

**MAUI PLANNING COMMISSION
REGULAR MINUTES
MARCH 17, 2010**

Approved: 6/8/10

A. CALL TO ORDER

The special meeting of the Maui Planning Commission was called to order by Chairperson Wayne Hedani at approximately 9:03 a.m., Wednesday, March 17, 2010 at the Kula Community Center, Lower Kula Road, Kula, Maui.

A quorum of the Commission was in attendance. (See Record of Attendance.)

Mr. Hedani: Commission meeting of March 17th will come to order. We have only one item on our agenda tonight but I'd like to let the commissioners have some guidance on the procedures. Because we don't have a court reporter and because it has to be recorded, please make sure that you have a microphone and that you're speaking directly into the microphone in order to insure that your comments get transcribed. Also, for members of the public there's a sign up sheet over here if you can sign up. We'll take you in the order of the sign up list. And with that, I'd like to turn it over to our director, Jeff.

Mr. Hunt: The first order of business is Mr. Fred Romanchak, owner of Kula Lodge requesting a Phase 2 Project District Approval for the redevelopment of the existing Kula Lodge and related improvements at 15200 Haleakala Highway, TMK 2-3-022: 187 in Kula. The file number is PH2 2008/0001 and Paul Fasi is the planner assigned to this.

Normally what we would do is give a staff presentation and then the applicant and then the chair will probably open it up to public testimony so that you folks can testify on the information that's been presented to you. So unless there's any correction from that, apparently not, Mr. Fasi.

B. PUBLIC HEARING (Action to be taken after public hearing.)

- 1. MR. FRED ROMANCHAK, Owner of the KULA LODGE, requesting a Phase II Project District Approval for the redevelopment of the existing Kula Lodge and related improvements at 15200 Haleakala Highway, TMK: 2-3-022: 087, Kula, Island of Maui. (PH2 2008/0001) (P. Fasi)**

Ms. Ann Cua: I'm not Paul Fasi, but I'm Ann Cua from the Planning Department and I actually handled the Kula Lodge project when it came to the planning commission years ago and before Paul gets up or before the applicant actually presents, I just wanted to talk a little bit about the project district process. The commission is pretty much familiar with it but maybe most of you are not. And so the project district process is a three-step process, a three-part process and the first phase of a project district process is creating the ordinance and that was done years ago. And it has to go – the ordinance has to go to the planning commission and it has to be adopted by the County Council. That Phase 1 process, the public hearing that planning commission holds has to be held in the community plan region which is upcountry. And so when they went through the ordinance in creating the ordinance they had to hold a public hearing upcountry.

The Phase 2 process which is the project they're going through now again, they've gone through it before, that process is approved by the planning commission only. They hold the public hearing again in the community plan region. So they wouldn't be able to hold this hearing down in Wailuku.

They have to come upcountry to hold the hearing that's what the law says. And again, like I said, they've done it once before for another design and now they have still yet another design and that's why they have to go through the process again. So what's why we're upcountry.

Once they get through this phase, then there's the Phase 3 process. That's the last step of the project district process and that can come in one application, it can come in several applications. That application goes directly to the Planning Department. At that point, we're basically dealing with construction drawings. So if they have a total of five or six buildings that they're going to discuss with you tonight, they could pull one permit – they could pull one Project District Phase 3 application for all those buildings or they could decide to phase it lets say if it's going to be built over time and they would come into the Planning Department with those construction drawings and we would approve that administratively provided it is in accordance with what the commission approved in their Phase 2 application.

So we wanted to just set the tone so you understand the whole process so number one you know why we're here and how the process all came about. Okay, so I think at this point we want to have the applicant present the project and the department will do its analysis.

Mr. Chris Hart: Thank you very much Ann. My name is Chris Hart, Chris Hart and Partners and as Steve Sutrov said, we've been working on this project for many years. I'd like to introduce a few people to you tonight that we have with me, with us. Fred Romanchak is the owner of the Kula Lodge and the developer of the Kula Lodge and he's actually seen the process through, the community plan process when it was established as a retreat resort in upcountry together with the Silversword Inn. And where the Phase 1 Project District which Ann indicated is the establishment of the ordinance and all of the number of units, setbacks, height, number of square feet, square foot area for the various uses, restaurant, shops and so on and he's here. We actually did go through a process for Phase 2, however, essentially Fred felt in the context of that particular design that he would rather do something that was more sensitive so he became acquainted with Pip White who is from Honolulu, is an architect who designed the Lodge at Maunaloa on the Island of Molokai. It's owned by Molokai Ranch. If any of you have been there it's a very sensitive lodge type design and the Kula Lodge will basically have many of the characteristics of the Lodge at Maunaloa. Also we have with us Michael Conway of Silversword Engineering and Mike is our civil engineer. He will be available to talk about issues of drainage and waste water treatment. And from our office Brett Davis has been the planner on this project since he came to the office. It was his first project quite a few years ago now.

Anyway, I'd like to – I know it's a little bit remote from where you are sitting but I hope you can see the power point. Is it okay with you? All right, great. We have a power point presentation that we'd like to go through with you, and again this is for the Kula Lodge.

A little bit of project history as I kind of indicated to you. On April 25, 1996, the Ordinance No. 2495 was approved amending Chapter 19.75 Project District 1 for the Kula Lodge. And again, I indicated to you that that ordinance sets forth the parameters for the project.

On May 8, 2000, the Maui County Planning Commission granted Phase 2 Approval Project District Approval development of the Kula Lodge and again, the design as we progressed from the

conceptual level of drawings to working drawings really had some shortcomings and it was not necessarily accepted by Mr. Romanchak and the decision was at that time that we would try to seek another architect for the project.

In November 14, 2000, Phase 3 Approval was granted for the Kula Market Place which is part of the project.

In 2008, the applicant retained Philip White and Associates to prepare a new design.

On September 16, 2009, the Urban Design Review Board recommended approval of the proposed redevelopment plan.

On June 2, 2009, the State Historic Preservation Division letter suggests that reusable materials from the structure, perhaps even furnishings be salvaged prior to demolition this is in the context of their approval to actually demolish those structures that exists. So now those structures are wood frame structures and some of you may have been there, light wood frame structures I should say and they've been in existence since the '40's and '50's and they are in some what of a deteriorating condition. The letter also states, "that in the event that historic resources are identified during construction activities all work should cease and the SHPD should be contacted."

On October 26, 2009, the State Historic Preservation Division letter determined that no historic buildings will be affected in the demolition of the Kula Lodge.

On November 3, 2009, the KCA, that's the Kula Community Association visited the site and a presentation was given to the board members, the members of the board of the Kula Community Association.

The proposed project involves demolition of the existing Kula Lodge, the restaurant, guest cottages, there are three guest cottages and the Upcountry Harvest Gift Shop. We are proposing to keep the Kula Marketplace, the existing outdoor dining area, the caretaker's cottage and the existing roadway sign. We're proposing to relocate that sign.

The proposed project again continued will consist of the construction of a new two-story restaurant building with spa, covered outdoor pool, commercial space and juice bar. I wanted to from the outset discuss the pool, first of all it's a covered pool, and the only patrons of the Kula Lodge that would have the opportunity to use the pool would be those that are basically go through the spa program. It's not going to be available to visitor, the general visitor to the Kula Lodge. Construction of a three-story hotel lodging building with 15 units, expand the Kula Marketplace by adding a second story level mezzanine.

Proposed project again, site improvements include the use of pervious concrete in the parking areas. Proposal of a waste water treatment system to be located underneath the proposed parking expansion area adjacent to the marketplace that's in the upper part of the site. We'll show you where that is. The applicant will implement a storm drainage system approved by the Department of Public Works that accommodates the voluntary reduction of 10% runoff from the predevelopment drainage conditions.

This is our landscape planting plan. It shows first of all, this is Haleakala Highway. Haleakala Highway, currently the entrance to the Kula Lodge is approximately in this location. The entrance in the context of our traffic study is being located in the center of the site in order to enhance sight distances. This would be the marketplace, this would be the restaurant and spa, this would be the hotel building. And one of the features of this project is the separation of the hotel – of the restaurant and spa from the hotel building and the creation basically of a visual corridor between the two buildings which does exist in the prior plan this was one contiguous structure. Also would like to point out the location of the pool, again, which is covered and has access from the spa. In addition to that, this is the area where the waste water treatment facility would be located under the parking area and these are the landscape buffer areas around the perimeter of the site. The landscape plant material essentially these are actually gulch areas on the edge of gulches have been actually planted and added to since approximately 2000, year 2000, so the plant materials quite mature and you'll see that from the photographs. This is caretaker's cottage which again exist. This is the outdoor dining area again which also exists.

Chapter 19.75.010 this is the PD1 for Kula which is the project district zoning ordinance. The maximum height on all buildings will not exceed 35 feet. The proposed site plan provides approximately 63% of open space. The ordinance requires a 20% of open space. All proposed structures are located within the minimum building setback of 50 feet from both Haleakala Highway and the south boundary of the property and 30 feet setback is required from all property lines. So from Haleakala Highway and from the southerly boundary is 50 feet and all the other setbacks are 30 feet.

This is an aerial location map that we've provided. It shows Haleakala Highway, the Kula Lodge site, the Silversword Inn and I think it's important because this is actually our site plan and the brown structures in the plan are the buildings and you can see the setbacks from the property lines, I can see the landscape planting and also it's important to be able to note that there are gulches that come down from Kula from the Haleakala and actually there's a branch right here and then it comes together below, but you can see that those existing natural buffers do exist in terms of additional separation from existing residences in the area.

This is the caretaker's cottage and it is to remain. This is outdoor dining area which is architecturally quite a unique area and it is also going to remain.

Proposed restaurant and spa building. There's going to be a spa, juice bar, commercial office space and existing outdoor dining on the lower level. Spa provides again, the only access to the pool. Upper level will consist of the restaurant, bar and reception area.

Now this is essentially on the left shows the existing Kula Lodge Restaurant.

Mr. Hedani: Chris you need to pull the microphone a little closer to you.

Mr. Hart: I'm sorry about that. On the left is the existing Kula Lodge and Restaurant note the caretaker's cottage is to remain and the roof top sign which is right here has been removed. The photo simulation shows basically the new restaurant and spa building and landscape planting. I think it's also important to show that the existing entry has been relocated in the context of

agreements with the State Department of Transportation.

The proposed restaurant spa building again. This is the entry from the parking lot and basically the spa area is in the lower level. And then this would be the left elevation of the building, again, this is the entry from the parking lot and this is the elevation, basically a section, this would be the lower elevation of the building and again all the buildings do not exceed 35 feet in height in accordance with the ordinance.

The proposed hotel lodging building, the hotel lodging building contains 15 lodging units and again, the lodging units, the number and the square foot area were established by the ordinance in the context of Project District Phase 1. Each unit is a 850 square foot unit with a private lanai. Also in this case an elevator has been added for ADA accessibility.

Again, this shows the existing condition, it shows the existing entry and then this basically is the new entry and the new restaurant spa building and the new hotel. This would be the view from Haleakala Highway.

The proposed hotel, one of the important features is the entry, is that right from the bridge, right. Okay, this is the parking area and you enter into the second floor of the building from the parking area and that's a bridge that crosses. This is looking at it from the left side which is again, this is the parking area, the bridge, this is the mass of the building, this would be the mass of the building from the lower elevation.

The Kula Marketplace and this is an existing photo taken from Haleakala Highway of the existing building. The proposed – right now you basically see the building as a roof. It's pretty much, you know at this particular elevation with a roof and so really from the road what you actually see is a roof – or from the upper parking lot all you see is basically a roof. In this particular case the building will have a story on the upper parking lot which would have the appearance of a one-story building and at the lower elevation it would be a two-story building.

Also, you can see the mezzanine, those roof dormers are actually identify where the mezzanine. The mezzanine is not a full second floor. It's 30% of the floor beneath. So it's a third of the area of the floor beneath. But this gives you a good sense of basically a section through that building.

Again, this is the Kula Market, the existing condition. You really can't see the roof but you do see the gift shop, the protea shop. Now photo simulation of the second story addition to the Kula Marketplace with the landscape planting along the highway.

These are site sections show the commercial and lodging building and the site section showing the restaurant building. Again, this is our aerial location map that where the project has been superimposed over an actual area, an aerial showing the development around the project and again these brown buildings or brown areas are the actual location of the buildings so you get a chance to get a sense of the setbacks and the relationship to the actual – and the actual features that exist in the context of the gulches.

These are pictures of neighboring properties facing north from the Kula Lodge. Neighboring

properties facing south from the Kula Lodge and again, you can see the maturity of the trees. Neighboring properties facing southwest.

The parking, there are 99 stalls provided. There's 99 required. There's no compact stalls. Our new – Chapter 19.36A basically deletes the requirement or the allowance of compact stalls. Four handicapped stalls provided. There's four required. Three loading zones are provided. There's two actually required by ordinance.

This is our landscape planting and again, this shows the setbacks. These are 50, 50 and I think 30 in this area. Thank you. And we're open for questions from the commission at this point.

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

Mr. Starr: Does the applicant own Silversword Inn as well? I thought I heard you say that.

Mr. Hart: No, I did not. The point of the Silversword Inn is that in the upcountry plan, the Makawao-Pukalani-Kula Community Plan it identifies the Kula Lodge and the Silversword Inn as retreat resorts. I just pointed out the location of the Silversword Inn in the context of the Kula Lodge.

Mr. Starr: Okay, another question is why is the applicant not utilizing energy efficiency and other green building techniques, you know, perhaps getting a LEED certification or at least mechanisms to reduce the amount heat loss and so on.

Mr. Hart: I would like to defer to Pip White. I don't think it's a matter of not doing anything to be more energy efficient, okay. There is no intention in the context of the project to apply for a LEED certification but there's certainly going to be energy saving initiatives taken with regard to the project.

Mr. Philip White: My name's Pip White, I'm the architect and at this point we haven't reached any decision about LEED certification or not LEED certification but certainly all of the buildings that we've done for the last 20 years have been energy efficient. Our intention is to get very efficient lighting, very efficient – we're not going to air condition. All of the water fixtures will be low flow and we'll try to – I mean, we generally do things in a proper green building. Our own building is LEED certified. Our office is LEED certified. We're working on two LEED certified projects right now, so our intention is to – if we don't get LEED certification we're going to still follow most of those green strategies.

Mr. Hedani: Additional questions from the commission? Commissioner Mardfin.

Mr. Mardfin: Hi Chris, I've got a couple of questions. When you say the maximum height in all buildings will not exceed 35 feet, is that – that's not from the roadway or anything. That's from the base of the building?

Mr. Hart: Yes, that right.

Mr. Mardfin: To the absolute top of the roof.

Mr. Hart: That's correct.

Mr. Mardfin: And three stories fits in there?

Mr. Hart: That's correct.

Mr. Mardfin: Okay. You mentioned – you made a big point about the pool being covered. It's not enclosed though is it?

Mr. Hart: It's not intended to be enclosed, no, but it is – it's for therapeutic purposes, it's for exercise, it's for laps, it's not strictly a recreation pool. It's basically designed to be part of the spa experience at the Kula Lodge.

Mr. Mardfin: Is there sitting area around the pool?

Mr. Hart: I think that I have to refer to the architect.

Mr. White: Again, I'm Pip White, and there's a small paved area around the pool whether you could call it a sitting area or not, I don't – you know, it depends on how you define that. There probably be a table and some chairs around it or a couple tables or maybe some place to sit out.

Mr. Mardfin: In some chaise lounges or stuff like that.

Mr. White: I'm sorry?

Mr. Mardfin: Some loungers to sit out under the sun.

Mr. White: Now, you gotta cut me a little slack here because we're in the very early stages of design. So when you ask me a specific question like that I'll give you my best answer. I don't know that. There's a small area that may be used for lounging around the pool.

Mr. Mardfin: Okay, thank you.

Mr. Hedani: Additional questions from the Commission? Commissioner Shibuya.

Mr. Shibuya: I understand that in April of 1996, the project district was enacted and became an ordinance. During that time the project was listed as a retreat resort.

Mr. Hart: Yes.

Mr. Shibuya: Retreat resort was something that's isolated, something that's quiet. Some place that provides for a rest and some very quiet recreation, very limited if anything nothing like softball or volleyball, something very – walking trails perhaps, but something very sedate. Today, the customer's requirements seem to have expanded and the impact on the community has been in terms of perceived noise, in fact right now there's some complaints about noise. There's also complaints about the pollution in terms of not only the noise pollution but in terms of air pollution,

cigarette smoking as well as perhaps even the outdoor oven being, burning firewood. What kind of mitigation or some features that can mitigate this or avoid some of these problems? There's difference in definition of what is a resort retreat type of atmosphere versus what is being proposed.

Mr. Hart: Okay, thank you. Actually, I'd just like to go back to the community plan. When it was actually proposed in the early '80's, the original community plan the Kula Lodge and the Silversword Inn were already existing. And the terminology that was used by the citizens advisory committee at the time was retreat resort. Now what was actually proposed or what is actually proposed for the Kula Lodge is a 15-unit project which is not significant number of units. It's 15 units. And the ordinance prescribes specifically the amount of restaurant space together with all the other uses that are allowed you know, on the particular site. Okay, and that in the context of the Council's understanding a retreat resort is appropriate as far as scale is concerned. I know that you could take a definition and go out to Hana or some place and you know, basically you know, look at something that's much more in the wilderness and again, this particular property has been zoned urban, state classified urban. It's been identified and used together with the Silversword Inn as a restaurant, as a place where people could go as transients and stay since the 1940's and '50's and during the time of community plan formulation it was identified as a retreat resort. Now that's what it is. Okay, and we believe that we're meeting the definition of retreat resort.

Now as far as noise is concerned, obviously there's going to be more guests on the site and obviously noise level has to be essentially appropriate for the rest and relaxation of the guests that are going to be on the site and so that's something that Mr. Romanchak as the owner is going to have to basically monitor and be aware of. And that's why, for instance, the pool is not going to open as a recreation facility on the site and there are no other recreation facilities on the site.

In addition to that, there are proposals in the context of the redevelopment of the Kula Lodge to basically deal with issues, you know, to actually become more technically appropriate more environmentally sensitive, more sustainable in the context of waste water, in the context of storm water disposal. I really believe that what's being proposed is a sensitive project and it will be appropriate as far as the neighborhood is concerned and as far as everybody's understanding including the county's understanding of what a retreat resort is.

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

Mr. Shibuya: If there's no other questions I'd like to follow up. May I continue following up with another question?

Mr. Hedani: Go ahead.

Mr. Shibuya: Thank you. I have the understanding that in this community where quietness, clean air and the closeness of the community is respected. The space is respected. So we're considerate of others, and in fact in my district, in my subdivision I live about 35, 40 feet away from my neighbor and if he talks too loud I can hear every word he's saying and that's how quiet it is and I'm not trying to eavesdrop but we have to mitigate it and so we have sliding doors and we slide it down and close it up and we can have our party so to speak and not bother our neighbors. Our windows and sliding doors are double-pane so it's very quiet. What kind of mitigates effects or

features are you addressing besides 50 feet setback, 30 feet setbacks from neighbors who surround three sides of your property?

Mr. Hart: Well, I would like to remind you again that over the years there's a substantial amount of landscape planting that has actually grown up and is quite mature. You saw that in the pictures, together with the commitment that there will be additional landscape planting provided. Now beyond that I think that the architect has to discuss issues perhaps like insulation with you Commissioner Shibuya.

Mr. White: I think, Fred and I have talked extensively about how to mitigate the noise and he's as concerned about noise coming into the new structure as he is about noise getting out because there's highway noise and like you, your neighbors aren't always quiet same thing with the Kula Lodge. We've had several discussions about it. The things that have talked about that are not management related have been just what you said double panes because the double panes sort of keeps the heat even, it also mitigates the noise considerably. And again, it's – there's not going to be a lot of openings, most of the windows will be closed in the evening when it gets cold and that's when the noise will be an issue. We're also planning on mitigating the noise that transfers from either from unit to unit or from floor to floor in the lodging unit and in the restaurant and so we'll be putting insulation and things in the floor sandwich and in the walls to keep things from going back and forth. So we are sensitive to it and we'll do the best we can.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: I have a follow up question. There are unintended consequences when you have commercial operations such as reefers delivering material to the restaurant as well as the hotel type of operations, linen as well as supplies and these reefing trucks actually have motors running and they're even though muffled it's outside of your control except for designating a certain time for delivery. This can be troublesome for the neighborhood even though we see this as a necessary so-called evil. Don't get me wrong, I like Kula Lodge I go to that restaurant and I enjoy the atmosphere there, however, I'm very concerned about the residents who have invested in their properties in Aina Kula and the surrounding areas too so I have to consider that part too.

Mr. White: You're sort of talking outside of my area of expertise but again, Fred and I have talked about this and that really is a basic hours of operation kind of a question because there'll be times – like you say there are things that are outside of your control the best way you can control them is to set up hours when they can and can't deliver. I don't know how else to do that. We're trying to keep buildings between the loading zones and the neighbors, so we're doing what we can to block it but again, as you know, you can put a building the sound goes around it, it goes over it, under it so we are sensitive to it and that's a management kind of question.

Mr. Hedani: Okay, additional questions from the Commission? Just to let the commissioners know we have 22 people that have signed up for testimony and they'll each be allowed three minutes of testimony and then subsequent questions so you're looking at two hours of testimony that's before us. Additional questions from the Commission? Commissioner U'u.

Mr. U'u: Yeah, I have a few questions. One will be the wastewater facility that is going to be in the

upper right-hand corner. I just was wondering about the stench. The second would be, in looking at your plans that you have, aerial location map it's very vague to see how close the neighbors, the surrounding neighbors are.

Mr. Hart: Okay.

Mr. U'u: So that would be one concern. Also, on the private lanais on your 15 units at what part would the lanais be facing the neighbors, facing towards the restaurant. We're going to need some answers to vote on. It's pretty vague right now and I really like Kula Lodge but it's going to be hard to vote on something to approve it or pass it to the Council if we don't have some answers, some mitigative answers.

Mr. Hart: Thank you Commissioner U'u. First of all, Chris Hart. The Project District Phase 2 is an approval granted by the planning commission. It doesn't go to the County Council. So you're not advisory. This is – you have granted Project District Phase 2 for this project once before for another design and tonight we're proposing an alternative design, a better design and we're asking for your vote tonight. Now in terms of a couple of the questions that you brought up. First of all, the lanais they're basically oriented toward makai, west and you know, essentially in order to maximize the opportunity for individuals who would have a unit, to rent a unit to be able to have, see the views.

Now in terms of the lets see the other issue of the separation, Brett could you go back to our site plan? Well, first of all, lets look at the master plan, essentially this is the hotel and these – the lanais are basically facing in a westerly direction. Now go to the aerial. I think it's important to note that this is the hotel and this is basically the gulch that basically goes makai and you have that aerial in front of you and you can see that they're not actually oriented directly at existing residences. This is the hotel and this is the actual, the gulches going down and these are units, the closest units.

Mr. Hedani: Additional questions from the Commission?

Mr. Hart: What was the one other question that you had?

Mr. Hedani: Last question relative to the odors that might be coming from the wastewater treatment facility.

Mr. Hart: Oh, okay. I would like to have our – first of all, I'd like to say that the current wastewater treatment plant is a septic system that was approved by the State Department of Health, fully approved by the State Department of Health and with that, I'd like to have Michael Conway address the proposed wastewater treatment facility that's going to be constructed as part of the project.

Mr. Michael Conway: Good evening Commissioners and audience. The wastewater treatment plant that we're talking about in this situation is mandated by the State Department of Health to be basically a miniature wastewater treatment plant just like they have Kahului and so forth. Without grossing myself out basically the difference between a wastewater treatment plant and a septic system is the odors. Septic system basically is– maintains its cleanliness or takes care of the

byproducts through anaerobic bacteria which is a bacteria that when it eats whatever is in the wastewater it gives off methane gas and that's very smelly. Wastewater treatment plant on the other hand will have aerobic bacteria which is facilitated by pumping air or oxygen into this space. The odors on it are much less, are significantly less in fact, if you go along Maalaea all those hotels and condominiums along Maalaea all have their own treatment plants basically like that and you really haven't heard of any complaints from odors from those types of treatment plant. So by following the Department of Health, State Department of Health mandate those kinds of concerns or problems will be mitigated or alleviated.

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

Mr. Starr: The swimming pool I assume that that will be heated and it's outside, how will it be heated and what will be the – what kind of fuel or energy and how much will be used?

Mr. White: At this point we're planning on doing with solar pool heaters.

Mr. Hedani: Pip, you need to identify yourself for the record.

Mr. White: I'm sorry, I'm Pip White, the architect. At this point we're planning on doing that with solar panel heaters. And to answer the former question from Commissioner U'u, if you look on the handout that was provided, there's on A16, A17 and A18 there are little plans that show where the lanais are. On the ground floor the lanais are larger because it's just paved, a little paved area with a trellis over the top and on the upper floors there's basically small lanais, enough so you can open the door.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Chris, this is more a process question than anything else. On your second slide you had the project history and then in your proposal there's Exhibit 17 and some other stuff, I just kind of want to go through the process in my own mind.

April '96, Kula Lodge Project District 1 was established. 2000, Maui County Planning Commission granted Phase 2 approval. November 2000, Phase 3 approval is granted for Kula Market Place. Kula Marketplace has been built is that correct?

Mr. Hart: A portion of it has been built, yes.

Mr. Mardfin: But you're planning to expand by adding another floor?

Mr. Hart: Yes.

Mr. Mardfin: Then the next thing on the slide was 2008, retained a new design. Going back to Exhibit 17, it says May 8th, the Maui Planning Commission voted to grant Phase 2 approval completed within five years. Well, that wasn't done. And so, in 2006, you got a letter from the Department of Planning giving you a five-year extension to 2012.

Mr. Hart: That's correct.

Mr. Mardfin: And somewhere between 2006 – well, in 2008 specifically you got a new plan and so, you're coming back to us for a new –

Mr. Hart: Project District Phase –

Mr. Mardfin: Project District 2

Mr. Hart: Approval.

Mr. Mardfin: Approval. So basically you're not – if we approve this then the extension to 2012 no longer holds is that correct?

Mr. Hart: Lets see, well, today is 2010, well, it probably – it would be superceded by probably I think there's a time limit in which –

Mr. Mardfin: So you went from 2012 to 2015 at a minimum.

Mr. Hart: Probably.

Mr. Mardfin: Okay. I wanted to understand it.

Mr. Hart: But you know Commissioner Mardfin, you know, in the context of the actual you know, getting into the technical drawings and so on it was proven that there needed to be some more thought put into the design of the project and Mr. White seemed to be a more sensitive designer in the context of Mr. Romanchak's taste.

Mr. Mardfin: I'm not questioning that, I just wanted to understand what the process is and your slide 2 kind of left a gap there and I just want to clarify that.

Mr. Hart: Okay, thank you.

Mr. Mardfin: Next, would you go to your map, I think it's in slide 4, oh no, slide 7.

Mr. Hedani: Ward go ahead with your question.

Mr. Mardfin: Well, I had never been to Kula Lodge before, just before this meeting I drove up there and took a quick look around. Right now, you see where the commercial building is.

Mr. Hart: Yes.

Mr. Mardfin: And just mauka of that you have a parking lot.

Mr. Hart: That's correct.

Mr. Mardfin: And right now where those are on your diagram is open. People can pull in there and park.

Mr. Hart: Yes.

Mr. Mardfin: And you're planning to by putting those trees in there, closing off most of it so there's two entrances one to the right of those trees and one to the left of those five trees there is that correct?

Mr. Hart: The State Department of Transportation basically, the current entrance is here. It's a two-way entrance and exit. They asked us to move the entry to the center and the reason being, it's a straight shot along the road but it enhances the sight distance.

Mr. Mardfin: I understand. But right now where those five trees are you can drive in.

Mr. Hart: That's correct, but there will be an exit driveway. So there will be a main, central entry and exit driveway and the exit driveway on the –

Mr. Mardfin: The one on the right is going to be just an exit driveway not an entrance driveway?

Mr. Hart: That's correct.

Mr. Mardfin: Now, I'm looking at –

Mr. Hedani: Ward, can we check if there's any other questions from other commissioners at this point?

Mr. Mardfin: Sure, but I'm going to come back to this because it's not clear. I'm getting to the point about parking there, but I'll –

Mr. Hedani: Are there any other questions from other commissioners? Commissioner Tagorda.

Mr. Tagorda: This is going to be a very quick question. Since the applicant/owner Mr. Fred Romanchak is here.

Mr. Hedani: Orlando, it's a directional microphone so you need to point it directly at you.

Mr. Tagorda: Since the applicant/owner Mr. Fred Romanchak is here with the community, I want you to tell us honestly if this 15 units, lodging and hotel is not going to be sold in the future or not going to be leased in the future because if that's your intent I think the retreat resort is not going to happen here and now we are asked to cast our very important votes tonight with so little information that I have as a new member of this commission and I want you to tell us honestly what will be your intention in the future. I know you can do anything with this property, sell it, lease it, but I want it to come from your word.

Mr. Fred Romanchak: My name is Fred Romanchak and I'm not exactly clear on your real question.

You're concerned about what I'm going to do with the property in the future?

Mr. Tagorda: Yes sir. Are you going to sell this units, this 15 lodging units or lease it long term?

Mr. Romanchak: We're going to run it as a hotel. That's our intention.

Mr. Tagorda: That's all I wanted to know, thank you.

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

Mr. Starr: What was the square footage for the build out for the Phase 1 and the original Phase 2 and what is the new square footage of build out?

Mr. Hart: The total gross floor area of all structures is 41,759 square feet. The total lot area is a 164,047 square feet. The lot area floor area ratio basically is approximately .255 % which is pretty low. The lot coverage total is 19,094 square feet and it's 11.64% which is also very low.

Mr. Starr: You didn't answer my question. What was the Phase 1 and the original Phase 2?

Mr. Hart: Well, I gave you that as far as the current project is concerned. I'll try to give you – do we have that?

Mr. Starr: Yeah, I'd like to know what was approved in the Phase 1 when this project originally went through the process.

Mr. Hart: Phase 1 is the ordinance, so what does it have in terms of the square foot area.

Mr. Hedani: Chris, I think the question is whether there's a net increase or decrease in the first approval and the current request.

Mr. Hart: There's a net – the question is whether or not there's a net increase or –

Mr. Starr: No, that's not the question. Thank you for trying to rephrase it Mr. Chair.

Mr. Hedani: Why don't you rephrase question?

Mr. Starr: The question is what was the original square footage that was approved in the Phase 1 and the first Phase 2. We know the new one is 41,000, what was the old one?

Mr. Hart: I'm sorry, we weren't prepared for this question Mr. Starr, Commissioner Starr.

Mr. Starr: Okay, I'll ask that to the planners. How much square footage was approved under the Phase 1 and the original Phase 2? We are being asked to amend that, if we don't know what we're amending I don't think we can deal with that.

Ms. Cua: Would you like me to comment? Okay, what we don't have with us tonight Commissioner

Starr is the numbers on the Phase 2 application that was approved before, but I think what you're really asking when you talk about the Phase 1 like I explained that is the ordinance and no where through the process could they exceed what was in this ordinance and maybe that, could I give you that? So what was approved as part of the Phase 1 Project District application which is the ordinance, and I'm reading from 19.75.030 which is land use allocations for this particular project district. It says here, the following are established as maximum square footages for various land uses within Project District 1 in Kula. For the hotel, the living area per unit 850 square feet. For the caretaker's unit, 2,015 square feet. For commercial, they're allowed a restaurant approximately 8,405 feet within the existing structure and approximately 2,550 square feet of outside dining area. For the produce gift shop located within the main lodge, 2,230 square feet. For the art gallery, 1,990 square feet. For the produce co-op farmers market and this particular building is what they came in with the Phase 3 application and they actually built, I understand they're enlarging that now but that was allowed to have approximately 2,800 square feet. One comment I want to make on this ordinance, the commissioners, you've seen quite a number of ordinances and this is probably one of the most specific ordinances you will find in terms of square footage and that has been challenge for this project because as the economy changes, if they make changes to these numbers, if they want changes to these numbers they cannot do it through you. If they want to change the numbers here they have to go through the County Council. And so even when they were coming in with this project and meeting with us, we always looked back to the ordinance because they always had to stay within these numbers. Does that answer your question?

Mr. Starr: Does the current plan fit within those numbers?

Ms. Cua: I'm not the project planner, but my understanding is it is, it does.

Mr. Fasi: The parameters of the project and the square footages have been reviewed by our Zoning and Enforcement Division as well as the Current Planning Division and they do meet the criteria.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Back to those five trees mauka of the commercial building where I was – yes, those, is there any parking in that area in your plans?

Mr. Hart: It is a double loaded parking lot yes. In other words, there's stalls underneath those trees.

Mr. Mardfin: That's what I thought. Can you tell me, when I was out there I saw there was a fairly sharp drop off right – well, you can pull in now because those trees aren't there, you can pull in but it seemed to me to be fairly narrow. Can you tell me the distance across there? I'll tell you what my concern is and maybe you can alleviate my concern. My concern is that fairly narrow strip and that if you're having parking under there and you're having trees there, I don't see how it works. I think you're going to have the right wheel of the car go off the cliff.

Mr. White: Again, this is Pip White, I'm the architect and Commissioner Mardfin, I want to make sure I understand the question so stick with me just for a minute. You're talking about this area right in here or you're talking about this area up here?

Mr. Mardfin: No, not the part to the right, just –

Mr. White: This part here.

Mr. Mardfin: Right in there.

Mr. White: Let me explain to you what's going on there. From the property line there's a landscape setback. After the landscape setback the parking starts. It's a single loaded, one-way parking lot and so you come up this way and then out the exit. This is only an exit. This is a small loading zone for that building, the top story of that building.

Mr. Mardfin: I understand that. Can you tell me how –

Mr. White: So the idea is that the trees will be in the landscaped area and the parking will be just the other side.

Mr. Mardfin: And can you tell me how wide that is from the trees to where the cliffs starts?

Mr. White: Where the parking is, there's about 40 to 44 feet from the parking, that's with the parking, the aisle and parking stalls total. It's about between 40 and 44 feet.

Mr. Mardfin: Going mauka to makai it's 44 feet?

Mr. White: Going from here to here to the grass or to this landscape area there.

Mr. Mardfin: I was just there and I didn't get a –

Mr. White: Well, we're planning on putting in, you have to understand that now what happens is the lower building if you – the lower building there's about 10 feet between the wall and the lower building and where the slope starts and the slope goes up very steep you're right. The idea is that we'll build a retaining wall just outside of the building come up and fill that area so that it will be, you can access the upper floor from that upper parking lot.

Mr. Mardfin: That's the answer that I needed to get. You're not having the slope, you're going to fill in the slope.

Mr. White: Precisely.

Mr. Mardfin: That will give you enough distance. Thank you.

Mr. Hedani: Okay, for the commissioners, I know you're going to have a chance to ask additional questions of the applicant as well as staff but we do have 22 people that have signed up for testimony and unless we have a burning question that won't wait at this point I'd like to go ahead and begin with public testimony. Commissioner Starr.

Mr. Starr: Quick one for staff. There was a comments from the Kula Community Association along

with a packet of letters I believe they were received in mid-January by the department, we received them just a day or so ago by email. We have hard copies here. These are – yeah, it was faxed on 1/11/2010 those are characterized under in a folder that says qualified favorable. There seems to be some serious concerns. I'm interested to know why you characterized them as qualified favorable.

Mr. Fasi: If you read the opposition letters and I received one, the hand delivered and I just received another one this evening that's hand delivered if you read the opposition letters they're clearly opposed. The unqualified favorable category is they're not opposing the project but they are putting conditions on it. So if they are putting conditions on it they could be deemed as favorable. So they're qualifying it with conditions and they are in favor of it if they can get the conditions approved.

Mr. Starr: So in your opinion was unfavorable and all the rest were favorable.

Mr. Fasi: Two.

Mr. Starr: One in the packet and one tonight.

Mr. Fasi: Very vociferously opposed.

Mr. Hedani: Additional questions from the Commission?

a) Public Hearing

Mr. Hedani: Okay, the first person that we have to testify this evening is Mele Stokesberry. You have three minutes. Staff will provide you with a microphone.

Ms. Mele Stokesberry: My name is Mele Stokesberry and I am an owner, actually I'm not yet, I'm owner along with the bank of the property on the north side at 1576 Lower Kimo Drive and I haven't been an owner out there very long. I didn't know about this until very recently and I bought this property in 2006. So that means, and that means I have a huge mortgage that I'm making every month and it's very concerning to me because I have tenants in the building that I bought and I'm very concerned about the noise impact to them. So I'm very grateful for these questions that are being brought up tonight. My letter that you all have commissioners, you've classed it as favorable, but I'm not favorable to this unless very stringent conditions are put on. My main concerns are noise and the impact of this very, very large expansion that's coming into our neighborhood up there. But I'd like to stress certain things and you all have my letter with details, but there are certainly things that I would like to really stress about it. Sound carries very far as Mr. Shibuya said in the quiet gulches of Kula. It's really hard to keep noise down and I have had complaints from tenants before of a whirling noise probably coming from generators or air conditioners and there's probably going to be a lot more but I'd like to emphasize that there should be no outside functions that means food, beverage, weddings, meetings after sunset this includes all activity at this proposed pool which doesn't sound like it's going to be enclosed and therefore sound is really going to carry to the neighborhood.

Two, there must be no commercial deliveries, pick ups or activities before lets say 7:00 a.m. on

weekdays and 8:00 a.m. or later on weekends.

The third point I would like to make is trash compacting and handling must be done after 9:00 a.m. and before 6:00 p.m. any day because that is a very loud activity.

Four, motors from fans, trash compactors, ac units, outdoor refrigerator units or any other motorized or electric equipment should be housed in soundproof materials and they need to – and all of these things need to be enforceable.

Five, you know, all lights must be shielded not only from the neighborhood and I've heard complaints and concerns from the people in surrounding neighborhoods about that, but this is the biggest commercial activity closest to the top of Haleakala. May I go on and finish this point please? And you know, the dark rumped petrels burrow up at the top of the mountain and they are attracted by lights and they die frequently from heading into lights and there are observatories up there that need shelter from light. So light is really an important thing and light pollution needs to be addressed. I haven't heard anything about light pollution tonight.

And lastly dust mitigation must be strictly enforced during construction. Thank you very much.

Mr. Hedani: Thank you Mele. Next person to testify is Ronald Davis.

Mr. Ronald Davis: My name is Ron Davis and I am an owner and resident at 317 Aina Kula Road. First of all, I want to state that I'm very much in favor of the recommendations that the Kula Community Association has put together. They worked hard on it and I went to some of the meetings and provided them some input. In addition, I had also sent a letter back in October to Wayne Hedani, the Chair, expressing some of my concerns. A couple things have changed since then but basically the concerns are still there and the recommendations I still back.

The one thing I definitely would like to include above the recommendations of the KCA was a continuation of the current ban on amplified sound outside. When they do have weddings there at the Lodge they might as well be in my livingroom. It really is that bad.

I also recommended a wall or fence around the property. I've had several incidences with people who have been drinking wandering onto my property and back in about September I actually had a incident where someone had bought a six pack of beer at the store sat on the border and drank it and then decided he was going to come down and talk to me because he saw me down there working in the yard and he literally fell down that slope and injured himself. So I'd just assume keep those folks on the Lodge's side for their own safety as well as ours.

If you look at some of the pictures I gave in a handout that I put with the letter I had sent back in October you'll see on the first page the border that I share with the Lodge. It's a pretty extensive border and that is a very steep slope.

On the next page my wife had put together kind of a panorama that shows the whole length of that border and down in the lower left-hand corner there's a picture from approximately where the lodging building is going to be at the border though. The Lodge is going to be a little further up and

it's going to be, what, 35 feet higher. It will be looking directly at or over my house.

The – sorry, it's been a long time since I've spoken with a microphone. I also gave some samples on the next page of the rubbish that's along the border. I have also shown a picture here of a couple who were passing something back and forth. We can all guess what that was.

On the last page, this was a picture taken yesterday directly after the rainstorm. All that white foam I have no idea what it is but clearly it's not just rainwater running down that slope.

Mr. Hedani: Thank you very much Ron. Peggy Geddis.

Ms. Peggy Geddis: Hi, I'm Ron's wife and I would like to also say that I do support the recommendations from the Kula Community Associations and their concerns but like Ron was pointing out when you take a look at those pictures we're really concerned about – we would like to see a wall or something that blocks us from the border with the lodge and we think that will help the noise that we're very concerned about, the trespassing, the litter and the runoff so that would be really important to us.

I'm also very much in favor of restricting the hours for the outdoor amplified sound and my biggest concern is probably the privacy. The picture that I took that shows the panorama from our property up to the Lodge, I tried to indicate with kind of a red box and the red box that shows where the hotel will be, I made the same height as the paperbark tree that was at the border which is maybe 20 feet and this thing is going to be 35 feet tall so it's like you know, 15 windows looking down on us all the time. So I certainly would like to see something that talks about trees you know, things that will help protect both our privacy as well as the folks staying at the Lodge. Yeah, I mean, we're already familiar with having the you know, folks at the restaurant and they have a view over the property but it's a little different when someone comes to dinner and is looking out versus someone who's there, you know, around the clock and staying in a place. Those are my concerns and anyway, just support of the community association recommendations especially. Thank you.

Mr. Hedani: Thank you very much Peggy. Next person to testify is Lisa Howlett.

Ms. Lisa Howlett: Hi Chris, I was wondering if you could tell us if the construction begins where the construction trucks would be coming up, will they be going through Lower Kula or will they be going up the old Haleakala Highway? And already our roads are pretty torn up so I'm concerned that with construction trucks coming and going for an extended period of time that that's going to be really rough on our roads and we don't seem to get ours fixed as often as other areas. So I have a concern about that. And so if any of those construction trucks would be taking such as Lower Kimo Drive something like a short cut instead of you know, taking the main highways.

Mr. Hedani: Thank you Lisa. Your question actually should be directed to the commission and they may be able to ask that question for you. Next person to testify is Margaret Sutrov. Margaret.

Ms. Margaret Sutrov: Did you guys get these? Okay, I'm on the other side of the fence this evening. I know Chris really well and Brett, but I'm on the other side of the fence. My name is Margaret Sutrov. I'm an architect, lead AP, vice-president of AIA Maui Chapter and a neighbor and

resident within 500 feet of the Lodge property. I want to thank the Kula Community Association Board for their hard work to come up with an unbiased approach to maintaining a balance between our neighborhood and the Kula Lodge. I support their summary of recommended conditions that was submitted to the Planning Department. I ask that you endorse their recommendation with a few minor revisions that I added in an email to the Planning Department on Monday. I would like to comment on a few of the Kula Community Association recommended conditions.

Item No. 9, talks about measuring sound levels at the property line. This is a standard condition that I encounter in my line of work. Noise levels should include all sound. This would help Kula Lodge substantiate their desire for noise control as well. I will note that landscape foliage on its own is not an effective sound barrier.

Item 18, the commercial space, Maui County Code Chapter 19.75 lists the commercial uses for this project district as restaurant, gift shop and art gallery and there's the produce co-op farmers market. The proposed design removes the gift shop and art gallery from the restaurant building and it adds 6,000 square feet to the commercial building for ...(inaudible)... accessory use. However, there is no use allocation other than tenant space on the drawings. Tenant space is not necessarily an accessory use nor usual or customary. I suggest that to keep within the context of the intent of this project district and the Maui County Code tenant spaces should be allocated such as produce co-op farmers market, art gallery, gift shop. I'm concerned about the open-ended possibility the term "usual and customary" should be applied and not just stated.

I recommend very tall trees be planted so that the Lodge guests aren't staring into the neighboring properties from their balconies. Simple site section studies could be done to verify this.

And one last thing, the upper parking lot is frightfully too close to the bedrooms of the adjoining neighbors. Efforts need to be made to prevent exhaust fumes, cigarette smoke, sound entering into bedroom windows. I made two suggestions in my written testimony and with all due respect for the Lodge there are residents who have so much to lose. Please heed their concerns. Thank you.

Mr. Hedani: Thank you very much Margaret. Next person to testify is Sharon Mosley.

Ms. Sharon Mosley: My name is Sharon Mosley and I live at 339 Aina Kula Road that's lot no. 2 on the map. I bought my house in 2005 and it's been only in the last year that I learned about the potential for this major expansion at Kula Lodge. I've lived happily with the current operation at the Lodge. I'm not opposed to some improvement or expansion, but isn't the character and ambience of this country inn and the rural environment where it's located. I support the conditions for the project requested by the Kula Community Association and the additional conditions requested by our neighborhood group and many of the people speaking tonight. I'm testifying today to present two additional points.

First, I'm strongly opposed to the extent of this expansion which includes the three-story hotel in the middle of our rural neighborhood. I think that the approval of a three-story hotel and the expanded commercial building is contrary to the purpose and integrity of zoning and planning regulations. I'm shocked that this level of development has progressed as far and I ask you to consider your responsibility to protect the quality of our rural residential neighborhood instead of

permitting the maximum level of commercial development on this three and a half acre lot.

Secondly, I want to direct you to the photographs that I have shared with you to give you my perspective. Photos taken from my deck. The first photo shows the corner of the current lodge toward the right and you can see the red outdoor dining umbrellas. The second photo shows how the ground level is elevated a short distance behind the tree line. A 35-foot building will rise well above the tree line. My understanding of the drawings, that the hotel will be between me and the current lodge. The lanais directed towards at least lots no. 1, 2 and 3 and you can see that on your Exhibit A-4 although – included in your package, although lot no. 2 is not on that map you can see basically where it would be. I just ask you to imagine how –

Mr. Hedani: If you could wrap up your testimony please.

Ms. Mosley: A three-story hotel would look from this view if you look at that photograph no. 1 and ask you to be really diligent about your duty to the whole community. Thank you.

Mr. Hedani: Thank you very much Sharon. Next person to testify is Paula Ambre following Paula will be Chuck Hills.

Ms. Paula Ambre: Aloha Commissioners. My name is Paula Ambre and I'm a homeowner and occupy the home at 425 Aina Kula Road. Really appreciate this opportunity to share our concerns about this project. My property shares a border with the Kula Lodge in the gulch area off the Kula Marketplace. In fact, on page 7 of the KCA report there's a picture from my lanai. Commissioner U'u you were wondering about how close, that picture kind of helps to show that. From my backyard and lanai you can see the rear parking area of the marketplace and people walking about that parking lot can see onto my lanai and backyard.

There has been a previous planting of trees by the Lodge to create a visual barrier between our properties but that's only a partial barrier at this time because some of the trees have come down in storms over the last several years. So the area that will face my home does look to be parking stall areas and so those parking stalls would be sited directly facing my home and I'm concerned about lighting, parking lot noise and lighting and I want to thank the Kula Community Association because I think they address those issues real well in their report.

So I fully support that report and the neighbors addition to the report but we still have many concerns about how this project will impact our neighborhood. I think that one of the things that's really important is to keep in mind what was the intention behind that zoning of retreat resort. That seems to be kind of a nebulous term and in terms of not just what that provides for the guests who will benefit from that but what about the impact on the neighborhood and what kinds of commercial uses are appropriate to that zoning of retreat resort.

As a neighborhood we've also have some discussions and we think that it's important to put requirements in writing because leaving things at the discretion of the owner is going to be difficult especially if there's a change in hands of the lodge and certainly that could happen at any given time. So we do request that conditions be put in writing.

In addition to the KCA report I'd like to emphasize a couple of other things. Certainly we continue to support no amplified sound or music. There may be issues about walls and fences that will provide barriers between the neighbors and that property. I think it's important that those barriers and pleasant to look at from the neighbors side of the fence as well as from the guests. And certainly the whole issue of the commercial space issue what is an appropriate use and then what would be the traffic impacts and does the traffic study needed to be updated accordingly. So a huge concern in the neighborhood is more traffic.

There's two issues that I think require clarification that I can't get from my review of the plans. One is a comment that was in the Kula Lodge letter prepared by Chris Hart in response to the KCA association letter and it says, "the 15 hotel units will function as traditional hotel units and the applicant has the right to condominiumize and market the property accordingly." So I'm curious, does that mean that these units could become timeshares or could be sold for individual ownership? What other uses might be allowed besides hotel?

The second one is just on the wastewater treatment system. The plan in 2000 had an open pond component to it that was close to the area that live and so we would like clarification as to the new wastewater treatment system and whether there's any open pond kind of units there. Thank you so much for this opportunity.

Mr. Hedani: Thank you Paula. Chuck Hills to be followed by George Frey. We're going to go up to testifier number 11 which is Joseph Russell and then we're going to take a 10-minute recess.

Mr. Chuck Hills: Good evening my name is Chuck Hills. My wife Lisa and I have lived up until September for 10 years beneath the Kula Lodge. Our house was approximately a hundred yards from the border of the Kula Lodge property and while I'm about to testify I'd like to ask you one question just hold this in your mind while I'm talking. I wonder how many of you would welcome a three-story hotel within 30 to 50 feet of your property?

In the 10 years that we lived there we could hear noise, we could hear conversation, we could hear events, we could hear trucks. In those 10 years up until recently that was a very heavily forested area between our house and Kula Lodge. Very thick wattle, very common up here and I want to tell you we could hear the noise from the Kula Lodge in our house not standing in the front yard. So I don't think that more cars, more rooms, more people, more trucks and a pool are going to necessarily aid to quite of this neighborhood. It's going to get noisier trees won't stop this. If you're familiar with upcountry, you know that gulches broadcast noise. So anybody who lives in the area around the Kula Lodge which has a gulch on each side their lives are going to be interrupted by the noise not to mention anything that goes on. That's just a fact. Nothing's going to change that. Mr. Hart can talk about trees and all this, it's not going to stop it. So there's a very deep concern there.

Secondly, I walk my dog twice to three times a day past the Kula Lodge down the Haleakala Highway. I come up Aina Kula Road, I go down the highway in front of it. From the uphill portion to that lodge is a very, very short view plane, people come down that highway at a high speed. If there is not a significant traffic plan in this thing each and every one of you is going to be somehow liable for what happens because it's just dangerous. So I really recommend that there be some kind of traffic amelioration for this thing if it gets accepted.

Am I in favor of it? No, I'm not. I've testified three times against this project. It has no benefit for our community up there. We are not going to get anything – if you want to benefit the Kula Lodge have them update the menu and hire a cook but the standpoint of the real benefit to our neighborhood there is none. It's simply going to be more noise, more commercial activity, more going on that's all. So thanks for letting me air my opinion I appreciate it.

Mr. Hedani: Thank you Chuck. Mr. George Frey to be followed Phyllis Frey.

Mr. George Frey: Good evening my name is George Frey and my wife and I have a home at 1495 Lower Kimo just probably, just outside that 500-foot area that is considered not impacted but as was stated before the terrain acoustics you could be 2,500 feet away from Kula Lodge and still hear just about everything amplified noise and conversations even so I want to just reiterate that the points that were brought up about amplified noise, light pollution and some mitigating wall perhaps around the project would greatly enhance the noise problem. That's about all I have. Thank you.

Mr. Hedani: Thank you George. Phyllis Frey to be followed by Joseph Russell.

Ms. Phyllis Frey: Good evening, my name is Phyllis Frey at 1495 Lower Kimo Drive. I want to say thanks for allowing us to speak our minds tonight and our concerns. I want to say first that I support the Kula Community Association's recommended conditions as stated in the document Kula Lodge request for Project District Phase 2 and 3. I know there's some overlaps but lets not call it redundant lets call it reinforcement. So please accept my testimony with two points, noise and traffic.

The existing noise levels as has been stated already generated by the guests at the Kula Lodge create a negative impact on the surrounding residences located only a few feet from the Lodge and those ...(inaudible)... feet. Talking in a normal voice is amplified by acoustical effect of the rock gulches not mitigated by the gulches but accentuated. So we do need to bear that in mind if there's some way that we can mitigate this amplification of noise that already exists without any electronics whatsoever just of natural voices. All of the adjacent homes are affected by this. Any raising of noise levels due to increased patronage by the Kula Lodge resulting from the proposed expansion plan especially exacerbated by amplified music or outdoor events would have a devastating and negative impact on the private residences.

Noise from increased traffic generated by an expanded commercial center at the new Kula Lodge would similarly bring harm to the quality of life, diminish property values and interrupt normal peaceful existence of the surrounding residents adjacent to the Kula Lodge. This impact I think can be but must be mitigated. Noise from delivery trucks or waste disposal trucks, recycling machinery and tour buses operating at the Lodge in addition to cars from patrons and tourists will result and overwhelming noise pollution with all the impact of a major commercial operation and would not be in keeping with the ordinance and community plan policies of creating a quiet and restful retreat resort atmosphere with all due respect. Not only would increased commercial operations have a negative impact on the surrounding neighborhood it would destroy the intent of providing the Kula Lodge residents and guests with a quiet peaceful retreat obviously a mutual goal.

There should be no outside electronically amplified sound. Two independent licensed acoustical

engineers should be hired to measure and set mutual agreeable decibel limits. All commercial activities should be limited to the use of guests of the Lodge as is appropriate to a retreat resort atmosphere types of businesses allowed and the new commercial center should be designated and approved in writing in advance by the Lodge committee and KCA with the goal of minimizing come and go traffic that would be generated by businesses such as a hardware store, video store, fast food operation, etc. Types of businesses should be of a quiet and respectful nature. Construction and noise producing activities should be limited to hours between 7:00 a.m. and 5:00 p.m. Traffic along Haleakala Highway should be controlled with slow signs, reduced speed limits at the approaches to the Lodge, allowing for pedestrian crosswalks, flashing caution lights and warning signs visible from both directions in compliance with line of sight requirements. All of these aids should be implemented in the interest of safety as primary and reduced noise levels of equal importance.

Traffic studies should also be conducted on Lower Kimo Drive. You expressed concern about construction trucks coming and going and then the result of traffic from expansion. Speed tables might be considered at least that should be a subject for a further study. Thank you so much.

Mr. Hedani: Sorry Phyllis I gave you four minutes. Joseph Russell and then we're going to go ahead and take a 10-minute recess. When we come back for testimony if I can have the testifier come to the microphone and then if I can have the person following them queue up in the first chair over there that would help move the testimony along. Go ahead.

Mr. Joseph Russell: Hi, my name is Joe Russell and I am a property owner at 1550 Lower Kimo Drive. I just came back about a year and a half ago from Philadelphia and right before I left I live by the race tracks and they started putting in slot machines and big casinos so I know what expansionism means more traffic more crime just more chaos. So anyway I'd like to just reiterate what the neighbors – well, we had a neighbors meeting regarding some of these conditions which would be construction hours be limited to 7:00 a.m. to 5:00 p.m. I think they had 7:00 p.m. before, but 5:00 p.m. Also, we support strongly that all office and commercial activities be tied strictly to retreat resort. We don't want the marketplace to be a distribution center for the general public. Also, no amplified outdoor sound music and existing conditions and we want to remain and enforced. Want to be able to fine tune how much noise is created through construction and music and that kind of stuff and also we recommend that the southern property 50-foot setback be without parking or improvements besides wall, landscaping and trees. Thank you. That's all I have.

Mr. Hedani: Thank you very much Joseph. If the commissioners have no objections we'd like to go ahead and take a 10-minute recess.

A recess was called at 7:44 p.m., and the meeting was reconvened at 7:58 p.m.

Mr. Hedani: The next person to testify is Martha Burton who was not able to be present this evening, was earlier but decided to leave. She submitted a letter in support of the Kula Lodge expansion and this letter will be circulated to the commissioners. The last commissioner can you make sure that Carolyn gets this? Next person to testify is Steven Sutrov to be followed by Martin Wong. Mr. Sutrov is the proud father of the girl that painted this painting behind us I'm told when she was 16 years old.

Mr. Steven Sutrov: Thank you all planning commission, Planning Commission Chair, Planning Director for all coming up to Kula tonight. Real nice of you to do that to have a meeting up here for us. My name is Steven Sutrov resident for and owner of 291 Aina Kula Road for the past 24 years. My family and I live within 500 feet, do not border the Lodge property. I have been contributing to the discussions of this project since the Lodge was being zoned a project district in 1988-89. I also work in a major hotel for the past 33 years in the food and beverage compartment and see much of the potential of this planned development.

I just have to say right off I hope I'm not in the favorable category in the letters there even though I'd like to see some conditions added if you do decide to pass this. I am not in favor of this and I might have been at one time but that was when it was just an extensive remodel idea and then when the four designs over the past 20 years plus have come by every time it's bigger and better and not for the neighborhood.

Okay the four neighborhoods surrounding the Lodge had been built up the past 20 plus years. This is nothing like the volcano house in the Big Island surrounded by forests and active volcano or the Molokai Ranch Lodge situated within the 60,000 acre ranch. We hear them eat, walk, talk, park, deliver and more. It's a very small unpopular operation right now. Check out Trip Advisor . Com over 50% have problems with the management policy.

With a total rebuild of lots of business the potential for many impacts in this area must be addressed. You have testimony hopefully received from neighbors of the area and from the neighbors of the area and the Kula Community Association. This is most important information in front of you. Hopefully you have a chance to review it. The KCA did a dedicated job on just to combine history, testimony and balanced conditions to be seriously considered. You also have recommendation from the Planning Department which I believe should remain dynamic throughout the proceedings changed as needed. But I believe it's most important to the community and the neighborhoods are the conditions set by you tonight. Some are design, most of them are operational issues. Please do not leave compliance up in the air as a promise by this owner. Please set the suggested conditions as the legal rules in this project district so no matter who owns it, who manages it, the management policy should be set around these specific conditions.

The building setback as established over 20 years ago to aid in the peaceful existence of the Lodge and the neighborhoods are no longer sufficient. The Lodge has gone through four major designs and still has not been built. The current problems with noise and trespassing will only multiply with the new design. At a couple of locations the proposed design even goes into the required setbacks. Even the septic system is planned into the setback area.

Ms. Takayama-Corden: Three minutes.

Mr. Sutrov: Can I continue Chair?

Mr. Hedani: You need to wrap up Steve.

Mr. Sutrov: Can I come back or finish up?

Mr. Hedani: No, this is your shot, but wrap up your comments.

Mr. Starr: I have a question for the testifier too.

Mr. Sutrov: You want me wrap up now. Okay. I have conditions that I'd like to mention that are all very important. I'll go them real fast. The current setback distances should be enforced. Landscape vegetation does not mute sound we need solid walls around the entire perimeter with vegetation, walls or fences. No amplified sound or music definitely should stay in force. Time frames of operation should be specified by the commission. Restaurant and bar to operate 7:00 a.m. to 10:00 p.m. Please set this a condition, the Liquor Control Board can follow the county rules and specific zoning. And commercial outside activities should be combined for time limits all commercial outside activities should be combined for time limits.

Mr. Hedani: Steve you need to conclude.

Mr. Sutrov: I'm sorry. You have my written testimony, please read it.

Mr. Hedani: You have a question from Commissioner Starr.

Mr. Starr: What are your other conditions and have your conditions been made a part of the Kula Community Association's packet which I believe has been revised with working with staff?

Mr. Sutrov: ...(inaudible - not speaking into the microphone)...

Mr. Starr: Yeah, what other conditions have you suggested and have your conditions accepted and made a part of the –

Mr. Sutrov: ...(inaudible-not speaking into the microphone)...

Mr. Hedani: Steve you need to use the microphone.

Mr. Sutrov: I wanted to on the Kula Community Association ones the ones that probably I would add is a condition that it being brought back to the Urban Design Review Board at that time, at that meeting they wanted to see it again if there was any kind of design change or problem here that just could not be addressed. They wanted to see it again because Kula Community Association did not get a chance to comment before they read it. That was one thing that I wanted to mention and make a condition on this.

Many neighbors are concerned about the size of the commercial building in and I guess I didn't really have any other conditions other than the ones they had. I was just expanding on them. I was suggesting a quiet zone outside on the lanais and decks for guests and operations of the Lodge between 9:00 p.m. and 7:00 a.m. The neighborhoods have also been considered at this time frame. This could satisfy many noise concerns that at this time are unrealized.

Mr. Hedani: Any additional questions?

Mr. Sutrov: Thank you.

Mr. Hedani: Thank you very much Steve. Martin Wong to be followed by Mike Czar.

Mr. Martin Wong: I'm Martin Wong and my property is on this corner here. Chuck Hills property is –

Mr. Hedani: Martin you need to speak directly into the microphone because it's being recorded.

Mr. Wong: Chuck Hills property if you remember is next to mine. So his testimony would be most parallel with my view about the noise. The noise is –

Mr. Hedani: Can you pull the microphone a little closer to your lips please? Thank you.

Mr. Wong: The noise is very loud and if you read your email it's very emotional for myself as well. So I don't want to talk about the noise too much though what I do want to say is that I have a problem with the style of the development. I don't think it belongs on that site. I think it's too big for the site. I think the site should be 10 acres or maybe 15 for this type of project. It doesn't remind me of Kula, it's like Colorado. And I want to mention the setback is too close here 30 feet. My general feeling is that the project style and concept needs to be worked some more. I lived with an architect for 49 years and that's just my personal opinion. I really don't care for it.

And then as far as it being in my backyard it's mostly the noise. I there are so many different things that need to be addressed in terms of this project before you can say that it's not going to have a negative impact on somebody and I think that eventually people will be selling their houses. It's going to have an adverse impact on the neighborhood and I would also like to see that the steep slopes question has been thoroughly analyzed as well as all the other water, drainage, chlorine, runoff into the neighboring properties. People falling over cliffs. I think there needs to be a lot more trees and I would prefer to see these being bungalows instead of a big mass building. So I think I covered everything. I just want to say one last thing is I think it's a nice project the way it is now but I think it's going to be really hard to keep it that way. That's it.

Mr. Hedani: Thank you Martin. Mike Czar, my apologies if I butchered up your last name.

Mr. Mike Czar: That's fine. Thank you guys everybody. I'm probably the youngest one here and I represent a large, large section of Maui, young kamaaina. I've been here 30 years and this creates jobs and opportunity for people on the island. Young people like myself, okay. Everybody else is going to benefit from this too. Construction, there's probably going to be 50 people a day working there. Long term benefits. Families in the community their kids now that are going to Kula School they can work there. Think about that you guys. I worked their when I was a kid now I'm trying to benefit the community. So this is a great thing. It's a great thing. Yes, noise complaints, noise violations. Noise is inevitable but this is a commercially zoned property and it's been like this for almost what 60 years so this is not a new factor that people are...(inaudible)... about. So I just want to say thank you guys for your time. Thank you very much.

Mr. Hedani: Mike, how do you pronounce your last name.

Mr. Czar: It is Czar, C-Z-A-R.

Mr. Starr: Mr. Chair I have a question for the testifier.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, where do you live?

Mr. Czar: I live at 3631 Lower Kula Road and I've had friends everywhere in Kula my entire life. Went to school here, grown up here, you name it I've done it. I actually I ran out of gas right in front of your house in Kipahulu and you gave me five gallons about I'd say junior year. I would never made it to Kipahulu stepladder to go fishing if you wouldn't have given me gas. So thank you.

Mr. Starr: Did you catch?

Mr. Czar: We probably did catch but I'm going to say we didn't.

Mr. Hedani: Thank you Mike. Mr. Eric Romanchak to be followed by Susan Romanchak.

Mr. Eric Romanchak: Yeah my name is Eric Romanchak and as you can probably guess I'm related to Fred. He's my only brother. It was interesting of course to be here tonight as somebody who does not live next door to the Kula Lodge. I live in Waiohuli, but I have lived on Maui all of my life except when I was away at school and so has my brother Fred. As a matter of fact as very, very young boys our grandparents owned a considerable amount of property around the Kula Lodge and Mr. James home is now the Kula Lodge they were very close friends and I can remember when it opened and having dinner there way back in the '50's. So we've been around for a long time.

I have followed Fred's efforts for the Lodge from the very beginning when he moved back to Maui and recently of course, we talk about a lot of things but the Kula Lodge is usually one of the subjects. Clearly tonight I think it demonstrates to Fred and to the people who are working for him that the neighbors most of whom are here it looks like have a very vested interest in what goes on here and those have been well-addressed tonight I thought all very well spoken. I did have an opportunity to read Chris Hart's response to the Kula Community Association's letter about tonight's hearing and I thought his responses echoed what I was going to address briefly tonight. I don't think I need to do that so hopefully everybody has that.

I think the process from here on should be a continued dialogue obviously between the Lodge, the planners and the community to see all that can be done to abate the issues of noise and trespass and the rest of it. The suggestions of those that I've heard tonight I think have been very constructive but it is historically simply an unusual situation. You had something that started long ago. It was what it was for many years. It is a little different now and it's going to be a little different in the future it looks like and the neighborhood has grown up around it and so you have those conflicts and it's understandable. I think this commission is well aware of it. I've seen their work in the past and certainly staff has heard a lot of this throughout this process. So the efforts to minimize that I think I'm hoping anyway for everybody's sake including those of us who visit the Lodge are sort of two way confine the noise as much as possible to within and not without, do what

you can to abate the noise that comes the other way too. I mean, I've been out there and I can hear things that go on in the neighborhood too, you're just so close, there's no avoiding it. So I think the effort tonight to the commissioners is a good one for all of you to be here to hear this and I'm hopeful that the end result here will be actually an improvement over what is now rather than something that most of you fear is going to worse. So thanks for the effort and your staff too, I believe has also provide a lot of information that's very helpful to those of us who are interested in the progress of this project. Thank you.

Mr. Hedani: Thank you Eric. Next person to testify is Susan Romanchak to be followed by Steve Miller.

Mr. Shibuya: Mr. Chair?

Mr. Hedani: Question from Commissioner Shibuya.

Mr. Shibuya: Eric Romanchak.

Mr. Romanchak: Yes.

Mr. Shibuya: Kaunoa School.

Mr. Romanchak: You got it.

Mr. Shibuya: And your mother was a teacher there.

Mr. Romanchak: You're absolutely right.

Mr. Shibuya: Not creditable speaker then, no I'm kidding.

Mr. Romanchak: Thank you.

Mr. Hedani: Sounds like a Kaunoa alumni. Susan Romanchak to be followed by Steve Miller.

Ms. Susan Romanchak: My name is Susan Romanchak as you might guess I'm Fred's wife. I want you to know I spent a quarter of a century with him taking care of the Kula Lodge before I married him. I've been through all of it and I can tell you that everything Fred has done he does because he truly cares. He really cares. He really loves the Lodge more than any one of you could possibly imagine except for me because I've been going through it with him.

And these plans that he's done he's put so much care and thought into it. And Pip and Fred grew up together friends for life. It's a lot of care. These people are born here, raised here, love Maui and love Kula and yes it is a commercial area. It's going to be there, it's going to be commercial and these plans is trying to make an improvement of what Fred already does have that is approved. He already does have approval for 15-unit hotel. It's already been approved same spot just different design and this design was to make it so it would be quieter and that it would be better for everybody for the people who come to the Lodge as well as for the neighborhood but it does exist

in the neighborhood and your concerns that you have and some of you really feel the Lodge is a noisy place, with this building it would help with the noise. It would also help with the noise from the neighborhood that comes to the Lodge and I'm the gardener so I hear you guys too all the time. I know lots of things about you too and there's weed eaters and there's mowers and there's blowers, there's the buses that start at 4:00 a.m. It's not really a real quiet little place. It's dense. There's a lot going on around the area. This was what Fred came up with after 26 years of taking care of all the concerns and cares of the place that he thought would be the very best.

If all of us went home tonight with an assignment and everyone draw up what they think would be the best plan for the Kula Lodge and we all brought it back here tomorrow night don't you think everybody would have a different plan and could we all ever totally agree on everything? I don't think but I can tell you this much Fred cares more than everybody and it comes from his heart. Thank you very much.

Mr. Hedani: Thank you Susan. Steve Miller to be followed by Dick Mayer.

Mr. Steve Miller: Hi I'm Steve Miller and I live at 590 Hopapa Road which is about a mile from the Kula Lodge and I would like to speak on behalf of a broader constituent as opposed to being a next door neighbor because I'm not a next door neighbor. Where I do live I can hear my neighbors that are probably a quarter of a mile away and I just think that that's a fact of life but I stayed at the Kula Lodge for my honeymoon back about 40 years ago and it was including a trip to Europe probably the best experience that we had. I think that it's an incredible – the ability to have a place like that but to improve it to where it's a very high quality boutique hotel lodge is going to be a major attraction for tourism combined with trips to Haleakala. And if anybody knows, I mean you all know what's going on with the economy here on Maui and the fact that we just don't see tourists any more it's going to be bring a higher recognition to the quality of upcountry Maui. It's a whole different experience that a lot of people and particularly repeat visitors don't get but could get. I just think it's good Maui. I think it's good for the quality of Maui it's going to become a more known place and if it was my neighborhood at the end of the day because the quality is improving 10 times over what it is there now I think it will improve the value of the neighborhood and for sure noise mitigation is an issue but I know Pip White as well and his whole design philosophy has been and is now environmental design and quality design. So I think between the Romanchaks which are Maui people and love the place and have a commitment to it the neighborhood could never be better off than having this kind of a redevelopment. If it was some other owner or a foreign owner or a mainland owner or something like that with the zoning that it has and the rights that it has to build I think the community is basically going to benefit by this. So thank you very much.

Mr. Hedani: Thank you Steve. Dick Mayer to be followed by Ron Montgomery.

Mr. Dick Mayer: Thank you Commissioners for coming up here. Ron Montgomery and I will be going together. Using our time together we're going to go back and forth a bit. I'm the Chair of the Planning Committee of the Kula Community Association and Ron is the Vice-President of the Kula Association. Although we are both Kula Community Association board members we are speaking tonight as individuals since the whole KCA board has not had time to respond to either the Planning Department staff report or the very late response by the applicant to the KCA's boards comprehensive and detailed January 11, 2010 letter. The Kula Lodge Response was finally sent earlier this week only after being prompted by the Planning Department staff. The Kula Community

Association board worked very hard to develop its recommendations based on considerable input from our community particularly from residents in proximity of the Lodge, project district. The KCA board suggested that additional recommendations be added to address the multiple and very significant actions being proposed by the applicant among these include the following.

These are some of the actions they're actually suggesting, demolition of the existing units, additional second story, additional lodging units, the idea that lodging units may be condominiumized and not kept under the control of a single property owner and the art gallery to be relocated. I would urge our attorney who's present here today, Mr. Giroux to look at the question of whether this application is allowable since the 19.75 very clearly states that the restaurant has to be in an existing building, the art gallery in the existing building and they're saying they're going to demolish it. So I believe it may be inconsistent. I think the planning commission will want a ruling on that.

Because the applicant was so late in responding to the KCA board letter we feel that your staff was unable to complete, complete making – the department's usually very thorough recommendations instead of relying almost entirely on the year 2000 recommendations which was a very different project as we've already heard from the applicant. We feel that the recommendations now before the commission are out of date and insufficient. Therefore we wish to suggest the following modifications to the staff conditions, please – plus some needed additional recommendations.

Mr. Ron Montgomery: Good evening I wanted to take just a moment to make a clarification. It's really important for the –

Mr. Hedani: I'm sorry, Dick are you concluded with your testimony?

Mr. Mayer: No, we're just taking six minutes ...(inaudible - not speaking into a microphone)...

Mr. Hedani: You have three minutes to conclude and then Mr. Montgomery will have three minutes to follow you. Go ahead. Finish up.

Mr. Mayer: I was hoping that we would be allowed to that because it was the board position up here that has been mentioned so often.

Mr. Starr: Mr. Chair?

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yeah, I'd like to request if we could accommodate them and give them some extra time as well because they are speaking for the Kula Community Association which has – had countless meetings on this and done countless work and I really think that we should be a little more flexible with them.

Mr. Hedani: Once the last person has testified maybe we can go back to any questions that haven't been covered.

Mr. Starr: So you'll let them come back after the last testifier?

Mr. Hedani: They're indicating that they're testifying as individuals tonight. Dick if you can finish up.

Mr. Mayer: Ron is going to cover the condition. If our recommendations need to be better evaluated and worksmith by the Maui Planning Commission than you could do tonight then we ask that the commission take up this matter at a subsequent meeting after you get staff input on both the testimony which you have heard tonight and after getting the department's response to the late reply by the applicant to the KCA letter. In there there's an item that's totally new and that is that they're suggesting that these units could be condominiumized. That has all kinds of implications because one of your conditions states something about that if there's a change of ownership the department should be notified. Well, if there are many multiple owners each one of them will have to do it and it gets very messy. So please take good care before you approve this project and make sure that all the i's are dotted and the t's crossed. And are there any questions?

Mr. Hedani: Thank you very much Dick. Commissioner Mardfin.

Mr. Mardfin: Dick, aside from the issue about notifying the Planning Department if there's a change in ownership, do you see any fundamental difficulty with somebody buying a unit. I'm not talking about time share but if somebody bought a whole unit is there functionally a different problem than if they just put visitors in there?

Mr. Mayer: That would change it from a hotel to apartments. In other words, somebody then would be a long term, that may be beneficial that they have much more – much stronger vested interest but it's not a hotel then. If each person is buying it they may live there permanents, there may be neighbors in that same building, in the next apartment where they condominiumize it and they may be renting it out to transient people everyday to a different person. It would create a whole different type of a project than what was originally intended which was a retreat resort and since I was on the upcountry community plan, the vice-chair of the citizens advisory that wrote the words retreat resort what we intended was that there will be something that would be compatible with the neighborhood and you can read that in the language that we proposed and this will change the project and perhaps make it not compatible with the type of idea that a retreat resort would be because you would have some permanent residents. You may eventually have it all apartments and you set up a whole new precedent in Kula something that we did not want was apartment complexes and that would be a first apartment complex essentially if it was all condominiumized and that's in the letter that we received this week from the applicant. No. 15 in his letter.

Mr. Mardfin: Thank you.

Mr. Hedani: Additional questions from the commission? Commissioner Starr.

Mr. Starr: Yeah, Mr. Mayer you gave out some revised conditions, I believe you tried to make them compatible to the way conditions are written, you took the ones that were approved. If these were added in as you wrote then would then you be in favor and feel that they would ameliorate your concerns?

Mr. Mayer: No. The Kula Community Association has not taken a position nor am I for or against this project. What we said was and our association did not take a vote for it, and what we thought was we would like to express some of the opinions of the board and particularly the residents in the area of their concerns and how those concerns could be addressed. So I'm not going to answer the question are we in favor – am I personally or is the board personally in favor or opposed to the position. If these conditions were implemented it would make it better but other issues came up tonight that we hadn't thought about, the construction trucks on road such as Kimo Drive a very windy road with school buses go up and down in the morning and in the afternoons there would be a real serious problem there. Another problem that came – that I hadn't realized until I was the detailed diagram was the narrowness of the roads within the project and where the beer trucks which deliver things could even maneuver in that very small parking lot or if a fire truck had to get down to the Lodge building whether it be easily able to get down to the Lodge, these are concerns that we don't even address that are additional that I hope the planning commissioners raise that in their own mind.

Mr. Hedani: Thank you very much Dick. Ron Montgomery to be followed by Steve Parker.

Mr. Ron Montgomery: So thank you for the opportunity to address you. I wanted to follow up on the point that you asked about in favor or not. I would like the record to be changed that our letter was – should not be classified as favorable but rather as neutral if it needs a new category. It's important for us to remain neutrality in issues like this. So we would appreciate that. I can't – there's no way I can go through all of the recommendations that we've made but there are a couple of sections here.

The first one are modifications and word changes in the recommendations that the staff has made. I won't go through those but that's the first section. I did want to talk a little bit about the needed additional conditions. You heard a lot tonight about some of the issues that people are concerned with probably the biggest one is noise and people have solutions of trees and walls and so on. Our recommendation is a competent acoustical engineer be consulted and come up with real life scenarios so that noise could be measured and recommendations be made to solve this is probably the biggest issue that we've encountered.

In addition as was mentioned before the response from the applicant has stated that the restaurant and bar should operate until midnight, we believe that it should be shut down or closed down around 10:00 p.m. so that people can leave at a earlier time in consideration of the neighbors.

Item no. 5, we believe that the applicant's response letter they said it would be enclosed with a trellis. We think that that probably isn't enough for noise abatement and they ought to look at totally enclosing it or putting some sort of a sound barrier there.

Item no. 7, again, the applicant's response talks about windblown debris but you've also heard tonight about beer bottles and so on. So they need to consider debris going into neighbors yard beyond just windblown.

Item no. 11, storm water. This may be poor wording on the applicant's response but on Item no. 14 of their letter they refer "to project generated storm water." I don't know if this means

construction or to the finished project but there needs to be storm water mitigation even after the project is completed so it doesn't affect the neighborhood.

Again, the applicant talks about buses parking in their parking lot. We heard about parking tonight. We think it should be explicit that there is no parking on the highway at all. There needs to be controls over that.

And also, one more point, may I make that?

Mr. Hedani: Go ahead and finish up Ron.

Mr. Montgomery: Okay, thank you. The last point I wanted to make is no. 14, the applicant refers to a highway traffic study. There's no reference to a date we believe that that should be a current highway traffic study that takes into consideration the size of the project and changes in the highway traffic. Thank you.

Mr. Hedani: Thank you very much.

Mr. Shibuya: Mr. Chair, I have a question.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Ron, can you elaborate on some of your other points that you did not mention?

Mr. Montgomery: To be honest, those were the ones that I thought were most germane. I appreciate the opportunity to elaborate on, but in the sake of time there have been a lot of people who've addressed these things. I would also point out that the applicant's response does cover some of these things and that would be my other point is that in addition to the recommendations that we've made we'd like you to take a look at the applicant's response letter and make sure that the things that they've committed to that are in accordance with the recommendations we've made be included in the conditions that this commission considers.

Mr. Hedani: Thank you Ron.

Mr. Montgomery: Mahalo.

Mr. Hedani: Steve Parker. Steve is the last individual signed up on public testimony but we'll make a last call for any additional people that would like to testify.

Mr. Steve Parker: That you very much Commissioners. My name is Steve Parker and I was born and raised here in Hawaii and moved to Maui in 1972 on Pulehuiki Road and I've lived through a number of tenure of Kula Lodge and the best or the worst was Mary Costa because you could hear the rock and roll music in my house a mile and a half away. I think the management of the Lodge under Fred has been a lot, lot quieter as far as my experience being about a mile and a half away. So I think the operation of the business is going to go a lot to mitigate the noise factors whether there's new equipment put in and new designs and a lot of other things. I know that this zoning that

was put in place by the James was – I'm an appraiser also, let me back up, and so I've been appraising here on Maui since 1972 also and this tract of zoning is an urban zone about a hundred acres went from Upper Kula Road down to Lower Kula Road and it was the strangest piece of zoning. I don't know how it got created but during its – the tenure of the Kula Lodge the subdivisions that were created around it were created under the interim zone which were 6,000 square foot lots or if you had a 12,000 square foot lot you could put a duplex. So there's a lot of strange types of homes in the Aina Kula Subdivision and the lots were down as low as 6,000 feet and there was a function of this zoning and then Kula Malu came into effect and they finally passed zoning that minimum 10,000 square foot residential lots but this whole tract is probably the strangest zoning I've ever seen in the State of Hawaii and it goes back to the late '50's, early '60's but to get back on the track here, I would rather – I look at Kula Lodge in a larger context, farming has changed in Kula, most of – a lot of farms are out of business. I took care of the carnation farm next to me for a while, but a lot of these farmers are trying to figure out how to exist and it's value added. You can look at Alii Chang selling extra stuff, Masa Uradomo pickling onions to stay in business and stay in farming and the Kula Lodge is going to be a focal point for all of that kind of business that is growing up around the farming industry as it is changing as we see today. Million plus people going to the top of the mountain right past the Kula Lodge, it's already a commercial, a huge commercial activity at the top of the mountain that the federal government runs. So in the larger context of Kula I believe that the Kula Lodge as it's designed and as it needs to be expanded is going to be good for the community.

Mr. Hedani: Thank you Steve. Are there any other individuals that haven't signed up that would like to testify at this time. If you could please step to the microphone and state your name for the record and then sign in on this sheet when you're done.

Mr. William Crockett: My name is William Crockett. I live on Lower Kimo Drive, 900 I believe the address is. I moved to Lower Kimo Drive in 1959 that's about 50 years ago. I wasn't planning to testify but having heard everything that's been said tonight I think I would like to make a couple of very brief points.

Number one, when I first moved to Kula, whenever we had a few dollars extra we'd go up to Kula Lodge and would have dinner and at that time it was owned by Frank James and as Steve has pointed out, Frank James was the fellow who subdivided that land. At that time it was known as James Tract. And it was Mr. James vision that Kula Lodge would serve as a focal point for the people who lived in Kula and I think it served that purpose very well and I think that the plans that the Romanchaks have will enhance.

I still go to Kula Lodge quite frequently for dinner. Very rarely – very frequently I run into somebody who's a friend of mine and Kula Lodge really serves that useful purpose for Kula and so when you look at this I know the statement's been made that it enhances tourist activity on Maui and that's important but I think more important for the residents of Kula and I appreciate the impact of this development on the people who live in that surrounding area and I'm sure that in your handling of the application and the imposition of conditions you can ameliorate the adverse impact that they've talked about. I certainly appreciate what they've said. I, of course, live further down the road on Lower Kimo Drive, but I think when we ought to look at this in a broader context as a couple of people have already pointed out not only from the point of view of tourism and not only from the

point of view of the employment that will be generated by that project but look at it in terms of the Kula community itself and I think the idea which is now passe that in zoning and in planning you have certain discrete areas and you mark off a block and you only have residents and you don't have any commercial is gone by the boards. And I think we now recognize in planning that in order to have efficient communities, livable communities you've got to have commercial activities within residential areas and it's these commercial activities not big giant Walmarts but small commercial activities like this I really think of this character it enhances the livability of people in that area. So I would ask that you take a broader approach to this.

Ms. Takayama-Corden: Three minutes.

Mr. Crockett: I'm all finished. Thank you.

Mr. Hedani: Thank you Mr. Crockett. Question from Commissioner Starr.

Mr. Starr: Yeah, I have a question for you. Would you finish up?

Mr. Crockett: ...(inaudible – not speaking into a microphone)...

Mr. Starr: I had asked you what else you had to say.

Mr. Crockett: I beg your pardon.

Mr. Starr: I asked you what else you had to say to finish up.

Mr. Crockett: No, I was really – you know I like to talk and sometimes you gotta put a period and a dot there and I was about to put that period and dot.

Mr. Starr: I was enjoying your testimony, thank you.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Mr. Crockett, I do have a question for you. You mentioned that you fairly frequently go there for dinner.

Mr. Crockett: Yes I do.

Mr. Mardfin: What time would you go?

Mr. Crockett: We usually go fairly late, that's our life the way we organize our lives. We usually go there at about I'd say about 7:00 p.m., between 7:00 and 7:30 in the evening stay until about 8:30 maybe 9:00 p.m. We're usually the last among the last to leave.

Mr. Mardfin: So 9:00 p.m., you don't see any particular value to the neighborhood of having it open till midnight or anything like that.

Mr. Crockett: Well you'd have to ask Mr. Romanchak there. Don't misunderstand me I'm not taking a contrary position about the noise but I've always found it to be a very quiet place, I mean this goes back from 1959 when Frank James ran it until the current ownership. I've never found any noisy people there and mostly when I am there at night it's local people night. I realize that during the daytime they have tourist there. I understand that. I'm never there during the daytime but I'm there just in the evening.

Mr. Mardfin: In the evening it's mostly local people and at 9:00 p.m. you're closing it up ...*(inaudible)*...

Mr. Crockett: And then mostly very much local people. I mean, very local people.

Mr. Mardfin: Thank you very much.

Mr. Hedani: Okay, are there any other members that would like to testify and state your name for the record. I need your name and your address.

Mr. Zachary Bailey: My name is Zachary Bailey and I've been on Maui for 36 years. I live in Keokea, so I'm still in the Kula area. Just case in point, Keokea has a community center that especially during the summer time is very busy. Sometimes it goes until 1:00 a.m., guys are singing and playing music and you can hear that throughout the area and I'm right above Keokea Park. You know we, you know some nights you're like oh wow, it's – I wish these guys would go to bed but you know, it's part of the physical makeup and just the style of living sometimes. Kula Lodge doesn't compare with that because they just don't have that kind of style about the you know, atmosphere there, but that all being said I can be long winded too so I'm going to try and cut to the chase here. Good evening Commissioners and fellow Kula residents, my family and I have all lived here on Maui so I feel we represent everything here as best we can and it's always good to see a community in any of these situations or planning, planning of growth and voice their concerns.

We've known Fred and Susie Romanchak for many years and we've watched them struggle to keep this Lodge standing at least in the time that I've known them and watched them daily, you know, in the gardens around the structures trying to figure out how to physically keep it together and keep things up to code and we're licensed general and plumbing, mechanical, electrical contractors, family owned, we're small but we do hold all of our licenses so Fred has depended on us for many years. Whether the new Lodge was built or not we would always have work there because it's always been you know, held together but with the best standards that you know it can be. I really feel that these structures need to be upgraded and I think the current plan shows sensitivity to that. I've watched these plans grow over time and the way that the structures are set, step back toward the mountain, the slope, I think that well the community has many concerns that should be addressed or discussed. There is a sensitivity that's been going on here along with trying to keep this business alive and viable and a good, solid attraction for people coming up the mountain and going down the mountain to the crater and exploring the area and now creating a more of a holistic environment as well. The points that the community has a surrounding community those are things that you all have to come together and try to figure out a way to balance out. But this structure, this property this commercial venture was here long before this housing subdivision around it was really in motion or being or brought to the point that it is today and houses were built upon each other

throughout that subdivision so growth does happen. Anyway, thank you for the opportunity.

Mr. Hedani: Thank you Zackary, if you could sign in on this sheet please. Are there any other members of the public that would like to testify, please step to the microphone and state your name for the record. Individuals who have not testified previously.

Ms. Lynn Hollingsworth: My name's Lynn Hollingsworth and I have been doing – I'm a small business here on Maui and I have been at the Kula Market Place since it opened five years ago. I have seen – I feel very positive about Kula Market Place and the restaurant and I feel it's an addition to our community. And I know Susie and Fred and I believe they will take deep consideration into the concerns of the community about noise and work with the community to help as much as possible since – you know, I've been on Maui 36 years all those houses really they weren't up there when I moved up there so long ago. So we have a whole new situation on the mountain that didn't exist when the restaurant was created you know at least 60 years ago that I know of, you know. Could have been before that I'm not sure.

So any way, I know the concerns. I've listened all evening long to the concerns of the people that live in the neighborhood but I still think it's doable. I think you can work together. Because there is really lovely plan and I'm hoping you'll consider for the business community because there's many people that live here on Maui that have their products there and the tourists that come off the mountain from Haleakala they love to come there. I know, I've been there five years and I've listened and there it's a positive, it's never been negative. I've never heard one negative thing. It's all oh, we love coming here, it's such a positive experience. They like to eat next door. So that's many tax revenue for county. We need that right now. So that's all I have to say. Thank you.

Mr. Hedani: Thank you very much Lynn. If you could sign this sheet with your address please. Are there any other individuals that would like to testify at this time? Seeing none, public testimony is closed. Staff recommendation or report?

Mr. Starr: I have some questions for staff.

Mr. Hedani: Paul do you have a presentation or a report?

Mr. Fasi: Yes, I do. On May 8, 2000, the Maui Planning Commission granted the applicant Project District Phase 2 approval. The recommendations in this current recommendations report are the conditions that were approved in 2000. So notwithstanding what the KCA said about the department's recommendations and not having enough time to have them reviewed, it's been 10 years and these conditions have been on the record for 10 years.

Chapter 19.75 this Project District 1 Kula, the purpose and intent of the Project District 1 at Kula, Maui is to establish permissible land uses appropriate with standards of development and specific allocation of building area for hotel and commercial uses within the defined project district. This is an ordinance that was adopted in 1989 and amended in 1996. The Project District 1 in Kula is specific, specially designed for the Kula Lodge.

The permitted uses within the Project District 1 include the following uses hotel, commercial,

restaurant including outside dining area, a produce and gift shop, art gallery, a produce and co-op farmers market. This was an ordinance that was passed by the County Council and amended in 1996.

As far as zoning is concerned the State Land Use District is Urban. The Makawao-Pukalani-Kula Community Plan is Project District 1. The County Zoning is Project District 1 Kula. It is not in the special management area. The surrounding land use are in the north, south, west and east are single family residences.

The conditions in the recommendation as I said mirror the conditions that were approved in the year 2000 with the exception of the added conditions that the Urban Design Review Board added to it, Condition no. 22 and there are recommended conditions that they have suggested the commission incorporate.

So basically the department feels that the design of the Kula Lodge has been gone over again, and again and again. We're confident and we feel comfortable with the design. We feel that the applicant is making a concerted effort to be a good corporate neighbor and do all he can you know, short of putting up a 20-foot CMU to keep the noise in and make it a compound we feel confident that he's making efforts to address the noise. I can appreciate – we appreciate the impact that the noise has on the surrounding community but we also feel that he is trying to address it with as much effort and honesty as he can. So the department is going to support the development and redesign of the Kula Lodge. Thank you.

Mr. Hedani: Does that summarize your report Paul?

Mr. Fasi: That concludes the department's report. Correct.

Mr. Hedani: Okay, questions for the staff or the applicant at this time. Commissioner Mardfin.

Mr. Mardfin: I've got a number of things but let me start off with maybe, with one that's been recently raised. The Kula Community Association was concerned about the potential to condominiumize and sell off rooms on a permanent basis. In Chris Hart's response to that he said the 15 hotel units will function as traditional units and the applicant has the right to condominiumize and market the property accordingly. Does the department concur with that?

Mr. Fasi: The department does not concur with that. The project district ordinance says hotels. A condominium is not a hotel. If you were to condominiumize he would be in violation of the zoning code and that would not be allowed.

Mr. Hedani: Additional questions?

Mr. Mardfin: Can I follow up?

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Would it be appropriate to put a condition in to emphasize that fact because evidently

Mr. Hart is interpreting it as not happening that way.

Mr. Fasi: The conditions belong to the planning commission and you may change and modify them as you wish.

Mr. Hedani: Any additional questions? Commissioner Starr.

Mr. Starr: Yeah, what is to prevent it from being – shares being sold as a time share?

Mr. Fasi: There is no wording. The ordinance does not address time shares. There is no wording saying the word time shares. It just says hotel and in the context of a hotel normally it's the traditional historical interpretive definition of the hotel and that would not include time shares. This could be further addressed by Corp. Counsel and I'm sure that time shares would not be allowed in the project district.

Mr. Hedani: Commissioner Mardfin.

Mr. Mardfin: Second issue. The Kula Community Association seemed quite concerned with the office building and the commercial aspects of that. And they were concerned that it be whatever uses there be, be consistent with whatever concept or retreat resort would be and they use some examples that I'm not sure I'm going to find it but a space for yoga would be okay but not for real estate office, meeting rooms but not a bank, spa but not a hardware store. When I read your report that you – reading from your report on page 5 you read commercial and you read restaurant, produce gift shop located within the main lodge, art gallery, produce co-op farmers market. Those seem to be within the definition of what was originally planned by the Kula Community Plan and yet, Mr. Hart's response no. 18, the office commercial uses will be clearly incidental to and customarily found in connection with the permitted principal uses hotel, commercial and produce co-op. I'm not sure that that would rule out the kinds of things that the Kula Community Association was concerned with. Would you give me your interpretation of – what you have on page 5 seems within the limits of what Kula Community Association wanted. What Mr. Hart's response was looks like it might wiggle around those things maybe.

Mr. Fasi: The Planning Department is tasked with the public's trust and in that trust we're here to enforce the rules and regulations of the ordinance. The project district ordinance is very specific in its rules and regs and very clear although it does say commercial the – what is considered a business as incidental to hotel use is a real estate office incidental to the hotel use, no it's not and clearly the Planning Department would not approve any other commercial uses that are not in the similar use and benefits to the hotel industry in general. Did I answer your question?

Mr. Mardfin: Basically because you – if this were any place else, if this were Kihei and you said commercial lots of other things would be available, but this particular zoning for this particular Project District 1 listed commercial and listed three specific things as what would be in there and if that's a limiting factor if this project district has put further limits on it than what we generally consider commercial on the rest of the island then if it's limited to these things and it seems to be within the – meet the concerns of that the Kula Community Association seem to have. Thank you.

Mr. Fasi: Because it says commercial that doesn't mean that the applicant or the owner has carte blanche on putting any kind of commercial business in there that he deems is appropriate. It is clearly not appropriate of some uses to be there while others are and the Planning Department is tasked with monitoring what goes in and what stays in the project district. And clearly some uses are appropriate while others are clearly not. So I would have to disagree somewhat with Mr. Hart's interpretation.

Unidentified person in audience: I have a question –

Mr. Hedani: I'm sorry, public testimony is over at this point and we're in the question of deliberation on the staff recommendation.

Unidentified person in audience: I just wondered if anybody looked at the floor plan on –

Mr. Hedani: I'm sorry, sir, I'm sorry sir you're out of order. Any additional questions from the commission for staff? Commissioner Starr.

Mr. Starr: Yeah, the owner wanted to sell these units either as condos or as an interval ownership or a vacation club or any other type of kind of scheme to extract the capital or if they wished to put in other types of commercial uses what process would they have to go through?

Mr. Fasi: Okay, let me perfectly clear, those uses would not be allowed. He could not condominiumize, he could not put a time share unit in there it is a traditional hotel just like the Grand Wailea, just like the Four Seasons it's a hotel nothing more, nothing less. There is no creative interpretation other than a traditional hotel for this project district that would clearly not be allowed.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Many of the premier hotels on Maui have sold condominium units or converted to time share so I want to know what the process would be – I'd like to hear the director tell us this.

Mr. Hedani: Jeff or Jim.

Mr. Hunt: Could you repeat the question Mr. Starr?

Mr. Starr: Yes, Mr. Director. If the owner wished to sell these either as condominiums, either as vacation club or any interval ownership time share or they wish to put in commercial uses that were not kind of in that category as regular hotel uses what process would they have to go through before they could do it and are those indeed illegal under the project district?

Mr. Hunt: The project district specifics commercial uses says restaurant, produce gift shop, art gallery, co-op farmers market and then it says accessory uses which are clearly incidental and customarily found in connection with the principal uses so there is some leeway there but they would have to be customarily found in conjunction with the principal uses. The ordinance goes on to discuss special uses and they would require a special permit.

Mr. Starr: And so say a car repair, gas station.

Mr. Hunt: Well, unless it found to be primarily for the hotel guests or for the operation of the hotel I don't see how that would be allowed.

Mr. Starr: Primarily or solely?

Mr. Hunt: Accessory commercial uses providing services primarily for hotel guests.

Mr. Starr: So in other words they could do it as long as there's one hotel guest that fills up their car with gas there along with the rest of the public.

Mr. Hunt: Primarily is generally viewed by the Planning Department to be a majority.

Mr. Starr: And how about the condo, time share, interval ownership thing?

Mr. Hunt: Well, lets try and break it down, they're different. So the first one is you want to know whether they can condominiumize the hotel.

Mr. Starr: Yes, sell the rooms.

Mr. Hunt: With no change to the rooms, so just the ownership.

Mr. Starr: Yeah.

Mr. Hunt: My interpretation is there's nothing in here that says you cannot change the ownership or sell the individual rooms themselves, but we can explore that and get back to you with further information.

Mr. Starr: Okay, the new owner 20 years from now wants to sell each of those 50 times or it becomes part of the Marriott Vacation Club so it's kind of a interval ownership.

Mr. Hedani: Jim, do you want to make some comments on this?

Mr. Giroux: This is a very complicated issue when we're using a bill that's specifically for a project district. Usually zoning does not operate under the auspices of ownership, however, being that the project district is a unique type of zoning where the use is clearly delineated I can see the department taking a position if it wanted to maintain a certain character or saw that the type of ownership actually affected the use meaning that unique impacts were seen that were needing to be mitigated such as you know multiple ownership, density. When looking at the bill overall you can see a certain feel. I'm looking at Ordinance No. 2494 where it delineates the Project District 1 as Kula it clearly says that it's – this project district should primarily contain retreat accommodations that provide a restful and quiet experience in an isolated location. Existing restaurant and hotel use shall be allowed along with other limited expansion for the hotel related uses. I can see the department taking a position that it's – it doesn't allow for the use of condominiumizations or time shares. Also when you look at the use within that district it says 15 lodging units and one

caretakers unit under the auspice of hotel, hotel use so – I think the department could take a reasonable position that's not to say that there wouldn't be controversy surrounding that if somebody were to attempt that.

Mr. Hedani: Any additional questions? Any additional comments? Jeff.

Mr. Hunt: The issue of condominiumization versus time share versus apartments versus hotel is somewhat complex and it's not helped by our somewhat archaic zoning ordinance. The department – if you're really concerned about it we should probably research that, sit down with our attorneys in a room and hash it out and come back with a well analyzed answer. If the consensus of the commission is that you don't want to do that I believe it's within your power to merely condition the permit to say that no condominiumization is allowed. You should make some findings as to what is your basis for doing that, what are you trying to address but I believe it's within your authority to merely prohibit that if that's the concern. We can skip the analysis if that's where you want to go and your legal counsel may correct me if I'm wrong.

Mr. Hedani: Legal counsel agrees. Commissioner Mardfin.

Mr. Mardfin: I haven't been in any of the Kula Lodge rooms. Do they currently have kitchens? Can somebody, Chris can you answer that?

Mr. Fasi: Paul or the applicant. Chris?

Unidentified person in audience: No.

Mr. Mardfin: They do not. And on Exhibit A-16 that we have here it appears to me that everyone of these apartments has a kitchen. Is that consistent with what is normal for a hotel room particularly if there's a major restaurant attached to the Kula Lodge.

Mr. Hedani: Chris would you like to address that?

Mr. Hart: Yes, I'd just like to say that it was brought up by one of the other commissioners. There are several hotels that are suite hotels that do have kitchens. You know it's not, it's not prohibited that a hotel would not have kitchens in the room. And the point is that those individual units are rented out as hotel units but they do have kitchens. The Kea Lani is a great example of a suite hotel, it's called the Embassy Suites it was originally.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: I'm not an expert in the tourist industry but in my personal opinion I believe condominiums are a lesser intensity use than a hotel. A hotel you have occupants changing as frequently as a daily basis. In a condominium you may have short term rentals, three-day minimums, a week, you may have long term rentals and in time shares, you know, time shares have lost their bloom and they're presold. They could sit empty 52 weeks a year and whoever sold those time shares already made their money. So I'm not sure that time shares is that big evil that you're worried about. I think hotel is the highest use and anything beyond that is actually a lesser use.

Mr. Hedani: Additional questions for staff? Commissioner Shibuya.

Mr. Shibuya: I'm concerned in terms of control and managing. The community has spoken in terms of very irritating pollutions and one of them is of course noise. If you don't have the management of it and you have time sharing or you have condos this becomes a problematic issue. How do we control, how does the owner control this sort of community input or attend to the community inputs.

Mr. Hedani: I'm sorry is that question for staff?

Mr. Shibuya: Yes.

Mr. Hedani: Paul.

Mr. Fasi: What was the question?

Mr. Shibuya: When you have other than the hotel, you have guests that if they misbehave or they not follow the rules then you can dismiss them, but when you have condos and you have interval ownership, time sharing that type of arrangement, how do you manage the person who's staying there and their behavior and their impacts upon the community?

Mr. Fasi: I represent the Planning Department and we're tasked with interpreting the zoning code as it pertains to projects and we're not tasked with monitoring guest behavior so I don't have an answer for that commissioner but let me add this to the conversation. In Chapter 19 there is a chapter in there called definitions and in the definition there's a definition for hotel, there's a definition for time share, there's a definition for condominium if the intent of the ordinance was to include those uses they would have specifically listed those uses but they did not. The only use they listed was hotel.

Mr. Hedani: Chris did you have any comments that you wanted to add?

Mr. Hart: I was just going to say that in the context of the hotels you know I referred to and this particular hotel the use is hotel use and it would be operated as a hotel. Each unit is 850 square feet and that's according to the ordinance, there are 15 units and the operation would be as a hotel.

Mr. Hedani: Thank you. I know we can on jawboning this thing all night long but what I'd like to do is actually get the staff recommendation and get something on the floor so we can either discuss it up or down or make amendments.

Mr. Starr: We have some questions Mr. Chair before we do that.

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

Mr. Mardfin: This is a change of topic as you'll be happy to know. In Exhibit 20 we have an email from Paul Haake who is Captain of the Fire Prevention Bureau, and he says, "our office is concerned with water supply for fire protection, fire apparatus access. Office agrees with the Water Department Exhibit 21." I didn't find that Exhibit 21 so I don't know what the Water Department

said, "that the water system in this area may not be capable of providing sufficient fire protection for the proposed use." We're also talking about a pool which doesn't exist, we're talking about, I understand, you guys can correct me that water is somewhat scarce in this neighborhood and I guess I have some – I don't what my question is even but some – if somebody could generally call or somebody address the issue of water and water availability and that does to this whole project it would help me understand what's going on.

Mr. Fasi: What Captain Haake is referring to is the Department of Water Supply's requirement that the applicant submit fire flow calculations in order to determine how much water to bring to the property. That's a standard condition. I had to go through it. The Fire Department is maybe reluctant is too strong of a word to review these types of projects at this stage. They do review them when the time is proper for them to get there and physically inspect the structure and so that does happen. It is actually a benefit to the neighborhood that that pool is there because it's used as a reservoir for water.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Question for the applicant. On the proposed building design on your third floor I could not tell are you proposing balconies? I guess those are what do you call those things, stick out of the roof?

Mr. Hedani: Mr. White.

Mr. White: Yeah, I'm Pip White.

Mr. Hiranaga: Those dormers, are you proposing?

Mr. White: No, the dormers – the dormers if you look on the handout from the Planning Department I think it's A-18 it shows the floor plan and there's a four-foot deep lanai off of each of those dormers I think and it goes the width of the dormer. So it's not wide enough to really get – I mean do a lot of stuff on. Did I answer your question?

Mr. Hiranaga: So the answer is yes.

Mr. White: Yes.

Mr. Hiranaga: Okay, thank you.

Mr. Hart: Mr. Chair?

Mr. Hedani: Additional questions?

Mr. Hart: Mr. Chair.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Thank you. You know, I like the Kula Lodge I've had good times there and I feel that it's really a kind of a service to the community but I feel it's a service to the community as a hotel you know it does provide jobs, it does provide a place for people's relatives to stay and kind of helps build up the neighborhood. There's part of me that's concerned that this looks like it is being designed at least with the flexibility to be condominized or time shared or vacation clubbed or something like that which I don't think will be the same asset to the community. And I also don't believe that the project district wording is really enforceable that it's something that you know, five years from now it would stand in the way of that. So I would like to ask the applicant whether they would, and if they, you know, their sole intention is to run this as a hotel it should not be a problem if they are – have any problem with conditioning it so that the sole use without further process before this commission is to operate it as a hotel without sale as vacation club or condo or anything mechanism other than as a hotel whether they would be willing to accept that.

Mr. Hedani: Chris.

Mr. Hart: I think it's something that the owner should respond to.

Mr. Hedani: Mr. Romanchak.

Mr. Fred Romanchak: The intentions always have been to run the Lodge as a hotel. One of the biggest problems has always been these years is that we just have these five rooms that were built in the early '50's single wall construction and we have a lot of disappointed guests on that account. It's been one of the driving forces to go to this extent, to build these rooms out to answer the real needs of the guests who want to stay at the Lodge for longer periods of time but do not have the amenities to have them feel comfortable meaning right now you stay at the Lodge, there's no television, there's no telephone, never has been. And the problem is the noise factor from the highway, parking lot and the neighborhood and so the whole reason of building these lodge units is to insulate the guest and the whole intention has always been to run it as a hotel.

But I also feel that that property Kula Lodge should have the flexibility to condominiumize it if it needs to be or should be and I'll explain the reason for that. The situation might be the restaurateur coming in to operate would rather own the building as opposed to being a tenant. It's still going to be run as a restaurant. That's my case in point. So what I'm saying that the flexibility should be there as in any hotel zoned to be able to if need be condominiumize it for individual ownership of the different buildings. There could be a spa operator that says sure I want to operate the spa but I want to own it and I feel as an owner I should have the flexibility to do that but the entire property would continue to run as a project district 1 Kula Lodge Hotel.

Mr. Starr: And how about the guest rooms. Would you have a problem with limiting the guest rooms to hotel use only?

Mr. Romanchak: I would have a problem with that for those very reasons, but – and I would like to add to that and that is this is that it would continue to operate as a hotel whether it's a condominium or not. And you've seen this done in other hotels. There's no reason why it cannot continue to operate as either or a condominium or not.

Mr. Starr: Thank you. The cat is out of the bag.

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

Mr. Hart: Could I just add one thing? There was discussion about the water. There was an upgrade to the water system along Haleakala Highway and the line is 12 inches? 14 inches. There's a new 14-inch water main and the water meter for the Kula Lodge is two inches which is sufficient to service the Kula Lodge and it's proposed facilities.

Mr. Hedani: Thank you. Paul, in light of the testimony that you've heard tonight are there any modifications to your recommendation?

Mr. Fasi: Well the department now feels that the definition of a hotel – has been interpreted to be more flexibility than what the department thinks the intent of the ordinance is or was. So I'm going to have to rely on an interpretation from Corp. Counsel to give us a definitive interpretation of what a hotel is and isn't. I don't – the department feels as far as this planner is concerned that if the intent of the ordinance was to include condominiums and time shares it would have said condominiums and time shares but it does not as I've said earlier. So I will defer this definition interpretation to Corp. Counsel and we will abide by their interpretation.

Mr. Hedani: Jim, any additional comments.

Mr. Giroux: If the Planning Department is going to punt like that then I'd like to take this back to my office and analyze it a little better because we usually rely on the expertise of our planners to come up with these types of – so yeah, I'm going to have take this back to the troops and pound it out because usually we do rely on the Planning perspective in interpreting or at least taking the first crack at looking at the ordinance and seeing what its allowable use is.

Mr. Hedani: Do you have any problem with our conditioning it to be operated as a hotel as a condition of the approval?

Mr. Giroux: I see no problem with the commission coming up with that condition as far as its analysis.

Mr. Hedani: Any additional questions? Commissioner Mardfin.

Mr. Mardfin: I actually don't have a question I was ready to make a motion to defer. I don't think we should be taking action tonight on this. I think there are too many questions to be done but I won't make that motion to defer if people still want to ask questions.

Mr. Hedani: Commissioner Shibuya.

Mr. Shibuya: Was there a motion to defer?

Mr. Hedani: No. Commissioner Shibuya.

Mr. Shibuya: I'll make a motion to defer decision.

Mr. Starr: Second.

Mr. Hedani: Motion by Commissioner Shibuya to defer, seconded by Commissioner Starr. Discussion? Commissioner Shibuya.

Mr. Shibuya: I feel that the definition here I had interpreted it as literal and specific especially when we started listing the various conditions and definitions of a retreat resort type of situation here and the project district is very specific and definition of the hotel definitions as quoted by the planners is very specific and so therefore I was taking it very literally and so therefore, if there's a question here then I would need a legal finding on this.

Mr. Hedani: Commissioner Starr.

Mr. Starr: Yes thank you. I also feel this is really important. I, for one, would have great difficulty in supporting it at the current time with the – it seeming likelihood that this is going to be converted and not run as a hotel unless something is changed. So I would like to defer give Corp. Counsel and the department time. I'd also like to request that staff take – work with the conditions that were originally presented by the Kula Community Association because of lack of time they were reiterated in the testimony of Mr. Mayer and Mr. Montgomery and make sure that these conditions on the March 17th report are put into form that we can include or not include as we choose when we come back to it.

Mr. Hedani: Additional discussion? Commissioner Hiranaga.

Mr. Hiranaga: I'll be voting against the motion to defer. I'm satisfied with the classification of use as hotel. Mr. Chair, you have some experience with the tourist industry my understanding of a hotel is that they have an operating front desk basically and if they do not have an operating front desk they're not considered a hotel. Maybe you could voice an opinion and maybe you could voice an opinion as far as a condominium use is that a higher intensity use over hotel use?

Mr. Hedani: This is just my opinion and if you look at the Kaanapali Beach Resort which is what I'm familiar with the Hyatt is run as hotel. It's on hotel zoned land. The Marriott is run as time share operation with over 700 units. It's on hotel zoned land. The Westin is operated as a hotel. The Whaler condominium is operated as a condominium and has time share units in it. The Hyatt is in the process of applying for and moving forward on a time share project within its hotel property. The Royal Lahaina in the case of Kaanapali is a hotel and is opting to split its operation between a hotel and a condominium operation.

From the standpoint of ownership I've seen situations where a hotel would be completely vacant and a condominium will be running 95% occupancy right after September 11th. It doesn't go to intensity of use. I think they can both be as intense as – I think they're interchangeable and from the standpoint of uses they're basically very similar uses. I don't know if that answers your question or helps just muddle the question. I think you'll find that the properties that are pure resort hotels may be something that was really nice to have and maybe something that will not be in the future

that's a possibility. That's just a personal opinion. Paul.

Mr. Fasi: I have a question for Commissioner Starr mentioned that he wanted to include all of the KCA's conditions into the recommendation is that a motion on the floor for this body or is that just a request by an individual commissioner?

Mr. Starr: No, it was not a request to include them. My request was that you look at them and make and modify them if necessary so that they're – relevant ideas included in these conditions are worded in such way that if we decide to include all or some of them as conditions we can just take that wording. In other words, we won't have to try to wordsmith it on the floor if we want to include these.

Mr. Hedani: Paul we're in the discussion period right now on a motion to defer. That's the motion on the floor. Commissioner Mardfin.

Mr. Mardfin: I'm going to vote in favor of the motion to defer. I think there are a lot of – we've heard an awful lot from this community. I think we have to digest it thoroughly. I think Commissioner Starr's idea that we take seriously the recommendation to the Kula Community Association and have the ability to include them as conditions or not to when do assuming the motion to defer passes when we do decide this I think we need to have clarity between the Department of Planning and Corporation Counsel as to what definitions are. I think that the earlier discussion by our Chairman about some places that were hotel zoned have pure hotels, some have condominiums, some have time shares is relevant to a degree but that this is a different area. This is a special plan, this was intended to be a retreat resort not your typical hotel and certainly not your typical condominium and that this is in a special community and we need to be extremely careful about what's permitted and what isn't permitted so that the nature of the community isn't unduly disrupted. I can see some great advantages to the community from some expansion and perhaps the design will reduce noise even though you're going to have three times as many rooms if they're well insulated it might reduce some of the noise pressures. I can see – We've heard testimony that it's good employment, we've heard testimony that it's a good place for the community to meet. All those are real positives but I think we just have to be very careful and I don't think we can cobble it together tonight in such a way that there'll be due consideration to all the issues that have been brought up tonight. So I'm going to vote for a motion to defer.

Mr. Hedani: Any further discussion? Commissioner Shibuya.

Mr. Shibuya: No, I was just going to say that I wanted a single belly button so that the community can address this belly button to insure that the public concerns and the community concerns are addressed and these conditions that Commissioner Starr is recommending that the Planning Department summarize for us that is very important to me so I agree with this. Thank you.

Mr. Hedani: Any additional discussion? Ready for the question? All those in favor of the motion to defer signify by raising your hand. Three, four, five, six. Opposed same sign. One. One opposed.

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

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

Mr. Hedani: Motion to defer is passed. We are – director, do we have any other business before the commission?

Mr. Hunt: Clayton, do we want to defer to a specific date?

Mr. Clayton Yoshida: Mr. Chairman, Members of the Commission, Clayton Yoshida with the Planning Department I believe we lose two commissioners at the end of this month so I think they have benefitted by sitting through the duration of this hearing. We're looking at possibly a special meeting on Tuesday, March 30th that would be my suggestion.

Mr. Hedani: Clayton, you're trying to torture me aren't you?

Mr. Yoshida: Well, we're taking advantage of your full knowledge, yours and Commissioner U'u's full knowledge of the matters relating to this application.

Mr. Hedani: Commissioner Hiranaga.

Mr. Hiranaga: Question. Are we required to hold this meeting in Kula once again since we've already concluded the public hearing portion of the agenda. I believe we can reconvene in our normal location.

Mr. Hedani: Director.

Mr. Hunt: I believe that's correct.

Mr. Hiranaga: Could we possibly recess it to the March 27th meeting depending on the agenda or 23rd?

Mr. Hedani: Director.

Mr. Hunt: 23rd agenda is fairly crowded. Clayton, what do we have?

Mr. Yoshida: We have two public hearings and four communication items plus the rescheduling of the Hana visit.

Mr. Hunt: It's up to the commission what date you want to set it for. Tuesday, the 23rd has a fairly full agenda. If you think you can take care of business and get it done we can try and accommodate that otherwise the alternative is the 30th, the following Tuesday.

Mr. Yoshida: I think in talking to Corp. Counsel and maybe Corp. Counsel can further comment, if we have it on the 23rd, we may run into some problems with Sunshine Law. He's your legal adviser

and he would advise that we adjourn and post a new agenda.

Mr. Hedani: Jim.

Mr. Giroux: Being that the timing for the 23rd is right at the cuff of the six-day threshold, I'd advise to push it off to just avoid any type of conflict with Sunshine Law.

Mr. Hedani: If we recess the meeting can we recess the meeting to the 30th or does it have to be adjourned today and reconvene?

Mr. Giroux: I would just adjourn and then just agenda it as continued – unfinished business. It would be on the agenda as unfinished business for the 30th.

Mr. Hedani: Got that Clayton?

Mr. Yoshida: Yes Mr. Chairman.

Mr. Hedani: Director, any additional items under the Director's Report?

Mr. Hunt: The U.S. Census is taking place right now and there's a little bit of confusion in the community. There's a short form which everyone gets and then there are the lucky few who also get a long form which is – I'll hand the microphone over to Ward.

Mr. Mardfin: Unless you know something very different, the Census this year is only using the 10 question short form. They are not doing the 5% sample that they used to do in past years. They're handling that by the Department of Commerce going around and putting it part of their unemployment unless you've heard something very different that's what I was following.

Mr. Hunt: If you happen to get a long form in the mail, you are obligated to by law to fill that out as well. I've been informed by people that have gotten long forms and the long form is as the name suggests rather long and it entails a lot more information than just gender age and your address. So it is important to the county both in terms of long range planning and in terms of allocation of federal dollars. So we would encourage everyone to fill out any census form you get should you get a short form or a long form. Thank you.

Mr. Hedani: Clayton, do you have a recommended time for the special meeting on the 30th?

Mr. Yoshida: Mr. Chair we could start the regular time of 9:00 a.m.

Mr. Hedani: In the Planning Department Conference Room.

Mr. Yoshida: Yes.

Mr. Hedani: Is there any objection from the Commission to scheduling of a special meeting on the 30th of March at 9:00 a.m. in the Planning Department Conference Room.

Ms. Domingo: Wayne, would that be the only agenda item?

Mr. Hedani: Clayton, the question is if that would be the only agenda item?

Mr. Yoshida: So far. We still have the March 23rd meeting.

Mr. Hedani: Okay, with that we have a very anti climatic meeting. We are adjourned for today. Our next meeting is March 23rd, and our special meeting will be on March 30th at 9:00 a.m. in the Planning Department Conference Room. It will be agendaed as unfinished business. However, because it's a new special meeting we will take additional public testimony at that time. Thank you. Thank you everyone for participating.

C. DIRECTOR'S REPORT

None.

D. NEXT REGULAR MEETING DATE: March 23, 2010

E. ADJOURNMENT

The meeting was adjourned at 9:40 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Wayne Hedani, Chairperson
Bruce U'u, Vice Chairperson
Donna Domingo
Kent Hiranaga
Ward Mardfin
Lori Sablas
Warren Shibuya
Jonathan Starr
Orlando Tagorda

Others

Jeff Hunt, Planning Department
Clayton Yoshida, Planning Department
Paul Fasi, Planning Department
Ann Cua, Planning Department
James Giroux, Department of the Corporation Counsel