

**MAUI PLANNING COMMISSION
REGULAR MINUTES
NOVEMBER 10, 2009**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Wayne Hedani at approximately 9:05 a.m., Tuesday, November 10, 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: The November 10, 2009 meeting will come to order. We'll take public testimony at the start of the meeting on any agenda item in order to accommodate individuals who cannot be present when the agenda item is considered. Public testimony will also be taken up when the agenda item is taken up by the commission. Maximum time limit is three minutes. 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.

We'd like to welcome back Commissioner Starr from his travels and I'd also like to welcome Mike Hopper from the Corp. Counsel's Office.

Are there any members of the public that would like to offer testimony at this time. I have two individuals that have signed up Mr. Jericho Stringer and Sal and Erin Diaz would you like to proceed now or later? Please step to the microphone and identify yourself.

The following individuals testified at the beginning of the meeting:

Jericho Stringer - Item C-2, Ron and Sherry Serle, Aloha Cottage Bed and Breakfast, SUP2

Erin Diaz - Item C-2, Ron and Sherry Serle, Aloha Cottage Bed and Breakfast, SUP2

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

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. Clayton.

Mr. Yoshida: Good morning Mr. Chairman and Members of the Commission, Clayton Yoshida, Administrator of Current Division of the Planning Department. The Planning Director, Jeff Hunt is attending the special Council Land Use Committee meeting which convenes at 9:30 on the Hanzawa Store land use changes. So he'll be there until they adjourn. The first four items are, were on you October 27th agenda but the commission couldn't get through them because you ran out of time and they relate to the Intrawest Honua Kai project at Kaanapali.

So the first item is the 2009 annual report from Gwen Hiraga, Project Manager from Munekiyo and Hiraga on behalf of Maui Beach Resort Limited Partnership on the disbursement of funds in a settlement agreement with intervenor Charles Fox III pursuant to Condition No. 32 of the Special Management Area Use Permit and Step 2 Planned Development Approval for the proposed Honua Kai Resort at Kaanapali, Island of Maui and Joe Prutch is the staff planner.

B. COMMUNICATIONS

- 1. MS. GWEN OHASHI HIRAGA, Project Manager from MUNEKIYO & HIRAGA, INC. on behalf of MAUI BEACH RESORT LIMITED PARTNERSHIP submitting the 2009 annual report on the disbursement of funds in the Settlement Agreement with Intervenor CHARLES FOX III pursuant to Condition No. 32 of the Special Management Area Use Permit and Step 2 Planned Development Approval for the proposed Honua Kai Resort, North Beach Park, and related improvements at TMK: 4-4-014: 006 and 008, and 4-4-001: 010, Kaanapali, Lahaina, Island of Maui. (SM1 2004/0017) (PD2 2004/0005) (J. Prutch) (Matter was previously on the October 27, 2009 agenda.)**

- 2. MS. GWEN OHASHI HIRAGA, Project Manager from MUNEKIYO & HIRAGA, INC. on behalf of MAUI BEACH RESORT LIMITED PARTNERSHIP submitting the 2009 annual report on the disbursement of funds in the Settlement Agreement with Intervenor WEST MAUI PRESERVATION ASSOCIATION (WMPA) pursuant to Condition No. 32 of the Special Management Area Use Permit and the Step 2 Planned Development Approval for the proposed Honua Kai Resort, North Beach Park, and related improvements at TMK: 4-4-014:006 and 008, and TMK: 4-4-001: 10, Kaanapali, Lahaina, Island of Maui. (SM1 2004/0017) (PD2 2004/0005) (J. Prutch)(Matter was previously on the October 27, 2009 agenda.)**

Mr. Joe Prutch: Good morning Chair, good morning Commissioners for the first item and the second item one of them is an annual report to Charles Fox, the other one is an annual report for the West Maui Preservation Association WMPA. The applicant's here and the applicant would like to just combine them and discuss both of the settlement agreements, both annual reports at the same time and with that I'll bring Gwen Hiraga.

Ms. Gwen Hiraga: Good morning Chair Hedani and Members of the Planning Commission, Gwen Hiraga and I will be reporting to you on the first two items, the annual reports relating to settlement agreements with Charles Fox and West Maui Preservation Association. We did leave on your desk two additional pieces of information one being a summary sheet as shown on this board, a duplicate of this and the second piece of information are excerpts from the settlement agreement with West Maui Preservation Association and those relate to item 8, 9 and 18 of the settlement agreement which we will be reporting on.

So as Joe mentioned we would like to discuss both items 1 and 2 at the same time. I will start with the Charlie Fox agreement relatively simple. The entire \$500,000 to Lahainaluna Foundation has been paid. There are no remaining funds to be disbursed to the foundation. Any questions?

Mr. Hedani: Thank you.

Ms. Hiraga: I will now go to the West Maui Preservation Association settlement agreement disbursement report or annual report. This report as well as the previous one is being submitted pursuant to SMA Condition No. 32 which basically says that annual report shall be filed with the

Maui Planning Commission under disbursement of funds in the settlement agreement for their information.

There are more items to review with regard to the West Maui Preservation Association. The first item is traffic impacts. Traffic impacts cover quite a bit and just to let you know, in filing our report the first item is the light synchronization project for which \$325,000 was allotted. The amount remaining from this project is \$30,000.

The next item is the Mill Street extension and this had an amount of \$1,535,000. To date, there is \$1,260,370 remaining.

The third item under traffic is \$250,000 that has been allocated for the Lahaina Bypass Study north of Keawe Street or any other studies related to the bypass north of Keawe Street. The full amount is yet to be disbursed. So remaining is \$250,000.

The next item is the community benefit fund. The obligation is for \$400,000 to be disbursed for the community benefit fund. The entire \$400,000 has been put into escrow. There are no funds remaining from the \$400,000. In addition, there is an ongoing contribution on the resales of any residential unit within the project in the amount of .25% and nothing has been deposited because no units have been resold.

The third item under the community benefit fund is for a total of \$250,000 and these are annual payments of \$50,000. The amount remaining is \$50,000. The last payment will be made in March of 2010.

The third item deals with drainage and we reported on this before where the full amount has been paid and it was in the amount of \$17,866.

Item No. 4 is a \$100,000 donation to West Maui Preservation Association. Maui Beach Resort Limited Partnership has paid the entire \$100,000 so there's no remaining balance to be paid to West Maui Preservation Association.

The last item is reimbursement of attorney fees and this was paid back in July of 2005. Total amount was \$24,513.

The chart, the single chart that we distributed represents the funds disbursed from both settlement agreements. And the other sheet or sheets that we distributed were excerpts as I mentioned from the settlement agreement with West Maui Preservation Association. That concludes our reporting. We're open to any questions that the commissioners may have.

Mr. Hedani: Questions from the Commission? Commissioner U'u.

Mr. U'u: Good morning Gwen.

Ms. Hiraga: Good morning.

Mr. U'u: Under WMPA when you say payment to WMPA no conditions. What does that mean? Do as you please with the money?

Ms. Hiraga: Yes, pretty much.

Mr. Hedani: Commissioner U'u.

Mr. U'u: Follow up question and I don't know if it's for Clayton. I know at one point part of the intervention process for WMPA was that they give us an itemized report back to the commission stating how their funding is being used. I know they have intervened on various projects on the North Beach area and I think the amounts on which they got probably it's about \$2.4 million till now. I know we've tried various times to get them to give us a report. I want to know what the update is and when can we for seeing them giving us an itemized detailed report on their expenditures?

Mr. Hedani: Bruce, you're talking about the \$100,000 that they received?

Mr. U'u: Well, that's part of it but the part of it that was the entire whole of the \$2.4 to \$2.6 that they received so far.

Mr. Hedani: That's this report.

Mr. U'u: Yes.

Mr. Hedani: Which totals \$2.4 million.

Mr. U'u: No, I think the total of them intervening on other projects adds to the amount of \$2.4. Not this specific project I think the projects before this the SVO projects that they intervened on also I think amounted to for all the projects there about roughly \$2 million and I know they supposed to have give us a detailed report and I wanted an updated status on it.

Mr. Hedani: Clayton you have any comments?

Mr. Yoshida: Yes, Commissioner U'u. I believe WMPA did intervene on the SVO Lot 3 project and there is an annual report requirement for that. I know that they have completed their – gained their 501 tax exempt status. I haven't seen a report from them regarding the disbursement of funds. I know they have formulated a board regarding that issue. I believe Dr. Iaconetti is a member on that board.

Mr. Hedani: Gwen additional comments.

Ms. Hiraga: Yeah, I wanted to clarify what was just stated. Mr. Yoshida made reference to the settlement or the intervention for Lot 3 and that is entirely separate from the Lot 4 intervention and the community benefit fund. The members of the Lot 4 community benefit fund, Mr. Henry Bruno Ariyoshi, Ms. Patty Nishiyama, former Commissioner Dr. William Iaconetti and the community members are Sharyn Matin from West Maui Preservation Association and Eric Gerlap from Intrawest. So it's a different community benefit fund and you know, I'm pleased to report that they

have formed their nonprofit and they are starting to meet. But at the last reporting of the North Beach Advisory Group none of the \$400,000 that has been deposited into escrow has been disbursed to any community group. So that entire amount remains untapped. I am not able to speak to the Lot 3 settlement agreement and annual report. However, we can provide information on Lot 3 as well if the commission so desires.

Mr. Hedani: Commissioner U'u.

Mr. U'u: The reason I'm bringing it up, one, it was made by the planning commission to have a detailed report. Two, over time it will be lost. Because I don't think most of the commissioners here is aware of the intervention process I think me and Wayne I don't know if Commissioner Starr was here at the time but at one point it's going to be forgotten and I'm bringing it up to you guys attention that a follow up report was due. I mean, now more than ever I think nonprofit groups going need money to move forward because of lack of funding and people like this have that type of money and hopefully it goes to the public benefit which is what it was intended to do. That's my concern.

Mr. Hedani: Okay, Clayton, maybe what you can do is you can list it down as one of the items under planning issues for the director to follow up with WMPA and see if you can get a report from that on their financial report. Commissioner Mardfin.

Mr. Mardfin: I'm just curious is my fellow commissioner saying, it's not concerned about what's going in but how the funds are disbursing their money is that what's being asked?

Mr. Hedani: Yes.

Mr. Mardfin: That sounds like an interesting report.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Thank you Gwen for the background information. I was reading much of it and it did refer to many of the issues that I was not aware of and of course, I was not a commissioner at that time. I would like to know if there's any problem with the State Department of Transportation in terms of doing or spending some of the money or having the projects implemented. Can you give me some background information on that?

Ms. Hiraga: Okay, with regard to traffic, the traffic items the traffic light synchronization project is completed and that's why there is a remaining \$30,000 from the amount allocated but that project is completed.

Mill Street extension is ongoing. And community meetings are being scheduled for this month with neighboring property owners. We are working very closely with the Department of Public Works on the Mill Street extension. There was some delay regarding the – because of alignment and some land issues but it is moving and following the community meeting they will be preparing an environmental assessment so that project is moving.

With regard to the funding for north of the bypass, we have not had any discussions with the

Department of Transportation, any studies on funding for you know, because it's not for the bypass that's one of the last phases. However there is, so that's why the entire \$250,000 remain and as noted you know, in the settlement agreement you know the commission actually can approve funding for other studies.

On all of these remaining balances the settlement agreement allows for the commission to designate funds with WMPA having the opportunity to comment on it.

Mr. Shibuya: Thank you.

Mr. Hedani: Commissioner Starr.

Mr. Starr: I'm experiencing a little concern seeing the large outstanding balances on the traffic impact and obviously it's not in the interest for the resort to, you know, see that money paid out neither is it their fault, but it hasn't been up to now because there really hasn't been you know entities or you know ...(inaudible)... for it to go to. However, as time goes on I do see that the leverage to assure that it eventually gets paid diminishes and you know, over time you know the tendency for – with regarding to debt and commitments is refutation and that you know we're in a period where a lot of entities get sold, a lot of entities go bankrupt and I would assume that if there were some sort of insolvency situation here that these funds would be the first to be wiped off the map, these commitments and obligations. So you know since it has been a number of years I, for one, would like to see some mechanisms for these funds to either be bonded or paid into escrow with the interest going to the applicant until they're used. I want to ask counsel whether that's in our purview since Mr. Hopper's is earning the big salary here and I figured I'd have him earn his pay.

Mr. Hedani: Gwen do you have any comment on that?

Ms. Hiraga: I'm going to defer to Mr. Luna.

Mr. Hedani: Is that something that was addressed as part of the settlement agreement?

Ms. Hiraga: He may know because he was privy to all of the discussions.

Mr. Hedani: Martin.

Mr. Martin Luna: Martin Luna, attorney for the applicant. When the settlement agreement was done, the allocations were made specifically for certain items like the traffic for example. Much of it is dependent upon whether the county is ready to move or not and Commissioner Starr may be correct if there is bankruptcy, I mean it's always a possibility so you can never say no. But thus far things have been on a – for example, one of the things that they did, one of the first things that happened was the affordable housing. That was paid in, the West Maui project was done, it was paid off there was some balance left and they used additional funds that was remaining for that West Maui affordable housing. So if there's movement it gets paid and what Gwen was referring to as far as the for example the Mill Street expansion there's been effort to get it going but there's been changes in alignment for Mill Street several times so there's been some delay caused

because the alignment was not established. Now it has been established Gwen is preparing the environmental assessment the rest should proceed.

The one that's really being held is up the \$250,000 for the study for the bypass and this commission can take direction or provide direction as to how you want to - what you want to have happen to that \$250,000. There's couple of the other items that you can provide direction on as well. So Maui Beach Resort Intrawest is ready to work with the commission and the county if there's some effort made to provide direction as to what you want to have done.

Mr. Hedani: Martin, the current \$250,000 is to be paid to the State of Hawaii Department of Transportation?

Mr. Luna: Not necessarily. It can go to people doing the study but if they have to work with DOT to be able to focus as to what is needed.

Mr. Hedani: Does DOT even know that this money is available for a study?

Mr. Starr: Excuse me Mr. Chair, I have the floor and I had our counsel a question.

Mr. Hedani: You had the floor the question has been responded to and I'm redirecting at this point.

Mr. Starr: It's been responded to by our counsel?

Mr. Hedani: Right. I didn't recognize you a second time. You requested –

Mr. Starr: You won't allow me to ask our attorney a question?

Mr. Hedani: Can we have Martin answer the question?

Mr. Starr: No. I appreciate what Martin said.

Mr. Hedani: Martin can you please answer the question?

Mr. Luna: As to?

Mr. Hedani: Basically this is something that the DOT is not aware of that it's a payment.

Mr. Luna: I'm not sure if they're not aware of it because this has been going on for the last five year since 2004.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yes as I asked before I'd like to ask Mr. Hopper about our ability to find a way to encumber these funds since it seems to be taking a long time and our leverage is waning.

Mr. Hedani: Mike.

Mr. Hopper: As I understand it, and I was not here when this project was approved but looking back on what we have here this is a settlement agreement between the intervenor. It was apparently approved by the commission. The parties to the agreement I do not believe the planning commission was actually considered a party to the agreement. There's the other issue of the SMA permit itself and I'd have to read the conditions of the SMA permit in order to see if there was a requirement at that time for the money to either be placed in escrow or to be bonded which I have seen that as conditions on SMA permits before and in fact approved the bond agreements for that. However, with respect to what I'm seeing here which is I believe page 6 of the settlement agreement which is where these specific funds come from it would be on the applicant, it would be on not the applicant – between the applicant and the intervenor that negotiated the settlement agreement to provide for that in their agreement. As I see in the agreement it says that there are timing requirements for some of the money. It says for example, prior to the issuance of the first certificate of occupancy for the project certain improvements need to be done and that funding will be provided in certain cases. I do not see a specific reference to bonding. In order to get that in the settlement agreement the parties would have to amend the agreement and have that placed in there and I do not see a way that necessarily the commission could force the parties to do that if they weren't willing.

As far as the SMA permit conditions, I do not have those since they're frankly not part of the agenda item which is a disbursement of the settlement agreement funds, but if there was a condition that required bonding, at that point you know that would be simply a matter of enforcing that condition. If you do not have a condition that requires bonding at this point there would need to be an amendment to the SMA condition which we could look at but that would perhaps be problematic if that was not an original part of the SMA approval requiring that money to be bonded. I have seen those requirements but I think it would be difficult after a project had been given approval to go back and require that that money be bonded if there were specific timing requirements as there are for some of the monies in the agreement.

As far as the settlement agreement if the money's not getting paid and the time has past then that be a matter of enforcing the agreement and the agreement I believe would be enforced only by the intervenors that negotiated the agreement. The SMA permit conditions if there's non compliance in some manner with the conditions there could be enforcement actions or a consideration of amending the conditions for non compliance. However, if it's simply a matter of the money hasn't been paid and the timing requirement for the money to be paid hasn't arrived I wouldn't necessarily see a basis to say that the developer wouldn't be in compliance, but again, this is without having read the SMA permit conditions.

Mr. Starr: Could I request that you know,

Mr. Hedani: Commissioner Starr.

Mr. Starr: Can request that you or someone from Corp. Counsel take a look at it and report back to us on our options are on insuring that the community is kept whole. I don't have any concerns as far as the people who are currently dealing with it now. I have absolute faith in the people, the Intrawest people and Mr. Luna and Ms. Hiraga and all of them to do the right thing. I'm just concerned because we're in a climate where things are changing and people are, you know, things

do change and I don't want this to ..(inaudible)... the wayside. As far as the Mill Street expansion money Gwen do we have I mean, is there a belief that this will be wrapped up within the next year?

Ms. Hiraga: Going through the environmental review process it may take longer than a year and construction. As I mentioned, we are having community meetings this month, three community meetings with the different neighborhoods and after that we will start the EA review process and we are working very closely with the Department of Public Works. I do not have a time frame for construction but I can submit that to the commission for information.

Mr. Starr: And at what point does the money get paid out?

Ms. Hiraga: Actually the funds, you know, Intrawest or Maui Beach Resort Limited Partnership will deposit funds into escrow and Kaanapali Land Management Corp. is the project manager or is doing the project and they draw from that account, escrow account and I think, I guess you know approximately a little less than \$300,000 has been spent.

Mr. Hedani: Additional questions? Commissioner Starr.

Mr. Starr: Yeah, can that money be put into escrow since the –

Ms. Hiraga: The entire amount you mean?

Mr. Starr: Yeah since the process is ongoing.

Ms. Hiraga: We'll have Mr. Luna respond.

Mr. Hedani: Martin.

Mr. Luna: Martin Luna, attorney for the applicant. The agreement was to provide when there were tasks to be done, milestones reached and Kaanapali Land Management informs Intrawest as to what funds would be needed. Intrawest provides the funds into escrow and when the work is done it's paid out of escrow. So that's how the process has been thus far.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Usually funds are placed into escrow ahead of time to insure that they get paid. They're not paid into escrow when it's time to draw it down.

Mr. Luna: No, it's paid, so that's why they're notified in advance as to what the milestone will be for that period.

Mr. Starr: Yeah, my question is since it's undergoing EA and then will go to design is there – and you know there's an obligation for this money to be paid is there a willingness to put that money in escrow and you know, of course the interest would go to the applicant, and then it would not be drawn down it's ready.

Mr. Luna: There's certainly a willingness because that's what happened thus far. It's just a matter of being able to be informed as to when the money is needed.

Mr. Hedani: Additional questions? Commissioner Starr.

Mr. Starr: We both know that's not generally the reason for escrow. The reason for escrow is to insure that the money will be there when it is needed which will be you know maybe a year, maybe two years down the road.

Mr. Luna: I'm sorry. It hasn't been two years down the road. I mean, it's notified like 90-days in advance. So when they need the funds – they figure in 90 days hence they're going to need some funds that's when they notify Intrawest and the money is put in.

Mr. Hedani: Martin is that based on the settlement agreement terms?

Mr. Luna: It's based on an agreement primarily between Intrawest and Kaanapali Land Management which is the managing and designing the extension, Mill Street extension.

Mr. Hedani: Because some of the commissioners you know that are present today were not here when the actual agreement was made when the intervention was filed maybe it would be helpful for you to bring everybody up to speed in terms of how this whole thing came about. It's basically a contract between two private parties Intrawest and the intervenors on the SMA permit, right?

Mr. Luna: As far as the obligation to pay that's correct. There is however, and Mr. Hopper, Joe's report you folks have in Exhibit 1, Exhibit 1 is the SMA approval of 2005. The first page refers to the traffic improvements that are to be done. But one of the things that did not happen when the settlement agreement was presented to the commission was that the commission did not approve and accept the settlement agreement because they did not want to be a party of the agreement as Mr. Hopper correctly pointed out. However, the commission did incorporate reference to the traffic improvements in its letter of February 25th stating the approval of the SMA permit with conditions but these were not part of the conditions.

Mr. Hedani: Thank you. Additional questions?

Mr. Luna: So the agreement is still with us, Intrawest and West Maui Preservation Association.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Once again, I'd like to ask the Corp. Counsel and staff look at this to see what the options are because I have concerns about whether that money will be available when the time comes and I do feel it should be put in escrow to assure that. Now as far as the \$250,000 I think that we should find a vessel that can use that because there's a crying need for the Lahaina bypass to be designed and built and there is a grassroots organization that's working in that direction. I don't know the people involved or what they do but I don't know if they're aware that there's a quarter million dollars sitting here to be used to get the bypass kick started. Can I ask the department if they have any suggestions on an entity that can get that going because it sounded from what I

heard that there's a willingness if we can find a way to get that used everyone will be happy?

Mr. Hedani: Gwen, maybe you can clarify for us who were the design fees for the Lahaina bypass road initially intended for?

Ms. Hiraga: There was no specific consultant named as part of the settlement agreement from West Maui Preservation. They just felt that the project, you know the bypass was an ongoing project and studies should be done to continue the project north of Keawe Street. There is no designation as to who the money should go to. And as I had mentioned previously and Commissioner Starr in response to Commissioner Starr, the settlement agreement allows for this funding to be used for other studies related to the Lahaina bypass north of Keawe Street as deemed appropriate by the planning commission.

Okay, the other provision deals with the light synchronization. The settlement agreement you know of the remaining amount which is \$30,000 that also, the settlement agreement also has a provision that the county can use the funding for other West Maui traffic mitigation measures which the Maui Planning Commission may deem appropriate. WMPA shall have the opportunity to address the Maui Planning Commission regarding allocation of these funds, but that's only for the \$30,000. The \$250 pretty much is you know, as long as we can identify a study or something related to the Lahaina bypass north of Keawe Street or as the commission deems to be appropriate there is a willingness on the part of the Intrawest to expend those funds or put it into escrow.

Mr. Hedani: Thank you. Commissioner Starr.

Mr. Starr: Yeah, Ms. Hiraga since you and your organization are intimately involved with the traffic studies and the improvements being done in that area I am – Corp. Counsel please let me know if I'm stepping out of line with this request but I'd like to ask if you could work out a way to use this \$250,000 in the most effective way to help the ...(inaudible)... problems that exist in West Maui and come back to us with a plan for going and using it. I know I'm kind of asking for a freebie from you, you know, it sounds like it's something everyone wants to see happen.

Ms. Hiraga: We'll be happy to do that.

Mr. Hedani: Any additional questions for the applicant. The agenda item that we have right now is merely acknowledgment of the receipt of the report which they've prepared you know for Items 1 and 2. There's an SMA permit actually being considered on Items 3 and 4 which is open to discussion. Gwen.

Ms. Hiraga: I just have one question. As I mentioned, you know we'd be happy to come up with a plan or a program for utilization of the \$250,000 for commission's review. Is the next reporting period which is in March of next year, is that sufficient time or did you want something like next month? Because the reporting is in March.

Mr. Hedani: Commissioners?

Mr. Starr: I would say end of the year.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, end of the year.

Mr. Hedani: Do the other commissioners concur? Commissioner Mardfin.

Mr. Mardfin: We only have two more meetings I think in this year.

Ms. Hiraga: Yeah I know that's why it might be difficult.

Mr. Mardfin: Yeah, I would be more lenient than that myself.

Mr. Starr: How about as soon as practicable?

Ms. Hiraga: Okay, yeah we will target before March because that's when the next reporting is due anyway and maybe we can either as a separate item or include it in the annual – might be a separate item in response to commission.

Mr. Hedani: It's your opinion that they're not going bankrupt between now and March Gwen?

Ms. Hiraga: I don't think so.

Mr. Hedani: Commissioner Sablas.

Ms. Sablas: I'm a member of the Lahaina Bypass Now, a nonpaid volunteer and I'm on that committee because I am for mitigating traffic issues and I appreciate the signalization because as a commuter it made a huge difference in hundreds of commuters lives going there. I would like to recommend and I know Intrawest has been to the meetings that maybe we work with this group because it is a group of volunteers that are very dedicated to address a lot of the Lahaina traffic issues and all of us are nonpaid and we are there to serve the community. So if I could make a recommendation that maybe you come to the meeting and let the committee know that there are funds available and would it fit in with some of the needs that the organization needs to address the traffic.

Ms. Hiraga: We'll do that.

Ms. Sablas: Thank you.

Mr. Hedani: Okay, the commission acknowledges receipt of the reports for Item 1 and 2. Can we move on? Are there any other questions for the applicant? Just for the commission's information, and this is just my opinion, what you see on the board there was a process that occurred as a part of an SMA permit application that came before the commission, there was intervention and there was a settlement that was reached by two independent private parties, Intrawest on the one side and the intervenor, well, several intervenors on the other side. The bottom line that you see on your grand totals of \$6,382,379 in my opinion was an amount that was extorted from the applicant of the project by the intervenors in order to provide community benefits and it was a private agreement

reached between two independent parties which is why the commission did not want to be a party to the settlement agreement. It was something that happened between two parties and they agreed. There's no SMA permit process that requires payment of \$6 million in order to secure an SMA permit and that was when the commission stepped away from the agreement and made its own independent judgement on the permit itself. That's just my personal opinion and that's why the \$100,000 going to WMPA always stick in my craw because there's no conditions attached to that. It was like a reward for extortion or extortionate actions on behalf of the community. Commissioner Mardfin.

Mr. Mardfin: I wasn't a part of this and I wasn't here at the time that it happened but extortion is a very harsh word and it seems to me just from what you guys have said, I'm inferring and you can tell me if I have a misapprehension that it sounds like some people intervened, you can call it extortion but they came to a mutually acceptable agreement therefore, I don't think extortion is the proper word. The commission had nothing to do with this directly and there's a public benefit. I would just say it smoothed the waters for them. It was a cost of doing business they were prepared to pay and so I prefer you didn't use the word extortion unless I'm missing something.

Mr. Hiranaga: Mr. Chair.

Mr. Hedani: That's just an opinion. Commissioner Hiranaga.

Mr. Hiranaga: We have a full agenda today can we proceed through the agenda versus having a commentary?

Mr. Hedani: Clayton, maybe we can move onto Item 3.

Mr. Yoshida: Yes, Item 3 is a request from Anthony Plitt of Intrawest for a Step 3 Planned Development Approval and Special Management Area Use Permit for the North Park "B" project consisting of 29 parking stalls, two barbecue grills, four picnic tables, landscaping and irrigation at Honokowai, Island of Maui and Joe Prutch is the planner.

- 3. MR. ANTHONY PLITT of INTRAWEST requesting a Step 3 Planned Development Approval and the Special Management Area Use Permit (previously bifurcated out of the rest of the Honua Kai SMA) for the North Park "B" project consisting of twenty-nine (29) parking stalls, two (2) barbecue grills, four (4) picnic tables, landscaping, and irrigation at TMK: 4-2-001: 010 (por.) and 4-4-001: 008 (por.), Honokowai, Lahaina, Island of Maui. (PD3 2009/0003)(SM1 2004/0017) (J. Prutch) (Matter was previously on the October 27, 2009 agenda.)**

Mr. Joe Prutch: Good morning again. You're going to be seeing a lot of me today. This project is Honua Kai. This is the North Park "B" section of the project site. It's a PD3 for the park –

Mr. Hedani: Joe can you use the mike please?

Mr. Prutch: ...(inaudible - changing of tape)... and the SM1 was approved back in 2005 at that time, let me see if I have some – when the PD Step 2 was approved in February of 2005, the SMA approved – well, the PD2 was approved for the entire site including North Park Beach. At that time, the SMA could not be approved for the North Beach Park section of it because there needed to be some land exchanges with the neighboring property which was the Nunes property to realign the park into its current configuration. So at that time they bifurcated the North Park out, the commission did, approved the rest of the project with the instructions that when the land entitlements are done the project comes back before you for approval of that section of the SMA that was left bifurcated the first time.

So since that time, construction gone on, development occurred over there and the land entitlements were approved in August 2008 by the Council. It was basically an exchange between Nunes property and the Honua Kai property to realign it. What it did is it amended the district boundaries but it also amended the community plan to park to make it concurrent with the proposal and it also did a zoning change to PK2 for the park.

The park itself is the mauka side of the North Park. North Park stretches from inland where this North Park B is along the roadway down to the shoreline. So the North Park A was already part of the development of the overall project whereas North Park B is the future development they're trying to work on now.

Mr. Starr: Can you show us on the?

Mr. Prutch: Sorry about that. The Lot 4 of course is the Honua Kai project on the left there. The North Park B is the dark green on the left side and towards the ocean there. You can see where I wrote North Park B over there on the left side that little rectangular piece that's the piece that was realigned to make it currently with – a rectangle for proper use. The north part of that in the white along Lower Honoapiilani Highway that is the Nunes parcel that Mr. Nunes now has for future commercial development or business development at whatever time he comes forward to do that. So what we're looking at right now is that North Park B which is a continuation of the entire Honua Kai project.

The park itself, hopefully you can see this, I'm sorry, the park itself is going to have parking spaces for I believe it's 29, 29 parking stalls. They'll have two barbecue grills, they'll have four picnic tables. It's essentially a large grass field with some raised berms and trees for screening and it will be privately held by the Honua Kai but it will be used for public. So it will be available for public use.

This is just a close-up of the park itself showing some of the landscaping trees in the parking lot and the landscaping trees around the park itself. Staff's recommending approval on this. The PD3 and the second half essentially of the SMA approval. I think I'll go into the recommendation report later. You want to go ahead and discuss the item first.

Mr. Hedani: Any questions for Joe? Commissioner Starr.

Mr. Starr: Okay, after this what open sections of the project district process are still out there?

Mr. Prutch: After this the SMA will be final, the PD3 for everything is final. They still have – well, the next application is an off-site parking permit for the 140 parking spaces they need. That will be next project and then I believe they're working on a temporary parking lot for a fix until the townhomes are built and then eventually the townhomes are the next phase of the project I believe. But Anthony Plitt is here if you want a little detail on where the project's going and where it's at. He can provide that. Anthony.

Mr. Anthony Plitt: Hi, Anthony Plitt with IntraWest ... (inaudible)... To answer your question at this time after today's meeting we will have our PD Step 3 approvals for the entire project. The balance of construction that's left is – is there a microphone I can use? So the Phase 1 was the south tower which is complete and was opened in January 2009. The restaurant will be completed by the end of the year. The north tower we hope to have completed by the end of the year. North Park A which is the entry road and the parking along here as well as the comfort station and barbecues and picnic tables was opened concurrently with the south tower. We are hoping to get this park approved. That's the item right now before you. We hope to have that approved so that we can open it hopefully by the end of the year. And then what we'll have remaining is the Luana Townhomes which are 72 four-plex townhomes. I'm sorry 72 townhomes built in 16, 4-plexes and those will be, just because the market we're not pursuing them. They currently are in building permit, we're still actively pursuing the building permits but we hope to build those you know, probably within the next two years. In the interim we will be grassing this entire area so that it looks like a completed resort. We're just turning it into a kind of infill park in the interim. And our parking is sufficient with the exception of the next item which is the off-site parking for this what Starwood is responsible for on the neighboring property. Is that sufficient?

Mr. Hedani: Additional questions? Commissioner Starr.

Mr. Starr: So basically these two items are the last process that you need to go through for entitlement before the commission?

Mr. Plitt: Correct. The reason you'll see us again will be for annual reporting on the expenditure funds as we meet them.

Mr. Hedani: Any additional questions for Mr. Plitt? Thank you. Joe.

Mr. Prutch: Okay, I'd like to make a recommendation –

Mr. Hedani: Joe, before you go ahead and do that maybe we can take public testimony on this item. Are there any members of the public that would like to offer testimony on this item? Seeing none public hearing is closed. Joe, recommendation.

Mr. Prutch: Okay, pursuant to the foregoing the Maui Planning Department recommends approval of the second half of the Special Management Area Use Permit which is SM1 2004/0017 subject to the following conditions and essentially there are four conditions listed there, general conditions. One of them is to have the construction initiated by October 31, 2010 and then of course, approval of the Planned Development Step 3, approval of the construction drawings. There are no conditions for that. So you're basically accepting the drawings. Recommend approval of the Step

3 Planned Development. That's our recommendation.

Mr. Hedani: Commissioners? Commissioner U'u.

Mr. U'u: Motion to approve.

Mr. Hedani: Is there a second? There's a motion by Commissioner U'u is there a second?

Mr. Shibuya: Second.

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

Mr. Hopper: Just a note, if you want to incorporate the staff recommendations which has a few conditions, I think you'd want to put that.

Mr. U'u: Motion to include staff recommendation.

Mr. Hedani: That was a motion to approve the staff recommendations.

Mr. Prutch: Which is approval of the PD3 as the construction drawings for the landscape for the park and approval of the second half of the SM1 with four conditions as stated in the recommendation report.

Mr. Hedani: Any discussion? Ready for the question? All those in favor signify by saying aye. Opposed nay.

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

**VOTED: To Approve the Step 3 Planned Development Approval and the Special Management Area Use Permit for the North Park "B" Project as Recommended with Conditions.
(Assenting - B. U'u, W. Shibuya, K. Hiranaga, W. Mardfin, L. Sablas, J. Starr)
(Excused - D. Domingo)**

Mr. Hedani: Carried. Thank you.

Mr. Yoshida: Our forth item under Communications is a request from Anthony Plitt of Intrawest for an Off-Site Parking Approval of parking on TMK 4-4-014: portion of parcel 005 to help meet the parking for the Honua Kai project on TMK 4-4-014: 006 at Kaanaapali, Island of Maui. Staff planner is Joe Prutch.

4. MR. ANTHONY PLITT of INTRAWEST requesting an Off-Site Parking Approval for the parking on TMK: 4-4-014: 005 (portion) to help meet the parking for the Honua Kai Project on TMK: 4-4-014: 006, Kaanapali, Lahaina, Island of Maui.

(OSP 2009/0002) (J. Prutch) (Matter was previously on the October 27, 2009 agenda.)

Mr. Joe Prutch: Okay, good morning again.

Mr. Hedani: Long time no see.

Mr. Prutch: Okay, now we move onto the Honua Kai development for request for an off-site parking permit approval. Give you a little description of what they're proposing here. The off-site parking approval would be for 140 parking stalls within a parking structure at the Starwood property which is on Lot 3 adjacent to the Honua Kai project. It's definitely well within 400 feet of Honua Kai property which is one of the requirements of an Off-Site Parking Permit Approval. It's adjacent to the property.

Initial construction of the structure, of the parking structure has begun but I believe they have done in the meantime. They expect the date of completion they're saying is late 2010. Honua Kai plans to use this 140 stalls essentially for their employees and for valet parking use. There's plenty of parking underneath the enclaves themselves for guests and restaurant users.

Once again the location map here, Lot 4 of course is the Honua Kai development. Actually you can look at their drawings, their aerials help a lot better. You can see like Anthony mentioned there's the south enclave and the north enclave being constructed. There is a surface parking lot just directly above the south enclave that is in use now. The parking structure is that kind of tan colored rectangle up against the highway that is under construction or there has been some construction I believe...(inaudible)... foundation's poured. So the, essentially I believe the lower level would be used for Honua Kai's development and this is an agreement between Starwood and Honua Kai for these 140 parking stalls. There's an aerial view as well as he had to show you the location of the parking structure. Some more photos of the site, showing the location. They've got huge drawings there for you to look at so I'll guess I'll pass that.

The applicant of course is here to discuss this if any question you have. I believe I'll leave the recommendations till later. Any questions for myself or the applicants?

Mr. Hedani: Mr. Plitt did you have anything that you wanted to offer?

Mr. Anthony Plitt: Just wanted to mention because as mentioned previously there are a lot of you that are new to this. At the time of SMA for our project the 140 stalls were always contemplated to not be on our property and they were always on Lot 3. And then also as many of you have been here for the Lot 3 settlement SMA, sorry, the 140 stalls for us were also included in their SMA approval knowing, they always known that we were going to have a 140 on that third site.

Mr. Hedani: Ownership of the property is?

Mr. Plitt: Is Starwood.

Mr. Hedani: Is Starwood.

Mr. Plitt: Correct.

Mr. Hedani: Okay, and an agreement has been reached with Starwood?

Mr. Plitt: That's correct.

Mr. Hedani: Any questions for Mr. Plitt? Commissioner Hiranaga.

Mr. Hiranaga: Actually it's not a question for Mr. Plitt, it's more for Joe, the planner. You know, we just granted an SMA permit for the Grand Wailea and we have the Renaissance coming back to us later in the day so I'm just wondering in this staff recommendation under analysis on page 3, it says "a ZAED plan check parking analysis determined that 967 parking stalls are required to meet the guidelines of Maui County Code Section 19.36A." So I'm just wondering if there is consistency between this number or this analysis that was done for the Grand Wailea and also what's being done for the Renaissance? Just curious.

Mr. Prutch: I think definitely let Gwen respond since she's been pretty familiar with all the parking analysis for all the different resorts.

Mr. Hedani: Gwen Hiraga.

Ms. Gwen Hiraga: Gwen Hiraga. Commissioner Hiranaga just to clarify is your question regarding beach parking or overall parking?

Mr. Hiranaga: Actually more specifically beach parking which I guess is not referenced here but yeah more specifically beach parking.

Ms. Hiraga: And you know we were in attendance at the last commission meeting when the subject matter came up and the analysis that the department had prepared that they used for both the Grand Wailea application as well as the Renaissance application we did review it. Kaanapali North Beach Lots 1 through 4, they are providing a total of 300 beach, a little over 300 beach parking stalls. So for Intrawest just Lot 4, their ratio – well, the total ratio I'm sorry, the total ratio and I know you had some concern about this is .154 stalls per unit or 3.6 new stalls per acre. And we listened to what you had to say in terms of a percentage of total units it comes out to 10.5 percent. You were looking at like a percentage of the number of units right?

Mr. Hiranaga: Not units more stalls.

Ms. Hiraga: Yeah stalls.

Mr. Hiranaga: So 10% approximately.

Ms. Hiraga: 10% yes.

Mr. Hiranaga: Okay, thank you.

Mr. Hedani: Any additional questions? Commissioner Hiranaga? Joe. Are there any members of the public that would like to offer testimony on this item? Seeing none, public testimony is closed. Staff recommendation.

Mr. Prutch: Yes thank you. Pursuant to the foregoing the Maui Planning Department is recommending approval of the applicant's off-site parking request subject to the four conditions that are listed in your staff report recommendation.

Mr. Hedani: Joe, if you don't use the microphone you're going to come out inaudible you know on Carolyn's tapes.

Mr. Prutch: All right. Pursuant to foregoing the Maui Planning Department recommends approval of the applicant's off-site parking request subject to those four conditions that are listed in your recommendation report. You can hear that?

Mr. Hedani: Got it. Commissioner U'u.

Mr. U'u: Motion to approve applicant's off-street parking request subject to four conditions.

Mr. Hedani: As recommended.

Mr. U'u: As recommended.

Mr. Hedani: Motion by Commissioner U'u. Is there a second?

Ms. Sablas: Second.

Mr. Hedani: Seconded by Commissioner Sablas. Discussion? Ready for the question? All those in favor signify by saying aye. Oppose nay.

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

**VOTED: To Approve the Off-Site Parking Approval for Parking on TMK: 4-4-014: 005(por.), as Recommended with Conditions.
(Assenting - B. U'u, L. Sablas, K. Hiranaga, W. Mardfin, W. Shibuya, J. Starr)
(Excused - D. Domingo)**

Mr. Hedani: Carried. Thank you.

Ms. Hiraga: Thank you.

Mr. Yoshida: The fifth item under Communications is a request from Paul Hanada of Hanada and Son, Inc. dba Aloha Shell Service requesting an after-the-fact special accessory use approval to operate a recycling redemption center at the Aloha Shell Service Station in the B-2 Community

Business District at 110 Puunene Avenue, Kahului, Island of Maui. Staff planner is Jim Buika.

5. MR. PAUL HANADA of HANADA & SON, INC. dba ALOHA SHELL SERVICE requesting an after-the-fact Special Accessory Use Approval to operate a recycling redemption center at the Aloha Shell Service Station in the B-2 Community Business District at 110 Puunene Avenue, TMK: 3-7-013: 010, Kahului, Island of Maui. (ACC 2008/0002) (J. Buika)

Mr. Jim Buika: Good morning Chairman Hedani and Commissioners. My name is Jim Buika, Planner with the Planning Department. The purpose of this agenda item is for the Maui Planning Commission to review and approve the County Special Accessory Use Approval permit application for the existing and operating HI-5 redemption center with six reverse vending machines and a scale located at the Aloha Shell Service gas station at the corner of Puunene Avenue and Kamehameha Avenue in Kahului.

The project is not in the special management area. The application is an after-the-fact permit application since the HI-5 redemption center is currently in operation. The applicant, Mr. Paul Hanada of Aloha Shell Service is here with me today if you have any questions about the project or the operation.

In the interest of time and today's long agenda I will not provide a slide presentation on the project. However, the applicant has provided I think a very nice photo collage of the subject property and the proposed action. Photo 16 and I believe Photo 3 shows the scale and the reverse vending machines for your interest. With the Chair's permission I would like to first provide you with the project description followed by the department's analysis and then at that point the department and Mr. Hanada can answer your questions. Following all the questions, the department will provide the commission with a recommendation for approval. Is that okay with you?

Mr. Hedani: Please proceed.

Mr. Buika: Okay, thank you. Regarding the project description, Exhibit 4 is a series of photographs of the property and the HI-5 redemption center. The project is located at the Aloha Shell Service Station at Puunene and Kamehameha Avenue on lot size of 12,250 square feet. There are four gas pumps, two service bays, a small convenience store and an automated carwash behind the store. There's a large sideyard parking area and also the entire lot is paved.

The HI-5 redemption center is a series of six reverse vending machines measuring 50 feet long, 10 feet wide by 10 feet high placed against the carwash wall and protected by a temporary structure to cover the sensitive computerized equipment including reverse vending machines and a scale. The frame to hold the canvas cover is made of 2-inch galvanized steel schedule 40 pipe and securely concreted into the ground and bolted to the concrete wall of the carwash. Thus the project before you is not a large scale recycling business but rather a small scale redemption center. Approximately 200 storage bins made of high density plastic are used for the recycling process. The bins are collapsible and stackable to maximize use of space. The project uses one flatbed tow truck to transport full storage bins to Aloha Recycling located on Amala Street off Hobron near Kanaha. They are transported once 16 bins are full. Storage of the product in bins only occurs

when waiting to accumulate the full truck load or when Aloha Recycling is closed keeping storage of the product on site at a minimum. The reverse vending machine operation is open 24/7 and the project also recycles discarded automotive and light truck parts and non HI-5 steel and aluminum containers to minimize the amount of trash. These products are taken to Kitagawa Recycling on Alamaha Street in Kahului.

Regarding the department's analysis the applicant – the applicable regulations are the B-2 Community Business zoning code of the Maui County Code that allows businesses similar in nature to be permitted as long as they provide a community service and are not detrimental to the community or the environment. Specifically Section 20 of the B-2 permitted uses, Item 66 applies which is "any other retail businesses or commercial enterprises which are similar in character of rendering sales of commodities or performance of services to the community and not detrimental to the welfare of the surrounding area provided however that such uses shall be approved by the commission." Land use is consistent. State land use Urban, Community plan Business Commercial, County zoning is B-2 Community Business District.

The required health permits are in place from the State and are current. There is both a Department of Health permit issued for their HI-5 redemption center and a Solid Waste Permit number there, Exhibit 6 in your packet.

The surrounding uses are the Kahului Post Office and the Kahului Credit Union which are similar with traffic in and out. Existing services and infrastructure are in place. Parking is adequate. Regarding agency comments on the Department of Water had any comments, minor comments. Department of Health, Maui had no comments, Environmental Management, Public Works, Fire and Public Safety and Police were also solicited, no comments.

Currently the issue is the Maui County Code has not been rewritten to include our new recycling activities and businesses so this Special County Use Approval permit can allow HI-5 redemption centers in the community business district such as the Aloha Shell Recycling.

Finally, no testimony for or against the project has been received as of today. And from periodic site visits by this planner, the project site remains neat, clean and a very efficient operation.

At this time, the department and applicant, Paul Hanada can answer any questions you may have on the project.

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

Mr. Mardfin: Jim, as I understand this, this is basically necessary because this new technology wasn't specified when the law was written is that correct?

Mr. Buika: Correct.

Mr. Mardfin: Does this mean that all reverse vending machines in Maui County will have to come before us for similar special accessory use permits?

Mr. Buika: Yes.

Mr. Mardfin: Anyway we can short-circuit that?

Mr. Buika: Well, I think we are. Clayton can probably provide some insight but I think Joe Alueta with the Planning Department is writing these types of revisions to the code so that it will be a permitted use within the B-2, M-1, M-2 Districts. So this is just a short order type of operation or in front of the Maui Planning Commission.

Mr. Hedani: Clayton you want to offer some comments then?

Mr. Yoshida: Yes, we'll be starting with the business districts on December 9th, public hearing regarding revisions of the various uses in the business districts, B-1, B-2, B-3, B-CT, BR.

Mr. Hedani: And this will be included?

Mr. Yoshida: I believe it could be addressed in that context.

Mr. Mardfin: I wish you would because I mean I know we have one in Hana and it's not a problem but I don't want – I would hate to see 18 of these come before us over the next couple of months.

Mr. Hedani: That was my question Jim. What prompted this whole thing?

Mr. Buika: I believe an inspection and a requirement for complying with county code. Getting comments, etc.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Is the applicant available for questions?

Mr. Buika: Yes, Mr. Paul Hanada is here.

Mr. Mardfin: Hi Mr. Hanada. I wanted to ask, the one that I watch in Hana seems to take a lot of maintenance, things get jammed in there and have that been your experience that you always have to be there to untangle things, reset it, clean things out?

Mr. Hanada: Where is this?

Mr. Mardfin: Well, I'm asking about your operation.

Mr. Hanada: My operation. A machine is a machine and like any other machine you need to –

Mr. Hedani: Paul you have to speak into the mike. Thanks.

Mr. Hanada: And you have to maintain the machine for whatever reason. But we always have a person there that can help the consumer.

Mr. Mardfin: Oh, you keep a person out there?

Mr. Hanada: Yes.

Mr. Mardfin: Oh.

Mr. Hanada: Well, the machines are available 24 hours a day and my cashier and everybody that works there are trained to help customers whenever the machine gives them problems. But I do have six of them so if one gives a problem they can always jump to the next.

Mr. Mardfin: And do you get a lot of jams in it?

Mr. Hanada: Not really.

Mr. Mardfin: It only works if they have the labels all on, right?

Mr. Hanada: Correct.

Mr. Mardfin: And if it's not smashed or anything like that.

Mr. Hanada: Correct. There's a scanner in there that scans for the UPC code and there's a data base that it will access and if it recognizes the UPC code it will accept it and it will process it and it will keep track of how many containers they have. If its not in there it will get rejected. If it is a legitimate HI-5 container they can take to an attendant that there's or to the cashier.

Mr. Mardfin: Thank you very much. I think these things are wonderful ideas. Great technology and I applaud you and other people for using them.

Mr. Hanada: thank you.

Mr. Hedani: Any additional questions for the applicant? Jim.

Mr. Buika: The department's recommendation –

Mr. Hedani: You want to do public hearing first.

Mr. Buika: It doesn't require public hearing, but it's your purview. I don't believe it's a public hearing item.

Mr. Yoshida: It's subject to the Sunshine Laws.

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.

Mr. Buika: Thank you. Conclusions of law, other uses not identified as permitted uses within the B-2 Community Business District are reviewed pursuant to Maui County Code, Chapter 19.18 B-2

Business Community District Section 20, Permitted Uses, Item 66. The department finds that the HI-5 redemption center is a compatible use in the B-2 Community Business District.

Recommendation. The department finds that this small scale HI-5 redemption center business does provide a service the community needs and is small enough in size to not be associated with an industrial district and meets the intended uses under the B-2 Community Business District and does recommend approval for the after-the-fact County Special Accessory Use permit. In consideration of the foregoing the Planning Department recommends that the Maui Planning Department grant the Special Accessory Use Approval permit subject to five standard conditions and one project specific condition that low flow fixtures and devices be utilized according to Maui County Code, 16.20A.680 and that the applicant will maintain fixtures and the accessories requested by the Department of Water Supply. In consideration of the foregoing the Planning Department recommends that the Planning Commission adopt the Planning Department's report and recommendations memorandum prepared for the November 10, 2009 meeting and authorize the Director of Planning to transmit said findings of fact, conclusions of law and decision of order on behalf of the Maui Planning Commission.

Mr. Hedani: Commissioners? Commissioner Mardfin.

Mr. Mardfin: I move the adoption of the recommendations of the report and recommendations including the standard conditions for approval.

Mr. Hedani: Moved by Commissioner Mardfin. Is there a second?

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. Mardfin, seconded by Mr. Shibuya, then

**VOTED: To Approve the Special Accessory Use Approval as Recommended.
(Assenting - W. Mardfin, W. Shibuya, K. Hiranaga, B. U'u, L. Sablas,
J. Starr)
(Excused - D. Domingo)**

Mr. Hedani: Carried. Thank you.

Mr. Buika: Thank you very much.

Mr. Hedani: Thank you Paul for going through the gyration. Why don't we take a five-minute recess?

A recess was called at 10:25 a.m., and the meeting was reconvened at 10:35 a.m.

Mr. Hedani: ...will come back into session. Clayton.

Mr. Yoshida: Yes, thank you Mr. Chairman. The first public hearing item is a request by Michael Yasak and Christine Yasak Namauu for a State Land Use Commission Special Use Permit to operate the Kekihapai Bed and Breakfast, a three-bedroom bed and breakfast home in the State Agricultural District at 44 Pea Place, TMK 2-3-060: 030, Kula, Island of Maui. The staff planner is Joe Prutch.

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

- 1. MR. MICHAEL G. YASAK and MS. CHRISTINE H. YASAK NAMAUU requesting a State Land Use Commission Special Use Permit to operate the Kekihapai Bed and Breakfast, a three (3)-bedroom bed and breakfast home in the State Agricultural District at 44 Pea Place, TMK: 2-3-060: 030, Kula, Island of Maui. (SUP2 2009/0006) (J. Prutch)**

Mr. Joe Prutch: Good morning Chair and Commissioners, welcome back. I think we can here this. Anyways before we get started with Kekihapai just want to kind of give you a little background of where we are with the B&Bs just kind of a brief summary. As of October 1st this is official from our County's website, and I want to point out the main two that I have two here today and I believe I think Gina has the same two locations. In the Makawao-Pukalani-Kula ...(inaudible)... is proposed. There's only one approved bed and breakfast so far up in that community plan out of 40. So we're nowhere near the limits on that one. Paia-Haiku Community Plan from this I can see we're up to about 15 it looks like, there may be one or two more that have come on since October 1st but we're somewhere around 15, 16. That's out of 88. So we're still way, way under the limits as far as those two community plan districts. So I just wanted to bring that up.

Now on the Kekihapai Bed and Breakfast. This is a Land Use Commission Special Use Permit application. Let me give you some background information. Obviously in January 2009 you know that county adopted a new B&B ordinance that allowed or that permitted B&B within the Agricultural District with approval of course, a Land Use Commission Special Use Permit. The applicant applied for both these permits on February 12, 2009. Before you today is a Land Use Commission Special Use Permit for a B&B on ag property. The B&B permit itself will be handled administratively.

A little project description this is a three-bedroom bed and breakfast use. All three of the rooms are in the second farm dwelling on Pulehu Road. The applicant lives or does live in the main farm dwelling which is actually on Pea Drive. There is a large gulch that bisects the property and separates the two buildings.

They did have a farm plan approved back in February 9, 2009. It designates 60% of the property in ag use. They've got 30% in native plants mostly in the gulch. They've got 25% in plumeria trees and 5% in various flowering trees and they use it for lei flowers.

Here's the location map showing the dark black is the project site, 44 Pea Place. Even though the bed and breakfast itself is on the south side of that property and actually front Pulehu Road. There is pending B&B kind of kitty-corner there for the Edith Blas I believe it's called. That's one in the

beginning stages I think it's in the agency transmittal stages.

Here's a site plan showing the property. You can see the big, I think it's Hapapa Gulch running down the, bisecting the property. So on the upper portion of that property is the proposed bed and breakfast. It's a three-bedroom, second farm dwelling with plumeria trees essentially in that area to the right above the gulch and to the right of the home. The bottom half is off of Pea Road or Pea Place. That's the other residence. There is flowering plants also on that side of the gulch as well.

And to give you some written testimony, I handed you – I'm sorry, this is a written testimony I have for this project. There are five letters I've got in support of the project as you can see in the green there including one directly across the street or directly behind the property. And there is one letter of opposition couple doors down. Those are all within the 500 feet of the property.

Here's some farm photos showing the plumeria trees that are grown on the site and are used for the lei flower making that Kili does. The bottom is the plumeria with the bed and breakfast in the background. There's a few more photos of the actual B&B home itself. There's a large lanai deck there. The three-bedroom house and you can see on the bottom photo there's a two-car carport and there's enough room for two cars in front of the carport. So they've got four parking spaces for a three-bedroom bed and breakfast so they're adequate on that. And one of the conditions that came up or one of the transmittals was from the Public Works Department was you can see on the bottom photo this picture was taken beforehand there is that wire fence and some of that rock kind of little short rock wall there that was actually found to be in the right of way for Pulehu Road but that's all been removed. Some of the photos show it, I'm sorry I didn't show that one and Michael can testify to that, but they've handled all their transmittal requests. We've only got one letter in opposition and that one letter in opposition was more of a generalized just disagreement with bed and breakfasts and community plan. Nothing real specific to their operation themselves or to them. And the applicants are here, I've got Kili Namauu. She's here, the property owner and her representative Georgie is also here to help answer some questions if it need be. Mahalo.

Mr. Hedani: Questions for Joe. Commissioner Starr.

Mr. Starr: Yeah, this is for the applicant. The logic behind wanting the applicant to live in on site is so that they can control, ...(inaudible)... keep it under control. This looks like a really nice place. My one concern is from the house which is accessed kind of from behind is it possible for you to kind of keep tabs on what's going on in the B&B and can you walk across the gulch or is the gulch ...(inaudible)...

Ms. Georgie Rocha: The gulch is not accessible, however, the gulch echos any noise both ways from the cottage to the other side of the property and vasa versa. For instance, about a month ago we had the Molokai volleyball girls staying there, the entire team with their coaches and a couple of parents and as they are on the deck, you know, they know that we can hear any type of conversation. So we can definitely monitor you know, any type of noise if any. Normally we have maybe two or three people that will be staying there not a whole volleyball team. But we definitely can monitor the noise and the activity that goes on across there.

Mr. Starr: Oh okay. So if it gets rowdy you'll know about it.

Ms. Rocha: Oh you can see it, we can see it. It's very visible as well as audible.

Mr. Hedani: Christine can you just state your name for the record please? I'm sorry, could you identify yourself for the record?

Ms. Rocha: My name is Georgiana Rocha. I was the agent for the application.

Mr. Hedani: Okay, any other questions? Commissioner Mardfin.

Mr. Mardfin: I have a number of questions that I often ask some of it is in your report, some of it isn't. It looks like this was purchased in 1985?

Ms. Rocha: Yes, that's correct.

Mr. Mardfin: And were both houses built before that or?

Ms. Rocha: The bed and breakfast dwelling was the first and the family lived in there prior to building the main dwelling that they're in now.

Mr. Mardfin: And when did they build that?

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

Ms. Christine Namauu: Hi, I'm Christine Namauu but most people know me as Kili. So Kili Namauu and I am the owner of the property. The main dwelling where my family resides in was built in 1990-91.

Mr. Mardfin: Thank you. Have you been operating as a B&B?

Ms. Namauu: I have in the past. I had – for the longest time that particular house was used as a long term rental and then I went into – then I just started to do short term rentals. So I was doing some short term rentals but I did stop operating once the Mayor had some – had those concerns and they wanted all the operations to stop. So I have not been operating for about two years. However, I've had people stay there and I've accommodated friends and family along the way, for the last couple of years.

Mr. Mardfin: Okay, thank you, you answered the next question I was going to ask.

Mr. Hedani: Any additional questions? Commissioner Mardfin.

Mr. Mardfin: It isn't in here because you're asking for an SUP and if the SUP is granted then you'll go in for the B&B permit and they'll tell you some other things but I want to raise some issues with you right now. You currently get a home tax exemption?

Ms. Namauu: Correct, and I'm giving that up.

Mr. Mardfin: Okay, just wanted to make sure you knew that. You're providing breakfast?

Ms. Namauu: Yes, I provide the breakfast foods. I don't actually cook it, but I provide breakfast foods for them to use at their will.

Mr. Mardfin: And you're going to have house rules posted I take it?

Ms. Namauu: Definitely.

Mr. Mardfin: Okay, thank you.

Mr. Hedani: Any additional questions? Joe.

Mr. Prutch: Public testimony?

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. Prutch: The Maui Planning Department is recommending approval of this Land Use Commission Special Use Permit to the Maui Planning Commission subject to the seven, sorry, six standard conditions of approval. Giving the number one condition, giving the applicant a three-year time period to operate until November 30, 2012 and then subject to coming in for renewals at that time.

Mr. Hedani: Commissioners? Commissioner U'u.

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

Mr. Hedani: Motion by Commissioner U'u to approve. Seconded by Commissioner Sablas. Discussion? 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 State Land Use Commission Special Use Permit as Recommended with Conditions.
(Assenting - B. U'u, L. Sablas, K. Hiranaga, W. Mardfin, J. Starr)
(Dissenting - W. Shibuya)
(Excused - D. Domingo)**

Mr. Hedani: One nay. Motion is carried. Thank you. Clayton next item.

Mr. Yoshida: Our second public hearing item is a request from Ron Serle and Sherry Serle for State Land Use Commission Special Use Permit in order to operate the Aloha Cottage Bed and Breakfast, one-bedroom bed and breakfast home in the State Agricultural District at 1875 Olinda Road, TMK 2-4-019: 014, Makawao, Island of Maui. Staff planner is Gina Flammer.

2. RON SERLE and SHERRY SERLE requesting a State Land Use Commission Special Use Permit in order to operate the Aloha Cottage Bed and Breakfast, a one-bedroom bed and breakfast home in the State Agricultural District at 1875 Olinda Road, TMK: 2-4-019: 014, Makawao, Island of Maui. (SUP2 2001/0010) (G. Flammer)

Ms. Gina Flammer: Good morning. Good morning Chair Hedani and Commissioners. The applicant today is requesting a Land Use Commission Special Use Permit to operate a one-bedroom B&B in the second farm dwelling located at 1875 Olinda Road. The applicants, Ron and Sherry Serle live in the primary farm dwelling on the property. They've also applied for a B&B permit which has met the criteria set forth in the new B&B ordinance and will be administratively approved upon your action today 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.

In your written report today the guidelines determining an unusual and reasonable use are listed and analyzed. This action does not trigger compliance with Chapter 343 HRS relating to environmental impact statements.

Briefly I'm going to provide some background information which can also be found in the written report. I'm going to start a presentation at the same time that we'll continue to talk about that.

In May of 2001 the applicant applied for a Conditional permit and Land Use Special Use permit. The TVR was allowed to operate while the permits were being processed based on previous administration policy. In October of 2007 the county issued a letter to the applicant asking them to cease operation by January 1, 2008 also asking if they wished to continue on with the application processing. The applicant replied they would like to continue having the permit processed. They did complete their farm plan during that time in 2008. In January 2009 the county adopted the new B&B ordinance. On June 29, 2009 the applicant applied for the B&B permit in lieu of the conditional permit.

The state, community plan and zoning designations are all agricultural. Regarding the surrounding uses they're also agricultural mostly with farm dwellings though there is a two-acre subdivision that is vacant right now that is adjacent.

This particular property is developed with a main farm dwelling and a second farm dwelling. The dwelling that's proposed as the B&B is a 490 square foot studio. The owners again will be living in the main farm dwelling. The farm plan has been approved in 2008. It includes land used by the commercial bamboo nursery where Mr. Stringer this morning talked about that. I've also placed a

letter on your desk from a local architect who's also hoping to use some of the bamboo as building material. The farm plan also includes orchards and kupukupu ferns which the applicant sells locally.

This is to show you a map, I'm not sure how many of you are real familiar with the Olinda area. You start at the bottom that is Makawao Avenue, you take a right and come all the way up about three and a half miles up Olinda Road. This is a regional map showing where the B&Bs as Joe mentioned earlier there's only one approved in the region. If you see white arrow you'll see where the proposed B&B is. ...(inaudible - changing of tape)... it is 14 to 20 feet wide. I don't know if any of you have been recently they're doing the West Olinda tank replacement which requires some pretty heavy equipment. So I stopped on my way down after the site visit and asked them can you get the equipment, how do you get that up here? They said no problem, the road's wide enough it's not an issue for them.

This is the entrance off Olinda Road which leads onto the property. This is leading into the driveway. You can see it's a gravel driveway. This is the house again. You can see the parking area, the studio that's right there. This is the inside. There's the kitchen that's right there. I wanted to show that there's a lot of natural buffer in the area. Olinda is characterized by a lot of eucalyptus trees and this property is no exception. As you can see in the back, that's off the back deck. I know a lot of the other B&Bs that you review you know it's in a residential neighborhood with houses right there but you can see all the eucalyptus trees. It also shows that there's a gulch drop off right there.

This is a site plan of the area showing where the two dwelling are. You can see on the right there's a gulch. There's a gulch to the left of the driveway coming in and then off the back little bit up towards the right side there's also more gulch type area.

This is some nursery stock and again, you can see the big trees in the background. You can see some of the bamboo growing. That shows some of the bananas. There's the kupukupu fern. I'm not sure if any of you are familiar with that. It's a very drought resistant plant. There's more banana you can see a little bit of the bamboo, more of the trees in the area, more bamboo, some banana, more of the fern and here's some of the orchard area.

If you have any questions for myself or the applicant?

Mr. Hedani: Questions from the commission? Commissioner Starr.

Mr. Starr: Yeah, basically the same question as I had asked the previous applicant and I'd like to ask the applicant are they here. I understand the houses are fairly separate. Is possible for you to know if there's something really crazy going on in the B&B house and can you walk over and deal with it.

Ms. Sherry Serle: Yes, I'm right there. Right, very, very, very close.

Mr. Hedani: Can you identify yourself for the record please?

Ms. Serle: My legal name is Sherry but I'm called Ranjana or I'm known as Ranjana. But yes, I'm very close.

Mr. Starr: So you would be aware if there was a problem?

Ms. Serle: Totally.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: When did you purchase the property?

Ms. Serle: 12 years ago.

Mr. Mardfin: And were the building all on it at that time?

Ms. Serle: Yes. This was built in 1999. Took awhile for the construction, two years.

Mr. Mardfin: Have you been operating the B&B in the past?

Ms. Serle: Yes. In the past we did operate and we closed down in January 1, 2008.

Mr. Mardfin: There's some stuff in here particularly Exhibit 9A about internet advertising and there seems to be more than one building can you explain or can the planner explain what's going on with that?

Ms. Flammer: What had happened is the applicant owns the adjacent property. After they had ceased operation they kind of assessed what were they going to do financially. They put both properties on the market for sale and that's what was up on the website.

Mr. Mardfin: So it wasn't for rental it was for sale?

Ms. Flammer: It was for sale and they did point that out to Avelina in ZAED. We looked at it together. I'd already seen it. She had concurred but that's what it was.

Mr. Mardfin: And regarding my other questions I presume the applicant's aware that they'll give up their home property tax exemption and have to provide breakfast and have to post house rules?

Ms. Flammer: Yes, they're also aware that the tax rate hasn't been set yet.

Mr. Mardfin: Okay, thank you.

Mr. Hedani: Any additional questions? Commissioner Shibuya.

Mr. Shibuya: It's more of a comment than question. I guess the applicant understands that are hotel districts and they provide lodging for our visitors and in this particular case you're using agricultural areas to provide for a commercial operation, where the infrastructure is inadequate and

in terms of the safety for the paying customer there is not due care being provided. And in this case you have Olinda Road is a single access road, very narrow and it's bordered by very risky eucalyptus trees. During any wind storm or rain storm you have blockages. These are conditions that I find it unacceptable in terms of having paid customers no matter what who are visitors and are not familiar with the environment are being subjected to this kind of danger and I think we need to be more prudent and careful on how we administer to these bed and breakfast applications. Thank you.

Mr. Hedani: Additional questions? Commissioner Hiranaga.

Mr. Hiranaga: Gina, one of the photos shows plants in pots above ground. Someone that I know I guess is interested in applying for a B&B permit and regarding the farm plan that person was told that above ground plants in pots would not qualify as part of the farm plan requirement as far as 50%. So I'm wondering if the department has changed their position.

Ms. Flammer: I think that would be a question for our Zoning and Enforcement Administration Division that looks at the farm plan. If you look at this particular farm plan I think you'll notice the pots are not on it. It's just the plants that were considered. It's a good point though because I know a lot of nurseries they do plant in pots in rows or they do have them in pots in rows.

Mr. Hiranaga: Yeah, it seemed odd to me that you wouldn't allow it. Maybe the Senior Planning –

Ms. Flammer: You want me to follow up on that? You're asking Clayton to follow up?

Mr. Hiranaga: Maybe he has an answer for us.

Mr. Yoshida: Yes, I'm not sure regarding whether they include potted plants as part of the farm.

Mr. Hiranaga: If it's allowed.

Mr. Hedani: Any other questions for staff or the applicant?

a) Public Hearing

Mr. Hedani: Are there any members of the public that would like to offer testimony on this item? Please step to the microphone.

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

Mr. Jericho Stringer: Thanks for having me. My name is Jericho Stringer, I'm the owner of Yellow Seed Bamboo. We are a commercial nursery, bamboo nursery and we're also overall, we also support timber bamboo production here on Maui County for the use of the construction and also edible shoots. I'm here to testify on behalf of the Aloha Cottage up in Olinda and this property, I've been working with the owners for about five years now. They've purchased about 25 different cultivars of bamboo from our nursery. And being the number one producers of bamboo plants in the state shipping containers all over the state this is of interest to us because we haven't planted

bamboo at this elevation before. It's up at about 3,000 foot elevation. We're interested in testing. This has been a test project for us to figure out which species can handle an upper elevation such as that one with the amount of rainfall that they receive up there and the soil types that are present up there in Olinda. We've been propagating nursery stock from up there this entire time and we've set up a small holding facility up there with potted plants to distribute up in the area and we've been monitoring the growth of the different species and soon we'll even do, we'll be harvesting some timber some there to see if we can grow stronger timber in those type of conditions at that elevation with that rainfall. I don't know what else I can say as far as our involvement other than they've been very helpful to us in our business and for our research. Is there any questions from any of you?

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, are you proposing to grow bamboo on the property that the applicant has?

Mr. Stringer: Grow bamboo on the property?

Mr. Starr: Yeah.

Mr. Stringer: Well, there's already a lot of bamboo planted there throughout the whole property..(inaudible)...

Mr. Starr: You've been harvesting it?

Mr. Stringer: Not yet. It's not old enough to harvest. We've been using it for propagation stock now in the young stage.

Mr. Starr: Okay, so in other words you are doing – raising bamboo on that property?

Mr. Stringer: Yes.

Mr. Starr: Great.

Mr. Stringer: Yeah, for shoots and timber, but also the ornamental hedge variety is planted as well. Basically it's a research situation for us as well as a practical harvest situation as well. But I do that with a lot of my clients throughout the islands. I use it as research project and people are happy oblige because it's relatively new the bamboo out here and there are no experts so it's going to take quite a while to figure out what does well where and where we can produce the strongest timber and so forth.

Mr. Starr: Thanks for doing that good work.

Mr. Stringer: Okay, thank you.

Mr. Hedani: Any other questions? Thank you very much. Sal and Erin Diaz.

Ms. Erin Diaz: Good morning my name is Erin Diaz and we are the Serle's neighbors and we're the

only neighbors up in that area and what the gentleman before me said about the bamboo, we can't see the property because the bamboo is enormous. Anyway, the Aloha Cottage is tucked away behind this lovely bamboo forest and the neighbors are wonderful and we enjoy them and that's about it.

Mr. Hedani: Thank you. Any questions from the Commission? Seeing none, thank you very much.

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

Mr. Hedani: Seeing none, public testimony is closed.

b) Action

Mr. Hedani: Staff recommendation.

Ms. Flammer: As addressed in the written 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 and analyzed in the staff report on page 11 and 12 and then listed again in the recommendations report.

The planning commission recommends that the commission approve the Land Use Commission Special Use Permit subject to six conditions which are listed in the staff report. I can quickly summarize them for you.

The permit shall be valid for a three-year period until November 30, 2012. The second condition talks extensively about enforcement provisions. The third item is the permit shall not be transferred without prior written approval of this commission. The fourth is the standard insurance requirement. And the fifth requires a compliance report at the time of renewal. The sixth is that the applicant shall develop the property in substantial compliance with the representations made to the commission.

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, conclusions of law and decision and order on behalf of the planning commission. Thank you.

Mr. Hedani: Commissioners? Commissioner Starr.

Mr. Starr: I move for approval as recommended.

Mr. Hedani: Moved by Commissioner Starr to approve as recommended. Seconded by Commissioner U'u. Discussion? Commissioner Starr.

Mr. Starr: I have a short comment to make and partially in reference to Commissioner Shibuya's comment. I recently traveled extensively in Italy in Tuscany and also in up in the Venice region and over the last few years there's been a very large proliferation of basically agricultural B&Bs which

they call agroturismo. It's become a – it's recent, it's only the last few years and it's really thriving and we stayed at a number of these small farm type B&Bs and spoke with people there and it's a real grassroots movement there. People are ecstatic that it allows them to stay on the land and it allows them to farm in ways that would be marginal without it. You know and rather than it taking away land from agriculture it's actually allowing people who have a love for the land and a love for whether they're raising grapes or olives there or you know, vegetables and fruits, it really is working. I came away feeling that this is really good trend. I don't think it will ever be on Maui the scale to take away from our resort areas, but I think that it really is something that's good that's happening and I'm glad to see the ones for people where actually doing some real ag and being empowered through the B&B process to be able to continue.

Mr. Hedani: Additional discussion? I'm sorry, members of the public I know you're enthusiastic but if you could restrain yourself. Commissioner Mardfin.

Mr. Mardfin: Commissioner Shibuya raised another issue about safety and I think it's a legitimate concern but I've been voting basically in favor of these things ...(inaudible)... it may not be perfectly safe, but I don't see a functional difference between a long term – in that regard between a long term tenant and a transient tenant. So if we wouldn't be worried about it for a long term tenant or a permanent resident I don't know why we should have additional concerns just because it's a short term tenant. So that's why I haven't been terribly concerned about that issue.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Hopefully this is an appropriate question at this point in time but I was wondering if the applicant or the planner could just elaborate on the private water system, the source and type of testing, the periodic testing they do for the Department of Health.

Ms. Flammer: Are you referring to something in the staff report? It's not a private water system, it's a private septic wastewater.

Mr. Hiranaga: It's says here on page, I'm looking at the application, sorry. Never mind.

Mr. Hedani: Any additional discussion? Commissioner Shibuya.

Mr. Shibuya: In response to Commissioner Mardfin's comment. In terms of the short term visitor and tenant that person or persons would not be familiar with the idiosyncracies of each of the environmental areas. In this particular case they're not aware that the fire hydrant is 900 feet away whereas normally a pumper truck would have to go up that steep incline, very narrow road and these are little problems that can make a difference and these people need to be made aware of and unfortunately visitors don't live there and are not aware of these problems. So that's why I'm very concerned that we need to take due care in this particular, on this B&B I'm singling out because of the 900-foot distance from the fire hydrant I'm really concerned as well as the narrow road that is very vulnerable to storm damage.

Mr. Hedani: Additional discussion? Commissioner Mardfin.

Mr. Mardfin: I'd like to thank the commissioner for explaining his position. It's clearer to me now and I'm wondering if a statement or two in the house rules they could put in could at least warn, in the house rules could warn the perspective tenant about these kinds of issues and if that would help ameliorate your concerns?

Mr. Hedani: Additional discussion? Commissioner Shibuya.

Mr. Shibuya: Yes, I think it would help. However, I'm still in the zoning area and using of agricultural land for this particular purpose. We don't collect impact fees yet but I would like to see something to that effect that they contribute so that this is not a free commercial type of enterprise like the hotels they are competing with hotels provide an impact fee and it contributes to the infrastructure of Maui County. In this particular case Maui County's infrastructure is being exploited. There's a difference and so I'd like to see free enterprise, I'd like to encourage businesses but there's a time and place for these things and there's a time and place in which they operate and the conditions in which they operate so that's I'm against –

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 the State Land Use Commission Special Use Permit as Recommended with Conditions.
(Assenting - J. Starr, L. Sablas, K. Hiranaga, B. U'u, W. Mardfin)
(Dissenting- W. Shibuya)
(Excused - D. Domingo)**

Mr. Hedani: One nay, motion is carried. Thank you. Clayton.

Mr. Yoshida: Our third public hearing item is a request from Christopher Gebb and Susan Gebb for a State Land Use Commission Special Use Permit in order to operate the Windward Garden Bed and Breakfast, a three-bedroom bed and breakfast home in the State Agricultural District at 435 Hoolawa Road, TMK 2-9-001: 042, Haiku, Island of Maui. Staff planner is Joe Prutch.

3. CHRISTOPHER C. GEBB and SUSAN E. GEBB requesting a State Land Use Commission Special Use Permit in order to operate the Windward Garden Bed and Breakfast, a three(3)-bedroom bed and breakfast home in the State Agricultural District at 435 Hoolawa Road, TMK: 2-9-001: 042, Haiku, Island of Maui. (SUP2 2009/0008) (J. Prutch)

Mr. Joe Prutch: Good morning Chair and Commissioners. I believe this is my last item. The Windward Garden Bed and Breakfast Land Use Commission Special Use Permit and once again this is one where the bed and breakfast permit will be handled administratively by staff.

Some background information on this project as well, of course the January 2009 allows permitted

B&Bs in the Ag District. This one came in on January 15th as an application for a Land Use Commission Special Use Permit and a B&B Permit.

Okay, the description on this one. This one is a three-bedroom bed and breakfast. All three rooms in this one are in the main farm dwelling. There's a small second dwelling that the applicants will move into once their B&B is approved. They may live in it partially now I'm not sure of it. They will live in the second farm dwelling. They do have a farm plan approved as of March 9th, and their farm has actually been operation since 1983. They do ornamental plants, tropical flowers and orchard crops that they have on site.

Here's the location. It's on the makai side of Hana Highway across from Twin Falls basically. You get there by Ulalena Loop and then down Hoolawa Road where it meets up with another Hoolawa Road corner intersection. It's approximately a little less than two acres. It's actually about one and a half acres if I remember right.

What I wanted to show you as well, I know the question comes up about there are no B&Bs that are pending or approved within 500 feet. This is a regional map, it's kind of hard to see on your screen you might see it better in your staff report, what I wanted to show you is it's not the entire Paia-Haiku area but that circle represents one mile radius from the project site and within that one-mile radius there's not one B&B that are pending or approved. I wanted to show that regionally there's not much around it. There are it looks like four of them are approved and one pending outside of that mile radius as shown by the green and red dots on the map.

Site plan of the property, the larger building of course is the main farm dwelling, three bedrooms. This is the one that would be used from guests of the bed and breakfast. Real small building on the top is a ag shed which the applicant uses for kind of putting her flowers together as arrangements. Uses it as kind of her office so to speak. The lower building is the one-bedroom second dwelling unit that's the owner's residence and I just wanted to show that there is a fire hydrant right on the corner of the property there across the street from their site.

Here's some of the farm photos that they have. They have of course the green ti plants they use in different arrangements and for I believe they sell to some of the different hotels for some of the luaus. They have the bird nest fern which I hear are pretty rare and very large plants by the way, heliconias and then the bottom photos is a finished product of what she puts together.

Like to mention that this property is on a private water system. I'm sure that question will come up and Mr. Gebb can explain the quality of the water to you. And I've also placed a condition on the SUP similar to a condition you guys placed on Ms. Sharyn Stone's application for a Land Use Commission Special Use Permit and she was on a private water system. So I'll get to that in the recommendation. This is also on private septic and this is also off the grid.

Support letter wise, testimony wise, I didn't receive any for opposition. You did get three letters handed to you today in support that were given to me by the applicant some time last week. So you do have those letters of support. And the applicant Mr. and Mrs, Gebb, Christopher and Susan Gebb are in the audience to answer questions and I'll be happy to answer any questions of course.

Mr. Hedani: Questions for staff? Commissioner Mardfin.

Mr. Mardfin: I'd like to talk to the applicant.

Mr. Hedani: If you could pull the microphone down please?

Ms. Susan Gebb: My name is Susan Gebb.

Mr. Mardfin: Hi I think your report said you've been on it for 32 years?

Ms. Gebb: Yes.

Mr. Mardfin: So you guys bought it 32 years ago.

Ms. Gebb: More than that I believe, '77.

Mr. Mardfin: And were both building already on it?

Ms. Gebb: No.

Mr. Mardfin: When did you build them?

Ms. Gebb: One in '76 and one in '86. One in the '70's and one in the '80's.

Mr. Mardfin: And in here there was an Exhibit 8 that dealt with some problems with building permits and maybe Joe would want to help you out on this one. I'll have more for you in just a minute.

Mr. Prutch: Exhibit A is Department of Public Works and yes, they did have some – there was some building permits that were not obtained for the entire second farm dwelling built without permits back in the '80's – '70's I believe it was. They're in the process of getting building permits. They paid their actual after-the-fact fees quite a large amount actually. They paid the after-the-fact fees for those permits. They're working with the Building Department to get the permits for that. They also have the lanai, the wraparound deck basically of the bed and breakfast use that the guests would be using – that one I've heard is actually pretty close, they're waiting for sign off on the Fire Department for a water suppression system and I believe they're very close to getting that or may have actually got some of the fire suppression sign off today or ...(inaudible)... today. So they're very close to getting their permits. It could be by the end of this month that they're ...(inaudible)...

Mr. Mardfin: Joe I assume that if we approve the Special Use Permit today that the Planning Department will not issue the B&B Permit until all these problems are resolved.

Mr. Prutch: That's where I'm going. For the lanai especially that's the part that the guests will use, there's no way around it, they'll definitely use the lanai. So the B&B Permit will be held until those permits are obtained and they're getting very close and I've talked to the applicants about them and they understand that.

Mr. Mardfin: And you're going to hold it until all the permits are resolved?

Mr. Prutch: My main concern is the lanai for the bed and breakfast use because that's what the guests will be using. If their home takes a little longer to get it's not a concern of the bed and breakfast use. But that's been our policy, the bed and breakfast guests whatever they're going to use those permits need to be obtained before we can issue the permit. But they're doing both in tandem so they may get both permits at the same time, I'm not sure.

Mr. Hedani: Okay, additional questions? Commissioner Mardfin.

Mr. Mardfin: Now I'm back to Susan I think. How long have you been doing agriculture on this property?

Ms. Gebb: I have receipts going back to 2003. My books, my receipt books. And I have 10 years of 1090 and 1040's and 1099's, 10 years worth. So I've been serving the general wholesale and retail community with specialty foliage.

Mr. Mardfin: And you've been paying GET taxes on it all?

Ms. Gebb: 10 years.

Mr. Mardfin: Okay.

Mr. Hedani: Additional questions? Commissioner Starr.

Mr. Starr: From the house where you'll be living to the one that will be use for B&B, are you able to keep track noise or any other issues?

Ms. Gebb: It's pretty close on that one acre. The only thing between the main house and the guest house is my foliage and a forest of old rose apple trees, but I've planted it out pretty thoroughly so that there's privacy but there's definite security too.

Mr. Starr: So if you have noisy party there you'll know – will you be able to know it before the neighbors and deal with it that's the question.

Ms. Gebb: Yeah, we're pretty much the noise enforcers. We've had long term tenants for quite a while.

Mr. Hedani: Additional questions? Commissioner Mardfin.

Mr. Mardfin: That reminded me. Have you been operating this as a B&B before?

Ms. Gebb: No.

Mr. Mardfin: You've just had long term tenants before.

Ms. Gebb: Yes, in the cottage that we propose to move into.

Mr. Mardfin: Can I ask why you've – I mean it's more curiosity than anything else why you didn't just keep long term tenants?

Ms. Gebb: My husband's a builder and I'm a farmer and we see this as a retirement option for us. It will be a little bit easier for us. I can hire labor for my farm and I've always had labor but I've had to lay them off within the last two years because my orders have been considerably reduced. So I would always keep laborers and we are opting to move into the smaller house because it would be less work for us to maintain the smaller living – you know, we're downsizing basically.

Mr. Mardfin: But the issue is that a B&B will generate more revenue than a comparable long term rental will.

Ms. Gebb: Yes, we believe it will. We've never rented the big house though. At the most the way rents are topping out now I don't think we could get more than about \$2,000 a month.

Mr. Mardfin: On a long term.

Ms. Gebb: Long term.

Mr. Hedani: Additional questions? Commissioner Mardfin.

Mr. Mardfin: I'm more curious than anything else about this. What do you plan to charge for a short – per night?

Ms. Gebb: Well, my website is not completely done yet and we are tossing around things. The house has very big bedrooms and it's underserved in the area. My neighbors actually want this happen because they've all had to put up their family members all these years and since I'm president of the community association out there and I've done most of the upgrades including widening and resurfacing the road and bringing in the underground utilities there's a lot of enthusiasm in area for my project because I deliver and it's quality and people like what I do. So your question is how I would I do it in the future?

Mr. Mardfin: You know, you're going to have a higher vacancy rate of course and you're hoping that the higher daily rate will offset that I presume. By the way, let me add one thing before you answer that. There's a B&B in Hana about two doors down from us and we use it for our relatives all the time and I understand the point it's really nice to have one in the neighborhood to take care of guests that come in.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Quick answer is as much as the market will bear. I do have a question. Can you sort of explain your water source and if you do periodic testing?

Ms. Gebb: Yes, in fact I have a test that's two years old in hand. ...(inaudible)... numbers?

Mr. Hiranaga: No. Do you submit that to any agency for review?

Ms. Gebb: I'm sorry?

Mr. Hiranaga: Do you submit that to any governmental agency for review your report?

Ms. Gebb: ...(inaudible)... water testing. Well, basically we've had 18 people drinking this water for 25 years and nobody's ever gotten sick. So –

Mr. Hiranaga: What does that tell me, not a whole lot.

Ms. Gebb: In terms of water quality or purity or availability?

Mr. Hiranaga: I mean, people were drinking the Kula water for all those years, didn't make it a good thing.

Ms. Gebb: He'll explain, he's my husband Chris.

Mr. Chris Gebb: I'm Chris Gebb and I take care of most of the utilities. She does the farming. We did have our water tested in 8/24/07 and the total contaminants permissible was 500 under the Federal guidelines. We had less than one. We were the purest sample that the water testing agency had ever tested.

Mr. Hiranaga: I don't really need to know that.

Mr. Gebb: So we're high on the purity level and it's been by certified lab.

Mr. Hiranaga: I don't really need to know the test results. What I'm more concerned about is monitoring in case your well does go back in the future because water wells do go bad. And because you're providing a commercial activity and you're not part of the county water system I think there should be a higher burden on you to insure that your water that you're providing meets Department of Health standards.

Mr. Gebb: I would accept any conditions.

Mr. Hiranaga: Can I finish speaking please? I'm not sure if two years ago is frequent enough. I think and this may be something for the Planning Department to discuss with the Department of Water Supply what would be acceptable frequency of testing maybe annually versus you know, because wells do go bad. You know t here's filtration from agricultural activities that migrate underground and impact wells because the county has had wells go bad and they've had to shut them down. So just because you've been – you feel you're providing safe water for the past 18 years does not mean your well is going to be safe a year from now.

Mr. Gebb: I would be happy to accept any conditions that were placed on me in regards to water testing.

Mr. Hiranaga: So maybe the department can start thinking about something. Thank you

Mr. Gebb: Thank you.

Mr. Hedani: Any additional questions for staff or the applicant?

a) Public Hearing

Mr. Hedani: Are there any members of the public that would like to offer testimony on this item? Seeing none, public testimony is closed. Commissioner Starr.

Mr. Starr: Yeah, move for approval as recommended. Oh.

b) Action

Mr. Hedani: Staff recommendation.

Mr. Starr: I'm psychic.

Mr. Hedani: We've already read your recommendation Joe. Go ahead with your staff recommendation.

Mr. Prutch: The staff recommendation as Jonathan Starr alluded to is that the Planning Department recommends to the Maui Planning Commission approval of the State Land Use Commission Special Use Permit subject to there are six standard conditions of approval including the first one to allow them to operate until November 30, 2012, a three-year permit. And the project specific condition which is the exact wording that approved for the Sharyn Stone, Huelo Point which is on a private water system as well, that that condition simply states, and we may have to work on this, but that condition simply states, "the applicant take precautions to insure that the water serving the B&B operation is safe and wholesome and not detrimental to the health and safety of the B&B guests." That's our recommendation at this time. Of course, discussion on that condition if you feel ...(inaudible)...

Mr. Hedani: Questions for staff? Commissioner Mardfin.

Mr. Mardfin: What does it cost to test water? What does it cost to have the water tested?

Mr. Prutch: I'll have to ask the applicant to come back.

Mr. Mardfin: Roughly.

Mr. Gebb: I believe it is on the order of a \$100, \$150.

Mr. Mardfin: Okay, that's fine.

Mr. Prutch: So about a \$100, \$150 is what the applicant stated.

Mr. Hedani: Any additional questions for the applicant or staff? What's your pleasure?
Commissioner Starr.

Mr. Starr: Yeah, move for approval as recommended.

Mr. Hedani: Is there a second? Seconded by Commissioner Sablas. Motion by Commissioner Starr. Discussion? Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I'd like to offer an amendment to the project specific condition whereby "that the applicant shall regularly test the water quality of the private water source." And I'll leave what regularly means up to you whether that's annually or semi-annually or you could talk to the Department of Water and see what their practice is on testing of the wells. So I think that would suffice. "That the applicant shall regularly test to insure that the water is ..."

Mr. Hedani: Is that an amendment to the staff recommendation?

Mr. Hiranaga: Yes.

Mr. Starr: I'll second that.

Mr. Hedani: Motion by Commissioner Hiranaga, seconded by Commissioner Starr to amend the staff recommendation to include regular testing of the water. Discussion? Commissioner Mardfin.

Mr. Mardfin: While I understand the amendment's purpose is to regularly test I wish there were some number in there like annually because you could do it every decade and it would still be regular but not very helpful.

Mr. Hiranaga: No, I'm going to leave it up to the department to discuss with the Department of Water Supply to determine what regularly what that means because I'm not sure what the department – the Department of Water Supply does test their wells and I don't know what their frequency is if it's every six months or once a year I don't want to guess. So I'm leaving it up to staff to meet with the department and figure out what regularly means.

Mr. Hedani: Additional discussion? Ready for the question? Commissioner Shibuya.

Mr. Shibuya: You know, I would like to have due care. In this particular case it's a very doable due care for the customers and I think the regularly term needs to be specified as Commissioner Mardfin had mentioned and I will agree to annual.

Mr. Hedani: Additional discussion? Commissioner Hiranaga.

Mr. Hiranaga: So are you saying I need to say how often?

Mr. Hedani: Friendly amendment to annual regular testing?

Mr. Hiranaga: The applicant shall regularly test the private water source as deemed appropriate by

the Planning Department.

Mr. Hedani: Commissioner Starr.

Mr. Starr: As the second, I would be amenable to adding the word “annual” and have that as a minimum once a year.

Mr. Hedani: No objection? Discussion? So the amendment on the floor is amend the staff recommendation to do testing on the water system to insure safety at a minimum of annually subject to the Planning Department’s discussion with the Department of Water Supply.

Mr. Prutch: My thinking is maybe you do annually for now. The permit is up to expire in three years and by that time we have an answer – well by that time we’d have an answer from DWS maybe they do semi-annual, we can make that change at the time of –

Mr. Hedani: Commissioner Starr.

Mr. Starr: I want to be clear that what we are not asking the water be maintained to the county and EPA standards because that requires almost constant testing and among other things it requires chlorine and contact time with the chlorine and other you know, other things which really are not suitable for a private well type water system. So I’d really rather leave the Department of Water Supply and what they’re required to do on systems that are above a certain number of users out of the equation and just look for this annual testing for anything that might be infiltrating into the well. I think we’ve got it right, lets not screw it up.

Mr. Hiranaga: So replace the word “regularly” with “annually.”

Mr. Starr: Yeah.

Mr. Hedani: Right. Any further discussion? All those in favor of the amendment signify by saying aye. Opposed nay.

It was moved by Mr. Hiranaga, seconded by Mr. Starr, then

VOTED: To Amend the Conditions to Add, “That the applicant shall annually test the water quality of the private water source.”
(Assenting - K. Hiranaga, J. Starr, B. U’u, W. Mardfin, W. Shibuya
L. Sablas)
(Excused - D. Domingo)

Mr. Hedani: Carried. Any further discussion on the main motion? Ready for the question? All those in favor signify by saying aye. Opposed nay.

It was moved by Mr. Starr, seconded by L. Sablas, then

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

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

Mr. Yoshida: Our forth public hearing item is a request from Madelyn D'Enbeau for a bed and breakfast permit in order to operate the Haiku Cannery B&B, a four bedroom bed and breakfast located in the Rural District at 1061 Kokomo Road, TMK 2-7-021:007 Haiku, Island of Maui. The staff planner is Gina Flammer. She's coming before the commission because the subject property is located within 500 feet of a property with a permitted bed and breakfast operation.

- 4. MS. MADELYN D'ENBEAU requesting a Bed and Breakfast Permit in order to operate the Haiku Cannery Inn B&B, a four (4)-bedroom bed and breakfast located in the Rural District at 1061 Kokomo Road, TMK: 2-7-021:007, Haiku, Island of Maui. (BBPH T2009/0001) (G. Flammer) The subject property is located within 500 ft. of a property with a permitted bed and breakfast operation.**

Ms. Gina Flammer: Good morning Commission Members, Chair Hedani. Unlike the previous B&B applications that have been reviewed today this one is not on agricultural land but it's here because it's to operate a B&B within 500 feet of an already approved B&B. The applicant is requesting a B&B permit to operate a four-bedroom B&B two of which will be in the main dwelling and two of which will be in the attached accessory unit in the cottage on the property. The property is a 2.92 parcel zoned rural. The surrounding properties are rural properties with homes and fallow, very large pineapple field, I'll show you map in just a moment to give you a better understanding of the area.

Additional guidelines for review were also suggested by the Planning Director at your September 22nd meeting and they include, the first criteria: What is the distance from the other B&B? The two properties are about 610 feet from each other. The second criteria is to look at the number of other permitted B&Bs in the area. This is the second one within a 500-foot area. A map of the region I'll show you in just a moment. The third criteria was to look at the number of B&Bs under the cap, 88 are allowed. This would be the 18th approved, there are seven more pending. Criteria four was to look at the policies of the particular community plan. The Paia-Haiku Community Plan limits visitor accommodations to residential properties and discourages visitor accommodations near the shoreline. This property is not near the shoreline. The fifth concerns ag us which does not apply to this rurally zoned parcel. The sixth criteria was number and type of objections. This property did not receive any objections. It did receive one letter of support. The other B&B that's within 500 feet also did not receive any letters of objection. The seventh criteria was the volume of concern expressed by the community at large. So far the department has not heard any concerns from the community about the B&B ordinance and the B&Bs that have been permitted under that new ordinance. The eighth criteria was to look at the past history. This has not been operated as a B&B

previously. It was also suggested by the director to look at complaints about other issues on the property. Well, there were none. And whether or not the applicant is currently operating which she is not. So I'm going to provide you with a brief presentation.

The applicant would like to open the Haiku Cannery Inn B&B after she retires. She's currently not operating. On January 14th of this year she filed for a B&B permit. Again, it's a 2.92 acre that is zoned rural. The other B&B is the Maile Bungalow which is within 500 feet and that was approved administratively on July 17th of this year. The project is for four bedrooms, two in the main house where the applicant will be living or is living and two bedrooms in the cottage.

This is a map, a larger map showing you've got Hana Highway down it's Haiku Road at the point but it becomes Kokomo. She is just above where the cannery is. I don't know how many of you are familiar with the history of the area. It's called the Haiku Cannery and for a reason. It used to be the cannery managers home. Kokomo Road is also the road where the pineapple trucks went up and down and brought it to the cannery. So I was very interested in Commissioner Shibuya's concerns previously. So when I looked I really checked out Kokomo Road, I even measured it. It's between 17 and 22 feet wide so it is a wide road that is up to current standards.

This is a map of all the B&Bs in the Haiku region. The arrow points to the two that are next to each other. Again, there's I think today made 19 approved so that would make six pending. The Maile Bungalow which is the one that is within 500 feet was approved for two bedrooms and cottage. There we no letters of opposition. This is just to show you that it's accessed off a different road. ... (inaudible – stepped away from the microphone)...

Mr. Hedani: Gina, all of that is not going to appear on the record unless you use the microphone for recording purposes.

Ms. Flammer: I understand. So what I did is I showed the map and where the access road is for the B&B that's within 500 feet. We're currently without a pointer. This shows a little bit closer where the roads are. This is Haiku Road. So the applicant's driveway didn't quite come out in the photo but it's right there in the corner and if you continue on down further than where you could see is the other road that accesses the other B&B, Kokomo Road excuse me. So this is probably I think I found most useful map and it shows you where the two properties are. If you measure, it's about two football fields between the two. There's also as you can see a lot of trees that are in there that provides a natural buffer. You can also see from here where the main houses and where the cottage is on the proposed property which is surrounded in yellow. When I was at the property I did look to make sure you can see between the cottage and the main house. Not a whole lot of trees right in there.

This is a picture of the main house. It was built in 1920. As you can tell it does need some upkeep which I believe is one of the reasons the applicant is proposing doing a B&B. This is the interior. The next shot is the cottage, right to the left of that tree is the main house. Okay, and again, that's the overall. So I'm going to let the applicant say a few words and then you can ask questions to either one of us.

Ms. Madelyn D'Enbeau: Good morning Commissioners. My name is Madelyn D'Enbeau and I'm

the owner and the applicant. As Ms. Flammer said I am planning to retire. I'm now employed by the County of Maui as you may know. I'm planning to retire next year and it's always been an idea of mine to have a bed and breakfast because this is a historic home. I was very fortunate to be able to purchase it in 1971 when prices on Maui were still pretty low and I've raised my four children there. They're all grown now and so I'm by myself. I thought this would be a good opportunity, a good thing to be able to earn enough money to keep the upkeep of this, you know, rather large property which is maybe perhaps beyond my capability by myself but with the income from the bed and breakfast I think it would work out. So for that reason, I'm before you today and I'd be happy to answer any questions. As far as the other B&B it was kind of a surprise to me because we actually – it looks like we're close but we're – our roads are completely different. His property is accessed off of what I would say is a new subdivision road, of course, it's been there many years, but it's Hanamalia I believe is the road that he accesses. My lot's a flag lot that was developed. The house was developed for the manager of the Haiku Cannery which is half a mile down the road. Then the guest cottage we built five years ago, the two-bedroom guest cottage.

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

Mr. Mardfin: This is just a peripheral one, your report answers almost all my standard questions. I notice in surrounding uses are pineapple fields. In light of the news of a couple – about a week or so ago, what do you expect to have happen there?

Ms. D'Enbeau: Those fields have been fallow since the cannery closed. Those were the last remaining independent growers, the Yamamuras. They actually live across Kokomo Road from us. They grew pineapple there all the years I lived there up until I believe three years ago and I'm assuming because the cannery closed there wasn't any opportunity for them. So it's been fallow since then and they've been good neighbors. It raises a little concern because – but they come every so often and you know, kind of cut back whatever is starting to grow there. What is now and what it will be in the future I don't have any idea.

Mr. Mardfin: Good luck, things work out.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Madelyn, can you show me where the nearest fire hydrant is located?

Ms. D'Enbeau: The nearest fire hydrant is at the end of the flag, right at the very end of it. I don't know if that will move over ...(inaudible - changing of tape)... one back, right there, you can see – you see the flag lot there where the flag is my driveway that goes down to where Kokomo Road is, that's where the fire hydrant is.

Mr. Shibuya: The distance is?

Ms. D'Enbeau: I'm not sure.

Mr. Shibuya: About? 50 feet, 100 feet, 200 feet?

Mr. Hedani: Gina, you have an answer to that question?

Ms. D'Enbeau: I would say 200 feet probably, but that's just a estimate.

Mr. Shibuya: Thank you.

Mr. Hedani: Additional questions? Thank you Madelyn. Any additional questions for staff?

a) Public Hearing

Mr. Hedani: Okay, why don't we go ahead and open it up for a public hearing. Are there any members of the public that would like to offer testimony on this item? Seeing none, public hearing is closed. Staff recommendation.

b) Action

Ms. Flammer: As addressed in the written staff report the application meets the criteria set forth in the County Code. The application also meets the additional criteria as presented by our director. As such, the Planning Department recommends that the Commission approve the B&B permit subject to the 19 standard conditions as listed in the staff report and I'm going to assume you don't want me to read all 19 but I'd be happy to answer any specific questions.

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, conclusions of law, decision and order on behalf of the planning commission. Thank you.

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

Mr. Shibuya: I would like to add the, I notice there is our house policies. Are there additional house policies, particularly smoking? Is there a prohibition in smoking in the structure because this is actually almost historical and very prone to fire.

Ms. D'Enbeau: Thank you so much for adding that. I never thought of it. I just assumed nobody would smoke, but yes, definitely there would be no smoking. I'd need to make that very clear.

Mr. Hedani: Madelyn, can you identify yourself for the record?

Ms. D'Enbeau: Oh, Madelyn D'Enbeau, I'm sorry. Thank you so much because that's an important policy. No one in my family smokes and I certainly don't want anybody smoking in the house. Thank you.

Mr. Shibuya: Thank you.

Mr. Hedani: Additional questions on the – well, we don't have a motion on the floor for discussion actually. Commissioner Hiranaga.

Mr. Hiranaga: Just one comment Gina, you mentioned the roadway being 17 to 22 feet wide. Is that the pavement width or the roadway width.

Ms. Flammer: That's the pavement width but because it's rural road they don't have wide shoulders.

Mr. Hiranaga: Thank you. So maybe for other applicants you might state that it's pavement width and you could find out from Public Works what the roadway width is also because that's also important to know how large the shoulders are.

Ms. Flammer: I agree with you.

Mr. Hiranaga: Thank you.

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

Mr. Starr: I move for approval as recommended.

Mr. Hedani: Motion by Commissioner for approval as recommended. Seconded by Commissioner U'u. Discussion? All those in favor of the motion signify by saying aye. Opposed nay.

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

VOTED: To Approve the Bed and Breakfast Permit with Conditions as Recommended.

**(Assenting - J. Starr, B. U'u, K. Hiranaga, W. Mardfin, W. Shibuya,
L. Sablas)**

(Excused - D. Domingo)

Mr. Hedani: Carried. Thank you. Unanimous. Clayton.

Mr. Hedani: The next two items I don't see the applicants here but maybe we can move to Item E which is the approval of minutes. We have before you –

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I'd like to move that we rearrange our agenda to go to Item E.

Mr. Hedani: Okay, why don't we just proceed since there's no objection.

E. APPROVAL OF ACTION MINUTES OF THE OCTOBER 27, 2009 MEETING, THE REGULAR MINUTES OF THE OCTOBER 13, 2009 MEETING, AND THE MINUTES OF THE SPECIAL MEETINGS OF SEPTEMBER 14, 2009, SEPTEMBER 15, 2009, SEPTEMBER 22, 2009 AND SEPTEMBER 28, 2009.

Mr. Hedani: Have you all had a chance to review the minutes under Item E? Commissioner Starr.

Mr. Starr: Yeah, I have a question on the minutes. In a number of places they said, I can't find them right now, they said it was moved by someone, seconded by someone and then it says, and then unanimously and there was a vote but some of the votes were not unanimous. So I'm trying to understand what's going on with that.

Mr. Hedani: Yeah, I think that should be a correction to the minutes. I did notice that on the action minutes where there was it's on Item E-2 and on Item D-2, we had on E-2 we had a dissenting vote by Commissioner Mardfin and on Item D-2 we had an abstention by Commissioner Mardfin. So, those items actually should be corrected to eliminate the word, "unanimously" from the minutes for Item E-2, "moved by Commissioner U'u, seconded by Commissioner Shibuya," then it should read, "then:" Voted with the appropriate vote noted. Mike.

Mr. Hopper: Just to comment, unless there's a conflict of interest there's no such thing as an abstention under your rules. Silence is an affirmative vote. If there's a nay vote, certainly that should be reflected in the minutes and corrected, but if someone just says nothing, that's considered to be an affirmative vote unless again that person has a conflict of interest or other reason they had to recuse themselves.

Mr. Hedani: Okay, so I stand corrected on Item D-2. That the word, unanimously can still remain on that portion since there was one abstention. So Item E-2 should be read, "it was moved by Mr. U'u, seconded by Mr. Shibuya, then: voted," with the votes recorded as displayed. Thank you for that correction Commissioner Starr. Are there any other additions or corrections to the minutes. Commissioner Shibuya.

Mr. Shibuya: There's lot of paragraph alpha misprinting here because you have A. Call to Order, B. Public Hearings and then all of a sudden D. Communications, where's C? And then you go back you have E, Unfinished and D. Communications. E. Unfinished Business. Is there a method in which we list the alpha?

Mr. Hedani: I think those can be corrected to just sequentially be listed. Unless they were being listed in accordance with the agenda items? Carolyn.

Ms. Takayama-Corden: ...(inaudible)...

Mr. Hedani: Those were the items as they were displayed on the agenda.

Mr. Shibuya: Okay. Thank you.

Mr. Hedani: Any additional corrections to the minutes? Okay, if not, then the minutes will stand – all those in favor of approving the minutes signify by saying aye. Opposed nay. Okay, minutes are approved as corrected. Director's Report.

Mr. Yoshida: If we could possibly deal with Items F-1 and F-2.

Mr. Hedani: Go ahead Clayton.

F. DIRECTOR'S REPORT

- 1. October 28, 2009 Memo from the Planning Director to the Maui Planning Commission regarding correction to existing community plan designation for the site of the proposed Kihei Police Station located at TMK: 2-2-002: 070 (por.) and 069 (por.), Kihei, Island of Maui. (CPA 2009/0002) (DBA 2009/0001) (CIZ 2009/0002) (J. Dack) The correction is that the current community plan designation for the subject property is Park instead of Agricultural and the community plan amendment change remains to Public/Quasi-Public as noticed.**

Mr. Yoshida: F-1 you have before you a October memo from the Director to the Planning Commission regarding the correction to the existing community plan designation for the proposed Kihei Police Station site which the current designation is park and not agricultural, but the end result is the change still remains at public/quasi-public so this is for information purposes of the commission.

Mr. Hedani: So the commission doesn't need to take any action on this but it will be noted in our records. Next.

- 2. Designation of the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing on the following application:**

MS. SUSAN O'CONNOR requesting a State Land Use Commission Special Use Permit in order to operate the Ala Kukui Retreat Center, a facility for spiritual and educational activities and retreats on approximately 12.008 acres of land at TMK: 1-3-004: 008, Wakiu and Kawaipapa, Hana, Island of Maui. (SUP2 2009/0013) (P. Fasi)

Mr. Yoshida: Item 2 is we have a application from Susan O'Connor requesting a State Land Use Commission Special Use Permit in order to operate the Ala Kukui Retreat Center facility for spiritual and educational activities and retreats on approximately 12 plus acres of land at TMK: 1-3-004: 008 in Wakiu and Kawaipapa, Hana, Island of Maui and the commission could designate the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing on this application.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I move that the Maui Planning Commission designation the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing on this proposed application.

Mr. Hedani: Moved by Commissioner Mardfin. Is there a second?

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. Mardfin, seconded by Mr. Shibuya, then

**VOTED: To Designate the Hana Advisory Committee to Conduct the Public Hearing on the Application by Ms. Susan O'Connor requesting a State Land Use Commission Special Use Permit.
(Assenting - W. Mardfin, W. Shibuya, K. Hiranaga, B. U'u, L. Sablas, J. Starr)
(Excused - D. Domingo)**

Mr. Hedani: Carried. Thank you.

Mr. Yoshida: I guess if we could move to Item 11 of the Director's Report which is your 2010 meeting schedule. It was previously circulated but we couldn't get to the Director's Report at the last meeting.

11. Proposed 2010 Meeting Schedule

Mr. Hedani: Any objection to the schedule that was previously presented? Commissioner Starr.

Mr. Starr: I don't think I have that could I take a look at someone's copy of it?

Mr. Hedani: Clayton is there a change to the sequence of meetings?

Mr. Yoshida: No, we're still looking at meeting twice a month except for the month of December when it's hard to get commissioners out on December 28th on the second and forth Tuesdays of the month.

Mr. Hedani: Okay, are there any objections to the schedule? Seeing none, the schedule will be accepted as presented. Any other items on the Director's Report Clayton?

Mr. Yoshida: I think the Director wanted to address most of the other items other than perhaps Item 7. We have a memo regarding your scheduled items for your November 24th meeting.

7. Discussion of Future Maui Planning Commission Agendas

a. November 24, 2009 meeting agenda items

Mr. Hedani: Any comments on the November 24th agenda. Seeing none, the agenda is noted. Want to go ahead and cover the rest of the Director's Report? Commissioner Mardfin.

Mr. Mardfin: May I ask a question? It's a little out of order here, but I had an agenda with the stuff that got sent out then I got an amended agenda and I presume that's what we're working off of and

went through it. For the life of me I couldn't find any distinction between the two. Could somebody explain to me what changed?

Mr. Hedani: Clayton.

Mr. Yoshida: Commissioner Mardfin, the change is the Aloha Shell Service special accessory use approval item where in the original agenda it was listed as the M-1 Light Industrial District and in the amended it's the B-2 Community Business District.

Mr. Mardfin: Thank you very much. I thought I read it carefully but I didn't read it carefully enough.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Relating to the Director's Report. Item No. 3, I was wondering Clayton, could you speak for the director because I'm asking for a copy of whatever was developed by the Planning Director and sent to Council. I would like to see a copy. The problem here is that we have a comparison supposedly summarized by the director, staff of what the GPAC did, what the Maui Planning Commission recommended and then now, it's with – along with the Director's recommendations and comments. I would like to see that. Several of the GPAC members have not received it and I would think that as a courtesy those people who have spent maybe three and years on it would like to see it. Also, some people have gone beyond the three and a half years ...(inaudible)... and I certainly would like to see it and review some of the comments.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: I'd like to suggest we wait till the director's here so he can hear your comments firsthand.

Mr. Hedani: Commissioner U'u.

Mr. U'u: To follow up on that, is the director coming to today's meeting?

Mr. Yoshida: Yes, I believe the director will be here after the Council Land Use Committee meeting is completed. It started at 9:30 and they're dealing again with the Hanzawa Store land use changes which came before the commission last year. This is their third meeting on the item. But he'll be here after the Land Use Committee meeting is over.

Mr. Hedani: Commissioner U'u.

Mr. U'u: But I would have your assurances than his Clayton. Kidding, kidding.

Mr. Yoshida: I believe that was his intent. You know, we did receive, well the division received a copy of the various Maui Island Plan, the binder, it's about five inches thick of all the GPAC and the planning commission and the ...(inaudible)... director. Long Range has said that it's also available online, but again, I think the director was the one who requested that this item be, Item 3 be on the agenda. He had intended to discuss it with you at the last meeting but you ran out of time and I

believe he should be here unless the Council meeting runs extraordinarily long.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: If we're looking for things to discuss, there was a page 47 that was given to us before the last meeting and there was an Item 17 it shows what happens when there's a vacancy on the commission and we're thinking about J.B. in particular. Does anybody know what the status of that is?

Mr. Hedani: Clayton?

Mr. Yoshida: I believe that one of the commissioners had asked because Commissioner Guard had resigned. What is the process for the filling of that position. Since then I guess the Mayor has nominated Orlando Tagorda for the planning commission and that's before the Council.

Mr. Mardfin: Thank you.

Mr. Hedani: Any further update on the General Plan?

Mr. Yoshida: The General Plan?

Mr. Hedani: Item 3.

Mr. Yoshida: Unless the commission prefers I would kind of wait for the Planning Director.

Mr. Hedani: Okay Comments on the Hawaii Congress of Planning Officials Conference?

Mr. Hiranaga: Mr. Chair.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: I would prefer if the director's here to hear those also.

Mr. Hedani: Okay, do you want to defer Items 4, 5 and 6 as well?

Mr. Starr: Lets go to lunch.

Mr. Hedani: Okay, why don't we go ahead and take a break for lunch at this time and reconvene at 1:00 p.m.

A recess was called at 11:55 a.m., and the meeting was reconvened at 1:02 p.m.

Mr. Hedani: The commission meeting of November 10th is back in session. We would like to welcome the esteemed Director of the Department of Planning, Mr. Jeff Hunt to the meeting. And we are on Item D-1.

Mr. Hunt: Item D-1 involves the Hana Advisory Committee to the Maui Planning Commission transmitting their recommendations on the applications of Cheryl Okuma, Director, County Department of Environmental Management requesting a Special Management Area Use Permit for the County's Hana Landfill for land consolidation, boundary realignment and grading activity on approximately 74 acres at TMK 1-3-006: portion of 012 and 1-3-006: portion of 007 in Hana. The file numbers are SUP1 2007/0004, CUP 2007/0001, SM1 2007/0003 and Paul Fasi is the planner assigned to this and I believe Ann Cua, maybe not, either Ann Cua or Clayton Yoshida will cover at least temporarily.

D. UNFINISHED BUSINESS

- 1. Hana Advisory Committee to the Maui Planning Commission transmitting their recommendations on the application by MS. CHERYL OKUMA, Director, COUNTY DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, requesting a Special Management Area Use Permit for the County's Hana Landfill for land consolidation, boundary realignment, and grading activity on approximately 74 acres at TMK: 1-3-006: 012 (por.) and 1-3-006: 007 (por.), Hana, Island of Maui. (SUP1 2007/0004) (CUP 2007/0001) (SM1 2007/0003) (P. Fasi) (Deferred from the July 28, 2008 meeting in order for the State Land Use Commission to act on the Land Use Commission Special Use Permit.) (To be taken up at 1:00 p.m. or soon thereafter.)**

Mr. Clayton Yoshida: I believe that the applicant is requesting a deferral but the applicant is here.

Mr. Hedani: Maybe we can have Mich address the commission, Mr. Hirano.

Mr. Mich Hirano: Good afternoon Chair Hedani and Commissioners, my name is Mich Hirano with Munekiyo and Hiraga. The applicant, Department of Environmental Management has asked for a deferral. They are still doing the hydro geological studies for this assessment and we would like that information completed before we come back and present to the planning commission.

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

Mr. Starr: Yeah, one thing is I'm hoping we'll allow testimony from the public and the other is that I have a couple of questions and comments from reading the documentation in our previous actions with this, should I go ahead with those?

Mr. Hedani: Proceed.

Mr. Starr: Okay, in the previous go rounds, it was identified that basically what has been existing and was basically being expanded was an unlined dump. It's not a lined landfill that contains the leachate but it's a dump where the lava rock's been hollowed out and all the trash has been put on top of lava rock which is porous. There were three test wells that were built to monitor any leachate that was leaving the site. However, it was identified from those wells that the water level, by the water level in those wells that the wells were not drilled downstream of the landfill but upstream or

parallel. There was never any monitor well drilled to the south that would actually pick up the leachate if it is indeed being washed by the rain down and into a lava tube. The direction that it would travel by the flow that was identified as south into Hana Bay which is where the Hana kids swim, where there are fish ponds and so on, a lot of fishing. At those previous hearings there was a very strong request put in that if this is going to continue to be used as a landfill that at a minimum there should be a well downstream from it and there also should be water quality monitoring along the shoreline and particularly in Hana Bay. I believe the kind of monitoring that you do is you test mollusks and stuff like that to see if there's stuff in it. And my question to you is whether this is being included in the process because I believe now is the time for us to discuss this whereas we were told it was premature at the last go around.

Mr. Hirano: Thank you very much for those questions Commissioner Starr. That is precisely what is being done. It's clarification of the flow of the groundwater in and around the landfill there were conflicting information and data that is being reviewed. There was a preliminary report that was presented to the Department of Environmental Management by Brown and Caldwell and that was presented last Thursday. From that there were some indications of evaluating of the direction and confirming direction of the brown water and further analysis and more data was reviewed on the weekend and that's why this was a last minute deferral because they really do want to be I think clear on their analysis and their conclusions as to the direction of the ground water and they required and they are requesting from the Department of Environmental Management more time to go out and do more field work on that.

Mr. Hedani: Okay, so you're not requesting deferral to a date certain. You'll come back and reapply with the department for a hearing?

Mr. Hirano: Yes, at this point we think it would be probably about six weeks to two months.

Mr. Hedani: Additional questions? Commissioner Shibuya.

Mr. Shibuya: I was just going to ask about the leachate and how you're actually handling that because of the a'a lava and it's porosity and also the environment in which you as Commissioner Starr had mentioned it's a rainfall area and so if we don't deal with it how are you going to deal with it when it's all done? Are you planning to move the mountain or move the landfill and place something underneath and then put it back? Are there some other methods in which you can minimize this problem?

Mr. Hirano: Well, I think that in answer to that question I think the current study that's being done to determine and to verify direction of the ground water is very important because that would determine whether the wells, the monitoring wells are actually in the right location picking up you know, any leachate and testing that water for contamination or pollution from the landfill. So I think it's a two-step process. One is to determine the ground water and the location of the wells and then secondly we have the water quality monitoring reports of the ground water which indicate that there is no contamination or leachate from the landfill. But again, the brown water if not moving in the different direction then I think they'll be a different recommendation to the commission.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Yeah, just a follow up question in terms of leachate. Lets say there is a leachate how would you obtain it and how would you transport it or treat it or handle it?

Mr. Hirano: You know, I'm not prepared and ready to answer that question. I think the hydro geological engineer and the civil engineer Brown and Caldwell probably be able to best answer that when we return.

Mr. Hedani: Okay, are there any questions that you would like the applicant to address between now and the next time that they reappear before us. Commissioner Starr.

Mr. Starr: Yes, and once again, I reiterate previous discussion and I hope that – like to know if there's going to be serious consideration of the option of closing landfill since it's – well it's not even – the dump because a landfill today is lined whereas the dump is you know, unlined like this, of closing it which would prevent new infiltration of rainwater coming in and washing out the poisons into potentially Hana Bay. I understand it would only require one truckload a day to be moved to Central Maui site if it were closed and made a transfer station. So once again, my question is serious consideration being given to shutting this thing down and stopping doing more toxic damage to Hana Bay.

Mr. Hirano: At the last meeting, Director Okuma had indicated to the commission that there was a study on solid waste management throughout the county and recommendations regarding the Hana Landfill. So we'll be presenting that information when we go forward. In response to Commissioner Starr's about unlined landfills, as was mentioned by the Environmental Management Operations Administrator at the last meeting there are requirements for lining landfills of a certain size and the Hana Landfill falls under that threshold and that's why it's not lined or required to be lined by Department of Health or by Environmental Protection Agency.

Mr. Hedani: Okay, any other questions? Commissioner Mardfin. And I think what we need to do is not debate the issue here, post questions.

Mr. Mardfin: I'm not going to debate the issue. I do want to say that it wasn't lined when it was first built. It was quite a while ago. Whether the EPA currently requires it to be lined or not is a different issue.

Mr. Hirano: No they don't. They don't.

Mr. Mardfin: They don't. That's fine. But that's not the reason it wasn't lined initially. It was not lined initially because they just didn't line them. I thank Commissioner Starr for raising the issues about the water and I commend you folks for finding out which way the water does go because that's terribly important.

Mr. Hirano: It is.

Mr. Mardfin: I will also say I found that there were a couple of in our report there were two conditions, 16 and 17 dealing with the excavation of the cinder ash and I'm glad those are in there because at previous meetings the department had been fairly strongly against addressing those

kinds of things saying it's outside of the landfill area. And I'm glad at least there's a start at acknowledging that the cinder ash makes a difference. I wish those were stronger and I hope that when you come back to us in a couple of months you'll have better answers and more complete answers on the cinder ash issue.

Mr. Hedani: Okay, if there's no further questions, then someone want to entertain a motion to defer? Commissioner Starr.

Mr. Starr: Yeah, I was hoping we would allow public testimony on this?

Mr. Hedani: Are there any members of the public that would like to offer testimony on this item, please step to the microphone and identify yourself for the record.

Ms. Irene Bowie: Irene Bowie with Maui Tomorrow Foundation. I would just like to add that Maui Tomorrow Foundation would ask that not just water testing be done in the waters of Hana Bay and the fish ponds and surrounding areas but that you do tissue testing samples as Mr. Starr stated. When this came up last year I spent quite a bit of time talking to Department of Health in Honolulu, the EPA, the U.S. Fish and Wildlife, everybody agrees that you're not going to get accurate testing for toxicity if you're only looking in the water because currents will carry those particulates at various times but you do need to get the crabs, the opihi, various tissue samples and those need particular testing and I mean it's pretty staggering to think that this landfill was built in 1969. It is unlined on lava so just the fact that that EPA doesn't require it to be lined due to size not that many of these in the United States are sitting on lava 350 feet from the ocean. So the fact that the people in Hana fish, consume the fish, the children swim in the bay, it really – every expert that I talked to said that testing should be done and tissue testing should be done. And you know, I implore this commission to ask that that be required. Not only the groundwater testing those monitors I think we all agree that there needs to be another monitor put in in the down flow area so that it's accurately testing the groundwater but the leachate has been seeping through the lava all these years and we know that back with Hana Ranch there was a lot of herbicides and pesticides over the years. The cars have been there, batteries, various household cleaners on and on, you know, it really it's not just an environmental issue, it's a social justice issue for people's health and I again, I would just really ask in behalf of Maui Tomorrow that you seriously take a look at requiring the tissue testing. Thank you.

Mr. Hedani: Questions from the Commission? Any other members of the public that would like to testify, please step to the microphone. Identify yourself for the record.

Mr. John Blumer-Buell: Aloha Chair Hedani and Members of the Commission. My name is John Blumer-Buell. I've been a user and observer of the Hana Landfill operation for the past 35 years. I work at the Hana Community Association and Dr. John Harrison of the University of Hawaii in the late 1980's to try to resolve solid waste and wastewater issues in the Hana district particularly the issues of Hana Bay.

As a member of the Hana Advisory Committee to the Maui Planning Commission I worked on the 1994 Hana Community Plan which included solid waste and environmental issues. I am currently a member of the Maui General Plan Advisory Committee. At the GPAC we discussed the Hana

Landfill and the possibility of making the Hana Landfill area a “transfer station.” October 11, 2007, this is from our official transcripts, Mr. Takamine stated, that fact into the record on behalf of the County of Maui.

Since April 2004 I have provided eight written testimonies of 22 pages and Google Earth maps showing the illegal and destructive mining of Olopava Mountain and Ahupua'a of Kaeleku. Even with the obvious and overwhelming evidence of the mining operation including a field trip, the Department of Environmental Management has intentionally ignored the facts, continues to break a fundamental environmental law of the State of Hawaii and has intentionally deceived the State Land Use Commission in efforts to obtain a special use permit, special use permit and a special management area permit to legitimize the illegal Hana Landfill operation and it is illegal at this point.

As I restated in my June 23rd, 2008 letter to you, “it has been proven beyond any question the mining operation is a directly related and significant environmental impact to the proposal.” The county dishonestly referred to the illegal mining operation as “beyond the scope of the environmental assessment.” Their position was an outrageous and misleading fraud and has lead us to this point. And this is one of the things that happens when you have the applicant doing the basically approving the environmental assessment or environmental impact statement.

For this reason alone that also because of the many constructive solutions offered to you by me and others which have been ignored I request you to deny the request for a special management area permit for the Hana Landfill and to refer the entire matter including the special use permit back to the Hana Advisory Committee to the Maui Planning Commission for further discussion and real solutions.

Finally, the proposed use of this site until the year 2050 is highly irresponsible and continues to degrade the beauty and environmental soundness of Hana every single day. And before I say mahalo, I want to apologize to anyone that may be offended by my direct statements that – indirect statements aren't working at this point. Mahalo.

Mr. Hedani: Thank you for your comments. Questions from the Commission? Thank you very much. Are there – Commissioner Mardfin.

Mr. Mardfin: I'm not sure if it's question but a comment. I want to thank you for your diligence in pursuing this over many, many years and commend you for your civic responsibility. Thank you.

Mr. Blumer-Buell: Mahalo very much.

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. Motion to defer. Commissioner Starr.

Mr. Starr: Yeah, before motion to defer I have a comment to make and I'm glad that the director is here in the audience. You know, I just hope that the department is taking this really seriously and not trying to get away with something that is going to seriously come and haunt us all because it's in Hana and it's possible to legally get away with it. This is a serious issue and the county government which we are all a part of is better than trying to brush this type of thing under the table

and allow the nearshore waters of Hana to be – continue to be potentially poisoned for the sake of expediency. Thank you Mr. Chair.

Mr. Hedani: What's the commission's pleasure?

Mr. Starr: Move to defer.

Mr. Mardfin: Second.

Mr. Hedani: Moved to defer by Commissioner Starr, seconded by Commissioner Mardfin. Discussion? All those in favor signify by saying aye. Opposed nay.

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

VOTED: To Defer the Matter.
(Assenting - J. Starr, W. Mardfin, K. Hiranaga, B. U'u, W. Shibuya,
L. Sablas)
(Excused - D. Domingo)

Mr. Hedani: Carried. Thank you. Director.

Mr. Hunt: The next item is D-2 on your agenda, Kobayashi Group, LLC requesting to amend the Special Management Area Use Permit, Shoreline Setback Variance and Step 1 and Step 2 Planned Development Approvals for the proposed redevelopment of the Renaissance Wailea Beach Resort. Redevelopment includes the demolition of and/or renovation of existing resort structures and grounds as well as construction of residential condominiums and related improvements. The property's located at 3350 Wailea Alanui Drive, TMK 2-1-008: 067. The 2.16 Ulua/Mokapu Beach Park parking is located at TMK 2-1-008: 088. File numbers are SM1 2005/0035, SSV 2005/0004, PD1 2005/0006, and PD2 2005/0007 and Ann Cua is the planner assigned to this project.

- 2. KOBAYASHIGROUP, LLC requesting to amend the Special Management Area Use Permit, Shoreline Setback Variance, and Step1 and Step 2 Planned Development Approvals for the Proposed Redevelopment of the Renaissance Wailea Beach Resort. Redevelopment includes the demolition of and/or renovation of existing resort structures and grounds as well as construction of residential condominiums and related improvements. The total number of hotel rooms and condominiums will equal 328 units which is less than the original constructed 349 guestrooms.**

The hotel property is located 15,578 acres at 3350 Wailea Alanui Drive , TMK: 2-1-008: 067, Wailea, Island of Maui. The 2.16 acre Ulua/ Mokapu Beach Park parking is located at TMK: 2-1-008: 088, Wailea, Island of Maui. (SM1 2005/0035)(SSV 2005/0004)(PD1 2005/0006)(PD2 2005/0007) (A. Cua) (Deferred from the October 27, 2009 meeting).

Ms. Ann Cua: Good afternoon Mr. Chair and Members of the Commission. I just want to kind of recap what's happened on this project from our last meeting to today. So basically at your last meeting on October 27th you did review the proposed amendments to the Special Management Area, Planned Development Step 1 and 2 applications and Shoreline Setback Variance.

The applicant did a pretty extensive presentation where they went through the project. I do want to make just some little highlights to bring us all back to speed on this. As you recall, the original hotel room count was 349 units. The applicant had come in 2005 to reduce it 193 units and now they're basically coming in and actually as part of the 193 units they were going to demolish the entire project. The hotel has been closed as all of you are aware. The applicant indicated at your last meeting that based on the economy the applicant was not able to pursue the 193-unit project which included demolition of the entire site. As a result, they are coming back before you today requesting an amendment of the SMA permit to include retaining of the existing hotel building and what they're going to do is renovate that seven-story building to provide no more than 290 guest rooms within that building.

The 26-unit Mokapu wing which as you recall was located in the shoreline – or still is located in the shoreline setback area that was approved for demolition because it is in the shoreline setback area they had to go through Chapter 343 approval. They got a shoreline setback variance for that. They did get an environmental assessment that went through the process that got approved. There is no change to that. They are still planning to demolish that entire structure and they would create landscaping and sand area in its place.

In addition a sewer line was proposed for removal and that was, you know, a contentious issue and a very passionate issue with this commission back in 2005 and the applicant agreed at that time to take that sewer line which was existing which they were not proposing to do any renovations to and they voluntarily agreed to move that line outside of the setback area and that is still part of the proposal today. There is no changes to that.

They are proposing to add six new buildings to provide 38 condo units and pools. They're also going to renovate the entire property including the lobby, interior space renovations, a 12-treatment room spa, new hotel pools, a new restaurant and landscaping.

At your October 27th meeting you deferred action on the amendment request until today's meeting. Basically you ran out of time and you had asked both the Planning Department and the applicant to provide some additional information. With regard to the applicant you had asked that they reassess their position on proposed drainage improvements for this project and the applicant is prepared to make a presentation to you today in this regard.

Also, you asked that the department provide additional analysis on beach parking and if I could just take you back. You know, we included as part of our report a handout where we just did some research and we went back and looked at all the permit approvals that this body had approved and what kind of beach parking requirements you had imposed on all these projects and we just wanted for our own information and then to provide to you some basis whereby we can move forward in the future of you know what does this translate to in terms of maybe a per unit average or a per acre average and that's what we presented to you. What you had asked us to do is look at some

other alternatives and one alternative was to look at the total parking requirement and after the applicant concludes their presentation we're going to come back and tell you why that didn't work and what we are now giving you to ask you to consider.

So with that, I would like to have the applicant come up and go over their updated drainage information for you. Along with that I did pass out a letter dated November 6, 2009, that the applicant is going to be using in their presentation. It's from Steven Dollar from the University of Hawaii at Manoa School of Ocean and Earth Science and Technology and that is for your information and I will come back after the applicant's presentation and provide additional information to this commission.

Mr. Elton Wong: Good afternoon Chair Hedani, Commissioners. My name is Elton Wong, Kobayashi Group, Development Manager for the project. We were last here as Ann said, we have a SMA permit, we're looking for an amendment to the permit. We had a 193 units approved previously and we're coming in for an amendment to keep the existing structure and build or renovate and construct 328 units down from the 349. The other project did not work because of the economic conditions, obtaining financing, still part of the current economy. Ron and Mike will talk about the drainage.

Mr. Mike Silva: Good afternoon everyone. My name is Mike Silva. I'm with Ronald Fukumoto Engineering, the civil engineer for the project and as previously mentioned – on our last meeting we were short on time so there were some unresolved issues mainly with the drainage. So we're going to go and focus in on the drainage on this presentation. Hopefully give you guys enough information to feel comfortable with that believe is a first-class, top notch system that we're proposing.

What we have on site are – you have the ocean on the left, Wailea Alanui Drive on the right, get you guys oriented. We have an onsite system existing there's minimal improvements now. There is no retention basin existing at all. We are proposing to have surface inlets around the site collecting the runoff, routing it underground through pipes and manholes, down to the lower elevation of the site where we will filter it with a storm water filtration unit and then enter it into a drainage basin.

The next system is our onsite – I'm sorry our bypass system that carries offsite flows. This is the green line. It's going to be routed underground in concrete pipe, underground and concrete box culvert and outlet at the natural flow path of the waterway.

The last system is in the County beach park. There are no existing drainage improvements in there at all. We're proposing to have drainage inlets, underground piping and also have a storm water filtration unit to clean up that water.

Okay, now this is a slide of the storm water filtration unit and I'll explain how it works, it's pretty neat. Maybe that's just from an engineering standpoint but hopefully you guys will enjoy it too. We have water that comes in this pipe and it flows inside this cylinder and it's forced into a swirling kind of vortex motion. You would have floating items on the top. This is a solid sleeve there like styrofoam or landscape cuttings, organic debris and even oils from the parking lot. So those ...(inaudible -

changing of tape)... the last feature is as the water is swirling around the forces, ...(inaudible)... actually push it in this middle section through a screen. So that's how it gets filtered out. It gets cleaned and then it's able to pass through our outlet there.

So these are just showing the debris on the bottom. During high flows there's some concern if you have a filter if it would clog up and back up the upstream area but water would be able to flow over this and freely pass through the outlet. The important feature, when it's you know, a nice sunny day after the storm in Wailea, you could pull this manhole lid and suck all of the debris out and clean it out. And one thing that's not shown in here, one thing that we're proposing is a material that actually absorbs the oil, petroleum products. It comes in kind of like a sock form and you just, it floats on the top and it takes the oil out which is a major concern for the beach park, for that parking lot and also our onsite parking lot. Installation costs would probably be about \$75,000 and also the ongoing maintenance cost to clean it out after the storms.

This is a zoomed in plan of our detention basin. We have the items in green for our drainage system. We have pipes coming from various directions, some grated drain inlets or just surface inlets that collect the water and route through these pipes. Kind of see arrows are actually showing which direction the flows are in the pipe. It goes to the storm water filtration unit which I just talked about and then into our basin. Our basin is represented by these four rectangular shaped items there. Those are buried pipe. You can see if you cut the ground, you know, this would be the section, there's a 8-foot diameter pipe so very large pipe that are connected all with 4-foot pipe diameter and there's access manholes. So as water gets filtered into the filtration unit, it enters in, it's free to, the water is just free to move back and forth in this basin.

Now there's only two ways for the runoff to get out. One is the pipe perforated so it has a lot of holes in it. It can seep through infiltrate into the ground or if it gets high enough for outlet it will enter into the box culvert. This is the pipe here representing. So this is our box culvert that empties out into the shoreline area.

So for the outlet we don't want to just let that water gush out freely. We want to slow it down so we were able to restrict the flow with the size of pipe so once it gets to that level it slowed down and then it eventually will build up to the limits of our basin and that was our detention volume to slow it down.

We have some pictures of a basin being installed in Wailea. This is the actually the Wailea Fire Station in the background and Kilohana Drive. This is obviously excavator with the hoe ram attachment digging away at the blue rock. Our basin that we're proposing that we're proposing is about 50 feet wide and 100 feet long and 12 feet deep. This is the actual pipe and Goodfellow Brothers construction workers there. Actually this installation was around \$500,000 I believe and it's what we're proposing is now is about 25 to 30% larger just to give you guys some perspective.

I'm going to go through real quickly how a storm would affect our system. We have unfiltered storm water coming in and being filtered out. Unfiltered would be the green and then we have a cleaner looking blue that enters into the system, enters into the basin. In a low intensity storm it won't reach the height of the outlet so none will escape there. It will just infiltrate into the ground. For higher intensity storms same, water's still coming in but it is able to fill up, the basin's able to fill up and the

water gets out of the box culvert a restricted flow rate. The last stage would be as the storm is over no more water coming in. The outlet has dissipated all the water going out to that level and now it just seeps into the ground after that. That's it for the technical side. I'm going to hand it over to Ron.

Mr. Ron Fukumoto: Good afternoon my name is Ron Fukumoto with Ronald Fukumoto Engineering and I'm going to continue with the drainage presentation. What I wanted to talk about was just cover a brief analysis of what we've done and give you some background information on what we're considering two components of storm flows. So what we talk about when we analyze storm flows are runoff volume so we talk about cubic feet of runoff volume. And we also talk about runoff rate and this is cubic feet per second. So these are two separate components that we consider when we're doing our drainage design.

I wanted to also mention about county storm drainage rules. The storm drainage rules allows for such drainage retention basins when there isn't an adequate outlet. I think many of the projects within the SMA are going to this route primarily because it's not allowable to simply just discharge into drainageways. So we're taking that into consideration and the requirement for county is that whatever increase your project is creating you need to mitigate it in some manner. So what we tried to do is of course, take care of the two components. We're looking at the runoff volume as well as the runoff rate.

Before I get into the details of our own calculations I wanted to mention that when we had analyzed our site we would typically look at existing conditions so that would mean you know, an existing hotel site. But instead of doing that we wanted to go beyond that and we considered the existing site as totally undeveloped. So we're saying lets analyze an undeveloped site and then lets look at the increases due to our totally new project. So in that way we're being very conservative because we're saying that you know, the site is totally undeveloped and then we're going to develop this site. So we're looking at the differences due to that.

The data in this table below okay, I can go over that quickly. What we were trying to show is predevelopment, post development and the increase and we'll talk about percentage later. So for runoff volume at predevelopment levels now this is like a totally undeveloped site. You have a volume of 16,000 cubic feet. This is based on the 50-year, one-hour storm which is the county requirement. Post development is 27,600 cubic feet and the difference is 11,600 cubic feet. So according to the County Code, we need to mitigate this increase due to the project. Similarly, we looked at runoff rates. Predevelopment level is 25.9 cubic feet per second. Post development is 41.9 cubic feet per second and the difference is 16 cubic feet per second. Again, the county requirement is to take care of any kind of increase due to your project.

I want to talk a little bit about percentages. If we look at the increase in volume and compare it to the post development condition this represents 42% of that volume. And similarly this is also about 40% if you look at the runoff rate. So our initial design took into consideration what is required by County Code. And as a result of the commission's request we took a look at some other options.

The Maui Planning Commission requested at our last meeting that we try to look at retaining up to 100% of the post development runoff on site. So we had done additional preliminary engineering

calculations to see what could be done and we've come up with a few options that I wanted to discuss. Before getting into the discussion we wanted to just briefly explain you know some additional like some other projects that were done using well, basically the county requirements.

Back in 2002, the Kobayashi Group developed Napili Villas. It was a project that consisted 184 condominium units and we had a very extensive system. We didn't have an underground system but it involved a large open pond system for detention and retention. That project was one of the first in the state to use the filtration unit that we mentioned. We also have had subsurface perforated drainage pipe systems that we've done for projects in the SMA.

Back in 2005, we worked on a 9-lot residential subdivision out in Napili. This is the smallest site, two and a half acres and that incorporated a detention basin that we previously described. We also looked on Kanani Wailea so those were the construction photos. That Kanani Wailea project was a 35-unit single-family residential project. The site was about eight and a half acres and as Mike Silva mentioned the cost was about \$500,000 for that system. So it's a substantial cost item for the project.

One of the options that we considered was to if you recall, maybe we can go back, we can take a look at this diagram, the first option that we considered was trying to gain additional storage by eliminating this outlet pipe here. So we were able to do that and you know, we can retain a 100% of the post development runoff but what happens is we start defeating the purpose of our filtration units. Once everything starts filling up and if you remove the outlets you kind of lose that filtration function. Also in terms of the overall function because we don't have the outlet and things aren't flowing through the only way that the system can function once it gets full is for it to back up. So we felt that that really wasn't a suitable solution.

The other option that we considered was to simply increase the size of the pipe and we came up with a system that involved 130 feet of additional pipe. We were able to make that system work but there are some other issues related to that. There are space limitations and there are also cost issues related to that. The cost is probably about 35% more than what we have proposed.

So those two options we considered you know because of functional and space issues and also cost issues we felt that they really weren't suitable solutions. So what I'd like to do is continue on and talk about preferred solution.

Okay, this slide shows our original design and we'd like to compare it to our preferred solution. For our original design as we previously mentioned we're retaining 40% of the post development flows. The design consisted of 372 feet of 8-foot diameter pipe and this is buried in a 12-foot by 12-foot gravel bed. We have our filtration unit in place and there are no site limitations and issues.

For our preferred solution what we were able to do was instead of a 100% we were able to retain 85% of the post development flows and this involved increasing the volume by adding 40 feet of 8-foot diameter pipe. We still retained the filtration function and we need an added space of about 10% of the original design. So we felt that this is a workable solution not quite the 100% but it fits within the site and it's of reasonable cost.

Additionally what we wanted to reemphasize was the fact that according to Professor Steve Dollar of the University of Hawaii the critical factor really is the sediment load rather than the quantity of runoff that's being released. So you know our system of course reduces the quantity but we have the filtration unit in place so we felt that you know, we've sort of achieved an optimal solution. And this is what we would like to present and offer the commission today.

Mr. Wong: Alton Wong. I'm sorry that Steve Dollar couldn't be with us. He had another appointment but he provided testimony in a written letter that basically said that as Ron mentioned is that it's sort of the sediment that sort of harms the reef. That natural occurrence of the runoff that out of a 50-year, one-hour storm the reef is resilient and can handle it and it's actually - toward the end it's very subtle but he says that the water that is going through the basin and permeating through the rock is actually worse because it doesn't go into the turbulent ocean and mix with the salt water as well. So you have that testimony in front of you.

The One Wailea, the brand is a sustainable brand. It's a green brand. We intend to implement sustainable measures, energy conservation, again, drainage, ...(inaudible)... drainage, water efficiency. It goes with the brand. It goes with what Maui is.

In terms of the planning of the project when we made a conscience effort that we have an existing facility. We wanted to decrease the impacts. We did this by a combination of reducing units, we're going to implement some LEED measures and unlike a number of other projects that before you we actually will have less impact than what we had before we came here before you. As you see the drainage we're proposing to retain 85% that water would be - and the water would be clean going out to protect the coral reef. Traffic, wastewater, water demand is all less, including the unit count. That's all I have.

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

Mr. Starr: Yeah, I have a number. ...(inaudible)... say Mr. Dollar says the sediment load is the factor but that's only one factor. The other factor is the nitrates and phosphates and other landscape chemicals that are carried out onto the reef you know, through the storm water.

Mr. Wong: Yes.

Mr. Starr: And since your advertising this as a green eco-friendly resort I'm hoping that you're really going to do the deed not just talk about it. What are you going to be doing about first of all eliminating chemical fertilizers, nitrates, phosphates and also conserving the amount of irrigation water because that is the vector for moving these chemicals and whatever hits the ground onto the reef.

Mr. Wong: I'll let my landscape architect.

Mr. Richard Brownlee: I'm Richard Brownlee with Brownlee and ...(inaudible)... we're a landscape architectural firm based in Honolulu. We're using primarily -

Mr. Hedani: Richard, you need to speak very loudly into that microphone.

Mr. Brownlee: We're using primarily native and drought tolerant planting and all of the shoreline areas would be retaken from the invasive turf that we currently have there and replanted with native planting. We're using drip irrigation primarily through the site. Limitation of course is the drip irrigation doesn't work real well in turf areas but the bulk of the site other than the steep slope areas would be done with drip irrigation and then of course, our intention is to minimize use of fertilizer and that would also be accomplished by using native planting.

Mr. Starr: But you are going to use traditional chemical fertilizers on the landscaping.

Mr. Brownlee: That would not be our intent. We're trying to use plant material that's suitable to the site so we're minimizing use of fertilizer and using mulch and -

Mr. Starr: Right.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, as far as energy goes my recollection is that -

Mr. Hedani: Jonathan, you're going to have to use the microphone too.

Mr. Starr: My recollection when we did a site inspection was that this was going to be a LEED project and I know I see that you're waffling on that.

Mr. Wong: No it is going to be a LEED project.

Mr. Starr: You are going for certification or silver?

Mr. Wong: Certification. We actually did a preliminary study and we can just hit silver, but you know, if something drops out we may not be able to hit. So yes, we are going for LEED certification.

Mr. Starr: I know your organization certainly has plenty of experience.

Mr. Wong: Yes.

Mr. Starr: I wouldn't doubt it. So you really will be doing the energy efficiency measures.

Mr. Wong: Oh, it just makes economical sense and you know, with the high energy and the cost of oil it's just practical to do.

Mr. Starr: Okay, and the swimming pools?

Mr. Wong: You mean salt water?

Mr. Starr: Yeah, salt water or anything or anything else. Are you doing anything with that?

Mr. Wong: We actually looked into - we have some water features there. We looked into drilling a well and trying to use brackish water for our water features, but not the swimming pools, but we were told that from the WCA's perspective that we're not allowed to drill wells in our area. It actually would have made economical and viable sense to do that. They have said that they have done some well drilling there and the water comes up brackish, very salty, kind of damaging to just finishes and plant life. So that was our intent but we had to give that up.

Mr. Starr: Can I ask one more question?

Mr. Hedani: Go ahead.

Mr. Starr: And this is for Mr. Fukumoto and his staff, is there a way to at least - I know you're not responsible for the offsite runoff, you're just transferring it through the site but it's still, you know, it still is you know, kind of ugly to see that it's all going to go straight into the ocean. Is there any way of at least pulling out the first flush of trash that comes down that shoot?

Mr. Fukumoto: It's going to be difficult for this project to try to do that type of work primarily because we're looking at a very large area and you know, there's a golf course that feeds into it as well as areas that even extend up above mauka of Piilani Highway. You know as far as the site is concerned what we're trying to do is at the outlet, you know, try to have sufficient grass and vegetation there to try to pick up whatever we can on site. It is, you know, quite limited because we can't really do much work in the shoreline setback area. So that's probably the extent that we can actually you know, try to take care of offsite runoff. It is a difficult problem to try to address because you know we're just one site and we are collecting a lot of runoff that runs through the site.

Mr. Starr: How about doing something at the top of the property just to take - get rid of the plastic and you know, the first flush of stuff that comes down there, the solids and all of that?

Mr. Fukumoto: You know again, I guess the difficulty is that if we try to take care of something on the site there might be a potential for lets say clogging and you know it's really difficult. It is a large culvert that comes through. I believe it's a 84-inch and it has to neck down, well, it has to convert into a different size and shape because of site limitations and there's always that potential that things will back up and potentially that will create an additional liability issues and of course maintenance issues so it's hard question to answer.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Could we go back to stage 1, 2, and 3? Okay, I just want to say a few things and make sure my understanding is correct. State it when I get it. Low intensity storm doesn't go out.

Mr. Silva: Yes.

Mr. Mardfin: Stage 2, it starts to flow out.

Mr. Silva: Yeah.

Mr. Mardfin: And then I got stage 3 it's reduced. But what about stage 2 and a half? It overcomes this and what happens?

Mr. Silva: It would be in between that 3 and 2. So the water, say the storm stops right now -

Mr. Mardfin: No, no, no, I want to go further. The storm is bigger than you thought it was going to be, does that whole thing plug up?

Mr. Silva: It would, yeah it would eventually you know, keep rising up. We have additional storage in the gravel bed. So there is some storage still above and I believe our preliminary numbers I there was about four feet above our basin to the finished ground. So it would continue to rise in that until it eventually has a manhole -

Mr. Mardfin: Shoot out there.

Mr. Silva: Yeah, it actually probably wouldn't shoot out here. Let me get you to the other - it would probably shoot out of this inlet because this would actually be a lower inlet feeding so it would be really complicated actually and that would be over the design storm, over the 50-year, one-hour storm.

Mr. Mardfin: But the reason I ask that is because you're proposing on the design storm only to take care - your design is take care of the increase in runoff. So if the 50-year storm comes along the stuff that would have flown out pre any kind of development is going to overwhelm the system because it's still coming. I mean, it's still coming down. It's the total amount, the post development total that's going to hit the system.

Mr. Silva: Correct. So we do design for that. So our 85% retention like you're saying, that volume we're going to keep in would be underneath this outlet pipe. So we design for slowing the volume out, you know, the rate actually is a flow like a speed of water so we're slowing it down and we designed for the top of the basin to be able to handle the entire storm backing up by slowing down. So the entire storm fits into that basin and it's really key to have this outlet too because we do let it out at a predevelopment level. It's underground, you know, safer than on the surface. So you do have an outflow also when the storm is happening.

Mr. Mardfin: So it's not - you're really retaining a 100% at least initially and then the pipes going to flow longer because you've got more to get down. So what will go out the box culvert but the 85% is before it hits the box culvert.

Mr. Silva: Correct, 85% would be below the outlet pipe. So before it ever leaves.

Mr. Mardfin: So then your stage 2 is when. The full storm is coming down and even though you're not keeping the full 85, the extra 15 percent is still being held there. It's just going eventually go out into the box culvert.

Mr. Silva: Yes, there's an in and there's an out. So there are flows going at both times. So it's not necessarily the entire storm, you're just slowing it down enough, we have enough volume to hold

pack the extra 15 that's slowed and then eventually it will release.

Mr. Mardfin: And that when the storm hits once every 50 years what will happen to your filtration system at the left.

Mr. Silva: Again it will keep -

Mr. Mardfin: You said it would go higher than that.

Mr. Silva: Yeah, yeah, so you would have. Again the flows would likely reverse and empty out near the shoreline over here.

Mr. Mardfin: So the filtration system wouldn't be operating for that ...(inaudible)...

Mr. Silva: If you see the section, the flows would actually go over but this bottom area that has the contaminants or debris. Is there self contained there's no outlet here. So all the heavy items that were taken out with the first flush as Commissioner Starr was mentioning. They would all still be in this area.

Mr. Mardfin: So it will be basically relatively clean water if it's coming out.

Mr. Silva: At that point, it would be all the trash would have been collected by them.

Mr. Mardfin: Thank you. I think I understand it better at least.

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

Mr. Hiranaga: I wanted to understand the assumptions of pre development surface runoff. You have 16,000 cubic feet as pre development. How far back do you go? Do you go like precontact as far as what is pre development or you go back 20 years or 100 years because you know, the vegetation there is totally different a hundred years ago.

Mr. Fukumoto: We were considering the pre development condition as the site ready to build on at that point in time. We're not considering something that we didn't know about. It was a hotel, empty hotel size. So that's what we're considering as pre development.

Mr. Hiranaga: Before the original structures were built.

Mr. Fukumoto: Before the original structures was built. So there were kiawe trees and grass and brush and that's a pre development condition.

Mr. Hiranaga: You have a pipeline that collects the runoff from above site and basically transfer it directly to the ocean. So in your calculation of pre development surface run off do you take that uncaptured flow as part of the pre development or do you assume that none of that is entering the site

Mr. Fukumoto: We don't take that into consideration. That's offsite flow that enters the site so that's not considered.

Mr. Hiranaga: So you just start from below from the Wailea Alanui Roadway and where the property line starts on the mauka portion. So do you take into account this above site surface runoff through the pipeline. If this pipeline was not there there would be some absorption of this above site surface runoff. You don't take that into account as part of reducing the amount of water entering the ocean because it would spread out over the site if there was not a collection system.

Mr. Fukumoto: It does spread out somewhat but just to explain the prehotel conditions there was a gully there and I believe that Gully is probably lined with you know, the rough lava rock because it would erode out the dirt. And most of the runoff that I think would enter the site kind of just rushes off to the ocean because the grade on the site is fairly steep and everything tends to just kind of run straight off the site.

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

Mr. Hiranaga: so the original plan was to retain approximately 11,000 cubic feet which is your 42% retention.

Mr. Fukumoto: Right.

Mr. Hiranaga: And now you're proposing 85% of the 27,000 cubic feet?

Mr. Fukumoto: That's correct.

Mr. Hiranaga: What prevents you from retaining the additional 15%?

Mr. Fukumoto: We had run through calculations and what happens in our calculation method is that the size of our retention basin becomes very, very large if you try to retain a 100%. And because of that it starts impacting the area that we have to actually put it in and I mentioned previously that it was about a 130 additional feet of 8-foot diameter pipe which is a lot of pipe. So it's really site limitation that prevents us to do that. There's also a cost issue. We probably are increasing our cost by about 35% and that's the essentially the length of pipe, 35% additional pipe and gravel bed would probably cost at least 35% more.

Mr. Hiranaga: What is the increase in cost? Dollar wise?

Mr. Fukumoto: We're looking at just rough cost now, original design was about \$600,000. The 100% retention all underground would cost an additional \$210,000 so \$810,000.

Mr. Hiranaga: What is the budget for the entire project?

Mr. Fukumoto: Maybe Alton can answer that question.

Mr. Wong: The renovation is about \$100 million and the condos is about another \$100, \$110

million.

Mr. Hedani: Any additional questions? Commissioner Starr.

Mr. Starr: There was some spirited discussion in this room over the last few weeks regarding burials just a couple hundred feet, yards up the beach from this location and I don't know whether this spot is different from up at the Grand Wailea or not. So I'd be curious to know what's being done to do a archaeological inventory and to deal with possibly burials that are located in places where there's going to be new excavation.

Mr. Wong: When you had the Grand hearing immediately after that we consulted with our archaeological consultant who we have here and he'll be able to provide you the answers you want and we also checked with SHPD.

Mr. Mike Dega: Good afternoon, I'm Mike Dega from SES Archaeology. Difference between the Renaissance and the Grand Wailea is an apple and an orange. It's all based on topography. Grand Wailea is relatively flat as it comes in from the coast the sand dunes tend to spread in it's a known burial spot in sandy deposits. The Renaissance is more built up. A'a basalt...(inaudible)... sand, the sand is all basically in the setback area. There was a archaeological assessment done in 2003 and all negative findings on the parcel. We put in for two monitoring plans for the Renaissance itself and the parking lot SHPD says that's fine go ahead and monitor it as a precaution. To date, there's no burials known for the Renaissance area.

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

Mr. Mardfin: If commissioners still wants to follow up on this I'll defer for a minute. I think he does.

Mr. Starr: Is there any record of what was found when the original hotel was constructed?

Mr. Dega: No sir. There was no mention of burials or any sites that we could find at this point.

Mr. Starr: I mean, when was that and I mean were they looking for it?

Mr. Dega: When the built the hotel in the '70's that predated all the laws. We know from the Grand Wailea because Ms. Hall and others were actually down there physically wrapping the remains. So I assume same would have happened if a similar occurrence was at the Renaissance and we don't have any information that that occurred down there.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: For the consultant, it's not for you I'm sorry. It's about your budget, I think Commissioner Hiranaga asked you what you're or somebody asked you what your budget was and you said a \$100 million for the hotel and a \$100 million for the other things. That's a \$200 million budget and the consultant said the increase – the cost of increasing capacity was too expensive because it went from I think it was \$600,000 to \$810,000 so you're roughly – I'm rounding numbers, but you're roughly increase – to do that would cost an extra \$200,000 on a \$200 million project

that's 1/10th of one percent increase in cost. Is that correct?

Mr. Wong: If your math is correct, that is correct. The cost is not really the issue here, it's more the space that is required and again, you know to protect the reef it's more getting the clean water.

Mr. Mardfin: Okay, I thought I heard the reason was primarily a financial one but you're saying that's not primarily financial.

Mr. Wong: It's an incremental cost compared to the whole amount it's not significant.

Mr. Mardfin: Okay, but the way while you're here I want to thank you for that letter from Dr. Dollar. That answers the kind of questions I was having about what happens if fresh water hits the reef and that was kind of the kind of questions I had and you gave me the kind of answers that alleviate some of my concerns.

Mr. Wong: Thank you.

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

Mr. Hiranaga: So on this proposed drainage retention system it seems to me the choke point is that filtration unit capacity. So does at a certain point it cannot process more water than it's designed for so are you – because you're increasing the retention, side of the retention basin are you increasing the capacity of the filtration unit. Because if only "x" amount of water can pass through it a certain period of time if there's more water wanting to come through it starts to back up.

Mr. Silva: There is a measure that helps alleviate that. So water – this would not be a choke point. Water would be able to overflow this portion and raise up and still pass through into our basin. So that would not be a choke point.

Mr. Hiranaga: But it would get the full treatment, filter treatment?

Mr. Silva: No, it would not.

Mr. Hiranaga: So it is a choke point. You have a release value.

Mr. Silva: It would not be filtered water but again the first flush would still be contained in the bottom. But we don't want to jeopardize the upstream area by having that as a choke point. So at that time after the 50-year storm or whatever the storm is we're thinking that runoff would be clean and it's okay for that to overflow this filtration process and bypass that.

Mr. Hiranaga: So your proposal to retain 85% of the post development surface runoff would be filtered and treated by this unit if that event occurs and would not overcome the unit and thereby bypassing it and spilling, not being treated.

Mr. Silva: Correct.

Mr. Hiranaga: You're saying that has the capacity to treat 85% of your post development surface runoff.

Mr. Silva: We are proposing that this will treat 100% of our 50-year storm, of our design storm. So that will take care of a 100%.

Mr. Hiranaga: The 85% of the post development.

Mr. Silva: Yes. Yes, because we have this 85% of the post development and 100% of the detention volume of our design if that makes sense.

Mr. Hiranaga: I know CE says post development, it's predevelopment so I just want to –

Mr. Silva: No, I apologize. You're correct. We have 85% –

Mr. Hiranaga: Total surface runoff.

Mr. Silva: Correct. And this actually isn't to scale. I mean this pipe actually will end up being a little higher. And we will slow it down with this restricter pipe so it doesn't leave the site, you know, gushing fast. So we slow it down and we have a volume to detain the 50-year storm also.

Mr. Hiranaga: My question is the filtration unit, does it have the capacity to treat 85% of your total surface runoff if that event occurs?

Mr. Silva: Yes.

Mr. Hiranaga: So it won't be overcome and then have to release water through it's – you know, it's got a certain capacity it can filter at a certain period of time.

Mr. Silva: Correct. And we will work with the manufacturer to size that appropriately.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I want to look at these numbers in a slightly different way. My understanding is that you know you're talking about 85% of a 50-year storm that's pre and post development runoff. So if we were to – at what level would it absorb a 100% of a year storm, 25-year storm. Is there a way to extrapolate that out?

Mr. Silva: We did go through that calculation and it turns out that it is – so what you're saying is before it's outlet into the pipe what is the volume underneath and it turns out to be exactly in between a 25-year storm and a 50-year storm. So that's about a 37 ½ year storm.

Mr. Starr: I can live with that.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: This is a total change of topic. Going through my notes I see that one of my concerns was the need for an archaeological inventory study for the beach parking area. You know, one had been – the report had said one had been done for one of the TMKs but not for the other TMK. What's happening with that archaeological inventory study for the TMK that's where the beach parking's going to be?

Mr. Wong: We answered that at the previous meeting. Basically it's in almost fully developed site.

Mr. Mardfin: Oh, that's right. I do remember that thank you.

Mr. Wong: I can show you the slide if you want to see that.

Mr. Mardfin: My recollection is you said it's already paved over, you're just extending it by about two feet or something like that.

Mr. Wong: Correct.

Mr. Mardfin: And so you don't anticipate getting anything.

Mr. Wong: No.

Mr. Mardfin: Okay, thank you. I didn't write that in my notes.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I want to talk about beach parking for a moment. I was involved with the Wailea Community Association a number of years ago when the parking along the beach access by the hotel was decreased significantly, it was decreased by 20 some odd stalls because when the hotel was built there there was parking allowed along the curb. That was part of the parking that was originally developed for the hotel. At a certain point there were complaints from the condo owners near there that too many outsiders were coming down and parking along the road and using the beach and the Wailea Community Association removed those stalls. And so there was no more parking along the roadway. It sounds like now those same stalls are kind of being replaced. I wonder whether there are any numbers about the original number of stalls that were created and is there any other way, I understand you're creating more stalls by basically restriping it. Is there any way to get some more beach parking in this thing because I think that's kind of one remaining issue that would really I know make some of us feel good about this thing.

Mr. Wong: On the beach parking basically right now the existing is there's two parking lots. They're separated here. So what we're proposing to do is to we're going to have regrade this whole area so that it becomes one gradual falling slope, restripe it. Basically the middle here is additional parking as well as the restriping and making it more efficient. So basically we are repaving the whole parking area as well as this lane here. The parking that you're probably talking about is the one along this lane. It's a two-lane road and you know, I don't have control of that. I don't think it's something, you know the WCA is here and you know we got approval only for this from the Department of Parks and Recreation.

Mr. Starr: I mean, I doubt that those stalls, there were only I guess towards the bottom of that curb, you know, all along from the top down. I don't think those are going to get put back in. I believe the Fire Department was brought into it and it was, you know, ...(inaudible)... but is there any way to put some stalls up in your lot or in the structure to increase that number somewhat?

Mr. Wong: You know our parking count basically you know, when we looked at our parking count we - our study is that basically we make out during the evening. So if people want to park in the parking lot up on the top, you know we don't see a problem. Our guests will be out exploring Maui. So if they want to park in our parking lot they're willing to do that.

Mr. Starr: Would you be willing to allow a certain number of them to be marked that they be available.

Mr. Wong: They will be available because you know, the guests will be out.

Mr. Starr: I mean, aren't they marked now for hotel guests only though?

Mr. Wong: No, we don't have anybody that monitor - well we didn't have when the Renaissance was open there was not sign that said for hotel guests and there was no guard at the station. So you know, we really had a lot of parking.

Mr. Starr: Would you be willing to have a sign put there saying that the public can use them for beach parking in addition to hotel guests?

Mr. Wong: I don't see why not.

Mr. Starr: How many stalls then will that be?

Mr. Wong: Again, I think at some point you saturate the beach and then it's a far walk but I don't think we have a limit.

Mr. Starr: Okay, because I'm trying to think of how we can craft a condition for that. Perhaps Ms. Cua that you would be happy with that would work on everyone and I feel you're doing a good service to the community by doing that.

Ms. Cua: So if I could get clarification. I believe what you're looking for is some stalls on site, beach parking stalls, some dedicated, no?

Mr. Starr: No -

Ms. Cua: Just the ability to utilize a certain number of parking stalls on site for beachgoers.

Mr. Starr: What I'm thinking of is one area of the upper lot have a sign put up or some labeling that these stalls are available for beachgoers as well as hotel guests that way we're not cutting down what they can use at night for the guests, but you know, the public will know that, you know, no matter what the ownership of the hotel is that in the future beachgoers can use them during the day.

Ms. Cua: Okay, the applicant has something to say.

Ms. Kathy Inouye: Good afternoon Kathy Inouye with Kobayashi Group. I have a proposal that could help. On the Big Island we have a resort development next to a public park and in working with the community what they wanted is they actually wanted to control parking because it controls the impact on the resource. So we worked with them to provide "x" of stalls and what we did was in the project we had a gate monitor so they suggested that we give just additional 20 stalls out at a time and not give out any more parking because they said the beach was overcrowded. So we'd give out the 20 passes. They would have to return it when they came back and then you could let more people in. It's kind of like what happens at Hanauma Bay. If you provide more parking there you just can't accommodate more people and I think this already a pretty impacted resource, but we could do something like that where we could allow a certain number of stalls during the day on site in addition to the ones that we are striping at the park.

Mr. Starr: Yeah, I don't think we have to state a mechanism for exactly how it's done because now you're probably not going to have monitor parking but maybe in the future you will, but I think the wording could be that you know, say 20 stalls in the upper lot will be dual use and will be available for beachgoers as well as hotel guests.

Ms. Inouye: Sure.

Mr. Starr: Is that okay?

Ms. Inouye: We're agreeable with that.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: I wanted to ask some questions about this matrix that was provided to us just so I can understand it. So going to page 3, 500 total new beach stalls, 536 new beach stalls, .176 new stalls required per unit. So are you saying based on the number of parking stalls that were approved by the Maui Planning Commission in the past 10 years, 17.6% of the stalls were designated as beach parking?

Ms. Cua: I'm sorry, where'd you get 17%?

Mr. Hiranaga: Ratios .176 new stalls.

Ms. Cua: Yeah, because what - you know, what we did at the last exercise is tried to again apply the number of required stalls that you had required and we tried to say, well how could we in the future apply to this any project and so we took the additional units that were proposed because that's how they came to you and that's another thing. These projects came before you with maybe 300 additional units or a 100 units and based on what you were reviewing at the time, your condition was as such. And so what we did was we just said, okay if you took those numbers and you averaged them out you get a, .167 new stalls required per unit and 2.08 new stalls required per acre. What we're saying - well, I didn't get to give my presentation yet so is it possible for me to just tell you what we added to this table from the previous table?

We added three columns.

Mr. Hiranaga: Oh yeah I'm sorry because - well, Commissioner Starr was asking about parking. I didn't realize you --

Mr. Starr: I jumped the gun.

Mr. Hiranaga: Sorry, you want to walk us through this, fine.

Ms. Cua: If I could. If you recall you had an Exhibit 54 attached to your previous staff report and in that exhibit we just looked at ratios for required parking stalls per new unit that was being proposed and also per acre and you asked us to look at other options and a suggestion was to look at, but what if we just did a percentage based on the total required parking stalls. And the comment I made at that time was that to do that at this point presents somewhat of a challenge if you're looking at being quite accurate because as most of you know at this point in time plans are conceptual and although the applicant is projecting that okay we're going to have this kind of uses and so much square footage and so we anticipate that our requirement is going to be "x" number of stalls. Parking is actually not determined until the building permit stage when you come in with your construction drawings and you dedicate uses at that time.

Now when you're dealing with unit counts that's not going to really change but when you start getting into maybe the commercial or restaurant spaces you know, that could definitely change what your ultimate parking requirement is. So when we took that table that was provided to you as Exhibit 54 in our previous staff report and we tried to add another column of, okay for all of these projects what is their required parking. We were only able to get that for three projects because only three projects had actually come in, we checked with our ZAED, Zoning Division and they had actual parking counts, required parking counts for only three projects and I believe when we looked at that if you applied what had been required by this commission for beach parking to a total parking requirement it was like over 4%. That's what it came to be and so we say okay, but we didn't feel that three projects was enough to go by, to come back to you and say okay, we think that 4. something percent if you round it up, 5% because then you're basing your whole decision on three projects.

So what we did was based on that and just looking at the overall situation we said you know maybe we look at that total units. I mean, we had a table for number of new units and that's what you've actually based decisions on in the past. So when you look at the new handout that we gave you, the last three columns are new columns from what you've seen before and is a total project unit count and then we just you know, randomly took, lets say what if you applied 5% and what if you applied 10% to the total units that's what it could come up to be. And so if you compared that a 5% or 8% or it could be whatever you decide you want in the future. Again, this is just meant as a starting point. General information for us to be able to have discussions in the future and come to some point of you know what is reasonable to apply to these projects.

The one change I do need to make to this table on the Grand Wailea is that the actual total project unit count is not 810, it's actually 1,110 because they have 800 units and if you add the total new units 310 it would be 1,110 and so that the 5% of that that be about 55 stalls, 8% would be about

88 stalls. As you recall your condition which was agreed to by the applicant is that they provide 75 new stalls and so you're in the ballpark.

If we look at the Renaissance, so if we look at page 2, the Wailea Beach Resort Renaissance Hotel is the first item on the sheet and we also have this up on the slide here but I think it's easier for you to see with the handout I gave you. But if you look at that based on the previous project, let me use somebody's pointer here. So here's the Wailea Beach Renaissance hotel and the hotel that came before in 2005 was for a 193 new units. And that time part of the project was to provide 22 new stalls, 22 new beach parking stalls making 75 total stalls at the Uluu/Mokapu Beach Park. So if you apply that to - well, okay what we did here is we included the ratio of the stalls that were required to the new unit count.

Now if you go to page - if you go to the last page, so page 3, and again, one thing we need to mention is for this project technically there's no increase in units from what the project was originally 349. They're proposing a total of 328 units so you know one argument could be that their beach parking requirement should be zero because they have no increased units. If you're looking at how many new units are proposed technically they have no new units, excuse me, no additional units, but they do have 38 new units which we mentioned here. So if you were to take this new column that we put in, total unit counts so for this amended project they're going to end up with 328 units. 290 existing units that would be renovated as part of that existing hotel building and then they're going to add 38 new units in six buildings again, not exceeding 349 that was previously existing. If you applied a 5% requirement, 5% of total units, then the requirement for beach parking would be 16.4 stalls and if you applied 8% just as a, you know, just a number out there then it would be 26.2 stalls and they're providing 22. So again, we could go anywhere with this numbers in the future. This is really a discussion that we need to have with this commission separately independent of any project coming in and then we can you know, really see where you want to go with this. But again, this was mainly done at the director's direction basically to give the department and the commission just information of what is out there. You know, we make conditions all the time but to get it on one piece of paper and to see kind of where we've been and how we can move forward that's what this is intended to do.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I appreciate everything you've done to this. And I recognize that you're looking at incremental increases and parking per incremental increase which is how you did it but I don't have my hand calculator with me. Suppose for the average of all projects you have .176 new stalls required per unit, forget that it's new stalls, what's .176 times 328 units?

Ms. Cua: I don't have a calculator.

Mr. Mardfin: I had a friend that just gave me one that I can't open. Oh, there it is.

Mr. Hedani: Actually if you want the comparison with the Grand Wailea, Grand Wailea had 1,110 units with 75 new stalls which comes out to 6.75% new stalls.

Ms. Cua: Correct.

Mr. Hedani: And if you apply the 6.75% to a total of 328 units for this project you come out with 22 stalls.

Ms. Cua: Are you asking me or I'm sorry -

Mr. Hedani: I'm telling you.

Ms. Cua: Oh, okay. Thank you.

Mr. Mardfin: What is their acreage?

Ms. Cua: 15.58.

Mr. Mardfin: I get -

Mr. Hedani: Hold on Ward. The director has something.

Mr. Hunt: I just want to clarify the fifth column over says ratios. That is a ratio of parking required per incremental units?

Ms. Cua: Yes it is.

Mr. Hunt: Just to clarify.

Ms. Cua: Yes.

Mr. Hunt: Thank you.

Mr. Mardfin: And I agree that it's an incremental unit might be different from a total unit but if you apply the .176 times 328 you get 57 stalls. I know it's -

Ms. Cua: You do but it's like -

Mr. Mardfin: But we're not doing incremental, I know.

Ms. Cua: Okay, all right.

Mr. Mardfin: If you do 2.08 times their acreage you'd get 32 stalls and how many stalls do they currently have?

Ms. Cua: They're proposing to provide 22.

Mr. Mardfin: More. How much do they already have? They have no stalls?

Ms. Cua: The have -

Mr. Hedani: Ann, the question is is the 22 stalls new stalls?

Ms. Cua: It will be new stalls that's correct.

Mr. Hedani: Additional, new stalls.

Ms. Cua: Additional new stalls.

Mr. Mardfin: It's addition to what? How many? They don't have any parking?

Ms. Cua: They don't have any parking on site for beach parking right now.

Mr. Mardfin: Okay.

Mr. Hedani: Well, let me ask the question in a different way, the 22 stalls represents a net gain of 22 beach parking stalls which did not exist before at Ulua/Mokapu Beach Park.

Ms. Cua: That is correct.

Mr. Hedani: Okay.

Ms. Cua: So there's 50 some odd stalls now, when they add the 22 they'll be up to 75.

Mr. Hedani: I see. Commissioner Starr.

Mr. Starr: First of all, I want to thank you for doing the research on this and it's something that's been discussed twice in the years since I've been on the commission and there was a formal request made by Maui Tomorrow, from the Board of Maui Tomorrow for the department and this was about a year and a half, two years ago to provide an inventory of beach parking stalls that are available throughout the resort areas. And I know, you know, I believe that when that came in it was discussed and you know, at some point there was a hope that the department would be able to get to it and it seems that we're getting close to that time and I'm hoping that we can actually come out of this since it looks like most of the work is done with a list of at least from a paper list of those beach parking stalls that are on record for having been provided.

There was a second half of that request from Maui Tomorrow which was for the department to try to truth it out and I think that may be an onerous and difficult thing for the department to do but you know, if we could get to step one of having an actual list available and made available to the public of those beach parking stalls that were authorized or on the books somewhere you know maybe we can get, you know, Maui Tomorrow or someone else to go out and actually truth it out, maybe Kenny would like to go out them and try to look and see how many of them actually exists and what it entails. But I do want to thank you for doing this and I really hope that director will make the task clear for this to be finished up which would be a tabulation of all of those that have been authorized.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I apologize I had to step out real quickly but just to make sure I understand this matrix. Number of stalls for beach users 536 total that's based upon what has been required in the past 10 years.

Ms. Cua: That's correct.

Mr. Hiranaga: And then the 3,041 is total new units approved by planning commission in the last 10 years.

Ms. Cua: That's correct.

Mr. Hiranaga: And then the 4,671 total project unit count is the total number of stalls that exists?

Ms. Cua: No, that's not stalls, units.

Mr. Hiranaga: Units?

Ms. Cua: And it's actually 4,981 because we had to add the Grand Wailea's extra 310 units.

Mr. Hiranaga: Room. When you say rooms you mean unit rooms, hotel rooms? What's a unit?

Ms. Cua: Well, hotel rooms or condos.

Mr. Hiranaga: So right now at 8% we have an excess of 160 stalls because all we would need is 374 stalls and we've 536. So we've got too many beach stalls is that what you're saying?

Ms. Cua: No, I think what we're saying is that if you would apply 5% and 8% to the total units that's what you would have gotten but we got more.

Mr. Hedani: Director.

Mr. Hunt: This matrix is merely a reporting of what actions have occurred. It is not any way intended to be a needs analysis which is far more in depth than this is which would be a wonderful project. It's not intended to conclude what is a good number, what is a bad number. It's judgment free. It is merely presenting the facts of what has occurred in the past and we thought this would be beneficial information to you folks so that perhaps you start basing your decisions on well, this is what we've done in the past, this number seems reasonable, here's some averages. We don't have the answers and frankly when we start diving into it, it's kind of all over the board actually. But maybe through more refinement and more use, more analysis, we can come up to some comfortable number, but it should not be misconstrued as a conclusion or recommendation or anything like that. It's merely reporting the actions that have occurred in the past.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Thank you I appreciate that Mr. Director. And I can think of another wrinkle if we go into this in greater depth is this is just for the Kihei areas is it not, Kihei-Wailea?

Ms. Cua: No, West Maui and South Maui.

Mr. Mardfin: Oh, it includes both. Okay, my mistake. It might be different in the two areas. You might want to have a different number for the two areas also for just something to think about. When you're mining all the data you basically have and I appreciate that too.

Ms. Cua: Right.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: I understand when Wailea Beach Resort was first proposed in '60's I guess and they the development company donated beach accesses and land to create these county beach parks so lot of the so-called beach stalls are located at these now county parks versus on private property. I'm curious why the Renaissance is being allowed to put their beach stalls, they're not being required to put beach stalls on their project site and they're allowed to be putting it or trying to squeeze more stalls into the county beach site.

Ms. Cua: Basically what's happening - what happened in 2005 is they came in for a new project to do a 193 units and at the time part of that project was to expand the beach parking at Ulua/Mokapu, they had worked with the Parks Department. At that time, that was acceptable you know, to the department, to the commission that's how it passed as a condition that requires them to provide that 22 stalls at Ulua/Mokapu Beach.

Today they're before you asking for an amendment to the project but not asking to change in any way, shape or form that approval that you gave for the 22 stalls. So I guess to really answer your question it wasn't a discussion that had come up in 2005. It is a discussion that you could have today, again, because they were not asking to you know, amend that approvals that were granted for the beach parking. It's not an area that we visited as part of this amendment review.

Mr. Hedani: Commissioner U'u.

Mr. U'u: I think part of the concern or problem was just like affordable housing at point you had Alice Lee working out whatever needed to be done and whatever she would forward to the planning commission or for that fact for the Council was doable. And I think we face a similar problem with the parking. If the Parks Department gives us the green light or the Council the green light on we accept the project and to make it move forward it would be accepted by the commission and also at times by the Council. There's no ordinance to follow, a parking ordinance for beach and I think we're taking on that first phase of that step right now and seems to be a lot of frustration. At one point was the affordable housing for us and now that's taken cared of we're moving onto beach parking. So that's part of the reasoning for the prior planning commissioner's approval for certain projects was recommended by the department heads.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: So is the Ulua/Mokapu Beach Park being enlarged or are these 22 stalls being created by restriping.

Ms. Cua: 22 stalls -

Mr. Hiranaga: 22 stalls.

Ms. Cua: Is being created by restriping and regrading. And I did want to make one last point, Parks Department in this go round had put a comment which we're recommending as a condition that there shall be no future park credits received should the park improvements exceed the project's park dedication requirements. So you know, this is now a different project than when the project came through initially at 103 condo/hotel units. And Parks Department is saying is with this amended project, if their park credits comes out to be - or if their park requirement comes out to be less than what the applicant is proposing that they shall receive no future park credits and that's a condition. I think the applicant had wanted to clarify some issues if that's okay.

Ms. Inouye: Kathy Inouye again. If I could just clarify something that was stated earlier. In the 2005 SMA application that we came in for there was no requirement for beach parking. We actually worked with the community, the WCA and the Department of Parks and Recreation was something that we wanted to do. So I think I don't know if we opened the flood gates or what happened but it was something that we felt would be appropriate for the area. We went down and we walked the entire site and the parking lot with our consultants and we decided that that would be a good improvement for the community so that's why we put the 22 stalls on the table. We then worked with the Department of Parks and Recreation, got their approval to do that. We did a cost estimate back then on what it would cost us to do the regrading and striping and the cost was a little more than we thought it was going to be but we were able to work out an offset against the park dedication credits - requirement. So what the Parks Department is saying now is if it costs us more that's too bad, you're not going to get a further against your park dedication requirement.

And if I could just say something else. I think we just really need to, I know that you're trying to do what's right by providing more parking for public beaches but we also need to look at each beach independently and each park independently to make sure that we're not overtaxing those resources. That's why a park dedication requirement in some ways is good because if you have sufficient parking there you might want that developer instead of providing public parking to refurbish the restrooms or provide play equipment, things like that. That's why I think it's still good to look at the overall picture. Thank you.

Mr. Hedani: Additional questions for either Ann or the applicant? Commissioner Hiranaga.

Mr. Hiranaga: So Ann are you happy with the 22 parking stalls? Not happy, satisfied.

Ms. Cua: I believe the department is satisfied with the 22 stalls in light of all the analysis that has been done thus far.

Mr. Hiranaga: So you went and checked it out?

Ms. Cua: Checked out? Well, there's really nothing to -

Mr. Hiranaga: To see if there's a greater need for parking. Did you go down to that Ulua/Mokapu

Beach Park and see what the demand is?

Ms. Cua: I have been down there and you know, it is - the couple times I went down there it was pretty full.

Mr. Hiranaga: Not totally full, pretty full.

Ms. Cua: Not totally full.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I go down there a bunch to go snorkeling and beach and there are quite a few times when I cannot park there and I have to go somewhere else. It's common. I don't know what the situation is now with commercial operators but there's a tendency for commercial operators some of them legitimate, some of them gorilla to you know, be taking up say a dozen stalls with their customers and their own vans and stuff for scuba, you know, stuff. But it's tough, sometime you cannot park down there.

Mr. Hedani: Director.

Mr. Hunt: I agree with the statement that was made that we need to look at each situation somewhat individually and look at each park and look at each beach but at the same time probably one of the biggest concerns that I hear from our community is lack of beach parking. Lack of access to our beaches. And this is, again, this is a very critical issue for our community. If the problem results in that we have too many people, too many of our residents visiting our beach in some ways that would be a problem that I would look forward to.

Mr. Starr: Thank you.

Mr. Hedani: Commissioner U'u.

Mr. U'u: I think part of the problem is the developments that don't come before the council and don't come before the commission is where the root of the problem is. A lot of residential, new residents coming and building along ocean side for that fact Paia I used to traverse in and out with the old people who lived there. They'll let walk through the property and now it's almost impossible. You going have to use your native Hawaiian rights to enter their yard.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: I'll pose the same question to the director. Are you satisfied with 22 parking stalls?

Mr. Hunt: I'm satisfied with 22. If the commission wanted to go higher to the 8% we could support that. I think what we need to do is start setting some numbers and we can revisit them as we go along and maybe even schedule this as an agenda item where we can just talk about the chart itself as opposed to laying it on a particular application. There's a lot of nuances, it's complex. There's a lot of different ways to do it. The columns on the right-hand side are percentage of total units.

That has difficulty. Someone comes in and just wants to do a couple units or a porte cochere do we make them make up for the lack of units in the past? There's arguments on both sides. We don't want to discourage our hotels from coming in and upgrading their facilities by laying the hammer of okay now you gotta come up with some heavy beach parking. On the other side, you know, I passionately made the argument for beach parking on the other side of the argument. So it's a difficult situation and we don't have good answers. To me Mr. Hiranaga's comment, yeah with 22 up to 26 would be the number we would throw out there, talk to the applicant, talk to Ann Cua and keep these numbers in mind and I think Mr. U'u mentioned that well, we're kind of making up in the past some projects came in and didn't get any beach parking. And so if you look at our history back in the '70's and early '80's it wasn't such an issue. There were still access to the beaches and now as the beaches are getting built out we're having to make up for lost time and so I think the burden is on us to do that.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I was not happy with the 22 spaces, you know, and my feeling is we just gained another 20 spaces. There will be dual use spaces but they will be available most of the time. So I am happy with that but I look at those 20 as replacing the 20 or so that went away when they took the curbside parking away from the strip. But we did just gain 20 spaces lets not forget that.

Mr. Hedani: Any additional questions for either Ann or the applicant? Commissioner Hiranaga.

Mr. Hiranaga: Well, if you look at their chart that they provided total project unit count of 4,671, total number of new beach stalls 536, that's basically 11% of the 4,671. So for lack of a better basis maybe we should consider a 10% of 328 which would be 33 stalls. Just one comment. There was a comment made about overtaxing the beach and to me on Maui every beach is different and how someone selects which beach to go to be it the south side, west side or north side is their individual choice because they want a certain feature there and if the beach is overtaxed because there's too much beach parking then that person will decide to go to another beach. I don't think the problem is providing too many beach stalls that it will become overtaxed. I think for myself I rarely go to the south side because I don't want to be looking for beach parking so I typically go to the north and west side where so far they still let you park on the side of Honoapiilani Highway and you can run across the street at some sections and get to the beach. But I think everybody makes their individual decision as to which beach they go to. I don't think overtaxing it by providing too many beach stalls will be a problem.

Mr. Hedani: Okay, my own personal perspective on this is that I think that in the current situation we have an application that's going from 349 units to 328 units, a net reduction of total number of units. They voluntarily came from their side on the prior proposal for an expansion of 22 stalls whether it's county property or their property it's an expansion of 22 stalls that didn't exist there before. And from perspective, the requirement would be met I think by the 22 stalls because it equates exactly with the exaction that we just completed on the Grand Wailea from the perspective of the 75 stalls versus the 1,110 units total. That's just the way I look at it. At a certain point if you want to get really sophisticated you need to do the Hanauma Bay analysis to determine at what point you should restrict access to the ocean whether it's visitor or resident alike. Commissioner Mardfin.

Mr. Mardfin: Mr. Chairman I share your concerns that the 22 stalls seems to be with normal range that it can be done without having to expand the physical bounds of the parking lot that's significantly which is why I'd hate to raise the number then they would need an archaeological inventory study if they were going to spread out and I think cognizance of Commissioner Starr's point that we've basically gotten 20 additional stalls just because they're going allow beach users to use the other parking lot. So I think we've done enough at least. I think that the parking issue is sufficient to make, while everybody might not jump for joy, it's an appropriate number.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Regarding the 22 stalls at Uluu/Mokapu Beach Park are they are going to be increasing the asphalt area or is it just restriping the existing asphalt area?

Ms. Cua: My understanding is that it's restriping the existing asphalt area and doing some grading.

Mr. Wong: The grades on the two lots are like this. There's like four-foot drop so again we would be sloping that lot and combining them so it's a combination of restriping plus adding there's a medium strip in between the two grades. So basically unlike just adding stalls we're actually going to have to repave the whole area.

Mr. Hiranaga: And you're not reducing the open grassy area that might people use for picnicking. I'm not that familiar with that site.

Mr. Wong: Within that area the picnic area is at the beach. So nobody uses the beach park, parking lot or that area for anything but parking.

Mr. Hiranaga: What is the current condition that you're going to have to regrade? Is it kiawe or?

Mr. Wong: I believe there's a hibiscus plant that's kind of laying dead and – so the change in grade is right here so there's one parking lot that you go around like that and then this other parking lot goes around like here and they're not connected. There's about a four to five-foot difference in grade.

Mr. Hedani: Commissioner Sablas.

Ms. Sablas: So how much time do you anticipate would involve in the restructuring of the parking?

Mr. Wong: I think it's a couple months and we would try – we worked with the WCA to see which are the slow months that we could, you know, basically regrade that area. I believe it's like September, October and probably like April. So those are the months that we would try to, you know, provide the least impact to the people who actually use the park.

Ms. Sablas: Would there be options for parking during that times that the parking is going to be worked on for beachgoers?

Mr. Wong: We really wanted to try and minimize but no, we don't have any – we didn't plan for any

options. Again, we would be regrading and repaving the whole area so it would be a major construction. The parking, the paving is kind of used right now, worn.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, perhaps you could allow the public to use some of the resort parking since the resort will be down I would assume at the time when you do that.

Mr. Wong: We would have some construction issues but that could be accommodated.

Mr. Starr: People will have to walk a little bit.

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

Mr. Hiranaga: My one concern about this concept of permitting non-hotel guests or hotel users the use of empty stalls during the day is and I'm not speaking specifically about this particular operation but I remember a time when four teenage boys in a you know, surfer junk with four surfboards on the roof trying to enter a parking lot at a hotel where not welcome, obviously they were not hotel guests and were turned away. You know, you're saying we're going to welcome people to use the empty stalls it really has to be specific.

Mr. Wong: Yeah open to all.

Mr. Hiranaga: You know, when times get better and the hotels are full and the lots are all full and these people are trying to come to the beach we obviously don't look like hotel guests I don't want security turning them away saying hey the lot's full.

Mr. Hedani: Any additional questions, comments? Thank you very much. Ann.

Mr. Starr: Testimony.

Mr. Hedani: Yeah, lets open it up for public testimony. Are there any members of the public that would like to offer testimony on this item? Seeing none, public testimony is closed. What a remarkable difference from the Grand Wailea. Ann.

Ms. Cua: Yes, we did distribute our recommendation dated October 27th and I'm not going to go through all of it. You recall some of the conditions are bolded and that's all I'd like to go through. So first of all in terms of our conclusions based on the facts presented in the department's report, we find that the proposed action will not have a significant adverse environmental or ecological effect provided mitigative measures are incorporated into the project. The proposed action essentially meets the objectives, policies and guidelines of the SMA rules and the proposed action is consistent with county zoning and the Kihei-Makena Community Plan.

Finally, there is no changes to the proposed shoreline setback variance approved by the Maui Planning Commission on July 11, 2006 and extended on October 29, 2008. The applicant is only seeking an additional one-year time extension until June 30, 2012.

So the Planning Department is recommending approval of the amendments to the Step 1 and 2 Planned Development Approval and Special Management Area Use Permit. The department also recommends approval of the one-year time extensions of the Step 1 and 2 Planned Development Approvals, Special Management Area Use Permit and Shoreline Setback Variance subject to the following conditions.

On page 4, the only change under the standard conditions would be Condition No. 4 which includes reference to the most recent project plans dated March 30, 2009 and June 2, 2009 and that's what was presented to this commission. So we needed to update that.

On page 6, after Condition 15 you'll notice that we are proposing a deletion of a condition that is on the permit right now that was a previous requirement of the Department of Transportation and based on ...(inaudible - changing of tape)... need not provide any regional traffic improvements.

In terms of project specific conditions I'm only going to be highlighting the new conditions. All these conditions are existing on the project right now. So the next conditions we'd want to add under parks, No. 26, "that there shall be no future park credits received should the park improvements exceed the project's park dedication requirements."

Under drainage, additional conditions would be Condition 28, "that the applicant examine the existing onsite drainage system accepting drainage that currently passes under Wailea Alanui Drive to insure continued functional integrity. A report of the results of the examination shall be submitted to the Department of Public Works prior to issuance of a building permit for new construction of the project." And this condition has been recommended by the Department of Public Works.

In terms of Condition No. 29, the department would like to amend what we have in our recommendation to you based on discussions that took place today and so we would like Condition No. 29 to read, "that as represented by the applicant, the project shall retain 8% of post development runoff."

And then if you proceed onto the archaeological conditions, Condition 30 is already existing. We would like to add an additional condition and actually that should be Condition 31 and not 32, the numbering is off and we'd like to add, "that precautionary archaeological monitoring shall be conducted during all ground altering disturbance on the Uluu/Mokapu Beach Park site which is parcel 88." So essentially Conditions 30 and 31 deals with archaeological monitoring of the entire project which includes the beach property site as well as the hotel site. And I did distribute a recent letter from SHPD dated October 31, 2009 that accepts a revised archaeological monitoring plan for the beach site and so these two conditions that we have in place would now take care of both properties.

The condition on education would be Condition No. 32 that's as existing same as the residential workforce housing and condition on beach ramps that would be Condition 34.

New Condition 35 under landscaping, "that the majority of landscaping along the Wailea Alanui frontage shall be provided with root barriers and that is recommended by the Department of Public Works."

The next condition under landscaping which would be Condition 36, "that the majority of landscaping modifications within the county beach parking area and along the property boundary shall be provided with root barriers to prevent the uplifting of pavement." That too, is recommended by the Department of Public Works.

The transportation management plan condition would be Condition 37, "that full compliance with the project's transportation management plan shall be rendered. That annual updates of the TMP which address program assessment criteria attendant management effectiveness expectations and reporting requirements shall be submitted to the Planning Department for review and acceptance. Said plan shall also reflect external TMP conditions and new TMP programs developed for the resort. The first annual report shall be submitted at the initial opening date of the project. Subsequent annual reports shall be submitted each year for four additional years on the anniversary of the initial opening date of the project."

The department would also like to add an additional condition dealing with R1 water and it is the same condition that we imposed on the Grand Wailea Resort. The condition is here, I won't go through it. It's the exact same language. It's the language that was recommended by the Department of Environmental Management and so that is on the screen there and so we'd recommend that that be Condition No. 38.

And in line with representations made by the applicant today on LEED certification, we would like to add a Condition 39, "that the applicant shall pursue LEED certification in the design and construction of the project."

That concludes the department's recommendation.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Wasn't there a change in parking to deal with the 20 units that –

Ms. Cua: Okay, I'm sorry I forgot that. The applicant has come up with some recommended language and I could read that and see if that is okay with you. So this would be an additional condition so this would be in addition to the 22 beach parking stalls at Ulua/Mokapu Beach. "That up to 20 onsite parking stalls shall be made available and managed for Ulua/Mokapu Beach Park users between the hours of 9:30 a.m. to 6:00 p.m. Said parking shall not be counted against the project's code required parking."

Mr. Hedani: Commissioner Starr.

Mr. Starr: Instead of "up to" can we have "a minimum of."

Ms. Cua: If that's the commission's –

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: What was the time period?

Ms. Cua: 9:30 a.m. to 6:00 p.m.

Mr. Hiranaga: Why so late?

Ms. Cua: This is just what the applicant is offering as language. We can start with that and – oh, why so late in the morning you mean to start?

Mr. Hiranaga: Yeah.

Ms. Cua: Oh.

Mr. Hiranaga: Yeah. I mean in the summer the sun rises at 5:30. Would the applicant like to answer?

Mr. Hedani: Commissioner U'u.

Mr. U'u: Just to comment, I think at 9:30 you still going be finding beach parking open at the park next door so I don't see it being a problem with it being 9:30. I don't think it's going to fill up that fast ...(inaudible)... the site, the previous site. My two cents.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Plus the problem is that you're using hotel parking for beach user parking and I don't think a lot of the guests leave at 5:00 a.m. 9:30 is probably much more reasonable.

Mr. Hiranaga: It would be on an available basis. You wouldn't be kicking cars out of the stalls. If the stalls are open why can't they use them? I mean, if they're occupied, they're occupied.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Can we make it 9:00 a.m.? That's really about when it fills up.

Mr. Hedani: I think it gives the guests some time to go exploring to so they'll free up some stalls.
Commissioner Starr.

Mr. Starr: One other thing and I know the intent of applicant is good in this area but we did have representation that their landscaping will be low impact and water conserving and native species and minimum use of fertilizer. Perhaps if they could put that into a condition that expresses what they intend to do in that area?

Ms. Cua: Are you saying you want a condition, is that what you're saying?

Mr. Starr: Yes.

Ms. Cua: If I could just make a comment. I did read you some specific numbers but if you are going to approve this if you would allow the Planning Department the liberty to put under the right

category and renumber them accordingly I would be okay.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Regarding the onsite parking I'm not sure did you reference that there be appropriate signage informing the public that these stalls are available for their use?

Ms. Cua: No, but I can add that.

Mr. Hiranaga: I don't want it to be a secret. And on Condition 29 regarding the retention of storm water onsite, the 85% you're going to dress that up a little bit versus your exact words that you gave us?

Ms. Cua: I can. That was my attempt at it. The commission can -

Mr. Hiranaga: Could you read that again?

Ms. Cua: Sure. "That as represented by the applicant, the project shall retain 85% of post development surface runoff."

Mr. Hedani: We all clear on what post development is?

Ms. Cua: After development.

Mr. Hiranaga: Total surface runoff, pre and post.

Mr. Hedani: Pre and post development runoff.

Ms. Cua: Pre and post development surface runoff. The engineer is saying no, maybe we should have the engineer come up here. So they're suggesting and that's where I went. They're just saying post development because that's everything.

Mr. Hedani: Post development in their words means total runoff coming off of their construction on their site. Commissioner Mardfin.

Mr. Mardfin: I was going to say the same thing. It's total runoff as opposed to referencing the increase in runoff from pre to post they're talking about post. So it's the total post.

Ms. Cua: Okay, so we just add total to that. Okay.

Mr. Hedani: Any additional comments, questions? Okay, we don't have a motion on the floor at this point. Commissioner Starr.

Mr. Starr: Yeah, landscape.

Ms. Cua: Let me work with the applicant on that but the applicant is concerned about the

department's recommendation to add the R-1 and they would like to address you on that.

Mr. Wong: We took a look at the language that is here and we have a concern. The concern is that we are trying to seek financing. We have some of the ...(inaudible)... we're currently in our bridge loan and are planning to do our construction loan as well as going out and looking for outside financing. The dubious nature of the language here and the commitment, we understand that the water line could be up to \$20 million and with us and the Grand as the participants that commitment could be fairly high and could basically thwart our financing or seeking of financing. The scope is very unclear and so the commitment we would like to have this removed from the commitment because we don't know what we're agreeing to and so the lenders would basically if they look at our package and another package they'll deny our package because we don't - you know they don't know what they're getting into. If anything they'll put a high figure in and our loan would be denied.

Mr. Hedani: Do you have any alternate language which that you would like to suggest at this point?

Mr. Wong: We looked at other alternatives and we really couldn't come up with one. It's kind of watered down as a commitment to commit but I don't know what the other commitment the second one is yeah, so if the water line and the Department of Environmental Services has a, you know their line and they're coming and they impose a fee on everybody, yeah, we'll pay the fee as it should be.

Mr. Hedani: So what you're concerned with is primarily the pro rata share that you would be assessed. I think when the Grand Wailea condition was attached it was the understanding that it would be in their case the 1,110 units against all total units that were serviced by the entire R-1 system right Ann? So it's not Grand Wailea plus Renaissance divided by two.

Mr. Wong: Oh yeah. No, we understand that but we just don't know what the amount is yeah.

Mr. Hedani: Commissioner Starr.

Mr. Starr: I mean, to me it's kind of a make or break thing. You know the wording is ...(inaudible)... there's a lot of wiggle room in the wording I'll put it that way. You're talking about enter into a memorandum of understanding to set forth concepts. I mean, that's you know, I think a lawyer would love that you know there's a lot of wiggle room there already but at least it says that there's an intent to do it. And I really time to start using this R-1 water and you know, if not now, when?

Ms. Inouye: We appreciate your consideration. We had to mention it because our financiers have asked that we mentioned that. We're very concerned about -

Mr. Hedani: Kathy would you folks be interested or would you folks be willing to go so far as to say that you participate in a fairshare of the cost of any R-1 assessments that were assessed for the area?

Ms. Inouye: I think what we'll do is, I actually agree with Commissioner Starr on the language, but

our financiers specifically asked us to object to this condition because it's an unknown condition that can't be quantified and there is some serious concern that as Alton said, because it's so difficult to get financing right now, it's been extremely difficult for us to get the bridge long, were it not for the union trust funds we wouldn't have any financing today. It's that difficult. You know we were able so far in working out with the commission and the Planning Department to quantify everything so we know what our known costs are going to be. But this is one thing that's out there that we have no idea what it is or when it's going to come about. So it's a condition that runs in perpetuity on the project and that was our concern. So we don't have alternate language and if it's you know, if we're held over a bell, and said, you either take that condition or you don't get an amended SMA we don't have a choice.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Ann, this language was prepared by the Environmental Management Services with the approval of Corporation Counsel?

Ms. Cua: We didn't send it separately to Corporation Counsel. What actually happened is this language was suggested by a member of the public actually that testified. The applicant had agreed to it conceptually at first and Department of Environmental Management had come in and said you know we really should have been a part of the puzzle and so they had some concerns about you know, having a condition that required somebody to enter into an agreement that they may not be able to enter into and that's why they came up with this language and what the Director I believe said and I don't think she's here anymore but she said that you know they are actually initiating a study that if it gets adopted by the council is going to apply to everybody and that that really is the preferred way to do it. However, you know, in the interim this was something that was suggested as a condition. It was agreed to by a previous applicant. The department just that with this project that was just basically up street from the previous project that we need to recommend that it be included to be consistent.

Mr. Hedani: Additional discussion? Commissioner Starr.

Mr. Starr: Yeah, the Grand is willing to do it and you know, they're facing the same issues. And perhaps we should defer it and they can look at alternate language and you know, we can knock it around and come back to it in a while and see how it goes.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I'd be willing to move to defer.

Ms. Inouye: We have some alternate language I don't know if it's -

Mr. Hiranaga: Lets take a recess. It's been a while. Give them a chance to think about it.

Mr. Hedani: Okay, why don't we take a 10-minute recess?

A recess was called at 3:24 p.m., and the meeting was reconvened at 3:44 p.m.

Ms. Cua: Mr. Chair, Members of the Commission, we do have Cheryl Okuma, the Director of the Department of Environmental Management here. We have spoke with her. She has spoken with the applicant and this is the proposed language that is being recommended. "That the applicant comply with the R-1 assessment requirements of the South Maui Verification Study which may be adopted by ordinance if appropriate prior to or at the time of the first building permit issuance. The technical basis for the planning, design and extension of the R-1 water line or other equivalent technologies shall be the South Maui Verification Study regarding R-1 recycled water as set forth in the appropriate FY 2010 budget."

Mr. Hedani: And this is acceptable to the applicant?

Ms. Cua: Yes it is and the Department of Environmental Management.

Mr. Hedani: And is it part of your recommendation at this point?

Ms. Cua: Yes it is.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Can somebody explain to me why it's only comes into effect if it's prior to the time of the first building permit? If this is adopted by ordinance wouldn't it apply to all projects regardless of whether they were completed or not?

Ms. Cua: Yes it would but in terms of complying - let me see -

Mr. Mardfin: I mean it's not just people that have projects in the work that are going to be subject to this I wouldn't think. If the ordinance comes in it ought to be every hotel in the area.

Ms. Cua: No, it would when the ordinance gets adopted if this project isn't built yet, if this project isn't completed yet and that's why you want a condition now that they at least need to do something - well -

Mr. Mardfin: But lets assume that they complete their project and then we pass the ordinance. Wouldn't the ordinance be some sort of a pro rata sharing of the cost of providing a system?

Ms. Cua: I don't know how, you know, maybe Cheryl can talk about - it depends on how the ordinance gets adopted. I mean, you can't apply a new ordinance to a project that is completed and done. And so, you know, if the project is all done and completed and there is no ordinance then -

Mr. Hedani: It's all Cheryl's fault. Can we hear from Cheryl.

Ms. Cheryl Okuma: I think once the ordinance is in place the ordinance would apply to everyone there. It becomes law.

Mr. Mardfin: So what's the point in saying this only applies if it's prior to the first building permit.

Ms. Okuma: Well, I think we were trying to get some terms with the applicant. But if you recall when I was previously here on Grand Wailea I said we would still together with the Mayor be working with property owners along the way whether we had a condition or not. So I think this language is really for the purpose of trying to come to some terms on some language in a condition for Renaissance. But basically the ordinance would be law.

Mr. Mardfin: And the ordinance would apply to existing projects not just new projects?

Ms. Okuma: Yes.

Mr. Hedani: So from your perspective Cheryl is this condition required?

Ms. Okuma: I think from our standpoint, I think we can live without - even without that condition.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I'd like to speak.

Ms. Okuma: And I said for the Grand Wailea, I'm sorry.

Mr. Starr: I'd like to speak for this wording. I think there is a realization that it's time to start using the R-1 water it's about 5 million gallons a day of water that can be utilized and instead we're using it to destroy our reefs and so what needs to happen now is the Council has to move forward with legislation that will allow it to happen and the community and developers have to buy into it. And I believe that this will help improve the project and make it much more sustainable as well as help provide impetus to our community to go forward with it. It's sending a message to all of us that we want this R-1 water to be used.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Trying to understand what's stated there. Basically if the ordinance is adopted before the first building permit is issued they shall comply with the adopted ordinance. If not, they're exempt. Am I right or wrong?

Ms. Cua: I mean, that's the way it's worded right now.

Mr. Hiranaga: Okay. So why even have it?

Ms. Okuma: ... suggestion perhaps to make it clearer to delete "prior to."

Mr. Hiranaga: Yeah.

Ms. Okuma: Yeah, "prior to or if appropriate at the time of the first building permit issued." Okay, another suggestion, Period after, "if appropriate to ...(inaudible)... at the time. "

Mr. Hedani: Kathy is that something your financing people would buy off on?

Ms. Inouye: Yes, because their determination is if it's an ordinance, it's a law and if it's a fee, you have to pay a fee. Whereas the other way around it was just too open-ended and it goes on forever, it runs with the property and we don't know what the condition is.

Mr. Hedani: Thank you. Mike.

Mr. Hopper: I just want to comment that an ordinance that has some sort of impact fee in it would typically only apply prior to the building permit issuance. If the building permit's issued typically in those situations the developer would be considered potentially having a vested right once they get their last discretionary approval and to have assumed that they pay all their impact fees prior to getting that permit, usually an ordinance would not apply retroactively to reassess all the projects that were built prior to the ordinance and say you now all have to pay the impact fees that weren't in existence when you got your building permit. So I can't speak to how an ordinance would be phrased. We don't know what that ordinance would look like and that ordinance would either apply to this project or not. If you wanted to have an ad hoc condition which required a fee regardless of how that ordinance applied, you could establish that now if you had a basis for doing that. Otherwise, the ordinance would just apply depending on how the wording in the ordinance would be. If it says prior to a building permit and this project already has its building permit then it may not have to participate. If it does include this project then it would have to participate. I just want to make that note on sort of the uncertainty of the ordinance would look like but also typically that ordinances do not retroactively apply and say even if you have your building permits you've got to pay this fee. So I just wanted to note that just to make sure we're on the same page.

Mr. Hedani: Thank you counselor. Commissioner Mardfin.

Mr. Mardfin: Jeff, Mr. Director, aren't there - I thought there were and maybe I'm wrong that in the Maui Island Plan weren't we talking about special project fees that would apply to certain areas as one of the things we were promoting. I don't recall the details so I can't speak to it but I thought there were some things that we were talking about where it was going to be beneficial and it's a way of sharing the cost instead of among general taxpayers among people in a particular area that will benefit from it.

Mr. Hunt: One of the concepts in the Maui Island Plan is to utilize impact fees more and that would help pay for infrastructure improvements and it puts the fees more on the localized area that where the impacts are occurring and the people who are developers that are generating that impact, etc.

Mr. Mardfin: So an ordinance could be written that way and then it wouldn't matter whether they had the building permits or not.

Mr. Hopper: An impact fee, again, traffic impact fees is a good example, they haven't been adopted by Council yet, that doesn't mean that when Council adopts an impact fee ordinance everybody that has already built and had an impact on traffic has to retroactively pay those fees. It would be only those who built after that impact fee ordinance is finalized. An exception could be if a project specifically states that the project has to provide such amount per unit as a traffic impact fee. You know, an ad hoc condition placed on the project rather than the preferred impact fee ordinance. Another example is parks. Parks has a park dedication requirements apply a certain way to certain

projects. If that project was completed prior to the time that ordinance came into place and that project wouldn't be required to retroactively comply with that ordinance and dedicate a park after it had already built its project. That's typically how the ordinances read including impact fee ordinances. There can be constitutional issues with trying to impose an impact fee on somebody after they've built their project. And again, that's without seeing what this ordinance is going to look like but typically what happens with impacts.

Mr. Hedani: Thank you Counselor. Commissioner Hiranaga.

Mr. Hiranaga: The original language the intent as Grand Wailea had agreed that they would basically participate in whatever the final outcome would be that the intent of that original language.

Ms. Cua: Yes.

Mr. Hiranaga: The proposed language is they will comply with whatever ordinance is adopted at that point if it applies to us.

Ms. Cua: That's correct.

Mr. Hiranaga: So why even have it? I mean you have to apply to it. If an ordinance applies to you, you have to comply or you're violating the law. So why even have language like that?

Mr. Hedani: Commissioner Starr.

Mr. Starr: Because it's making a statement that there's a willingness and a desire on all parts to move ahead with ... (inaudible)...

Mr. Hiranaga: I'm not sure if that language, proposed language says that.

Mr. Starr: Well, I think it's better than -

Mr. Hiranaga: Nothing.

Mr. Starr: Yes. I think it's up to the Council and maybe this will help.

Mr. Hedani: Commissioner U'u.

Mr. U'u: I agree the intent is there and it's hard to place a number on an ordinance that is not yet been passed. And I'm going to say it again, prior is a weak - the affordable housing ordinance if it was okay with Alice Lee at the time it was okay with us and I guess we're in the same process but looking down line, further down the line look like this is coming to fruition and it's up to the Council to tackle this project. I think it would be unfair of myself to set a number of something that's agreeable with the Public Works.

Mr. Hedani: Okay, we've beaten this one to death and we don't have a motion on the floor. Commissioner Starr.

Mr. Starr: Yeah, there's one more the landscaping.

Ms. Cua: Yes, "that the applicant shall utilize native and drought tolerant plants and drip irrigation to the extent practicable. Further use of fertilizers, herbicides and pesticides for landscape planting shall be minimized."

Mr. Hedani: Commissioner Starr.

Mr. Starr: I'd like to make a motion for approval as recommended by the department with the knowledge that they make some minor adjustments to clean it up later on.

Mr. Shibuya: Second.

Ms. Cua: Thank you.

Mr. Hedani: Motion by Commissioner Starr, seconded by Commissioner Shibuya for approval as recommended. Discussion? Commissioner Hiranaga.

Mr. Hiranaga: That last condition, would the word "discourage" versus "minimize" be more appropriate?

Ms. Cua: We could.

Mr. Hedani: No objection? Commissioner Mardfin.

Mr. Mardfin: With respect to this R-1 water which of either of these versions was included in the motion?

Ms. Cua: My understanding it's the proposed language so at the bottom.

Mr. Hedani: Short and sweet is better than long and vague. Additional discussion? Ready for the question? All those in favor of the motion signify by saying aye. Opposed nay.

It was moved by Mr. Starr, seconded by Mr. Shibuya, then unanimously

VOTED: To Approve the Amendment to the Special Management Area Use Permit, Shoreline Setback Variance and Step 1 and Step 2 Planned Development Approvals as Recommended by the Department with Conditions.
(Assenting - J. Starr, W. Shibuya, K. Hiranaga, B. U'u, W. Mardfin, L. Sablas)
(Excused - D. Domingo)

Mr. Hedani: Carried unanimously. Thank you very much.

Ms. Cua: Thank you very much.

Mr. Hedani: Good luck. Director we've picked up several items under the Director's Report. We covered items 1 and 2 and suggested that we leave to you the General Plan Update Status Report.

Mr. Hunt: Item F-3 General Plan Update Status Report. We just thought we'd give you an update on the way the two plans are going.

Mr. Starr: Mr. Chair, could I ask to do something out of order. I asked Dave Taylor to stay while I ask the question on this thing.

Mr. Hedani: What's this thing?

Mr. Starr: Yeah, I'd asked it earlier of Clayton, he said wait for Jeff, but I see Dave Taylor is here, could I ask it now?

Mr. Hedani: What are you talking about?

Mr. Starr: On the SMA Open SMA Assessments.

Mr. Hedani: Director.

Mr. Hunt: That's fine with me. That would be Item 9 under Director's Report.

Mr. Starr: I don't think it will take long but I had -

Mr. Hunt: Pardon me Item 10 Exemptions.

- 9. SMA Minor Permit Report**
- 10. SMA Exemptions Report**

Mr. Starr: This is on injection wells, replace injection well 1 and 2, it's Jim Buika is the planner on it. I don't know if we can find out what that's about.

Mr. Hedani: This is on the Director's Report Item 10. F-10.

Mr. Starr: SMX 2009/0362.

Mr. Hedani: So you wanted comment from Mr. Taylor or Cheryl.

Mr. Starr: I guess that -

Mr. Dave Taylor: Dave Taylor, Wastewater Reclamation Division Chief. I'm not exactly sure what anyone's talking about because I don't have it in front of me. Maybe the Director could be clear about what is this item, where is it in any process so I'm kind of clear what we're talking about.

Mr. Hunt: The department submits reports to the commission at every meeting giving an update on SMX permits. This one is the SMX 2009/0362. The project's described as injection wells and the permit name is replace injection wells no. 1 and no. 2. It's the applicant is the County DEM and Jim Buika is the planner. The entry date was October 8, 2009 it's described as being open.

Mr. Taylor: That's a structural repair/replacement of some infrastructure on site that I know we are still in discussions with the Planning Department about what the project is and whether or not it needs SMA approval. I believe Jeff this is the project you and I have talked about previously.

Mr. Hunt: I'm not sure. We have been in discussion with the Department of Environmental Management regarding injection wells.

Mr. Starr: Is this in Kihei or Kahului and are you drilling, are you proposing to drill new injection wells?

Mr. Taylor: That project would be in Kahului. Kahului is the only plant that's in the SMA area. So the project right now there are some structural problems with some of the physical attributes of the injection wells that need to be repaired or replaced. So it's a project to deal with that kind of physical construction of the actual well.

Mr. Starr: You're not sure if you need an SMA to put new injection wells in the shoreline area is that?

Mr. Taylor: I think the question center around what constitutes new, in any case, you know it kind of jumped to kind of where everybody goes with this. There is the amount of water and the quality of water that can go down the injection wells is determined by our State and Federal Underground Injection Control Permits. How many wells we have or how few or how big are does not affect how much water we're allowed to put down and what that water quality is. So even if we had a hundred injection wells, the volume of water that you're allowed to put down is more than if you had just one big one. So it's really more of a structural engineering sort of issue rather than a water quality or a volume issue.

Mr. Starr: So you can put anything down these things right behind the ocean. You think you don't need to do an EA for this?

Mr. Taylor: No, no, what I'm saying is the State and Federal Government by our permits they have already said, even if we built more wells, we're still not allowed to put any more water down there is what I'm saying. We're still limited by the previously approved SMAs EAs and permits that are already in existence. So whether or not repair or not the wells we are not allowed to put one drop more of total water or any dirtier water down than we already are. I just want to be clear about that. That's kind of the status regardless of what happens.

Mr. Hedani: Ann.

Ms. Cua: If I could just clarify and I don't think Dave is meaning whether an SMA is required or not. An SMA assessment determines whether a proposed activity or action qualifies as an exempt class

of action, whether it is required to get a minor permit or whether it needs to be bumped up to a major permit. So I think the fact that it is within the SMA triggers compliance with the SMA rules. Again, the SMA assessment is to determine what course of action it's going to take. Is it going to be exempt because it's maybe repair and maintenance. Is it going to require a minor permit or none of the above, we're going to bump it up to a major.

Mr. Starr: Okay, could I request that we have regular reports on this from the director?

Mr. Hunt: Yes.

Mr. Starr: Thank you.

Mr. Hedani: Is that - do you have any further questions for Dave? Thank you Dave. Director's Report.

3. General Plan Update status report
a. Countywide Policy Plan
b. Maui Island Plan

Mr. Hunt: Going back to Item F-3, A, the Countywide Policy Plan and again this is the overarching plan for all the islands that is scheduled to be reviewed on November 16th. We're down to one element out of 11 and again on the 30th. And the Chair of the Planning Committee is intending to wrap it up on the 30th. So that would be final review. That's his intentions and it may come to fruition it may not. If it is passed out of committee on the 30th then it would be sent to the full Council. They need to schedule a public hearing prior to their first reading and then you can hold that the same day and then hold the second hearing but there's a lag time on scheduling the public hearing due to notice. So the schedule at this point and it is just a tentative schedule is again to pass it out of committee on the 30th of November and adopt it in February. There has not been what I would call any major overhauls of that document. There's been some refinement and some revisions to some of the wording. There's been some addition of policies particularly in economic development there's been policies added to indicate the importance of the visitor industry to our economy. But there hasn't been what I would consider any sense of the word a major shift in the document that you folks reviewed. Any questions on that one?

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Mr. Hunt, would it be possible for us or anybody, the commissioners or the GPAC members having a copy or CD of the Maui Island Plan that you've submitted to Council?

Mr. Hunt: You ask and we deliver. Who says government moves slow.

Mr. Shibuya: Thank you very much.

Mr. Hunt: Mr. Chairman, just to be clear, I'd like to discuss the Countywide Policy Plan. So if there's no other questions on the Countywide Policy Plan we can go into the Maui Island Plan, but I wanted to make sure that we take care of the Countywide first. Thank you Agnes.

Mr. Hedani: Go ahead.

Mr. Hiranaga: Regarding the Maui Island Plan. I still think there's some confusion about these Spreckelsville Beach lots and we kind of adopted the map not having answers from Long Range. Subsequently they did confirm that this area is zoned R-3 which is 10,000 square foot minimum lot sizes but it appears and I'd want confirmation from you that they're still showing it as a rural growth boundary and I stated that that's going to create problems for some of these lot owners who have existing dwellings that will become non conforming if you start doing that. Why even go to an area that's already zoned and what to change their community plan on them.

Mr. Hedani: Director.

Mr. Hunt: If I may, what I'd like to do is to not get too technical but now go down to the Maui Island Plan on the agenda.

Mr. Hiranaga: I thought that that's where we were.

Mr. Hunt: We're talking about the Countywide Policy Plan. There's nothing else on the -

Mr. Hedani: We're still on A.

Mr. Hunt: The Maui Island Plan, let me give you an update on that. It was transmitted to the Council on October 16th and by law they have one year to review it. So their deadline is October 16, 2010, right in the midst of the election season but nonetheless. They may schedule a introductory meeting on December 14 at the Planning Committee, Council Planning Committee and that would be just to go through it and to get people comfortable with it and then start review in January. This is all assuming that the Countywide Policy Plan goes as I just indicated.

In talking to the Chair, he views it as somewhat of a priority. Just to be upfront with everyone including the public, we had told the Chair it is the top priority of the department. There's a lot of legislation that is also going through this body has reviewed a lot of that. A lot of interest groups have legislation that they would like to see get passed out of committee, you know, TVRs or whatever, so just so everyone is aware we are informing the Planning Committee Chair that's our top priority is the Maui Island Plan. It's important that people realize that the plan has had an incredible amount of citizen input, technical studies, testimony, reviewed by the GPAC reviewed by the Planning Commission. There's going to be a lot of pressure and we're already getting it from interest groups or others to change it or modify it. The Editorial in Sunday's paper was a classic example. They didn't look at the whole visitor part of the plan, they pulled out a few policies and focused on those and made in my extreme interpretations of those policies and we can expect more of that.

When we go through this next year it's going to be an interesting year. I ask everyone to take the document as a whole, as the whole document and not just focus on one policy. You guys are pretty astute you realize that in any policy document if you pull out one policy it could kind of send you in this direction, there's bound to be other policies sending you in the other direction and that's why you need to look at whole document. It is still a draft. We are open to further revising it. The

agencies are going to review it once more. They haven't reviewed it since prior to the GPAC's reviewing it. I don't see a lot of changes since then but we're going to talk to the agencies. It's available on CD. You all have your own copy. A hard copy is available at all the libraries. It's also available on the Planning Department website, either under hot topics or Long Range. There's also a copy at Maui Print Shop that anyone can go down, you folks or the public can go down and ask for a copy to be printed of course the burden for the payment on the person who wants it.

Let me go through the plan real briefly just so there's some understanding. This is not the plan. This is the Director's Report and by law we have to present a lot of information up to the Planning Committee and there's already people of course, you know, trying to leverage the thickness of this document and how ridiculous the Maui Island Plan is. This is not the Maui Island Plan. There's a lot of information in here that won't become part of the plan. In the front of the plan there's the policies which ...(inaudible - changing of tape)... then there's some background maps and they are folded in thirds. So that gets a little thicker than it really is.

Mr. Hedani: Jeff you're preaching to the ...(inaudible)... already.

Mr. Hunt: The background maps do not – are not intended to be regulatory. Policy maps follow. The policy maps are intended to direct regulations but they'll require ordinances and then there's the directed growth maps. So really the ultimate plan will be something like that. Again, these are triple loaded or triple folded. The rest of it is here's the Maui Planning Commission directed growth maps so we sent those up followed by the GPAC directed growth maps and then followed by a matrix of the GPAC, planning commission and directors and then there's some other policies from the planning commission and the GPAC. So again, it's not as daunting as it looks especially once you actually get in there and look at the organization.

Mr. Hedani: Can you take Commissioner Hiranaga's comments to heart in further deliberations of the plan relative to the Spreckelsville concerns?

Mr. Hunt: Yeah, we will take those into consideration. We'll take everyone's comments into consideration. The Planning Department recommended and it's in the director's recommendation that the Sprecklesville area be included in a rural growth area based on the potential development that a urban growth area would lead to. Given the location of that land right along the ocean it would be one of the few perhaps only areas that the map, the plan would be recommending an urban growth boundary for new development right along the ocean. So there was concern that that would allow a lot of more density than a rural development would. And we believe that we can accommodate any non conformity issues or setbacks and that kind of thing. So that was the logic whether you agree with it or not.

Mr. Hedani: Let us know if you need support on the plan at any point in the future and I'm sure one or two of the commissioners would be willing to go forward. Commissioner Hiranaga.

Mr. Hiranaga: I guess I would like clarification from the minutes as to whether the planning commission supported that because I know we kind of left it as a housekeeping issue to be decided later and then now it's like it's decided that – personally I don't want it to appear that I recommended in agreement with that. So if the minutes reflect that I supported this change to rural

growth for an R-3 zoned area, I would like that clarified.

Mr. Hunt: Well we can look at the planning commission's recommendations.

Mr. Hiranaga: You don't have to do it now.

Mr. Hunt: Well, it's right here. The planning commission recommendation according to the department was for Sprecklesville to be rural around the interior subdivision and urban around the outside.

Mr. Hiranaga: How about Sprecks beach lots?

Mr. Hunt: I'm not sure which one that is.

Mr. Hiranaga: I think it's on a different map. It's like Kahului Harbor.

Mr. Hunt: Those are rural.

Mr. Hiranaga: I don't know if we formally adopted that or not. That was kind of left open as a housekeeping item because they couldn't answer my questions regarding the R-3 zoning but we were pressed in time to make a recommendation.

Mr. Hunt: And at that point I guess it goes to the Planning Department and then we take our best approach to it and make our recommendation. We tried to accommodate and agree with as many recommendations from this body and the GPAC as we could. There's some areas where we just simply disagreed Olowalu being probably one of the most notable. I think if you look at the maps and policies that you folks adopted and you look at our maps and policies they're pretty close. I mean, if you look at us as a big family we're not all going to agree on everything but boy we are pretty close.

Mr. Hedani: The other option would be to go the Council and offer testimony there. Commissioner Shibuya.

Mr. Shibuya: Director Hunt, on this CD will we have the same type of maps and sets of maps or is this is just one set which is the director's recommendation?

Mr. Hunt: As I understand it and you let me know if it's not and we'll straighten it out. It's everything that's in this packet.

Mr. Shibuya: Okay, thank you. Thank you very much. Additional questions? Commissioner Starr.

Mr. Starr: Yeah, I just want to one more time compliment the director and the Long Range Division for doing as good a job as could be done with something really difficult.

Mr. Hunt: We appreciate that and actually I wanted to compliment you guys. You know we go through a lot of public processes and you guys were really professional and businesslike and you

kept to an agenda, you kept to a schedule, you realized that are time constraints and sometimes you have to move things along even though ...(inaudible)... review things with more time and take an extra analysis and sometimes we just don't have that luxury and we do the best we can and move it along.

And the other thing I wanted to note is just that you listened to both sides of the arguments and considered both sides and there wasn't a lot of personal attacks, we maybe disagreed with somebody and you just simply said, well you know, it seemed to be we address the issue. And frankly, I'm not going to name names but frankly it doesn't happen with all our boards and all our ...(inaudible)... bodies.

Mr. Hedani: HCPO.

4. Comments on the 2009 Hawaii Congress of Planning Officials Conference - September 23-25, 2009

Mr. Hunt: HCPO first of all, I guess I'd like to take an opportunity just compliment Ann Cua on the job that she did a year ago at HCPO because what I kept hearing in Honolulu was boy, you guys really set the bar high for us and we really fell short or felt pressured or whatever. Kudos to Ann and Maui County. To be fair to the Office of Planning, the economy was down and so they probably had some constraints. They don't have the resources that we do.

There's been some issues that were brought to my attention about the staff attendance at the conference and just so people are aware here's what happened. Is we usually have an allotment of staff positions to these conferences. Based on the economy we cut that back, we reduced that and I'm not sure of the percentage but it was fairly significant.

In terms of the actual staff people who can go as I director I try not to micro manage my division heads and so essentially we said here's the numbers you guys pick your staff to go. We did give them some guidance. We've given them overall guidance that it should – sending a staff person to a conference should have some connection between their duties. So for instance you wouldn't send somebody who had nothing absolutely to do with flood plain permits to a flood plain conference it wouldn't make sense. So some of the staff that attended the HCPO were clerical people and we admit that, but it should be noted that they're clerks to boards and commissions. We have clerks that merely, I shouldn't say merely their duty is to be a stenographer or to type memos and that's it. We feel there's a distinction in the boards and commissions and there's actually a different job description and we felt that in the past it's okay to send a clerk to a board and commission to a planning conference. We believe there's a connection there. We think they make contacts. They understand the issues better. It's team building with the planners and the planning commissions, etc., and given all that, we have okayed clerks on commissions to go to these planning conferences. Given the fact that this particular conference we cut back on the attendance by planning commissions I can see how that might raise issues. I'll admit that, but I think if you understand our logic and how it just came about I hope that would at least help you understand.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: I want to comment on the commissioner issue a little bit. One, I want to thank Wayne and Bruce for actually declining to go which allowed Kent and I to go. Jonathan paid his own way and went on his own way and I guess Warren and Donna and Lori didn't either want to go or be able to go or something so that allowed Kent and I to go. I would like to – my view was that the people that hadn't been ought to be the ones to go and Kent disagrees with this. He thinks that ...(inaudible)... what else is new between Kent and I.

I got a lot out of it. It was the second one I was able to go to. I was on the commission for two now and I've been able to go both times. I got an awful lot out of it. I guess I would suggest there was confusion about the allocation method and my suggestion and then – I'm speaking for myself alone, I think if the commission paid the conference fee and allowed the – assuming we're in the same position next year, if the commission paid the conference fee for anyone that wanted to go and the commissioner paid the travel and the hotel fee, I think that's a fair division and might be – you might have enough money to allow all commissioners to go should they choose to and that would be my recommendation. But I do think it was a valuable conference and I got a lot out of it personally.

Mr. Hedani: Commissioner Starr.

Mr. Starr: It was a good conference. It wasn't as visionary as previous conferences. You know, I really like to see what kind of is the cutting edge in planning issues and there wasn't a heck of a lot of that. But there were some really good sessions and the one that really moved me and I'm still thinking about it was the – it was Sea Grant and NOAA and we had the chief policy person for NOAA, the number two person from NOAA there and also her technical people on sea level rise as well as the Sea Grant people and it was astounding because NOAA just the week before had changed its projections for sea level rise from up to one meter for 2100 to two to three meters for 2100. It's really sobering to think about what two to three meters of sea level rise in the next 90 years means you know, and then if you extrapolate what does that mean in 30 years or 40 years? Sea Grant was there and they had kind of hastily put together some graphics showing what that means and it was really sobering. I don't know Jeff, were you at that one? You know, I don't know, I guess you know that people talk about what it's like when they've come out of a religious – when they're saved, I mean, I really felt like it was strong medicine and the eyes of people walking out of that session, it was big session.

Mr. Hedani: I've heard estimates from 18 inches from the International World whatever to 189 feet from other people. Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I'd like to comment regarding the HCPO Conference because many of the new commissioners have not had an opportunity to attend so they really don't know what they're missing. I think from a – when you have a challenging fiscal situation you need to look at, okay these funds are county funds. These funds are basically being paid by the people of Maui and you need to look at how you're going to get the biggest bang for the buck with these funds. And I feel it's really important that all of the Maui Planning Commissioners have an opportunity to attend these things because we are on the front line. We make decisions that have no further oversight and it educates you, it allows you to see what's happening outside of this state, outside of this county, internationally. I mean, to me – this is my fourth one because I think I attended when I was the Chair of the BVA, my fifth one, but you know, I really feel it's valuable. A lot of the commissioners

do not have a lot of background in the areas that we review and you know, they need to be educated. I hope the director will work his division chiefs and really look at next year's list because I think fiscally we're going to be in the same situation and there's going to be some hard decisions being made by your department as to who gets to attend the next conference. I mean, I don't want to nit pick but I mean, when you're sending the Chair and Vice Chair of Molokai and the Chair and Vice Chair of Lanai when they have a population of 3,000 people and you're sending two people from Maui that has a population of 135,000 people I mean, you need to start looking at impacts. But you know, hopefully you just would take a stronger look at who you're sending next year.

Mr. Hedani: Commissioner U'u.

Mr. U'u: Give two cents and my two cents is as one commissioner you playing catch up with staff. It's overwhelming first day I came here. I had to write down all the words go back look it up in the dictionary and only to find out it's not even in the dictionary. So we playing one five-year catch up of volunteer work that exceed most people who work throughout the week especially went through the planning process general plan. And going come down to you gotta give back to the guys who volunteering. That's how was in the old times that's how should be now. If you volunteer you should be able to go and the reason I never like go is because people wanted to go not because I was busy. It's just how should be and we gotta catch up with these guys who to me are experts int the field. So to deny a volunteer to get up to the par to standards up to the professionals we taking a backseat. On top of that, we giving up our personal time. To say it's not in the budget but take staff, if you going have to cut people, I say you cut the advance people and that's staff and I'm sorry it's my interpretation. I not sure everyone would want to go on the planning commission, but I think everyone should have the opportunity to go being we give five years of our time for something that's not worth the headache at times. You get one lunch. You know I mean that's much come on. You get bashed in the papers, we get bashed for anything you want to do and the little things we ask for to get educated and you come back and it's not in the funding, we can't justify it, but you take staff who is superior over years over our knowledge of planning might be an insult to a planning commissioner, might be, maybe not, but I think we the ones need the catch up at times.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: I want to thank Commissioner Hiranaga and Commissioner Mardfin for their sacrifices. When we had the question of which member of this commission would like to go I went on the website and checked on the conference and they barely had any guest speaker. They didn't have but two workshops and there's no descriptions. They just had the titles, so I said, phooey to this and I emailed my colleague because I wanted to see my grandkids and I had a good three and half, four-hour collegial lunch with guys from Brown, Harvard, MIT and we just talked about energy and I'll give some idea we seem to come from different directions but yet we had a common thought that there's no such thing as clean coal. There's another thing that we need to go into hydrogen and we need to move on with the speed of light, faster than the speed of light if we can do that. And so, several of us are pushing forward. Dr. Rocheleau from University of Hawaii is also part of this conspiracy. So he is my contact point too here. So we are working on that. Just want to share that.

Mr. Hedani: Okay, lets try to wrap this up. I'm going to actually have to go somewhere very shortly

so Mr. Starr.

Mr. Starr: One other thing that I really got out of the conference was on the workshops there was a fantastic workshop which was some of us went and saw where about 15,000 housing units for military are being replaced and the way it was set up was on a 50-year contract with the developer. So the developer is not only, you know has to build the houses but they have to pay the electric, they have to pay for the water and they have to pay for all the maintenance. You know the tenants, if you know a doorbell breaks they call up a number and you know for 50 years someone's going to come and fix it. And so they're building these things really, really, really green, really energy efficient and built to last and you know some really good technology. A lot of photo voltaics on every single house, monitoring of energy and people's usage and you know, it's military so someone in the command structure talks from up there. You know, running the AC too much, but it really was inspiring to see that thinking because that's – the short term thinking I think is what gets us in a lot of trouble. It was great.

I just want to add quickly these conferences are great. I spent last week in San Francisco at the Urban Land Institute Conference, the annual conference and this is like you know APA but much bigger. This is guys who are building cities, guys who are building ...(inaudible)... 100,000 housing units in San Francisco. It was really inspiring. It was a little bit expensive because it's supposed to be like a huge developer or something to go but it was really inspiring and maybe at a future meeting I'd like to share some of the stuff I learned at sessions there, but it's invaluable going to these and the National is coming up in April and I really encourage anyone who can go to the APA National. I'll be going on my own dime and I really encourage it because as much as the HCPO is good the national is you know, 20 times more.

Mr. Hedani: Yeah, I'd encourage everyone to attend. When I was on the Police Commission I think I mentioned this before but we used to send people to not only state conferences for educational purposes but also we sent two people every year to the national conference and the last one was in Boston that I attended and it's a tremendous learning experience and I'm sure the same is for either ULI or APA and that's something that the department in better times probably can look at you know. Hopefully at some point in time in the future it will be good enough – the economy will be good enough to send everybody that wants to go to get to go. It's good to get smart before you get loud, right?

5. Discussion on Audience Distractions during Meetings

Mr. Hedani: Discussion on audience distractions, talking about getting loud. Jeff.

Mr. Hunt: We've had a couple complaints from staff and other people about the audience members making comments, laughing. Laughing not because something's funny but laughing in a way to kind of tell you they disapprove of something or something made a comment, that's ridiculous kind of laughing. Staff has told me especially during the Maui Island Plan they had trouble actually hearing what was going on. At one point I was having a conversation with Mr. Mardfin and I actually had trouble listening or concentrating and we're not saying this is brain surgery or anything but some of it at least is complex and you know, we don't need distractions. I mean, it's hard enough to think through some of this stuff. So I thought I'd bring it forward. You know we can talk

about it as a group. What can we do, what can the staff do. I know that after the Grand Wailea we actually had undercover cops in here just so you guys know. So we have that kind of control. Staff can at the podium or at the table, staff can talk to the audience or something but a lot of it really we don't – we try not to run the show, you know, it's your show essentially. So we would kind of put the burden on you guys to say what's your thoughts on it.

Mr. Hiranaga: You had off duty police in the audience in anticipation.

Mr. Hedani: Just for the commission's information because I used to work around jet engines when I was a teenager my hearing is not that great which is why I'm always constantly badgering people using the microphone, but we actually had attorneys swearing at each other in the audience and I didn't hear it. If I had heard that I would have kicked both of them out of the meeting, but it was never called to my attention and I didn't hear it. But if something like that ever happens in the future, you know, please call it to our attention. Commissioner Starr.

Mr. Starr: Yeah, I had an attorney swear at me regarding that subject at a meeting too.

Mr. Hedani: Really. That's cause for action before the disciplinary board for attorneys for the State of Hawaii. I know one member that served as the chair of that particular board. So if push comes to shove that's somewhere we can go.

Mr. Mardfin: I didn't hear them swear at each other and I don't think I heard anybody swear at me directly. We also had some interruptions with a particular attorney wanting to make a motion which it's not their purview and I think you basically handled it well just by basically ignoring it but we ought to maybe talk about ways to deal with that also because that was out of line.

Mr. Hedani: I think we hear a little bit of it today you know like when you have from applause from the audience for somebody's position and that kind of thing but from the perspective of the commission I guess it's just a matter of following procedure or following decorum more so that that doesn't happen. And if I don't hear it, by all means please let me know about it. Commissioner U'u.

Mr. U'u: I think the point is you gotta calm it down before it escalates and that's you going have to do.

Mr. Hedani: And if things get really messy we can always ask Bruce to throw them out of the room.

Mr. U'u: I'm almost at the end of my term. I'll be looking forward to doing that.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Yeah, as far as impromptu demonstrations like today I think you have to look at repeat offenders. Some people are not familiar with rules, Roberts Rule of Order but there certain individuals that come to these meetings a lot and are disruptive and we need to identify them and pull them aside and say this won't be tolerated.

Mr. Hedani: And I think any commissioner if you hear something just call a point of order at that

point. Ann.

Ms. Cua: And if I could just add, I think one thing the staff has learned through this process, we assume that you all are hearing what we are hearing here. And what we found through just the recent experience is that that is not case and so we wouldn't think that we would need to go up to you guys and let you know because you might not have heard the specific words, but guarantee you knew there was a commotion going on and so now we know better. I did speak with the Chair and so you know, now we know if we hear something and we don't see you guys looking that we will approach the Chair, but we didn't know that before.

Mr. Hedani: Half the time I'm lip reading so that if you face the wall on that side I cannot figure out what you're saying. Lori.

Ms. Sablas: I think you know, we've had some emotional issues and I think Chair, you know, you've handled the majority very well and was firm when you had to be firm. But I think maybe a friendly reminder at the beginning especially when we have some issues that we know are emotional and that brought people here maybe a friendly reminder as far as just the order. I think she makes a good point because where here we're so involved in a discussion we cannot sometimes know what's going on. But I think if staff can kind of like bring attention to it.

Mr. Hedani: Yeah, the verbal exchange was close enough to physical altercation that I guess it was appropriate to have law enforcement in the building.

Ms. Sablas: Well, it made the front page.

Mr. Hedani: Jeff.

Mr. Hunt: I'll direct my staff that it's okay to bring something to your attention. We don't want to be whiners and the first little you know comment or something, you know, but if it starts getting enough to where we're having trouble listening or we're getting distracted we'll tell them to bring it to your attention.

Mr. Hedani: Planning Commission Projects/Issues.

6. Planning Commission Projects/Issues

Mr. Hunt: This is your opportunity to bring issues to us. Generally speaking they normally require research and we come back with answers.

Mr. Hedani: Next. We covered that agendas, we covered the meeting schedule. November 24th meeting agenda we have covered that. Okay, we're done. Thank you.

G. NEXT REGULAR MEETING DATE: November 24, 2009.

H. ADJOURNMENT

The meeting was adjourned at 4:42 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
Kent Hiranaga
Ward Mardfin
Lori Sablas
Warren Shibuya
Jonathan Starr

Excused

Donna Domingo

Others

Clayton Yoshida, Planning Department
Michael Hopper, Department of the Corporation Counsel
Michael Miyamoto, Department of Public Works