank you. Commissioner Mardfin.

Mr. Mardfin: I read that grading and runoff generated by the project to be 100% of the delta. The developers have offered 120% of the delta. I will – if we do nothing, if we turn this down, we'll still get the 100% of the pre project runoff. If we take this, we'll get something less than that. So I move to amend Condition 16 to be "That verification shall be provided by a registered civil engineer that grading and runoff water generated by the project plus an additional 20% will not have an adverse effect on adjacent and downstream properties."

Mr. U'u: Second.

Mr. Hedani: Livit, did you get that?

Ms. Callentine: Is that 20% of the delta or 20% of the pre-existing condition?

Mr. Mardfin: No, 20% of the delta.

Mr. Hedani: So you're basically asking them to confirm that 20% of the delta will be retained on site?

Mr. Mardfin: Yes. And I think that means there's less runoff than there would be if we didn't take this project.

Mr. Hedani: Is there a second?

Mr. U'u: Second.

Mr. Hedani: Seconded by Commissioner U'u. Discussion? Commissioner Hiranaga.

Mr. Hiranaga: Ultimately I don't plan on turning down this project. But I think they need to go back and rethink some of their positions based upon our comments and then bring this application back in a timely fashion. So I am not planning to kill this project. I don't think it's ready for a vote for

approval at this time.

Mr. Hedani: Any further discussion on the amendment? Commissioner Shibuya.

Mr. Shibuya: I feel the same way with Commissioner Hiranaga and that's why I asked for this drainage report and it's not very clear, it's very generic and I would like more clarification from this and of course, I'll just await the Environmental Management inputs on this. So yes, I favor this project but there's inadequate information.

Mr. Hedani: Any additional discussion on the amendment on the floor which is to add the condition for 20% retention of the delta. Discussion? Ready for the question? All those in favor signify by saying aye. Opposed nay.

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

**The Motion to Add the Condition, "That verification shall be provided by a registered civil engineer that grading and runoff water generated by the project plus an additional 20% will not have an adverse effect on adjacent and downstream properties." Dies.**

**(Assenting - W. Mardfin, B. U'u, L.Sablas)**

**(Dissenting - K. Hiranaga, W. Shibuya, J. Starr)**

**(Excused - D. Domingo, J. Guard)**

Mr. Hedani: Motion dies. Additional discussion on the floor. Main motion on the floor is to approve as per the staff recommendations as amended. Discussion? Ready for the question? All those in favor signify by saying aye. Main motion, opposed same sign.

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

**The Motion to Approve the Special Management Area Use Permit, Dies.**

**(Assenting - B. U'u, W. Mardfin, L. Sablas)**

**(Dissenting - K. Hiranaga, W. Shibuya, J. Starr)**

**(Excused - D. Domingo, J. Guard)**

Mr. Hedani: Motion to approve dies. What's your pleasure gentlemen? Commissioner Starr.

Mr. Starr: Motion to defer.

Mr. U'u: Second.

Mr. Hedani: Didn't we go through that? Okay, motion to defer by Commissioner Starr, seconded by Commissioner U'u. Is there – request from Corp. Counsel is that we specify information that we would like to receive before reconsideration of the project. Commissioner Starr.

Mr. Starr: A new drainage report that has been considered by staff and Public Works.

Mr. Hedani: Discussion? Commissioner Hiranaga.

Mr. Hiranaga: Also, I'd like the applicant to research additional methods and techniques to increase their onsite retention of the surface runoff, provides us with proposals.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I'd like Planner Livit to incorporate in the recommendation the two that we did by amendments so we don't have to start all over again with them.

Mr. Hedani: Commissioner U'u.

Mr. U'u: I'd like all nine commissioners to show up.

Mr. Hedani: Okay. Commissioner Sablas.

Ms. Sablas: Question, so if we defer how much time are we adding to this project in the process?

Mr. Hedani: Depends on when we can get it rescheduled for the commission.

Ms. Sablas: What are we looking, one, two months, three months, a year?

Mr. Hedani: Possibly. There's no date certain being specified.

Mr. Hunt: Two weeks maybe.

Ms. Sablas: I'm sorry, two weeks?

Mr. Hunt: We'll try and get it on the next agenda if we can. That would be two weeks.

Mr. Hedani: Additional discussion? All those in favor signify by saying aye. Opposed nay.

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

**VOTED: To Defer the Matter for Additional Information on Drainage and Other Matters Raised by the Commission.**  
**(Assenting - J. Starr, B. U'u, K. Hiranaga, W. Mardfin, W. Shibuya, L. Sablas)**  
**(Dissenting - W. Hedani)**  
**(Excused - D. Domingo, J. Guard)**

Mr. Hedani: Nay. One nay. Motion is carried. Project is deferred. Next item on the agenda. Hang onto your stuff.

Mr. Hunt: The next item on your agenda involves a communication from the Planning Department requesting input from the commission in regards to requiring improvements for bed and breakfast

homes based on agency comments. The action listed is the commission may provide input regarding required improvements for bed and breakfast homes to the agency comments.

## **C. COMMUNICATIONS**

### **1. Planning Director requesting input for the Planning Commission regarding requiring improvements for bed and breakfast homes due to agency comments.**

Mr. Hunt: A little bit of background to let you know how we got to where we are. The B&B Ordinance was adopted back in January and subsequent to that the department spent approximately a month setting up a new permitting system, talking to – and then in addition to the whole new permitting system we dealt with the existing and pending bed and breakfast and conditional permits. So that took about another month. So approximately in early March we started sending out complete applications to agencies for their review.

A number of the applications that have come in have been incomplete but the ones that were complete were sent out. Virtually every application has come back with a comment ...(inaudible - changing of tape)... building issues. Illegal building issues is a big comment, a big issue to be addressed. The Public Works Department and Mike can correct me if I'm wrong but they do a loose estimate that as perhaps as many as half of the applications have potential illegal building issues. A lot of that can be cleared up with, you know, just information, but there's a lot of delays due to lack of complete applications in this comments from agencies.

Once the comments from the agencies start coming in, then we have been struggling to deal with a number of them and I'm going to go through those with you and that's the intent of this discussion. One other delay that people should be aware of is a number of the permits, approximately 40% are going to be reviewed by the planning commission. So it would be coming to you folks.

So in regards to today's conversation on these conditions of approval there is a handout that I gave you this morning. It's dated June 8<sup>th</sup>, and there's copies up there I believe for the public if they're interested. We just wanted to go through and discuss conditions of approval and also the permitting system so there's some consistency and coordination between the department and the commission.

First of all, there's – let me sum up the whole implementation of a new ordinance when I went to graduate school and studied public policy they said the easy part is adopting the public policy and this took us over a year to get the new ordinance adopted and so when you study public policy they say, now comes the hard part, the implementation and that's what we're doing now. So delays and roadblocks and potholes should be expected. But we're here to solve those and trying to resolve them.

There's four ways that a bed and breakfast permit can get issued and the first one is administratively. The law allows the department to approve those. The second one is an administrative approval of the bed and breakfast but the planning commission has to approve a State Special Use Permit particularly if it's on ag and you have one of those on your agenda today.

But again, the B&B Permit even though it's on ag, can be approved administratively. The third option is just a straight B&B Permit that needs commission approval and that would be for example if you 30% of the neighbors object or if there's another one within 500 feet. And then the fourth one is the commission approval, the example I just gave 30% or 500 feet plus it's on ag so you need a State Special Use Permit.

So depending on who's going to be administering the B&Bs that – either department or the commission will be responsible for conditions of approval. And we want to make it clear that we think conditions of approval should be placed on the B&B Permit and not so much placed on the SUP unless it's to address agricultural issues. Again, the B&B Permit is addressing the B&B and the SUP is addressing agriculture. We do need to coordinate the SUP and the B&B because there's renewal dates and things like that. We don't want them to be renewed on different dates.

Some of the agency comments and we do need to remember the law states that the B&B shall be in compliance with all other applicable laws. And so we agree that most of the agency comments, you or the Planning Department should require a result in a condition of approval. However, through this new process there's been some issues that have come up and one is that some agencies are interpreting these B&Bs as a commercial use and we believe that's contrary to the intent of the law. There's also some interpretations of rules and laws but not really based on a legal trigger is the word that has been tossed around. And finally there's some conditions of approval or pardon me, there's some comments coming from agencies that are merely suggestions or encouragements and so we need to take a look at those different nuances on these agency comments.

On the first one, on commercial uses, the department at this point, we're not likely to condition a B&B based on a commercial use. An example is backflow preventers. I believe one of the departments was asking for backflow device and that's a commercial requirement. That's what they require for commercial uses and since we don't consider these commercial, we're not going to at this point, the department wouldn't require a backflow device. Another example is the tax rate. Real Property Tax believes these are in some instances a hotel and they'll tax them as such. We won't condition it that it be taxed as a hotel, we'll just leave that up to the Real Property Tax people and if they want to do that on their own that's fine.

The next category of comments down the list here is just an interpretation and we've gotten some comments for example the Water Department that perhaps these should be held to a higher standard than just a single family. And we did some research and we didn't believe that was based on a legal requirement. It was just the staff interpretation of existing rules or laws. So we believe that we should condition these B&Bs to address fire and water flow, etc., in an amount that's proportioned to the impacts. Some of the Water Departments comments seemed reasonable, a fixture count and we had a meeting with them yesterday where they're going to ask for water flow calculations to determine that the fixtures on the building don't exceed the meter size and that seems reasonable.

Another comment that's come in from agencies is we should require fire extinguishers and smoke detectors. That seems reasonable.

At one point Water Department was asking for a water line upgrade where you would have to dig up the road, put in a new water line, perhaps put in a hydrant and we felt that was disproportional and in talking to the Water Department yesterday we've come to consensus on that. We won't be requiring that type of a condition of approval because we believe it's disproportionate.

In terms of water conservation, the department has suggested that we require compliance with the water conservation low flow fixtures and that is a code provision so we will be requiring that. So they'll have to replace faucets and showerheads and toilets and irrigation bibs, hose bibs. And so we will require that. In terms of irrigation and landscaping, xeriscape, that's a suggestion. That's not a code requirement, so we'll encourage the applicants to do that, but we won't require that as a condition of approval.

And finally the last category is the timing of these conditions. Some we believe should be prior to the permit being issued and so we will require smoke detectors, but some, and this is kind of based on the Council precedent, some we believe should be perhaps prior to renewal. So it gives them the opportunity to operate, generate some money, perhaps figure out if they really, really want to do this B&B or not. So some of the conditions we will probably require prior to renewal and that would be water conservation. There's been some discussion that requiring all new fixtures and toilets and stuff is a little bit expensive and so maybe if we allow them to operate for a while then we require it.

And finally the last one we wanted to talk about was the initial permit. The ...(inaudible)... allows us to grant up to a three-year initial permit. And the department policy when we talked at staff level initially was, well lets give three if there's absolutely no concerns or comments from neighbors or agencies. Well, what happened is virtually every application is getting a comment from an agency so that didn't seem to work. So we thought we're going to kind of revamp that one. If there's significant comments, opposition from the neighbors then we don't think they should get three years. You give them a trial period perhaps and if it's a lot that you still want, you still comfortable, you want to give them a little trial period, maybe we only give them one year. But we're going to suggest that unless there's opposition from the neighbors we give them three years as an initial permit. It gives them time to operate. You guys got plenty of permits to review. You don't want renewals coming back in two years and we're in the same boat.

So that's kind of the global discussion. We can take it from the top and go through it if you have any questions and then this is going to lead up to you actually have a B&B application that needs a SUP and that's on your agenda next, but we don't want to talk about that specifically.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I was looking here and I didn't see any mention about comment from the neighbors. I feel that that should not only affect the length of the issuance, but I mean, say there's a situation where there's overwhelming opposition from the neighbors around it based on perhaps past experience of them operating a B&B and you know, I remember we had one – there was one discussion about a place that was throwing commercial Red Bull parties and so on, it would seem like that kind of large scale opposition should be enough to deny. Is there a way we can add that criteria or to kick it up to higher review?

Mr. Hunt: I think there's two aspects to a neighbor's complaint we should consider. One is if there's a specific issue or concern. Perhaps they're complaining about parking. Frankly, a lot of these B&Bs have been already been operating in the past. We've even had some people say most of them are still operating to some extent regardless of the administration being responsible for the worldwide recession because of our crackdown. But the idea is that there's two different aspects of a neighbor complaint. If there's a specific issue on parking, well we can address that as a condition. If there's just an objection, kind of a general, global issue, then we kind of just put that as a ...(inaudible).... Okay how many objections do we have and at some point, I think you're right, the question comes up, do we approve it or do we deny it?

The third option that you mention do we bump it up to the planning commission. I don't think we're there at this point. There's no legal trigger to that. I think it would just be a decision that the department would have to make and then I believe they would have an option to appeal that through those kind of a processes.

Mr. Starr: Which is kicking it back in a sense.

Mr. Hunt: Well, I believe the appeal would be to the planning commission. Mr. Hopper would probably know better than me.

Mr. Hopper: Yeah, an appeal of the director's decision under a Bed and Breakfast Ordinance would go to the Board of Variances and Appeals. I don't see how it would go to the commission. The commission can review them under the ordinance, but the appeal I think would go to the BVA.

Mr. Hunt: Thanks Mike.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I'd like to say a couple things about this. One congratulations. I think this is a very good way to go about things. Figure out what the problems are and the framework is and bring it for feedback from us. I applaud you for that.

Second, I want to applaud you very, very much for working with the other departments. I think we heard some stuff about Hasegawa's in Hana and not about a B&B, but having the departments work together strikes me as a win-win-win for everybody going around and I applaud you for working with the departments to try to get some understanding.

Third, the timing of these things. I see your point about required – some things should be required prior to renewal and I don't have a problem with that, but I think if that's the case they should get shorter time periods or perhaps be given a two-year time, but they've gotta make progress by the end of the first year or something like that to push them on. But I think that's a very good idea. And I do understand the cash generation to be able to do some things. And so I think you're on the right track there.

I don't have any problem with any of the things that you've put forth and I applaud you very much. I think it's a wonderful start.

Mr. Hunt: Thank you.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Actually I have a question. I thought, well the ordinance that we reviewed if the people in the 500-foot radius if 30% or more sent a letter or contact in opposition that it would come up to the commission. Did that change at the Council level?

Mr. Hunt: No, that's incorporated in the law.

Mr. Hiranaga: So Commissioner Starr was saying if there's people in opposition you decide whether you're going to approve, I kind of missed that.

Mr. Hunt: There could be, within 500% there could be a number of residences especially in a residential district. So you could get conceivably five, six people complaining but it doesn't trigger the 30%.

Mr. Hiranaga: I guess my concern is, with this example regarding that colored bull, I do know quite a few people in area and there were people that came here to testify against it, and subsequently I happen to talk to other people that live in that neighborhood. A lot of them were not concerned. So I think certain people have agendas and if they do, they come out and voice it and the other people who don't, don't come out and give support. So you have to be kind of careful that just because "x" number of people come out, they don't really represent the total feeling of the neighborhood. That's a danger. I think someone needs their chance in court basically.

Mr. Hedani: Additional comments? Did you want comments from the public on this item also?

Mr. Hunt: You're not required by law, it's not a public hearing, but I always think it's a good idea.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: My one primary concern is fire protection and not necessarily at a commercial level, but at least at a residential standard. And you know, fire protection, the fire hydrant, it's not going to save your house from burning down, but it's going to hopefully help save your neighbor's houses from burning down. Because by the time the Fire Department comes unless you're living right next door to a Fire Department, your house is pretty much going to be gone and they use the fire protection to stop it from spreading to the neighborhood. So when you have a B&B you're going to have more people. They have a slightly different, I think, mental attitude, they're on vacation. So I think maybe the risk of an inadvertent fire is maybe higher. So I think that there should be some level of fire protection, not necessarily just an evacuation plan, fire extinguishers but also an assessment of how that impacts the neighborhood.

I happen to stay overnight in a rural area recently. Wasn't exactly a pleasant experience. I thought by the rate that I paid for that night because it was between \$50 and \$400 that it was going to be fairly comfortable, but there were a lot of issues about safety that concerned me. So I think when we have these types of accommodations that tourists are coming to Maui to experience Maui, you



have to I think maintain a certain standard especially safety for these visitors so that when they come here they have some reliance that they're not going to be put up to the unusual situation although – I live in an urban area, so you know, a rural agricultural area is kind of a new thing for me.

Mr. Hedani: Additional comments? Director Hunt.

Mr. Hunt: I think we all agree that there should be some fire safety for these guests. The department and I guess County really at this point is suggesting that we are going beyond just what a long term renter or family sleeping in the same room would have. We're requiring smoke detectors, a fire extinguisher and an evacuation plan. The idea that we should bring these buildings up to fire flow standards I think there's support for that on the one hand, but a lot of these arguments and issues that we deal with have pros and cons. The way it seems like Water has been suggesting to implement that was very costly to dig up a road and put in a new water line and to put in a hydrant. Some people are suggesting it's tens of thousands of dollars, \$300 a foot. The delays in the processing. We're also getting a lot of push to you know, expedite and streamline permitting and there's that whole side of the argument also. So it's not an easy issue.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: There are other options to fire protection besides bringing in a 8-inch line from who knows where on the county water grid. I mean, you could put in sprinkler systems, provide a private source of water like a swimming pool or water tank and I think those are fairly inexpensive considering that you are engaged in a commercial activity and you are bringing people who are strangers to this island and I think for me, the cost of installing a private sprinkler system I don't think it's that prohibitive.

Mr. Hedani: Commissioner Starr.

Mr. Starr: This is an area that I participate in a lot of spirited discussion with Commissioner Hiranaga when we were on the Water Board. I, at the time, I was taking a very hard nose position where I felt that there should be commercial fire flow standards met for B&Bs. I guess I've kind of mellowed over the years or something because I don't really – I feel that it's kind of onerous right now but there is certainly an argument to be made as Commissioner Hiranaga said that having fire flow is not so much about saving that house, but it's about saving the neighbors. When you are in a place that's very dry it does create a risk to the neighbors. I'm not sure how to evaluate that other than you know, someone going out and seeing if there's a lot of tall grass around that tends to be dry or what. I don't think there's a mechanism but it is an issue that certainly is not a simple one and you would certainly feel for the neighbors if you know, they burn down because of, you know, another house's action there wasn't fire flow but still I just don't know if there's any kind of middle, other middle ground mechanisms to help out in that regard.

Mr. Hedani: Additional comments? Director Hunt.

Mr. Hunt: I think we need to realize that the fire flow in an area would be the same for everybody. And so if one house is deficient then in all likelihood the neighbors, the whole area, the region is.

I think it's also important to remember that right now people can sleep in that house. You can have your family sleep in the house with fire flow standards that aren't met. You can rent it out long term but all of a sudden when we start sending around permits for B&Bs there seem to be this – we need to raise up the standard and I think that's where the County and we talked about this long and hard. It's been somewhat contentious and I think we finally came down with – we should be consistent and if this is a single family residential building that people can live in then a B&B is a single family residential by definition then we shouldn't really be raising the bar above a single family residential. That's the logic. Whether you agree with it or not that's kind of the logic that we came up with.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I agreed with everything you said up until the single family residential part. Because if these are B&Bs with four rooms or six rooms or eight rooms then it's a multi family not a single family.

Mr. Hunt: No, not to argue, but the definition of dwelling rests on kitchen and you could have a 10-bedroom, 8-bath, 1-kitchen house and we have them. They're not B&Bs, they're just large homes.

Mr. Mardfin: It's the number of kitchens that determines?

Mr. Hunt: A kitchen is one of the determining factors and we have very large homes that are not rented out as B&Bs. So I don't think the size and the number of bedrooms is necessarily –

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Thank you. Just to clarify. I'm not advocating a commercial level of fire protection standards. I'm advocating a residential standard for rural and agricultural areas because – and then you know for agriculture, you're saying long term renters so those long term renters are actively engaged in the farming activity on the property? Because isn't that the only way they're supposed to be in that ohana is they're actively engaged in the farming activity?

Mr. Hunt: Technically when we review the building permits for dwellings in the farm zone it's supposed to be in conjunction with a farm use. Once the building's built, we have never interpreted the law that says okay, you have to put farm workers in there or you can't occupy the house or we're going to tell you tear it down. We just think that's real draconian and we don't want to go down that road. So that whole review is at the building permit stage and what happens after that.

Mr. Hedani: Additional comments? Commissioner Shibuya.

Mr. Shibuya: I have a problem in the case you're using agriculture type of home for residence and then you're trying to turn around and make it a commercial type of operation but not have it designated as commercial. Somewhere along the line in my misguided mind, you either have it commercial or you have agriculture or you have it urban. One way or the other, define as such and the level of standard on the infrastructure, if your road size is rural and you have a fire and the fire truck comes to respond then the incoming traffic may have to reverse to an area where it's wide enough for the fire truck to come through or you can have a stalemate and not have anybody do

anything other than let the structure burn. The level of standard here is very troublesome. Public service is actually public safety and services are all in the same line in my mind. If we cannot provide public safety and we're allowing for commercial use, then we as a county are held liable for this and I feel personally involved and that's why I voted against the first one because the level of service was not adequate enough for a commercial operation. So that's enough for me. Thanks.

Mr. Hedani: Okay, before we go to public testimony and we will open it up for public testimony, my own comments on that is that I believe that when you have a B&B, the standard of care for the guests of the B&B should be higher than that of a resident taking care of his own family because you're dealing with people that are unfamiliar with the area, unfamiliar with the structure, unfamiliar with the conditions and they – you owe them a duty of a level of protection and care that includes not only fire safety but food safety, fire safety, security from crime and all of the other requirements that go into operating a hotel because what you're doing is operating a hotel and they should be held to some degree to the same standards that a hotel would be held to in terms of their own personal safety. That's just my perspective. Any other comments from the commission for the good of the department? If not, we'll open it up for public testimony. Is there any member of the public that would like to offer testimony on this item? Please step to the microphone and state your name for the record.

Mr. Thomas Croley: Thank you Chair. My name is Thomas Croley and I'm giving testimony on behalf of the Maui Vacation Rental Association. We want to thank the commission for their work two years ago when they reviewed the Bed and Breakfast Ordinance and now it has made its way through Council and it has been signed by the Mayor and it is law. We can all feel a sense of satisfaction that that has taken place. I want to let you know that MVRA is committed to facilitating industry compliance with this ordinance. This new ordinance does allow bed and breakfast as a permitted use in almost all of Maui's zoning districts. That is the new law. Each of the districts says this is now a permitted use. So the discussion about whether or not it belongs in that district that's done. That actually has taken place. This commission participated in that discussion as did the Council. So the ordinance has now made it clear and it's made clear what the standards are that the bed and breakfast will be held to. They're laid out in the ordinance and they're very specific. Additional conditions or requirements would only be appropriate to mitigate unique circumstances. If you can say that a particular application has unique circumstances then it would be applicable to say we need to put some conditions on it to address that. But if the applicant is meeting the standards that are set forth in our code, there shouldn't be additional conditions put on top of that.

The little handout that I gave you, some of it's moot because I think we're coming to some agreements with the departments. But one of the big issues has been does bed and breakfast use represent development? It's the kuleana of this commission to evaluate various forms of development and to put conditions on those developments. Bed and breakfast use is now a permanent use and it's specifically permitted in only existing structures. So when an applicant is coming forward, they're not asking you for an ability to use more rooms than they already are permitted for for any additional development on the property. So the MVRA would like to present that it doesn't represent additional development. And unlike a conditional permit, which by its definition is unique, you're considering each conditional permit as a unique circumstance, the bed and breakfast ordinance if we're meeting the conditions that are in the law, in the new ordinance, it's not unique any more. So it doesn't lend itself to putting the additions on that the conditional

permits would.

Those are just thoughts I wanted to add to the discussion. I do appreciate all of what, you know, what's been brought forward. And again, we in the industry want to seek compliance with this ordinance. So therefore, we want people both understand what they're getting into when they come forward and bring forward an application and that they get treated fairly when that is the case.

Mr. Hedani: Thank you very much. Questions? Commissioner Mardfin.

Mr. Mardfin: Tom you made a very interesting point that they're not getting the B&B permission to do that and then building new buildings. But it would be very easy for somebody to come in, buy a piece a property, build a whole lot of bedrooms and then apply for the B&B permit. So in a sense, they're kind of jumping the gun by building the rooms and then going for the permit. That seems like gimmicking the program and – you know, if a building is a 10-year building, I buy your argument. If the building's a two-year old building that was built with B&Bs in mind, then I don't have a problem with putting constraints on it.

Mr. Croley: This was discussed at Council level and one consideration was that we only allow bed and breakfast in existing buildings that exist as of today. You know, that would address that concern. We wouldn't have the opportunity to build any new building. The Council did not choose to put that in there. I understand the concern, but the point is we do have building code that says here's what you're allowed to build and if someone builds an eight-bedroom house, the code allowed that. Now whether they use it as a bed and breakfast or whether they use it as a long term rental or they have a big family that's – the impacts are the same. The impacts should be determined at the time of construction.

Mr. Hedani: Additional questions? Seeing none, thank you very much Mr. Croley. Are there any other members of the public that would like to offer testimony, please identify yourself for the record.

Mr. Dave DeLeon: Good afternoon, Dave DeLeon representing the Realtor's Association of Maui. It's very interesting to come after you've had the conversation so we can be able to comment on your conversation.

Just a few points. In reference to low flow fixture requirements. I'd like to suggest that the department look at it this way. If you review the water bills of these properties that are permitted and if the property showed like a 25, 30, 40, 50% increase in volume, then maybe a low flow requirement is required. If there is no increase and we don't think there would be. We don't believe that these properties will show a massive increase. Most of them, Commissioner Ward, most of them are like two bedrooms. The far majority of them are two bedrooms. Most of them are actually a cottage, and their existing cottage has been in use for a variety of different purposes in the past. You're not going to see a lot of increase in the flow. So for far majorities, I don't see the justification for requiring a low flow use. But you can justify it based on the data and if they do have the extra demand, then they have the extra demand and then you make the requirement. I would put it in it that way.

On fixture counts, if you start doing fixture counts and if you were to take a standard three-bedroom property, three-bedroom home with two baths, two and a half baths and a cottage that exist all over Haiku and all over Upcountry now, most of them will not make the fixture count. I mean the far majority will not make fixture count and the problem with that is well, there is no more meters. So you get in line and you can wait for a couple years and maybe you'll get your 3/8", not 3/8" but your 3/4" because most people have a 5/8" now. And so you can get up to a 3/4" in a number of years, but you're not going to see that right of way. I don't think the fixture counts are necessary because we're talking about existing development that was permitted as is.

And on the question of fire, the Fire Department is very clear that, you know, people all burn at the same temperature. I mean, if you were a long term resident or if you're a visitor, you're going to burn the same. There is no evidence and we've had B&Bs and TVR use in this community for a long while, there's no evidence to suggest that they're much more dangerous or have any propensity for fire. In fact, there's much fewer chances for a little kid in the corner, in the closet with a lighter which is the real cause of most fires, and the faulty electrical systems that cause most fires in one of these buildings because they owner lives there. It's his house. He's going to be watching out. He's not going to have, you know, situations that are going to cause a fire. Why would he? This is a not a stand alone, you know, tourist operation by itself. The owner's in the building with his family. I'll leave you with those thoughts.

Mr. Hedani: Thank you very much. Any additional persons with testimony on this particular agenda item? Seeing none, testimony is closed. Corp. Counsel has a comment.

Mr. Hopper: Just wanted to make a comment. Just to be sure especially since you've got an application before you that while the commission can make conditions and perhaps be more strict than existing code, neither the commission or the Planning Department would have the ability to in substance grant a variance from any existing code requirements if either Department of Water Supply, Fire Department if there was something existing under their code, the department even if it grants a bed and breakfast permit without a condition relating to that provision that does not grant a variance from the code. You gotta go apply for a variance in order to get that code section accepted. So approval from the commission isn't license to not meet other code requirements as determined by those agencies and that's actually important.

Mr. Hedani: Thank you. Next agenda item. Director.

Mr. Hunt: Actually if I could just finish up. Just so where we're at, just so we're clear, there's four types of permits and there's administrative approval and I kind of outlined where the department will be headed in our conditions of approval. The B&Bs that require an SUP we will be putting conditions on them at the B&B level. And so if you folks disagree with that, you do have an opportunity to go beyond that. The more interesting situation is a B&B comes to you folks and if you start putting additional conditions on there, we're going to start getting in the two-tiered system where a B&B goes to the administration, you get this level of conditions. If it happens to go to the planning commission you're going to get this level. And I'm not saying you can't do that, but it does present an issue out to the community that well, you're B&B went to the Planning Department they only required this and mine went to the planning commission and got socked with all this stuff. You can do that, and perhaps we can massage it, but we just need to be aware that you know, if we

create a two-tiered system it's going to raise issues.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Why would an applicant voluntarily come to the commission? I can see you know, certainly if they're in ag or if they need an SUP or you know, you kick it up because of the 30% of the neighbors, but why would they want to voluntarily and could they do that?

Mr. Hunt: I didn't mean to imply they'd voluntarily come. There's one trigger and there's one way is through the trigger, 30% or 500 feet. And then the other avenue in which you could conceivably affect a B&B is through the SUP, but again, we're arguing and I believe it's my second item here is that the conditions on a B&B should be at the B&B permit and the SUP should be strictly ag. So that whole issue of having a two-tiered system I think is more of a concern for the B&Bs that come to you folks.

Mr. Hedani: Any additional input for the department? Were there any particular action items you needed us to give you direct guidance on or is what you've gotten so far sufficient?

Mr. Hunt: Well, we've gotten some comments from you folks and we understand some of the comments if there's absolutely, you know, the Planning Department is going in the wrong direction, you should probably voice that to us, but again, that's the direction we're headed at this point.

Mr. Hedani: My personal perspective is that you're on track, you're headed in the right direction and keep it up.

Mr. Hunt: Thank you.

Mr. Hedani: And lets get to the next agenda item. Commissioner Starr.

Mr. Starr: One other comment is that I hope we can get them, a lot of them processed so that people can utilize their B&Bs if they're doing everything in a proper and legal fashion.

Mr. Hedani: Right. Proceed.

Mr. Hunt: And speaking of processing them. You're next item involves Ronald Barbara Wilbur requesting a State Land Use Commission Special Use Permit for the Maui Pole House Bed and Breakfast in the State Agricultural District at 160 Nahele Road, TMK: 2-7-008: 114 in Haiku. The file number is SUP2 2007/0012 and Joe Prutch is the planner assigned to this project and he knows it very well. However, his wife recently had a baby and so Jeffrey Dack is substituting for him. So I hope you cut him a little bit of slack.

Mr. Hedani: Okay, before you proceed Jeff, I just want to let the commission know it's 4:25 right now and we have two additional items, we have two items there on the agenda that still need to be addressed. So lets try to move it on.

**D. PUBLIC HEARINGS** (Action could be taken after the public hearing)

**1. RONALD and BARBARA WILBUR requesting a State Land Use Commission Special Use Permit for the Maui Pole House Bed and Breakfast in the State Agricultural District at 160 Nahele Road, TMK: 2-7-008: 114, Haiku, Island of Maui. (SUP2 2007/0012) (J. Prutch)**

Mr. Jeffrey Dack: The applicant's requesting a Land Use Commission Special Use Permit to operate a four-bedroom B&B within a primary farm dwelling at 160 Nahele Road and they've also applied for a B&B permit that is administratively until your action on the Special Use Permit. Pursuant to Section 206 of the Hawaii Revised Statutes the County Planning Commission may permit certain unusual reasonable uses within agricultural and rural districts other than those for which the district is classified.

The written report contains guidelines determining an unusual and reasonable use. The subject action does not involve, doesn't trigger compliance with Chapter 343 HRS, relating to environmental impact statements. The applicant applied originally for a Conditional Use Permit on August 12, 2005 to operate a transient vacation rental. In November of 2007, the new administration issued a notice warning to cease operation of their use by January 2008. According to the applicant, operations ceased and the applicant has since been pursuing permits to operate legally. The applicant applied for their Land Use Commission Special Use Permit in December of '07. After the option that a new Bed and Breakfast Ordinance in January 2009, the applicant requested in writing to pursue a B&B permit in lieu of the Conditional Permit. A farm plan application was also made per the requirements of the B&B ordinance.

The property is approximately 4.33 acres and is located at 160 Nahele Road off of Hana Highway. The state, community plan and zoning designations are all agricultural. Regarding surrounding uses they are also all agricultural mostly with farm dwellings. This particular property is developed with a main farm dwelling, second farm dwelling, swimming pool and gravel driveway and parking area. The applicant operates a productive farm on the property that includes a large variety of palms, bananas, tropical flowers, bamboo, beefsteak tomatoes and protea.

The applicant proposes to operate the Maui Pole House Bed and Breakfast renting four guestrooms for short term use within the main farm dwelling. The main farm dwelling is a two-story structure with four bedrooms, three bathrooms and shared living room, dining room and kitchen. The second farm dwelling has two bedrooms and two bathrooms. The applicant lives on the property and resides currently in the main farm dwelling while their property caretakers reside in the cottage. Upon approval and operation of the B&B plans to move into the second farm dwelling along with the caretakers so that the main farm dwelling can be rented to guests. No special events are to be held on the property.

The applicant, Ron Wilbur, would like to now further describe the proposal. We have no slide presentation. Instead he would like to lead you through an exhibits booklet which is the booklet with the colored photographs on the front of it that was handed out at your place at the table. After he has provided that presentation I'd like to return to the podium to provide the department's analysis. Thank you.

Mr. Ron Wilbur: My name is Ron Wilbur. This is my wife, Barbara and today I want to take you through the seriousness that we treat having our farm on agricultural property. I also want to take you through the history of the property and in that history divulge my Hawaiian heritage. My grandmother was born on Niihau. Her folks came from Norway and they were sailing towards Oahu where they were going to take a job and they got shipwrecked on Niihau. My grandmother was born there, stayed for a while, moved to Maui and became a school teacher.

My grandfather was born in Makawao. His great-grandmother was full Hawaiian so hence my Hawaiian heritage. He was the head luna for Wailuku Sugar here in Wailuku. He and grandmother built the house in Wailuku where the old Ben Franklin Store used to be and then the territory offered an opportunity for some of the people to homestead. So my grandmother being an independent sort took all six of her kids and out to the 35-acre piece in Haiku where she left her fancy home in Wailuku for a shack in Haiku in order to qualify for the terms of the homestead. My grandfather would ride his horse out on weekends to visit the family and work the farm.

They leased the property after a period of time to Maui Land and Pine who grew obviously pineapple and when the Hana Highway came through it cut the property into a 28-acre piece and a five-acre piece. My father inherited the property and early '70's I bought the five-acre parcel. It had been fallow because Maui Land couldn't farm just five acres so they ceased operations on that and so when we got it it was five acres of cane grass. I bought that from my dad in order to help him retire. That was my purpose, but my wife secretly had another purpose and I'll let you tell, let her tell you about that.

Ms. Barbara Wilbur: Well, my testimony is quite different from what you've heard earlier today. I'm going to talk to you about my passion for flowers and I'm going to ask you to look at the booklet with me as you do that. When we got this land, you know, we looked at it it was bare. Ron talks about his heritage. My grandparents were farmers, tobacco farmers in Kentucky. So I thought wouldn't it be something I'm going to carry on this tradition.

Well, the first thing we did is a good friend Lenore Canoble was working for the protea co-op and she said, Barbara why don't you grow in protea in Haiku? Well, those of you know Haiku realize that that was interesting but we called on University of Hawaii, Dr. Parvin came out, Jim Hyde who ... (inaudible) ... came down and it was decided that if you could grow protea in South Africa at any elevation, you certainly could grow protea in Haiku. So we became the largest growers of a form of protea, Blushing Brides in the world. Nobody told me that five acres was a big flower farm. I thought tobacco, you know, you have hundreds of acres. This is no, we have a big farm. The problem was at that time, they weren't using weed cloth and we also irrigated. This is Haiku remember we irrigated the whole five acres. Four acres of Blushing Brides, the rest were in a mixer of protea. Well, it took about six months for the flowers to begin to produce and the co-op had agreed to buy my flowers. So I'm out there cutting them. The problem is as you know, there is a red dirt in Haiku. It turned out Blushing Brides grow very low to the ground and they're little delicate white flowers. Well, promptly the red dirt splashed up on the white flowers and stained them. Next thing that happened was blight and the next thing that happened the grasshoppers invaded. Well it was about the time that Willy Nelson was having all those farm concerts, let me tell you I learned humility in a hurry. We lost all of the Blushing Brides, we lost all of the other protea except one pincushion bush and if you look in there you'll see my pincushion bush. About three months ago I



had Nick Nettleship who is a local nurseryman come and he took cuttings from that. I am determined that I am going to grow protea in Haiku. And if that bush will allow me I will.

Following that after the Blushing Brides were done, I actually contracted breast cancer and we had to leave the island because there's no radiation at that time on the island. So we went away for awhile, came back all of our beautiful landscaping had been destroyed so we replaced that and at the same time I sort of looked in the front yard and there was this gorge and the old irrigation ditch. And I thought now that would be a great place to grow tropicals. So in the last 10 years what we've been doing is growing tropicals there. I do it as I can afford it. I'm trying to buy exotic brands and they're costly.

About three years ago, and all along the way we were able to have full time caretakers which made all of this possible, about three years ago when the Maui News was talking about the fact sugar was going, pines are going, I got a notion that we would grow vanilla beans. They're doing it on the Big Island. I don't know if you know, but vanilla comes from an orchid and we then purchased the orchid plants. Alan made a wonderful little hut you can see there a lath house to grow them and one month ago we got our first blooms. Now the interesting thing about this is that you have to hand propagate so Alan basically has sex with an orchid every morning when he tries to get them and it only works sometimes. But when the bean hangs down it means you've done it, if the flower falls off, didn't work. Now this year we may get 30 whole vanilla beans. Now the next year on the other hand we're going to do really well and our intent is to continue. We're not ever going to do the five acres like they're doing on the Big Island. That's just too labor intensive. So that's about that. And we're going to make actually vials and make it fancy and put one bean and a cork and sell them like that, that's the plan.

You'll notice in there that we have a nursery area. In order to raise money this year, we have put red ti leaves in various cans, we're going to put foil around them, we're going to put ribbons on them and sell them at the swap meet. Right now I'm working on two bromeliad beds because they work really well with tropicals. So I basically – oh, and the other thing I've done is ordered labels for plants so that when people come to visit us they can walk around and know what each plant is. I don't know if you're familiar, you're probably are with the ginger, torch ginger. I mean, people look at that and they can't figure out what it is. And also, most of the people that I know who come to visit us have never seen bananas grow so all of that is part of what we're doing. We belong to the Agri Tourism Association. What I really hope is that not only are we offering a bed and breakfast but we are offering knowledge about the tropical plants that grow on the Island of Maui.

One other thing I want to add just really quickly is that for about 10 years and you'll see a picture in there, we've had a friend who lives in Kihei and he is a farmer but he has no land and so when we have land we're not using, he uses that land. And currently he's growing taro, sweet potatoes, bananas, papaya on the slope on our back western slope. So all of this obviously takes money so if we're able to rent, we create this wonderful symbiotic relationship where we are able to grow my beautiful flowers and provide people with a wonderful experience, a true a Hawaiian experience. Thank you.

Mr. Wilbur: So in 1985, we built the house and we brought our youngest son over for his high school years we put him in Seabury Hall. We started planting 200 coconut trees figuring that we didn't

make it on the protea maybe an indigenous plant would give us more luck. We 2003, we built the farm cottage where the caretakers live and where we live. We now have two acres of palm, landscape palm. We bought the potted plants which need to go into a field to continue to grow. We bought those from Nick Nettleship. We have an arrangement with him where when they are mature in another three years, he'll buy them back for his wholesale accounts. I hope that with the additional income from the B&B to put the whole five acres into landscape palms. So the income that we have is, we sold 40 of the major coconut trees, they're 30-foot plus but it's very sporadic and especially now with the economy as it is the developers aren't requiring them as they did. So we are now sitting on some coconut trees that apparently have a possibility for a palm disease so we're having the university come out. In fact they're coming tomorrow to advise us on how to stem that disease.

We also have the stinging nettle caterpillar that has just occurred. So we need to address that. So I just want to impress upon you that we're very serious about being farmers and that this land has been in my family for a 110 years. I'd like to leave it to my son who left his heart in Haiku when he left Seabury. He wants to come back and run it after we're finished.

The permit would allow me to continue the farm, to maintain it, to grow it and to pass it on. It would be good for the state because it would add some much needed tax dollars to coffers. Would be great for the County of Maui because the people that come bring tourist dollars and that's sorely needed. It would be good for the caretakers because they would stay employed. We also employ sporadic labor from outside sources, the nurserymen, the fertilizer, etc. As I said, I want to leave it better than I found it. If I have the extra income, I can do that and I think that booklet and what we've said today indicates that we're very serious about this farm.

And so I went around to the four adjacent neighbors, one is 500 feet from us, another is 700 and the other two are 1,000 and 1,200 feet. So I don't have houses close by to me. Everyone gave me their support and the letter from each one is in the back of the folder. I ask you to approve this SUP so that we can continue all of our plans.

Mr. Dack: It may be a little bit unusual but at this time of hour, I guess I would ask the Chair and the commission do you want me to continue on with the department's analysis, it basically would be briefing what's in the written staff report, it wouldn't be any, adding much new or different. If you want me do so, I will. Sometimes I've understood in the past the commission just prefers to move onto hearing. Just ask that question.

Mr. Hedani: Commissioners? Questions?

Mr. Mardfin: Can we ask questions of the applicant?

Mr. Hedani: Commissioner Mardfin, either staff or the applicant.

Mr. Mardfin: Applicant. Have you been operating this as a B&B?

Mr. Wilbur: No.

Mr. Mardfin: Not in the past?

Mr. Wilbur: Before I had to shut down.

Mr. Mardfin: Yeah, you did operate in the past.

Mr. Wilbur: Yes.

Mr. Mardfin: From what years?

Mr. Wilbur: 1999 until January when we shut down.

Mr. Mardfin: And you did shut down. You have the ag plan. When did you start doing agriculture?

Mr. Wilbur: 1977. That was all five acres incidently.

Mr. Mardfin: Okay. Are you going to be on – I got something in the report that you're not going to be on site a lot of the time is that correct?

Mr. Wilbur: We'll be on site but we have family, we have a summer home in Maine so we do –

Mr. Mardfin: Would you say you're there 10 months out of the year?

Mr. Wilbur: I'd say I'm there nine months, eight and half to nine months. But we do have an owner on site at all times.

Mr. Mardfin: An owner on site?

Mr. Wilbur: Yeah, there's three of us. Barbara and I and a third person and that owner is on site.

Mr. Mardfin: Thank you. You get home tax exemption for your house?

Mr. Wilbur: Well, I did, but that went by the wayside. I got the letter saying it's no longer going to be applicable.

Mr. Mardfin: And when you were operating did you pay your GET and TAT taxes?

Mr. Wilbur: Absolutely.

Mr. Mardfin: Have you had any neighbor complaints?

Mr. Wilbur: I had neighbor complaint that was way far away only because of the 500-foot rule he lives on the other side of the Hana Highway and his complaint was that his driveway coming out onto the Hana Highway was difficult to maneuver and that the speed of the people coming down Hana Highway is too great.

Mr. Mardfin: I saw that. That didn't have anything to do with your operation.

Mr. Wilbur: Nothing.

Mr. Mardfin: Do you have building permits for everything that exists on your land?

Mr. Wilbur: I was permitted when I built the house, I was permitted for the cottage and because I changed the use of the bottom part of the house, I've applied for a building permit to address that use.

Mr. Mardfin: And this probably for Jeffrey, is this consistent with the community plan?

Mr. Dack: Yes.

Mr. Hedani: Additional questions from the commission? Commissioner Hiranaga. Is this for the applicant or staff?

Mr. Hiranaga: Either. Curious in the presentation there's no photos of the dwellings. Curious why not?

Mr. Wilbur: The application is for a special use permit on ag land and my presentation was to show that we are an ag property.

Mr. Hiranaga: Question for staff, if we approve this SUP and the threshold to kick it up to the commission is not reached you can an administrative approval so we would not have any further comment on this application?

Mr. Hunt: That's correct. If you approve the SUP, we're anticipating issuing a Bed and Breakfast permit at this time. We believe it complies.

Mr. Hiranaga: So it's none of our business what the dwellings look like?

Mr. Hunt: You can ask that. Again, there's this distinction between okay, you guys are reviewing a special use in the ag zone versus we're reviewing a B&B. I don't know, Jeffrey are the pictures in the file?

Mr. Hiranaga: The SUP is to operate a B&B in an ag zone. And in order to operate a B&B you need dwellings on the property.

Mr. Hunt: Yeah, and again, I don't mean to be confrontational, I just think that –

Mr. Hiranaga: No, I'm just asking.

Mr. Hunt: You know, I think somehow the department and the commission, and that was one of the intents of our previous discussion, we've got to come to some kind of terms as to what are you guys going to regulate on a SUP and what are we going to. And we were advocating you guys should

focus on the agricultural uses. Look at their farm plan is it legitimate? You know, what are the crops? Are there impacts to adjacent farm uses, other farmers in the area? Is there a cumulative effect that's going to shift the farm use in an area? Those kind of ideas. But it looks like Jeffrey has the photos from.

Mr. Hiranaga: I know we're just going down this road, so it was just previous applicants were very proud about showing their dwellings and I just kind of noticed that this one had no pictures of their dwellings and kind of raised my curiosity.

Mr. Hunt: We can try and provide that information to you. I don't think it's unreasonable.

Mr. Hiranaga: I can see there's nothing abnormal about this.

Mr. Hedani: For the Commissioner's information, Mr. U'u will be leaving in five minutes. Commissioner Mardfin.

Mr. Mardfin: In this staff report on page 5, at the top it says, "the applicant currently has agricultural water rates." That is to distinguish it from what?

Mr. Wilbur: Sort of a dichotomy. In order to get a farm plan, which I had to have in order to come to you, I needed to have ag water rates. So I got ag water rates to satisfy that requirement.

Mr. Mardfin: And then in Exhibit 8A, it looks like there's a conflict. One department is asking for one thing and another department is asking for something else.

Mr. Wilbur: I've been on the list since 2003 for another water meter. I just went the other day and I'm now up to 463<sup>rd</sup> on the list.

Mr. Mardfin: Are agricultural water rates higher or lower than residential rates?

Mr. Wilbur: You pay the same rate up to a certain amount, I think it's 25,000 gallons and then over that, you play a lesser rate.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: I have a question regarding the 500-foot notification. You made a statement that you contacted so and so, that was 550 feet away, but it's really from property lines.

Mr. Wilbur: Yes.

Mr. Hiranaga: So it's really property line abutting your property, the beginning of the 500-foot.

Mr. Wilbur: I was making reference to houses.

Mr. Hiranaga: Right, that's incorrect. It should be properties.

Mr. Wilbur: No, but I also mailed out 25 notices to all properties that were within 500 feet of my periphery.

Mr. Hiranaga: Right, that's the requirement.

Mr. Wilbur: And that's what I did.

Mr. Hiranaga: That was confirmed by staff?

Mr. Dack: Staff has confirmed the minimum 500-foot. We don't know about any in addition beyond that, but at least the minimum 500 foot is confirmed.

Mr. Hedani: Additional questions for the applicant? Commissioner Mardfin.

Mr. Mardfin: Are there any other B&Bs in the immediate area?

Mr. Wilbur: No, there are not.

Mr. Hedani: The response was no, there are not. Commissioner Starr.

Mr. Starr: Yeah, I'd like some clarification. I did not think that you needed to have agricultural water rates to do a farm plan. That agricultural ag rates were kind of an entitlement. It does not really strike me as right that someone should be operating a B&B with agricultural water rates. Can we get a clarification from staff on that issue.

Mr. Hedani: Director.

Mr. Hunt: According to the Department of Water Supply letter dated May 11<sup>th</sup>, they'll no longer be eligible with the B&B. So again, sorting through this whole process there's kind of this mixture. Some regulations have been developed that view these as commercial uses and then we have the new law and frankly we're going to be sorting through this probably for a while and trying to get some kind of consistency. We don't have it right now.

Mr. Hedani: It's called growing pains. Commissioner Starr.

Mr. Starr: Can I ask the applicant, will you be giving up the agricultural water rates?

Mr. Wilbur: If they want me to give them up, I'll give them up. I don't have any choice in that.

Mr. Hedani: Thank you. Commissioner Mardfin.

Mr. Mardfin: I notice there was some discussion here about it being 4.33 acres where originally it was five and the B&B law makes a distinction between ag land of more than five acres and ag land of less than five acres.

Mr. Wilbur: That's correct. It was on the county records at 5.087 or thereabouts. Hence, the name

that we've attached to the farm, called thereabouts farm. We were pretty sure that when I got it from my dad, he was a little vague on the property lines but I took him at this word until it came up that with my .087 over five acres that was a deal breaker. So I hired a surveyor and he surveyed it and it came out 4.33.

Mr. Mardfin: There's a lot of agriculture you gotta produce if you're over five. Can you give me a rough idea of each year how much agricultural product you sell?

Mr. Wilbur: Currently I've only sold the 40 coconut trees. Our foxtail palms which we have 114 are going to be maturing in probably two years. Those will be sold. We sell tropical flower bouquets. Minimal amount. The vanilla beans as they progress are going to be probably our most profitable crop. They're very expensive. But we're only three years into that.

Mr. Mardfin: It sounds to me like you're somewhere under \$10,000 a year in agricultural productivity is that fair to say?

Mr. Wilbur: That is correct.

Mr. Hedani: Market value of 40 coconut palms at 30-foot height at a \$100 per foot would be about a \$120,000 in a good market.

Mr. Wilbur: That's retail. For me, selling them to a wholesale, I sold them at \$38 a foot.

Mr. Hedani: Okay, thank you. Any additional questions for the applicant? Commissioner Hiranaga.

Mr. Hiranaga: You heard earlier discussions about fire protection. Obviously primarily fire protection is to protect the surrounding neighbors and because you're I guess in a large agricultural lot chance of a fire reaching one of your neighbors is fairly slim. But since you have a pool there, I'm just wondering if you would investigate ways of creating either hydrant or standpipe with a pump system that uses the pool as your water source.

Mr. Wilbur: I called Paul Haake at the Fire Prevention Department and told him that I had a 30,000 gallon pool. He said that he had 20-foot hose on each truck that could pump static water. I asked him if 30,000 gallons was enough to put out a house fire and he said more than enough. So each of the fire of the fire trucks is equipped with an internal pump that can pump from a static source. So I hope that answers that.

Mr. Hiranaga: And the fire truck can access your pool?

Mr. Wilbur: Has to get within 20 feet of the pool and he can get right to the edge.

Mr. Hiranaga: Just another follow up question regarding fire protection. Is the Fire Department only requiring one fire extinguisher because I was reading the staff report. It wasn't fire extinguishers. It was fire extinguisher.

Mr. Hunt: I believe the standard comment is a fire extinguisher will be available. What's happened

with the Fire Department is they kept responding the same comment letter and they just changed the date and the subject matter so we went to them as a matter of streamlining and said, well, how about if we just say these are your standard comments and they said fine.

Mr. Hiranaga: I guess something to consider would be to require a fire extinguisher in say, sleeping quarters and kitchen, not a big financial burden to put in four, five fire extinguishers. But to have one fire extinguisher.

Mr. Hunt: We can discuss that with the Fire Department see what their thoughts are.

Mr. Hedani: Additional questions? Commissioner Mardfin.

Mr. Mardfin: Page 5 of the staff report it says, "no special events are to be held on the property." You're making a commitment on that? No weddings?

Mr. Wilbur: No weddings, no large groups, no seminars, nothing that would create noise or confusion or chaos. We're adamant on that.

Mr. Mardfin: And typically how, when you were operating, typically how long did each visitor stay?

Mr. Wilbur: Average stay was seven days.

Mr. Mardfin: So it's not they're in one night and out the next or anything like that?

Mr. Wilbur: No, it's always a family or a family with a reunion. The people we have all know each other.

Mr. Hedani: I have a question, the third owner that you talked about that would be on site, that would be your son?

Mr. Wilbur: No, that's Alan.

Mr. Hedani: Co-owner of the property?

Mr. Wilbur: Correct.

Mr. Hedani: Okay. Additional questions from the commission? Seeing none, thank you very much.

Mr. Mardfin: Public testimony.

Mr. Hedani: Public Hearing.

**a) Public Hearing**

Mr. Hedani: Are there any members of the public that would like to offer testimony on this agenda item? Seeing none, public testimony is closed. Staff recommendation.



**b) Action**

Mr. Dack: As addressed in the staff report, the written staff report, the application for the Land Use Commission Special Use Permit complies with applicable standards of an unusual and reasonable use within the state agricultural district. These are listed in ...(inaudible).. in the recommendation report, those particular criteria.

The Planning Department recommends that the commission approve the Land Use Commission Special Use Permit subject to seven conditions as listed in the staff report. I'll quickly summarize each one first.

The permit shall be valid until June 30, 2011.

The second condition talks extensively about enforcement provisions.

Third item is the permit shall not be transferred without the prior written approval of the commission.

The fourth one is a standard insurance requirement.

The fifth requires a compliance report.

The six is the applicant shall develop the property in substantial compliance with the representations made to the commission.

And number seven, the applicant forward a copy of their acreage verification report to the Department of Finance.

In consideration of the foregoing, the Planning Department recommends that the commission adopt the department's report and recommendation prepared for this meeting and authorize the Director of Planning to transmit the findings of fact, conclusion of law and decision and order on behalf of the planning commission. Thank you.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Move to approve the SUP as recommended.

Mr. Hedani: Is there a second?

Ms. Sablas: Second.

Mr. Hedani: Seconded by Commissioner Sablas. Moved by Commissioner Starr to approve. Discussion? Commissioner Mardfin.

Mr. Mardfin: This is more for the Planning Department than anybody else. But when I had read this at home I wasn't really sold on it too much. This helped a great deal. It convinced me that it was a legitimate agricultural endeavor even if it doesn't make much money yet that had a lot to do with

the way I view this whole thing.

Mr. Hedani: Additional discussion? Ready for the question? All those in favor signify by saying aye. Opposed nay.

**It was moved by Mr. Starr, seconded by Ms. Sablas, then**

**VOTED: To Approve State Land Use Commission Special Use Permit as Recommended.  
(Assenting - J. Starr, L. Sablas, K. Hiranaga, W. Mardfin, W. Hedani)  
(Dissenting - W. Shibuya)  
(Excused - D. Domingo, J. Guard, B. U'u)**

Mr. Hedani: One nay. Motion is carried. Chair votes in favor. Congratulations. Good luck. Director.

Mr. Hunt: Your next item is another communication item involving the selection of hearings officer on the following, Thomas D. Welch, Esq., of Mancini, Welch and Geiger representing Peter Klint Martin and Deborah Lee Martin appealing the Planning Director's decision to take no further action on a Special Management Area Assessment application SMX 2008/0330 is the file number, for a proposed single-family dwelling due to the inconsistency with the community plan designation of open space for lot 46-A, Olowalu Makai-Hina Subdivision in Olowalu, TMK: 4-8-003: 046. Trish Kapuaala is the planner, but I think Mimi Johnston is here to guide you folks. She's our legal counsel.

## **E. COMMUNICATIONS**

### **1. Selection of Hearings Officer on the following:**

**THOMAS D. WELCH, Esq. of MANCINI, WELCH & GEIGER representing PETER KLINT MARTIN and DEBORAH LEE MARTIN appealing the Planning Director's decision to take no further action on a Special Management Area (SMA) assessment application (SMX 2008/0330) for a proposed single-family dwelling due to inconsistency with the community plan designation of open space for Lot 46-A, Olowalu Makai-Hina Subdivision, TMK: 4-8-003: 046, Olowalu, Island of Maui. (APPL 2009/0001) (T. Kapuaala)**

Ms. Lucienne deNaie testified at the beginning of the meeting regarding the matter. Here testimony was not recorded due to mechanical difficulties.

Mr. Hedani: I understand that you folks have both come to a recommendation for hearings officer?

Ms. Mary Blaine Johnston: That's correct. Deputy Corporation Counsel Mary Blaine Johnston, attorney for the Planning Director. Yes, Tom Welch and I talked about this. This particular case involves some interesting legal questions and we ...(inaudible).. back whether we would decide to present it to the commission for a decision or go with the hearings officer. We decided because there's some unusual twists and then it would be helpful to have Judge McConnell take a look at it

and give some kind of ruling. So we have agreed, I have confirmed, email confirming that. So we would ask that the commission designate Judge McConnell as the hearing officer in this matter.

Mr. Hedani: So the request is for approval of Judge McConnell as the hearings officer?

Ms. Johnston: Correct. Yes, and I've already connected him and he's confirmed that he is willing to do it.

Mr. Hedani: Commissioners? Commissioner Starr.

Mr. Starr: Move to approve Judge McConnell as hearings officer.

Mr. Shibuya: Second.

Mr. Hedani: Seconded by Commissioner Shibuya. Discussion? All those in favor signify by saying aye. Opposed, nay.

**It was moved by Mr. Starr, seconded by Mr. Shibuya, then**

**VOTED: To Designate Retired Judge John McConnell as the Hearings Officer  
(Assenting - J. Starr, W. Shibuya, K. Hiranaga, W. Mardfin, L. Sablas)  
(Excused - D. Domingo, J. Guard, B. U'u)**

Mr. Hedani: Carried. Thank you.

Ms. Johnston: Thank you very much.

Mr. Hedani: Director.

Mr. Hunt: Your next item involves action minutes of the May 26, 2009 meeting.

**F. ACTION MINUTES OF THE MAY 26, 2009 MEETING**

Mr. Mardfin: Move approval.

Mr. Hiranaga: Second.

Mr. Hedani: All those in favor signify by saying aye. Opposed nay.

**It was moved by Mr. Mardfin, seconded by Mr. Hiranaga, then**

**VOTED: To Approve the Action Minutes of May 26, 2009.  
(Assenting - W. Mardfin, K. Hiranaga, W. Shibuya, L. Sablas, J. Starr)  
(Excused - D. Domingo, J. Guard, B. U'u)**

Mr. Hedani: Carried. Thank you.

Mr. Hunt: Your next item involves the Director's Report.

## **G. DIRECTOR'S REPORT**

Mr. Hunt: I'd like to talk about something real quick but it's important. At the Planning Committee hearing on February 23<sup>rd</sup> regarding super stores, the Planning Director, myself, I stated that the Maui Planning Commission recommended approval of the bill and in fact, you did not. You recommended approval of the department's recommendations concerning the bill. And I believe there's actually a statement that you didn't take a position one way or another which is – this is very similar to our position. So I just wanted to let you know I made that mistake. It wasn't intentional. It was an honest mistake. In my haste to prepare for that meeting I didn't review the record as thoroughly as I should. I mean, there's no reason why we would misrepresent your recommendation when it coincided with our recommendation. So I just wanted to let you folks know that that has cause some concern in the community.

Mr. Hedani: Thank you. Commissioner Starr.

Mr. Starr: Yeah, it was confusing at the time. Would it be helpful for any of us to give testimony that it was in any way, shape or form?

Mr. Hunt: I don't think it's necessary. I mean, I just wanted to let you folks know that you know, when we make a mistake we admit it and move on.

Mr. Mardfin: May I make a comment?

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I've been in touch with Dawn Lono and she feels also that the Hana Advisory Committee's position was misrepre – I don't know by whom, but it was misrepresented at least as it was printed in the newspaper that they were against any superstores in Hana and 75,000 would be the maximum on the island was their position.

Mr. Hunt: See, I researched it and I'll admit a mistake when I make one, but when we researched Hana I think Dawn is misinterpreting the Advisory Committee's motion. They didn't limit it to just the main island or say no superstores in Hana. They just said 75 —

Mr. Mardfin: I was at that meeting and you may be right about what actually happened. I know the intent was not to have – was to limit it on this side to 75,000 and have no superstores in Hana.

Mr. Hunt: But that's not what the motion said.

Mr. Mardfin: I know. And superstore is an idiot if they open a superstore in Hana in the first place. And in the third place, I actually don't see any reason to have the bill. I have no problem with superstores personally, but that puts me at odds with my community.

Mr. Hedani: Future agenda has been distributed to you.

Mr. Hunt: Next item is Planning Commission Projects and Issues. This is your opportunity to raise questions.

**1. Planning Commission Projects/Issues**

No questions or comments.

Mr. Hunt: Next item is Future Planning Commission Agendas. There's a handout in your packet.

**2. Discussion of Future Maui Planning Commission Agendas**

**a. June 23, 2009 agenda**

Mr. Hunt: You've got Kaanapali Resorts Special Management Area Permit. You've got a bill for an ordinance to amend the special flood hazard areas and you've got a bill to amend essentially residential districts. You also have a Hale Hui draft environmental assessment. You've got a long agenda. You've also got a resolution – we're bringing back the hotel district, the anti-stacking bill and you have two time extensions. Looking further down the road we're trying to have a B&B day so to speak and it's the second meeting in July. Where at this point we have four of these SUPs and so hopefully we can go through a bunch of them all at once.

Mr. Hedani: Carolyn, in the future can you remind whoever's responsible for snacks to make arrangements if they're not going to show up or just remind them? Thank you.

**3. EA/EIS Report**

**4. SMA Minor Permit Report**

**5. SMA Exemptions Report**

Mr. Hunt: The next three items are your standard, any comments or questions of the EA/EIS Report, the SMA Minor Report, the SMA Exemptions Report?

**6. Special Maui Planning Commission Meeting on the Maui Island Plan Review - June 16, 2009, 9:00 a.m., Planning Conference Room, Wailuku, Island of Maui**

Mr. Hunt: The next item is just a reminder that you have a special planning commission on June 16<sup>th</sup>, and that should be next Tuesday and that's right here in the Planning Conference Room to continue your review of the Maui Island Plan.

Is there anyone who will not be at the 16<sup>th</sup> or the 23<sup>rd</sup>? So we'll assume we'll have quorum.

Mr. Hedani: Commissioner Sablas will not be here on the 23<sup>rd</sup>.

Mr. Mardfin: I'd just like to say thank you all for coming to Hana last week. I really enjoyed taking you around. It was good for the community.

Mr. Hedani: Thank you for your hospitality.

**H. NEXT REGULAR MEETING DATE: June 23, 2009, 9:00 a.m.**

**I. ADJOURNMENT**

The meeting was adjourned at 5:08 p.m.

Submitted by,

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

**RECORD OF ATTENDANCE**

**Present**

Wayne Hedani, Chairperson  
Bruce U'u, Vice Chairperson (excused @ 4:50 p.m.)  
Kent Hiranaga  
Ward Mardfin  
Lori Sablas  
Warren Shibuya  
Jonathan Starr

**Excused**

Donna Domingo  
John J.B. Guard IV

**Others**

Jeff Hunt, Planning Department  
Mike Hopper, Department of the Corporation Counsel  
Mike Miyamoto, Department of Public Works