

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
MAY 4, 2010**

**A. CALL TO ORDER**

The special meeting of the Maui Planning Commission was called to order by Chairperson Jonathan Starr at approximately 5:07 p.m., Tuesday, May 4, 2010, Helene Hall, 150 Keawa Place, Hana, Maui.

Mr. Starr: Good evening. Welcome. This is a special meeting of the Maui Planning Commission. We're here on a contested case as a hearings officer for this contested case. Before we begin I'd like to introduce everyone that's here with us today. Starting with our commissioners, we have Commissioner Donna Domingo, Commissioner Lori Sablas, Commissioner Jack Freitas, Commissioner Orlando Tagorda, I'm Jonathan Starr, I'm Chair. This is Commissioner Ward Mardfin, Commissioner Warren Shibuya and then we'll come back this way, this is James Giroux, he works for Corporation Counsel. He's our attorney for the commission. He doesn't represent either party in the case, he represents in the commission and we're glad to have him with us. We have Jim Buika who's the staff planner assigned to this and we have Carolyn Takayama-Corden, she is the administrative and secretary for the Maui Planning Commission. We have Trisha Kapuaala who is from Zoning side and she handles contested cases for the planning commission. We have Clayton Yoshida, Administrator for the Current Division and the guy who keeps the ball rolling for us. We have Kenny Hultquist who's filming for Akaku, thank you Kenny.

**B. COMMUNICATIONS**

**1. Maui Planning Commission requesting public comments on the following:**

- a. **MR. GARY STICE of HANA BEACHFRONT ASSOCIATES requesting a Special Management Area Assessment for the construction of the proposed residential structures at Haneoo Road, Koki Beach, Hana, Island of Maui. (T. Kapuaala)**
- b. **MR. GARY STICE of HANA BEACHFRONT ASSOCIATES appealing the Planning Department's decision to require a Special Management Area Use Permit for the construction of the proposed residential structures at Haneoo Road, Koki Beach, Hana, Island of Maui. (APPL 2009/0004) ( T. Kapuaala)**

**The purpose of the meeting is to receive public testimony on these two items.  
The Commission will make any decisions on these two items at this meeting.**

We'll begin with this matter. This is you know, an unusual matter for us, the Maui Planning Commission has not acted as a hearings officer for over 10 years or so. In the past there's been outside, say a judge would hold a hearing on a contested case. In this case, we are acting as the hearings officer body so it is a semi-judicial procedure and we have to operate under those rules which are different from the rules when we're having a regular commission meeting. So I ask everyone to bear that in mind.

First of all, we will not be doing any decision making or deliberation tonight on this matter. That will be handled at a meeting coming up in – Carolyn, what is the date of the meeting where this will be – where we'll be doing decision making? May 25<sup>th</sup>. We are here to hear comments from the community and we will be allowing people to give their comments. This is not official testimony. It won't be entered into the record of the case, unless later agreed upon by both parties but it does allow members of the community to give their comments and share their mana'o which important to all of us. So we'll be asking people to keep those comments short, three minutes would be a good maximum and we will be letting you know when three minutes are up.

The issue is a contested case. There's an applicant for a permit. The director required an SMA Major permit to be done. The applicant is contesting the call of the director to have an SMA permit process done which would lead to public process and so on. I'll turn it over now to the – when we do get to the comment portion and members of the public are commenting I want to request that the members of the commission not ask questions of the people who are making the comments. This is different from our normal procedure and it fits in better with our legal requirements if we don't have back and forth between the commissioners and those making the comments. So I ask you to bear with us in that. And now I'd like to turn it over to Trisha Kapuaala to give a brief overview of the issue at hand before we begin. Please Ms. Kapuaala.

Ms. Trisha Kapuaala: Aloha, my name is Trisha Kapuaala of the Zoning Administration and Enforcement Division for the Department of Planning and I am processing this contested case. On December 2, 2009, the Planning Director made a decision and that decision was that the applicant, Mr. and Mrs. Stice would have to go through a SMA Major process, meaning a public hearing process with the Maui Planning Commission for their proposed dwellings which is a single family dwelling as well as a ohana dwelling and that is the matter that is before you today. The Stices are appealing the Planning Director's decision meaning that they feel that they qualify under the exempt provision within HRS 201A which is the Hawaii Revised Statutes. Representing the County is Mary Blaine Johnston, she's Corporation Counsel for the Department of Planning and we have here the Stices as well.

So a contested case again like Mr. Starr said is scheduled for May 25<sup>th</sup> at the Department of Planning Conference Room starting at 1:00 p.m. 1:00 p.m., thank you Clayton and that's where it will be like a mini trial. It's a trial talking with the County and the Stices and the Commission is going to make a determination whether a SMA Major is required or not. To accommodate the public here in Hana we decided to come out here and allow you the chance to voice your opinions, your concerns, your objections or support. That's why we're here today.

Mr. Starr: Okay, thank you very much. Actually before we proceed, I would like to recognize Councilmember Bill Medeiros who's with us tonight and also former Councilmember Robert Carroll who is with us and it's great to see both of you. I'll turn it over to Jim Buika the planner on this case and he'll give an overview of the specifics of the project.

Mr. Jim Buika: Aloha community members. My name is Jim Buika with the Planning Department. I'd like to recognize Chairman Starr, Councilmember Medeiros, other distinguished members of the audience, thank you for being here tonight.

I will just give you some facts about the proposed action on the property. Give you a little information about the site and also supplementing the information, just the facts I'm giving you. I have posted two site maps on the wall of the property that you're invited to take a look at and also some photographs of the site as it is and several renderings of what the proposed project will look like and there is also a Google Earth map of the coastline and the project property over there.

The Stice property is located at TMK: (2) 1-4-008:001, Haneo'o Ahupuaa, Hana District, Island of Maui. The site makai is of Haneo'o Road outside of Hana. The site is between Loko Nui Haneo'o Fish Pond, due south and Koki Beach conservation lands to the north-northwest which is used for recreation, barbeques, fishing, surfing. The site is a peninsula, a spit very low laying. It's about five feet above sea level on average and the property square footage is 65,000 square foot, approximately 65,000 square foot.

The proposed action to be built is a single family residence and a detached ohana. The single family residence will be approximately 3,800 square feet and the detached ohana will be 800 square feet. The land use designation for the parcel is it is state land use Rural, it is community plan designation Rural and county zoning Interim. It has a flood hazard zone of V-23. It is in a high velocity zone with a base flood elevation of 15 feet above mean sea level. So with this flood hazard zone the proposed action for these homes will be to elevate the home on columns, 10.5 feet high above the ground level. There will be footings 2.75 feet deep underneath the columns and again, the site is approximately five feet above sea level. There will be no fill proposed for the parcel.

The design considerations for the project are to have because of the high velocity zone to have breakaway walls, and again to elevate the structure. The details of the ohana have not yet been designed. However, I'm sure there will be mitigation also with the ohana.

The site does have a history of inundation. It is the site of the 1946 tsunami that went across the property. There are historic considerations also that have been looked at in detail. There is a grave site and a residential trash pit, a historic rock wall and the adjacent fish pond. For the burial site there is an approved burial preservation plan by the State Historic Preservation Division of the Department of Land and Natural Resources. Regarding potential impacts on water quality there is an individual wastewater system proposed which is a septic system that will be anchored and it does conform with Department of Health standards and has been approved by the Department of Health. The individual wastewater system will be outside of the shoreline setback area. The shoreline setback will be 60 feet from the ocean in all directions. The septic will be one foot below mean sea level and it is also located on the site, on the side of the parcel near the fish pond.

And just in conclusion, again, the shoreline setback has been determined to be 60 feet using the average lot depth method and there is a subdivision application in. There has not been – there does not appear to be too much drainage issues but there has not been a completed drainage plan at this point and to date there have been no other public meetings, this is the first public meeting on the project. So thank you that concludes my information about the project.

Mr. Starr: Okay, thank you Mr. Buika. Now I'd like to call on the original applicant Mr. and Mrs. Stice, they'll have a few minutes to describe their proposed project. Yeah, I'm going to ask everyone who's speaking to go over there by Ms. Kapuaala, you can sit down on the chair or stand

up and face over toward the commissioners.

Mr. Gary Stice: Yes, I want to introduce my wife, Apolonia Stice, I'm Gary Stice and Shavonn Eason is a partner and a longtime friend of my daughters who are also partners. So we have about five or six partners in the hui.

We have been working on this project for many, many years and our main reason for being here is to appeal the motion that we are required to do a Major SMA permit. We feel that most all residential properties are given an exemption except under very extenuating circumstances and we feel that the circumstances of the lot having been already used as a residential property in the past and the fact that we have gone through all the mitigation with the flood zone and Burial Council and archaeological report and the flood hazard and shore setback permit that there really is enough information and documentation that we should be able to move on without going through a lot of additional steps on the Major SMA because this would not only take a lot of time but we feel that the results of all of this work that would be required would not contribute to the value of a judgement on the quality of the building and the environment that it impacts.

Mr. Starr: Thank you very much. And now we'll move on to the public comment portion of the meeting tonight and I'd like to call on the first person to sign up Mr. Robert Carroll and good to see you tonight Bob.

Mr. Robert Carroll: Thank you Chair and thank you for coming on behalf of the Hana community. We really appreciate all of you being over here. This site is not only a historical site, it's not only a place where anybody my age or older or even younger has gone for most of their life for recreation. It's more than that. It's a ecologically sensitive area. It's an area that you can't really do anything to without harming it. No matter how great your plans, no matter how well spelled out. No matter the engineers that you bring inside, no matter all the grand plans, anything you do over there is going to be harmful. It is the nature of the shoreline in that area. Five feet above ground.

We have people that lived over here the Atais that are going to give testimony later. People died over there in the tidal wave, Atais, Kahulas and others. Having it open over there it's a remembrance for the community too of those who have gone before us. I don't know how I can impress on you the importance of a hearing to the Planning Director's recommendation of a Major SMA.

If I could, I would have bought the place, I would have given everything I had. When I was on the County Council I attempted to start a procedure to buy that for the county for open space. I worked for well over a year, maybe two years I think and now the Council cannot purchase property, it has to be the administration makes a recommendation, comes down to the Council. I worked with Mr. Stice and the administration I think for about two years, it was a long time though. It never came together because of the differences, what was being asking for and what the Mayor would agree to today. The Mayor did agree and I had enough councilmembers that I think we could have passed it that agreed of all the things that I just said, how important the area is, but we could never come up to get a recommendation, an offer to bring down to the council for the release of funds.

This is something that it's not only Hana people this important for, it's all the people of Maui. Anybody that comes over here and has a love for our land and the ocean around us and to literally put anything over there is going to desecrate it. I would hope and pray that we keep with the Planning Director's Recommendation and I would hope that there would be some other alternative to doing this that can be worked out to get the land in public hands that it can stay forever like it is. And since there's no questions, I hope I said everything that I needed to say. Mahalo.

Mr. Starr: Thank you very much Mr. Carroll. I'm going to ask everyone I know there's a lot of emotion and feeling and that's good, but please it's better in this process to keep it down. The next person to give comments is Sharon Miner and welcome and aloha.

Ms. Sharon Miner: Aloha Councilmembers, aloha my kupunas, aloha my friends and families. I'm speaking in behalf of my kupunas long gone and today. My name is Sharon Christine Miner. I am one of the lineal descendent of my great-grandfather Benjamin Dusson and my great-grandmother Mary Ann Dusson. My mom's mother was also a Mary Ann Kealoha Dusson. My grandfather or her father was Louis Piilani Collin. My mother was raised on that property, we played on that property. There was so much love, so much laughter. We had our ups and downs but that's the way it was.

My biggest concern is the historical, the lineage and the love for the land. As far as I'm concerned put it on the conservation list. I don't want that land to be sold. We need to put it as a historical site. Our kupunas is still walking on that land today. I feel them every time we go over there and clean the aina. We cleaned it so many times and then I told my husband one day, honey, I think tutu man want us to stop and the reason why I'm telling you this is because as long as we continue cleaning the land for the Stices we are helping them out to make money off this land. We're here to protect it not to give it up. When you give that up you gave up your roots, you gave up your love for your ohana, you gave up everything that was all meant to be for you or for us. I like to keep that land open so our local people can go over there, go enjoy, maybe camp out in the front, go catch the fish from the ocean, have a little party or whatever, but to enjoy the Hawaiian style.

On the grave site, I have families that are buried there. I had one of my aunts visited us two days ago coming from California and her name was Kaimi Brey and I think a lot of you know the Brey Family. Everybody knows the name Papa Brey or David Brey. That's part of our ohana. Well she told me the house where it was and I have proof here, the house was built on a heiau. It was 30 x 115 feet. So if you take, as I've studied these pictures here I will share it with you, if you take the 30 feet and measure that grave site that will be 30 feet, whichever direction it takes the 115 feet is going to go on that vacant land right now and further more down. So I'm not going to beg you. I'm not begging the owners of today, but I'm asking our Lord to guide you folks the right direction so we can keep this land for conservation or use for the community. I want the kids, our local kids go down there and have fun on that land. Have them go get the fish or whatever they need. I've been here 60 years of my life. I've been through hard times on that land. I've seen my mother and father suffer on that land trying to keep the land but we couldn't do anything because my Uncle Louie was one of the people of the family, the Collin side which is my mother's older brother he gave up that property to another owner before the Stices. It's sickening to my gut right now that land was raped twice by man and then Mother Nature came in and took her down to skeleton. So anything of the heiau it's gone, but wait, the sacredness of the land is still there. My kupunas will always walk that

land. My brothers that was lost in the April 1, 1946 tidal wave crawled on that land, walked on that land and that grave site, I think all of your went to the grave site today, I found out also from my Aunt Kaimi the grave site is hule or down little bit, that's where my great grandfather's mom and dad is buried. I would like to share this picture with the council people. Mahalo.

Mr. Starr: Okay, mahalo.

Ms. Miner: Oh, it's pictures of the before and after the tidal wave.

Mr. Starr: Okay, can we pass them around. Thank you very much. Mr. John Blummer-Buell please share your comments with us.

Mr. John Blummer-Buell: Aloha Members of the Planning Commission and we have some new faces on this group and we really appreciate you coming out. It's very rare that the Planning Commission comes out here and I spent part of the day with you, really appreciate the fact you've driven out here, spent the day out here and are hearing our testimony.

On this particular item on January 25, 2010, I wrote a letter to the Planning Commission and this was when Wayne Hedani was serving as Chair and basically I said I am writing in full and firm support of the Planning Director's decision requiring a Special Management Area Permit. So I read, you know, that letter should be part of your file but I thoroughly read Jeff Hunt's report a number of times and I've – I don't think I've seen a more compelling report to require a Special Management Area Permit and I do have a couple of short comments. On page 4 of the Planning Director's Report, number 2, as represented by the applicant to the department the project is not part of a larger development and is not for short term rental, vacation rental or commercial activities or other purposes. Now I have been told and I think your commission needs to look into it that the Stices built a and are running an illegal vacation rental right down the street from this. So I have to question whether this in fact is part of a larger operation. It is my understanding that Mr. Stice is in the business of land development and oceanfront development that means this is part of a much larger project, but this is for your kuleana to look into it.

The second thing I wanted to point, number 8, it said, based on the project description and itemized analysis above the project action has the potential to have adverse effects on ecological, environmental, cultural and/or archaeological sites. And I think that's a very, very important point. Let me just say that the Hana Community Plan backs up all the language in Jeff Hunt's report. I mean if you go, I don't have time to go through it with you but the Hana Community Plan spends a lot of time talking about cultural resources.

And finally I wanted to make a comment, a short comment on, in talking with Sharon Miner, she's given me this information on a heiau and so I after rather than go to the beach with you folks I wanted to go home. I went home and I got the book, that this is in, I'm happy to give it to your Chair if he'll give it back to me if you want it but this is the reason I thought it would be good to show you this book because this is published by the Bishop Museum it's called, "Sites of Maui." It's a very creditable book and I think that the information Sharon has given you when put into the context of this book shows you how important this site really is.

In closing, I would be happy if Mr. Stice would work with the community. Maybe Bob Carroll's the right person to liaison this since he worked on it before. I'd be happy to help, the community has a history of working with the Trust for Public Lands, working with NOAA, working with OHA and working with other public agencies to be certain that the property you own that you would get a fair market value for that. A conservation easement would allow you to write off substantial – you know, again, the cost of, the money that you have into it, this is not a new idea. We have the Maui Coastal Land Trust and they have all the information with the Internal Revenue Service. This is not a pipe dream. This has been done in a number of places in Hana already and I'd be happy to work with the Stices and the partners to try to make a win-win out of this situation and mahalo to the Stices for coming forward and mahalo again to the planning commission. Aloha.

Mr. Starr: Okay, thank you very much Mr. Blummer-Buell. The next person that signed up is Terry Miner, please give us your comments.

Mr. Terry Miner: Aloha, I'm Terry Miner, the husband of Sharon Miner. And she testified earlier and a lot of emotion. I've only been here 34 years and married 29 years and I've come to love that land. I've worked with the Stices when they went in for the Burial Council with my wife. I've also, after that after they cleared the land I helped maintain it, the whole acre and a half. I've been told I don't have any excuses for not maintaining the land and I have to agree with that. I've had gotten older and I had slowed down so it doesn't look like it did for a good number of years after they purchased the property. I was not paid for that I did that out of love.

My main concerns on this are the size of the house, the wastewater and the archaeological survey that was done. It was pretty much done in areas where the house is not going to be at. And I know – I don't know enough about the laws but I'm sure there are protections for those sites when they go to build. And I'm sure that the wastewater, your plans address that and the Council said it's all approved per code. I just question the fact that there is a tsunami zone, we've had some storms that have flooded that area and just moved the land all around which made it very difficult to keep clean and move the big trees right into the middle of the property from the edge of the water.

We've had in mind, it's just I don't have enough knowledge, I sure wish I had enough money to have bought that property when the family sold it but I'm not a wealthy man. I kind of regret that that we could never do anything down there.

I just hope there's been talk of preservation. I know the Stices have their rights. The family did not – the laws back when it was sold originally are not as they are now with disclosure I believe and even with the Stices I don't believe they were disclosed what is on that land as far as the archaeological sites. The laws of the Burial Council and things have changed through the years, have become more favorable to the Hawaiian people and the ancestors. I heard there's changes in laws and my wife has said she will pursue anything that can be done to make the buffer zone around those grave sites bigger. The grave sites are – they're going to build a driveway right in front of that and turn around right by that area. The Stices say they respect the land and what's going on. The location of the house is certainly not on the area where we believe the heiau is, the secondary house could be. The driveway certainly infringes upon the family as far as being close to the burial site. So those are my concerns. I don't know enough about the Major SMA to say whether my concerns would be addressed by that, but I just wanted to speak my feelings on the

land. Thank you.

Mr. Starr: Okay, thank you for coming before us today. Next person signed up is Hillary Hart and we do have a sign up sheet if anyone has not signed up and would like to, please do. Ms. Hart, thank you for joining us.

Ms. Hillary Hart: Good evening or good afternoon. Thank you all for coming and thank everybody here in the community for coming. I think to put another angle on what hasn't been said yet and I agree with everything that has been said so far and that is, I've been a volunteer under NOAA and watched Koki our Monk Seal be birthed and live along that whole area from Koki Beach literally to the fish pond. Koki and his mom lived there and I just want to say that it's – the Monk Seals are highly endangered, everybody here knows that but it is a habitat. And my concern is the wastewater also and the precariousness of it's only five feet and what that would do in terms of endangered species, also in terms of habitat. Also, this last tsunami that didn't turn into a major event but scared the heck out of all of us and even though there could be break away and not a maybe a damage to that house per se but just to the whole environment and what Bob Carroll said it's a sacred site and historical site and for all who have been spending time out there through Koki and through the history and through the ancestors I just pray that the Council will be wise in their decision and in respect to the people of Hana also. Thank you so much.

Mr. Starr: Okay, thank you. Next is Russell Kahookele.

Mr. Russell Kahookele: Aloha Chair, Planning Committee Members and the Hana community. Thank you for coming out to Hana and you know, giving us an opportunity to testify before you today on this proposed project.

As you said, my name is Russell Kahookele but I'm also the representative for the Reinstated the Hawaiian Government. I understand you guys had a site visit today. I'm not sure exactly where that visit was if it was just pertaining just to the project site or if you visited the whole Koki Beach area but we built an ahu, the Reinstated Hawaiian Government, laying claim to that whole area. Okay, and I with, among with a whole bunch of other heirs have been seeking to reinstate our country and our political authority. However, until we achieve this you guys are the ones responsible for planning and I'd like to thank you for your time and for putting you know, for your effort to plan something wonderful for our community and throughout the islands.

Having had said that, when I first found out that this project was going to take place I heard a lot of people in the community saying a lot of things about this project and how it's going to be bad. I listened to Sharon and the family and I sympathize with the family because of the graves that are there but I didn't just listen to stories that had people had to say. I actually went and met with Gary Stice and I told him that this area that he's planning to build is an area that a lot of the local people go to fish, to go and catch crabs and when the Sea Ranch Cottages were being proposed this place was full with people testifying against the Sea Ranch Cottages because of that last coast of – the last stretch coast that we would catch crab and fish and you know we were worried about our environment. And the Rosewood Hotel brought in all kinds of experts testifying that it would never reach the ocean and you know, if has, if it hasn't I don't know. No kind of impact statement has been done. But I know this, a lot of the crabs that I've been catching for a lot of the baby luaus and



graduation luaus and funeral services have been caught on that stretch from there all the way around to Koki. So met with Gary Stice because one of the things that I looking forward as the representative for the Reinstated Hawaiian Government and I know a lot of people out here in Hana don't really support what we're trying to do reinstate our country's political authority, but one of the things that we're really looking forward to is sustainability and how can we survive if for whatever reason the ships stop coming, for whatever reason the hotel stop employing people. This is one of the things that's been bothering me for many years. We was forced to give up our way of life and malama the aina so that we could work for money so we could pay taxes and this is what happened when western concept gets introduced. Somewhere along the line, somebody sold the land to somebody else. I don't agree with it, but it happened and this is pretty much what's happening till today. And so, that's a given.

What we have to do is try to be good stewards and try to manage this and so I met with Mr. Stice and I asked if him if there is any way that we could work together to help replenish into the ocean and he agreed. We have an extensive plan that we're trying to do. Because of the ocean, you cannot raise crabs in the mountain, you cannot raise moi or aholehole in the mountain. You have to do it close by the ocean in its environment where we can raise it in its early sibling stages and then release it back into the ocean to replenish and put back. So we have been working together to establish such a plan to do something. So you know, people in this community who might not agree with me with reinstating or might agree with Mr. Stice and what he wants to try to do I apologize but I trying for see how we like John said make a win-win out of this where we can give back to our environment because there's been too many times when I go to see guys catch crabs and the crabs have baby eggs on it and they not putting back, they not letting it go. Sooner or later it's going to be gone. We need to find some kind of area where we can establish a hatchery where we can you know, replenish and put back and Mr. Stice has been agreeing to do such a thing.

He also throughout the years have been supportive of many, many families who needed that house that John had mentioned was illegal vacation rental. You know, as a representative from the Reinstated Hawaiian Government I can tell you guys a lot of things is not legal in this kingdom but what they say no sense crying over spilled milk, we need to work with what we have, okay. And a lot of the vacation rentals has been going on throughout the islands have been supportive of local you know, the local economy, people get jobs and that's what it's about, right?

So for those of you who disagree with my testimony I apologize because I know when we first started to open up that area, there's a lot of kupunas in that Koki area, Hamoa Village was upset with us for cleaning the area but as stewards of the land we have to malama and when we opened up that area we took out car batteries, a lot of rubbish that people was hiding and destroying and people's been camping back there and you know, not even taking a portable toilet to use their bathroom and do their thing.

Mr. Starr: I gotta ask you to finish up.

Mr. Kahookele: Yes Mr. Chair. In conclusion I just like to say that I support this project and I support the Stices our efforts to replenish and put back into the sea life in the ocean. Thank you.

Mr. Starr: Okay, mahalo. Next is Leeann Kahookele Paman.

Ms. Leeann Kahookele Paman: Aloha, thank you for coming today. My name is Leeann Kahookele Paman. I, too, support the Stice and their project, the Stice Family and their project. They have done a lot of good for our community with their Hale Kilo Home, Hale Kilo Hana Home, e kala mai ia'u. A lot of families in Hana have utilized that home and they are also instrumental in allowing us citizens of the Reinstated Lawful Hawaiian Government to utilize their property at Koki for our huluhuli chicken sale. We camp down there, we fish down there, we have recreational activities down there, cultural activities happen down there as well. I, too, apologize if I've offended anyone for my testimony and thank you for your time.

Mr. Starr: Okay, thank you. Do we have more sign in sheets down there? And anyone else who would like to testify that's not signed up please sign up. Next will be Claudia Kalaola and please excuse me if I hack that up.

Ms. Claudia Kalaola: Aloha mai kakou. Claudia Kalaola born and raised Hana and I want to say that I think the purpose of this is so that we do have a SMA right? Okay, so I support that. But going backwards, I support the process that you're going through but going backwards I'm totally against the development of this area of beachfront property at Haneo'o. Having lived here all my life this area is very special and I think that Akua as spoken, he has taken lives in this area. He has brought floods, tsunamis to this area and lives have been lost and I think that it's really, really a shame that today in our society we cannot learn from past mistakes and history. I think it's very arrogant to build in this area. And I think that we, you know, well you, your job is to look at the history. We are an arrogant society, we say we can have anchored septic tanks and do all of this, build a house way up high, 16 feet high so that the wave – with nothing underneath so the waves can wash right through I think it's very arrogant. We are bucking Mother Nature, Akua, it is unsafe, it is not – it is a recreational area and it's wonderful what the Reinstated group has done down there, compliments to them and we should have more cultural events, family gatherings and whatever down there, that's what the purpose of the land is, not to build 3,800 square foot home and a 800 square foot guest cottage, that's totally excessive I think. Again, this is ko'u mana'o, my feelings. So I implore you to save this place for our keiki in the future. Even though, no matter how much they give back once that huge house is built there, it's built and even though they say that it's going to be a residence, this man has 15 other vacation rentals on six islands, he may live there for a while, and he can afford to pay the fees and fines but eventually it will be a vacation rental. Again, ko'u mana'o. So I ask you to just look ahead in the future. For me, I have five grandchildren. Three of the oldest have all learned to fish there. That was their first spot to catch their first hinalea, their kupipi, the other two, one is under two years old and one is nine months old, I hope they have that opportunity. Aloha and mahalo.

Mr. Starr: Aloha and mahalo. Mavis Medeiros please.

Mr. Bill Medeiros: Aloha mai kakou apau, greetings to everybody. I'm Councilmember Medeiros from Hana but I'm testifying as a private citizen for the area of Haneo'o, Hamoa. Our family have property in the area. I also have property down there and having grown up in Hana even though I was born on the Island of Lanai because my dad was assigned as a police commander there, but we left Lanai when I was seven months old. So grew up in Hana and Keanae, Kipahulu and Kaupo, the East Maui area.

You know we have fished and swam and gathered food in the area for many years. Along with the Koki and the area being discussed we also were able to utilize with permission the Kahula fish pond, beyond that is my cousin, Earl Medeiros' fish pond, beyond that is our property and around the corner is Hamoa Beach. Many of the kupuna that lived in that area way back when I was very young, I was about five years old, I tagged along with my mother whose first language was Hawaiian. She was able to speak to the kupuna in the area. We used to visit one kupuna called Tutu Pali, she lived around the corner by Hamoa Beach, she was 106 years old when I used to visit with my mom and she only spoke in Hawaiian. So I couldn't understand because my mother, you know, spoke in Hawaiian, but that was the generation that they didn't speak to us in Hawaiian because they thought it would be detrimental for us to speak Hawaiian in public. But growing up in the area I remember in 1946, being a police commander of Hana at that time describing the tidal wave that came and one of the families that lost their family members there was the Atais. And after they lost their brothers they started a new family and the first born was Sharon's sister, Kathleen. Kathleen and I are classmates. We were born in '47, so we were born right after the tidal wave and you know, they started their family once again.

That area has been known for flood hazards, tsunami and if you allow something to be built there of this size and magnitude you must also comply with and know that this will have an effect on the view planes of the ocean. And there is codes in the county about view planes and view corridors so please remember that in your deliberations.

I didn't write, you know my script for tonight. I was listening to what was going on. I did have conversations with land trust groups about the possibility of somehow getting the owner to agree to a land trust where the land could be preserved and I think some of the other testifiers mentioned that.

But my concern is to have land just five feet above sea level is a really putting people in jeopardy. If people are renting that house and I'm sure that's not going to be a disclosure to everyone that rents that house that it's five feet above sea level and there was a big tidal wave in '46 that took all the homes in that area. That's why across the street from that is a subdivision the state started where the old Haneo'o Hamoa airport was but they stopped that process because it was still in the flood and tsunami zone.

I just want to ask this and I know we're not asking questions to receive responses but I wanted to know if in your deliberation you could let the community and the public know is there going to be any public hearing where there will be a question and answer period of time available to the community for that. Because I know a lot of the community members have questions regarding this. And I think as Mr. John Blummer-Buell brought up there's a major concern about compliance with the Hana Community Plan.

So I ask you to really consider this project with the people of the area in mind, as we try to preserve this because of the sacredness that have been described and for the cultural reasons for our future generations. Mahalo.

Mr. Starr: Okay, thank you very much Councilman. And I'll have staff kind of speak to what the ongoing process will be after we finish the public comment period. Next will be – is someone it

looks like Mavis Medeiros is here, please come and share with us. Aloha.

Ms. Mavis Medeiros: Aloha, my name is Mavis Medeiros and I live in this area. Thank you guys for coming out. We've lived there since the '80's and my husband's family goes way back before that and we moved away for a little while but we've been back for over 10 years and we actually eat out of the ocean. We fish there, we catch 'a'ama crab, we catch kupe'e, we eat enenui, manini, uhu, ahole, ulua sometimes, you name it, we eat from that place. So if the question is should we do what is it the ocean assessment or whatever, yes, please do that. We also have fish pond and we raise mullet and the thought of something leaching out into the ocean and possibly disturbing the area is really, really scary to me. So that's my answer today, please do the SMA.

Mr. Starr: Okay, and thank you very much for coming today. Next will be Scott Crawford. Good to see you Mr. Crawford.

Mr. Scott Crawford: Aloha, good evening Members of the Commission. I'm here this evening speaking on behalf of my wife, Kekula, who was unable to be here in person so I submitted her written testimony and I just wanted to read that for everyone.

Aloha mai Planning Commission Members, my name is Kekula Crawford and I live in Kaeleku. Thank you for receiving our comments on this very important situation. I apologize for being unable to be here today in person.

My ohana is from Ulaino, Haneo'o, Mu'ole'a and Kaupo. I've been a resident of Hana for 19 years now having spent the first six or seven here part time and moving here full time in the mid'90's. In Haneo'o we had land in the back and my Great Grand Uncle Ben Dusson lived at Hoku'ula and the Loko Nui. I'm also presenting these comments on behalf of our Great Aunty Kaimi Helen Dusson-Wood who was raised in the house that was once there. She included her email if you wish to confirm this. She became 90 years old this past January, unfortunately she's unable to be here today.

We are deeply concerned with the appeal being made by Mr. Gary Stice to forego the Special Management Area Permit process. This is because we strongly believe with very good reason that this area represents to the fullest degree why the SMA is in place from its legislation to its designation and its enforcement. And that reason is because we lost our ohana in the tidal wave.

Something like this affects the soul of everyone in the family for generations and my cousin, Sharon and her family so much more than I. Though I think because of hearing this story when I was young I've had tidal wave dreams ever since then, two this past month. My heart broken is over the loss of my cousins and grand aunty and my cousin Sharon's losses. Together we spoke of this only yesterday and when I saw her heart break, mine did also. When we consider that this gentleman, Mr. Stice, wishes to bypass this process we are shocked.

I request with much aloha that you uphold the full integrity of the SMA process completely as we feel it is critical when it comes Hoku'ula. Had Kamehameha's wall not been torn down in the big waves perhaps it could have acted like a breakwall, but it was. And without it, even large storms at sea cause waves to push the ocean up across the street. I have witnessed this several times

as I lived in Haneo'o for my first three years in Hana with the English Ohana.

Speaking from our cultural perspective, this is a significantly sacred area of land in discussion today. It's history going back many, many, many generations. Our burials are there, not just the ones you can see, there are burials around those burials. A heiau is there also. To us the intangible is as important and in some cases more so than the tangible. The invisible and the things we do not hear with our ears. Mahalo nui loa for accepting our community input into this process, sincerely Kekula Crawford.

Mr. Starr: Thank you very much and please relay our aloha to Kekula.

Mr. Crawford: Thank you. And I'd just like to say on a personal note too, you know listening to what the Kahookele's shared I can understand their perspective and I would just say if Mr. Stice wants to do something that would be positive in terms of restoring the marine resources in this area the SMA process is exactly the process that should be used for him to put those plans forward for the community to evaluate, weigh the pros and cons and the risks and benefits and not just take his word for it. Thank you.

Mr. Starr: Thank you. Next will be Viola Cashman.

Ms. Viola Cashman: Good evening Planning Commission, your members, your support people, you know people from the community and some of you I've known forever. Thank you for allowing me the opportunity to comment on your agenda. My name Viola Naone Cashman. I have lived in Haneo'o since I was two years old until I went away to school. I currently live here in Haneo'o. I am a decedent of long time people of Haneo'o. Like the previous owners of the property in question, my family too, experienced the devastation, destruction and long term effects of the 1946 tsunami. I'm going to add this that we were supposed to be there. I was born a year before the tsunami hit. However, because my mother was ready to give birth with my sister we were out, we were not in Hana.

Until the day that she died in 1962, my grandmother, Julia Kaalo Kapoi Naone was convinced that aumakua sent her son, Leslie Kanamu Naone home from the Navy on a surprise furlough for a reason. He saved her from death in the 1946 tsunami.

Grandma was a school teacher at Hana School and because at that time she didn't drive her mode of transportation to Hana School was to walk up to the main road from our home across of Kumaka which is Lokoliliii which is owned by Earl Medeiros. She had to walk up there and catch the school bus with the Haneo'o students. However, because Uncle Kanamu came home they were excited, he said, Mama let me take you to school today.

While closing the house windows Grandma noticed the tide was pulling back and showing the rocks and the reef. An odd sight she used to tell us as she called to Uncle Kanamu to come look, an odd site indeed. I'm so nervous. Grandma told us that at that moment, Uncle Kanamu knew exactly what was happening. He immediately and without any provisions made her get into the car and turned right from our present yard which is right across from Kumaka and headed up the road. He stopped at the Hashimoto place and told them to get into the car because a wave was coming. At

that time nobody ever heard of a tsunami wave. For whatever reason it being April 1<sup>st</sup>, April Fools Day or the disbelief that a wave would come in that far into the homes or would reach them they decided to stay and not get into the car.

The result we all know was loss of life, loved ones and dear friends. It was an experience my Grandmother never ever forgot. She realized how lucky she was on that day and more important she had survived for a reason. Her neighbors and some of their family members around her perished. Grandma's mission from that time on, along with being a classroom teacher was to teach us grandchildren to maka'ala the ocean. We learned to identify the characteristics of our coastal seashore, the subtle changes of the ocean, gathering of appropriate food at the right time, the ongoing correlation of the moon phases, tide changes and seasonal changes. The fragile balance between the land, ocean and our subsistence way of life.

Grandmas was even encouraged to move out of Haneo'o, too dangerous, you're too old. Go live in Wakiu where it's safe. However, she decided that Haneo'o was her home and if we were going to live there, we needed to know our aina. My husband and I are the current owner occupants of our home that was destroyed and rebuilt as a direct result of the 1946 tsunami.

This being said, as a read a letter to Mr. Stice dated 12/2/2008 from the Planning Director i was appalled by the arrogance of Mr. Stice's response to the Planning Director's analysis. Mr. Stice is currently operating a vacation rental establishment. We all know it as Kilohana here in Haneo'o and has been operating this establishment for a very long time. That he chooses to ignore the impact of his current proposal and that it will not ecological – excuse me, his current proposal will no ecological, environmental, cultural, archaeological impact makes one wonder.

Mr. Starr: Aunty, I'm going to have to ask you to finish up soon.

Ms. Cashman: Thank you. Makes one wonder what his ulterior motives are. Mr. Stice does not call his – the group around him his family. He calls them his partners of a hui. That within itself and he just said that this evening, and that within itself, are red flags to all of us.

I am going to stop here because I am not finished and I'd like to put my name back down to come up and finish later.

Mr. Starr: Your name will be back down at the end.

Ms. Cashman: I appreciate that.

Mr. Starr: Thank you for sharing that amazing tsunami story. Next will be Edward Cashman.

Mr. Edward Cashman: Aloha, my name is Ed Cashman, that was my wife that just got through talking. I'm going to finish for her.

I am compelled to agree and encourage the Commission's recommendation that a Special Management Area SMA Assessment be required for the very reasons stated in the 12/2/2008 determination.

For example, the property in question faces Alau and the area known as Puhele. During the time of the high seas and rainy season this area does have a history of flood inundation from both the Koholopo Stream that flows out next to Koki and the high pounding waves in the area. Puhele is also next to Haneo'o Loko Nui. Loko Nui is a private owned Loko l'a that has benefitted from the whole community. When asked for and given permission to gather fish my children, grandchildren and I suspects many families in Hana community have benefitted from this Loko. The potential pollution for this proposed established septic tank can and will be detrimental to the fragile sea and the other Loko l'a.

All the ocean water and ehu kai, ocean winds are not forgiving forces of nature. Structures whether built with metal, wood and even plasters can be deteriorate within weeks. When a spillage occurs who will suffer this consequence. The ocean, the surrounding land and yes, we all will.

Mr. Stice may have benefit of electricity, however, if insufficient water is not available to Mr. Stice will he then, when he is granted his permit to be able to force the county by suing to make water available to him? The ohana unit is planned to be built next to the existing grave site. Somebody will be sleeping on somebody's ancestor.

In closing I thank you the members of the Maui Planning Commission the opportunity to be heard. You have the responsibility to enforcement the requirement of a Special Management Area Use Permit. And yes, we are depending on you.

I going cut my testimony short. I personally feel that if you own land, you should be able to build. But with that comes responsibility that you gotta follow the laws, you gotta follow the ordinance and you also – you have to be conscious of the environment, the culture and the nature of the community you're building. You cannot come in and ignore the laws. I question the intent of this builder. Not 200 feet from this proposed development they operate an unpermitted vacation rental and they've been doing for 10 years plus. And this vacation rental is noted and I can tell you every long holiday, this vacation rental is noted to accommodate large groups. You get baseball ...(inaudible)... team, they get luaus, they get weddings and sometime it's Hana people but it's everybody from all over the world. I mean, to the point where they bring in two, three sani toilets. I mean, the house has two bathrooms, how many bathrooms you need? But that's what this vacation rental services. I mean, it's not fair to us. We live there. Hamoa is called Hamoa Village not Hamoa Vacation Rental. It's not Hamoa Resort. It makes us the bad guy when we gotta come here and we gotta complain. That's not our job, that's you guys job. We don't make the laws, we don't enforce the laws, but we follow the laws.

My wife and I, I've been married 45 years. We raised our kids, sent them to school and then 15 years ago we moved back here because we want to live in a quiet village. We don't want to be surrounded by vacation rentals, but we've been surrounded. Hana has 80 plus vacation rentals. It's not being enforced, and I find out tonight these guys have 15 on six islands. How can you build a half a million-dollar house and don't rent it short term and make money? Who in Hana can rent a half million-dollar house for long term? If I could do it, I would build a house myself. And why would you build a half million dollar house when you got 200 feet away? Logic, they're going to do a vacation rental. You look at the building, the building structure is made. It's obvious, it's someday it's going to be a vacation rental. And where that going leave us? Two old folks in Hana just trying

to mind our own business and live our life. Thank you for your time.

Mr. Starr: Okay, thank you. We're going to take a 10-minute recess. We'll back in 10 minutes. Anyone who wishes to share their mana'o to make comments please sign up so when we come back we can finish up.

A recess was called at 6:19 p.m., and the meeting was reconvened at 6:36 p.m.

Mr. Starr: Our public comment period on this issue before the Maui Planning Commission in beautiful Hana and our next person to give comments, Cecilia Kupau, please come and share with us. Aloha Cecilia.

Ms. Cecilia Kupau: Aloha to the Maui Planning Commission, to our Hana people, to our birthright people of Haneo'o, Hamoa. I speak on behalf of my family. I am a lineal decedent connected to the Koko Family. My grandmother is Emily Anna Koko, her father is John Murray Koko and his sister is Kakalina Waioli Koko who married a Kealoha and their children is Kahalelau, who married a Waiwaiole Kahua'a and importance of this is that the legacy of our forefathers have passed down the knowledge and I come from my birth land that is called Pukuilua. I was not implanted somewhere else. So I speak of them and Kakalina Waioli, daughter Kahalelau who married to Waiwaiole Kahua'a and they all lived in that area in the past according to my dad. That is where the Ben Dusson Ohana is all where the airport, the original yeah, before the demolishing on April 1, 1946 and remember my dad saying that yes, it's a village. And Tutu Pahawai who comes from that area, his family and remembering what had happened how you talk about April 1<sup>st</sup>, April Fools Day, okay, April Fools Day that was in the thinking that was created by the Territory of Hawaii.

So I'm looking at the Maui Planning Commission we're here today looking at what was created for in order to build there's requirements and to have an SMA permit and rather than from A jumping to Z there's the in between that needs to be fulfilled and abide and respect. Everybody has their own thoughts, ideas, what they want to from Loko I'a, the fish pond to aquaculture to raising in a superficial fish pond to have more.

But I'm looking at what's going to happen to the children, grandchildren, great grandchildren and those that are yet to be born is not here if this passed. Everybody has their rights. We have our vested rights. It was never demolished, it's still here. But I thank – as I read what Gary Stice had proposed, I don't know Mr. Stice is, but I know the laws that was created was created by man, and if we have to abide by that, three minutes is up yes, that's time, that's requirement, but respect, respect who we are, where we come from.

And when Sharon and Viola mentioned this, they come from that area. I come from Pukuilua. You know, I understand I come from a ancestral land and no one is going to come to me and my family and say this is the law, it must be abided. We live there all our lives, but thank you, thank you very much, to please consider this and listen to what's not being saying, by the voices that is still resting and their ears around here listening. Mahalo. God Bless to all of you.

Mr. Starr: Okay, thank you. Next will be Earl Medeiros.



Mr. Earl Medeiros: Aloha everybody. I just wanted to talk about the SMA I know that Gary Stice has to go, first of all, I live down Hamoa. I one resident over there I was raised all my life down there. Whenever I go out, my hat hang down Haneo'o, so it's never left. You know I get this kupunas over here can testify they knew me from a small little boy and you know, you see this feet over here, this feet right here, step on every stone on that area over there. My father was one fisherman. I dive, lay net, throw net and can testify, Shirley over there know, she know my dad well, I don't know my grandfather them but she know Uncle Jacky God rest his soul. But to do something – well as far as the SMA goes, because if I wanted to do something I would have to go through the same process. Gary you no different than us. I don't care how much money you get. It doesn't matter. You go through the same process, but on the other hand, if I was on a committee that I don't know how they go about the special use who says what you gotta abide by, how you get the special use permit but I would totally turn it down because in there I see the leach field. I no care where you go on that property that thing going in the ocean. I mean, you know, like I said from one small boy I eat and Hana get countless guys eat from that area, countless. And everybody talk about the tidal wave so I might as well put in. I wasn't around when the tidal wave was, but I live in one original house that was carried by the tidal wave and I still live in there today. You know, but I hope God protect me and my family, but so far so good. You know, to me the special use permit down and I no think I going say anything else that anybody else never say yet. And if you guys look at it it's overwhelming against what is trying to be done here. And if we get more community members it will be even greater because it impacts the community deeply. Once that house is built there it will never – it will change the complex of Haneo'o completely and we will never that away. Either you guys can say we did it or we was responsible but I don't think you guys want that on you guys head. Thank you. Aloha.

Mr. Starr: Okay, aloha. Mr. Rick Ortiz, please share with us. Good to see you Ricky.

Mr. Rick Ortiz: Aloha, thank you for coming and thank you Hana for showing up. We've talked about a lot of things about environmental impact. I just, you know, there's ways to define environmental impact. One of them is the runoff. One of them's the 3,800 square foot house plus the ohana that will hold you know, 20, 30, 40 people on a party night, 50 people. How many flushes of a toilet is that going into our ocean. There's view corridors to think about, but I really think there's cultural, there's spiritual, there's a graveyard, there's the burials, but there's also a community here that lives by the ocean. This is one of the last things the community has left. And that ocean presence and that ocean obtainability, the food that we gather from the ocean, everything about the ocean is being squeezed out of this community just like the housing, just every time a piece of property is bought by an outsider it's not going backwards, it's too expensive. We don't have the wage capacity to buy back lands. It's really too bad that it's got to where it was if 10 years ago when it was on the market we would have had a possibility to purchase that with the Hana Coastal – or the Maui Coastal Land Trust or something like that. We could have put it away, conservation forever for our community. Unfortunately that didn't happen. Maybe we can go backwards, maybe we can find a way to purchase it, a win-win so he doesn't loose his investment, but you cannot take this away from the community. We're being squeezed too hard, too much, everything's disappearing and this will never come back. You take this away, he puts up the house, it will never come back to the community for generation after generation. And we can't allow this to happen and I hope that we can look at the definition of an environmental impact and we can look at the sociological, we can look at other factors besides runoff and sewage and look at the people who

live here, who've lived here for generation after generation. This is their home. Thank you.

Mr. Starr: Okay, thank you very much. We have two people who asked to come back to finish up. Before that, anyone else who has not testified, if you'd like to come and give some comments and you've not given comments please let us know. Or if anyone that signed up that I missed. Any not seeing any, I'm going to first give Sharon Miner the ability to come back for another short comment. Sharon, aloha.

Ms. Sharon Miner: Mahalo, thank you. I guess I got so emotional that I forgot to say one of the most important thing. On behalf of my family we will ask for a 30 feet buffer zone around the grave site. My kupuna who is with the Maui Burial Council will meet with me next week. Couldn't come in today because he's on Oahu at another meeting. If you need to know who his name is he is John Kululoio. Mahalo. I mean Les. I'm sorry Les. I'm looking at him. Les, I'm sorry.

Mr. Starr: Okay, Mahalo Sharon. And one more opportunity to finish up for Viola Cashman. If you like, you have a little more time.

Ms. Cashman: ...(inaudible - speaking from the audience)...

Mr. Starr: Okay, so good. Okay, and thank you for sharing the first-hand story about that tsunami. That was a good lesson about what to see if you see the ocean go away. That was good. I'm going to give an opportunity to the Stices to give a short comment if they want to after the community has made their comments. So if you want to add a little comment, I'll give you that opportunity. You need to use the microphone. Take your time, it's okay.

Mr. Gary Stice: Okay, well, where are you, okay, there you are. I wanted to clarify for information that you know, apparently and obviously you're unable to have on the history of this property and I've been told that you know, because this is for an appeal that we don't want to get into all of these extra ideas and thoughts, but I do just for information want you to know that there was a big issue about the vacation rentals. We built that house at Hale Kilohana 20 years ago. At that time, there was nobody who was concerned about vacation rentals that we ever heard about. It's only been in the recent times that that has even been an issue. It was never on our minds and it was never brought to our attention that that was ever a problem. So that's history.

Now coming to the present recognizing that vacation rentals are not in favor especially in Hana and other communities, we are not about to go in everybody's face and built a vacation rental and have people come in there and rent it out. I can make that pledge right here in front of everyone that that is not our intention, it is not our intention to sell the property to someone else to make our money. We're not money grubbing people, we're just normal school teachers, we're retired people, we're not big land owners. And I think most of you in this room know that.

Bob Carroll mentioned that we have tried in the past with many different agencies and especially county government. We have made a number of offers because we know the community is sensitive to this property and it's important to the community we did not object to even discounting very greatly the value of the land but there are no takers folks. We have investigated all of that. Maui Coastal Zone, Nature Conservancy, government is just not going to do this.

And so our contention is that we are open to the community, I think we've shown that in the 20 years we've been here. We want to keep the community involved in this land. We recognize the sensitivity of the area. We've done complete archaeological studies and I recognize that it's an important historic place and there have been a lot of – a heiau and a lot of important things done there, but the tsunamis have really taken that away and our archaeological report proves that. So I'm just trying to provide you with some information. The in situ burial agreement has already been negotiated and made and recorded with the property. That is really already protected and I also want to point out that we are not making new use of this property. There were people living there before the '46 tsunamis. There were families, ohana living there and the tsunamis changed all of that. Had it not happened, those families would still be there I am certain and they probably would have built a little more modern houses on the property as well. So we feel that because the land was transferred and changed hands several times that we are not making any different use of that property than was originally done.

And so I also wanted to comment on the sewage pollution. The property since it's been inhabited by families for way before the Atais I'm sure back in the Hawaiian times there hasn't been any notable pollution for people living on that land. We have designed a septic system way better than some sort of a pit toilet and if a tsunami comes, we're not going to be using – flushing the toilet, using the bathroom and have it flood all over the property. So if there is flooding we're not going to have an endangerment of the fish pond. I study this study. I'm a geologist. If you put water, polluted water through the soil within two feet bacteria especially e coli will not be able to survive. The effluent may still contain nutrients which should be beneficial to the life around the pond. I've been an oceanographer and I know that we can have some very interesting and exciting projects there as Russell noted. We want to bring the aquaculture there, we want to bring – have Hawaiian, young Hawaiian kids learn fishing and farming, aquaculture, mariculture, mean by farming, not just go out and fish but how to grow your food. And so we are committed to education and helping this community. I think we're the best shot you have because if we are – we understand the resistance to building it but if we're not able to build I don't know someone else that we might have to sell to, I don't they are going to be of the same attitude that we have been and are intending to be and I recognize all the issues and all the problems but we can really make that property a cooperative community run organization that will benefit this community. We're not greedy, we're not selfish, we don't want to keep the property all to ourselves, we just want the right to have some structures there that will enable us to make even better use of the property than as fallow land which is what it is now. Okay. Thank you.

Mr. Starr: Okay, thank you Mr. Stice. Now, I'd like to ask Planner Trisha Kapuaala to just give us a little bit about what will be next stages in the process on May 25<sup>th</sup> and then what would happen if the – depending on how the hearings body rules a or b and then what would occur.

Ms. Kapuaala: Okay. Thank you first of all, what happens next is on May 25<sup>th</sup> at the Kalana Pakui Building next to the County Building in Wailuku there is going to be contested case. This is not a public hearing. It does not operate under the same state law. The SMA process is operated under Chapter 205A so all of the CZM or Coastal Zone Management Laws are in that chapter of HRS.

This is Chapter 91. A contested case process is a closed meeting where it's between the parties and right now the parties are the County, the Planning Director who made the decision and the

Stices who are appealing that decision. So that's the appellant and then the County as appellee. Should, and again, it's a mini court trial where they're going to raise their hands, take testimony, the parties are going to have a chance to cross examine if they bring witnesses, bright evidence, documents submit it into the record. The commission will have the job of determining whether the Planning Director committed error or not in their decision. And again, the Planning Director made a decision that the Stices are to undergo the SMA Major permit process and that's the public hearing process you might be aware of. You see it on Akaku all the time. So during that public hearing process is, Mr. Medeiros, is the time that the public can offer their testimony and be questioned of the commission. If that process, if the commission denies the Stice's appeal that means the director's decision is upheld and the Stices will be required to go through the planning commission again and go through the SMA Major process. If they grant Mr. Stice's appeal that means that they are overturning the decision of the Planning Director. So if the commission would allow I can answer any questions that you may have on the process. Again, that's May 25<sup>th</sup> at 1:00 p.m.

Mr. Starr: Okay, I will allow if anyone has a question, not regarding process – not the specifics of the case but the process. Councilmember Medeiros.

Mr. Medeiros: Mahalo Mr. Chairman. I wanted to ask being that the County is a party in this and a major participant is the Planning Director who no longer is the Planning Director is he going to be summoned to be there and to answer for his decision?

Ms. Kapuaala: Mr. Chair, I can give the mike to Ms. Mary Blaine Johnston, she's Corp. Counsel representing the Planning Director in this case and she knows what case she's going to be presenting.

Ms. Mary Blaine Johnston: The answer is yes. Since he did sign the letter even though we have a new director, he will be presented to the commission so they can have a chance to ask him questions, Stices can ask him questions. So yes, well I hope he'd be a witness, you know, the plan is to have him there.

Mr. Starr: Okay, anything else? Okay, I want to thank everyone for coming and sharing with us. I want to thank the commission members for their patience and intelligence and putting up with me which is heroic and all of our staff who do a great job. I'm really proud of our planners and we will see you next time. Aloha.

**C. DIRECTOR'S REPORT**

None.

**D. NEXT REGULAR MEETING DATE: MAY 11, 2010**

**E. ADJOURNMENT**

The meeting was adjourned at 7:02 p.m.

Submitted by,

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

**RECORD OF ATTENDANCE**

**Present**

Jonathan Starr, Chairperson  
Jack Freitas  
Donna Domingo  
Ward Mardfin  
Lori Sablas  
Warren Shibuya  
Orlando Tagorda

**Excused**

Kent Hiranaga

**Others**

James Giroux, Department of the Corporation Counsel  
Trisha Kapuaala, Planning Department  
Clayton Yoshida, Planning Department  
James Buika, Planning Department