

**MAUI PLANNING COMMISSION
REGULAR MINUTES
MAY 11, 2010**

Approved: 8/24/10

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Jonathan Starr at approximately 9:03 a.m., Tuesday, May 11, 2010, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Jonathan Starr: I'd like to welcome everyone this is the May 11th meeting of the Maui Planning Commission. Thank you all for joining us. I'd like to introduce our commissioners and planners and staff that keep this running. Commissioner Kent Hiranaga, Commissioner Jack Freitas, Commissioner Orlando Tagorda, I'm Jonathan Starr, I'm Chair of the Commission, Commissioner Donna Domingo, Commissioner Warren Shibuya and Commissioner Lori Sablas.

We have with us Deputy Director and I'd like to congratulate her, Ann Cua, who's truly been a great planner and really understands the process and a strong proponent for planning and we're really proud to have her as Deputy and she'll be helping us staff the meeting today. We have James Giroux of Corp. Counsel, the lawyer for the commission and really an ace. He does a really good job and keeps us safe. We have Clayton Yoshida who keeps the Current Division in line and prepares our agenda and schedules and keeps things running. He's been around a long time and does a great job. Mike Miyamoto is Deputy of Public Works. He knows everything there is to know about roads and other county facilities and he's a great resource. And Carolyn Takayama-Corden is the secretary for the commission. We have several of our planners here who will be working on different projects today. Gina Flammer, Livit Callentine and Candice Thackerson and welcome everyone.

Before we begin, we'd like to open up for public testimony on any agenda item. Members of the public wishing to testify will have one opportunity either now before the meeting or before deliberations on an item. To testify, ask that testimony be kept as short possible certainly under three minutes. First testifier to sign up and please come to the mike and introduce yourself is Natalie Gonsalves.

The following individuals testified at the beginning of the meeting:

Ms. Natalie Gonsalves - Item C-2, HRT Limited, Draft Environmental Assessment on Phase II Project District Approval for Proposed Maui Lani Shopping Center.

Ms. Joanne Shibuya - Item C-2, HRT Limited, Draft Environmental Assessment on Phase II Project District Approval for Proposed Maui Lani Shopping Center.

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

Mr. Starr: Next testifier is Bill Hurd, please come up.

Mr. Bill Hurd: Mr. Chairman, both Elaine Nelson and myself would like to defer until when –

Mr. Starr: Okay, you'll wait for your item, that's fine and Elaine Nelson. So those are all I have that are signed up, any other members of the public please come forward if you wish to testify. Not seeing any public testimony for the initial portion of the meeting is now closed.

Ms. Ann Cua: Mr. Chair and Members of the Commission our first item is a request by Seabury Hall requesting a State Land use Commission Special Use Permit and a Conditional Permit for the proposed creative arts facility and related improvements on approximately 9.476 acres of land located in the State Agricultural District at 480 Olinda Road, TMK: 2-4-088:001 in Makawao. The staff planner on this matter is Livit Callentine.

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

1. **SEABURY HALL requesting a State Land Use Commission Special Use Permit and a Conditional Permit for the proposed creative arts facility and related improvements on approximately 9.476 acres of land located in the State Agricultural District at 480 Olinda Road, TMK: 2-4-008: 001 (por), Makawao, Island of Maui. (SUP2 2009/0016) (CP 2009/0002) (L. Callentine)**

Proposed improvements include construction of two separate structures totaling approximately 11,480 square feet to house a stage and audience, classrooms, and related storage. An eighty (80) stall grassed parking lot is proposed adjacent to and south of an existing parking lot.

Ms. Livit Callentine: Good morning Commissioners. As our Deputy Director we are going to be reviewing a State Land Use Commission and Conditional Permit application for construction of a new creative arts facility at Seabury Hall.

The project site state land use designation is agriculture and pursuant to Hawaii Revised Statutes 205 and 205A and the Rules of the Land Use Commission Special Use Permit is required for uses not specifically listed. Additionally, HRS 205-6 authorizes the County Planning Commission to permit certain unusual and reasonable uses within the agricultural and rural districts other than those for which the district is classified.

The commission may utilize the following guidelines in determining an unusual and reasonable use. First, the use shall not be contrary to the objectives sought to be accomplished by Chapter 205 and 205A HRS and the Rules of the Land Use Commission. Two, the desired use would not adversely affect surrounding properties. Three, the use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements and fire and police services. And four, unusual conditions, trends and needs have arisen since the district boundaries and rules were established. And finally, number five, that land upon which the proposed use is sought is unsuited for the uses permitted within the district.

Regarding the Conditional Permit Maui Planning Commission recommendation to the County Council is necessary because the site on which the project is proposed is zoned agriculture and educational facility is not listed as one either a permitted or a special use in Chapter 19.30A, Maui County Code. A conditional permit is reviewed pursuant to procedures established by Chapter 19.40, Maui County Code and provides opportunity to establish uses not specially permitted within a given use zone when the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

In order for the commission to recommend approval of the conditional permit it must find that reasons justifying the granting of a conditional permit exist and that the proposed use would not be significantly detrimental to the public interest, convenience or welfare and will be in harmony with the area in which it is to be located. If however the commission finds that the proposed use is substantially different from those uses permitted in the use zone, it shall recommend denial of the request and may request the applicant to seek a change in zoning should the facts warrant it.

I'll give the briefest of description of the proposed project. The facility will consist of two building and serve the existing Seabury Hall creative arts community as well as provide a setting for the school assembly. The facility will also be available for use by the upcountry community during times when the school is not in session.

Proposed construction of two separate structures. The larger of the two structures will provide a stage and approximately 500 seats for the audience. Additionally proposed is a second smaller structure for storage of props, supplies and classroom. Between the two buildings is an area for outdoor gatherings. The proposed project will also include approximately 80 grassed parking stalls.

I will now turn the podium over to Gwen Hiraga of the planning firm, Munekiyo and Hiraga on behalf of the applicant. Gwen and other members of her project team will provide a more detailed description of the project. Once the project team presentation is complete, I will return to the podium to address your questions, provide the department's analysis and after discussion, our recommendation. Thank you.

Mr. Starr: Ms. Callentine, about how long will that presentation be?

Ms. Callentine: Five minutes.

Mr. Starr: Okay, five, ten minutes is perfectly fine.

Ms. Callentine: Yeah, pending questions.

Mr. Starr: And welcome Ms. Hiraga.

Ms. Gwen Hiraga: Good morning Chair Starr and Members of the Planning Commission my name is Gwen Hiraga and be doing the presentation this morning. Promise to keep it at a minimum. Livit already gave an overview of the project so I'll be skipping a lot of the slides that you see on the screen.

Mr. Starr: Okay, take your time. My purpose is to try to avoid the one-hour type of presentation.

Ms. Gwen Hiraga: No, no, no, I can't speak that long. So the project team, the applicant is of course and Seabury Hall and Seabury Hall is represented by Headmaster Joe Schmidt and also Mr. Charlie Jencks. Our architect is Riecke, Sunland, Kono Architect Limited, and Anthony Riecke-Gonzales is here. Project engineer is Otomo Engineering and Stacy Otomo is available to respond to questions. Our firm is the planning consulting firm, Munekiyo and Hiraga and finally our

traffic engineer is also available to respond to any questions you may have and he is from Austin, Tsutsumi and Associates, Keith Niiya.

Again, very quickly the request is for a State Land Use Commission Special Use Permit and County Conditional Permit. The location of the project site this is the area that we're looking at. Olinda Road Hanamu Road and Meha Road. This is the site plan of the proposed creative arts facility and the architect will go into detail on this during his presentation. But again, this is the area that we're looking at. This is just another slide that shows the overall campus. This is the location of the performing arts facility. This is the existing campus area and this is the existing school parking lot.

The creative arts facility is proposed to address the needs of the school's existing performing arts program. As Livit mentioned you know, there are two structures and will be available for school events as well as used by the community. Livit also mentioned all of the site information which is agriculture for state land use, community plan and zoning. The project site is approximately 9.476 acres.

Project history, on December 1, 2009, we did appear before the Urban Design Review Board and it was an advisory review but the board did recommend approval. On March 1st, there was a community meeting held by the school.

The next few slides are a couple of photos just for orientation purposes. This photo was taken on the driveway off of Meha Road facing east and looking towards the project site. The second photo is taken at the corner of Meha Road and Hanamu Road looking into parcel 1. And I will turn the mike over to Anthony at this point who will discuss the site plan, elevations and design of the facility. Thank you.

Mr. Anthony Riecke-Gonzales: Good morning Commissioners, my name is Anthony Riecke-Gonzales of Riecke, Sunnland, Kono Architects. This is the site plan of the proposed building. It's on a lot that's on the corner of Meha Road and Hanamu Road adjacent to the existing campus. The lot, you can see kind of a U-shaped lot being cut out of that corner lot. You can see this U-shaped lot. The school is currently in for a subdivision lot consolidation to be able to join the U-shaped lot that you see here with the existing campus lot. So it will be considered all one property. The access to the new building will be mostly on a pedestrian path for the students through the main campus next to the existing performing arts building which was their old gym to the new performing arts building. That will also be for when they actually host the public the existing parking lot which is up here will have a pathway down to the new performing arts building. There will be limited access for people who need accessibility to be able to come down that pathway with an automobile and drop people off at this turn around and then go back up.

As part of our application we are also asking for a grassed parking lot to be recognized that would be on this same lot. There was little bit of a confusion with the Planning Department. This grassed parking that we are proposing is not being proposed to meet the minimum parking requirement. The campus actually already has enough parking to meet the requirement of this larger performing arts building that they are requesting.

This is the floor plan that's proposed of the main performing arts. As you can see it has an

entrance down here and it's a little bit confusing for you because this is switched around from the site plan that you were just viewing. The entrance is actually through here and then there are restrooms on each side of the little concession area and then the majority of the building is a large auditorium with a stage and then service areas for that stage to bring props and have actors waiting. There's a large door out the back that goes to a courtyard and then another classroom building and what they call the green room which is like a staging area for actors so that they can come out, go through the courtyard and then come into the stage.

This is a cross section of the site with the building on it and I felt this was important to be able to see the scale that we're talking about here. The second at the top you can see is Meha Road and then there is this large gulch that is existing here and then there's the building and then the campus with the campus' property line. This is actually the upper school that we built about three years ago. And this is a cross section in the other direction where you can see Hanamu Road over here and you can see there's quite a distance between the public road and where they're proposing to put this building. The concept behind this building is to have it look like a barn similar to the other agricultural buildings that are up in the area and have it blend into the landscape and I think we've done a pretty good job with that.

This is the main entrance and you'll see that you know there's not like a lot of glass and windows. What we've actually done is we've put what's called a scrim which is a shading device that looks like wood lath over most of the glass area so from the exterior this looks like a barn with lath on it. That provides a couple of good things. One it helps to shade the glass, it also helps to keep the water off the glass and then it also helps to mitigate just looking like an office building or another type of more of a commercial type building.

This is a model that was done that can help explain a little better what I just discussed where this – what looks like wood lath is on the outside actually screening the glass areas and then we have a lot of these large barn type doors on the project so again it looks like a barn.

This is the smaller classroom building in the back that is forming the courtyard over by the stage and it has a similar feel to it. On the areas where we don't have windows behind we would be using a synthetic wood siding product so that again, we keep to that barn theme.

And here's overall elevations of the classroom building and the large auditorium building.

And now I'll turn it over to Stacy Otomo, the civil engineer on the project to talk about grading.

Mr. Stacy Otomo: Good morning Chair Starr and Members of the Planning Commission my name is Stacy Otomo. In terms of the drainage as you saw in the previous slides, there's an existing drainageway that comes down in this area. The grading work would be pretty much limited to the proposed grass parking, the limited access and structure itself. The grading concept is straightforward where we'll be installing graded catch basins and drain lines and creating a series of three detention basins one right here, another one here and one right here and there is one on the campus right in this particular area and based on these three detention basins we will be able to provide enough storage capacity to handle the existing flow plus the incremental increase created by the project and it will be maintained all on site. I'll have Gwen Hiraga come back again.

Ms. Hiraga: Sorry, we're over our ten minutes but I just wanted to close now and repeat that our request is for a State Special Use Permit and a Conditional Permit. We would like the commission's consideration in granting or recommending approval for a 10-year permit. The department has recommended five and the reason for that is that as you'll recall the commission very recently granted a 10-year time extension request for the parking lot. Also, we are in the process of preparing the permanent entitlements for the project, District Boundary Amendment, Community Plan Amendment and change in zoning and finally and I know Livit will also bring this up is on the recommendations on the Special Use Permit we are requesting that either Condition 10 or 12 be deleted because it's a duplicate condition but that concludes our presentation. We are open to any questions the commissioners may have.

Mr. Starr: Okay, thank you. Before questions I want to ask Ms. Callentine just to clarify what we're being asked for and whether we are the authority or we're making recommendation.

Ms. Callentine: Okay, and so your question is what is the decision that you need to make today?

Mr. Starr: Yeah, what are we being asked and are we the authority or are we making a recommendation?

Ms. Callentine: You are the authority to approve or disapprove the State Land Use Commission Special Use Permit. You are the recommending body to the County Council for the Conditional Permit. Those are the two applications before you today. Did I answer your question?

Mr. Starr: Yes, thank you. Okay, members questions for Ms. Callentine or for the applicant? Commissioner Shibuya.

Mr. Shibuya: Hi, I just wanted to find out the standard loading for the highways leading to or servicing the Seabury facilities. My concern deals with evacuation. It is in a area where it's of large tall trees. It's windy when it's stormy and it's also lots of water. I am concerned that we may or may not have the adequate the width on the road because we now have evacuation happening perhaps at the same time that emergency vehicles are coming in to help. Can you elaborate on all of these roadways that are servicing Seabury Hall?

Ms. Callentine: Thank you Commissioner for your question. As I understand it you would like to know what the existing campus evacuation plan is and you would like to know what the road widths of the surrounding properties are or that the meet the standards required. And for this, I would like to ask the applicant to address this or one of the project team if you wouldn't mind. I'd like to defer to them on both of these questions.

Mr. Starr: Yeah, why don't we hear that. Also, we might ask Mr. Miyamoto to make a comment after.

Mr. Joe Schmidt: Aloha Mr. Chair, my name is Joe Schmidt. I'm the Headmaster of Seabury Hall. The school currently has an evacuation plan for removing students from the school and visitors from the school at any time that we're suffering flood, fire, whatever the case may be. So that is in place. And this is also, this project is not going to increase the number of people on campus any

more than we already have over previous construction projects.

Mr. Starr: Mr. Miyamoto, could you address the ability to flow traffic out in an evacuation?

Mr. Mike Miyamoto: Thank you Mr. Chair. The area is agricultural so the roadways are to ag standards. One of our comments was that we did want to secure a road widening lot to – for the property frontage for future widening. Currently we don't have anything on the books to widen this area because you want to keep it agriculture in feeling. We don't want to be widening this road and urbanizing the area. As the applicant has stated they are not increasing the number of people at the campus, they're just enhancing what's already there. So if they have existing evacuation plans it seems that their site is surrounded by several county facilities that allow them to evacuate the property.

Mr. Starr: Commissioner Shibuya, any follow up?

Mr. Shibuya: Yes, I have a follow up because you now have a performing arts type of theater and you're not only supporting the current student load but you probably will be supporting parents which normally do not attend class sessions. And so now you have the community as well as all of the students on campus. So it is an increase in the number of persons on campus.

Mr. Schmidt: Actually no because the current facility doesn't meet the needs and so what we will be doing is the same kind of events that we normally do so it won't be increase in numbers of students, it won't be increase of numbers of parents. And the events that take place during off peak hours are very, very small in number. Most of this work is done during the school day so it's not for the parents per se, it's for the students. We don't have a place for example on campus where we can literally bring our entire student body together and our group together. The current facility only seats a 150 people and we have 500 people who are employed or go to the school.

Mr. Shibuya: I just want to highlight the fact that there's also additional parking that was provided for across the road of Olinda Road and that was during the Seabury Craft Fair. I attended that, it was crowded and it was well attended and I enjoyed it and I do see an increase of the normal enrollment of students as well as may be parents, but community members also there too. So I do see an increase, I don't see no changing in terms of the actual people, population load there on campus.

Mr. Schmidt: I think the craft fair is a different thing. It doesn't relate to the performing art center. It really is a special event. It's a school wide event, but again, we're not looking at increasing enrollment of the school. We're maintaining the same enrollment. Our master plan and our future strategic plan doesn't indicate any increase in enrollment whatsoever, we're maintaining the same. And really again, the project's primary purpose is to support the lack of facilities that we have right now for the current program that we have.

Mr. Shibuya: May I have another –

Mr. Starr: Yeah.

Mr. Shibuya: Fire hydrant. I was looking for a fire hydrant that was close by. Can you identify or somebody tell me where that fire hydrant is located and what size pipe is it? Is it a standpipe 4-inch or is it a normal 8-inch?

Mr. Schmidt: We'll let Stacy answer that question.

Mr. Otomo: To answer Commissioner Shibuya's question there is a fire hydrant off of an 8-inch line and I cannot pinpoint the exact location but I think it's somewhere down in this area. In relation to this particular project we're anticipating in putting in another fire line along the entry roadway with additional two or three fire hydrants. So there would be adequate fire protection for the building.

Mr. Shibuya: So can you identify where the hydrants would be proposed for just by spotting it on the map.

Mr. Otomo: We were anticipating probably one around this area, one here and maybe one along the access road coming in. So there'll be three fire hydrants that we're looking at.

Mr. Shibuya: Thank you.

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: Good morning, since you're already up there.

Mr. Starr: Use the mike Orlando.

Mr. Tagorda: I have a comment on your grading plan. You pointed some areas there in that map and my question to you is, will that retention basin with the proposed project will 100% of the storm water runoff.

Mr. Otomo: That is correct. Hundred percent of the existing flow plus the increase that we're generating from the project site. So the bottom line is that there'll be less runoff coming into the existing drainageway than what's going in there right now.

Mr. Tagorda: And with that additional 18 parking stalls made of grass are there some kind of irrigation system that will be installed there to upkeep the parking grass stall?

Mr. Otomo: We don't have the landscape architect here today, but definitely I think what cannot be supplemented from rainfall we'd probably have a irrigation system for the landscaping because there will be landscaping around the building itself.

Mr. Tagorda: I don't know if you can ask a follow up question Mr. Chair?

Mr. Starr: Yeah.

Mr. Tagorda: I'm also concerned about the building structure, proposed building structure. It's just it looks like a barn, no ventilation, no windows. Is any of this green things design that we

incorporated when you guys make the design?

Mr. Riecke-Gonzales: Yes, this is Anthony. Yes, we are not a LEED project however the building has been designed to naturally ventilated building. There is no air conditioning. So even though the building looks like a barn and that was purposeful behind that wooden lath are sliding glass doors that open up fully on two sides of the auditorium so that it's almost like an open air seating area when you need a lot of ventilation in there. And then I'm sure as you know, if you've ever been up there in the evenings from say about November through April it's actually quite cool in the evenings. It gets down to the 60's, sometimes high 50's up there. And so, there's a couple of things happening. One is that wood lath screening helps to shade the window class so you have lower heat gain. It allows the windows to be opened up behind it and air flow to flow through it.

Mr. Tagorda: And then ... (inaudible)... you will have a problem in lighting. So did you incorporate lighting fixtures for the building too.

Mr. Riecke-Gonzales: Well, there is lighting fixtures in it, but it is a theater so actually there's you can make it like the sun inside if you wanted to because they'll be doing that occasionally when they want to spot light an actor or something that's happening down on the stage area. But in most cases the lighting will be more low but when they do have their assembly area say in the morning there are high windows in the auditorium, that's that little cupola that's on top. So this cupola up here does allow natural light to come in from the top.

There are a couple of other things that I might want to comment on. One of the other commissioners here who had the concern on evacuation or traffic to the campus site. This campus is actually one of the better ones on Maui in that it has access to three county roadways. Most other campuses only have access to one. So even though the roadways that they have access to, Olinda being the biggest but the other two being smaller they actually have the advantage that if they do have a problem on one of the roadways they parking areas have access through the campus to the other two roadways and even if they were to have problems on two roadways they have a third to get out. And some of the other campuses on the island don't have that luxury. So I would point that out. Any other questions on the building?

Mr. Starr: Commissioner Freitas.

Mr. Freitas: In regards to the grassed parking lot, I live in that area, we get a lot of rainfall. Why wasn't that graveled instead of what you call just grassed area. I know if I run my car through my grass I leave a muddy track and if you're going to have cars going in and out I believe you're going to have a lot of mud.

Mr. Riecke-Gonzales: Yeah, and that would be the case especially if that parking area was used on a daily basis, but the idea is is that grass parking area gets used maybe once every three months and if you go to the Seabury campus now and you drive off the Hanamu Drive area and you come through it almost looks like there's this long driveway to the paved parking area and actually on both sides of that driveway and also over by the eucalyptus tree that's all grassed parking but it's the furthest away so it's the last stuff to get used by the kids and so that stuff looks gorgeous. And it's not just grass on ground. There is actually a paving system underneath that allows the

grass to be able to take the automobile and not crush down the soil so that it becomes muddy and that the grass doesn't grow. It's actually a paving system that's made up of round PVC rings that are about three inches high and so it's on a fiber mat, they put that down and then they put you know like sand and gravel underneath so you have a nice drainage system and then they put a couple inches of top soil over the top and plant the grass. So that when the car comes if the car compresses that top soil a little bit it hits those grass rings and it stops the compression. You know, I know where I live if I were to park on the grass over in Haiku all the time not only would the grass not grow pretty soon you'd have ruts in the grass. That's not the case with these, you know, parking systems that they have that are grassed parking.

Mr. Starr: Okay, any other questions? Commissioner Hiranaga.

Mr. Hiranaga: Sorry, I wasn't paying full attention. Did you say you were going to install those grasscrete type rings?

Mr. Riecke-Gonzales: Yeah, it's not a grasscrete.

Mr. Hiranaga: I know, I understand the system. That's going to be installed in that area?

Mr. Riecke-Gonzales: Yes, when we put that grass parking in that would be the system that would be put down, correct.

Mr. Hiranaga: My other question, maybe it's not for you but I know the other grassed parking area came up for an extension on their State Land Use Permit was any conditions that was placed by the commission on that application that is not part of your recommendations? So we don't have to reinvent the wheel.

Ms. Callentine: Commissioner Hiranaga, as I recall and I don't have – I did review the report and recommendation and approval for the parking lot in the most recent time extension approval, but I do not recall exactly what the conditions of approval are. The conditions of approval that we're recommending are a fairly standard set of conditions. Did I answer your question?

Mr. Hiranaga: Sort of.

Ms. Callentine: Okay.

Mr. Hiranaga: We can move on.

Mr. Starr: Yeah, Deputy Director Cua has a comment on that.

Ms. Cua: I actually handled that parking lot a number of years ago, I didn't handle the extension, I too, don't have a copy of the conditions we can get that if you want it. I recall that they were more standard in nature because it was pretty much just for the parking lot and we had gone through all the issues. I don't recall that there was any outstanding issue that required a specific condition. That's just my recollection, but I can if you'd like we can get a copy of that extension approval letter for you.

Mr. Starr: Yeah can we get a copy of that while we finish our deliberations?

Ms. Cua: Yes.

Mr. Starr: Commissioner Hiranaga, you have another question then Commissioner Tagorda.

Mr. Hiranaga: One of your consultant's comments was there was an inaccuracy on the parking stall requirements. I just wanted to clarification. Something like they did not need the 80 stalls to meet the minimum required stall units or you do?

Mr. Starr: Mr. Riecke-Gonzales.

Mr. Riecke-Gonzales: This is Anthony again. Yes, that is correct. And you know, one of the whole ideas of this 80-stall parking area is that I want to make sure that we have enough parking to meet the planning. You know when we first, you know, drafted this out, the Planning Department was going through a revision to the parking ordinance. They have now adopted that and so with that adoption, you know, the parking requirement did go up I believe in some of the documents the required parking count came out to 434. It's now up to like 464, even under a 464 the campus currently has sufficient parking that was previously approved to accommodate the performing arts. So there's a few stalls on the existing campus that are in addition and then this entire 80-stall proposed parking lot would be in addition to what the required parking is under the current count. The current count isn't the final count until we go in for building permit.

Mr. Starr: Okay, Commissioner Hiranaga one more then.

Mr. Hiranaga: On page 8 there is a Table 1, parking requirement I wanted clarification on what is correct.

Ms. Cua: You're talking about page 8.

Mr. Hiranaga: Page 8, number 1.

Ms. Cua: And you're saying what is correct as a –

Mr. Hiranaga: What he's saying that they meet the requirements without the 80 stalls but according to this exhibit they need the 80 stalls to meet the requirement. So who's correct?

Ms. Cua: Okay, so my understanding and again, you know, I questioned the – the parking count seems appropriate here. If you look in your report you have a comment letter from our Zoning Division which actually is the agency in charge of doing parking determinations but that's actually not done until they go in and file for building permits. But what they're going to have to do which they've already done and I believe it's an exhibit in your report I'm not sure what exactly – Exhibit 16A is a letter where the applicant submitted to our Zoning Division regarding their comprehensive parking plan and they've provided a parking assessment. That may or may not change when they actually come in for building permit. Zoning would also determine how much of the parking would have to be paved and how much would be allowed to be grassed. Any overflow parking obviously

does not have to be paved and that would be adequately addressed by our Zoning Division when they file for building permits.

Mr. Riecke-Gonzales: I think, you know, this has come up with some of the Planning members as well, what is the misunderstanding is I showed on my documents that there's 473 existing stalls and people have assumed that that 473 includes the 80 stalls that's under this request, it does not. The 473 you would add to that the other 80 stalls because you know those stalls at least in my mind they're not existing until you guys give us approval for them.

Mr. Hiranaga: Thank you that answers my question.

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: This is just a minor thing. I'm just so much concerned about in that building that the design was they been incorporate some of this design to conserve energy. There's no solar panel on those of the roof which is used. I know it cost money but I think we should since it's a school facility.

Mr. Riecke-Gonzales: The school is looking at doing a photovoltaic system. You know the headmaster could probably talk a little bit about that. But because this is a campus and all the electricity is actually connected together, even though this building is designed with a standing seam metal roof where it would be easy to add panels right now it doesn't make sense to do that. It would make sense to put the panels where they're currently planning on maybe putting a photovoltaic system which I believe is over by their gym and there's a couple of advantages to that. One, the orientation is correct. It a lower sloped roof proposed so you can get up there and maintain it pretty easily and for the campus it doesn't really matter where you put the photovoltaics, it all feeds into the central system and the central system feeds out to all the buildings.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: Staying on this same topic, what is the height or proposed height of this performing arts theater?

Mr. Riecke-Gonzales: The proposed height is 35 feet and that is not the exposed height. The exposed height is going to be around 31 ½ to 32 feet and that is because you know the 35 feet is counted from the lowest point in the building and there will be a recessed floor down in the auditorium portion which is about 2 ½ , 3 feet deep. So the overall height is 35 as counted by the county rules. But what you would see as you walk by the building would be 32.

Mr. Shibuya: Because I was looking in terms of – thinking along the same lines as Commissioner Tagorda that renewable energy opportunities should be at least extended especially on brand new construction that the structure siting is critical at this point and you have that opportunity and why throw it away and thanks for that answer there.

Mr. Riecke-Gonzales: Well, I do think you know there is one side of the roof that we certainly discuss putting photovoltaics at some point in the future. As I said though, it doesn't make sense

right now to have each building have a, you know, a little panel of photovoltaics. It makes much more sense for them to put it say on their gym building. Have a nice big system there. They only have one inverter, you know, it's much more economical to do that and then the main campus switch gear is actually over by the gymnasium and that's where the main transformer comes in from Maui Electric and then you know, all the switch gear goes out to the different buildings. We'll be tying into that as well for this building.

Mr. Shibuya: Because you would be putting infrastructure in for your electrical system too. I'm not being argumentative but I'm just telling you that you do have an opportunity there.

Mr. Riecke-Gonzales: You know picking up on that theme I did the Montessori project it was a wonderful project and we did a LEED building on there and one of the things that I found on that project is even though has some really great things it's a difficult process to go through and it costs money and then it doesn't lend itself wholeheartedly at least right now, and I know they're trying to change that to our tropical climate. We're not going to air condition this building so we're about as efficient as you can get on the air conditioning already and LEED is really geared for well, how efficient can you get on your air conditioning and heating system. Well, we're already maxed. What else you got? And I think you know, local architects we're pretty good at being sensitive to our microclimates, you know, this would be a very different building if we were building it in Kahului. We're building it up in Makawao at 2,000 feet, we get some advantages up there where natural ventilation and we've been sensitive of that. This is going to be a really great naturally ventilated building. We did the high school up there. The only complaint I heard actually it was on the middle school, well you know, it gets a little hot. We went down and looked at the classroom, she had all the windows closed. Well, yeah, if you don't open the windows it gets hot. If you open the windows the natural ventilation will work. So I think, you know, we've been pretty sensitive here on this building for taking the natural climate and you know, one of the reasons to be green is it's affordable. If you don't have air conditioning you don't have a big bill at the end of each month.

Mr. Starr: Yeah go ahead.

Mr. Shibuya: This one deals with the applicant being willing to condition in some changes such as providing the easement if the county or this body recommends that this be rezoned to more urban public/quasi-public versus agriculture then the easements would need to be provided by Seabury Hall. Also, conditioning the parking if the stalls are not adequate enough then they would, Seabury would be putting in some either impermeable or permeable type of pavement for parking. All I'm trying to do – I'm trying to be supportive but yet also be reasonable in terms of our regulations and ordinances.

Mr. Starr: Deputy Cua will answer.

Ms. Cua: If I could start by addressing your parking issue. The applicant is going to have to meet the parking requirement and parking treatment based on Chapter 19.36 which is the County's Off Street Parking and Load Ordinance. They don't have a choice, we don't have a choice no matter how much grass we want to see. So when they come in for building permits for these two structures not only are they going to have to provide to our zoning division these square footage and uses of these two structures as you've seen already what an applicant normally gets asked for is a parking

analysis of the entire facility. So they're going to have to address all the uses, all the buildings and what they take into account is you know, when were some of these buildings built, what was the parking requirement then? If they're not changing it it remains the same and they have some of their buildings built in the '60's and so obviously parking requirements '60's and '70's were much different than they are now. So that all gets taken into an account. Zoning comes up with a particular number and based on that number that's your parking requirement and you can have so much of that be grass parking. So that's a whole exercise that they're going to have to go through when they submit their construction drawings. They've done it preliminarily. You see that – their parking analysis attached. I believe you're looking at it right now. But that is just a draft that they've submitted just part of this application, but unless – not until they do their construction drawings are the hard numbers going to be determined by our department. So I don't believe you need a condition. I would recommend it's really not necessary because they have to meet the code. It's a code requirement and they can only have as much grass parking or they can only do grass parking after they've met their required parking.

Mr. Shibuya: And you've addressed half of it. What's the other half as to the easement on the highway are they going to provide easements for the roadway?

Ms. Cua: Okay, my understanding of your question, you asked that in relation to the future land use applications that are going to be coming forward and that is really the appropriate time to look at everything comprehensively. You know they are just adding these two buildings at this point in time. I'm not exactly sure when they're going to be submitting their land use applications. That is actually one reason why we're looking to possibly support a longer time because they are going to come in to try and establish the land uses and not have the special use conditional permits going in the future at that time that would be a much better time to take a look at the overall roadways and easement issues, but I think their engineer –

Mr. Starr: Mr. Otomo.

Mr. Otomo: Stacy Otomo again. To answer Commissioner Shibuya's question, if you recall earlier there was a slide that showed the U-shaped lot being consolidated with the main campus. As part of that subdivision we are already giving up road widening lots on Meha and Hanamu Roads and that meets Public Works standards.

Mr. Shibuya: Okay, thank you.

Mr. Starr: Okay, thank you members. I have a two questions. One is Mr. Riecke-Gonzales. I understand you're not going for LEED but I do appreciate the natural ventilation and the shaded day lighting which are as you say the heart of it. I just to know if where you can with lighting and water use if you're taking maximum steps in a theater environment for energy efficiency and water efficiency.

Mr. Riecke-Gonzales: Yes we are.

Mr. Starr: Okay, I take your word for it you have the expertise. Please do what you can. The other question is and this is not something I'm going to press but it is something I want to keep on

everyone's radar screen is that in presentation and the reports on this there's no mention about pedestrian or transit and this is something I know some of us like to see even if there's no bus system is how far away is it and if students want to try to get there by bicycle or walking what's the situation regarding bikeways and sidewalks. So I will ask for clarification as far as this project and ongoing to see that that's included in ongoing reports. What is the situation if kids want to come from say Makawao or somewhere?

Mr. Riecke-Gonzales: They'd certainly be welcome to bike and they're – this is a school so most of the students don't drive. They get dropped off. So as part of our upper school and campus master plan that we did about four or five years ago they redid their main driveway and put in a nice big drop off that would accommodate you know buses if there was – they wanted to do bus service to this. I do think they have tried to encourage you know, maybe bicycling to the school but it tends to be a tough job because to be able to get to this campus you're going up several hundred feet of elevation and there aren't that many kids that do that on a regular basis but there are opportunities for that certainly. And then this is a campus so part of our previous project was to isolate the parking up by the driveway and close off the campus except for with removable stanchions for emergency access so that the kids do actually have to park up by the road and they walk once they're out of their cars or have been dropped off around the campus. So it's like most campuses once they're out of their car they walk from building to building all over the place. It is a rural area, walking isn't that – done that much up there on the roadways because to get to anywhere it's a long walk. There are people who like to walk on Meha and Hanamu. I know when we earlier met with the neighbors about four or five years ago when we were doing the other project one of their requests was could speed bumps please be placed on some of those roads to keep the traffic you know more manageable and those have occurred. Speed bumps now are on both Meha and Hanamu Roads.

Mr. Starr: Okay, who's doing acoustic design for the theater?

Mr. Riecke-Gonzales: Right now we did have a acoustical engineer that did the preliminary and that's in discussion whether or not the architectural team wins it or we bring in a specialist so there hasn't been a person named for that.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Not a question necessarily for you, but on the intent to change the zoning is that voluntary application by the school or is that mandated by county ordinance?

Mr. Starr: Deputy Cua will answer.

Ms. Cua: Excuse me Chair. It is voluntary. I mean obviously we encourage it. It's the right thing to do establish public/quasi-public – well, to urbanize the land and then to establish public/quasi-public for the entire site. It's already zoned public/quasi-public for the majority of the school. So it's definitely something that is encouraged but in this particular case it's part of their master plan.

Mr. Hiranaga: Thank you.

Ms. Cua: While I have the mike if I could I wanted to comment on Commissioner Hiranaga's question about the previous conditional permit and special use permit for the parking lot facility that's located further mauka of the site, the more recent parking lot that was constructed and I indicated initially that my recollection from doing the initial permit application was that the conditions were pretty much standard in nature. We have been able to verify that. I do have a copy of the conditional permit ordinance, Ordinance 3736 for the conditional permit and I believe you have our report dated March 10, 2009 to the commission for the extension of the condition permit, state special permit and off site parking for the parking lot and all of the conditions are standard conditions. There were no special conditions though they deal with, you know, a time limitation. They deal with a non transferrable insurance condition and them developing the property in substantial compliance with representations made to the commission. So those are pretty much standard conditions and nothing in particular.

Mr. Starr: Yeah, Commissioner Hiranaga.

Mr. Hiranaga: So there were no additional special conditions approved by the commission?

Ms. Cua: For that parking lot, no.

Mr. Hiranaga: Because you provide us the report but that doesn't necessarily show if there were any additional conditions applied.

Ms. Cua: Yeah.

Mr. Hiranaga: Just wanted confirmation.

Ms. Cua: Well, I do have the ordinance on the conditional permit in front of me and definitely it was only standard conditions for the conditional permit.

Mr. Hiranaga: You're telling me there were no additional comments, conditions –

Ms. Cua: Beyond the standard conditions.

Mr. Hiranaga: For the SUP. Because you have the conditional permit –

Ms. Cua: Yeah, I have the conditional permit and I know what you're asking me.

Mr. Hiranaga: Okay good.

Ms. Cua: Staff provided me the recommendation but not the approval letter. Yeah, that's all I have in front of me right now.

Mr. Starr: Okay members? Good it looks like we were asked out. Ms. Callentine would give us a recommendation please. Oh, yeah before that we're going to allow public testimony and then we'll take the recommendation.

a) Public Hearing

Mr. Starr: Members of the public who would like to testify on this please come forward, introduce yourself and welcome and thank you for joining us today.

Mr. Bill Hurd: Thank you Mr. Chairman, my name is Bill Hurd, I reside at 39 Hoe in Paia. I am in my third year as Director of Physical Facilities for Seabury Hall and also the parent of a very active 8th grader at Seabury Hall. Part of my charge at Seabury Hall is insuring the health and safety of students, staff, parents and the general public who come to visit the school. And I'm not sure if you've been to the current creative arts center building but it can best be described as functionally obsolete for its use. There are no bathrooms on the site, there's no room for concessions and approval of this building would allow us to insure for the safety, health and welfare of the public and students. Thank you.

Mr. Starr: Okay, thank you. Members questions? Not seeing any please introduce yourself and welcome.

Ms. Elaine Nelson: Good morning Chair Starr, Members of the Planning Commission. My name is Elaine Nelson. I serve as the Director of Admissions at Seabury Hall. I was hired at Seabury in 1986. I have been associated with the school for a very, very long time. I am also a parent of two Seabury Hall graduates. Seabury Hall is really noted for its outstanding arts program and the current space that we have which seats, accommodates a 150 participants really limits and restricts the choice of plays, musicals and dance programs and the new facility would compliment the excellence of the arts program that we have.

Also, three times a week we assemble and start the morning together the entire school that would be 435 students and faculty and this really is the core of our mission as it addresses the sole component and currently we meet in the gymnasium which it's a wonderful facility for athletic events but it could certainly showcase students accomplishments with presentations in a new facility. We have wonderful for example, students who play the piano and it would – it would just be lovely to have that option once again. We also host school events just a myriad, May Day, First Wednesdays, Parent Education Nights, assembly awards and again, these events take place either in the dining room, gymnasium or in outdoor venues and this new creative arts facility would add decorum and dignity to these events. So thank you very much.

Mr. Starr: Thank you. Members? Commissioner Freitas. Please wait a second we have a question for you.

Mr. Freitas: The new facility, how many people will it accommodate?

Ms. Nelson: 500.

Mr. Freitas: 500. Thank you.

Ms. Nelson: Thank you.

Mr. Starr: Thank you. Any other members of the public wishing to give testimony please make yourself known. Not seeing any, testimony is now closed. We turn it over to Planner Livit Callentine for the recommendation.

b) Action

Ms. Callentine: Thank you Mr. Chair. And I just did want to point out in case any of the commissioners wanted to review this, Exhibit 6 of the report is a copy of the preliminary Seabury Hall subdivision map and it does indicate that a Lot C will be provided for road widening on Hanamu and Meha Road.

The application was reviewed by 14 agencies and Maui Electric Company. No significant current concerns were identified and the concerns that were conveyed will be addressed with conditions of approval. The project was also reviewed by the Urban Design Review Board who recommended approval with no comments.

With regards to the State Land Use Commission certain unusual and reasonable uses within the agricultural and rural districts other than those for which the district is classified may be permitted. The project complies with the applicable standards for a finding of unusual and reasonable use in the State Agricultural District as follows. The use is not contrary to the objective sought to be accomplished by Chapters 205 and 205A and the rules of the Land Use Commission. The desired use will not adversely affect surrounding properties. The use it will not unreasonably burden public agencies. And the land upon which the proposed use is sought although moderately suited for agricultural uses is irregularly shaped and located in close proximity to school facilities.

Mr. Starr: You could just have recommendation. I think we had it before.

Ms. Callentine: Sure. So the department recommends approval of the State Land Use Commission Special Use Permit subject to seven standard and four project specific conditions this accounts for deletion of Condition No. 10 and the renumbering of Condition 11 and 12 to Conditions 10 and 11 respectively.

The department also recommends that the Maui Planning Commission recommend approval of the Conditional Permit subject to five standard conditions.

In consideration of the foregoing the Department of Planning recommends that the Maui Planning Commission adopt the Department of Planning's report and recommendation prepared for the meeting this day of May 11, 2010 as its findings of fact, conclusions of law and decision and order for the Land Use Commission Special Use Permit and to authorize the Director of Planning to transmit said written decision and order on behalf of the Maui Planning Commission.

The Department of Planning further recommends that the Maui Planning Commission authorize the Director of Planning to transmit the recommendation and record to the Maui County Council on behalf of the Maui Planning Commission. Thank you.

Mr. Starr: Okay, thank you. I turn it over to Deputy Director Cua has a comment.

Ms. Cua: I would just like to add that in line with the applicant's request for additional time based on the circumstances surrounding this particular application the fact that it is an existing school facility it's been there for many years. The fact that this application is basically to support the existing school facility and then I think most importantly the fact that they are going to be coming in to establish urban land uses in the future the department has no objection to recommending that the commission consider 10 years on the State Land Use Commission Special Use Permit as well as 10 years on the Conditional Permit.

Mr. Starr: Okay, we have two items before us the Special Use Permit and Conditional Permit. I ask that they be dealt with separately. Any members have any questions regarding the recommendation? Not seeing any, the first item is the State Land Use Commission Special Use Permit which we're the final authority acting on behalf of the State Land Use Commission because it is under 10 acres.

Ms. Cua: 15, I'm sorry.

Mr. Starr: 15 acres. Would anyone like to offer a motion?

State Land Use Commission Special Use Permit

Mr. Freitas: So move.

Mr. Tagorda: I second.

Mr. Starr: Okay, I'll ask Deputy Cua to properly phrase the motion and repeat it.

Ms. Cua: The motion is to approve the State Special Use Permit application and I would note with a period of 10 years so that would bring it to 2020.

Mr. Starr: And conditions?

Ms. Cua: Conditions 1 through 7 standard conditions and Conditions 8 through 11 as has been renumbered.

Mr. Starr: Is that consistent with the maker and the second?

Mr. Freitas: Yes.

Mr. Starr: Any amendments? Any comments? Commissioner Hiranaga.

Mr. Hiranaga: Deputy Director can you just address the fact that you received that document regarding the previous SUP in that the commission did not place any additional conditions for the record?

Ms. Cua: Yes. Thank you Chair.

Mr. Hiranaga: I'm not the Chair.

Ms. Cua: I'm sorry, Commissioner Hiranaga. We are in receipt of the actual approval letter which I didn't have originally and it is consistent with the report whereby there are no additional conditions for the state permit and then I did give you the confirmation on the conditional permit by the ordinance.

Mr. Starr: Okay, everyone satisfied. Okay, are we ready for the vote? All in favor please raise your hand. All opposed.

It was moved by Mr. Freitas, seconded by Mr. Tagorda, then

**VOTED: To Approve the State Land Use Commission Special Use Permit with Recommended Conditions and for a period of 10 years.
(Assenting - J. Freitas, O. Tagorda, K. Hiranaga, D. Domingo,
W. Shibuya, L. Sablas, J. Starr)
(Excused - W. Mardfin)**

Mr. Starr: What is the vote?

Ms. Cua: Unanimous so seven. Do you vote?

Mr. Starr: I can. I do.

Ms. Cua: Six. Seven then.

Mr. Starr: Yeah, I did vote. And we had one abstention which counts as a aye vote. So the item is approved.

Conditional Permit

Mr. Starr: We have a second item before us looking for a motion on a recommendation to the Maui County Council regarding the Conditional Permit. Anyone wish to make that motion. Commissioner Shibuya.

Mr. Shibuya: I'll go ahead and make the motion to approve, I mean submit a recommendation to the Council for approval from this body for the special use permit for the construction of the creative arts facility and grass parking lot, a portion of land adjacent to the Seabury Hall approximately 9.476 acres in size located in the State and County agricultural districts at TMK: 2-2-4-008:001, Makawao, Maui, Hawaii.

Ms. Domingo: Second.

Mr. Shibuya: With the standard conditions and the 11 project specific conditions.

Mr. Starr: So we have a motion by Commissioner Shibuya, seconded by Commissioner Domingo

and that motion is.

Ms. Cua: Okay, we need to step back a little bit. We already voted on the State Special Permit, so I believe your motion is addressing the Conditional Permit and it is for a recommendation to the County Council as you mentioned but it's just the wording and it's only five condition.

Mr. Shibuya: Okay, I stand corrected.

Ms. Cua: Excuse Mr. Chair, and also on the Conditional Permit the time limit adding the additional five years to make it 10 years so valid until May 31, 2020.

Mr. Starr: Okay, so it's for 10 years. Are we all clear on that? All in favor, please –

Ms. Cua: I'm sorry who seconded it?

Mr. Starr: Commissioner Domingo seconded it. Commissioner Hiranaga, go ahead discussion.

Mr. Hiranaga: I understand this is a recommendation to Council and I also understand that their proposed change in zoning is voluntary but I'm just wondering is there any way we can express encouragement to the Council to try and put more teeth into the change of zoning rather than have it solely voluntary by the applicant? I mean they can say yeah, we plan to do it.

Mr. Starr: We're basically making a recommendation.

Mr. Hiranaga: Or we could put verbiage in there saying we recommend within the recommendation.

Mr. Starr: May I suggest you offer an amendment?

Mr. Hiranaga: Is that the appropriate means?

Mr. Starr: It's all recommendation. Mr. Giroux do you have a comment?

Mr. Giroux: Thank you Chair. I'm not sure if this is where you're going Kent, but I think the only thing I can address at this point is what's in Chapter 19.40 as far as you know what the commission's role is as far as making a recommendation. 19.40.070 states, this is the standard, "should the commission determine that the permit requested is for a use which is substantially different from the uses permitted in the use zone, the commission shall recommend denial of the request and may instruct the applicant to seek a change of zoning should the facts warrant such an application." I don't think that's the finding that you've made. So I mean, I think at this point it's merely a comment. I mean, because it really doesn't fit as far as what we've heard as testimony and what we've heard in discussion.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: So just to clarify you're saying the option would be to deny the application and require the applicant to proceed with a change in zoning?

Mr. Giroux: I think that's part of the analysis in granting a conditional permit is that it does meet the standard of a conditional permit.

Mr. Hiranaga: I mean, I think that you know, if and when the change in zoning is attained it will bring a lot of compliance issues that they will need to address which includes a lot of public, health and safety issues. So I think it's a good thing. I know they state they plan to but I mean you could plan to do it in the next hundred years if you wanted to and never get around to it. So that was my intent was to somehow send a message to Council to somehow put more than just make it a 100% voluntary.

Mr. Starr: You're welcome to offer an amendment if you wish, if you'd wish please do so.

Mr. Hiranaga: I can attempt to craft one.

Mr. Starr: Okay.

Mr. Shibuya: Can I make a discussion item? Make a comment here.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: I, too, feel that I did not want to disapprove it but yet I did want to encourage them. The time limit I did not mention but perhaps maybe if we go five years and if they haven't made good faith movement then when they come in for an extension then we would disapprove it.

Mr. Hiranaga: Not to get into a debate.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Anyway, I think it would be consistent with the 10 years that they would submit their change in zoning application within 10 years or prior to the expiration of the SUP. So I'll craft a amendment if discussion is – is it appropriate to.

Mr. Starr: Yeah, now or never.

Mr. Hiranaga: So I'll propose an amendment to the motion that the applicant shall submit their change in zoning application prior to the expiration of the conditional use permit because we've already approved the SUP.

Mr. Starr: Is there a second?

Mr. Shibuya: Second.

Mr. Starr: There's an amendment on the floor, that amendment reads.

Ms. Cua: Well, if we could go back. You're saying only a change in zoning, but they need a district boundary amendment, a community plan amendment and a change in zoning.

Mr. Hiranaga: I could elaborate if you want me to. You want to do – change in state land use designation, community plan designation and change in zoning.

Ms. Cua: And you're looking at this as a proposed condition is that what it is?

Mr. Hiranaga: Yeah I guess so, that's the only form we have.

Mr. Starr: Okay, so please read the amendment.

Ms. Cua: That the applicant submit applications for a district boundary amendment, community plan amendment and change in zoning prior to expiration of the conditional permit.

Mr. Starr: And this is a recommendation to the Council. Is that your understanding of the amendment?

Mr. Shibuya: Yes.

Mr. Starr: So there's an amendment on the floor before us. Discussion on the –

Mr. Hiranaga: Second?

Mr. Shibuya: I second it.

Mr. Starr: Yeah, Commissioner Shibuya seconded it. Discussion on that? Commissioner Tagorda.

Mr. Tagorda: My concern is with that amendment by Commissioner Hiranaga is that with all these conditions attached to those amendments – to the amendments is that do you know how long the process will take them to accomplish that?

Mr. Hiranaga: To clarify, it's apply for, it's not to obtain. There's a big difference between apply for and obtain.

Mr. Starr: And I'd like to hear from the applicant, Ms. Hiraga you have a comment on it?

Ms. Hiraga: On behalf of the applicant we do not have any objections to Commissioner Hiranaga's proposed condition that the applicant shall submit applications for district boundary amendment, community plan amendment and change in zoning prior to the expiration of the conditional permit. So it gives, you know, 10 years. Thank you.

Mr. Starr: Okay, Commissioner Tagorda did you have a follow up?

Mr. Tagorda: The follow up is I think we are asking them so much requirements and they are here only for a request for their conditional use permit to have the facilities built. I don't want to requirement them that they should submit or obtain community amendment, use, you know, land use or zoning change and all that. It's kind of ...(inaudible).. the request that they have. To me to much tier that they have to think about.

Mr. Starr: Members any other comments? Okay, so we're going to vote. We're going to vote on the amendment, just for clarity could you please read the amendment one more time.

Ms. Cua: It would become now Condition No. 6, proposed Condition No. 6 that the applicant submit applications for community plan amendment, district boundary amendment and change in zoning prior to expiration of the conditional permit.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: Yeah, and just to clarify on the process, this is a recommendation to Council. It's up to the Council to incorporate this into their permit if they so deem appropriate but it sends a message from the commission that we'd like to urge them to move forward on it. So it's not forcing anybody to do anything. Only the Council can force someone to do something.

Mr. Starr: Thank you. All in favor please raise your hand.

Mr. Tagorda: In favor of the whole motion with the amendment?

Mr. Starr: No, the amendment.

Mr. Shibuya: No, no, no, just the amendment.

Mr. Starr: All opposed.

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

**VOTED: To Add a Condition: "That the applicant submit applications for community plan amendment, district boundary amendment and change in zoning prior to expiration of the conditional permit."
(Assenting - K. Hiranaga, W. Shibuya, J. Freitas, D. Domingo, L. Sablas)
(Dissenting - O. Tagorda, J. Starr)
(Excused - W. Mardfin)**

Mr. Freitas: Point of order, according to Roberts Rules of Order, the Chair does not vote unless there's a tie?

Mr. Starr: Chair can vote if the Chair wishes to. Chair does not have to vote. In contested cases this Chair doesn't vote, in regular business this Chair does.

Mr. Freitas: Corporation Counsel is that right according to Roberts Rules? Chair, is that right according to Roberts Rules. I just want clarification.

Mr. Giroux: I think well, to every rule there's an exception. The standard rule is that the Chair doesn't vote except for the tie. The exception is is that the Chair is the master of order. If there is a request that he stop doing that there can be appeal to that. But again, it's going to be left to the body to I guess put that rest. So there is an appeal process. The standard rule is there in order

to maintain neutrality of the Chair in order to insure that the Chair is there to maintain process and to bring an issue of order instead of and raise possible issues of bias. So that's going to be an issue that the Chair needs to decide on and if the body is against that practice then they can bring an issue of appeal.

Mr. Starr: If there's a preference for the Chair not to vote except as a tie breaker I'd be happy not to vote.

Mr. Freitas: Thank you.

Mr. Starr: Anyway what is the vote on the amendment?

Ms. Cua: It was five to two. So the amendment passes.

Mr. Starr: Okay, so we're on the main motion and as for the main motion which reads as amended.

Ms. Cua: To approve the conditional – Recommend approval of the conditional permit to the County Council with six conditions including the amendment you just passed and with Condition No. 1 reflecting a 10-year limit to May 31, 2020.

Mr. Starr: Okay, all in favor please raise your hand. All opposed.

It was moved by Mr. Shibuya, seconded by Ms. Domingo, then

**VOTED: To Recommend Approval of the Conditional Permit to the County Council with Conditions, as Amended.
(Assenting - W. Shibuya, D. Domingo, K. Hiranaga, J. Freitas,
O. Tagorda, L. Sablas)
(Excused - W. Mardfin)**

Ms. Cua: Passed unanimously six ayes.

Mr. Starr: Okay, we'll take a 10-minute recess, well be back in 10 minutes.

A recess was called at 10:33 a.m., and the meeting was reconvened at 10:43 a.m.

Mr. Starr: Okay, the May 11th meeting of the Maui Planning Commission is back in order. Here to introduce our second item is Deputy Director Ann Cua.

Ms. Cua: Mr. Chair, our second item is a request by Mr. Don Medeiros, Director of County Department of Transportation requesting a Special Management Area Use Permit for the proposed Queen Kaahumanu Center bus transfer center improvements at 275 West Kaahumanu Avenue, TMK: 3-7-002:020 in Kahului and Gina Flammer is the staff planner.

2. MR. DON MEDEIROS, Director, COUNTY DEPARTMENT OF TRANSPORTATION requesting a Special Management Area Use Permit for the

proposed Queen Kaahumanu Center Bus Transfer Center Improvements project at 275 West Kaahumanu Avenue, TMK: 3-7-002: 020 (por.), Kahului, Island of Maui. (SM1 2009/0015) (G. Flammer)

Proposed improvements include the installation of fifteen (15) new bus shelters with seating and lighting, a surveillance system, trash and recycle bins, bike racks, curbs, sidewalks, asphalt work, concrete bollards, re-striping/markings, landscaping, as well as provision of a larger ramp to accommodate bus patrons.

Ms. Gina Flammer: Okay, good morning Commissioners. This item is under your review because the Queen Kaahumanu Shopping Center is located with the special management area requiring a review of the project under HRS 205A and the SMA Rules of the Planning Commission. Due to the use of County funds the action also triggered compliance with HRS 343, a draft and a final EA was prepared by Munekiyo and Hiraga. The accepting agency was the County Department of Transportation and a Finding of Significant Impact was issued by the department on March 2nd.

The parcel is zoned Urban. The community plan designation is Business/Commercial and Heavy Industrial and the zoning is M-2, Heavy Industrial. The use of the area as a bus transfer center is already permitted under the current zoning.

The area where the improvements will be made is 8,500 square feet in the back of the shopping center where the existing bus service is. It's near the back entrance where the Macy's Mens Department is and where you come in on the bottom floor and there's a sewing center. You'll see some pictures in just a minute.

The main part of the project is to install bus shelters and seating for bus patrons. There'll also be a curb alignment in two areas to make the area safer for patrons when the bus pulls up that way don't have to go down into the street and then back up onto the bus. The project also includes lighting, a surveillance system and a provision of a ramp for patrons. Trash and recycling bins will be added as well as bike racks. The grading for the project minimal and therefore a grading permit is not needed. The project is estimated to cost just under \$309,000 and that's for Phase 1.

I did just place a large site plan of the project in front of you. So you can have that in front of you as they go through the presentation. Mike Silva, the engineer will go into more detail on that site plan.

So now I'm going to turn it over to Planner Erin Mukai from Munekiyo and Hiranaga who's going to better describe the project and give a presentation.

Mr. Starr: About how long will the presentation be?

Ms. Flammer: I was just going to say it's probably under five minutes.

Ms. Erin Mukai: Good morning Chair and Members of the Planning Commission. My name is Erin Mukai. I'm with Munekiyo and Hiraga and I'm here this morning on behalf of the County of Maui,

Department of Transportation to present to you their plans to improve their existing bus transfer center at the Queen Kaahumanu Shopping Center. Before I get into the presentation I'd like to take a few moments to introduce you to a few members from the project team who are here with us this morning. Here from DOT is Deputy Director Wayne Boteilho and Jim Oster. Also here is the project civil engineer, Mike Silva from Ronald Fukumoto Engineering and Michael Munekiyo and myself are both here from Munekiyo and Hiraga.

As Gina had mentioned, the request today is for a special management area use permit to improve the existing bus transfer center at Queen Kaahumanu Shopping Center. The project site is located within a relatively central portion of the Queen Kaahumanu Shopping Center. The parcel for the shopping center is outlined here in bold and shaded in gray. Access to the mall is provided off of Kaahumanu Avenue, Kane Street and Wakea Avenue. However the buses only access the site via two access points off of Wakea Avenue and those are located across from Kea Street here and Onehee Avenue here.

So as Gina had mentioned also the improvements include the provision of 15 new bus shelters with seating lighting, a surveillance system, trash and recycle bins and bike racks. Other related improvements include the provision of curbs, sidewalks, asphalt work, concrete bollards, restriping marking, landscaping in the form of potted plants and a large ramp to accommodate bus patrons.

So at this point we'll go through some site photos. This photo is taken looking at the existing bus transfer facility and we're looking at the rear entrance of the mall so you can see here the Macy's Mens Retail Outlet. Beyond the photo on the right would be the parking structure and this is the ramp into the second story of the mall. So right now there's three buses in the photo. At a single time, the maximum number of buses that the site can accommodate presently is five. So if there were five buses here in this picture the other two would be one here and one in the rear. This number will not change after project completion. So even after the project is done the maximum number of buses that can stop at the site will remain to be five.

This photo was taken looking into the entrance of the mall. You can see that existing improvements include benches. Right now there are 10 benches in the back of the mall for bus patrons. There's also four trash bins and a bike rack here.

Another angle you can make out the benches that are located on the outskirts of the mall. You can notice that the bus patrons are exposed to, you know, natural elements such as the sun and wind and rain.

Another view facing northeasterly looking at additional seating. After project completion these three parking stalls, there's four total right now, but these three in the photo will be deleted from the parking plan.

So at this time I'd like to pass over the presentation to Mike Silva.

Mr. Mike Silva: Good morning everyone. My name is Mike Silva with Ronald Fukumoto Engineering. I'll be going through the site plan with you and this is the same sheet that you have in front of you. First thing we're going to be doing is realigning this curb here so the bus can pull

up right next to it and people could load and unload from the waiting area. We'll be adding two waiting areas over here. They will, I guess, be deleting some parking stalls. They are just standard parking stalls they're not accessible parking at all.

The site, the transit center or I'm sorry the shopping center currently has an excess amount of parking so even with this reduction of parking there still be more than the county minimum. The large ramp in the middle and then there'll be ramp and a curb opening to get to this waiting area here. The green rectangles will be the new shelters and I'll go through some more plans of it in a little bit. The shelters against the building here will not have any walls but the shelters pulled away from the building will have three walls, two side walls and a rear wall. There'll also be some potted planters that would be similar the – what you would find at the shopping center now, those are the larger red circles and some trash and recycling receptacles similar to something you'd see at the county park, the recycled plastic barrels. And then also have bollards lining this area just for safety for the people waiting. Also, we'll have a new bike rack. There is an existing bike rack in this corner. That's it.

This is a drawing of the shelter that's being proposed. It's – every 10 feet there is a post so that – two posts, four posts, six posts. It has a barrel shape roof on the top and the ones with the walls have perforated metal sheeting and that's a pretty good representation from the manufacturer of what the shelter would look like. The alignment of the walls would be a little bit different and this is just the shelter with no walls that would be against the building and then just a longer one and another photo representing that. Our seating would be steel tube framing and a mess seating area and that's it.

Mr. Starr: Okay, thank you. Members, questions for the applicant? I have a question I think it's for I think probably Mr. Boteilho about what the ridership is and how many people are using these routes. Do you have anything or? Please introduce yourself.

Mr. Jim Oster: Hello I'm Jim Oster from Department of Transportation. Currently right now Kaahumanu Center we get over 1,500 boarding per day so that's our main hub and it has been increasing through the years so we anticipate that to increase.

Mr. Starr: Okay, members any other questions? I have one more I'm not sure – oh, Commissioner Sablas why don't you go.

Ms. Sablas: I just had a question about the benches. I notice you had two types proposed one with no dividers and another set with dividers and you know we've had issues in other areas with bus shelters without the dividers people tend to sleep on it.

Mr. Oster: That's correct.

Ms. Sablas: So if consideration is given.

Mr. Oster: Yeah, all the seating will have dividers between them.

Ms. Sablas: So the one without the dividers –

Mr. Oster: Yeah, that was just a manufacturer's photo showing without, but we will be including armrests at each seat.

Ms. Sablas: Okay. So another question I have, moving forward, I mean, I'm a bus rider and I appreciate the service in future shelters throughout is that going to be like a prototype that you're proposing here or it's just that for that specific project this is type of shelter?

Mr. Oster: The types of shelters selected were basically for the Queen Kaahumanu shelters. Future shelters for the road conditions and stops will be a little bit different. We have a process to review what we would want and the communities input so we have basically three future shelter designs that we'll be using in different areas basically Upcountry Maui, near the beach and Wailuku-Kahului.

Ms. Sablas: Okay, thank you.

Mr. Starr: Commissioner Tagorda go ahead.

Mr. Tagorda: Hi, good morning. Would that proposed project you have there the present condition right now is there will be some changes, there will some changes on that area in that photo.

Mr. Oster: Yeah basically it will be just an additional shelters and benches.

Mr. Tagorda: During construction will you folks have some kind of signage, crosswalk markings, temporary pedestrian lane, people that will probably guide you know people that goes in and out of that mall?

Mr. Oster: Correct. The construction will done at night, part of the conditions was not to interfere in operations of the bus or the shopping center. So basically the work will be done at night after hours. Any safety issues will be addressed by the contractor with barriers and this type. We'll work also with the security people and Roberts the coordinators at our bus stop to make sure that people are – it's functional in use as continuing as a bus stop. We don't anticipate relocating during construction. We're going to try to utilize it because there will be no construction during the day or during operation.

Mr. Tagorda: Can I just add follow up? It's good to see some of your structures here like the shade that – but I don't – what I don't see and I'm so glad not to find it is ashtray receptacles, so you won't probably allow people take smokes around in that area.

Mr. Oster: Smoking is not allowed within a certain distance of the building. The island that was shown in the layout off to the side more to the lower left there in your drawing that isolated little cluster of shelters that will be designated as a smoking area once that phase is done.

Mr. Tagorda: Where's going to be the smoking – this is the smoking area?

Mr. Oster: Oh, I'm sorry. That would be this area right here. There will be no smoking in this area.

Mr. Tagorda: Thank you.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: Are you planning to have larger buses? Right now you have what size passenger buses.

Mr. Oster: With the green islander buses those are like 40 footers in length and then the smaller whiter buses are 35 feet, 40-foot is our maximum due to the road conditions and then we use those on the larger usage routes, but the 35 a whiter, whiter colored buses are what basically what we using. There's anticipation to get a double decker bus for the Lahaina and South Maui runs but that's still, but they're just taller, they're pretty much the same 40-foot length.

Mr. Shibuya: Yeah, I was just wondering in terms of the weight on that pavement and if you are going to use asphalt then that would be a consideration for concrete because you're looking ahead and you're going to do construction now so may as well do it now completely.

Mr. Oster: Right now that area is used by you know, tour buses or anybody can use that area for dropping off and this and that. We do see any degradation to the existing roadway with current traffic and our use. So that's an expenditure we decided that you know, couldn't afford at the time and we will see what happens as we utilize it.

Mr. Shibuya: Okay. Technical question. On the solar powered lighting, I don't see them indicated here but where would you have it and how would they be operating? Because you are a tenant, right, you're not part of the shopping complex per se.

Mr. Oster: Correct we're not a tenant. We're just using – we have an agreement of use which the facility and that location is already used for which is strictly loading and unloading passengers in that area. So we are not a tenant. The electricity for the shelters along the wall will come from the circuitry, existing circuitry of the parking lights in the parking lot. The solar powered one was going to be utilized in this island due to the cost of running electricity out to it. So that would be the only place that a solar application would be. Right now we intend to simply use the circuitry of the parking lot lights so that then they come on, the lights go on in the shelters and then they turn off at the same time.

Mr. Shibuya: Is that enough illumination for security of the passengers and your security camera, surveillance camera, where would they be mounted?

Mr. Oster: They'll be in five locations. The walkway on the second story, they'll be mounted underneath and they'll be basically look in all the directions that we consider we're surveying. The lighting comes from the manufacturer's recommendation that they used. The cameras and security cameras the type we use will be low level light technology.

Mr. Shibuya: Because just looking at the two camera locations there, the bus comes in you can't see them.

Mr. Oster: Well, the buses themselves have cameras on board that are in operation when they're stopped so there's coverage inside the bus and a little bit of coverage exterior because the cameras

can look outside and then with the five cameras we planned, we feel pretty comfortable to having the place at least visually observable. Now it won't be manned. There won't be a bunch of people watching monitors. It's not that kind of a security system. Basically it will be event oriented. If there's some event that took place we'll go to the hard drive where the data is stored and just pull off the incident at that time.

Mr. Shibuya: I just want to insure that the public is assured of this type of service and that the coverage is there, surveillance is there for their personal protection and thank you for sharing that.

Mr. Starr: Okay, did I see a question, Commissioner Hiranaga.

Mr. Hiranaga: Was there any consideration given to locating the bus stop further away from the mall similarly to say like Ala Moana Shopping Center where the bus stop is on, what boulevard that is, but – because I notice that there's a lot of congregating within the tunnel in that area and it doesn't seem to be a very – it's just really crowded. If you happen to park in the building, parking structure and walk along the ground level entering the mall that tunnel's always full of people.

Mr. Oster: We had meetings with the owner of the facility on locating our bus stop on their property and pretty much the owner wanted it in that location. In fact he wanted us to move it to the front of the mall. He wants the exposure of the activity of our bus service and the people to be part of the mall for his economic gain obviously, but he was the – the owner wanted it there.

Mr. Hiranaga: Okay, thank you.

Mr. Oster: So we obliged him by putting it there.

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: Buses that goes inside the mall they only can come and or access the mall from Wakea Avenue is that right? Just one way in and one way out.

Mr. Oster: Yeah, right now buses come down here and turn into the shopping center like that and come to the area for the people and then come back out. So in essence it is a one way routing with our buses.

Mr. Tagorda: And there are no alternative routes that's been studied and compare whether there will be more accessibility in access to the mall?

Mr. Oster: The original mall's design was to have that area be a place for people embark and disembark in their vehicles. So it's being utilized for its original design. As far as the roadways into the mall we only basically utilize the one toward the back entrance.

Mr. Tagorda: Because at this point in time, and there's only about three buses allowed in front of that mall where they disembark, it's becoming so congested some times and this involves not only the riders but people that uses the mall with five to probably what five buses that will go in and out of the mall I think there will be some kind of little bit problem.

Mr. Oster: We've been operating like that for a while now and we don't really have seen the problem of complaints. There still is – when our five buses are here basically three on the in border and two on the outside there is roadway accessible in and out of the parking structure also to bypass the activity taking place by our buses being there. We're only there usually 10 minutes or less at the hour and at the half hour so we're not finding any times maybe other than Christmas shopping or when there's just a lot of activity, but we haven't had any issues as far as people complaining.

Mr. Tagorda: And on your shelters in that vicinity there are about one, two, three – eight of them I believe yeah, and they will be made of what, I think she said aluminum or metal?

Mr. Oster: Yeah, it will be metal, aluminum anodized with the color choice to match the facility.

Mr. Tagorda: And they are bare right now. Would you allow people to put some posters and all that in that shelters.

Mr. Oster: Signage and advertising isn't – would be a whole separate issue. We may post our bus schedules with a placard type of signage but that will be determined. But there will no certainly be advertising at this time.

Mr. Starr: Commissioner Freitas.

Mr. Freitas: The county's contracted to Roberts for the transportation are they participating in the cost of these shelters financially?

Mr. Oster: No, not at this time.

Mr. Starr: Okay, I have a question. In the early '80's for about five years I was the largest manufacturer of bus stop shelters in the United States. I built them and installed them in 35 cities and almost – yeah in every case these were being done under contract with a third party that was operating with the municipality or the county and was utilizing advertising panels in the shelters and they would pay the cost of the manufacture, the installation, running electric lines, keeping them clean plus money in addition to that would flow back to the municipality and sometimes they were bundled with advertising on the buses or on overhead railroad subway tracks and so on. I've wondered why nothing like that is being considered here. I don't know if we have any ordinance that disallows it but it does seem that rather than it being paid out of general fund that might be something to explore in the future. Has that been looked at?

Mr. Oster: Yes, we've looked at but a ordinance was for signs like that we think it would be prohibitive thing at this time unless the ordinance could be changed or we're trying – we had just passed or got approved an ordinance for advertising on the bus it was proposed. So at this time as far as shelters and this is private property so any other signage ordinances would apply to the shopping center as a whole not just us because we're there.

Mr. Starr: Okay, I encourage you to look at as a long term part of your revenue stream.

Mr. Oster: Yes, we have been approached by people wanting to do that but ordinance wise there

would be conflict of interest there.

Mr. Starr: Okay members? Looks like we're ready to see if there's any public testimony on this any members of the public wishing to offer testimony?

a) Public Hearing

Mr. Starr: Not seeing any, public testimony is closed. Ms. Flammer, please your recommendation.

b) Action

Ms. Flammer: I'll give you a short analysis. The project was reviewed by 16 government agencies as well as MECO and Hawaiian Tel and there were no significant agency comments. The project was also reviewed by the Urban Design Review Board and they did recommend a use of a light color for the shelters and the seating. Now the applicant took this request to the owners of the shopping and center who stated a preference and you should have a letter from them, their preference is for a dark bronze color which matches all the other accents of the shopping center and they also prefer a dark color because of problems with graffiti and the department concurred with the dark brown color for these reasons. We do have a lot of photos of other accent finishes there if you would like to see those. So if there are no questions I can move onto the recommendation.

Mr. Starr: Yes.

Ms. Flammer: As I stated earlier the applicant has been informed by Public Works that the project does not require a grading permit. In light of this, I need to amend Condition 9 which states that a preliminary compliance report shall be approved prior to the issuance of a grading permit. It will now read, "prior to the issuance of a building permit."

So based on that the Planning Department recommends approval based upon the 15 conditions including amended Condition No. 9. In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendation including the amended Condition No. 9 as its findings of fact, conclusions of law and decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of the planning commission.

Mr. Starr: Okay, thank you. Members any discussion? Would anyone like to offer a motion? Commissioner Shibuya.

Mr. Shibuya: Move to accept this project.

Mr. Starr: Is that as recommended?

Mr. Shibuya: As recommended?

Mr. Starr: Is there a second?

Ms. Domingo: Second.

Mr. Starr: Okay moved by Commissioner Shibuya, seconded by Commissioner Domingo, the motion is?

Ms. Cua: To approve the Special Management Area Permit for the bus facility subject to 15 conditions including amended Condition No. 9.

Mr. Starr: Okay, any discussion, amendments? Not seeing any, all in favor please raise your hand. All opposed.

It was moved by Mr. Shibuya, seconded by Ms. Domingo, then

**VOTED: To Approve of the Special Management Area Use Permit as Recommended with Conditions.
(Assenting - W. Shibuya, D. Domingo, K. Hiranaga, J. Freitas,
O. Tagorda, L. Sablas)
(Excused - W. Mardfin)**

Mr. Starr: What is the count?

Ms. Cua: Unanimous. Six approvals.

Mr. Starr: Okay. So we got one abstention? Could we see that again? All in favor please raise your hand. All opposed. So six in favor. Motion passes. Thank you for moving this forward. Good project. Okay, our next item will be introduced by Deputy Director Cua.

Ms. Cua: Our third public hearing item is a request by Maui Memorial Park LLC for a County Special Use Permit and County Accessory Use Permit to expand the existing Maui Memorial Park on 10.936 acres of land in the County Agricultural District and the M-1 Light Industrial District at Waiinu Road, TMK: 3-8-046: 043 in Wailuku and Paul Fasi is the project planner.

Mr. Starr: Mr. Fasi.

- 3. MAUI MEMORIAL PARK, LLC requesting a County Special Use Permit and County Accessory Use Permit in order to expand the existing Maui Memorial Park on 10.936 acres of land in the County Agricultural District and the M-1 Light Industrial District at Waiinu Road, TMK: 3-8-046: 043, Wailuku, Island of Maui. (CUP 2010/0003) (ACC 2010/0001) (P. Fasi)**

The County Special Use Permit is for the lands on the property zoned County Agricultural District. The Accessory Use Permit is for the lands on the property zoned M-1 Light Industrial District.

Mr. Paul Fasi: Good morning. This matter arises from applications for a County Special Use Permit and a Special Accessory Use Permit in the County Ag zoned land and also in the M-1 Industrial

zoned district. The application permits were filed on February 9, 2010. The applicant is requesting a County Special Use Permit and an Accessory Use Permit to expand the existing park approximately 2.8 acres from the current 10.9 acres for a total of 13.784 acres. The objective is to increase interment capacity.

The applicable regulations that come into play are Chapter 19.30A, the Ag District special use provision and the accessory use provisions in the M-1 District. The property is approximately 2.8 acres. It's located on Waiinu Road in Wailuku. The property is undeveloped with remnants of unused rundown structures various trash, scrub brush, it's basically a vacant, dry arid land. It's relatively flat. Although the property is zoned Ag, the USDA has classified this property as poor. It is in the Light Industrial District. The State Land Use Designation is Urban. It's in the Wailuku-Kahului Community Plan as public/quasi-public. The County zoning is Ag and M-1 Light Industrial. It is not in the SMA.

The applicant is going to expand the park approximately 124,000 square feet. The park currently consists of three separate parcels one of which is non contiguous but it is in the immediate vicinity. The proposed expansion will be the fourth parcel and the second non contiguous parcel of the four. It is also located in the immediate vicinity.

The proposed project is in conformance with the goals, objectives and policies of the Hawaii State Plan. The subject property is in the State Urban District and Chapter 205, State Land Use Commission, districting and classification of lands states that: b. It shall include activities or uses provided by ordinances or regulation of the county within which the urban district is situated.

The County zoning is Ag and M-1 and as such, cemeteries are listed as a special use under the County Ag zoning designation. The special accessory use requires the planning commission approval in the M-1 Light Industrial District.

The proposed action is in keeping with the following county wide policy and goals and objectives. a) it will strengthen the local economy; and j) it will promote sustainable land use for sensible growth management.

In the Wailuku-Kahului Community Plan, the proposed action is also compatible with the objectives and policies and zoning designation of that is public/quasi-public of the effected community plan. Economic activity, it does recognize the importance of small businesses to the region's economy. Under land goals, an attractive well-planned community with a mixture of compatible land uses in appropriate areas. This is an existing use that has been there for a number of years and they're expanding an existing use.

In the Ag District, Chapter 19.30A it states that the following uses and structures shall be permitted in the Ag District if a Special Use Permit pursuant to 19.510.070 has been obtained and item number i is cemeteries, crematoriums and mausoleums. So the proposed use is an allowable special use and it's consistent with the objective and policies of the Ag District zoning ordinance.

The Special Use Permit there are several criterias for the Special Use Permit. ...(inaudible)... request meets the intent of the Countywide Policy Plan and the objectives and policies of the

applicable community plan of the county. The proposed request is also consistent with the community plan land use map of the county, public/quasi-public. And the proposed use meets the intent and purposes of the applicable district.

In the M-1 Light Industrial District an Accessory Use Permit is required. Within the M-1 District it states that no building structure or premises shall be used for or enlarged except for one or more of the following uses and it is any use in the B-1, B-2 or B-3 District. In the B-2 District, mortuaries are an allowable use subject to approval by the commission.

As far as agency comments, the State Historic Preservation Division originally sent a letter August 31, 2009 recommending a specific condition be attached to the approval but they later amended that in a letter dated March 19, 2010 whereby they accepted the archaeological inventory report and just required a cautionary monitoring and monitoring plan upon the ground altering activity.

As of April 21, 2010, we have not received any communications regarding this matter. I would like to bring to your attention the Water Department comment letter. There are few items in there, I think that we need to amend the recommendations to and we'll ...(inaudible)... if it's okay with the commission we can make the recommendations on the floor today. The applicant has to consult with the Water Department's Engineering Division regarding the potential need for an easement. So the applicant should contact the Engineering Division to get these easements lined up and properly designed. The Water Department is also requesting vegetated buffers or structural mechanisms to divert the storm water flows away from the reservoir that a certain portion of this particular property is adjacent to perhaps 60 to a hundred feet and they're also ...(inaudible)... that the graves be closed as soon as possible after burial on the same business day.

The Public Works Department is requesting that any planting along Waiinu Road shall be provided with root barriers to protect their water lines out there.

That concludes the department's report. I'm open for questions. I think the engineer, Wayne Arakaki is here as well as representatives from the Memorial Park.

Mr. Starr: Okay, does the applicant wish to say anything?

Mr. Fasi: The applicant has no statement to make.

Mr. Starr: Okay, members anyone with questions please. What's the small parcel that kind of sticks into this on the road frontage?

Mr. Fasi: I apologize, the department apologizes for lack of the clarity for the maps but I contacted our Zoning and Enforcement Division and there really is no good map that shows the M-1 District infringing into the Ag District. But per Francis Cerizo's email the M-1 zoning extends approximately 75 feet into the property from the western boundary. All of the maps that I have and have submitted to you in the report and subsequent this morning don't really reflect that but if you take this map that was handed out to you this morning it's this buffer right here. It's the side that fronts the M-1 Light Industrial area. The portion that's towards the Waiale Road side of the map. Perhaps this might be another map you also received. So it will be this edge right here towards the Waiale end of the

parcel.

Mr. Starr: What is this here? Is that another use? Is that owned by someone else?

Mr. Shibuya: MECO.

Mr. Fasi: Could you point it out again?

Mr. Starr: Yeah is that a electric substation?

Mr. Fasi: It's being called an electrical substation.

Mr. Starr: And just for curiosity is it going to be possible for a pedestrian to walk along the road frontage because I don't think there's a sidewalk or is there going to be fencing up to the road when this is done?

Mr. Fasi: I'm going to have the applicant's representative, Wayne Arakaki answer that.

Mr. Wayne Arakaki: Wayne Arakaki the engineer for the project. What we'll do is we'll work with Public Works, Deputy Director Mike, you know, if it's required we'll put in sidewalks whatever road improvements that is necessary for this area. I want to defer this to Mike is it a requirement?

Mr. Starr: Yeah, could we ask Mr. Miyamoto. Is there a way – what are your requirements going to be and is there going to be a way for pedestrians or bicyclists to get through there without being in the traffic lane?

Mr. Mike Miyamoto: There's certainly enough width in that right of way area as when Waiinu was built it was built rather wide that right of way is – just the facilities aren't there. Whether this applicant comes in for building permits that may trigger frontage improvements but based on a cemetery I don't anticipate building permits coming in at this point.

Mr. Starr: I know for my standpoint I'm not asking that it be improved, I'm just concerned if there's enough of a shoulder there that will remain open for someone to be able to walk or bicycle.

Mr. Miyamoto: I don't recall offhand what the existing shoulder width outside the travel lane is at this point.

Mr. Fasi: The letter from Public Works dated June 15, 2009, Item No. 3 says, that construction plans shall be designed in conformance with the Hawaii standard specifications for road and bridge construction, but if they're not going to be coming in for any type of building permits then perhaps this may not be coming into play.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Yeah, Exhibit 5, Police Department, they're requesting pedestrian walkways on the north and south sides of the roadway I believe if there is a question as to whether this will be

required by Public Works we should consider making that a condition. I have a question for Public Works.

Mr. Starr: Yeah, go ahead.

Mr. Hiranaga: Mike, what is the future plan for this Waiinu Road?

Mr. Miyamoto: Currently, you know, the roadway provides the connector to the future Maui Lani Parkway that's there. As far as development obviously there's – this is probably one of the last parcels that's possibly developed. As you recall, the next adjacent parcel closer towards Maui Lani Parkway that used to be the old dump and burn landfill area so that lot is very unlikely to be developed. And through the Maui Lani Sandhills project they've done a lot of the frontage improvements in front of their property. So I think the road is pretty much as far developed as we're planning right now. As you're aware, Maui Lani is looking to open the Kuikahi extension that may divert a lot of traffic off of this roadway as that will tie into Maui Lani Parkway and then to Kamehameha and near Pomaikai. So it may – the traffic on this roadway may decrease.

Mr. Hiranaga: I'm trying to visualize where Maui Lani Parkway will connect with Kuikahi is it at that entrance to the – I think it's called the Island. Right now it dead ends and we have to go right on Waiinu.

Mr. Miyamoto: Exactly. Where they have the temporary roadway built right now that's dated. That will be extension of Maui Lani Parkway and it will extend ultimately all the way towards the Baldwin High School area, but currently the Kuikahi extension will have sort of like an elbow when it intersects with Maui Lani Parkway and then that will bring traffic directly towards Kamehameha Avenue.

Mr. Hiranaga: So currently – the County's position is the current condition will remain for an unforeseen period.

Mr. Miyamoto: Yes.

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: Mr. Fasi, I have two state agencies that have written you a letter regarding this subject proposed expansion. One from the Commission on Water Resource Management on July 21, 2009 that's Exhibit 14.

Mr. Fasi: Yes.

Mr. Tagorda: And on this letter that department check off about number one box, number four, number six, eight and on the last one is other, and on Mr. Arakaki's letter or answer or feedback to them on November 27, 2009, it just says that comments shall be included in their future planning process. Were those box checkoffs been addressed or not related to this proposed expansion?

Mr. Fasi: I'm going to let the applicant address that.

Mr. Arakaki: In regards to the water source there were two sources of water we were looking at one is getting water from the Department of Water Supply which understand there still are some meters are available and the second thing was to do a water well in that area. I've worked on previous projects in that area. It used to be I guess Apana's junkyard before and then we did some environmental kind of thing and just found out that amazingly the water was, you know, was good quality. And then, you know, we were thinking about doing a water well for this area here. I did check with the State Water Commission on this and they have a very minute amount of water but it's still available, 50,000 gallons a day. So these are the things that I worked with Charlie Ice with the State Water Commission trying to work it out. We didn't apply for a water well permit because we didn't know which direction this project is going to take even though it's just a cemetery. We did explore all these avenues as far as trying to get water.

Mr. Tagorda: So at the present time when you submitting this project to us what direction you are inclined to have well or go to the Department of Water Supply?

Mr. Arakaki: The owners have decided that they want to go and pursue a water well. So until we get the approvals they will apply for the permit. They already have contacted the well driller and is simply trying to work out a price with the well driller. And you know, mind you that this is just for irrigation purposes. You know there's no buildings so there's no domestic water usage or potable water usage.

Mr. Tagorda: My next questions I have is on Exhibit 15 one of the State agency again, Office of Hawaiian Affairs it was letter June 19, 2009 to Mr. Fasi. It says on the third paragraph that a possibility for the release of formaldehyde to the adjacent soil and ground water and your comment again is you went to surf in the internet and this is been done in Europe but what kind of mitigation measures that you have in mind for to prevent possible leaching of this chemicals?

Mr. Arakaki: I'm going to defer to this Steve Hawley, a person representing Maui Memorial Park.

Mr. Steve Hawley: Good morning. The question about –

Mr. Starr: Please introduce yourself.

Mr. Hawley: Steve Hawley. I'm the Director of Operations for Maui Memorial Park. The burials that are anticipated is basically a mixed use burial. It's either body burials or here in Maui a large majority are urn burials which in which the deceased is being cremated. We do probably as far as the cemetery is concerned probably it's about 50/50. We anticipate that percentage will probably cremation urn burials will probably rise in the future. Currently what we do when we do burials is we excavate the grave and then there is a grave liner that is placed into the grave and then the casket, the deceased is placed into that. Again, everyone who is then buried a majority of them have been embalmed and that where we would get any chemicals would be from the embalming process. I cannot tell you exactly you know the percentage of the chemicals off the top of my head but we then put them inside of the burial container which is a poly vault and then cover it back. So what you're looking at is the total number of burials possibly 50% would be body burials and of that

50% probably 80% are embalmed. So with a couple of thousand burials anticipated there we're probably looking at maybe 500, 600.

Mr. Tagorda: Mr. Chair, the reason why I brought that subject is when I look at the map, your proposed project is above a reservoir so sometimes probably they use that reservoir for fishing or just irrigation or what. It's very close to that reservoir.

Mr. Hawley: I think it's irrigation.

Mr. Tagorda: So there's a leaching possibility about those formaldehyde from embalming. I think it's too close to, you know, a safety concern, health hazard.

Mr. Hawley: Well, there's currently our cemetery across the road, the large parcel and then there's also a smaller parcel adjacent to that as well. Again, we're talking about, about 2,000 burials and probably 500, 600 of them would be embalmed.

Mr. Starr: My understanding is that that's being converted for the county drinking water. Maybe Mr. Miyamoto has?

Mr. Miyamoto: Mr. Chair, I have no idea. It's for the Water Department to respond.

Mr. Starr: Can we put a call up there? See if someone could come down while we continue with questions. Commissioner Shibuya.

Mr. Shibuya: I was wondering maybe Steve Hawley if you could tell us are you planning to put a columbariums in this area because it's so close to the water? And are you planning to put in parking?

Mr. Hawley: We are – all of the burials are anticipated and I think our plan is there'll simply be a memorial park situation which a memorial park means everything is flat, flat which is again, grass covered with flat markers. So we're not anticipating mausoleum or any type of building structures. It's going to be a very, very simple project.

Mr. Shibuya: Okay because on hand we're very concerned about the problem here of biocide formaldehyde or the chemical called formalin and that is a pathogen and putting it close to the water is just not good with me. I do encourage, I, of course, I can't tell people how to take care of the deceased but I would encourage folks to do the cremation and perhaps have a mausoleum or columbarium if you will then you maximize the amount of accommodations that you have for the square footage and that's basically what I have because if you continue to use these good agricultural land for burying people then we're going to run out and we're going to need some ag land for feeding our folks and that's my big concern.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: First question is for Public Works. Public Works you're satisfied with the roadway width?

Mr. Miyamoto: Yes we are.

Mr. Hiranaga: Right of way. Okay. Right now because Maui Lani Parkway is not hooked up Kuikahi Drive there's a lot of traffic on that road because that's a way to bypass Wailuku Town and get into Kehalani from Kahului. So if we, the commission, made a condition of placing a – constructing a sidewalk along the frontage of this property what are your thoughts about allowing parallel parking on that roadway. What is the county standard regarding that?

Mr. Miyamoto: I'm thinking about – parallel parking in that area, I guess the right of way area is pretty wide in that area. On the existing cemetery site there is sufficient roadway shoulder area where a lot of people are parking already. There's existing shoulder outside of the paved area that people are already parking. If parallel parking were permitted we would look at our design guidelines to provide ample pavement width and clearly mark these parking stalls so that it would be permitted. If the site were to come in for a driveway we would certainly require through our driveway permit that they use some improvements along the driveway area.

Mr. Hiranaga: Who makes the determination if parallel parking or angle parking, any type of parking is allowed in that roadway, what department makes that determination?

Mr. Miyamoto: Pretty much it falls under Public Works' jurisdiction as it is our right of way, the roadway right of way. Typically we do not look for – well, I guess it depends on the width of the right of way available. Typically parallel parking is preferred whereas any kind of angle parking forces someone to back into the road right of way, the travel way, so it's pretty much a safety issue that we are not looking to complicate. So parallel parking is about as much as we can go into at this point.

Mr. Hiranaga: Okay, thank you.

Mr. Starr: Members? Commissioner Shibuya.

Mr. Shibuya: Parking is a problem with me only because I know from my personal experiences. Handicap, taking my mother to the grave site is a problem. It's very problematic. I don't have a handicapped area that I can unload the person and so I have to stay in the middle of the road and I get stink eye and verbally abused until I get the wheelchair off then I move the car, then after that then I have to load the person back up and so it becomes very problematic if you don't have an area for parking. I asked that question are you planning to have that and I believe you said no.

Mr. Hawley: No, ...(inaudible)... I think on parking on our site plan, our sketch there, there's a roadway and the roadway in most cemeteries, most people park on the side of the roadway. They normally want to get as close here because they visit the graves so often, they want to get as close to the grave site as possible. We certainly, you know, want to make it wide enough so they can do that, at the same time, I think that we would do whatever we need to do to provide a parking area that's sufficient for our clients. People normally here, oftentimes visit the two or three times, some two, three times a week and so we definitely need some area for day parking and you know, to make it as convenient for older people to come visit as possible.

Mr. Shibuya: Let me give you some example.

Mr. Starr: Hold on, I'd like to ask the applicant to show us some evidence of the roadway on a drawing and then Commissioner Shibuya can continue, but show us a drawing where it shows that roadway please.

Mr. Hiranaga: There's no site plan.

Mr. Fasi: The reason you don't have a map of the roadway of the park is because the roadway is not finalized. The design may change, but it – there will be a roadway traversing through the park. It's just that they haven't finalized the final design layout yet of that roadway.

Mr. Shibuya: I don't see any provisions –

Mr. Fasi: In my experience I've never been to a memorial cemetery park with a parking lot. As the applicant stated you what to get as close as possible to the grave site as you can and I think that they will be sensitive to that issue and try and make it as easy to access as possible because there are a lot of old people going to these grave sites.

Mr. Shibuya: Well, I just want to give you an example. If you park your car next to the curb and you have to load the patient with a wheelchair it doesn't work. It has to be the same level as the car because the person has to be lifted up into the wheelchair whereas you slide the person from the car seat into the wheelchair. And if you haven't done that then you can insensitive to what I'm just saying. That's why when you have a handicapped area the parking stall area is wider so you can open your door, you can actually roll in at the same level and so that the individual moves from the car seat to the wheelchair seat without any problem. Okay, that's a problem.

Mr. Fasi: That has to be addressed by the applicant.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: My observation with the existing Memorial Park on the hill it appears that that roadway is really – it's a wide concrete roadway that's basically made to go one way. So if your grave site is on the left side you park on the left side. If the grave site is on the right, you park on the right side. Do people actually go counter clockwise or do they all tend to go clockwise?

Mr. Hawley: They tend to go clockwise.

Mr. Hiranaga: But it's not designated one way?

Mr. Hawley: No, I mean, it's been there a long time. I think most people just go up and go around the circle and come back. I don't recall seeing – but it could happen sometimes.

Mr. Hiranaga: My comment is if you have a person who's a wheelchair disembarking on the right side you could park on the left side of the road. If you have someone disembarking on the left side you could park on the right side of the road. Then my other comment is it appears like you're

proposing a two-way traffic on your preliminary site plan. You may want to consider making that one way so that people could park.

Mr. Hawley: Yes, we certainly, you know, would be open to any of those to make it work.

Mr. Starr: Members, we seem to have open items here regarding the roadway and parking and also water. We're not being successful on getting someone from Water Department. Trying to get a feel for the pleasure of the commission whether this is something that should be put off to another day or keep moving with. Oh, okay, so someone is coming down from Water. Any other questions, members on this right now before Water comes down? Mr. Fasi please.

Mr. Fasi: In Exhibit 1, lets see, paragraph one, two, three, four. The Water Department states, "though we have no plans to use the Waiale reservoir for raw water storage, cemetery use would be considered incompatible if the reservoir were ever to be contemplated." So it appears that they have no immediate use for the reservoir as stated in the letter but that could change in the future.

Mr. Starr: What's the date of that letter?

Mr. Fasi: It's Exhibit 1 of the report. The letter is dated August 3, 2009. If you go to page 2, and if my paragraphs renumbered we could go right to it but if you go one, two, three, where it says, "groundwater quality and storm water runoff," it's the second sentence. Let me point it out to you.

Mr. Starr: I see it, but my understanding is that that's not the case that there is a plan to convert, to enlarge and convert that so we'll hear from water when they get here.

Mr. Fasi: I think Wayne Arakaki has a comment on this. And if I may, just to address Commissioner Shibuya's comment regarding ag. I'd like to remind them that the USDA classified this as poor soil for any kind of agriculture and in fact, if there were any kind of ag on this poor soiled lot you can use an awful lot of water depending on what you planting. I believe Wayne Arakaki has some comments.

Mr. Starr: Yeah, I'll let Mr. Arakaki and then Commissioner Shibuya will have the next question.

Mr. Wayne Arakaki: Wayne Arakaki. Comment on the water reservoir. This reservoir is supplied by water from Waiehu and it's an open ditch all the way. So you know if you talk about contamination, you know you have to include all the people that lives on this stream from Waiehu Heights all the way to the reservoir and there was some talk about having this water treatment plant, I believe A & B was going to do this project and one of the comments that I overheard was that they wanted the treatment plant to be closer to the source so it wouldn't be – you know, they wouldn't have to filter out all this contamination that was going in the open ditch. So again, the reservoir is not a place of source of water.

Mr. Starr: Commissioner Shibuya first then Commissioner Hiranaga.

Mr. Shibuya: Okay, I just want to remind them that I was a kid when I noticed that the jeeps and trucks from surplus were converted into scrap by Apana and what they did was they dumped the

oil and removed the axles by just cutting the brake lines and they just dumped it onto that sandy area. I know for a fact that that's what they did because they were making money from selling scrap iron, scrap metal and steel springs were different, were different mounted in another area and axles were in another area and during this process the hydrocarbons were all in that area and I take issue about this being clean. But you're going to use it for burials so it makes no difference I guess. But that land is not agriculture kind of land but it is zoned for, designated for agriculture. I just wanted to let you know that yeah, for the use I would encourage more columbariums for greater use, greater population consideration. Thank you.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Sorry, might have missed part of your presentation but you were thinking of using Waiale reservoir as a source of water for irrigation purposes? Is that how we got to Waiale?

Mr. Arakaki: No, we're going use – we're going to attempt to get a water well and not use the reservoir as a source of water.

Mr. Hiranaga: So you're gonna, you already know where the water table is?

Mr. Arakaki: We're going to drill to, you know, sea level to get water. Like I mentioned earlier when I was working for another firm we did do some testing, water well testing in that area and then there was irrigation water. It wasn't that brackish.

Mr. Hiranaga: Okay, thank you.

Mr. Starr: Okay members, still haven't gotten the water department shall we see if there's any public testimony?

a) Public Hearing

Mr. Starr: Is there any members of the public wish to come forward and offer testimony on this item please make yourself known. Not seeing any, Mr. Fasi is saying – I think we're ready to take our lunch break and we'll come back here at five minutes to 1:00 p.m. and hopefully we get someone from Water Department to comment about Waiale reservoir and whether that's in the plans for the potable. Enjoy your lunch.

A recess was called at 11:55 a.m., and the meeting was reconvened at 12:55 p.m.

Mr. Starr: Good afternoon everyone, Maui Planning Commission meeting of May 11th is back in order we have with us two representatives from Department of Water Supply. I know Ellen Kraftsow.

Ms. Ellen Kraftsow: Kraftsow.

Mr. Starr: Yeah, and another person who'll introduce himself when he gets to the mike. I wanted to ask Ms. Kraftsow to go up to the podium. Commissioners have several questions relating to

Waiale reservoir to ask. Members, who would like to ask questions? Commissioner Tagorda.

Mr. Tagorda: Thank you Mr. Chair.

Mr. Starr: Yeah, stand up there.

Ms. Ellen Kraftsow: Thank you Commissioners my name is Ellen Kraftsow and with me is Alex Buttaro, who actually wrote the letter that you reviewed.

Mr. Starr: Okay, Commissioner Tagorda.

Mr. Tagorda: Thank you Mr. Chairman. Ellen how are you?

Ms. Kraftsow: All right, how are you?

Mr. Tagorda: Good to see you again.

Ms. Kraftsow: Good to see you.

Mr. Tagorda: The reason why is I have concern about the Waiale reservoir which is close to the proposed expansion of Maui Memorial Park. What's the plan for this Waiale reservoir in relation to the Waiale treatment plant?

Ms. Kraftsow: At this time, our hope is the Waiale treatment plant proposal is much more cost effective if we can get an adequate allocation and negotiate adequate reliability such that we don't need at least at first to have a large raw water storage reservoir. If the price at which water delivery through the ditch is too high or if a reservoir is required that either one of those cases would change the cost profile of the Waiale treatment plant. Now the EIS on the Waiale treatment plant has been published that is our primary plan, that is the direction we're going. At this time, we have no plans to use the Waiale reservoir as raw water storage. I'm aware that DOH has some concerns about the use of that reservoir even if we were to need large raw water storage. So even if we do need large raw water storage it's not clear whether we could use that reservoir or if we would have to site it elsewhere or whether some combination of lining might make that reservoir more utilizable, but at this time, our plan is not to use that reservoir.

Mr. Tagorda: At this time.

Ms. Kraftsow: Yes.

Mr. Tagorda: But maybe in the future you might. Based on cost effective and all that, based on your studies.

Ms. Kraftsow: I would like to be able to tell you no we will never use that reservoir. I am not in a position to be able to say that. It is definitely not our plan right now and there would have to be major renovation, feeds to the reservoir and lining to the reservoir if we were to use it. We would not be able in the way it's situated now and the way that the flows work right now we would not be

able to just use it. DOH would not allow it nor would we want to.

Mr. Tagorda: Okay, when this Waiale treatment plant will come into fruition I learn, I gather that there will be a lot of changes in your water lines in this area. You might be look – moving some water lines from different areas.

Ms. Kraftsow: Well, obviously when you have a new – large new source of water which treatment plant would present for us, you have to integrate that large new source of water into the system, right. So we would need to make sure that the pressures were adequate that the water from the plant would flow probably down towards I imagine Kihei, I'm not the engineer designing the hydraulics so you know, and similarly other water could be freed up for use in Kahului and the surrounding immediate areas.

Mr. Tagorda: So in this areas how many water lines that the Department of Water Supply have that might be relocated?

Ms. Kraftsow: I don't think that we're talking about major relocation of lines. We're talking about revising hookups and flow through tanks and some pumps and certain connections and revised connections. There's already a 36-inch line and an 18-inch line that pass reasonably close to the plant that head towards Kihei and then there are lines that also head toward Kahului from the Kahului tank which as you know is pretty close by. So I don't think we're looking at outstandingly huge revision of our water line alignment so much as just adjustments to make the plant hydraulically feasible.

Mr. Tagorda: Thank you.

Mr. Starr: Members? I have a question for you Ms. Kraftsow.

Ms. Kraftsow: Jonathan, I'm sorry it's Kraftsow.

Mr. Starr: Ms. Kraftsow, I'm sorry I apologize. We have before us an expansion for the cemetery which is borders the Waiale reservoir and we have some testimony here from one of the agencies that says that if the Waiale reservoir ever in the future might be used for potable water that it would be unwise to allow this use because the chemicals utilized in embalming and so on could very easily enter into the water table and enter into the Waiale reservoir. Would it be wise to put ourselves in a situation where water in the Waiale reservoir and downstream could never in perpetuity be used for a potable source for the county?

Ms. Kraftsow: Commissioner Starr or Chairman Starr, Chairperson Starr, there's a – there are few aspects to your question one is whether or not a cemetery surround a reservoir could conceivably whether the chemicals or byproducts generated from a cemetery could conceivably enter an unlined reservoir in the vicinity and of course, the answer to that is there is always such a potential. For the reservoir right now is unlined and the ditches that feed that reservoir right now flow through a great deal of urban development, the waters that flow there are affected of course by the urban development that they flow through in addition to several other non desirable uses both existing and historical within the region including past use of pesticides and landfills and automotive storage and

there are all kinds of reasons why we would not want to use the reservoir in its current configuration and state. That said, if we were to ever plan to use the reservoir one would want to protect the region as much as possible even lined reservoirs can ultimately leak. If I were king of Maui which I'm not, the queen of Maui sorry, I probably would opt for a different large water source location even given the case that we had to use the reservoir. That said, it is immediately adjacent to the plant and there may be cost factors that suggest its use and so I'm in an awkward position with you. You know, I want to speak completely truthfully to you and at the same time, is it a great idea to use water that surrounded uses like not only the proposed uses but other uses that are there? No. Is it possible, conceivable that we would ever use it? Yes. Is it part of our plans at this time? No.

Mr. Starr: Okay, members any additional questions? Okay, thank you very much. Commissioner Shibuya do you have a question? No. Thank you very much for coming before us. Members any additional questions on any other issues related to this item? Not seeing any, I'd like to offer the opportunity for members of the public to give testimony. If so please make yourself known. And not seeing any, public testimony is closed on this item. Mr. Fasi, would you like to give your recommendation and any brief analysis?

b) Action

Mr. Fasi: What I'd like to do is amend a few of the recommendations. Recommendation No. 3, this initially came to me as a State Land Use Commission Special Use Permit, it is not, it is a County Special Use Permit so I am going to cross out the words in Condition 3, "Land Use Commission" and just use, "Special Use Permit and Accessory Permit," there.

Same for No. 5, I would add, "Accessory Use Permit" to No. 5 after the word, "Special Use Permit".

I would like to add Conditions 7, 8, 9, 10 and 11. These are new conditions and this is to address the Water Department's Concerns in their letter.

Condition No. 7, I'm going to suggest that it state, "that the applicant shall meet with the Department of Water, Engineering Division regarding the potential need for a 15 to 20 foot easement across the edge of the property on Waiinu Road." And this is one of their request that they had in their letter.

Condition No. 8 would say, "that vegetative buffers or structural mechanisms should be utilized to direct storm water flow away from the reservoir." This is also from the Department of Water's letter.

Also, Condition 9, "that graves be closed as soon as possible after burial on the same business day." This is also from the Water Department's letter.

From the Department of Public Works, Condition No. 10 would say, "that any planting along Waiinu Road frontage shall utilize root barriers."

And Condition No. 11, just to reinforce SHPD's request, and it shall read, "that precautionary archaeological monitoring procedures shall be implemented prior to any ground altering disturbance."

Those are the suggested additional recommendations. Are there any questions on those?

Mr. Starr: Deputy Director Cua has something.

Ms. Cua: I just have a question Paul, your proposed Condition No. 11, how does that relate to Condition No. 6?

Mr. Fasi: Excuse me, we could use Condition No. 6, and I will then delete Condition No. 11. Thank you.

Mr. Starr: Okay, so everyone clear on?

Mr. Fasi: So Condition 6 shall stay as is.

Mr. Starr: Okay, members any questions, any comments? Commissioner Hiranaga.

Mr. Hiranaga: I'm wondering why and maybe I missed it, why you're not including the comment from the Maui Police Department requesting sidewalks on Waiinu Road?

Mr. Fasi: I think that's more properly addressed Public Works and if Public Works had made that request I would probably recommend that it be included. In the Police Department's letter I also noted that they thought that the ingress and egress was adequate and should sidewalks be put in this area it would be totally out of character because there are no sidewalks in that area.

Mr. Hiranaga: It's a beginning.

Ms. Cua: If I could comment? I think when I appreciate what Paul is saying in that you know the Police Department is looking at the safety and that's I'm sure why they offered the suggestion of the sidewalk. I know when the decision came up and we mentioned it to Public Works they seemed somewhat uneasy and Mike just walked back in but you know, it definitely would be something that we would need to make sure that Public Works is on board with – before putting something like that as a condition.

Mr. Hiranaga: Let me ask another question. Is the applicant proposing some type of a barrier to prevent automotive access from Waiinu Road.

Mr. Fasi: I don't believe the applicant has proposed any hard barriers. They are going to propose maybe a hedge.

Mr. Hiranaga: Strong enough hedge to prevent a vehicle?

Mr. Fasi: Probably not.

Mr. Hiranaga: Would the applicant like to comment? My primary concern is – it may not be a problem but I'd like to see no parking along the shoulder on Waiinu Road that fronts the property.

Mr. Fasi: I don't know if this commission has that authority to determine parking ordinance.

Mr. Hiranaga: I don't know either.

Mr. Fasi: I would think that the best decision maker on that would probably be Public Works because they're familiar with where you can and cannot park.

Mr. Starr: Okay, I turn this over to Deputy Miyamoto.

Mr. Miyamoto: Thank you Mr. Chair. The improvements that you require along Waiinu is certainly by condition for this permit. It certainly is within the I think the scope of the ability of this commission to do so. It's something that we would have to do an ordinance change to add to our inventory of areas of no parking but it's doable.

Mr. Starr: Okay, what we're hearing is we could add it as a condition if so desired. Either if we want to add a condition up front or make it – it's probably cleaner to make it as an amendment if that's your desire we could do that once the main motion is on the floor. So if someone would like to make a main motion. We would be certainly in order. Motion can be to approve, can be to deny, can be to defer. Those are three good choices. Anyone?

Mr. Hiranaga: So if I wanted to place a condition would I say, motion to approve with an additional condition?

Mr. Starr: I would accept that.

Mr. Hiranaga: Motion to approve, would I have to state the additional condition first?

Mr. Starr: Yeah, why don't you give us the condition first.

Mr. Hiranaga: Motion to approve subject to an additional condition prohibiting roadside parking along Waiinu Road fronting the subject property. I'm not requiring any type of improvements except probably no parking signs.

Mr. Starr: Okay, so now would you like to make the motion with that condition as part of it.

Mr. Hiranaga: I thought I just did.

Mr. Starr: Well say I move or something.

Mr. Hiranaga: I so move.

Mr. Shibuya: I'll second it.

Mr. Starr: So we have a motion by Commissioner Hiranaga, seconded by Commissioner Shibuya, that motion is.

Ms. Cua: To Recommend approval of the County Special Use Permit and Accessory Use Permit subject to the 10 conditions that the Planning Department offered. In addition, you're proposing Condition No. 11 which reads that roadside parking shall be prohibited on Waiinu Road fronting the subject property.

Mr. Starr: Okay, Commissioner Shibuya.

Mr. Shibuya: I'd like to make a friendly amendment to it too. That another condition would be to prohibit burials because of its formalin, the pathogen that is used to preserve the bodies. These are biocide formaldehyde used in that so therefore I would like to ban that type of burials in this particular park.

Mr. Starr: I would like to suggest you add that as an amendment since there is a motion on the floor that's been seconded and it's the property of the body.

Mr. Shibuya: Okay, this will be a amendment.

Mr. Starr: So you're offering an amendment.

Mr. Shibuya: Amendment only.

Mr. Starr: Is there a second to that amendment?

Mr. Tagorda: I second.

Mr. Starr: So we have an amendment offered by Commissioner Shibuya, seconded by Commissioner Tagorda that amendment is to –

Ms. Cua: I'm sorry I don't – if you could please restate it.

Mr. Shibuya: To ban the practice of burying deceased that are processed with some formalin or some pathogen to preserve the body. The reason for is because of these biocide formaldehyde.

Mr. Starr: Is that what your second is for?

Mr. Tagorda: He get more to say so go ahead.

Mr. Shibuya: Because of its pathogens that get and contaminate the ground and aquifers.

Mr. Starr: So we have an amendment that's been seconded by Commissioner Tagorda and could you read back the amendment please?

Ms. Cua: I have that burials be prohibited that are processed using –

Mr. Shibuya: Formalin.

Ms. Cua: Formalin and pathogens that can contaminate the ground water.

Mr. Starr: Mr. Fasi, you were raising your hand.

Mr. Fasi: I have that to ban the practice of burying the deceased processed with formalin/pathogens to preserve the body.

Mr. Shibuya: That's good, that's better.

Mr. Starr: Okay members any further discussion? Commissioner Hiranaga.

Mr. Hiranaga: I'm sure, I'm not sure, I'm wondering if the applicant has to meet certain EPA guidelines. Are there any EPA guidelines as far as these chemicals that are being – there's concern with?

Mr. Starr: Yeah, lets ask the applicant to address that please.

Mr. Steve Hawley: I'm Steve Hawley, the Director of Operations for Maui Memorial Park. Historically cemeteries all over the world bury embalmed people. In every state in the union they do that and even in the most stringent of states to my knowledge the EPA has never banned burials using embalming and so I'm not aware of any rules. We have never been – I've been in business a long time, I'm not aware of any rules from EPA or anyone involving embalming fluids or burying someone who's been embalmed.

Mr. Starr: Commissioner Hiranaga follow up.

Mr. Hiranaga: I was wondering if it's appropriate to have the applicant comment on the amendment if it's okay with him? Just to get a feel from their perspective.

Mr. Starr: If a commissioner wants it I'm happy to do it and you're asking them – you're saying you want them to –

Mr. Hiranaga: Could you comment on the proposed amendment on the floor?

Mr. Hawley: Well, at first glance basically if you approve a cemetery that cannot bury people who've been embalmed then you really don't have a cemetery, I mean that's what it comes down to. One of the things that we want to do here and you're all familiar with this area. Maui Memorial Park is a very old park. It's been there for 40 some odd years. The park is basically sold out as far as available space. If someone wants to be buried and they live locally and they want to be able to visit their loved one as far as – there 's nothing available unless you want to go 10 miles out of town. Our feeling was that you know, for us to provide a service to the community that I believe which as I stated earlier probably half of the burials at least are involve embalming. To approve something and say well, you know you can do it but you can't bury anyone who's embalmed basically makes it almost impossible for us to do. So that would be very problematic. Again, I am not aware of this issue as far as any other locations. We have locations, several islands. I'm not aware of this issue specifically being raised as to current burials from anyone. So that would be my

response is I think it would make it very problematic for us to do anything.

Mr. Starr: Okay, thank you very much. Commissioner Shibuya.

Mr. Shibuya: This is a landmark proposal. Landmark in a sense that the mortician can present the deceased in a way that it's not preserved or can seek and use chemicals that are less pathologic. You have also the option of burying the deceased within a few days and also you can cremate and bury the ashes. So there are options still available. Landmark in a sense that yes, this is what we did before but today this is what we're going to do in this new plot. We're going to start right now. We're drawing the line in the sand and this is how we're going to begin because Maui is an island, our aquifers that's the water we depend on and we just don't want to pollute it at this point in time especially with pathogens.

Mr. Starr: Okay, thank you. Okay members we have an amendment on the floor, Mr. Fasi you're out of order.

Mr. Fasi: I'd just like to briefly point out that neither the Department of Health nor Environmental –

Mr. Starr: Mr. Fasi, you're out of order.

Mr. Fasi: Oh, I'm sorry.

Mr. Starr: Please sit down.

Mr. Fasi: I didn't hear you.

Mr. Starr: If someone wants to hear from him, I'm happy. Commissioner Hiranaga.

Mr. Hiranaga: I guess I don't have enough information to make a determination on this proposed amendment. So at this time I will be voting against it but if you wanted to defer the main motion so more information can be gathered and presented I would be agreeable to that because this is all new to me and I hate to put a restriction on the permit limiting the use by 50% of the potential customers not really having a thorough understanding of all the implications.

Mr. Starr: Okay, deferral certainly is an option. Commission Shibuya.

Mr. Shibuya: I just want to clarify that it was 50% were actually buried no cremated but of that 50%, 80% were actually buried with the pathogens or at least embalmed. So you do have more than half available to be accommodated without using these chemicals.

Mr. Starr: Okay, members? Commissioner Freitas.

Mr. Freitas: I believe, it's my feeling I'll be voting against this amendment because I believe that without burials and the bodies being properly prepared you do not have a cemetery.

Mr. Starr: Okay members we ready to vote on the amendment? All in favor of the amendment, and

the amendment reads.

Ms. Cua: So the amendment is just dealing with Condition 12. Paul could we use your language, could you read that again please, I'm sorry.

Mr. Fasi: That the practice of burying a deceased using the process of using formalin or/pathogens to preserve the body.

Mr. Starr: Okay, all in favor of that amendment please raise your hand. All opposed. We will vote again. All in favor. All opposed.

It was moved by Mr. Shibuya, seconded by Mr. Tagorda, and

**The Motion to Add the Condition, "That the Practice of Burying a Deceased Using the Process of Using Formalin and/or Pathogens to Preserve the Body," Died.
(Assenting - W. Shibuya, O. Tagorda)
(Dissenting - K. Hiranaga, J. Freitas, D. Domingo, L. Sablas, J. Starr)
(Excused - W. Mardfin)**

Ms. Cua: So the motion dies.

Mr. Starr: Okay, so now we have the main motion, before the main motion we have any additional amendments or discussion? Commissioner Hiranaga.

Mr. Hiranaga: The reason I added this additional condition regarding no parking on the county roadways, I just want the applicant to self-contain their parking issues wherever is funeral services and I don't really see that being a problem. Like you say it's pretty common practice to just park as close to the grave as possible, but if for some unforeseen reason you do have a very, very large funeral you'll just have to figure out special parking. Take extra measures for parking so you can prevent people from parking on the county road, that was my reason for adding that additional condition.

Mr. Starr: Okay, so now we have the main motion, unless there's any further amendments. Not seeing any, the main motion for –

Ms. Cua: Approval of the County Special Use Permit and Accessory Use Permit subject to the 11 conditions that were discussed by the commission and the condition would be regarding the roadside parking being prohibited on Waiinu Road fronting the subject property.

Mr. Starr: Okay, Commissioner Shibuya did you have?

Mr. Shibuya: Yeah, I just wanted to make a comment. Normally I would have been supportive of this but I think we had an opportunity to do a good thing for Maui and to protect Maui's water supply and especially underground water supply and I think this is the watershed area where we really should be taking care of ourselves. So even though I support and seconded the motion, I will be voting against it and I hopefully if it does pass then we can delay it until we get more information

to satisfy other commissioners.

Mr. Starr: Okay, all in favor of the main motion please raise your hand. All opposed.

It was moved by Mr. Hiranaga, seconded by Mr. Shibuya, and

**The Motion to Approve the County Special Use Permit and Accessory Use Permit
Died.**

(Assenting - K. Hiranaga, J. Freitas, D. Domingo, L. Sablas)

(Dissenting - W. Shibuya, O. Tagorda, J. Starr)

(Excused - W. Mardfin)

Ms. Cua: Motion Dies.

Mr. Starr: Main motion has died. The vote was --

Ms. Cua: The vote was four to three.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: I would like to make a motion to delay this until we get more information.

Mr. Starr: Defer.

Mr. Shibuya: Defer.

Mr. Starr: Is there a second?

Mr. Tagorda: I second.

Mr. Starr: All in favor of the motion to defer please raise your hand. Opposed.

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

**VOTED: To Defer the Matter to the June 8, 2010 Agenda in Order for the
Applicant to Address the Concerns Raised by the Commission.**

**(Assenting - W. Shibuya, O. Tagorda, K. Hiranaga, D. Domingo,
L. Sablas, J. Starr)**

(Dissenting - J. Freitas)

(Excused - W. Mardfin)

Ms. Cua: So the vote is six to one. So the motion is carried for deferral.

Mr. Giroux: Chair, can I just add if there can be some discussion to specify what information that you want from the applicant and if we could have a time certain that we could put this back on the agenda to avoid notice problems.

Mr. Starr: I do agree that we should have discussion. I don't know if we need a time certain. It would just have to be renoticed at that point.

Ms. Cua: If I could comment? It would just need to be added to another agenda not renoticed in the sense of doing a public hearing notice. It would just be put on probably the next agenda or whenever we get the information from the applicant if that's okay. You want it probably on the next agenda.

Mr. Giroux: I don't think we're going to avoid this notice.

Mr. Shibuya: This is a deferral James.

Mr. Giroux: Yeah, but it's also –

Mr. Starr: It is a public hearing.

Ms. Cua: We did the public hearing already.

Mr. Giroux: I know but you can't just close a public hearing and then five years down the road have some quasi hearing where the public isn't notified.

Ms. Cua: We can put it on the next agenda.

Mr. Starr: A very short recess.

A short recess was called.

Mr. Starr: ... June 8th we can probably find time for the item so perhaps a motion to defer should be to defer to June 8th and then we should also have some discussion about what is some of the information that's desirous to have before us. So would the maker of the motion and the second be willing to accept the deferral to June 8th.

Mr. Shibuya: Yes.

Mr. Starr: Okay, so the motion is to defer until June 8th and that has passed. As far as discussion, we go on record with those items that you would like to have more information or more any kind of modification or amelioration on, Commissioner Shibuya why don't you start.

Mr. Shibuya: I did want the applicant to tell us alternatives to the pathogens and preserving and the deceased. There are ways in which we can mitigate and if you can present them to us perhaps we'll be more agreeable. There might be an alternative chemical or there could be some containment of the casket or body, and of course, you can bury the person without preservation or you can cremate. Those are options.

Mr. Starr: Thank you. Members any other? Commissioner Tagorda.

Mr. Tagorda: I would just like to add something although this didn't come into our discussion. Since that entire lot is above that reservoir I wish, I want the applicant to come in with a plan that storm drain runoff, water runoff will be retained in the property a little bit away from the reservoir and if they can find some less toxic chemicals to be used in embalming, some kind of literature to mitigate the process and give us some kind of hint whether that's can be done because according to your letter in Europe, that use of that formaldehyde chemical is already prohibited. There's a movement in Europe that they prohibit that and they ban it but looks like you folks don't have plan to adopt, do it with a less toxic chemicals to be used. So those are the things I want to be addressed next meeting.

Mr. Starr: Members, anything additional. I have two. One is I'd like a letter from the county as to whether it is indeed true that the Waiale Reservoir will never ever be used as a source of drinking water in an unlined – for the County of Maui in an unlined state.

And the second would be a plan for parking for people visiting the cemetery and for burials.

And the third is a drawing showing what will be available for pedestrians or bicyclists off the roadway to be able to pass by the cemetery on that side of the road. Anything else members? Thank you Mr. Fasi. Please go ahead.

Mr. Fasi: Regarding your letter, you want a letter that states basically from the county saying that they're going to never use the reservoir in an unlined state?

Mr. Starr: Yeah, for the potable system.

Mr. Fasi: And then you wanted a prohibited parking verbiage in there for the road. I didn't understand your –

Mr. Starr: Yeah, I was asking for a definitive plan of where people will park either for a burial or to visit the graves.

Mr. Fasi: Okay. And your last one, showing a conceptual drawing for sidewalks and bikeways fronting the property.

Mr. Starr: I didn't say sidewalks or bikeways, just – I mean frankly I'd be happy just to see that there's a – shoulder or something. If they want to put a sidewalk or a bikeway that's fine but I just want to be sure that someone can get by there. Commissioner Shibuya.

Mr. Shibuya: And including in that parking, handicapped parking, right?

Mr. Starr: Okay, we done with this one? Okay, thank you Members. Thank you and I apologize to the applicant it'll take us a little longer than expected. Okay, next item.

Ms. Cua: Our next item under New Business is a request by Mr. Mike Yamamoto of McDonald's Restaurants of Hawaii, Inc., requesting an Environmental Assessment Determination on the final Environmental Assessment prepared in support of the Special Management Area Use Permit

application for the proposed Lahaina McDonald's Restaurant reconstruction for the demolition and reconstruction of the existing Lahaina McDonald's Restaurant addition of a double drive-thru lane and landscaping, parking and related utility improvements at 885 Waivee Street, TMK: 4-5-001:019 in Lahaina.

We note that the accepting authority for the EA is the planning commission and the draft EA was reviewed at your July 14, 2009 meeting and the trigger for the EA is the location of the property in the National Historic Landmark District Boundary.

The planner on this matter is Kurt Wollenhaupt.

C. NEW BUSINESS

- 1. MR. MIKE YAMAMOTO of MCDONALD'S RESTAURANTS OF HAWAII, INC. requesting an Environmental Assessment Determination on the Final Environmental Assessment prepared in support of the Special Management Area Use Permit application for the proposed Lahaina McDonald's Restaurant Reconstruction for the demolition and reconstruction of the existing Lahaina McDonald's Restaurant, addition of a double drive thru lane, and landscaping, parking, and related utilities improvements at 885 Waivee Street, TMK: 4-5-001:019, Lahaina, Island of Maui. (EA 2009/0009) (SM1 2009/0004) (K. Wollenhaupt)**

The accepting authority for the Environmental Assessment is the Maui Planning Commission. The draft Environmental Assessment was reviewed at the July 14, 2009 meeting.

The EA trigger is the location of the subject property in the Lahaina National Historic Landmark District.

The project needs a Special Management Area Use Permit. The public hearing on the SMA application will be conducted by the Maui Planning Commission after the Chapter 343 process has been completed.

Mr. Kurt Wollenhaupt: Good afternoon Mr. Chairman and the other Members of the Maui Planning Commission. It's my pleasure to be here this afternoon and we're pleased to have the team from McDonald's Restaurants of Hawaii and Mr. Yamamoto here and Ms. Skogg of Munekiyo and Hiraga, who will be presenting a short presentation. I think this will be especially enlightening for the two members I believe that weren't here for the July 14th meeting, however, this is as Ms. Cua indicated the review for the final Environmental Assessment. This body had a detailed review of this previously and the comment, there was only one comment that they had at that time and through you the proposed drainage. They'll be addressing this.

So the three actual alternatives are to accept the final EA today and to issue what we know as a FONSI, a Finding of No Significant Impacts, defer the final EA or to have the applicant prepare an

Environmental Impact Statement. However, this body has looked at this. It's also important to remember that this is the environmental assessment process on this. This project will be coming back to this body as a special management area major permit at which time you'll be looking at all of the issues regarding an SMA permit as this is in the SMA zone. Also, as Ms. Cua indicated, the trigger for this is the location in the Lahaina National Historic Landmark District not Historic District 1 or 2 but in the overall historic district and I also believe that the applicant has done an admirable job which was noted by the UDRB for their architecture that harkens to the architecture of the Lahaina area. At this I'll have Ms. Skogg and her team do the short power point presentation.

Mr. Starr: About how long will be the presentation be?

Mr. Wollenhaupt: It's about 10 slides.

Mr. Starr: No give me a time. I don't care what it is.

Mr. Wollenhaupt: Seven minutes.

Mr. Starr: It's just in the past, people have come and started and an hour and a half later they're still going. So 10, 15 minutes is fine.

Ms. Kimberly Skogg: Good afternoon Commissioners. I'll keep this brief for you. I'm Kimberly Skogg from Munekiyo and Hiraga and like it was stated we are here for the final Environmental Assessment for the Lahaina McDonalds reconstruction.

I'll just introduce the members of the project team who are here with us today. Representing the applicant is Mike Yamamoto of McDonalds Restaurants of Hawaii. The architect was Jim Niess of the Maui Architectural Group. Civil engineer was Conrad Shiroma from Kim and Shiroma Engineers. Kevin Tanaka was the landscape architect and planning consultants were myself and Mike Munekiyo of Munekiyo and Hiraga.

To give you an overview of where we are looking we are in Lahaina Town makai of Honoapiilani Highway and mauka of Front Street on the corner of Papalaua and Wainee Streets. So here's the property location map. This is Papalaua Street right here. This is Wainee Street right here and to give you an idea of where we are in Lahaina Town this is where the Foodland Shopping Center is, right next to the project site is the Quizno's and Jamba Juice. Kitty-corner from the project site is the First Hawaiian Bank and right on – across Papalaua is where the old Hilo Hattie was.

So this is a photo of the project site as it is now. This is taken standing on the corner in front of the First Hawaiian Bank building and this is the neighboring property where the Quizno's and Jamba Juice is and I'll note that this wall right here the landscaping plan will provide kind of trees and things to buffer or soften that wall.

This is taken on the side of Papalaua Street looking down towards Front Street and this is the entrance to the site. This picture is taken on Wainee Street which is right here. That's the First Hawaiian Bank on the opposite corner and we're looking at the exit from the project site and I'll note that this is a right turn only that's marked. And this is taken from the same spot looking towards the

ocean. This is looking down the drive-thru, this is the Foodland building right here and this is the neighboring building that will be buffered by the landscaping.

To give the new commissioners some background of this project the restaurant originally opened in June of 1983 making it over 25 years old. So it's due for upgrades to meet current McDonalds design standards and one thing notable is this restaurant will be one of the first McDonalds in the world to embody their new theme of forever young. And meanwhile the exterior of the building, architecture has been specially tailored to kind of complement the existing architecture of old Lahaina Town which is nice.

The proposed action involves the demolition of the existing restaurant that's around 4,274 square feet. The new restaurant will be just a tiny bit bigger, 4,365 square feet. There's going to be a double drive-thru lane which should kind of lessen any kind of traffic congestion that there is. Related improvements involve lighting, landscaping and parking improvements. The trigger for environmental assessment is the use of the land within the National Historic Landmark District and like Mr. Wollenhaupt said, we are actually outside of the County Historic Districts and we will be coming back before this body for the Special Management Area Use Permit.

So just to give you an idea, this is the existing site plan. Papalaua Street is on this side of the site. This is Wainee Street over here. The entrance to the project site is right here and the exit is down here and this is the existing restaurant and drive-thru lane goes around the back. This is the proposed site plan so you see the footprint of the building will remain approximately the same. This is the new double drive-thru lane. This will be maintained as a right-turn only exit. There's going to be a rubbish corral over here and a loading zone right here.

These are the elevations and you'll see that the architecture is in line with the design guidelines for the Lahaina Historic Landmark District. Kind of simple period architecture. The lighting fixtures are all period lighting fixtures as recommended by the UDRB.

This is the landscaping plan and like I noted before this is the side of the project site that neighbors the Quizno's building and so the landscaping along here will serve to soften that big, blank wall which was another recommendation of the UDRB.

And when we came before this body in July of last year the comment we received was to review the proposed drainage plan to determine the feasibility and potential measures to retain all storm water runoff on site or to significantly increase the amount of runoff that's retained on site. The suggestion was to investigate the use of pervious surfaces, onsite retention areas and other means of reducing offsite water runoff. So I'll have the engineer, Conrad Shiroma come up and talk about the other measures that he investigated.

Mr. Starr: Okay, thank you very much. Mr. Shiroma.

Mr. Conrad Shiroma: Hi Commissioners, I'm Conrad Shiroma from Kim and Shiroma Engineers. As requested back in July of last year we did do a study into looking into various methods of retaining additional runoff on site. We did look into one method of using gravel along the perimeter in the landscape areas but when I presented this to the landscape architect for the project he said

definitely it's not a good idea to do that due to just high maintenance. The gravel would be filled up with dirt and silt and we would have to maintain it. We did a calculation to the proposed runoff how much time would it be used before that gravel area was filled up and we ended up, I believe in our recommendations to McDonalds I think we ended up with about three minutes of retention then the water would just runoff from a 10-year storm.

The second method we looked into was a pervious concrete pavement. We asked our soils engineer for the project as to if the material was – the material below ground was pervious enough to absorb the water. At that time they said, it was not within their scope of work to determine permeability of the soil. At that time, the intention was just for parking lot improvements and for the foundation of the building. We did look into the type of material that was there. It's a clay silt which is when compacted it's very firm and will not let water be really be absorbed back into the ground. Again, their recommendations at the time also mentioned that you should, when you're compacting the ground to over water the compaction efforts. When you over water it what happens is that there's additional clays in the material there, so what happens when you compact the material, it will seal it even more hard. So once you seal the bottom of this surface, water will not be able to penetrate back into the ground. So we looked in that method and we would have to compact the material in the parking lot area. They also recommended not to put any of this pervious material within 10 feet of the building line. And so when we looked in to that the – basically what happens is that this drive-thru area, this drive-thru area and I guess about this much of the area and about this area becomes unusable for the pervious pavement. We also said we do not want this entrance area where this loading zoning is and then wherever there's loading for the traffic corral is to be used as pervious pavement. For the pervious pavement in this area, due to the heavy load of the trucks coming in wouldn't be good for the pervious pavement. What happen is that we ended up with area ...(inaudible)... that we recommended that area, this area be used for pervious pavement. The calculations came out about 3,000 – a little bit over 3,700 square feet of surface area that we can use for pervious pavement. Again, with the runoff from a storm we're looking at about maybe 10 minutes of retention time. After that, the runoff would then end up going into Papalaua Street.

We did look into a chamber system to store it underground, again, basically it would end up this area being used for the chambers. That one we did a calculation for that and we ended up with about I believe it was about 45 minutes before again, for a 10-year storm water would overflow the entire system and end up in Papalaua Street.

We did end up with a cost for both options. The pervious pavement would add about \$40,000 additional cost to the construction cost and if we were to do the chamber system would probably add up another \$80,000 for the project. When we did this we also said again, we would have problems with the pavement subgrades because of the type of material that is below ground. Ideally if you had sandy material down there or some sort of a coral layer down there the water would be able to return back into – back into the underground system and could be returned. But with this type of clay silt material there the water will not be retained and so it will – if it does get constructed the pavement would probably fail much earlier than anticipated. So we had recommended to McDonalds at this time that the original system where we treat the surface runoff through hydrodynamic separator which would be probably be located right in this area here, runoff off would be collected in this drain inlet and this drain inlet here, there's a pipe right now that connects these two together and it would drain across Papalaua there's a 36-inch storm drainline

that runs down Papalaua to the ocean along that point. That was our recommendations to McDonalds.

Mr. Starr: Members, so what's before us is an EA for the McDonalds. This would be a final and the commission would be either finding no significant impact or finding that there is impact which would kick it up to an EIS. Questions? Commissioner Freitas do you have?

Mr. Freitas: No.

Mr. Starr: Okay, members anyone have any questions? Commissioner Hiranaga.

Mr. Hiranaga: Just trying to understand the process. The EA, Environmental Assessment basically is to gather information and present it for agencies reviews in determining their comments for their SMA permit.

Ms. Cua: Well, the EA is basically a disclosure document and what it discloses is the proposed action, alternatives, any issues that have come up from any agency comments in preconsultation and then when going through the draft process the applicant is required to take all the comments from all the government agencies, the public, oh and it also includes the public's letters, I'm sorry, and they have to address all of those comments in the final EA document and the final EA document is what's before you today and you're either going to find that there is no significant impact and accept the FONSI or you're going to determine that you believe there is significant impact and require an EIS. Did I answer your question?

Mr. Hiranaga: Sort of. So the EA once it's finalized what do you do with it?

Ms. Cua: Oh, I'm sorry. That's the process. That's the EA process. A lot of times EAs or EISs are filed in support of a particular application. In this case, this EA supports an SMA permit for McDonalds so yes, that document is used to formulate the analysis for the SMA permit.

Mr. Hiranaga: I read the final EA and find – well, drainage being a primary concern because of its location close to the ocean it seems like the overriding factor is it could cost too much. I don't know if it's now an appropriate time to make that comment or when they come in for the SMA permit but when you say it costs too much to do this that's not going to be an acceptable alternative for me.

Ms. Cua: One of the things they're required to do is mitigate impacts and if you feel that the issues identified have been or can be mitigated then you can accept the FONSI. If you find that it cannot be mitigated and requires further in-depth analysis you could bump it up. I'm not – I'm sorry I wasn't privy, I wasn't here for the draft EA portion so I'm not extremely with all the issues.

Mr. Hiranaga: I'll ask one more question before I yield the floor. So if I am not satisfied with what's provided in this final, can I provide comments so they can prepare for their SMA application or is that inappropriate.

Ms. Cua: You can offer any comments that for their information you want them to make sure that when they come in, I mean when they come to you for the public hearing on the SMA that they

could address. Did you make those comments as part of the EA so they could, the draft EA so that they can – I mean they're addressing it in the final is that?

Mr. Hiranaga: Yeah, drainage was primary but their alternative to increase the landscaping to capture .07 cfs, you know, beyond what is currently flowing off the property and that's not a major significant change to me as what we had requested. There are alternatives but they're saying it costs too much to do that. So at some point that's going to be an issue to me anyway.

Mr. Starr: I do recollect there was some spirited discussion on this drainage issue at the draft stage. Does the applicant have those comments so we could recollect what was discussed at that time?

Ms. Skog: Yes, on this, this is the exact comment that was provided by this body.

Mr. Starr: If there's a strong feeling on the commission that there should be – there must be mitigation to increase retainage, what is the mechanism – is there a mechanism for the body to approve it but with a commitment to a change that would add increased retention. I ask that of Ms. Cua.

Mr. Hiranaga: With reservation.

Ms. Cua: Well, there's – there's two things going on here. You have the final EA in front of you which you need to determine if you feel that they've adequately addressed all different alternatives and that the preferred alternative has been mitigated to the extent practical for you to be able to make a determination of a finding of no significant impact. That does not mean that you cannot revisit some of these issues in the context of the SMA permit. And you are able to give them direction at this meeting. If you feel you absolutely want them to address that you know no matter what the cost, I mean, whatever your comments are you can give it to them now. I don't think it precludes you from issuing a finding of no significant impact.

Mr. Starr: I had heard something in the presentation that made me uncomfortable which was that in trying to answer the question that came from the commission the – I believe the engineer went to their consultant and asked them to do what sounds to me like a percolation test to ascertain the true porosity of the subsurface and what we were just told was that the consultant refused to do it because it wasn't part of their scope of work. So without having that then it would basically someone sound like just took a handful of dirt and decided that it was not porous enough. I'm – can we get some more information about is there really a information on the percolation and porosity? Could you clarify that? ...(inaudible)... comments I'm referring to.

Mr. Shiroma: Conrad Shiroma, Kim Shiroma Engineers. At the time that I did address that comment to the soils consultant at that time and as I said at that time with their contract, the contract with McDonalds at that time it was not within their scope of work to do a percolation test since at that time that they did the soils investigation there was thought of doing percolation tests. Normally you would do a percolation test if you're doing a cesspool type of conversion where you need to run these tests. At that time there was no, I believe even McDonalds was not aware of the requirements to do this additional testing for percolation. At this present time there is still no determination on the porosity of the soil. I've been in the business now for approximately 30 years.

One time I worked for a soil consulting firm so I'm somewhat a little familiar with the type of soil being investigated and so it was based upon my opinion that this material will not absorb water as well as quick.

Mr. Starr: Commissioner Shibuya then Commissioner Hiranaga.

Mr. Shibuya: Conrad on this type of soil to me I understand that Papalaua is actually a runoff area from Lahainaluna and it comes right down, the water comes down this way to the ocean. And so this entire area which McDonald Restaurant and other buildings adjacent to it area actually on silt. Is silt a good absorber of moisture?

Mr. Shiroma: No.

Mr. Shibuya: Okay. If you graded it a foot and placed crushed rock for six inches or so and then put the next six inches of permeable material, would that have a retention value?

Mr. Shiroma: I did the calculation on that. Yeah, we could retain probably about maybe a little bit over a thousand cubic feet.

Mr. Shibuya: That seems a considerable amount.

Mr. Shiroma: Yeah again, water – quantity of water wise it would based upon a 10-year storm I think in my letter to McDonalds it said probably eight to ten minutes of retention and after that everything would run off into back into Papalaua.

Mr. Shibuya: Okay, what if did – drilled into that silt and then put crushed rock and then put your six inches of permeable material, you would have increased your storage capacity would you not?

Mr. Shiroma: If you drilled then they will be going into a different type of permit again then we would have to go into, what do you call it, into a – getting a well permit from the Department of Health.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: This may be a question for you or not, but why are we addressing a 10-year storm instead of a 50-year storm? Because most applications coming before us in SMAs are 50-year storm. I'm just little confused.

Mr. Shiroma: On a 50-year storm normally you're talking about a drainage area according to the County drainage standards of a 100 acres or more or if you are in sump type condition. In this situation if we're talking about 1cfs, if you go to a 50-year storm you might end up with about 1.3, 1.4 cfs so there would be a increase in runoff but not insignificant if you were talking about a much, much larger area.

Mr. Starr: Okay, Commissioner Hiranaga first.

Mr. Hiranaga: I'm not challenging the three alternatives proposed in the EA as far as drainage is

concerned but as far as – this is called the supplemental drainage letter report of March 26, 2010, but I feel that there could be a combination of these proposals used to reach this comment. I mean if you look at this comment, it says, “to retain all storm water runoff on site or to significantly increase the amount of runoff retained on site.” The proposed option, utilize landscape areas will reduce the runoff by 4% of it’s current runoff. Is that significant, 4% reduction? I don’t see how you’re meeting the planning commission’s comment.

Mr. Shiroma: Again, the retention would be just for three to four minutes then everything after that would run off.

Mr. Hiranaga: That’s why I said, you may need to use a combination of the three alternatives in order to achieve the planning commission’s comment is what I’m saying. It’s not these are stand alone systems. You can use a combination of the system to achieve the commission’s comment. I mean, I’m just giving you a heads up, you guys are going to run into this when you come for your SMA permit.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: I’m just questioning the fact that we have to go for a well permit when we’re just probably digging something, drilling lets say a series of eight or ten of these 30-inch circular type of drill holes maybe no more than six feet is that a well requirement?

Mr. Shiroma: Yes. Any time your hole is deeper than your widest dimension, anytime it’s deeper than it is wide it is considered a injection well.

Mr. Shibuya: Even though it’s a dry well. I mean the design is dry.

Mr. Shiroma: Even though it’s a dry well. Any time that is done, a separate permit is required.

Mr. Shibuya: Okay, then excavate that maybe instead of a foot then go down two feet and then fill it up with 18 inches.

Mr. Shiroma: Again, that will – I cannot answer that, I would have to get a determination from the soil engineer to say if this method is okay or not because I’m worried about is basically again, foundation of the building settling unevenly and you end up with a floor slab that becomes – then the tenant can no longer use it.

Mr. Shibuya: I understand.

Mr. Shiroma: Similar situation with the pavement if this should happen and all of a sudden I would have a very uneven pavement.

Mr. Shibuya: I like the idea of hydrodynamics and capturing most of the hydrocarbons before it gets out into the ocean. However, I just want to make sure that we retain much of the runoff.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: And again, I don't know if this is the appropriate time but the number of parking stalls proposed is that the minimum requirement because if you have additional stalls beyond what is required you could remove them to increase the landscaping area.

Mr. Shiroma: We'll have to go back and double check the count.

Mr. Starr: Could you check the count while we're having discussion. Commissioner Freitas.

Mr. Freitas: Yes, is this building increasing the runoff that is presently now?

Mr. Shiroma: Right now reducing the runoff.

Mr. Freitas: You are reducing the runoff.

Mr. Hiranaga: 4%.

Mr. Freitas: By 4%.

Mr. Shiroma: Was it 4%, I forget but we are reducing the runoff from what it was originally by increasing the landscaped area.

Mr. Freitas: And how many gallons in a 10-year storm you folks predict running off?

Mr. Shiroma: I think our calculations had 1.37 cubic feet per second.

Mr. Wollenhaupt: I just had a comment that building upon what Ann had indicated about the role of the EA I think the role of the EA as I understand it is really to facilitate the discussion you're having here today and to make a determination that you can mitigate environmental impacts to a level of non significance that it is possible and that the EA demonstrates this. So it could be possible that this will go to the Office of Environmental Quality Control in Honolulu, there will be a 30-day legal challenge period and then the EA would be accepted. This process demonstrates that as Commissioner Hiranaga had indicated there are possibilities of mitigating this to a level of non significance depending on how you view that so the EA demonstrates that it is possible. The SMA could be a vehicle by which you will attach conditions as to how much mitigation you want which then moves the project forward allowing you to attach conditions at the time of the SMA. So that's just my understanding of how an EA can be used to address environmental impacts while ensuring that conditions that conditions can be attached later on.

Mr. Starr: What I think I'm hearing you say is that in the event that the body decides to have a finding of no significant impact, they can still feel that there are some impacts as outlined in the document and look for additional remediation through conditions on the SMA when that comes before us.

Mr. Wollenhaupt: That's how I interpret it because they have demonstrated as it has been indicated there is more than one way to mitigate the impacts of the water. That's – they've shown you can mitigate it, whether it's underground retention basins, whether it's as you're indicating here a well

per se, whether it's additional storm water diversion, whether it's landscaping, there are an option of mitigating ability so you can do it. How you're going to do it can be addressed through the SMA process with a series of conditions. So rather than moving it to an environmental impact statement which expands the ..(inaudible)...

Mr. Starr: Can we get an answer about the parking stalls. I think like Mr. Niess or Ms. Skog.

Ms. Skog: By code there's 16 stalls required for this project. So there are extra stalls which the applicant would be agreeable to converting that to landscaping area to further increase retention.

Mr. Starr: How many stalls are there?

Ms. Skog: There are actually 18 stalls total, so there's two extra. Yeah, this shows 19 but this has since been updated because compact stalls are no longer required. That was something that occurred during the process of this project. So actually the, yeah, the site plan has been updated to 18 stalls. So there are two extra stalls that can be converted to landscape area.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: Looking at this supplemental drainage letter report dated March 26, 2010, on the first page under drainage system overview and engineering considerations, you say the current runoff volume from the project is 1.93 cubic feet per second is that predevelopment runoff or when you say current runoff that means with the current improvements in place.

Ms. Skog: No, that's existing so before all the improvements are in place. As the site is right now today.

Mr. Hiranaga: With the pavement and the –

Ms. Skog: Yeah.

Mr. Hiranaga: That's 1.93?

Ms. Skog: Yeah.

Mr. Hiranaga: So what is predevelopment runoff before it was built and was vacant?

Ms. Skog: We don't have that information. We don't have plans from when it was vacant. Actually before this it was a Buddhist church so it was developed before the McDonalds was built.

Mr. Hiranaga: Is it possible to calculate what predevelopment runoff would be if the lot was vacant based upon average rainfall, topography, slope, soil conditions?

Ms. Skog: I would defer to Mr. Shiroma.

Mr. Mike Munekiyo: Good morning Mr. Chair or good afternoon, my name is Mike Munekiyo and

perhaps I can assist in facilitating the decision. In response to Commissioner Hiranaga's question, yes, the runoff rate pre McDonalds can be calculated if certain assumptions are made with respect to what types of land cover there were on site prior to but you know those would be probably be best estimates I would say.

Mr. Hiranaga: I would suggest you have that information when you come with your SMA permit application.

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: Finally I like to ask you a question. Can you go back to your proposed site plan, not the landscape one, it's about traffic. Right there. At Papalaua and Wainee Street I was looking at your schematic drawing, Attachment C, there will be some kind of traffic yeah from Papalaua going to your left yeah, and might go into your McDonalds.

Mr. Munekiyo: Commissioner you're speaking about traffic heading down Papalaua turning left.

Mr. Tagorda: Yes and turn left.

Mr. Munekiyo: Yes.

Mr. Tagorda: Okay, and it says right here, I think with this changes that you have here or this study that you have it might create some kind of traffic, yeah with the numbers it was provided.

Mr. Munekiyo: Actually the way the restaurant is being configured and the type of replacement that we have we believe that there wouldn't be any changes to the traffic demand generated by this restaurant.

Mr. Tagorda: Are this numbers put in in this schematic drawing numbers of vehicles during that time, period of time?

Mr. Munekiyo: I'm sorry Commissioner you're looking at the traffic report?

Mr. Tagorda: Attach yeah. P.M. peak hour volumes in Attachment C. I just want to make clear that this proposed project is not going to alter the traffic at Wainee and Papalaua especially during construction.

Mr. Munekiyo: I guess two parts to that Commissioner. I think with respect to construction the contractor would be obligated to come up with a traffic plan that would ensure that we wouldn't affect that intersection and I think of course, all of the construction vehicles would need to be maintained on site number one. With respect to some of the longer term impacts after the restaurant is built, according to the traffic engineer, the conditions or this project wouldn't affect the Papalaua/Wainee Street intersection.

Mr. Tagorda: That's their findings.

Mr. Munekiyo: That is their finding.

Mr. Tagorda: But in case in the future, there will be a need to widen Wainee Street or Papalaua Street because of the business would the applicant be willing to provide some easement to the county?

Mr. Munekiyo: I think at that point it would not be a possibility because the site as you can see would be fixed and what any future granting of easements or right of way that might be needed in the future would basically affect the circulation.

Mr. Tagorda: That's what I'm trying to address now the future impact of this proposed project to that street.

Mr. Munekiyo: Right, to Wainee. So I think the answer would be that it will probably not be likely. ...(inaudible)... likely that the applicant would be able to grant any further easements or right of way to the county.

Mr. Tagorda: And I heard very clearly from Ms. Skog about the use of the new McDonald design standard would you educate me a little bit with that compared to your old McDonald now.

Mr. Munekiyo: I wonder Commissioner if I can the McDonalds representative I think he can give a pretty good answer.

Mr. Starr: Either that or Mr. Niess.

Mr. Tagorda: Thank you.

Mr. Mike Yamamoto: Good afternoon Commissioners. My name is Mike Yamamoto, I'm with McDonalds, I'm the construction manager. So to your question about what is it about this new McDonalds? You know as Kim had alluded to this restaurant is old, 1983. Since then the restaurant designs have changed, drive-thru has become a real significant part of our restaurant and the restaurant internal configuration of the kitchen and how the drive-thru windows are spaced have all changed over time. So while it may seem like well this double-lane drive-thru is going to bring more business, it's going to create congestion, in fact because of the design we're able to put more cars through in a given hour than we can current put through right now. So that's basically, you know, details on window spacing to have so many feet distance between where order your food, where you pay for your food and where you pick up your food these are all designed into this whole restaurant system and our production line is all new today. So it's built on efficiencies so there's a lot of time and motion studies involved so that's what we have incorporated in this.

Mr. Tagorda: So Mr. Yamamoto, when you plan for this design did you incorporate some kind of LEED certified design here like energy conservation?

Mr. Yamamoto: Yeah, we're not LEED certified on this building Mr. Commissioner but I can tell you about some of the things we have on this particular building. McDonalds currently are is working in LEED. We have I think three LEED buildings right now on the mainland but we have picked up

some of those energy efficiency equipment to incorporate into this restaurant. For example on the roof tops, our roof top AC units are ultra high efficiency. They have a ER rating of 11.4 which is pretty high and it uses this scroll compressor technology today which minimizes vibration and it's very quiet. On top of that we use this, I'm not sure if you're familiar with TPO roofing which is a single membrane reflected energy star rated roofing so it reflects the heat and minimizes penetration into the building as far as heat gain.

In the building itself we're using double insulated glass for our windows so that gives us some amount of efficiency in terms of heat gain into the building. We have CFL can lights in our dining room to minimize energy usage. In the restrooms we have urinals that use one pint of water per flush versus the traditional one gallon of water. On the water closet it's 1.28 gallons versus 1.6 gallons. Our latest fryers today what we call low oil volume fryers and they use half amount of the shortening in a vat which is typically 50 pounds, we're down to 25 pounds which reduces our energy usage on heating that shortening. Our kitchen, our bathroom sinks like we have low flow spray heads so that we minimize the use of water there. So those are some of the things that we've incorporated into the building.

Mr. Starr: Commissioner Sablas.

Ms. Sablas: While you're there, Kimberly she mentioned "forever young," can you elaborate about that theme.

Mr. Yamamoto: Thank you for asking. "Forever young" is a design concept that McDonalds has accepted. If you go back to lets see on this island, well if you go to Lahaina, you look at that seating and decor package, if you go to our Dairy Road it's a lot different or even Kahana is kind of the old style. We've changed that design to look fresher, younger, it doesn't look like a typical McDonalds, it's more I would say on a upper scale dining with pendant lights which we never used to do. We used to put all these 2' x 4' lighting fixtures. We don't do that anymore. We use these little can lights with CFL lighting in them. So we've taken out the traditional kind of industrial kitchen look to McDonalds and made that kind of a more younger look, appealing to the younger tweens. I'm not saying we're eliminating the seniors, but it's typical if you look at our Kahului McDonalds we incorporated a meeting room for the seniors to meet there which is used quite a bit. So that's what we've done to it.

Ms. Sablas: Anyway I had another question or more a comment about percolation in Lahaina. Lahaina is my hometown and I remember reading early readings of Lahaina that at one time it was known as the Venice Capitol of the Pacific because there's Canal Street, there Mokuhina Pond, and all those areas I remember when we did an archaeological dig and I can't remember exactly when maybe 1993, two feet below the ground we found water. So historically that area, I mean, the street name, Waiola it refers to a lot of the gathering of water. So it might be worthwhile to do that soil study for percolation as was earlier recommended by Commissioner Hiranaga because of the historical nature of the place being again, the Venice Capitol of the Pacific and Canal Street so it was a lot of water raise in that county early times.

The other comment I wanted to make is about the planting plan, I read comments about wanting to use a lot of native plants if is practical. I notice that you have the Loulu Palm which is good, the

Hawaiian Kou, but traditionally Lahaina was know for its breadfruit, the Ulu trees and also for Kalo that's where King Kamehameha himself planted Kalo and that again it's indication that water was plentiful at that level. So some consideration because it's in the historical area and this goes back to pre missionary times of the history of Lahaina just some comments.

Mr. Yamamoto: So are you suggesting that we look at different plants at this time or just ...(inaudible)...

Ms. Sablas: Well, both, you know again, Kalo comes with water and that area was known for water and Kalo so that might be a consideration as well as breadfruit because Malu Ulu o Lele refers to a lot of the breadfruit trees that part of the Lahaina area and there's no – nothing here that – no plans here for the Ulu tree. Just a comment.

Mr. Yamamoto: Okay, thank you.

Mr. Starr: Okay members can we move to public testimony if there is any? Okay, I'd like to open it up if any members of the public would like to give testimony now is the time to share your manao. Not seeing any that's fine. Members we have a last opportunity for questions, comments and then we'll be open to motions. Any more questions, comments? Not seeing any, the Chair would welcome a motion, possible things that can be done one would be to accept this, we are the accepting agency with a finding of no significant impact, the other would be find that there is impact which would kick it up to an EIS, third would be to defer. My understanding from what planner said is that if it were accepted there's no – there could be a feeling that there should be additional mitigation as far as the drainage when it comes for the SMA. So members what is your pleasure. A motion would be in order. Commissioner Freitas.

Mr. Freitas: I move to accept the EA with no significant impacts.

Mr. Starr: Is there a second?

Mr. Tagorda: I second.

Mr. Starr: We have a motion by Commissioner Freitas, seconded by Commissioner Tagorda, the motion is.

Ms. Cua: To accept the Final Environmental Assessment as a FONSI, Finding of No Significant Impact.

Mr. Starr: Okay, any amendments, anything else? Not seeing any, all in favor please raise your hand. All opposed. Motion carries. What is the vote?

It was moved by Mr. Freitas, seconded by Mr. Tagorda, then

**VOTED: To Accept the Final Environmental Assessment and Issue a Findings of No Significant Impact (FONSI) Determination.
(Assenting - J. Freitas, O. Tagorda, K. Hiranaga, D. Domingo,**

W. Shibuya, L. Sablas)
(Excused - W. Mardfin)

Ms. Cua: The vote is six unanimous.

Mr. Starr: Okay, we're taking a 10-minute recess.

Mr. Munekiyo: Thank you Commissioners.

Mr. Starr: Congratulations.

A recess was called at 2:30 p.m., and the meeting was reconvened at 2:40 p.m.

Mr. Starr: ... is back in order for our next item since our Deputy Director is the planner on this item I'm going to turn it over to Planner Candace Thackerson to introduce this item for us. Take it away Ms. Thackerson.

Ms. Thackerson: Thank you. The next item is HRT Limited which is a subsidiary corporation of the Harry and Jeanette Weinberg Foundation requesting comments on the Draft Environmental Assessment prepared in support of the Phase II Project District approval application for the proposed Maui Lani Shopping center which is going to be on approximately 12.926 acres of land located at the corner of Maui Lani Parkway. It's TMK 3-8-007: 121, Wailuku and the planner is Ann Cua.

Mr. Starr: Thank you.

- 2. HRT LIMITED, a subsidiary corporation of the HARRY AND JEANETTE WEINBERG FOUNDATION requesting comments on the Draft Environmental Assessment prepared in support of the Phase II Project District Approval application for the proposed Maui Lani Shopping Center of approximately 105,000 square feet, consisting of a food market, retail and service shops, office space, restaurants, 569 parking stalls and related improvements on approximately 12.926 acres of land located at the corner of Maui Lani Parkway and Kaahumanu Avenue, TMK: 3-8-007: 121, Wailuku, Island of Maui. (EA 2010/0001) (A. Cua) (To begin at 1:00 p.m. or soon thereafter.)**

The accepting authority for the Environmental Assessment is the Maui Planning Commission.

The project needs a Phase II Project District Approval. Action on the Phase II Project District application will be taken by the Maui Planning Commission after the Chapter 343 process has been completed.

Ms. Ann Cua: Hello Mr. Chair, Members of the Commission. I'd like to give you a little bit of background on this project some of you were here, some of you were not and so kind of just bringing you up to speed on where we're at before I turn it over to the applicant.

So what you have before you is a draft Environmental Assessment for the Maui Lani Shopping Center project and it was mentioned that this proposed project does require a Project District Phase 2 Approval. The Project District Phase 2 application was filed back in August 15, 2005 and the planning commission conducted the public hearing on the Project District Phase 2 application on July 10, 2007. At that meeting, the commission had deferred action on the project until an EA could be prepared and what basically happened is if you recall there were a lot of concerns from the neighbors, the Sandhill neighbors on the Kainani Street access and so there were a number of different iterations of how that area could work in terms of the roadway system there. And basically got to the point where it triggered Chapter 343 compliance and so you deferred, the process kind of stopped and the applicant started going through the process of the draft EA for this project pursuant to Chapter 343.

In addition what was happening in response to community concerns about ingress and egress to the project from Kainani Street the County Council meanwhile had adopted resolution 08-73 to amend the Maui Lani District Zoning Ordinance which would prohibit ingress and egress from Kainani Street to this project. The resolution and the draft bill were forwarded to this commission which conducted a public hearing on November 25, 2008. Although the Planning Department had recommended disapproval of the proposed resolution and suggested that ingress only be prohibited from Kainani Street and the egress from the proposed project be permitted the commission recommended to the County Council approval of the resolution to restrict ingress and egress from Kainani Street. So presently the Council's Land Use Committee is in receipt of the resolution and the draft bill and your comments but to date the committee has not scheduled the bill for review and further deliberation.

And so what's happened since then is the applicant has submitted the draft Environmental Assessment and at – it was submitted basically to you on March 29th. The OEQC publication date for the draft EA was on April 23rd and the 30-day public comment deadline would be May 23rd.

So with that, I would like to call the applicant up and have him kind of take you through the project.

Mr. Starr: Okay, about how long will the applicant's presentation be?

Mr. Mike Munekiyo: A little less than 10 minutes Mr. Chair.

Mr. Starr: Very good. Thank you.

Mr. Munekiyo: Good morning or good afternoon again, Mike Munekiyo. I'm here on behalf of HRT Limited the applicant. What I'd like to do this afternoon commissioners is just to run through a few slides which I think will assist in your deliberations in providing comments on the draft Environmental Assessment so let me do that real quickly. We do have a number of members of our project team here in the event that any commissioner might have specific questions on any discipline so again when that ...(inaudible)... point comes up we'll be able to call the appropriate consultant up. Of course we also have representatives of HRT as well.

I just want to just recap where the project site is, it is at the corner of Kaahumanu Avenue and Maui Lani Parkway right across Baldwin High School. So here's Baldwin High School, here is the project

site and this is Kaiser Permanente at that location. I'll skip this slide, Ann I think when through I think quite a bit of detail.

Just recap of the project itself. It occurs on approximately 12.9 acre parcel and elements of the project include a food market as the major tenant, sub major tenant, there'll be retail and service shops, space for offices and restaurants. The total retail area is about 105,000 square feet. Previous iterations of the plan amounted to about 130,000 square feet. So it's been scaling back of the project itself. Safeway Store which would be the food tenant would occupy a space of about 56,700 square feet.

As Ann mentioned, we've been engaged in meetings with the community over the past two and a half years. Over the course of this time we felt we found it to be quite beneficial process understanding what the concerns of the community were which allowed us again to go through an evolution of site plans which we believe ultimately lead to the plan presented in the draft EA which served to mitigate we believe a number of issues that were raised by our neighbors. So we felt that this was a very productive process.

As I mentioned, there were a number of site alternatives that were previously developed and let me just run through a few of these. There were much more but some key ones. This was the site plan was submitted with the Project District Phase 2 application back in 2005, but just key elements, the main access would be off of Maui Lani Parkway. This is that main accessway which is across Kaiser Driveway. There will be a secondary access further south right turn in, right turn out only.

In the initial plan we had a access off of Kaahumanu Avenue, right turn in and right turn out. However, after that Department of Transportation studied this alternative they believed that it probably wouldn't be in the best interest of traffic movement and operations along Kaahumanu Avenue so they recommended that this ingress and egress point be deleted and you'll see that reflected in the next plan but what was of critical concern is the access off of Kainani Street. Our neighbors in the historic Sandhills neighborhood felt that this full movement intersection originally proposed would be problematic because it would facilitate or allow cars traveling through the Sandhills neighborhood to get to the center as well as allow cars exiting the shopping center to go through the Sandhills neighborhood and I think the added traffic impact were significant concern.

This is the plan that was submitted at the July 2007 public hearing, of course, deletion of the Kaahumanu Access. Everything else remains the same including the full movement alternative off of Kainani. Again, this plan ...(inaudible)... about 130,000 square feet. I just call attention to this boundary here because you'll see in the ultimate plan that it's been pulled back quite a bit, but under the previous alternative we show parking areas fairly close to the boundary lines. So these are historic Sandhills lot in this location bordering the property and also call your attention to this corner here where we had in previous iterations either parking or building and that's been converted to burial preserve. So just those two just to kind of keep a mental memory of what the changes are.

This is one more alternative just reflecting a right – straight in, straight out, again an attempt to minimize traffic through Kainani Street. And this was the alternative that was presented to the neighborhood back in December of 2008 I believe, but what this one does is limits the movement to right turn out only this way and you notice that in this alternative we do have a right turn in from

Kaahumanu Avenue and although the previous, the first iteration did show access from Kaahumanu Avenue this one differed from that first one in that under this alternative this right turn in is actually being accommodated by a new deceleration lane to be constructed on the applicant's property but this deceleration lane or auxiliary lane basically separates this entering traffic from the true moving traffic on Kaahumanu Avenue and the DOT felt that this would be an appropriate solution for allowing ingress from Kaahumanu Avenue. Of course nothing else changes in terms of the Maui Lani Parkway alternatives. Again, still working with the approximately 130,000 square foot alternative.

And finally this is the alternative that is presented in the draft environmental assessment. This alternative significantly eliminates any access off of Kainani Street and this is a, again an attempt to address concerns that the historic Sandhills residents had over the course of planning. The way we accomplished this is through actually scale the down the project. As I mentioned, we are now at 105,000 square feet roughly by reducing the total floor area of the shopping center that converted to a reduction in trip generation and that reduction in trip generation allowed for access to be contained along Maui Lani Parkway together with an ingress point from Kaahumanu Avenue. So that reduction was quite significant in terms of allowing for a solution, the Kainani Street solution. Of course the other associated mitigative effects as a result of the downsizing is the creation of a greater open space between our neighbors here and the edge of the parking area here whereas you might recall the previous iteration showed the parking lot getting pretty close to the neighbor's backyards here now it's been pulled back by about 70 to 100 feet plus. So that was one of the I guess results of the scaling down of the project site. I mentioned this area here now being dedicated as a burial preserve because there are indications that this area may be site for additional burials which we would want to avoid. So effectively what's been done with the western boundary of the shopping center is to keep it as open as possible.

I just want to really briefly go through some of the other mitigation measures because we are dealing with an environmental assessment and environmental assessment objective of course is to identify how it is the impact can be mitigated.

The other issue or concern among our neighbors was that of noise and of course, the most obvious thing that one would associate a supermarket would be tractor-trailers or loading and unloading of goods and so that type of activity would of course be a noise generator and what was done from a design standpoint to mitigate that particular impact was to create a garage like structure for the trailers to back into for unloading and loading activities. So this is a high wall with a roof over it to kind of contain the noise. Similarly other noise generated associated with a facility like this would be trash compactors, compressors associated with chillers and so all of those types of equipment are now contained within the building or if they are on the rooftop type of equipment they will be contained by enclosures as well. So those were noise mitigation measures which we believe would be able to address the noise concerns.

The other concern that we've heard over the past three or four years was that of light spillover from the parking lot. So what we've done was to closely examine what the grades, final grades could be for the parking area as well as the finished floor elevations for the store, stores and offices. We then looked at what pole height, light standard heights would be workable and with that type of design analysis we've come up with a solution where the top of poles in the parking lot for the lights

standards would be actually below the yard level here. So again, an attempt to minimize light spillage into our neighbor's properties there.

I mentioned the burial preserve in this location and I think just as a follow up to some of the discussion we had with the previous items in this instance 100% of the rainfall runoff will be contained within the Maui Lani project district. All of the rainfall runoff would be directed to the golf course, the Maui Lani Golf Course and so none of the stormwater runoff would be discharged to the ocean.

There are some additional mitigation measures I think worthy of note and these are more operational rather than design related. Again intended to mitigate some of the impacts that one would ordinarily associate with a facility like this, loading and unloading, the applicant is willing to limit loading and unloading to the hours of 7:00 a.m. to 10:00 p.m. In other words, there'll be no loading or unloading activity in the early morning or nighttime hours and in fact most of those, these types of activities occur in the morning, but there is a limitation, a self-imposed limitation here. Trash pickups another source of noise applicant is willing to agree that there will be no trash pickups before 7:00 in the morning nor would there be any trash pickups after 5:00 in the afternoon.

One other concern, Safeway is proposed to function as 24-hour supermarket. Again, concerns as to early morning, late night activities, loitering, nuisance effects associated with those types of activities. I think the applicant is sensitive to that type of concerns that have been expressed by our neighbors and what the plan is to implementing nighttime security management program and strictly enforce that to insure that we don't have any activities that would be detrimental or distracting, a distraction for our neighbors.

Finally I understand that there were comments brought forth at this morning's testimony by Baldwin High School. We appreciate the opportunity we've had to work with Baldwin High School over the past two years. We've met with the Department of Education on three separate occasions first with the DOE, District Office back in September of '08, more recently with the school itself in June of '09 and we've met a couple weeks ago with Baldwin High School Administration about a couple of weeks ago. Again, express appreciation to Baldwin High School because they have raised I think a number of legitimate concerns which they called to attention early on in the process back in 2009. As a result of that meeting, we or HRT commissioned a traffic evaluation study which is contained within the Draft EA and that traffic evaluation study identified some recommendations which could be discussed with the Baldwin High School Administration if those would be workable. And indeed we met with them, as I said a couple weeks ago and going through that discussion process we've come to understand that some of the recommendations that we've outlined will probably not be workable from Baldwin High School's perspective. They did bring up some additional suggestions. We are still in process of discussion and we'll go back and try to look at what else could be done with respect to the additional recommendations that they have brought forth. So it's a coordination process that is ongoing, it's not concluded but we certainly look forward to coming some resolution with the high school in terms what can be done to improve the morning circulation and after school circulation limitations that they deal with each day. And so that's our presentation Mr. Chair.

Mr. Starr: Okay, thank you very much. The way I propose to handle this we'll have any additional presentation analysis, commissioners can ask questions to the applicant and their consultants or

to our staff then we'll have public testimony and then we'll open it for comments from commissioners on this. So is there any other analysis from Deputy Director Cua or any other – any of the applicant's consultants?

Ms. Cua: Well, it's more just our comment and I guess recommendation that we'd like you to consider. We've actually – we've reviewed draft EA document and we find that pursuant to the Department of Health, Office of Environmental Quality Control, the document does meet the requirements for a draft environmental assessment and we anticipate a finding of no significant impact determination. We would welcome definitely any comments that you have and be formulating a letter that would be included and responded to by the applicant in the final environmental assessment.

Mr. Starr: Thank you before we do actual comments I'd like to see if anyone has any questions on this members? Commissioner Hiranaga.

Mr. Hiranaga: Could you just explain in detail the proposed bulb out on Kainani Street and how that functions?

Mr. Munekiyo: Commissioner Hiranaga is referring to this configuration here and what that does is it requires the traffic turning right on Kaahumanu to stop and then turn right because you've got this movement coming in off of Kaahumanu heading east so it's more of a safety measure to ensure that we've got movement coming in from Kainani properly recognizing that it's safe to get into Kaahumanu traffic flow.

Mr. Hiranaga: So a right turn is only allowable on a green light?

Mr. Starr: And please identify yourself.

Mr. Phillip Matsunaga: Hi, my name is Phillip Matsunaga with PD ...(inaudible).. I'm the traffic consultant. In addition to what Mike say, bulb out it's for safety reasons. It was recommended in discussions with DOT. They were the ones that recommended that. We have an auxiliary lane that doesn't exist in this plan. So this does not exist right now. Right now you have an acceleration lane here and then it ends in this vicinity and then you have a right turn lane that begins here and turns onto Maui Lani Parkway. So what we're proposing is to make it continuous and furthermore from that lane that's where you see the lane into the shopping center. So the intent of this bulb out is to reduce the conflict in this lane from people turning, making this right turn rather than the existing situation where they would be in this lane here and probably wanting to merge into one of the two through lanes and then you'd also have people either going eastbound in one of these lanes trying to merge into that lane or people making this left turn also wanting to merge into that lane so it's an attempt to reduce the weaving from the right turners and then the people in these through movements competing for this lane. In other words, people coming from each side of the lane and creating a potential safety hazard.

Mr. Hiranaga: Again, my question was or is you're allowed to make a right turn off Kainani onto Kaahumanu on a green light only.

Mr. Matsunaga: We are not proposing to prohibit right turns on red.

Mr. Hiranaga: But you have to merge into the?

Mr. Matsunaga: Into the through lane, yes.

Mr. Hiranaga: Right now there is two, through lanes, an accel lane and then it becomes a decel lane, so they would have to merge into the through lane which is second from the central median.

Mr. Matsunaga: Right, you're talking about merging into this lane here, yes.

Mr. Hiranaga: So it's going to be properly striped? That's a big swing out there. They're going to be creeping out into the intersection until they get – they're going to be half way into the intersection waiting to merge into that middle lane. Is that what you're proposing?

Mr. Matsunaga: Well, that is – there is a potential for that for people to bypass the stop bar and to keep inching up as it were toward the – toward the traffic.

Mr. Hiranaga: I guess maybe I'd like you to consider what's occurring between the hospital entrance and Papa Avenue.

Mr. Matsunaga: Can you be more specific?

Mr. Starr: Commissioner Hiranaga, if it's a comment that you want to appear, I'd like to ask you to wait until after testimony.

Mr. Hiranaga: Sure.

Mr. Starr: I'm not disagreeing with that. So lets move onto other questions and then we'll save our comments, but keep it noted. Commissioner Shibuya.

Mr. Shibuya: Phillip did you do the study which was called actually a traffic evaluation study and it happened only one day.

Mr. Matsunaga: I'm sorry –

Mr. Shibuya: At that intersection of Maui Lani Parkway and Kaahumanu Avenue, one study and it occurred only one day.

Mr. Matsunaga Well, it's true that when we do the analysis in general the budge allows for one day that we would typically say oh, this is a typical day. We would choose Tuesday through Thursday, a weekday and we would do our homework, check to make sure that school is in session, there's no construction in the area and we would do the analysis on that day, but in addition to that for this particular study we've actually counted this intersection several times over the years, different peak periods we've counted the A.M. school peak, we've counted the midday, we've counted afternoon, when you let the kids out, as well as the evening or P.M. commuter peak. So we've collected many

– a large amount of at this intersection or at these two intersections. The question though is yes, the analysis that we do is performed on one day's worth of traffic.

Mr. Starr: Okay, members more questions? Commissioner Hiranaga.

Mr. Hiranaga: This question may not be you. If someone could just explain the truck circulation route? With trucks entering the project and somehow maneuvering into those loading docks?

Mr. Darren Unemori: Good afternoon Mr. Chairman and Members of the Commission, my name is Darren Unemori, I'm the civil engineer for the applicant. There's a second driveway to the south of the main driveway into the shopping center here. This is intended to be the service entrance for delivery trucks and other heavy service vehicles. It comes up here, this is the loading area behind the Safeway Store, there's a turnaround area here for the trucks, they can back in here, unload and enter and exit through the same driveway.

Mr. Hiranaga: You indicated they would veer to the right just about where that 280-foot arrow is, but there's designated parking stalls there.

Mr. Unemori: There's a aisle here that enables them to travel through the parking area.

Mr. Hiranaga: So they would have to go around that – I don't know what that "T" is, what's that?

Mr. Unemori: Oh, that's just the walkway.

Mr. Hiranaga: Because it would have to go around the walkway.

Mr. Unemori: Well it's not a raised walkway, it's just a painted walkway to guide people from one side of the parking lot to another.

Mr. Hiranaga: That circle is your turning radius?

Mr. Unemori: Yeah, that's the area set aside for the large vehicles to make their turns to back into the loading area.

Mr. Hiranaga: And you're going to be doing that between 7:00 a.m. and 10:00 p.m.?

Mr. Unemori: Well, within the agreed upon operating hours, yes.

Mr. Hiranaga: Thank you.

Mr. Starr: Okay members? Commissioner Shibuya.

Mr. Shibuya: Coming back to that traffic light that is indicated on this map is that a proposed installation or is that just something that you thought would be nice and you just put it in?

Mr. Munekiyo: Commissioner you're referring to this signal here?

Mr. Shibuya: Right.

Mr. Munekiyo: That is a signal that would be needed in the long term and so it is something that is shown as a need. One of the recommendations of the study is to say that that traffic signal would be installed when warranted at a certain point in the future. However we've also received comments that perhaps an earlier installation of that signal would be appropriate. So I don't believe HRT would be opposed to that so long as we can get concurrence from the County Public Works Department because ultimately this will be a county roadway, but I think there's a willingness to look at an earlier installation of that signal as well.

Mr. Shibuya: Well, I was favoring an earlier installation that's my question – because I was looking at the drawing and it does not appear like it is really proposed but it's a indication there that I don't know what's going to happen. Yes, early installation would be ideal because people are going in various directions at the same time.

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: Hi good morning. Looking at that plan and I heard that you already submitted four site plans since 2007, and most of the changes were at Kainani Street and some alterations in parking stalls but I notice the buildings basically Safeway is still in the same location out of those four proposed site plan, do you think really that that place where you put a Safeway site is best for that project?

Mr. Munekiyo: We've looked at it and perhaps Commissioner and Mr. Chair, may I ask the project architect to explain why it is that Safeway is positioned in that location? Mr. Benner.

Mr. Jeff Benner: Hi my name is Jeff Benner, I'm the architect. We've had a number of iterations as Mike mentioned regarding this site plan and mostly the comments that we had from surrounding neighbors is I believe that they actually prefer this concept versus say taking the store and placing it out by the corner because it actually helps shield some of the car activity, some of the light sources, some of the noise concerns from what's occurring to the north of the store to the neighbors directly to the south. So we did take that into consideration.

We also conversed at great lengths with Safeway regarding a corner location and the difficulties with that is that this site has significant slope from the northwest corner to the southeast corner and what began to happen is with the store was out at the corner it actually elevated itself up quite high because we have a stepping, a series of steps along the site with respect to the grade. So I think what you would see is a store that could be 40 to 45 feet tall out at the corner. It probably would have suggested we have to go underneath the building for some of the parking which you know does work in urban environments but probably not as much in you know west, more suburbia type environments. So I think when you take into the account the height of the building, the parking issues, the grading issues and significant cost associated with that it was just felt that the store, you know, placed at the rear of the site was a better solution and of course visibility is always a huge concern with the tenant and when you get that corner intersection visibility into the center and we've kind of opened it up to allow for you know some of that visibility it just works a lot better.

Mr. Tagorda: The reason why I pick up that site Safeway is below that map there will be neighborhoods and also on your left are Sandhills neighborhood.

Mr. Benner: Correct.

Mr. Tagorda: But you mention about the slope. What's the slope of that site where Safeway is going to be and the parking stall on the left of the Safeway in comparison to the slope or the Sandhills neighborhood are, the difference.

Mr. Benner: Okay, the – from here you're speaking of these lots correct? And Darren correct me if I make a mistake here but we're about 25 feet higher here than we are down in this parking field. So there is a proposed screen wall up here I believe we have it at six feet. You will actually be able to – these homes here will actually look out across the entire center. These buildings will not be obstructing the visibilities from these Sandhill estate parcels. These properties down here to the south we do have a slide that kind of – and it's a little – maybe if the lights, maybe this light turned off just a little bit, what we've come up with are these are the parcels that are directly behind the store. So you can see in most cases they're actually elevated up higher than this proposed driveway access for the trucks and we've created, you know, screening elements. We've proposed significant landscaping to help buffer it. We're working with Russell Gushi, the landscape architect in terms of being able to create more landscaping between the actual driveway in itself and the building structure trying to kind of soften the back of the building. We actually from the earlier iterations we've moved the store somewhat further away from the property lines. So we tried to do our best to kind of mitigate some of the what I believe is your question, the kind of the massing concerns in the proximity of the building to the property line.

Mr. Tagorda: May I continue Mr. Chair? And because of these I heard a lot of concern about the Safeway there being a 24/7 in operation.

Mr. Benner: Yes.

Mr. Tagorda: And you make that parking lot, parking stalls on it's left close to the Sandhills subdivision more and the visual effect with the lighting, with the cars starting up would be more because the noise travels from your right to left.

Mr. Benner: Yeah, could you go back to the site plan again?

Mr. Tagorda: And you put that Safeway project and parking store almost the same elevation with Sandhills where below that on the corner of Kaahumanu and Maui Lani Parkway that's the lowest portion of that property right.

Mr. Benner: It is the lowest portion but from the sidewalks out here the intersection we're up here approximately 20 feet or so, so about 15 feet. So this ...(inaudible)... are what we're attempting to create kind of a gathering area out here at the intersection this is about 15 feet higher than this. So when you take into consideration the depth of this store as it comes across here, this elevation here Darren is approximately.

Mr. Unemori: That would be about ...(inaudible)... 150.

Mr. Benner: 50, so we're at solid, what's our rise there –

Mr. Unemori: Between the street and the –

Mr. Benner: Yes, from here to here is about?

Mr. Unemori: Maui Lani Parkway is about elevation 130, that intersection mark is about elevation 150 and Safeway is ...(inaudible)... the parking –

Mr. Starr: Please use the microphone and identify yourself.

Mr. Benner: It's about 130 here, 150, 152 and then we slightly rise in here.

Mr. Unemori: The base of the wall there is at elevation 159.

Mr. Starr: Please identify yourself.

Mr. Unemori: Oh, I'm sorry, I'm Darren Unemori, the civil engineer for the applicant. So the base of the retaining wall mirrors the old Sandhills is elevation 159. Top of the retaining wall is roughly 180 and the lots that are on the extreme left-hand side are roughly elevation 190. So there's about 30 feet vertical difference between the rear parking lot and the nearest homes in Sandhills, the old Sandhills.

Mr. Tagorda: Let me just juggle around those buildings that you put in place on that site plan. I don't know if you made a study about putting all those offices close to the Sandhill neighborhood and below that because those offices might be close early like 5:00 p.m. and there will be no visual effects that's so bad to this neighboring Sandhills and below that.

Mr. Benner: You're speaking of these?

Mr. Tagorda: Yeah all those offices that it started all over the place.

Mr. Benner: Yeah.

Mr. Tagorda: Just trying to move around that Safeway away from the neighborhood.

Mr. Benner: Yeah, it's been a real difficult challenge. Have yet to come up with a solution that has been accepted by any of the team players as well as the tenant themselves. When you look at the parking you will get some employee parking over in here and that's what a lot of this parking would be for so they're only in and out, you know, twice a day. Most of the parking is going for the Safeway activity itself will in fact occur out here. You might see peak time weekend shopping activity where some of the parking might spill into this area here. But for the most part, the parking will be in this general area right here. So I'm not – when I think of all the sites that I've worked on I'm not sure during normal, during the majority of the store opening hours per week, I don't think

you're going to see much spillover parking in this particular area here.

I think the other advantage that this is too is you know, we're almost a football field away here and that's pleased a lot of the Sandhill Estates property owners, but I think the fact that we're so high up in grade and from the earlier iterations we actually lowered the site. We dropped it down an additional 10 feet which allowed most of these properties here just to simply look back out towards the ocean, it's simply kind of unobstructed. And we've talked to a few of these property owners back in here and explained to them the mitigations and the design concepts and we've gotten good feedback.

Mr. Tagorda: Thank you sir.

Mr. Starr: Okay, members other questions? I've a couple for Mr. Munekiyo. This is sort of a process question. I'm reading from page 68 of your report. It talks about transportation. I believe this came from the Kahului Community Plan, it says, "objectives and policies, provide bikeway and walkway systems in Wailuku, Kahului area which offer safe and pleasant means of access particularly along routes accessing residential districts, major community facilities and activity centers, school sites and the shoreline between Kahului Harbor and Paia," and then "objectives and policies, improve pedestrian and bicycle access within the region." Now when you gave your I guess your traffic study, there's no where in here where it talks about doing any type of evaluation of pedestrian and bicycle type multi modal or even public transit analysis even though when it talks about transportation in Kahului Community Plan that's – in objectives and policies that's all it talks about. How come when you had this done you completely overlooked multi modal even though the Kahului plan puts that first foremost?

Mr. Munekiyo: Thank you Mr. Chair. Perhaps I can answer one part of the question and then ask our civil to respond to another part. Let me just speak to our coordination that we've done with the County Department of Transportation with respect to bus, the Maui Bus system. Right now the Maui Bus system has a bus stop approximately in this location heading south and approximately in this location heading north and so they've asked or they've noted that once this shopping center goes in it will probably get ridership up to a point where it would warrant a bus shelter and they feel comfortable with this location by the way, and the so the applicant has indicated their willingness to support whatever bus facilities that might be needed to advance mass transit in that location or Maui Bus facilities in that location. So again, if it that we exceed the threshold in terms of ridership and a bus shelter is needed, that's something HRT has indicated willingness to support. So we had discussions with the County DOT with respect to that. And if I may then just ask our civil to talk a little bit about our pedestrian and bicycle facilities.

Mr. Starr: Before you do that, can you answer my question which is since you're the one who commissioned this study how come you didn't ask for a analysis for full multi modal you only asked for a traffic, in other words, car analysis.

Mr. Munekiyo: Multi modal referring to of course, bicycle, pedestrian and bus traffic as I understand.

Mr. Starr: Yeah.

Mr. Munekiyo: Well, that's something we certainly could look at in our final EIS or final EA Mr. Chair.

Mr. Starr: Okay, and moving forward, please try to keep that in mind when you buy these.

Mr. Munekiyo: Okay.

Mr. Starr: Let's –

Mr. Unemori: Mr. Chairman, I just wanted to add the shopping center is actually located at the corner of two bike routes. Kaahumanu Avenue is outfitted with bike lines on either side as is Maui Lani Parkway along the curb line and the pavement. The Maui Lani Parkway, the urban collector also has pedestrian facilities, has sidewalks basically on both sides of the street and occasional crosswalks for people to get across. Kaahumanu Avenue has a continuous walkway essentially from Wailuku to Kahului along the northern side of it. This portion is not, has not been improved yet but will be – these will be part of the frontage improvements of the shopping center which will extend the pedestrian accessibility further towards Wailuku.

Mr. Starr: I'm happy to see you're doing that. I just want to see them in the reports. I have one other question which is what's the required parking versus the provided parking?

Mr. Unemori: The required parking is five per thousand.

Mr. Starr: How much?

Mr. Unemori: Fives spaces per thousand square feet of building area. We have a provision also in the code and maybe Ann can correct me if I'm wrong but I believe we have the need for employee parking and I think it's three spaces minimum per tenant space. And then what I've also done is taken into account, areas such as this when you look at the site plan you'll see there is two different tones. A darker toned spaces might in fact be restaurant or food vendor type uses. So I've taken into consideration some of the outside plaza area and allowed some parking for the square footage as well. I think we're upwards of about 5.4 per thousand on an overall ratio which should be sufficient for the uses that we can expect to see on the site.

Mr. Starr: So how many spaces are required and how many are being provided? And I'm asking this because in the past we've had shopping centers provide two or three times the amount required and it's created kind of an excess.

Mr. Unemori: Yes, we have 569 provided and I would say, the minimum would be around 525 approximately.

Mr. Starr: So you're in range.

Mr. Unemori: Yes, yes.

Mr. Starr: Members are there any other questions? Okay let me open it if it's okay to public testimony. Members is that okay? Okay, I didn't get any sign ups, do we have any members of the

public wishing to testify on this item?

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

Ms. Natalie Gonsalves: Good morning Commissioners, thank you for giving me the opportunity to respond to the Maui Lani Shopping Center Environmental Assessment. I'm Natalie Gonsalves, Principal of Baldwin High School. Before I begin, I'd like to acknowledge the support of HRT to meet the school to address concerns of Maui Lani Shopping Center and its impact on Baldwin High School. I'd also like to acknowledge the support of State Department of Transportation, Fred Cajigal, to consider traffic safety proposals and offer solutions and I'd like to acknowledge the traffic evaluation prepared for the consultant on February 2010 recommending actions for the Department of Education, Department of Transportation and Department of Parks and Recreation. And I'd also like to state that the Maui Lani Shopping Center proposed plan focused on three or four points at the Maui Lani Parkway and Kaahumanu intersection.

Concerns of increased traffic and non school traffic entering the school grounds and jaywalking by students is a big concern of Baldwin High School and so we have – we're offering three recommendations and the first recommendation is to acknowledge the public school campus. We'd like to discontinue non school traffic through the school property for student safety and campus security. If you refer to Department of Education Superintendent's letter dated October, I mean, excuse me, August 31, 2007, the school's driveway is not a continuation of Maui Lani Parkway nor is it a dedicated county road. The land on which Baldwin High School sits has been deeded for school purposes only. It is not a public access road. We'd like to see the 45 mile per hour speed limit reduced.

Number 2, we'd like to discourage jaywalking and we recommend that a low maintenance barrier at the center medial strip on Kaahumanu Avenue between Maui Lani Shopping Center and Baldwin High School.

And Number 3, we'd like to ease traffic backup on Kaahumanu Avenue and we suggest lengthening Kaahumanu Avenue right and left turn lanes into Baldwin High School and having dedicated green lights on Maui Lani Parkway allowing two left turn lanes onto Kaahumanu Avenue. The school traffic congestion has always been an issue at Baldwin High School. It's a very slow process. It took us four years just to close the Baldwin High School Driveway. Budget cuts of \$2 million ...(inaudible)... from my budget for next year. It's probably getting me to cut back on 1.5 teacher positions, repair and maintenance funds for DOE are cut by 50% Baldwin High School backlog list of repair and maintenance totals \$2.9 million. The process requires capital improvement funding which is a lower priority on statewide DOE CIP matrix and the Baldwin High School backlog list of CIP totals \$35.8 million.

Improvements that we want to include are non school traffic through school property. Continue the road closure during school hours by extending fence gate at the front of the campus. We want to improve pedestrian walkway to and from the campus. We want to implement a traffic flow pattern to lengthen the loading and unloading area and we want to add a separate right turn exit lane.

Ms. Takayama-Corden: Three minutes.

Ms. Gonsalves: Educating our children –excuse me.

Mr. Starr: You can finish up if you wish.

Ms. Gonsalves: Okay, well basically educating our children is a priority and not the R&M and not the CIP although it is for safety. If it's a safety issue then we'll address it, but I need to educate our children and it takes funds. Thank you.

Mr. Starr: Okay, thank you. Members, questions? Commissioner Shibuya first.

Mr. Shibuya: Members of the Commission I just want to disclose that I am the President of the H.P. Baldwin High School Foundation. So whatever I say please understand that portion of it. I do have interest in Baldwin High School. I would like to insure that many of the impacts that occur in the subdivisions surrounding Baldwin High School or the feeder areas such as Waihee, Waikapu, Wailuku actually are considered for improving Baldwin High School's environment.

Natalie, I understand as principal, you probably attended many of the meetings and I was reading that thick report from the Munekiyo and Hiraga and what you just mentioned is not mentioned in the report. Can you elaborate some especially on Fred Cajigal and your entrance into Baldwin High School. That particularly was not addressed in the findings.

Ms. Gonsalves: I'd have to defer to JoAnn Shibuya. As JoAnn says, it's in the subsequent supporting documents not in the findings itself.

Mr. Starr: Could we ask Ms. Shibuya to come to the mike and introduce herself and tell us because some of us are really confused now.

Ms. Joanne Shibuya: I'm Joanne Shibuya, Budget and Facilities Specialist for the Department of Education, Baldwin Complex. It's not in the Munekiyo and Hiraga assessment findings, however, we've had subsequent meetings with the Department of Transportation and it is in the subsequent documentation of that report although it's not in the findings.

Mr. Starr: Could you describe the issues for us?

Ms. Shibuya: The issues is the impact to Baldwin High School. It wasn't addressed in the findings but in subsequent meetings with the consultant to the development we indicated to them the Baldwin High School traffic impact and the traffic congestion as well as the safety to the students in the jaywalking across of Kaahumanu Avenue. So it is in the subsequent documents. I think in letters as well as in the traffic evaluation study that the consultant had done, had completed.

Mr. Starr: Commissioner Shibuya, any follow up on that?

Mr. Shibuya: I was concerned that this documentation may be missed by the commissioners and that's why I'm highlighting this point that what is written in the assessment is actually our homework and all of us have actually read it and when I see this disconnect then I think I need to reveal this and that's what I'm doing now. And thank you for bringing it up and highlighting this discrepancy.

Mr. Starr: So we'll discuss that when we get to the item but if there's any additional documentation that we should be seeing maybe staff can help get us a copy if you have something else we should be looking at that's not here. Members any other questions?

I have one which is I read in the report and also your comments concern about through traffic and I'm little confused. Is that because of traffic coming up from War Memorial or is there some other place and what would you like to see done about that if you had a choice. Use the microphone please.

Ms. Gonsalves: We've closed the road during school hours, you know, and that's what took us four years to do that working with Department of Parks and Recreation but we still have a lot of – sometimes the traffic – people try to avoid the red light so they'll come into our intersection and make a U-turn to go out and that's another concern. So there's a lot of non school traffic going through the campus and we'd like to eliminate that by keeping the roads closed.

Mr. Starr: Okay, Members? Thank you very much for being here.

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

Mr. Starr: Okay, not seeing any that means we move right along. So members we're ready for comments and if it's okay, we'll just allow members to say their piece and make a comment. If a commissioner feels the opposite they should make that as a comment as well. So members please. Commissioner Hiranaga you had something before and I cut you off, why don't you start.

Mr. Hiranaga: Yeah, I'd just like the applicant to look at the traffic flow at the intersection of Kainani Street and Kaahumanu Avenue, an alternative versus the bulb out would be a similar situation at the intersection of I believe it's Kanaloa Avenue and Kaahumanu Avenue heading north and then intersection of Papa Avenue and Kaahumanu Avenue. They don't have a bulb out there but there's kind of a merging in and out. Seems to be working now.

Mr. Starr: Okay, Commissioner Hiranaga you got some more? Commissioner Shibuya you ready?

Mr. Shibuya: I'll let others speak first.

Mr. Starr: Who wants to go?

Mr. Shibuya: I see the shopping center and proposal as a good opportunity, economic opportunity for Maui and I welcome it. I see that a huge number of pedestrians as well as traffic being increased because of this. I see this movement causing little bit more problems on Kaahumanu Avenue and then it does have an impact on Waiale Bridge which currently is before this area if you're coming from Main Street. I also see the need to widen Ting Bridge and also to include the bike lanes and pedestrian walkways so that they can come directly from the Main Street area rather than going up over the Ting Bridge expansion that I'm proposing or asking that these be considered. Currently you have pedestrians walking along the sidewalks and then you cannot get all the way through but you have to go over the top by the bridge and walk down into the sidewalk

and it doesn't make sense because the sidewalk is only on one side. The other side, the concern here that I have is because you have a larger volume of traffic both pedestrians on sidewalks and vehicles you want to move the people or the vehicles as quickly as possible off Kaahumanu as you can. The current design does not allow for this quick movement because you don't have a deceleration lane that's extended enough so that people can do the left turns and if you make it too long or you make it too wide then the problem comes in in terms of the time that you have to hold the traffic on Kaahumanu Avenue. So you have less movement on Kaahumanu Avenue. You have more control, that's true but the whole idea is to move the volume as quickly as possible and I would say extend the deceleration lanes, the holding lanes if you will going to the right side as well as turning into the left and that would be including the shopping center area even in the hospital area as well as by the Police Station down there as well as to the Maui Memorial as well as Baldwin High School.

The problem here on Baldwin High School and I want to disclose that yes, I have a personal interest in it because I'm the founding President of the Baldwin High School Foundation is that you have exit and entry of both cars and pedestrians all at the same place. You have this cross traffic, cross pattern happening all in one small area and I think you need to separate this and I'll let the traffic engineers come up with a better solution because this is where you're going to be most troublesome in terms of doing left turns and right turn entries as well as exits. Some things have to be improved and this is where you have the long acceleration lanes, long deceleration lanes or turn lanes. These are where you can move a lot more vehicles off and onto Kaahumanu Avenue and move them along to the next stop. These are my concerns and I think these are very doable I may sound like you know, I want to fix everything all at once, but I think once we have an outline, a plan then we can start moving in that direction. Without the vision, without the plan we're going to still be grumbling at each other and fighting with each other.

Mr. Starr: With commissioner's permission I'd like to try to paraphrase that into three bite size things that can actually be implemented as comments. The first being to examine provision for safe bicycle and pedestrian access from Wailuku Town through the bridges. Does that sum that up?

Mr. Shibuya: Yeah.

Mr. Starr: The second is to review alternative mechanisms for the, what are they called the turn outs?

Mr. Shibuya: Deceleration lanes.

Mr. Starr: To the deceleration lanes.

Mr. Shibuya: Acceleration lanes too.

Mr. Starr: Deceleration and Acceleration lanes. And the third is mitigate problems at Baldwin High School from cars turning into Baldwin High School. Did I nail them?

Mr. Shibuya: Yes. We would need to turn it in such a way that you don't –

Mr. Starr: Keep it simple.

Mr. Shibuya: Yeah, keep it simple that you don't endanger the pedestrians.

Mr. Starr: Other comments members? Commissioner Tagorda.

Mr. Tagorda: My comment is brief. I just want to have more mitigation measures to those neighborhood in old Sandhills for noise because as I look at that site plan adding more parking lots close to Sandhills is not going to mitigate the noise impact and also that loading and unloading ramp on that side unless they tell me they just going to unload once a week or when the people are up. Those are going to create noise in that area that because of the tradewind which is prevalent in Maui it goes into that neighborhood. No matter what trees you put, what kind of barriers you put I think there will be some noise in that 24/7 operation of Safeway.

Mr. Starr: So –

Mr. Tagorda: More mitigating measures.

Mr. Starr: Yeah, more mitigating for noise to the Sandhills. Next members? I'll do a couple. One is incorporate transit, pedestrian and bicycle into traffic analysis, show mechanisms for energy and water efficiency, examine reduction of hours of operation per community input, examine screening of view plain from the road, and allied to that is the report states that there are no scenic vistas in the vicinity, I disagree. That's one of the best scenic vistas in Maui, in the world or at least it was until the electric poles were there. Okay, Commissioner Shibuya. Try to pare it down though.

Mr. Shibuya: I just wanted to include not only energy conservation but renewable energy initiatives such as photovoltaic that generates electricity whereas if you put efficient machinery then that's conservation.

Mr. Starr: And noise decibel levels from property boundaries should be included. Okay, members anything else? Commissioner Shibuya.

Mr. Shibuya: The control and management of these intersection times. The lights durations during peak hours and make it so that it's adjustable and timed so you can have a good flow of traffic as well as access to the dialysis systems, Kaiser Medical as well as Baldwin High School so that we don't have road rage.

Mr. Starr: Okay, anything else? Okay, Ms. Cua, if you got them all we can probably all live with it.

Ms. Cua: Can I try and reiterate as best my chicken scratch will let me? I have a total of 12 comments and hopefully I can read them.

First you'd like the applicant to discuss alternatives to the bulb out at the intersection of Kainani Street and Kaahumanu Avenue.

Consider examining –

Mr. Starr: Pedestrian and bike from Wailuku.

Ms. Cua: I'm not sure what this word is, consider examining bicycle and pedestrian access from Wailuku through the bridge – from Wailuku to the project through the bridge.

Review alternative mechanisms for deceleration and acceleration lanes.

Four, mitigate the problems at Baldwin High School from cars turning into Baldwin High School.

Mr. Shibuya: And out.

Ms. Cua: Five, discuss additional mitigation measures for Sandhill neighborhood to deal with noise impacts.

Six, include transit, pedestrian and bicycle analysis into the project's traffic analysis.

Number seven, include a discussion on energy and water efficiencies and renewable energy measures.

Eight, examine the hours of operation based on community input.

Mr. Starr: Yeah, the petitions and all that.

Ms. Cua: Nine, examine screening of view plains from the what?

Mr. Starr: Kaahumanu Avenue.

Ms. Cua: Okay, I had from the road, I wasn't sure. Okay. Number ten, oh, you want them to further address the statement in the report that says there are no scenic vistas in the vicinity.

Eleven, you want them to address noise decibel levels from the property boundaries.

And finally, control and management of intersection times should be discussed.

Mr. Starr: For traffic light synchronization along Kaahumanu Avenue. Did I get that right?

Mr. Shibuya: Yes.

Ms. Cua: Okay, 12 comments.

Mr. Starr: Okay, we're pau. Good work everyone.

Ms. Cua: Okay, thank you very much.

Mr. Munekiyo: Thank you Commissioners.

Mr. Starr: Do we need a break or do we power on? Recess.

A recess was called at 3:48 p.m. and the meeting was reconvened at 3:58 p.m.

Mr. Starr: Maui Planning Commission meeting it is May 11th we are back in session for our final stint. Deputy Director Cua will introduce the next item.

Ms. Cua: Mr. Chair, the next item under Communications is a request by Michael Leone of Hawaii Architectural on behalf of David Stine requesting a rear-lot line determination for a double frontage lot for property situated at 325 Baldwin Avenue, TMK 2-5-006: 011 in Paia and the planner on this matter is Gina Flammer.

D. COMMUNICATIONS

- 1. MR. MICHAEL LEONE of HAWAII ARCHITECTURAL on behalf of DAVID STINE requesting a rear-lot line determination for a double frontage lot for property situated at 325 Baldwin Avenue, TMK: 2-5-006: 011, Paia, Island of Maui. (RFC 2010/0001) (G. Flammer)**

Ms. Gina Flammer: Okay good afternoon Commissioners. This item is before you today because of County Code Section 12.08.100(g) states that the planning commission shall determine rear lot lines.

The applicant has requested a rear lot line determination for his property so that the Department of Public Works can approve an after-the-fact permit for a garage. The applicant hired a general contractor to build the garage with the understanding that the contractor would be responsible for all permits. When it was discovered that the permit was not properly filed by the general contractor, the applicant filed for an after-the-fact building permit which then caused a review of lot lines by our Zoning Division. During this review it was discovered that the property is considered having two frontages because it is located on two different streets.

So the garage is built eight feet from the back property line. With the double frontages the requirement would be 15 feet from the front property line. With the designation of the back property line as the rear property line then the garage would be properly located outside of the six feet requirement and the building permit can be approved.

The applicant currently uses the entrance onto Baldwin Avenue where his mailbox is located. Let me show you some quick photos because I think the photos tell the story. Okay so here's the current entrance off of Baldwin Avenue. You'll notice that all the other properties have their entrances and their driveways here. You'll notice that there's a driveway apron that goes on. Here's when you come in in the driveway. Here's the garage that was built. You can see a little bit of the driveway right there in the lower left side of the picture. Here's the back when come in off of Puakou Place and if you look at there's a map, I think it's Exhibit 3 which shows you, Exhibit 4, shows you where that is, you notice there's no driveway apron there because neighbors park there. This is Puakou Place, it's kind of a small, narrow, winding road, so I wanted to show you some photos of that. You notice at the very end there where that blue pickup truck is that's where the

rear lot line is. So again, here's the current Baldwin entrance. If you look to the right you can get out clearly, if you look to the left it's pretty easy to get out.

You can ask questions, we can move to public testimony, then I can give you a quick analysis if you'd like.

Mr. Starr: Okay members we can ask questions about this. Who's got a question? Commissioner Hiranaga.

Mr. Hiranaga: The photo you showed with the neighbor's truck on the shoulder there, that posted no trespassing, to the left of that is that a pedestrian gate, what is that? That's just a different type of a fence?

Ms. Flammer: No, it's a gate that opens.

Mr. Hiranaga: So if you make the rear lot determination that this is the rear lot, what happens to that gate, it looks like it's for vehicular purposes.

Ms. Flammer: I was hoping Mike would be here because of that because what the code – basically how it defines a driveway is not by the materials used but the usage of it. So Public Works would probably instruct him as to what to do with this. It's a little unclear from reading the code as to whether or not they would actually require it to be fully fenced off or not used. It's currently not used now. I can read you the definition of a driveway if you think that would –

Mr. Hiranaga: No, because he's not required to have a fence and he could take the fence down if he wanted to.

Ms. Flammer: Right.

Mr. Starr: Members any more questions? Okay, shall we go to public testimony? Yes. Members of the public who wish to testify on this item please speak now or forever hold our peace. Not seeing any, public testimony is closed. Are we ready for the analysis, recommendation? Yes.

Ms. Flammer: Okay, so I did transmit the applicant's request and information and photos to three different agencies. I did send it to the Police Department just because it's coming out off of Baldwin Avenue and I wanted to hear what they had to say about safety and they had no comments. So also transmitted to Public Works and our Zoning Division and neither of them had any comments either. So moving to the recommendation, it is the department's recommendation that the planning commission deem the rear lot line as the property line as Puakou Place.

Mr. Starr: Okay, members any questions, comments? How about a motion? Anyone, going once, going twice. Commissioner Freitas.

Mr. Freitas: So move that we accept the rear lot line.

Mr. Starr: Okay, how about a second?

Ms. Domingo: Second.

Mr. Starr: Okay, moved by Commissioner Freitas, seconded by Commissioner Domingo, the motion reads.

Ms. Cua: That we accept the rear lot line as the property line for this property.

Mr. Starr: Anything further on that? No. All in favor, please raise your hand. All opposed.

It was moved by Mr. Freitas, seconded by Ms. Domingo, then

**VOTED: To Accept the Rear Lot Line as the Property Line Along Puakou Place.
(Assenting - J. Freitas, D. Domingo, K. Hiranaga, O. Tagorda,
W. Shibuya, L. Sablas)
(Excused - W. Mardfin)**

Ms. Cua: Was it unanimous. It was unanimous.

Mr. Starr: Good work.

Ms. Flammer: Thank you.

Mr. Starr: Ms. Cua will give us our next item.

Ms. Cua: The next item is the approval of the action minutes of the April 27, 2010 meeting and the regular minutes of the March 9, 2010 meeting.

**E. APPROVAL OF THE ACTION MINUTES OF THE APRIL 27, 2010 MEETING AND
REGULAR MINUTES OF THE MARCH 9, 2010 MEETING**

Mr. Shibuya: Move to accept.

Mr. Tagorda: Second.

Mr. Starr: Okay motion by Commissioner Shibuya, seconded by Commissioner Tagorda to accept.

Mr. Shibuya: Oh, I say approve.

Mr. Starr: Approve.

Mr. Shibuya: Yeah, it says approval.

Mr. Starr: Any comments? All those in favor please raise your hands.

Mr. Hiranaga: Clarification. Motion to approve?

Mr. Freitas: Approve or accept.

Mr. Hiranaga: Or Accept.

Mr. Shibuya: No, no, I just said approve. I said accept first but then I noticed here it says approval.

Mr. Hiranaga: So what is the motion?

Mr. Shibuya: So to approve.

Mr. Starr: Is that okay with the seconder?

Mr. Tagorda: Yes.

Mr. Starr: Okay, everyone good with it. All in favor please raise your hand. All opposed.

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

**VOTED: To Approve the Action Minutes of the April 27, 2010 Meeting and the Regular Minutes of the March 9, 2010 Meeting.
(Assenting - W. Shibuya, O. Tagorda, J. Freitas, D. Domingo, L. Sablas)
(Dissenting - K. Hiranaga)
(Excused - W. Mardfin)**

Mr. Starr: Okay, let it show –

Mr. Shibuya: Unanimous, right.

Mr. Hiranaga: No, I voted against it. You weren't paying attention.

Ms. Cua: I'm looking at the next thing. I'm sorry can we get the vote again please.

Mr. Starr: And all opposed.

Ms. Cua: So five ayes and one no.

Mr. Starr: Okay, and I'd like to just ask what would be a better, is there something that would be better per Commissioner Hiranaga?

Mr. Hiranaga: No, I think we have a discussion at a previous meeting the technical difference between approve and accept minutes, approving minutes means you approve the integrity of the minutes as taken so that in the future for some reason you were called for whatever reason this would be used as evidence that you had – verbatim or whatever approved what's here for accuracy purposes. Other boards that I've been on with accepted minutes not necessarily approved the accuracy. I think it's an important distinction.

Mr. Starr: So for future I would second that suggestion. Okay. Okay, the original motion was to accept, is that consensus that we're utilizing the word accept in this case? Okay, so we've accepted those minutes.

Ms. Domingo: So in the future instead of approve the action minutes, you guys should change that to acceptance.

Ms. Cua: Yeah, I have it so noted.

Mr. Starr: Okay. And have a question for Carolyn which is were there minutes from a previous meeting that we didn't get to?

Ms. Takayama-Corden: You don't have March 17th and March 30th. March 23rd was done by a court reporter and the April, first meeting in April – the second meeting in April was done by a court reporter and we haven't gotten that.

Mr. Starr: Okay so which are the ones that we've received but we haven't had action yet on?

Ms. Takayama-Corden: Everyone that you've gotten on the agenda has been approved.

Mr. Starr: Okay there weren't some at the last meeting that we just put aside because we didn't have time?

Ms. Takayama-Corden: No, we did approve.

Mr. Starr: Okay, I'm sorry. Very good. Okay, so Director's Report and we'll turn it over to Ann Cua.

F. DIRECTOR'S REPORT

Mr. Starr: And I'd like to welcome amongst us our new Director of Planning and offer congratulations.

Ms. Kathleen Aoki: Thank you Chair.

Ms. Cua: Chair, if you're okay, I asked the Director to come down so she could address you very briefly and just kind of let you know where our responsibilities are going to lay and how that involves you and I would rather that come from her.

Mr. Starr: Okay, so as part of the Director's Report we turn it over to the Director.

Ms. Aoki: Good afternoon everyone. Ann gave me a call and I thought I would come down. First of all, I'd just like to say it's a honor and a privilege that the Mayor appointed me and more so that she appointed Ann.

What I wanted to go over with you kind of briefly is just how our duties are going to be split up between us. It will be a little bit different from the previous director. Due to Ann's experience in

projects and you know she's been a planner for over 26 years, we've discussed with the Mayor and the Managing Director that it would be most advantageous for you as well as the public that we serve that she be the primary person in this role with the Maui Planning Commission. I will still be the primary person attending the Lanai Planning Commission and on Molokai we have Clayton Yoshida that goes over and serves in the directorship there. Now that's not to say that I will not be at these meetings or there will be times that I will be here, she won't be here, it will all depend on the subject matter primarily.

I am taking the lead on the Maui Island Plan and the General Plan. I worked in Long Range for six years on that project so again my expertise was in that so it made sense that I would take that. So with Council, I will be lead person in the Planning Committee and then Ann will be the lead person in the Land Use Committee. But again, it will depend on the project. It's going to really depend on what the subject matter is and we'll go from there. If you want me here I'll be glad to be here, it doesn't make sense for two of us to be here and I like I said, if she's more knowledgeable on it, you're actually better with her. I'll be honest, she's very knowledgeable and I think she can provide the kind of direction and information that you folks are looking for. We'll always be conferring back and forth with each other. I get all the reports and I do read them. So I am aware of the projects, but she has the expertise and the knowledge and the background more so than I do.

So with that, and another thing too, is I will still be handling the budget which primarily the Deputy does but because I've been doing it for two years it makes sense that I just keep doing it. That's what I wanted to go over with all of you. If there's any questions, I'm happy to answer them.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: I guess my concern is if there are situations where we are requesting an opinion or a determination or a decision from the Director and the Deputy is sitting there.

Ms. Aoki: She can serve in that capacity.

Mr. Hiranaga: And she makes that determination that if you disagree subsequently and overturn her determination but we've already voted on a matter based upon her determination during the meeting that's my concern.

Ms. Aoki: And I can understand concern but this happens on Lanai and Molokai, whoever is serving at the chair, or I'm sorry as serving the department is qualified and makes that recommendation and decision and so I have absolutely no qualms with that. That's what we do with Clayton when he goes to Molokai, he is representing the department. When I go to Lanai I am representing the department.

Mr. Hiranaga: So what Ann says stands as far as the department is concerned.

Ms. Aoki: Unless it's some crazy, crazy thing.

Mr. Hiranaga: What are you throwing in this exception now. If we want to know, if she says that's the department's position and we make a decision based on that comment, we don't want it

overturned because that's what affected our decision.

Ms. Aoki: Right. I would say then that if there's such a situation that Ann doesn't feel comfortable making that kind of, you know, recommendation and asks the commission maybe for a five-minute recess to come and talk to me, that's what you could do. Is that okay with you Ann?

Ms. Cua: If I could Mr. Chair, I was going to basically say that you know, I'm sure there would be situations where depending on how the question comes I would feel that I would need to confer with Kathleen and so if that is the case and when that is the case, I would try and do so that same day and if she's not available or you know, not island or whatever, I would have to get back to you.

Mr. Starr: So just for clarity sake if there's a necessity for you to have a consultation then we'll ask to wait before giving a determination but then once any determination is given whether it's by the director or the deputy then we are to take that as the decision of the director and the official decision of the department.

Ms. Cua: Yes.

Ms. Aoki: Yes.

Mr. Starr: Okay, go ahead Commissioner Hiranaga.

Mr. Hiranaga: I just wanted to know if Corporation Counsel wanted to comment on this arrangement.

Mr. Giroux: No comment, no, that's fine. I think we're going to have to just see what, you know, the issues are. I mean, a lot of times it's you know if you disagree with the department, I mean a lot of times it's on matters that you have the discretion to disagree with them. You know, I think you're going to have to look at every situation and ask yourself, you know, I mean, is this something that is it a department issue or is it a policy issue that you need to make a decision on independently of the department or is it something that's going to mess the department up because that's not the way they do it but now you're, you know, I mean it's going to take communication. So it's, you know, I mean and even having the director here, they could make a decision and then think about it and go, wait a second that's not going to work. So I think you gotta look at what the decision is and is it something that you're actually depending on the department for or is it something within your own purview that is – you know, but you're going to recommend to Council or you're going to actually be the final authority or is it something that nine reasonable people can disagree on and that's planning. So I think you know that if you're uncomfortable making that decision without the director there's always the opportunity to take a recess, defer, ask for further information, that types of thing.

Mr. Starr: I just I want to state that I'm really proud to work with both or either of you and I think we're in for a great company and great hands and I look for to really finding ways to work as a team together. We're all going to disagree but we're all going to work to do the best we can.

Ms. Aoki: Thank you.

Ms. Cua: Thank you.

Mr. Starr: Members any other comments? Thank you very much.

Ms. Aoki: Thank you.

Mr. Starr: Okay now Deputy Director will lead us onward to F-1 I guess.

Ms. Cua: Yes, we have a couple of matters under Director's Report where we've included communications for you. The first being notification to the Planning Commission pursuant to its SMA Rules of the transfer from Ohana Hotel Company, LLC to Hana Town Center, LLC, a Colorado Limited Liability Company by letter dated April 20, 2010 of the SMA Permit for the new Hana Ranch Store to be located along Mill Road and the Hana Highway at TMK 1-4-003: 056.

- 1. Notification to the Planning Commission pursuant to its SMA Rules of the transfer from OHANA HOTEL COMPANY, LLC to HANA TOWN CENTER, LLC, a Colorado Limited Liability Company by letter dated April 20, 2010 of the following SMA Use Permit:**

New Hana Ranch Store to be located along Mill Road and the Hana Highway, TMK: 1-4-003: 056, Hana, Island of Maui. (SM 1 2004/0020) (D. Dias)

Mr. Starr: There's no action required am I correct?

Ms. Cua: No, we're just providing you notification as required by your rules.

Mr. Starr: Okay, any commissioners have any comments on that?

Ms. Cua: The next matter is a letter dated April 21, 2010, issuing Shoreline Setback Area approval to Glenn Beadles for the proposed construction of a temporary beach cabana set for a filming sequence for "The Pretend Wife" at the Grand Wailea Beach Hotel, TMK 2-1-008: 109.

- 2. Shoreline Setback Area Approval (SSA) issued to Glenn Beadles by letter dated April 21, 2010 for the proposed construction of a temporary beach cabana set for a filming sequence for "The Pretend Wife" at Grand Wailea Beach Hotel, TMK: 2-1-008: 109, Wailea, Island of Maui. (SSA 2010/0011) (C. Thackerson)**

Ms. Cua: And if there's any questions on that one, Candace Thackerson is the planner on that and she's still here.

Mr. Starr: Did you get to see the shoot?

Ms. Thackerson: Yeah, I got to go down to see the shoot. It was kind of cool. They were – just to make sure pedestrians still had access to the beach and everything, it was nice like running into Nicole Kidman.

Mr. Starr: Good work.

Ms. Cua: I guess the final thing is the printout that we always give you on various actions by the department as well as pending matters. So the first page is regarding approved SMA Minor Permit for Maui. The second page, approved SMA Exempt projects for Maui.

Mr. Hiranaga: Excuse me Mr. Chair, I think you skipped over No. 4.

Ms. Cua: Oh, sorry.

Mr. Starr: Lets go back. Lets start on No. 3, Commission Projects Issues.

3. Planning Commission Projects/Issues

Mr. Starr: The next meeting we'll have the refreshment schedule sign up sheet that was brought to me by one of the commissioners. We'll review it next meeting and fill in onward gaps. If any commissioners want to move seating or something or any other issues about meetings the way it's run, please bring them up. I know sometimes someone's left-handed or whatever, they don't want the space so just don't sit there for a full year and wish you had a different seat or something. And anything else with Commission Projects/Issues? No. 4 Agendas.

4. Discussion of Future Maui Planning Commission Agendas

a. May 25, 2010 meeting agenda items

Ms. Cua: I believe there's a memo distributed to you dated May 10th and it's from Clayton Yoshida letting you know what items are planned for your May 25th meeting agenda. So it looks like a pretty heavy agenda. I don't know if you need for me to go through it all. I think you all have it. But it is going to be a busy day.

Mr. Starr: Anyone have anything on that? Okay, moving right along. EA/EIS Report. If it's okay, we'll take this whole package as group and ask if anyone has any concerns or comments on these or questions. I have a couple but I'll give everyone a chance first.

5. EA/EIS Report

6. SMA Minor Permit Report submitted with the April 27, 2010 agenda

7. SMA Minor Permit Report

8. SMA Exemptions Report submitted with the April 27, 2010 agenda

9. SMA Exemptions Report

Mr. Starr: Okay, I have a couple just out of curiosity often, what's Friez King Hussein has an SMA Exempt, doesn't give any info. So we don't need to have an answer now. Then on the Open SMA

Assessments, just curious what Lahaina Yacht Club and then there are four more that just don't have anything about what it is. Johnson Subdivision, Palms of Wailea, A & B Properties and Rigoberto Guiros and don't know anything more about them but I just see it's blank, I'm just curious what that is about and then Jim Niess of Maui Architectural Group on the last page and it doesn't say what the project's for.

Ms. Cua: Okay, we can get back to you at the next meeting.

Mr. Starr: I don't need a lot of info. Okay, anything else members? Okay, I'd like to thank everyone. Good work, got through a lot of work today. Until next time.

G. NEXT REGULAR MEETING DATE: MAY 25, 2010

H. ADJOURNMENT

The meeting was adjourned at 4:24 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Jonathan Starr, Chairperson
Donna Domingo
Jack Freitas
Kent Hiranaga
Lori Sablas
Warren Shibuya
Orlando Tagorda

Excused

Ward Mardfin

Others

Ann Cua, Planning Department
Kathleen Aoki, Planning Department (for Director's Report)
James Giroux, Department of the Corporation Counsel
Mike Miyamoto, Department of Public Works