

1 inclusive or more inclusive?

2 CHAIR HEDANI: Commissioner Hiranaga.

3 COMMISSIONER HIRANAGA: By my comments, I
4 think it's more inclusive.

5 COMMISSIONER MARDFIN: You want --

6 COMMISSIONER HIRANAGA: You don't want them to
7 have to interpret whether a cabaret is a eating and
8 drinking establishment. It's clearly stated, "bars or
9 nightclubs." And, to me, the definition is totally
10 different between the cabaret and a restaurant. Because
11 a cabaret may not serve food.

12 COMMISSIONER MARDFIN: Eating -- but we're
13 saying --

14 CHAIR HEDANI: Commissioner Mardfin.

15 COMMISSIONER MARDFIN: I was gonna say, where
16 eating or drinking, but I guess it isn't, it's eating
17 and drinking. But if that's the concern, I think we
18 want to have that in all the definitions, all the way
19 through, for all the different categories.

20 CHAIR HEDANI: Commissioner Hiranaga.

21 COMMISSIONER HIRANAGA: I'm not sure if a
22 nightclub is appropriate in B-3 zoning, if that's what
23 you were referring to. Again, this B-R Resort -- B-R
24 Resort is a little bit more liberal versus B-3 zoning.

25 CHAIR HEDANI: Additional discussion?

1 Commissioner Mardfin.

2 COMMISSIONER MARDFIN: I believe Commissioner
3 Shibuya read to me the definition of eating and
4 drinkings establishments, and nightclubs was a -- was
5 specifically mentioned. So I don't understand why it
6 needs to be mentioned a second time if it's already
7 included in the definition of an eating and drinking
8 establishment.

9 MR. ALUETA: Eating and drinking establishment
10 means "a business engaged in the preparation and serving
11 of food to customers, such as, but not limited to,
12 restaurants, fast food restaurants, delicatessens,
13 cafes, bars and nightclubs."

14 CHAIR HEDANI: Commissioner Hiranaga.

15 COMMISSIONER HIRANAGA: So a eating and
16 drinking establishment can qualify as a nightclub, but a
17 nightclub could not necessarily qualify as a eating and
18 drinking establishment?

19 COMMISSIONER MARDFIN: Other way around.

20 COMMISSIONER HIRANAGA: If they're not serving
21 food.

22 MR. ALUETA: From our aspect, from the zoning
23 aspect, we treat them the same. How Liquor Commission
24 treats them is a little different. And we would treat
25 our -- from zoning -- of establishing like, say, parking

1 requirements, we would break the uses down based --
2 because the parking -- parking for serving area and all
3 or not. But for -- do you want it in this zoning
4 classification, we don't see the -- the eating and
5 drinking establishment definition doesn't see the
6 difference.

7 CHAIR HEDANI: Commissioner Mardfin.

8 COMMISSIONER MARDFIN: Moreover, he gave a
9 definition for eating and drinking establishments.
10 Nightclubs is an eating and drinking establishment.
11 Therefore, it doesn't need to be repeated.

12 CHAIR HEDANI: Joe, do you concur?

13 MR. ALUETA: Yeah, it's covered. Eating and
14 drinking establishments is defined -- I mean -- what I'm
15 saying is that nightclub is defined as -- would meet the
16 definition of an eating or drinking establishment.
17 Okay.

18 COMMISSIONER HIRANAGA: I'll just repeat that
19 I will be objecting to the motion if that is included in
20 it.

21 CHAIR HEDANI: Any further discussion?

22 (Silence.)

23 CHAIR HEDANI: Okay. The motion is to --

24 COMMISSIONER MARDFIN: The motion is to delete
25 Item D and Item M and substitute "eating and drinking

1 establishments" and "entertainment establishments."

2 CHAIR HEDANI: Any further discussion?

3 Commissioner Hiranaga.

4 COMMISSIONER HIRANAGA: I'll also be voting
5 against any motion to approve the ordinance if this
6 amendment is included.

7 CHAIR HEDANI: Okay. I know that, in some
8 cases, the Department of Liquor Control cites
9 establishments if they go beyond a certain floor area
10 ratio for dancing and all kinds of stuff, but how does
11 that affect this?

12 MR. ALUETA: It does not. The Liquor
13 Commission, they have their own rules. And when you get
14 your permit, my understanding is, you know, they -- they
15 outline what your permit is for. I don't -- to serve
16 liquor in that area. I don't -- we don't deal with them
17 at all.

18 CHAIR HEDANI: A cabaret license doesn't --

19 MR. ALUETA: I'm never heard that term. I
20 mean, I know what a cabaret is, but I've never heard you
21 had to get a license or anything like that. I just --
22 I'm not familiar. From our zoning aspect, it's -- you
23 know, you're a bar, a nightclub or an eating and
24 drinking establishment or whatever, if it's allowed
25 under that district.

1 CHAIR HEDANI: Commissioner Domingo.

2 COMMISSIONER DOMINGO: I was on the Liquor
3 Adjudication Board for five years. And -- and there is
4 criterias. And I haven't been there the last four
5 years, but there still is licensing, so -- and the way
6 they put things in criteria. So there is something.

7 I am gonna vote against this only because I'm
8 not sure what the repercussion is. I don't want to
9 delete something that I don't know what is gonna happen.
10 So I don't think any harm in this. So I'll be voting
11 against this motion.

12 CHAIR HEDANI: Further discussion?

13 (Silence.)

14 CHAIR HEDANI: Ready for the question? All
15 those in favor of the deletion and the substitution,
16 indicate by raising your hand. Two, three.

17 Opposed, same sign. Two, three.

18 Motion is lost.

19 Further discussion?

20 (Silence.)

21 CHAIR HEDANI: I have a question, Joe. On
22 antennas -- I'm sorry. This is on Page 3, under the
23 notes and exceptions, antennas are allowed as long as it
24 doesn't exceed 40 feet. In the case of Kaanapali, we
25 have a requirement that antennas be screened from view

1 or incorporated into the building design, integrated
2 into the building design. Does this particular
3 provision supersede CC&Rs that might apply to the
4 property?

5 MR. ALUETA: No. We never supercede any CC&Rs
6 unless the CC&Rs violate like the Right to Farm Act, or
7 if the CC&Rs -- during a subdivision.

8 CHAIR HEDANI: So if the CC&Rs are more
9 restrictive than this, it can still apply?

10 MR. ALUETA: Then the CC&Rs still apply, yes.

11 CHAIR HEDANI: Okay.

12 MR. ALUETA: Yeah, we wouldn't -- just because
13 it's allowed, if you signed on --

14 CHAIR HEDANI: As a private contractor.

15 MR. ALUETA: As a private contractor to limit
16 yourself even further, that's up to the private people.

17 CHAIR HEDANI: Okay. Any further discussion?
18 Commissioner Mardfin.

19 COMMISSIONER MARDFIN: I'm wondering if
20 Mr. Starr wants to introduce a resolution about adding a
21 criteria of entertainment establishments, but I'll leave
22 it to him.

23 CHAIR HEDANI: Any further discussion?
24 Commissioner Shibuya.

25 COMMISSIONER SHIBUYA: I'd like, on Page 2,

1 Item Number 31, O, taxi cab and U-drive stations and
2 offices to include the words "taxi cab, shuttles, buses,
3 and U-Drive stations and offices."

4 COMMISSIONER MARDFIN: Second.

5 CHAIR HEDANI: Discussion?

6 (Silence.)

7 CHAIR HEDANI: Moved by Commissioner Shibuya,
8 seconded by Commissioner Mardfin to add shuttles and
9 buses. Any further discussion? All those in favor,
10 signify by saying "aye."

11 (A chorus of ayes.)

12 CHAIR HEDANI: Opposed, "nay."

13 (Silence.)

14 CHAIR HEDANI: Carried.

15 Joe, I think, on Page 2, Line 37, "food"
16 should be singular. That's my suggestion.

17 MR. ALUETA: What page? I'm sorry.

18 CHAIR HEDANI: Page 2, Line 37.

19 MR. ALUETA: Oh, 37. "Providing foods." Hmm.
20 Okay. That's how --

21 CHAIR HEDANI: It's really tasty, so you call
22 it foods.

23 MR. ALUETA: Foods, okay. That's how they
24 wrote it. Like I said, they --

25 CHAIR HEDANI: Commissioner Mardfin.

1 COMMISSIONER MARDFIN: On Page 2, Line 33,
2 Item T, it's -- we have "theaters or auditoriums." The
3 phrasing that we were using in other areas was
4 "auditorium, theaters and gyms." And I would, for
5 consistency, prefer to use "auditorium, theaters and
6 gyms" instead of "theaters or auditoriums."

7 COMMISSIONER SHIBUYA: I believe we used the
8 word "recreational facility," did we not? Was it gyms?
9 I have written down recreational facilities.

10 MR. ALUETA: Would you -- again, if that's
11 your motion, that's fine, but, just again, this is the
12 B-R District. So, I mean, is that an appropriate
13 location or -- or the more narrow "theater, auditorium"
14 best suited for this -- for this narrow focus.

15 COMMISSIONER MARDFIN: The reason I would put
16 gyms in is because you might want to have gyms for your
17 visitors. So it seems to be appropriate. If the
18 Commission decides otherwise, the Commission decides
19 otherwise.

20 CHAIR HEDANI: Commissioner Hiranaga.

21 COMMISSIONER HIRANAGA: Is there a difference
22 between a gym and a gymnasium? Gymnasium is we play
23 volleyball, basketball.

24 COMMISSIONER MARDFIN: No difference, same
25 word.

1 COMMISSIONER HIRANAGA: Versus, say, Gold's
2 Gym which is a lifting area. I was just wondering if
3 there's a difference.

4 COMMISSIONER SHIBUYA: One includes
5 competitive sporting and one is individual, huh.

6 COMMISSIONER MARDFIN: In --

7 COMMISSIONER HIRANAGA: I'm waiting for an
8 answer.

9 COMMISSIONER MARDFIN: I'd like to give you
10 one as soon as I'm recognized.

11 CHAIR HEDANI: Commissioner Mardfin.

12 COMMISSIONER MARDFIN: Under B-2 -- B-2 --

13 CHAIR HEDANI: Of the prior one?

14 COMMISSIONER MARDFIN: Yeah. Page 2, we have
15 "auditoriums, theaters, gymnasiums." And that's the
16 phrasing that I would move to put into B-R.

17 COMMISSIONER HIRANAGA: I understand it. That
18 was not my question. My question was, is there a
19 difference between a gym and a gymnasium?

20 CHAIR HEDANI: There's no definition of
21 gymnasium here.

22 MR. ALUETA: I think the -- for what we
23 consider a gym is more like a fitness center, okay, so
24 like 24-Hour Fitness Center. Whereas an assembly -- an
25 area of assembly or assembly area is like what you're

1 considering a gymnasium like -- that's a multipurpose
2 building. So I think there is a slight difference
3 because I definitely know that, in the parking
4 ordinance, they -- they assess it differently.

5 COMMISSIONER HIRANAGA: Okay. I just didn't
6 want to open the window for someone who wants to open up
7 a gymnasium who calls it a gym --

8 MR. ALUETA: Right.

9 COMMISSIONER HIRANAGA: -- in the B-R zoned
10 area. So you need to define what a gym is.

11 CHAIR HEDANI: So the comment, Kent, is you're
12 thinking theaters, auditoriums or fitness centers?

13 COMMISSIONER HIRANAGA: No. I just was
14 concerned about the motion on the floor which is gyms.

15 COMMISSIONER MARDFIN: Motion on the floor is
16 "gymnasium" because I'm copying the wording from B-2.

17 COMMISSIONER HIRANAGA: So you want to allow
18 gymnasium which is for basketball and volleyball, indoor
19 use?

20 COMMISSIONER MARDFIN: That's what we have for
21 B-2.

22 CHAIR HEDANI: Okay. Hold on, guys. One at a
23 time. And wait to be recognized before we all jump in
24 there all at once.

25 Commissioner Shibuya.

1 COMMISSIONER SHIBUYA: Yeah. I don't think it
2 includes the expansion to a sports arena, right? It's
3 just the gymnasium and --

4 COMMISSIONER MARDFIN: My motion --

5 CHAIR HEDANI: Commissioner Mardfin.

6 COMMISSIONER MARDFIN: My motion was to use
7 the same wording that we used in two other Business
8 districts. And the exact wording is, "auditoriums,
9 theaters, gymnasiums."

10 CHAIR HEDANI: Additional discussion?

11 (Silence.)

12 CHAIR HEDANI: I would have a problem with
13 that, Ward, just for your information, if gymnasium
14 includes Lahaina Civic Center, that gymnasium. And it
15 could be interpreted that way, you know, in a B-R Resort
16 Commercial District.

17 COMMISSIONER MARDFIN: There was a reason not
18 to have it.

19 CHAIR HEDANI: Right.

20 COMMISSIONER SHIBUYA: Was it seconded?

21 CHAIR HEDANI: Right. Weren't you the second?

22 COMMISSIONER SHIBUYA: I thought I was. Okay.

23 CHAIR HEDANI: Any further discussion?

24 (Silence.)

25 CHAIR HEDANI: Motion on the floor is to amend

1 Line 33 to include "theaters, auditoriums, and
2 gymnasiums."

3 COMMISSIONER MARDFIN: To read the same as the
4 earlier ones, which is "auditoriums, theaters,
5 gymnasiums."

6 CHAIR HEDANI: All those in favor, signify by
7 raising your hand. Three.

8 Opposed, same sign. Three, four.

9 Motion is lost.

10 Any further amendment?

11 MR. ALUETA: Wait. Did it carry? No.

12 CHAIR HEDANI: Commissioner Starr.

13 COMMISSIONER STARR: Yeah. I'd like to add
14 "entertainment establishments."

15 COMMISSIONER MARDFIN: Second.

16 CHAIR HEDANI: Motion by Commissioner Starr,
17 seconded by Commissioner Mardfin to add "entertainment
18 establishments."

19 Is that a defined term or do we need to create
20 a definition?

21 COMMISSIONER STARR: We've used it three
22 times. So if it's not defined, I'm sure it will be.

23 CHAIR HEDANI: Discussion? Commissioner
24 Hiranaga.

25 COMMISSIONER HIRANAGA: Would that fall under

1 "I," "music stores and studios?"

2 COMMISSIONER MARDFIN: No.

3 COMMISSIONER STARR: No.

4 COMMISSIONER HIRANAGA: Bars and nightclubs?

5 COMMISSIONER MARDFIN: No.

6 MR. ALUETA: I don't know. That's why it's
7 not defined. Just I'm --

8 COMMISSIONER SHIBUYA: Get after it.

9 MR. ALUETA: Just to go back to -- I don't
10 know what entertainment is gonna qualify under. But as
11 far as indoor recreation, the definition, "facilities
12 under roof, but not necessarily fully enclosed for
13 recreational activities or amusement such as, but not
14 limited to, arcades, auditoriums, bowling alleys,
15 racquetball courts, billiard halls, skating rinks,
16 theaters, health and fitness clubs."

17 CHAIR HEDANI: That's the definition of what,
18 Joe?

19 MR. ALUETA: Recreation, indoor.

20 CHAIR HEDANI: Commissioner Sablas.

21 COMMISSIONER SABLAS: So what about outdoor
22 luaus?

23 CHAIR HEDANI: I'm sorry?

24 COMMISSIONER SABLAS: The luaus, wouldn't that
25 come under entertainment? Luaus?

1 COMMISSIONER SHIBUYA: Restaurant.

2 COMMISSIONER STARR: I think it could.

3 CHAIR HEDANI: Commissioner Starr.

4 COMMISSIONER STARR: Yeah. I mean my --

5 MR. ALUETA: Restaurant.

6 COMMISSIONER STARR: What I'm trying to do is
7 provide the opportunity to create a venue for music and
8 theater or -- or any other kind of activity that -- and
9 I would guess a luau would certainly be in that area.
10 But -- well, no. I'm looking to create it where food
11 and drink are not necessarily served, which separates it
12 from, you know, food establishments and liquor
13 establishments, bars, restaurants. It allows there to
14 be entertainment venues without being under the Liquor
15 -- the Liquor Commission because, you know, serving
16 liquor or food, or Health -- Department of Health,
17 either.

18 CHAIR HEDANI: Additional discussion?

19 (Silence.)

20 CHAIR HEDANI: So a rock concert would
21 qualify?

22 COMMISSIONER STARR: Well, I -- I don't -- if
23 someone were to build a venue for it where concerts
24 could be held, yes.

25 CHAIR HEDANI: Commissioner Sablas.

1 COMMISSIONER SABLAS: One year, we did
2 Symphony on the Green, for instance, as a community
3 fundraiser. And I think that would fall under what
4 you're talking about.

5 COMMISSIONER STARR: Yeah.

6 CHAIR HEDANI: Commissioner Hiranaga.

7 COMMISSIONER HIRANAGA: A luau, which you're
8 speaking of, is actually in the Hotel District, right?
9 We're in different zoning. This is not -- we're not
10 talking about Hotel districts. But if you owned enough
11 land, I guess, and you wanted to do a luau, that's fine.
12 It's \$50 or \$100 a square foot, but --

13 CHAIR HEDANI: Okay. So the motion on the
14 floor is to add "entertainment --"

15 COMMISSIONER MARDFIN: Establishments.

16 CHAIR HEDANI: "Entertainment establishes."

17 COMMISSIONER STARR: Yeah.

18 CHAIR HEDANI: Invent a definition, Joe.

19 MR. ALUETA: I'll work it out with my boss.

20 COMMISSIONER STARR: My thing is, we're
21 talking about clubs without booze or, you know, food.

22 MR. ALUETA: Yeah, entertainment.

23 COMMISSIONER STARR: It should be wider than
24 that, broader.

25 MR. ALUETA: So I'm -- just to get some kind

1 of background here, it's like, is it -- I mean, I guess
2 you're saying that as long as it's -- so commercial
3 activity of entertainment. So if someone pays to come
4 in, like a -- like an auditorium or a -- or a -- some
5 type of a restaurant where they charge you a door --
6 cover fee to see the band. So if I go to a restaurant
7 and they -- someone's rented the -- and charging \$5 or
8 20 bucks to go see a band --

9 COMMISSIONER STARR: Uh-huh.

10 MR. ALUETA: -- that's an entertainment
11 establishment. Because they're not -- because they're
12 charging, having a commercial activity of providing me
13 with entertainment.

14 COMMISSIONER STARR: Uh-huh.

15 MR. ALUETA: So like the theater down in
16 Lahaina, right, what's that -- I don't know what --
17 where Old Lahaina is or something, that -- that would be
18 an entertainment establishment.

19 COMMISSIONER STARR: It would. That's one.

20 MR. ALUETA: It would be a theater.

21 COMMISSIONER STARR: Yeah. That would,
22 certainly.

23 MR. ALUETA: So would you just add a
24 theater -- "theaters, auditoriums, entertainment
25 establishments," is that where you're going it add it?

1 COMMISSIONER STARR: That would be a good
2 place.

3 MR. ALUETA: Okay.

4 CHAIR HEDANI: Any further discussion?

5 COMMISSIONER MARDFIN: I'm sorry. Did the
6 motion get changed to it's being --

7 CHAIR HEDANI: It's being added to P,
8 theaters --

9 COMMISSIONER MARDFIN: Oh.

10 CHAIR HEDANI: -- auditoriums -- or
11 "auditoriums and entertainment establishments."

12 COMMISSIONER MARDFIN: Okay.

13 CHAIR HEDANI: Additional discussion?

14 (Silence.)

15 CHAIR HEDANI: Ready for the question? All
16 those in favor, signify by raising your hand. Three,
17 four, five.

18 Opposed, same sign.

19 Motion is carried.

20 Any further amendments? Commissioner Starr.

21 COMMISSIONER STARR: Did we put the recycling
22 collection place?

23 CHAIR HEDANI: I'm sorry? Can you repeat
24 that?

25 MR. ALUETA: The recycling --

1 COMMISSIONER STARR: Collection centers.

2 MR. ALUETA: If that -- if you think this is
3 an appropriate location in the B -- I mean --

4 COMMISSIONER STARR: Yeah.

5 MR. ALUETA: I'm not sure who would want one
6 in --

7 CHAIR HEDANI: Commissioner Hiranaga.

8 COMMISSIONER HIRANAGA: I think that should be
9 presented to the floor as a motion, if somebody wants to
10 do that.

11 CHAIR HEDANI: Commissioner Starr.

12 COMMISSIONER STARR: Okay. If we haven't done
13 it already --

14 MR. ALUETA: No, we have not.

15 COMMISSIONER STARR: Then I move that we add
16 recycling -- what word were we using -- collection --

17 CHAIR HEDANI: Collection centers?

18 COMMISSIONER STARR: Collection centers.

19 MR. ALUETA: Yeah.

20 COMMISSIONER STARR: Collection centers and --

21 CHAIR HEDANI: Is there a second?

22 COMMISSIONER SHIBUYA: Second.

23 CHAIR HEDANI: Moved by Commissioner Starr,
24 seconded by Commissioner Shibuya to add, as a permitted
25 use, "recycling collection centers." Discussion?

1 Commissioner Starr.

2 COMMISSIONER STARR: Yeah. I think that we're
3 heading toward a place where these are gonna be
4 prevalent all over. You know, whenever you get a
5 beverage in a can, there should be at hand a place to
6 properly deposit it.

7 CHAIR HEDANI: All those in favor, signify by
8 saying "aye."

9 (A chorus of ayes.)

10 CHAIR HEDANI: Opposed, "nay."

11 COMMISSIONER DOMINGO: No.

12 CHAIR HEDANI: Motion is carried.

13 Any further amendments? Commissioner Shibuya.

14 COMMISSIONER SHIBUYA: I'd just like to have a
15 comment on -- relating to the limitations of 20 bedrooms
16 for transient vacation rentals. Is there a cap? Why
17 are we establishing a cap to this transient vacation
18 rentals?

19 MR. ALUETA: Because this is not the Hotel
20 District. If you wanted a hotel, then you should move
21 to the Hotel District, but if you want -- if you want to
22 do it. We feel we were consistent with adding
23 small-scale accommodations within a lot of the Business
24 districts, and we felt that adding it here would be
25 appropriate, also. And if they want to go bigger, they

1 can go with a Special Use Permit.

2 COMMISSIONER SHIBUYA: Okay. Thank you.

3 CHAIR HEDANI: Director.

4 MR. HUNT: Just to follow up. The history on
5 it is, at one point, hotels were taken out of our
6 Business districts because there was a fear that our
7 Business districts would be overrun with tourist hotels
8 or tourism. We believe that we can make a compromise
9 and add hotels and TVRs, et cetera, on a limited basis.
10 By limiting the number of rooms, they would possibly not
11 have the impact. So in the other Business districts, we
12 would -- we're looking at more business hotels. In this
13 district, even though it's a resort -- Resort Business
14 District, it's still a Business District.

15 So, again, we're taking incremental steps.
16 We're proposing that we introduce these accommodations
17 back into our Business districts, which most communities
18 have. But, given the history of our community, we're
19 not proposing just hotels outright. So it's kind of a
20 compromise.

21 COMMISSIONER SHIBUYA: Okay. Thank you.

22 CHAIR HEDANI: I know of at least one Business
23 Resort Commercial District that would love to demolish
24 their entire facility and put up a hotel. And they
25 would do it.

1 MR. ALUETA: Can I ask? Jeff, did you want to
2 add on our own, from the Department's standpoint, to
3 add, as a separate use, eating and drinking
4 establishment?

5 MR. HUNT: Sure.

6 MR. ALUETA: That would be our recommendation
7 at this time, also, that we add eating and drinking
8 establishments as an allowed use in the B-R.

9 CHAIR HEDANI: In addition to what we have?

10 MR. ALUETA: In addition to what you have now.
11 Not removing it, but just adding it as --

12 CHAIR HEDANI: Commissioner Starr.

13 COMMISSIONER STARR: I make that motion.

14 CHAIR HEDANI: Is there a second?

15 COMMISSIONER SHIBUYA: Second.

16 CHAIR HEDANI: Moved by Commissioner Starr,
17 seconded by Commissioner Shibuya to add "eating and
18 drinking establishments." Any discussion?

19 (Silence.)

20 CHAIR HEDANI: All those in favor -- Director.

21 MR. HUNT: Joe, would that replace Item M,
22 Line 27, on Page 2, "restaurants?"

23 MR. ALUETA: It can. We can do that, also. I
24 mean, we can come -- I can go back and consolidate that
25 one out. If that's -- it would be the same. But I

1 think the -- the concern, in the earlier discussion with
2 regards to bars and nightclubs and everything, was to
3 replace bars and nightclubs. Although it is
4 specifically listed under "eating and drinking
5 establishments," there was some concern with it by the
6 Commission. So that last motion failed, to get -- to
7 have "bars, nightclubs and restaurants" consolidated
8 into "eating and drinking establishments." So from --
9 I'm just adding it.

10 COMMISSIONER SHIBUYA: Putting it --

11 MR. ALUETA: Technically, it should be -- M
12 and B should be consolidated to "eating and drinking
13 establishments." But I think there was some legal
14 issues that was concerned --

15 CHAIR HEDANI: Right.

16 MR. ALUETA: -- with. And so for the most --
17 in the meantime, I just wanna add it. And then I can
18 discuss it over with Corporation Counsel and some other
19 people to see whether or not -- is there some legal
20 issues if those things get eliminated later.

21 COMMISSIONER MARDFIN: I think --

22 CHAIR HEDANI: So your recommendation is to
23 substitute "eating and drinking establishments" for
24 "restaurants?"

25 MR. ALUETA: At this point in time, yeah, I

1 would recommend, yeah, for restaurants.

2 CHAIR HEDANI: Commissioner Starr.

3 COMMISSIONER STARR: And my -- I -- I hope my
4 motion can encompass that Joe is gonna make -- do some
5 fine-tuning on this.

6 MR. ALUETA: Yes. That -- the goal is to --
7 because of the concerns -- and I -- I share the concerns
8 that the two Commissioners had with regards to removing
9 "bars and nightclubs," and how that may -- how our
10 ordinance may not -- I mean, our changes may not impact
11 our land use. But we're not aware of whether or not the
12 Liquor Commission uses our Land Use ordinance in some
13 other methodology that we're not aware of. And so I'd
14 like -- before we -- that was the reason I -- I thought
15 the two Commissioners had a -- had a problem with
16 removing it, because, then, the Liquor Commission may
17 view those uses differently than how we have it defined.
18 So I want to first put "eating and drinking
19 establishments" in and then I'll go talk with legal
20 counsel as well as some other members of other
21 departments.

22 CHAIR HEDANI: Any further discussion?

23 (Silence.)

24 CHAIR HEDANI: Motion is to add eating and
25 drinking -- motion is to substitute "eating and drinking

1 establishments" for "restaurants." All those in favor,
2 signify by saying "aye."

3 (A chorus of ayes.)

4 CHAIR HEDANI: Opposed, "nay."

5 (Silence.)

6 CHAIR HEDANI: Carried.

7 MR. ALUETA: Thank you.

8 CHAIR HEDANI: Any further amendments?

9 COMMISSIONER MARDFIN: It's just a question,
10 but do you plan to put --

11 CHAIR HEDANI: Commissioner Mardfin.

12 COMMISSIONER MARDFIN: Do you plan to put any
13 design guidelines section in there?

14 MR. ALUETA: No. Again, the -- the design
15 guidelines only applied to the B-CT. If -- if, during
16 the Community Plan process, again, the community feels
17 that they want to have certain design criteria, or
18 form-based codes inserted, then we'll -- we'll do so.

19 COMMISSIONER MARDFIN: Thank you.

20 CHAIR HEDANI: I have a -- Commissioner
21 Shibuya.

22 COMMISSIONER SHIBUYA: I'd like to -- on this
23 chart, on Page 3, Development Standards, I'd like to
24 just go ahead and propose that we go to 40 feet rather
25 than just say 35 feet, and with the exception of these

1 pipes to -- to go to -- not to exceed 40 feet. So I'm
2 just gonna say 40 feet, to include "antennae, chimneys,"
3 as well as the roof. Say it in a positive way.

4 CHAIR HEDANI: Is that a motion?

5 COMMISSIONER SHIBUYA: That's a motion.

6 CHAIR HEDANI: Motion to adjust 35 to 40,
7 including "vent pipes, fans, chimneys, antennas," et
8 cetera.

9 COMMISSIONER MARDFIN: I'll second for the
10 sake of discussion.

11 CHAIR HEDANI: Seconded by -- the motion by
12 Commissioner Shibuya, seconded by Commissioner Mardfin.
13 This would, basically, take B-R Resort Commercial to
14 four stories. Discussion? Commissioner Hiranaga.

15 COMMISSIONER HIRANAGA: So we're changing
16 building height to 40 feet whether they have vent pipes,
17 fans, chimneys, antennas, or whatnot. So they could put
18 a flat roof up and just build it up to 40 feet?

19 CHAIR HEDANI: Right.

20 COMMISSIONER SHIBUYA: That's correct.

21 COMMISSIONER HIRANAGA: Yeah, I'm gonna have a
22 problem with that, without putting that on the agenda
23 specifically for public review. Because I think that's
24 gonna impact a lot of people in the SMA areas.

25 CHAIR HEDANI: Any additional discussion?

1 Commissioner Starr.

2 COMMISSIONER STARR: Yeah. Where does this
3 exist?

4 MR. ALUETA: B-R?

5 COMMISSIONER STARR: Yeah.

6 MR. ALUETA: Oh.

7 CHAIR HEDANI: Fairway Shops.

8 MR. ALUETA: Yeah. That's the main one I
9 know, Business District, the shops right on -- in
10 Kaanapali. And that's -- and that's the only one that I
11 know of that, actually, come in for -- like I say, when
12 they had Gold's Gym come in, they -- they had to get a
13 Special Use Permit from the Commission.

14 COMMISSIONER STARR: How about the Wailea
15 shops, Shops of Wailea?

16 CHAIR HEDANI: The Commercial area as you're
17 approaching Wailea?

18 MR. ALUETA: Yeah. That's a Project District.
19 And there might be -- there's some B-R down toward
20 Kaanapali -- I mean, Kapalua on the -- I think on the
21 lower road. Some of those areas are B -- that were --

22 CHAIR HEDANI: The Westin.

23 MR. ALUETA: Yeah. On the down side is B-R.
24 I think that's -- and then somewhere -- in the Napili
25 Civic Improvement District, there might have been, but a

1 lot of that got eliminated when they did the old -- the
2 Napili Civic Improvement District overlay. So there's
3 not too many. I mean, there -- but there -- there's --
4 mostly right in the resort areas, in Kaanapali, Kapalua.

5 CHAIR HEDANI: Commissioner Mardfin.

6 COMMISSIONER MARDFIN: I think I'm gonna vote
7 against the motion because that would -- in effect, it
8 would discourage the use of small-scale energy systems
9 because some people might take the extra five feet, and
10 then they don't have room for the energy systems. So
11 since I wanna encourage energy systems, I'm gonna vote
12 against the motion.

13 CHAIR HEDANI: Additional discussion?
14 Commissioner Shibuya.

15 COMMISSIONER SHIBUYA: The reason why I was
16 thinking this, and in terms of allowing for these
17 economies of scale, it's a trade-off. They will be
18 generating electricity through photovoltaic cells
19 mounted just about 10 degrees. And you don't have to
20 have it at 45 degrees. Five degrees is even good
21 enough. And you -- you have a sun tracker, a
22 single-axis sun tracker, you're really increasing a lot
23 and you're shielding the heat from that top floor. This
24 in itself allows for an incentive for them to -- to
25 increase the income and the economy here. And so I see

1 it as a win-win for everyone involved.

2 CHAIR HEDANI: Additional discussion?

3 (Silence.)

4 CHAIR HEDANI: Director Hunt.

5 MR. HUNT: The Department supports

6 Mr. Mardfin's comments that the intent of raising the

7 extra five feet was to provide an incentive for

8 small-scale energy systems. We didn't want to raise the

9 buildings in the district five feet.

10 CHAIR HEDANI: Additional discussion?

11 (Silence.)

12 CHAIR HEDANI: I would oppose this only

13 because it would affect -- has a possibility of

14 affecting view planes if the buildings are increased to

15 that height. And right now, the existing B-R area is

16 one story high. This would allow for a four-story

17 building, basically.

18 Additional discussion?

19 (Silence.)

20 CHAIR HEDANI: All those in favor, signify by

21 saying "aye."

22 COMMISSIONER SHIBUYA: Aye.

23 CHAIR HEDANI: Opposed, same sign.

24 (Nays.)

25 CHAIR HEDANI: Motion is lost. Any further

1 discussion?

2 (Silence.)

3 CHAIR HEDANI: Joe, I had a question on
4 development standards, freestanding antennae or wind
5 turbine structures, height and setback. My comment was
6 that cell phone towers should not be allowed in the B-R
7 zone. An antennae farm would be more appropriate than a
8 cell phone tower in a B-R Resort Commercial zone was my
9 comment. Probably in a remote or high location that
10 overlooks the resort area and would not be as visible.
11 We, actually, did a cell phone tower in Kapalua, but we
12 had to blend it into the Cook Pines and make it look
13 like a tree.

14 COMMISSIONER SHIBUYA: Board of Variance and
15 Appeals did that.

16 CHAIR HEDANI: So my suggestion would be to
17 take a hard look at that because it would -- at 50 feet,
18 it would stick out like a sore thumb at Kaanapali.

19 MR. ALUETA: I understand that. And I think
20 we're just trying to be consistent with what we did with
21 the other Commercial districts, given that this is
22 supposed to be normally located in an adjacent area to
23 the -- to a resort area. That's not saying that local
24 people want to have good views, too. We don't really
25 like to look at our beautiful electrical poles going

1 down Kaahumanu and Wakea Avenue. But, yeah, I
2 understand that we've -- we have had -- in Kaanapali,
3 they put up several -- I mean, I've done permits for
4 several either on the roof of the hotels --

5 CHAIR HEDANI: Yeah, I'm battling the hotels
6 on that because it's a violation of our CC&Rs right now.

7 MR. ALUETA: Okay. So it's up to you how you
8 want to -- again, that's just our proposal. If you want
9 to take out antennas and just leave "wind turbine
10 structures" -- I'm not sure how much prettier those are
11 gonna look, but, you know, it's up to -- it's up to the
12 Commission. Again, we're proposing just to be
13 consistent.

14 CHAIR HEDANI: Commissioner Hiranaga.

15 COMMISSIONER HIRANAGA: I guess I'd like
16 clarification as to, you know, the -- the Chairman is
17 making these comments, which is not really any action by
18 the Commission, it's comments. So what weight does that
19 have in our recommendation to the Council?

20 MR. ALUETA: None at this point. He just --
21 he was having a clarification of -- and voicing his
22 concerns to the Department. The Department was just
23 voicing our issues why we added it into the B-R
24 District. And that was to be consistent with the other
25 Business districts where, you know, if someone wants to

1 put up a commercial tower in a Commercial District, it
2 makes sense. And then we set up our own -- we set up
3 the standards for that and that -- both antennae and for
4 wind turbines, and that is, you know, 50 foot max, but,
5 also, we set a setback. So you're gonna have to have a
6 lot that's at least -- to go 50 feet, you're gonna have
7 to have a lot that's at least a hundred and, probably,
8 two feet wide in either direction. So it's gonna be a
9 good-size lot.

10 COMMISSIONER HIRANAGA: So his comments may
11 influence your recommendation to Council, but it's not
12 gonna change what action we took on the floor?

13 CHAIR HEDANI: It has to be made by motion.

14 MR. ALUETA: It has to -- that's why I said if
15 that's the will of the Commission, to have a motion to
16 make a modification, but our recommendation right now
17 stands as -- as 50 feet for antennas and for wind
18 turbines.

19 CHAIR HEDANI: It doesn't matter. We have
20 architectural reviews, so we would not approve it,
21 anyway.

22 Any further discussion?

23 (Silence.)

24 CHAIR HEDANI: Public hearing. Are there any
25 members of the public that would like to offer testimony

1 on this item? Seeing none, public testimony is closed.
2 Main motion. Commissioner Hiranaga.
3 COMMISSIONER HIRANAGA: Okay.
4 CHAIR HEDANI: Anybody? Commissioner Starr.
5 COMMISSIONER STARR: Move for recommendation
6 of approval as amended.
7 CHAIR HEDANI: Is there a second?
8 COMMISSIONER SHIBUYA: Second.
9 CHAIR HEDANI: Seconded by Commissioner
10 Shibuya. All those in favor, signify by raising your
11 hand. One, two, three, four, five.
12 Opposed, same sign. Motion is carried.
13 MR. ALUETA: Thank you.
14 CHAIR HEDANI: Take a five-minute recess.
15 (Recess, 4:05 p.m. to 4:10 p.m.)
16 CHAIR HEDANI: Planning Commission is back in
17 session. Director.
18 MR. HUNT: Your next item involves Ms. Sylvia
19 Lindig, requesting a State Land Use Commission Special
20 Use Permit for the Haiku Hale Bed and Breakfast, a
21 three-bedroom bed and breakfast in the State Ag
22 District, at 1640 Kokomo Road, in Haiku. File Number is
23 SUP2 2009/0012. The planner assigned to this is Livit
24 Callentine.
25 Just real briefly, before we get into these, I

1 thought I'd give you a summary of the B&Bs that we have
2 done over the years, since we're approaching the end of
3 this calendar year. We have approved 31 B&Bs under the
4 new ordinance that was adopted last January. Assuming
5 we get these two approved as recommended, that would be
6 33 within a 12-month period. That compares to 14 were
7 approved under the existing -- pardon me -- under the
8 old ordinance over an 11-year period. So we've more
9 than doubled the entire 11-year period just in one year.

10 It's also over -- well over half of the total
11 B&B applications that have been submitted. There are
12 approximately 61 that have been submitted and we have
13 processed and approved. Well, assuming today, that
14 would be 33 out of 61.

15 So just a little progress report. I believe
16 the ordinance is working pretty well.

17 And with that, I'll turn it over to Livit.

18 MS. CALLENTINE: Thank you, Jeff.

19 Could someone get the lights for me? Or just
20 a couple of 'em? Just wanted to create a -- thank you.
21 Thank you. That's good.

22 Okay. Good afternoon, Commissioners. And I
23 commend you for your work all day today. That's an
24 important work. And I know it takes a lot of patience.

25 As Jeff said, I'm the planner assigned to the

1 Land Use Commission Special Use Permit which is for the
2 Haiku Hale B&B. As noted under your -- on your agenda,
3 the project is Special Land Use Commission -- Special --
4 Land Use Commission Special Use Permit. Sorry. And the
5 permit is required because the property is zoned
6 Agriculture. And 19.30A does allow B&Bs as a special
7 use.

8 Your public hearing today for this project is
9 required because it's a Special Use Permit. And the
10 standards are found under subtitle -- Title 15, Subtitle
11 3, Chapter 15, Subchapter 12, and Section 15-15-95
12 Hawaii Administrative Rules. And pending approval of
13 this Special Use Permit, the B&B will be approved
14 administratively.

15 The project is located just to the east of
16 Maliko Gulch, at 1640 Kokomo Road. And it's on about
17 two acres, just a little over two acres.

18 I'd like to make a correction to the Staff
19 Report. On Page 4, the last paragraph, the tax map key
20 is incorrectly listed. The correct TMK is 2-7-033:007.
21 It is listed correctly on the front of your report, but
22 in that one section, it's incorrect.

23 Land use designations: The State, County and
24 Community Plan all designate the property as
25 Agriculture. And it's not located in the Special

1 Management Area.

2 It's surrounded on all sides by agricultural
3 lands. On the east, in addition, is found the Fourth
4 Marine Division Memorial Park. And, as I said Maliko
5 Gulch is abutting the southern border of the property.

6 The project consists of three bedrooms in a
7 988-square-foot cottage. The applicant lives on the
8 property in the main dwelling. And a farm plan has been
9 implemented. And the applicant will be required to
10 provide breakfast to the guests.

11 This is a photograph of the driveway entrance.
12 And the project notice sign is -- is shown there.
13 That's required of the bed and breakfast permit.

14 This -- woops. Let's see here. The site
15 plan. The site plan, the project slopes steeply down
16 from Kokomo Road. The bed and breakfast cottage is
17 closest to the road and is shown in that pale green
18 right here. So here's the entrance to the project. And
19 you come down the driveway, and it just winds way down
20 to the bottom of the property. So the bed and breakfast
21 will take place entirely in this unit.

22 There are three parking stalls here and two
23 more here. And going further down the property, there
24 are another three to four parking stalls here that the
25 owner uses. And then this is the owner's dwelling at

1 the bottom of the property.

2 This is a floor plan of the cottage used for
3 B&B use. The parking stalls are shown in the
4 pinkish-purple on your left. And the three bed and
5 breakfast bedrooms are shown in the colors on the -- on
6 the plan. This is a living room, kitchen and dining,
7 bathroom, and the hall.

8 This is a -- a view from the parking lot,
9 looking at the cottage. This is a view of the entry to
10 the bed and breakfast. And this is a view of the deck.
11 This is a view of the owner's residence with the parking
12 shown in the foreground, right in here. And this is a
13 long, sloping stairway, it's a covered stairway, leading
14 down to the owner's unit. And note the -- the property
15 is heavily, heavily forested. Again, the stairway
16 leading down to the owner's unit. Again, the -- the
17 heavy forestation. And additional foliage, plus the
18 little resident dog right there.

19 This is the project notice sign in more
20 detail.

21 Let's see here. So unusual and reasonable use
22 test.

23 Number one is that the use would not be
24 contrary to the objectives sought to be accomplished by
25 Chapters 205 and 205A, HRS, and the Rules of the

1 Commission. In this case, the bed and breakfast use
2 would not preclude or reduce agricultural use on the
3 property. And 70 percent of the property is in
4 agricultural conservation. Approximately 70 percent of
5 that, or an acre and-a-half, is covered with large trees
6 such as Guava, Oak, Macadamia and Kukui; approximately
7 10 percent flowering plants, which are -- consist of
8 bromeliads, Agave, Alpinia, Protea, Gardenia, to name a
9 few; and 10 percent in bamboo; and then the final 10
10 percent of the property is built, built environment.

11 The second test is that the desired use would
12 not adversely affect the surrounding property. The
13 property and the surrounding parcels are on two acres --
14 a little more than two acres of land and are very
15 secluded. None of the surrounding properties are closer
16 than 100 feet. And there was one letter in opposition
17 to the project. And that opposition letter came from a
18 property about 430 feet from the proposed bed and
19 breakfast.

20 Test number three is that the use would not
21 unreasonably burden public agencies. And commenting
22 agencies did not indicate, with this B&B, that there
23 would be an increased burden due to the B&B. And the
24 Planning Department feels as well that no more burden
25 exists from a B&B than would from long-term rental use.

1 Test number four, D, is, are there any unusual
2 conditions, trends or needs that have arisen since the
3 District Boundary Rules were established. The District
4 Boundary Rules were set in 1960s, prior to the visitor
5 industry becoming central to Maui's economy. The
6 B&Bs -- bed and breakfasts, in general, meet the demands
7 for alternatives to hotels. And Ordinance 3611 passed
8 this year does permit B&Bs in County Ag Zoning District
9 with a Special Use Permit.

10 Test number five is that the land is unsuited
11 for the uses permitted within the district. Well, this
12 parcel is about, as I said, a little over two acres.
13 And it's -- it's heavily -- it's steeply sloped. It's
14 not conducive to any form of cultivation. It is suited
15 to ag conservation. And the bed and breakfast use would
16 not end the agricultural conservation on the land.

17 I'd like to show a map of just giving you a
18 sense of the regional bed and breakfasts in the area.
19 So this -- the green circle around this red square, it
20 does indicate the subject property as well as the
21 500-foot boundary. And all of the red squares indicate
22 pending bed and breakfasts as of the date of that I made
23 this slide. And the green ones are approved. Just to
24 give you a sense of what's going on in this region. And
25 the -- there have been 17 bed and breakfasts approved in

1 the Paia Community Plan area, which does allow for a
2 maximum of 88 bed and breakfasts. And the Maui Island
3 bed and breakfast, there are as -- as -- as the Director
4 mentioned, a total, including what had previously been
5 approved, of 40 approved bed and breakfasts, plus three
6 renewals are pending, and an additional 31 new
7 applications are pending with the Maui Island -- on Maui
8 Island. And the total number limited -- would be
9 limited throughout island to 400.

10 Testimony. As I said, testimony, there was
11 one letter in opposition to the project. And that is
12 shown in the report as Exhibit Number 30.

13 And at this time I would like to ask the
14 owner/applicant, Sylvia Lindig, if she would like to say
15 a few words about her proposal. Okay. No, she
16 indicates that she does not need to.

17 So that concludes Planning Department's
18 report.

19 CHAIR HEDANI: Questions from the Commission?
20 Commissioner Starr.

21 COMMISSIONER STARR: Yeah. In reading the
22 report, I'm -- I'm a little confused. But it looked
23 like one of the other agencies, I think Department of
24 Finance, said that, after the application was in, there
25 were advertisements on the internet for -- I believe it

1 was the -- not the house that's projected to be the B&B,
2 but the -- the other house. And that -- something about
3 the sign being taken down and --

4 MS. CALLENTINE: Uh-huh.

5 COMMISSIONER STARR: -- the thing being
6 operated while it was not -- while it was kapu.

7 MS. CALLENTINE: Yes. I understand that
8 there's been some questions about that. And I -- I can
9 only attest that, when I did a site visit, it did not
10 appear there was any bed and breakfast operation
11 ongoing. If there was an operation ongoing, it had
12 ceased.

13 As far as the sign, there was an investigation
14 of the sign because someone actually reported the sign
15 as -- as not being present. And the applicant did
16 report to me, upon inquiry, that the sign had been
17 stolen and she had ordered a new sign to be built. And
18 at the time I conducted the site inspection, it was
19 present, the second sign.

20 So -- and if -- maybe you might want to
21 question the applicant, if you would like to --

22 CHAIR HEDANI: Does the applicant want to make
23 any response to the questions?

24 MS. LINDIG: Yes. I would like to --

25 MS. CALLENTINE: No, no. Wait, wait. Come up

1 here first, Sylvia. Yeah. And then you'd just state
2 your name for the record. Thank you.

3 MS. LINDIG: Hi. My name is Sylvia Lindig.

4 We were approached in -- well, first of all,
5 my -- I applied for a B&B license in January 2009. And
6 when I called to Maui County, it was said that, in May,
7 approximately, I gonna get my license. So I started
8 advertising for a bed and breakfast at the two sites
9 which are available in America. So me and my -- I got
10 couple responses only. And had sent them to do legal
11 bed and breakfast. One is (inaudible) and one is Ryan
12 Laskin. And they both could complied to what I was just
13 saying. Because we had not gotten our license yet.

14 So in about May, I was approached by a County
15 planner saying that he was -- we were -- first, he said
16 that I was in the restaurant saying, in a restaurant --
17 in a public setting -- he said first -- saying that I
18 would run the bed and breakfast and was bragging about
19 the bed and breakfast running. Well, at this time I had
20 a long-term lease. So I, basically, wouldn't be able to
21 do that, anyway.

22 When I researched what is he actually talking
23 about, it turned out that it wasn't a public setting and
24 that I was not in this public setting. No one who --
25 neither my husband or I were in this public setting,

1 which turned out it was someone else who I don't know,
2 which was not disclosed to me. So anybody in Maui could
3 have said, oh, she is saying that I gonna run a bed and
4 breakfast. So we don't know who this person was.

5 The second complaint was given in June, I
6 think. We had a second complaint.

7 Well, I have to also say that I had -- have
8 had an architectural office here on Maui for about 10
9 years. And there was a lot of small contractors which I
10 did not comply to their work. And when I had, in 2007,
11 in November, a stroke, immediately after that I was sued
12 from a contractor who wanted money. And so then he drug
13 me into the court and into arbitration for the next half
14 year.

15 So these type of things -- I have no idea what
16 these complaints were about my bed and breakfast. But
17 what I did find out was that the person who suddenly
18 complained again in next -- in -- I think in July -- no.
19 In August, there was another complaint filed to the Maui
20 Planning Department about me running the bed and
21 breakfast. Again, same thing. It was a hearsay. It
22 was no proof.

23 We called Livit. She came over. The house
24 was empty. It was not rented for like about two months,
25 three months. We were waiting for our permits.

1 We've lost thousands of dollars. Meanwhile, I
2 couldn't even work at my architectural office, having,
3 basically, no income and lost every saving I've ever
4 had.

5 So now, additionally, we are on the urge of
6 kind of breaking down, almost giving up. Now I have a
7 long-term renter. And I just almost gave up on this
8 County process, that it is -- it's ever gonna happen
9 again.

10 So now we -- we are moving ahead. But so now,
11 in August, again, I had the next complaint. What I
12 found out, it was a finish carpenter. Well, the lawsuit
13 I've had from this finish carpenter, which was,
14 actually, a contractor, in November -- in -- in
15 December, actually, the day before Christmas, last year,
16 I was sued and served, after my stroke. It was a finish
17 carpenter.

18 So this said, I think it kind of creates a
19 little more view of what's -- what had happened to me
20 with -- with the possible complaint and (inaudible) I've
21 had. It -- I was told that there were three complaints.
22 And I've not found out who that person is. And when I
23 try to get more information, I was hitting the brick. I
24 -- I couldn't go farther.

25 So I have no idea. I have not had the chance

1 to support or defend myself in any way. I was just
2 pounded by these sudden complaints without any
3 disclosure or any fairness in the process of maybe even
4 making a comment who could this person be or what could
5 this person -- you know, trying to -- to -- to
6 accomplish here or trying to -- yeah. What --

7 CHAIR HEDANI: Thank you, Sylvia. Thank you.
8 Is your question answered, Jonathan?

9 COMMISSIONER STARR: Okay.

10 CHAIR HEDANI: Are there any other questions
11 from the Commission? Commissioner Mardfin.

12 COMMISSIONER MARDFIN: I have some questions
13 for Sylvia, if she wouldn't mind. According to the
14 record, the main house was built in about 1980?

15 MS. LINDIG: Yeah.

16 COMMISSIONER MARDFIN: And when did you
17 purchase the property?

18 MS. LINDIG: In 2005.

19 COMMISSIONER MARDFIN: You bought it in 2005?

20 MS. LINDIG: Yeah. And I remodeled it
21 completely.

22 CHAIR HEDANI: Okay. And then this farm
23 dwelling was built in 2007?

24 MS. LINDIG: It was actually -- it -- it got
25 the CO in 2008. In April 2008, it got occupancy.

1 COMMISSIONER MARDFIN: And was that built to
2 be a B&B?

3 MS. LINDIG: Excuse me?

4 COMMISSIONER MARDFIN: Was that built to be a
5 B&B?

6 MS. LINDIG: No. In 2008, I have had a
7 long-term rental, I -- I build it in order to get some
8 additional rental income. But then when it opened up in
9 2009, I think, in January 2009, the County amended that
10 it could be a possible use as a -- as a bed and
11 breakfast, yeah.

12 COMMISSIONER MARDFIN: So it's currently being
13 used by a long-term renter?

14 MS. LINDIG: Yes.

15 COMMISSIONER MARDFIN: And it's never been
16 used as a B&B?

17 MS. LINDIG: No.

18 COMMISSIONER MARDFIN: Thank you very much.

19 CHAIR HEDANI: Any other questions from the
20 Commission? Commissioner Shibuya.

21 COMMISSIONER SHIBUYA: This is Liv. Liv, can
22 you tell us who's listed on the --

23 CHAIR HEDANI: Thank you, Sylvia.

24 MS. CALLENTINE: He's asking me.

25 COMMISSIONER SHIBUYA: Who is listed on the

1 deed?

2 MS. CALLENTINE: Who is listed on the deed is
3 Sylvia Lindig and -- and, I believe, your husband, also,
4 is on the deed?

5 MS. LINDIG: No. He's not on the deed.

6 MS. CALLENTINE: Okay. So just Ms. Lindig.

7 COMMISSIONER SHIBUYA: Did you --

8 MS. CALLENTINE: And she is the only
9 applicant. I do have a copy of the deed, yeah.

10 COMMISSIONER SHIBUYA: Okay. And it does say
11 that?

12 MS. CALLENTINE: Yeah.

13 COMMISSIONER SHIBUYA: Also, the application
14 here says three bedrooms for a total of six bedrooms.
15 Which is it? What is it?

16 MS. CALLENTINE: You know, there were several
17 different -- let me see. You're looking in the -- are
18 you looking at the Staff Report?

19 COMMISSIONER SHIBUYA: Yes. Well, Milton
20 Arakawa.

21 MS. CALLENTINE: This is the letter from
22 Public Works?

23 COMMISSIONER SHIBUYA: Yes.

24 MS. CALLENTINE: Excuse me while I pull that
25 one up. That's Exhibit Number -- if you could,

1 Commissioner?

2 COMMISSIONER SHIBUYA: 15.

3 MS. CALLENTINE: 15. Each dwelling -- yes,
4 each dwelling contains three bedrooms. That means
5 there's a total of six bedrooms on the site, and not
6 seven bedrooms. That's correct.

7 COMMISSIONER SHIBUYA: So there's two units?

8 MS. CALLENTINE: Yes.

9 COMMISSIONER SHIBUYA: Is that what you're
10 saying?

11 MS. CALLENTINE: Yes. Shall I pull back up
12 the site plan?

13 COMMISSIONER SHIBUYA: You just showed me one
14 floor plan that I can hardly see on Exhibit 14.

15 MS. CALLENTINE: Yes.

16 COMMISSIONER SHIBUYA: And I don't -- I can't
17 see the details. I mean, it's very difficult to see.

18 MS. CALLENTINE: Yes.

19 CHAIR HEDANI: It's up on the screen.

20 MS. CALLENTINE: If you look right up here at
21 the screen, as -- as I mentioned, this is the entrance,
22 the driveway is right here, the project notice sign is
23 -- is -- is right up at the top of the driveway. You
24 come on down the driveway. And this is parking, these
25 two areas are parking. This is a three-bedroom

1 accessory dwelling -- it's 988 square feet,
2 approximately -- that is for the proposed B&B. Then if
3 you continue on down the driveway, additional parking,
4 and the second main dwelling. I can't remember how many
5 square feet that is, but it's larger.

6 And then if you want to look at the site plan
7 for the bed and breakfast dwelling, that is like so. So
8 do you see where -- how this correlates with the -- the
9 site plan? See the shape of this building is kind of a
10 U-shaped? And then if you look here, this is the U
11 shape of the building.

12 CHAIR HEDANI: Yeah. But the application is
13 for three bedrooms, right?

14 MS. CALLENTINE: That is correct, in the -- in
15 the cottage.

16 COMMISSIONER SHIBUYA: Only three, not six?

17 MS. CALLENTINE: No. I believe -- let's see.
18 I'm not sure if Public Works Deputy Director could speak
19 to this, but I believe they were referring to six
20 bedrooms in total on the property. And I think at one
21 point, the -- the original application did say seven
22 bedrooms. And there was some confusion about that on
23 the part of Staff. But having done a site visit, I can
24 -- I can say I only saw six bedrooms in two separate --
25 three in each of two separate dwellings.

1 COMMISSIONER SHIBUYA: So we're dealing with
2 three bedrooms in two separate structures --

3 MS. CALLENTINE: Three each.

4 COMMISSIONER SHIBUYA: -- for a total of six
5 bedrooms?

6 MS. CALLENTINE: Correct. But only three are
7 proposed to be used for the bed and breakfast.

8 COMMISSIONER SHIBUYA: Okay.

9 MS. CALLENTINE: The other three --

10 CHAIR HEDANI: The other dwelling is
11 owner-occupied.

12 MS. CALLENTINE: Is owner-occupied.

13 COMMISSIONER SHIBUYA: Okay. It's just
14 totally confusing. And I couldn't understand.

15 MS. CALLENTINE: I apologize for that.

16 CHAIR HEDANI: Commissioner Mardfin.

17 COMMISSIONER MARDFIN: Livit, in Exhibit 21 --
18 I think this is partially what Jonathan was referring
19 to. I'm not sure. Exhibit 21 --

20 MS. CALLENTINE: Uh-huh.

21 COMMISSIONER MARDFIN: -- on the second
22 page --

23 MS. CALLENTINE: Yes.

24 COMMISSIONER MARDFIN: -- could -- did you
25 investigate this or talk to Scott Wells or anything?

1 MS. CALLENTINE: Yes. I don't believe I spoke
2 with Scott Wells. And this is in reference to the
3 comment letter from the Department of Finance, Real
4 Property Tax Division.

5 I did look on the website,
6 mauiexpeditons.com. And at one point -- and the
7 confusion about which dwelling it was -- at one point --
8 and I do have in the file several different versions of
9 an application. At one point, the application was to
10 use the main dwelling as the bed and breakfast, or at
11 least that was my understanding of what it was, but
12 then, midway through the application process, that was
13 reversed.

14 CHAIR HEDANI: Additional questions for Staff
15 or the applicant?

16 (Silence.)

17 CHAIR HEDANI: Is there any agricultural plan
18 for this lot, Livit? Is there a farm plan approved?

19 MS. CALLENTINE: Yes, there is. A farm plan
20 has been approved and implemented. And so far as I
21 know, as I mentioned, on one of the slides I showed, the
22 site, I would say, as -- as the applicant described it
23 to me, it's farm conservation. It's agricultural --
24 sorry -- agricultural conservation. It's not
25 cultivation in that I don't believe the applicant is

1 attempting to sell any -- raise and sell any of the
2 products. Is that correct?

3 MS. LINDIG: Correct.

4 MS. CALLENTINE: She's indicating that's
5 correct.

6 CHAIR HEDANI: And conservation is an approved
7 agricultural use in a farm plan?

8 MS. CALLENTINE: Yes.

9 CHAIR HEDANI: Any additional questions?
10 Commissioner Shibuya.

11 COMMISSIONER SHIBUYA: On the driveway, about
12 how wide is it and how steep is it?

13 MS. CALLENTINE: I would say --

14 COMMISSIONER SHIBUYA: I'm looking in terms of
15 a fire truck accessing it.

16 MS. CALLENTINE: Let me ask the applicant to
17 answer that question again. Go ahead.

18 MS. LINDIG: Well, the -- the upper house, the
19 ohana dwelling, which is -- will be used as the bed and
20 breakfast, the driveway --

21 CHAIR HEDANI: Pull the microphone up, please.
22 Pull the microphone up.

23 MS. LINDIG: Closer?

24 MS. CALLENTINE: Yeah. Speak directly into
25 it.

1 MS. LINDIG: The -- the driveway is about 20
2 foot wide, or maybe even more. And the -- the -- to
3 drive inside -- into the -- the driveway is, I think, 15
4 feet wide, the concrete paved portion of it. The --
5 when you drive farther down to the main house, it
6 continues to be 15 foot wide.

7 But just to say about a fire truck, when I had
8 the stroke, I was in my lower house, at my main
9 residence, and there were -- within five or ten minutes,
10 there were about 10 firemen around my bed. So,
11 literally, the fire truck drove right away down and was
12 -- it was really easy to access or -- yeah, go in and
13 out. So that was kind of like the stress test I had
14 with my driveway, that it does work for fire truck. The
15 driveway itself -- yeah.

16 CHAIR HEDANI: Thank you.

17 Additional questions?

18 (Silence.)

19 CHAIR HEDANI: Public hearing. Are there any
20 members of the public that would like to offer testimony
21 on this item? Seeing none, the public hearing is
22 closed.

23 Staff recommendation.

24 MS. CALLENTINE: The Maui Planning Department
25 recommends to the Maui Planning Commission approval of

1 the Land Use Commission Special Use Permit subject to
2 six standard conditions which are shown in your
3 recommendation report. And in conclusion, in
4 consideration of the foregoing, the Maui Planning
5 Department recommends that the Maui Planning Commission
6 adopt the Planning Department's report and
7 recommendation prepared for the December 8th, 2009
8 meeting, and authorize the Director of Planning to
9 transmit said findings of fact, conclusions of law,
10 decision and order on behalf of the Planning Commission.

11 CHAIR HEDANI: Commissioners? Commissioner
12 Mardfin.

13 COMMISSIONER MARDFIN: Livit, two things.
14 This doesn't have any -- we're approving the Special --
15 you're asking us to approve the Special Permit?

16 MS. CALLENTINE: That's correct.

17 COMMISSIONER MARDFIN: Not the -- the B&B
18 because there are no triggers for that?

19 MS. CALLENTINE: That's correct.

20 COMMISSIONER MARDFIN: What is the intent of
21 the Department if -- if we grant the Special Permit,
22 what length of time period were you anticipating giving
23 a B&B for?

24 MS. CALLENTINE: The maximum that can be
25 approved for a B&B initially is three years.

1 COMMISSIONER MARDFIN: I understand that's the
2 maximum. What are you recommending?

3 MS. CALLENTINE: In this case, because we
4 haven't had a strong outpouring of concern from the
5 neighborhood or from agencies, I would go ahead and
6 recommend that the Director approve three years.

7 COMMISSIONER MARDFIN: That means you've --
8 the discrepancies and issues that we were concerned
9 about have been -- at least to your satisfaction, have
10 been dealt with?

11 MS. CALLENTINE: Yes.

12 COMMISSIONER MARDFIN: Thank you.

13 CHAIR HEDANI: Commissioner Shibuya.

14 COMMISSIONER SHIBUYA: Livit, you mentioned
15 there was a neighbor who was about 400 feet away --

16 MS. CALLENTINE: Yes.

17 COMMISSIONER SHIBUYA: -- that had an
18 objection.

19 MS. CALLENTINE: Yes.

20 COMMISSIONER SHIBUYA: What was that
21 objection?

22 MS. CALLENTINE: It's shown as Exhibit 30 in
23 the Staff Report. And it says, "Dear Sir or Madam: I,
24 Pettyj Takabashi, oppose the plan of a three-bedroom --
25 "three bedroom building bed and breakfast business

1 located at 1632 Kokomo Road," et cetera. "I would
2 prefer to keep the Kokomo Road area a family country
3 living environment. Keep business to the Haiku
4 Cannery" -- Mall -- sorry. "Haiku Cannery area."

5 CHAIR HEDANI: Commissioner Starr.

6 COMMISSIONER STARR: I move for approval for a
7 two-year period otherwise as recommended.

8 COMMISSIONER MARDFIN: Second.

9 CHAIR HEDANI: Moved by Commissioner Starr,
10 seconded by Commissioner Mardfin for approval of a
11 Special Use Permit for a period of two years.
12 Discussion? Commissioner Mardfin.

13 COMMISSIONER MARDFIN: Well, I seconded it,
14 but let me say two things.

15 One, in -- with respect to Commissioner
16 Shibuya's concern, I read that letter and it struck me
17 as a general thing, "I just don't like B&Bs." So I'm
18 not treating that as against her particular application.
19 It's not like she's been having a lot of noise or
20 something like that.

21 I seconded the motion for two years, but we're
22 not approving the B&B; we're approving the special use.
23 And I think, to make it consistent with what they want,
24 the intent was to give them, I believe, eight years,
25 three years of initial.

1 MS. CALLENTINE: Yes. The condition -- the
2 first condition suggests that the Land Use Commission
3 Special Use Permit be valid until December 31st, 2017.

4 COMMISSIONER MARDFIN: Which is eight years?

5 MS. CALLENTINE: That would be subject to
6 further extension. Yeah, that's eight years.

7 COMMISSIONER MARDFIN: So you're --

8 MS. CALLENTINE: Be subject to further
9 extension by the Planning Commission.

10 COMMISSIONER MARDFIN: You're thinking a
11 three-year, plus a five-year extension?

12 MS. CALLENTINE: Correct.

13 COMMISSIONER MARDFIN: So if the --
14 Commissioner Starr agrees, we would make it -- we change
15 the condition from 2017 to 2016 with the hope that you
16 would give a two-year initial follow-up by a five-year
17 extension, assuming there are no problems. Is that --

18 MS. CALLENTINE: Well, I think the motion was
19 for a two-year approval of the Special Use Permit.

20 CHAIR HEDANI: Discussion? Any further
21 discussion? Commissioner Hiranaga.

22 COMMISSIONER HIRANAGA: I guess, Staff, maybe
23 you could elaborate why you offered or recommended until
24 the year 2017.

25 MS. CALLENTINE: Well, we've had lots of

1 ongoing discussions amongst the -- the team that has
2 been working predominantly on the bed and breakfast
3 permits. And the Director may be able to clarify this
4 more clearly than I, but the idea was that if -- if --
5 if an application appeared to consist of a project that
6 looked like it would comply with the -- the standards in
7 the agricultural ordinance and then, also, in the bed
8 and breakfast ordinance, that -- and, also, in the
9 interest of -- of streamlining future endeavor, our
10 future work on projects such as this, this is -- in the
11 totality of all the development that you review on the
12 island, this is a -- a fairly small benign piece of the
13 whole picture. So the idea that we might be able to
14 free up some of your time in the future for more larger,
15 more impactful developments and protections of our
16 environment, I think that was really the thinking behind
17 extending the special use period.

18 CHAIR HEDANI: Commissioner Mardfin.

19 COMMISSIONER MARDFIN: I'm gonna vote against
20 the motion because I agree with Livit's and the
21 Department's position. If the motion were to approve
22 the Special Use Permit to 2016, I think it would achieve
23 the goal that he's trying to do, that Commissioner Starr
24 is trying to do. But I -- I think two years of having
25 to come back to meet us would make more sense. So I'm

1 gonna vote against the motion.

2 CHAIR HEDANI: Any further discussion?

3 Commissioner Shibuya.

4 COMMISSIONER SHIBUYA: Livit, on this chart
5 here, in Exhibit 29, you show that this is a pending
6 B&B, and then something closeby, another pending B&B.
7 Is that within 500 feet?

8 MS. CALLENTINE: The chart that you are
9 looking at -- looking at, Commissioner Shibuya, is the
10 -- the circle around the square. And that is indicating
11 the subject property. That circle is actually the
12 500-foot boundary. So you see that small black circle
13 around the square? If you can kind of extrapolate, you
14 know -- you see the -- the -- the mileage indicator
15 that's up in the top right of that -- of this drawing
16 that says 1 -- approximately 1.110 miles away -- 1.10
17 miles away? Do you see that one --

18 COMMISSIONER SHIBUYA: Yes.

19 MS. CALLENTINE: -- on your drawing?

20 COMMISSIONER SHIBUYA: Yeah. I don't know
21 whether that's as far as --

22 MS. CALLENTINE: Yeah. I'll tell you what
23 happened. Something -- something happened with that
24 drawing. And that -- actually, that arrow should be
25 pointing to the square that is about a half an inch to

1 the right of the subject property. And somehow, in
2 saving or printing, that arrow got moved. So from the
3 subject property to that first square, to the right of
4 it, is about a mile away.

5 COMMISSIONER SHIBUYA: Okay. Because I was
6 trying to do a proportional analysis here.

7 MS. CALLENTINE: Yeah.

8 COMMISSIONER SHIBUYA: But you don't give me
9 any scale other than that.

10 MS. CALLENTINE: Yeah.

11 CHAIR HEDANI: Commissioner Starr.

12 COMMISSIONER STARR: Yeah. I -- you know, I
13 have a little bit of concern just really based on the
14 Finance Director's comments and, also, you know, that
15 there's a neighborhood letter of opposition. So I want
16 to ask the Director, you know, if we were -- I don't
17 particularly think that it needs to be the Commission
18 that look at it again in, say, two years. But if I know
19 that it's likely that the Director and Staff will look
20 at it and take into account, you know, that it is being
21 run as per -- as per the application and commitment, and
22 is not at that point, you know, more opposition from the
23 community, you know, that it would be renewed, but if
24 there are problems, they would look at it, then I would
25 be willing to go to seven years. So I'd like to ask the

1 Director if that's -- you know, if we need to be
2 concerned with that or -- or is that something that is a
3 matter of course you would be dealing with?

4 MR. HUNT: The Department will be monitoring
5 these bed and breakfast operations, but I think it's
6 important we distinguish the bed and breakfast permit
7 from the State Agricultural Special Use Permit.

8 COMMISSIONER STARR: Uh-huh.

9 MR. HUNT: Our belief is that the issues
10 involved in approving the State Special Use Permit,
11 agricultural issues aren't gonna change rapidly over
12 time or within a few years, or they're not gonna be
13 based on neighbors. Those -- the -- the issues on
14 neighbor complaints and the operation of the B&B will be
15 addressed through the B&B permit itself.

16 In this particular one, I agree with the
17 comment, I believe, Mr. Mardfin made that there was one
18 letter of opposition, and it seemed to just be a generic
19 "I don't like B&Bs." It wasn't aimed at the particulars
20 of this. There wasn't any evidence or past history of
21 complaints. Given the -- all that, we -- we're
22 comfortable regulating and monitoring the B&B and we
23 suggest that the agricultural SUPs be for a longer
24 period so that we expedite the streamlining of everyone
25 involved, the Commission, Staff, the citizens. That's

1 not to say that because you grant a seven or eight-year
2 SUP that we're just gonna blanket the B&B. I think it's
3 more rely on the Department to monitor the B&B and just
4 focus on the Agricultural SUP today.

5 COMMISSIONER STARR: Okay. Mr. Chair?

6 CHAIR HEDANI: Commissioner Starr.

7 COMMISSIONER STARR: With that in mind, you
8 know, and Commissioner Mardfin's comments, I'd -- I'd
9 like to see if the seconder is willing to change it to a
10 seven-year -- seven-year for the SUP.

11 CHAIR HEDANI: Seven-year, or 2017, like the
12 Staff recommendation?

13 COMMISSIONER MARDFIN: 2016.

14 COMMISSIONER STARR: 2016.

15 CHAIR HEDANI: 2016?

16 COMMISSIONER STARR: Yeah.

17 COMMISSIONER MARDFIN: The seconder agrees.

18 COMMISSIONER STARR: So thinking the first
19 period would be when the -- it might be possible that
20 the B&B would be two years and then another five on top
21 of that. That's up to the Director; not us.

22 CHAIR HEDANI: Any further discussion?
23 Commissioner Shibuya.

24 COMMISSIONER SHIBUYA: Livit, on Exhibit 19 --

25 MS. CALLENTINE: Uh-huh.

1 COMMISSIONER SHIBUYA: -- Paragraph 1, the
2 Water Department asks for calculations for fire,
3 domestic and irrigation needs, certified. Do you have
4 that?

5 MS. CALLENTINE: Yes. Thank you for the
6 question, Commissioner. I -- Staff has been unable to
7 actually ascertain whether those calculations have been
8 submitted. So I would like to defer to the applicant.
9 I would definitely -- we will be conditioning the bed
10 and breakfast permit to make sure that those are
11 submitted in a timely manner if they have not yet been.

12 CHAIR HEDANI: Thank you.

13 MS. CALLENTINE: Would you like to request
14 that of the applicant? Okay.

15 CHAIR HEDANI: Any further discussion?

16 (Silence.)

17 CHAIR HEDANI: Motion on the floor, Livit --

18 MS. CALLENTINE: I'm sorry. Commissioners, I
19 was going to suggest, since there was some discussion
20 about having the Planning Department actually follow up
21 on this in a -- in a shorter time period -- I don't know
22 if you -- you're aware that some of the special use
23 permits you've been approving have contained a clause in
24 the first condition that the time extension will be
25 carried out by the Director as opposed to the

1 Commission. If you would like, you might want to
2 consider that amendment as well here so that the
3 Department would be the reviewing body.

4 CHAIR HEDANI: Does that relate to the Special
5 Use Permit or to the B&B?

6 MS. CALLENTINE: Yes. That would be for the
7 Special Use Permit.

8 CHAIR HEDANI: Director?

9 MR. HUNT: I believe we've had subsequent
10 conversations, particularly with our Corporation
11 Counsel, that doesn't support that suggestion. So not
12 to step on Livit's toes, I support the concept, and it's
13 a good try, but, again, we have to take the advice of
14 our Corporation Counsel very seriously.

15 CHAIR HEDANI: Any further discussion?

16 (Silence.)

17 CHAIR HEDANI: Motion on the floor is to
18 accept the Staff recommendation with the change that the
19 Special Use Permit would be to the year 2016. All those
20 in favor, please signify by raising your hand.

21 Opposed same sign. One opposed.

22 Motion is carried.

23 COMMISSIONER STARR: Okay.

24 MS. CALLENTINE: Thank you.

25 CHAIR HEDANI: Thank you.

1 COMMISSIONER STARR: Congratulations,
2 Department.

3 CHAIR HEDANI: Director.

4 MR. HUNT: The item involves Ms. Edith Blas
5 requesting a State Land Use Commission Special Use
6 Permit and Bed and Breakfast Permit to operate the Kula
7 Glen Estate Bed and Breakfast, a three-bedroom bed and
8 breakfast located in the State Agricultural District, at
9 24 Ohelo Place, TMK: 2-3-060, Lot 66, in Kula. The File
10 Numbers are SUP2 2009/0012 and BBMP T2009/0006. And
11 Livit Callentine is, also, the planner assigned to this
12 project.

13 MS. CALLENTINE: Thank you, Mr. Director.

14 And I do have additional -- one additional
15 letter of concern that was submitted by three neighbors
16 in the area that just came in while I went back to the
17 office at lunchtime. So I would like to pass those out
18 to you at this time.

19 MS. TAKAYAMA-CORDEN: It's passed out.

20 MS. CALLENTINE: Oh, great. I take that back.
21 Our able secretary has already done that. Thank you.

22 CHAIR HEDANI: Give us the abbreviated version
23 in the interest of time, Livit.

24 MS. CALLENTINE: The abbreviated version.
25 Okay.

1 Somebody want to grab or knock the light off
2 here?

3 This is an application for a Special Use
4 Permit and a bed and breakfast permit because there is
5 another B&B within 500 feet that was approved by you a
6 month or so ago. This is in Kula, in the Kula Glen
7 subdivision.

8 And it is -- on the location map that's shown
9 on the screen, you can see that it's -- its proximate
10 location to the left of the Kula Highway, to the makai
11 of Kula Highway.

12 Again, it's all Agriculture, County, State and
13 Community Plan. And -- actually, it's not Paia-Haiku
14 Community Plan. That is -- that is mistake. It's,
15 actually, the Kula Community Plan. So it's surrounded
16 by agricultural lands.

17 And it's for three out of four bedrooms in a
18 main dwelling. And it's the only dwelling on the
19 property. The applicant does live in the fourth bedroom
20 which is sort of a suite. I did conduct a site visit
21 and inspected all of the bedrooms. There has been a
22 farm plan implemented. And there will be breakfast
23 served by the applicant -- owner/applicant.

24 The -- this is the drive -- this is the
25 driveway with a picture of the project notice sign to

1 the left. And the garage is straight up ahead. So the
2 project entrance is on the left of the building.

3 This is a site plan. Again, coming -- here's
4 the end of Ohelo Place. And you come up the driveway.
5 And there's a garage right here, and there are five
6 parking spaces over a -- on a little roundabout. And
7 probably they could have more if they wanted.

8 This is the dwelling. It a -- it's an
9 irregularly-shaped property. But it's all one -- one
10 unit. These -- each of these colors are the three
11 bedrooms that would be rented out as a bed and
12 breakfast. And this is the owner's quarters. All one
13 attached dwelling.

14 There is a swimming pool onsite.

15 And this, again, is about a two-acre parcel.

16 The floor plan of the project. Again, this is
17 the owner's unit, and these are the three proposed bed
18 and breakfast rooms with a great room, living room,
19 kitchen, and decks off the lower side.

20 The -- this is the picture of the parking area
21 for the B&B. And you can see there's plenty of parking
22 in place. And this is garage for the owner's parking.

23 The -- this is a picture of the lower
24 elevation of the home. The kitchen and dining room and
25 all bedrooms are up on this -- this second level. This

1 level down below is what's called a pool cabana. And
2 this is to the right of where we were just looking. So
3 the pool would be like here out in the foreground
4 outside of the picture. This is the owner's quarters.
5 And a second -- second entrance into the owner's
6 quarters.

7 This project meets the five tests of the
8 unusual and reasonable uses test.

9 And in the interest of time, I can go ahead
10 and breeze through those if you would like me to,
11 Mr. Chair. Yeah, just go on? Just pass right through
12 it, okay.

13 Well, it won't be contrary to any of those.
14 It is -- it is significantly planted. Only about 12
15 percent of the property is in dwellings. Here's a
16 picture of some of the plantings throughout the project.

17 Use test two and three and four and five.
18 This is the location of the bed and breakfasts within
19 500 feet, which is Pea Place. And you approved that
20 November 10th.

21 This is a diagram showing the subject B&B, an
22 additional pending B&B about one mile away, and two
23 additional pending B&Bs approximately four miles away.

24 And then -- so we have had, in total, six
25 properties submit protests. And with significant --

1 well, significant as in very specific concerns. And
2 you've seen those in the letters. So here's the subject
3 property. And these red dots show you the locations of
4 the -- of the owners who wrote letters of protest or
5 concern.

6 And this is a aerial of the proximate location
7 of the proposed B&B with the -- the red triangles, I
8 believe they're using now, are the regional proposed --
9 or, rather, pending; and the green are the approved bed
10 and breakfasts. And -- and this, again, is an island
11 plan showing the proximate location of this project.

12 The concerns I thought I might just share with
13 you. The main concerns that were expressed were the
14 impact of the B&B on the Upcountry water system,
15 enforcement of the B&B rules, and questions about the
16 operation of the bed and breakfast, questions about
17 whether signs would be allowed to be posted, and then
18 impact on traffic, the potential for increased crime in
19 the area, and additional noise.

20 And I know -- I just had a chance during a
21 break to speak with the applicant about the last letter
22 that you received today, which was regarding noise and a
23 band playing. And she has informed me that that was --
24 that noise and the band use is being carried out by the
25 existing long-term tenants who are currently searching

1 for another housing so they can be located closer to the
2 business that they own. They're waiting to sell
3 something else first. And so they -- they know they're
4 going to be moving.

5 So in the Makawao-Pukalani Community Plan
6 area, there are three approved bed and breakfasts. And
7 there's a maximum of 40 allowed in the plan.

8 Island-wide, 40 have been approved, plus three are in
9 renewal, and another 31 more applications are pending.

10 The B&B meets the restriction and standards
11 set forth in the Maui County Code. And, in addition,
12 the bed and breakfast ordinance does not establish any
13 criteria for the Commission to use in such instances
14 where there is an additional bed and breakfast in the --
15 in the surrounding area other than that -- it will be
16 subject to a public hearing. That's one of the triggers
17 for a public hearing, which we are conducting today.

18 The Director provided a memo to you on
19 September 10th, and there were several criterias
20 suggested. Are you all familiar with that criteria now,
21 or do you want a reminder on that?

22 COMMISSIONER HIRANAGA: We --

23 CHAIR HEDANI: I think you can presume that
24 everyone has read the entire report.

25 MS. CALLENTINE: Excellent. I will assume

1 that, then. That being said, that, I can go ahead and
2 end my presentation now.

3 CHAIR HEDANI: Questions from the Commission?
4 Commissioner Starr.

5 COMMISSIONER STARR: Yeah. Who owns the
6 property now? And was the applicant the original
7 applicant in the same name as the current property
8 owner?

9 MS. CALLENTINE: The property is owned by, I
10 believe, at least four individuals, if not five. And
11 there was some switching around of names on the
12 application. There was an additional name of a person
13 who Staff determined was not intending to actually live
14 on the property. And so at my encouragement, his name
15 was taken off of the application. And right now, the
16 only applicant is Edith Blas, who is in the audience
17 today.

18 COMMISSIONER STARR: When was the property
19 purchased?

20 MS. CALLENTINE: Well, I think I would defer
21 to the applicant to answer that because there was an
22 initial purchaser, and then, I believe, there was
23 additional --

24 CHAIR HEDANI: Thank you, Livit.

25 MS. CALLENTINE: -- buyers.

1 CHAIR HEDANI: Edith, would you like to
2 address the Commission?

3 MS. BLAS: Of course.

4 CHAIR HEDANI: The question was, when was the
5 property purchased?

6 MS. BLAS: Okay. My name is Edith Blas. Is
7 microphone working?

8 MS. CALLENTINE: Yes.

9 MS. BLAS: Okay. Yeah, the property was
10 actually bought by the co-owner a year and-a-half ago.
11 And I was added as an owner in July.

12 COMMISSIONER STARR: And what's the name --
13 who -- whose name is it in now?

14 MS. BLAS: It's currently in my name. And a
15 co-owner is Allan Robb and Lundie Robb.

16 COMMISSIONER STARR: Who is Kuelo Karina, is
17 that -- was that --

18 MS. BLAS: I don't know a Koela.

19 COMMISSIONER STARR: Oh, okay. Because that's
20 -- I -- it may be a little bit out of date, but that was
21 the ownership. So do you live there?

22 MS. BLAS: Yes, I do.

23 COMMISSIONER STARR: And do other owners live
24 there as well?

25 MS. BLAS: No. Just me. I live in the fourth

1 -- the fourth area that she indicated at the end of the
2 house.

3 CHAIR HEDANI: Additional questions from the
4 Commission? Commissioner Mardfin.

5 COMMISSIONER MARDFIN: Hi, Edith. What --
6 what percent ownership are you?

7 MS. BLAS: I think two percent.

8 COMMISSIONER MARDFIN: You're two percent
9 owner?

10 MS. BLAS: Yes.

11 COMMISSIONER MARDFIN: Did you -- on Exhibit
12 19 -- Livit can probably help you with this. Exhibit
13 19.

14 MS. CALLENTINE: Yes. Exhibit 19 is the Kula
15 View Estate House Rules.

16 COMMISSIONER MARDFIN: Right. That's what
17 you're calling your place?

18 MS. BLAS: Yes.

19 COMMISSIONER MARDFIN: Is that the rules that
20 you intend to use?

21 MS. BLAS: Yes.

22 COMMISSIONER MARDFIN: Would you look at Rule
23 Number 8?

24 MS. BLAS: Yes.

25 COMMISSIONER MARDFIN: Do you know that's in

1 violation of what the standards are?

2 MS. BLAS: I believe that I just saw that this
3 standards are 9:00 p.m. to 8:00 a.m.

4 COMMISSIONER MARDFIN: That's correct.

5 MS. BLAS: And I'd be happy to change that and
6 enforce it, yeah.

7 COMMISSIONER MARDFIN: Okay. Thank you.

8 MS. BLAS: You're welcome.

9 CHAIR HEDANI: Additional questions from the
10 commission? Commissioner Shibuya.

11 COMMISSIONER SHIBUYA: I have a couple
12 questions here. One is the water flow calculations. I
13 saw one that had the calculations for domestic use, but
14 there was absent agriculture water flow. The second one
15 was the failed electrical inspection for the pool
16 lighting grounding.

17 MS. BLAS: I believe that both concerns were
18 addressed and that the responses and the following
19 inspections were done. There is a water flow report in
20 there. And there's -- also, the electrical, I believe,
21 was taken care of. I know it was because he came twice
22 to inspect.

23 COMMISSIONER SHIBUYA: Now, I don't have the
24 electrical inspection, it's open. And they could not
25 inspect the pool lighting because of the grounding and

1 the water was in there, they couldn't inspect it. And,
2 also, there was covering over the panels in the pool
3 room. Also, the water flow calculations, with the
4 agriculture, was not present.

5 CHAIR HEDANI: Livit, do you want to address
6 that?

7 MS. CALLENTINE: When I -- when I conducted my
8 site inspection, the pool was empty. And I believe at
9 that time the -- the pool was empty because of upcoming
10 prepared inspection of the light fixtures and electrical
11 hookups to the light fixtures. And it is -- it was my
12 understanding that that was intended. What you see in
13 the report is the most current information that Staff
14 has.

15 MS. BLAS: But I do know that the pool was
16 inspected that day, and two days later, and it was
17 approved. So I'm sorry if it's not in the report. And
18 I'll definitely follow up to take care of it. But it
19 was inspected and approved.

20 CHAIR HEDANI: Commissioner Hiranaga.

21 COMMISSIONER HIRANAGA: Can we rely on the
22 Department to follow up on those two issues, to make
23 sure they're not outstanding prior to issuance of a B&B
24 permit if it's approved?

25 MS. CALLENTINE: Absolutely.

1 COMMISSIONER HIRANAGA: So we don't have to
2 bring her back.

3 MS. BLAS: Thank you.

4 CHAIR HEDANI: Somebody have additional
5 information to offer?

6 MS. CALLENTINE: Yes. One of the other
7 owners, Allen Robb, just handed me a copy of a request
8 for miscellaneous inspection to finalize the permit. I
9 -- corrections made and final. Okay. Our Deputy
10 Director of Public Works is gone. This is in our KIVA
11 database. A note says, "corrections made final." But,
12 yes, you can absolutely count on the Department to
13 follow up on this.

14 CHAIR HEDANI: Commissioner Hiranaga.

15 COMMISSIONER HIRANAGA: No.

16 CHAIR HEDANI: Any further questions?

17 (Silence.)

18 CHAIR HEDANI: Director.

19 MR. HUNT: Ms. Blas, could you explain in a
20 little bit more detail the ownership? Apparently,
21 somebody bought the property a year and-a-half ago and,
22 then recently, they sold you two percent?

23 MS. BLAS: Yes, in July.

24 MR. HUNT: Did you know those people, or are
25 they friends, are they family? I mean --

1 MS. BLAS: Actually, one of them is Mr. Robb
2 right there. And the other is Larry, who -- and we're
3 all co-owners of the property.

4 MR. HUNT: How did that come -- how did that
5 come about? I don't know of many people that own two
6 percent of a property. Did they -- did they approach
7 you? Or I mean --

8 MS. BLAS: Well, actually, I've been living on
9 the property since October of last year. And what was
10 going on was that they couldn't afford to keep the
11 property because of the costs of maintaining it. It was
12 more than the rent was bringing into the property. So
13 they suggested to me that a way to save the property
14 would be if I became a co-owner and created a bed and
15 breakfast. Because, otherwise, the property would have
16 to be sold.

17 MR. HUNT: And, Livit, can you show that map
18 again that shows the opposition? So the red dots
19 submitted letters opposed?

20 MS. CALLENTINE: Yes, that's correct. So this
21 is the street, Ohelo Street. And they're at the end of
22 the street. This is one of the -- well, each one of
23 these are letters from -- from neighbors.

24 MR. HUNT: Has that been updated to reflect
25 today's letter?

1 MS. CALLENTINE: Yes, it has.

2 MR. HUNT: So based on that information, do
3 you still -- do you have any change to your
4 recommendation in terms of --

5 MS. CALLENTINE: Well, you know, this project
6 still meets the standards and restrictions. And there
7 will be -- I would recommend conditions, of course, to
8 mitigate like the issue with the noise, that -- that one
9 will be easily mitigated. The other issues of -- of --
10 excuse me. Yes. The other issues will be mitigated.

11 MR. HUNT: What about the recommended
12 timeline?

13 MS. CALLENTINE: Yeah. I think, based on our
14 earlier conversation, and -- and -- and looking at this
15 now, because two of these objections just came in, in
16 the last two days, I think probably a shorter timeline
17 would be in order.

18 MR. HUNT: Thank you.

19 CHAIR HEDANI: Commissioner Hiranaga.

20 COMMISSIONER HIRANAGA: Of the people in the
21 500-foot radius, what is the percentage of lot owners
22 that sent in letters of opposition?

23 MS. CALLENTINE: 22 percent. I did check that
24 for you. And, remember, that's a trigger that, if 30
25 percent or more owners submit a written protest within

1 45 days of the filing of the application, the notice of
2 application, then it would go to public hearing. So it
3 already is at public hearing because of another trigger.
4 So that -- that would be more your judgment call in this
5 case.

6 CHAIR HEDANI: Commissioner Mardfin.

7 COMMISSIONER MARDFIN: On Page 13 of your
8 analysis, Livit, at the very bottom --

9 MS. CALLENTINE: Yes.

10 COMMISSIONER MARDFIN: -- it says, "According
11 to the Department of Finance, Real Property Tax
12 Division, the property is assessed at the agriculture
13 rate." I presume the applicants know that that will
14 disappear if they have a B&B?

15 MS. BLAS: Yes.

16 MS. CALLENTINE: I'm not sure that that has
17 been determined yet by the Real Property Tax. But they
18 are aware that it could very well change.

19 CHAIR HEDANI: Additional questions?

20 COMMISSIONER STARR: Public testimony.

21 MS. BLAS: If I could just address the noise.
22 I just wanna be sure.

23 The current family living in those three
24 bedrooms now, there are five children ranging from six
25 to about 13, two adults, two dogs, four rabbits and the

1 cat. So I really believe that the noise will definitely
2 be going down when the B&B is in operation.

3 I just wanted to add that.

4 CHAIR HEDANI: It's the rabbits that are
5 contributing to the noise.

6 MS. BLAS: Oh, absolutely.

7 CHAIR HEDANI: Commissioner Mardfin.

8 COMMISSIONER MARDFIN: I'd just point out,
9 certainly the -- the noise during non -- during quiet
10 hours will go down, or you'll get your B&B pulled.

11 COMMISSIONER HIRANAGA: Can you turn it off or
12 put it on vibrate?

13 MS. BLAS: And I'm very sorry that --

14 COMMISSIONER SHIBUYA: Can't.

15 MS. BLAS: If I had known about this before,
16 it would have been dealt with immediately. So I'm very
17 sorry it came to the Commission.

18 CHAIR HEDANI: Thank you.

19 MS. BLAS: You're welcome.

20 CHAIR HEDANI: Any further questions?

21 (Silence.)

22 CHAIR HEDANI: Public hearing. Are there any
23 members of the public that would like to offer testimony
24 at this time? Please step to the microphone and be
25 really brief.

1 MR. ROBB: My name is Allan Robb. And I'm one
2 of the co-owners of the property. My wife and I live
3 right here, I believe -- or right here, on Holopuni
4 Road. We purchased the property. It was actually -- it
5 belonged to a neighbor of ours, Donna Ting, whose son
6 was living there. When he left, she asked us if we
7 would like to acquire the property. And my wife and I
8 have a licensed nursery and we also have a licensed
9 stables.

10 In fact, she's part of the Fleming family.
11 And the Fleming family has had interest in farming and
12 agriculture here for five, six -- six generations now.

13 We have an interest in the agricultural part.
14 I do particularly because, now that I'm retired, I am
15 spreading our agricultural services over to the gulch
16 area that was nothing but gulch. We have cleaned it
17 out. We have planted all sorts of Hawaiian foliages.
18 And, hopefully, I want to propagate some species that
19 D.T. Fleming did. And right now, that's continuing to
20 be done over in the Fleming Arboretum. We have a big
21 interest in agriculture. Our family has always had a
22 big interest in agriculture.

23 The land is perfect. As you know, Kula Glen
24 is right above the agricultural park. We do great at
25 our nursery. We just don't have enough land.

1 It became available. And I love land.
2 Unfortunately, it came with this huge humongous home.
3 It's been rented out long-term. And when the law was
4 passed this year for bed and breakfasts, we got together
5 as a family -- and our ohana is very extensive -- and we
6 said what can we do.

7 We, years ago, actually had to go buy a -- a
8 condominium in Kihei, a three-bedroom condominium,
9 because many of our family who grew up here are now on
10 the mainland. When they come home to visit us, we can't
11 find a place to put 'em because some of their parents'
12 homes -- all of us are now getting seniors. And the
13 kids leave, now they got families, the families are
14 larger. We've stuck them in the condominium in Kihei.
15 We'd like to bring 'em back home closer to us.

16 Now, I attended the meeting last month with
17 the four B&Bs that were approved. I certainly heard the
18 one that was approved today.

19 Our interest in this is to provide it for our
20 family and our friends we grew up with. If we can do
21 B&B to offset some of the costs, but make it available
22 at Christmas time when everybody else raises the rates
23 when we can't bring our family back and find a place for
24 them, let alone pay the rates at Christmas time, that's
25 really unjust and unfair to us Kula residents.

1 MS. TAKAYAMA-CORDEN: Three minutes.

2 MR. ROBB: Thank you.

3 CHAIR HEDANI: Question, Commissioner Mardfin.

4 COMMISSIONER MARDFIN: Mr. Robb, I have some
5 questions, please.

6 CHAIR HEDANI: Question from Commissioner
7 Mardfin.

8 COMMISSIONER MARDFIN: What percent owner are
9 you and your wife of this property?

10 MR. ROBB: We were at 100 percent. And my
11 lifelong friend, Larry, has helped us financially at 50
12 -- well, 50 percent. We wanted to give Edith -- we
13 needed somebody to live there onsite, keeping charge of
14 the house. So we got together and we said, okay, we'll
15 give her a percentage. Larry comes out here -- he comes
16 out about eight, nine times a year. We were actually
17 gonna say, move out here, just live in the house. But
18 he didn't want to be an operator of a B&B.

19 COMMISSIONER MARDFIN: So what percent
20 ownership does Larry have?

21 MR. ROBB: Well, outside of the two percent,
22 so I guess that we each have equal part. My wife and I
23 have 49 percent, he has 49 percent of the --

24 COMMISSIONER MARDFIN: Do you own any other
25 properties in the -- in Maui?

1 MR. ROBB: Do I?

2 COMMISSIONER MARDFIN: Yes.

3 MR. ROBB: Yes, I do. I own an apartment
4 building down in Kihei.

5 COMMISSIONER MARDFIN: Uh-huh.

6 MR. ROBB: It's a long-term apartment. We
7 have a variety of people in there. Some are on HUD.
8 Nothing else.

9 COMMISSIONER MARDFIN: Is that the only other
10 one?

11 MR. ROBB: We have the condo, the
12 three-bedroom condo, and we have a two-bedroom condo.
13 And that's it.

14 COMMISSIONER MARDFIN: Thank you very much.

15 CHAIR HEDANI: Any further questions,
16 discussion?

17 (Silence.)

18 CHAIR HEDANI: Did we have public hearing? We
19 did have public hearing.

20 Staff recommendation.

21 MS. CALLENTINE: Close the public hearing.

22 CHAIR HEDANI: Are there any -- that's right,
23 he was the public hearing. Are there any other members
24 of the public that would like to offer testimony?

25 Public testimony is closed.

1 Staff recommendation.

2 MS. CALLENTINE: The Maui Planning Department
3 does recommend that the Planning Commission approve this
4 Land Use Commission Special Use Permit and subject to
5 six standard conditions, and the Bed and Breakfast
6 Permit subject to 20 standard conditions with the
7 addition of one -- one -- one additional condition,
8 which I will get to. This would be for the Bed and
9 Breakfast Permit, Condition Number 21, that the
10 owner/proprietor shall provide written verification of
11 tax payments when filing a renewal request. The written
12 verification shall be the State of Hawaii Department of
13 Taxation Form A6, Tax Clearance Application. So this is
14 to verify a payment of Transient Accommodation Tax and
15 General Excise Tax. And it is a condition that has
16 become standard since the writing of this report on all
17 of our bed and breakfast permits.

18 And then I would also say we should look at
19 shortening the term based upon the -- the concerns that
20 have been discussed here tonight.

21 CHAIR HEDANI: What is the Staff
22 recommendation on the term?

23 MS. CALLENTINE: The Staff recommends
24 approval. And in consideration of this, the Maui
25 Planning Department recommends that the Planning

1 Commission adopt the Planning Department's Report and
2 Recommendation prepared for December 8th, 2009 meeting,
3 and authorize the Director of Planning to transmit said
4 findings of fact, conclusions of law, decision and order
5 on behalf of the Planning Commission. So we recommend
6 approval.

7 CHAIR HEDANI: Do you have a recommendation
8 other than the 2017 date that's dated?

9 MS. CALLENTINE: Well, based upon what you
10 previously approved earlier today, I would recommend
11 that you adopt the same procedure, or perhaps even a
12 slightly shorter term than that, based upon the number
13 of concerns that were expressed. If you would like to
14 hear the project sooner, say three years.

15 CHAIR HEDANI: Commissioner Starr.

16 COMMISSIONER STARR: Yeah. I move for denial
17 of the Special Use Permit based on the fact that almost
18 every single neighbor that is right around this is in
19 opposition, there's no letters of support. And, also,
20 the ownership situation does not help things. It seems
21 to be a way of trying to get around the spirit of the --
22 the ordinance and the spirit of family-run B&Bs.

23 COMMISSIONER SHIBUYA: Second.

24 CHAIR HEDANI: Moved by Commissioner Starr,
25 seconded by Commissioner Mardfin to deny. Discussion?

1 Commissioner Mardfin.

2 COMMISSIONER MARDFIN: Yeah. One of the
3 reasons given by Commissioner Starr was the noise. That
4 is not a concern to me because I think -- in fact, I
5 think it will get resolved by turning it into a B&B.

6 COMMISSIONER STARR: Not the noise; the
7 letters in opposition.

8 COMMISSIONER MARDFIN: But, largely, that was
9 because of noise.

10 Anyway, here's my problem with this whole
11 thing. And that's why I asked what the percent
12 ownership was, because I was thinking about this at
13 home. And when -- this is the first time we've had a
14 co-owner situation, at least that I've been aware of.
15 And here's the problem. And I'm not saying that
16 Mr. Robb is doing this, but here's the potential abuse
17 that's available. Somebody could own 100 homes, if
18 they're wealthy, they sell, in my example, one percent
19 ownership -- in this case it was two percent
20 ownership -- to -- to make it 98, 99 different people.
21 And one percent of each of the their 100 homes, each
22 proprietor that has a one or two percent ownership
23 applies for the B&B. This conflicts, at least in the
24 spirit, I don't know about the law, but in the spirit of
25 B&Bs are that you have the owner onsite. This is a way

1 for somebody, wealthy, to control -- have 100 different
2 B&Bs throughout the County, and by having one or two
3 percent ownership on each of the sites. I don't like
4 it. And so I think we ought to deny it.

5 CHAIR HEDANI: Additional discussion?
6 Commissioner Hiranaga.

7 COMMISSIONER HIRANAGA: Does the applicant
8 meet the criteria of the ordinance that was adopted by
9 the County Council as far as ownership requirement?

10 MS. CALLENTINE: Yes.

11 COMMISSIONER HIRANAGA: If you do not like the
12 law, then you should have the law changed. But right
13 now, they meet the criteria of the law. And if you
14 don't follow the law, you have chaos. So I'm opposed to
15 this motion to deny based on those reasons.

16 Also, I'm looking at the letters, you know,
17 one letter with the three people about the noise. And
18 like Commissioner Mardfin said, if they receive their
19 building -- their B&B permit, there is quiet hours
20 required. And if they fail to comply with that, their
21 permit can be revoked. Other concerns were traffic,
22 which is not substantiated. Loss of property value,
23 again not substantiated. Additional water use, which is
24 not substantiated. So I -- I don't see anything here
25 that would, I guess, convince me to deny this

1 application.

2 CHAIR HEDANI: Commissioner Starr.

3 COMMISSIONER STARR: Yeah. I just want to
4 reiterate, you know, my -- part of my opposition is
5 because the neighbors that adjoin this don't want it.
6 And, to me, that's the reason why, you know, we post the
7 sign, we have a public hearing. And I really believe in
8 community empowerment. And that means that if people in
9 an area, to a very large extent, don't -- don't want the
10 B&B, then that is a compelling reason not to -- not to
11 move it forward.

12 CHAIR HEDANI: Commissioner Shibuya.

13 COMMISSIONER SHIBUYA: I live close to this
14 community. And I'm well aware of some of the
15 complaints. And I have to truly reflect and respect
16 those comments. Because it's truly a heartbreaking type
17 of situation here where one family is trying to make
18 ends meet, and, of course, the neighbors, too, have made
19 their investments, and they need their respect, too.
20 And so, therefore, I will be respecting the community's
21 wishes here again.

22 Thank you.

23 CHAIR HEDANI: Commissioner Hiranaga.

24 COMMISSIONER HIRANAGA: My understanding,
25 there was 22 percent in opposition within the 500-foot

1 radius, which was five property owners?

2 MS. CALLENTINE: Six.

3 COMMISSIONER HIRANAGA: Six. So that's six
4 out of --

5 MS. CALLENTINE: 27.

6 COMMISSIONER HIRANAGA: -- 30. 27?

7 MS. CALLENTINE: Uh-huh.

8 COMMISSIONER HIRANAGA: So I'm not sure if
9 that represents the community.

10 COMMISSIONER STARR: Can we see that map
11 again?

12 MS. CALLENTINE: Yes. Certainly.

13 CHAIR HEDANI: Additional discussion?

14 (Silence.)

15 CHAIR HEDANI: Ready for the question?

16 COMMISSIONER STARR: Uh-huh.

17 COMMISSIONER HIRANAGA: Wait. 1315 Holopuni,
18 that's not one the 500-foot radius, right?

19 MS. CALLENTINE: You're correct, it is not.
20 You're correct. I had --

21 COMMISSIONER HIRANAGA: So there's five.

22 MS. CALLENTINE: Right.

23 COMMISSIONER HIRANAGA: And how many lots in
24 the 500-foot radius?

25 MS. CALLENTINE: There were 27 lots. And you

1 know that anything that the -- the border touches upon
2 is also in the radius. So I counted 27 lots --

3 COMMISSIONER HIRANAGA: Five --

4 MS. CALLENTINE: -- that were connected.

5 COMMISSIONER HIRANAGA: -- is less, I think,
6 than 22 percent.

7 MS. CALLENTINE: Uh-huh. Yes.

8 COMMISSIONER HIRANAGA: It's more like 18
9 percent, 19 percent.

10 MS. CALLENTINE: Okay. Thank you for pointing
11 that out.

12 CHAIR HEDANI: Any further discussion?

13 (Silence.)

14 CHAIR HEDANI: Ready for the question? Motion
15 on the floor is to deny. All those in favor, signify by
16 raising your hand. Two, three, four.

17 Opposed, same sign. Two, three.

18 Motion is lost.

19 Any further consideration? Commissioner
20 Hiranaga.

21 COMMISSIONER HIRANAGA: Looking at the hour
22 and the fact that we have seven Commissioners here, I
23 make a motion to defer. Hopefully, we'll have a full
24 Commission the next time this agenda item comes before
25 us. I make a motion to defer.

1 CHAIR HEDANI: Motion to defer. Is there a
2 second?

3 COMMISSIONER DOMINGO: Second.

4 CHAIR HEDANI: Seconded by Commissioner
5 Domingo. All those -- is there any discussion?

6 MR. GIROUX: Could we have a date certain,
7 just so -- to avoid notice issue?

8 CHAIR HEDANI: Motion to defer to a date
9 certain? Livit?

10 MS. CALLENTINE: January 12th, I believe, is
11 your next scheduled hearing.

12 CHAIR HEDANI: Okay. January 12th. Any
13 further discussion?

14 (Silence.)

15 CHAIR HEDANI: All those in favor of the
16 motion to defer, signify by raising your hand.

17 Opposed, same sign. One opposed.

18 Motion is carried. Matter is deferred until
19 January 12th.

20 MS. CALLENTINE: Thank you.

21 CHAIR HEDANI: Thank you. Director.

22 COMMISSIONER HIRANAGA: 19 percent.

23 MR. HUNT: The next item is approval of your
24 regular minutes of October 7, 2009.

25 CHAIR HEDANI: Any objection to the minutes

1 circulated? No objection.

2 COMMISSIONER SHIBUYA: Move to accept.

3 CHAIR HEDANI: Motion to accept. All those in
4 favor, signify by saying "aye."

5 (A chorus of ayes.)

6 CHAIR HEDANI: Opposed, "nay."

7 (Silence.)

8 CHAIR HEDANI: Carried.

9 MR. HUNT: The next item is Planning
10 Commission projects and issues. There was requests at
11 the last meeting for several -- reports on several SMXs,
12 these are the exemptions. These reports, to some
13 degree, were presented to you today. So this will be an
14 opportunity to follow up on those or additional projects
15 and issues that you have concerns with. Generally
16 speaking, the projects and issues are larger than the
17 SMA and EAs that are further down on the agenda. But we
18 can -- if you have any questions on the reports, we can
19 address those now.

20 CHAIR HEDANI: Questions for the Director?

21 (Silence.)

22 CHAIR HEDANI: Seeing none, questions on the
23 SMA minor or SMA exemption reports?

24 (Silence.)

25 CHAIR HEDANI: If not, those will stand as

1 circulated.

2 Next regular meeting date is January 12th.

3 Thank you for taking the additional half an
4 hour.

5 Director, any last comments?

6 MR. HUNT: The agenda for the January 12th
7 meeting is in your packet. We would like to point out
8 that you have a new member appointed, Orlando Tagorda,
9 he will be joining us then. He didn't have his
10 orientation and swearing in and all that, but he should
11 -- I assume he'll be attending the January 12th meeting.

12 CHAIR HEDANI: Thank you.

13 Commissioner Shibuya.

14 COMMISSIONER SHIBUYA: Mele Kalikimaka, me ka
15 Hauole Makahiki Hou.

16 CHAIR HEDANI: Right. Somebody has the
17 Christmas spirit.

18 Thank you very much for your service today and
19 for extending the time until 5:30. The meeting is
20 adjourned.

21 (Recess, 5:30 p.m.)

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CERTIFICATE

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I, TONYA MCDADE, Certified Court Reporter of the State of Hawaii, #447, Registered Professional Reporter, Certified Realtime Reporter, Certified Broadcast Captioner, do hereby certify that the proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; and that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney, nor an employee, to any of the parties hereto, nor in any way concerned with the cause.

DATED this 6th day of January, 2010.

Tonya McDade

Tonya McDade
Certified Shorthand Reporter #447
Registered Professional Reporter
Certified Realtime Reporter
Certified Broadcast Reporter

