

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
JULY 13, 2010**

**accepted: 9/14/10**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Jonathan Starr at approximately 9:04 a.m., Tuesday, July 13, 2010, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Starr: ... Maui Planning Commission and I'd like to introduce our members starting with Commissioner Kent Hiranaga, Commissioner Orlando Tagorda, Commissioner Ward Mardfin all the way from Hana, James Giroux who is our Corporation Counsel representative, he's our lawyer and keeps us out of trouble and to stay on the right track. We're lucky to have him. I'm Jonathan Starr. I'm the Chair. This is Ann Cua. She's Deputy Director of Department of Planning. She does an extraordinary job. It's really been familiar with the current process and really great to have her with us. Commissioner Donna Domingo, Commissioner Warren Shibuya, Commissioner Lori Sablas and our newest commissioner, Commissioner Penny Wakida and we're very happy to welcome her and to have her with us today. We have also Candace Sakugawa, Candace Thackerson, I knew I was going to get it wrong. Candace Thackerson, sorry about that. Danny Dias, Paul Fasi are planners back there. Clayton Yoshida is the Administrator of the Current Division which is our day to day of planning process as opposed to Long Range. Mike Miyamoto is Deputy Director of Public Works. The Director Public Works and the Director of Water Supply are actually two ex-officio members of this commission. We're fortunate that Public Works is diligent in attending and being here as a resource. Carolyn Takayama-Corden is the secretary for the commission, handles our day to day communications.

I'd like to welcome our new commissioner and ask her if she'd like to tell us a few words about herself and we're really glad to have you. Commissioner Wakida.

Ms. Penny Wakida: Thank you so much. I'll give us just a –

Mr. Starr: Yeah, we ask everyone to use the mike, not so much so that people can hear in the room but because it's recorded, so of course, Carolyn does the minutes later. So try your best and she does well with us.

Ms. Wakida: How's that? Is that better?

Mr. Starr: That's great.

Ms. Wakida: I'm originally Eastern Washington. I came to Hawaii, however, when I was 19. I transferred to the University of Hawaii. So I've lived all my adult life in Hawaii. So I've lived all my adult life in Hawaii. After college and some adventures I became a teacher at Lahainaluna High School in 1971. So if you are between the ages of 55 and 25 you probably came through my English class because I taught senior English at Lahainaluna High School so I have a pretty close connection with the local community on the west side.

Mr. Starr: We're glad to have you here and hope you enjoy the commission. We work hard and I'm really proud of this group. There's a lot of expertise and a lot of real care that goes into ...(inaudible)...

Ms. Wakida: Thank you. I'm very honored to be part of this group. Thank you.

Mr. Starr: Thank you. Anyway we will begin our agenda. It's a fairly short agenda this morning. Before we begin the agenda items as we always do, we'd like to invite any members of the public who would like to testify on any agenda item. They can either testify before the meeting which would be now or testify before decision making as the individual item comes up. We ask them to try to keep testimony short, three minutes or less and saying that are there any members of the public that would like to testify? Not seeing any, the initial public testimony portion of the meeting is now closed.

I'd like to ask the commission if there's a willingness to move an agenda item forward which was a request from staff to be able to free up some personnel and this would be Item G which relates to a contested case hearing that was originally scheduled for today. If anyone wishes to move that up. I'd entertain a motion to move Item G to the front of the agenda.

Mr. Mardfin: I move that we move Item G to front of the agenda.

Mr. Shibuya: Second.

Mr. Starr: So moved by Commissioner Mardfin, seconded by Commissioner Shibuya, the motion is to.

Ms. Cua: To move Item G-1 on your agenda to the start of the agenda.

Mr. Hiranaga: Discussion.

Mr. Starr: Yeah, go ahead.

Mr. Hiranaga: Just a point of order. Just wondering because it was scheduled to not occur on or before 1:00 p.m. I'm just looking for how appropriate it is to move that agenda item forward.

Mr. Giroux: This is scheduled as a contested case item. So it's as long as the parties have received notice and there is an agreement between the parties that there's been some stipulation to either move it or to settle it, it would be appropriate to move it forward.

Mr. Starr: Thank you Mr. Giroux, thank you Commissioner Hiranaga. All in favor please raise your hand. All opposed. And the motion.

**It was moved by Mr. Mardfin, seconded by Mr. Shibuya, then**

**VOTED: To Move Item G-1 to the Start of the Agenda.**  
**(Assenting - W. Mardfin, W. Shibuya, K. Hiranaga, O. Tagorda,**  
**D. Domingo, L. Sablas, P. Wakida)**  
**(Excused - J. Freitas)**

Ms. Cua: The motion is move Item G-1 to the start of your agenda.

Mr. Starr: And the vote.

Ms. Cua: Seven ayes.

Mr. Starr: Okay, thank you. To introduce our first item, our Deputy Director Cua.

Ms. Cua: This matter as the Chair mentioned is a contested case hearing on the SMA Appeal by Mr. Daniel Grantham for the Waipio Bay Benevolent Association LLC appealing by filing date September 22, 2009 the Planning Director's decision to grant a Special Management Area Exemption to Jeffree Trudeau for a 3-lot subdivision at TMK 2-9-007: 052 in Haiku.

**G. Contested Case Hearing on the SMA Appeal** (To begin at approximately 1:00 p.m.)

- 1. MR. DANIEL GRANTHAM for the WAIPIO BAY BENEVOLENT ASSOCIATION, LLC appealing by filing dated September 22, 2009 the Planning Director's decision to grant a Special Management Area Exemption to JEFFREE TRUDEAU for a 3-lot subdivision at TMK: 2-9-007: 052, Haiku, Island of Maui. (SM5 2009/0242) (SMX 2009/0274) (APPL 2009/0005) (T. Kapuaala) (Commission was notified of the appeal at its October 13, 2009 meeting.)**
  - a. Letter from the Planning Department rescinding the SMA exemption. The Department's rescission of the SMA exemption renders the appeal moot.**

The commission was initially notified of this appeal at its October 13, 2009 meeting and you are in receipt of a letter from the Planning Department rescinding this SMA Exemption. The Department's rescission of this SMA Exemption does render the appeal moot. So we wanted to take this up at this point in time so we could free it from the agenda. And we do want to mention that the reason for rescinding the SMA Exemption was that through the ongoing subdivision process it was realized that associated construction activities would be required for this subdivision which would not be exempt from the SMA Rules and therefore going through the SMA permit process would be a requirement.

Mr. Starr: Okay, Commissioner Mardfin.

Mr. Mardfin: I'd just like to ask a question. I certainly understand it and I don't have any objections of any sort but as I understand it, Daniel Grantham was the one appealing the SMA Exempt.

Ms. Cua: Correct.

Mr. Mardfin: And Trudeau is the one that had originally got the SMA Exempt.

Ms. Cua: Correct.

Mr. Mardfin: Is Trudeau okay with having the SMA Exempt taken away or he understands it and realizes that that's the deal?

Ms. Cua: I believe he does understand it. I mean, he's been notified by letter. I don't know, Clayton do you have anything you want to add?

Mr. Clayton Yoshida: Commissioner Mardfin, Members of the Commission, Mr. Trudeau was notified that the SMA was being rescinded because there are associated construction activities with the subdivision request.

Mr. Mardfin: And that's the letter that we got today.

Mr. Yoshida: Yes, it's from Aaron Shinmoto from the Zoning Division.

Mr. Mardfin: So he's aware of it?

Mr. Yoshida: Yes.

Mr. Mardfin: We haven't gotten any response have we?

Mr. Yoshida: No.

Mr. Mardfin: Gonna appeal the rescision or anything like that that you know of?

Mr. Yoshida: Well, I guess he would have that right but the department's position is, it has rescinded the proper SMA Exemption.

Mr. Mardfin: Right, I mean, it certainly makes sense given the circumstances. Thank you.

Mr. Starr: Is there any action that is required of us or useful for the commission?

Ms. Cua: I believe just acknowledgment, you know, this item would be taken off the agenda.

Mr. Starr: Okay, the only thing is you know if the applicant does show up later and we're not here we should give them an opportunity at a future meeting to speak to us if they so desire. Commissioner Shibuya.

Mr. Shibuya: I was just thinking the same line. I was thinking in terms of just tabling this issue rather than just dismissing it at this point because we have not heard from the applicant and I'm just concerned that we are sort of dismissing this issue and rather than dismiss I'd just like to table it.

Mr. Starr: I don't know if we're the one who's really acting here but –

Ms. Cua: You know if we in the future receive some kind of correspondence from Mr. Trudeau that he would like to address the commission we could always use that communication and schedule

that on a future agenda, but based on the department's rescinding of the SMA Exemption we believe at this point in time the contested case hearing is a moot point.

Mr. Starr: Okay, members so are we ready to just acknowledge the receipt of the communication. Commissioner Tagorda.

Mr. Tagorda: Before we take a vote Mr. Chair I would like to – I have some concern and see where we going to on this applicant. I would like to ask the Corporation Counsel if there is or there are some legal ramifications from the applicant based on our rescinding the SMA.

Mr. Giroux: You mean as far as the – not from Daniel Grantham's position but from –

Mr. Tagorda: Yes. Daniel Grantham will be very happy to have this rescinded but how about the applicant's side.

Mr. Giroux: You know, I would feel more comfortable probably going into executive session talking about that. The department's made a executive decision and you know as far as the ins and the outs it probably, you know, we probably would not want to be discussing it on the record at this point.

Mr. Starr: My own understanding is that we're not rescinding anything. We're just acknowledging the receipt of the information that the department has rescinded so if there's an issue I don't think it's been us. It's a departmental issue.

Mr. Tagorda: ...(inaudible)...

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I agree with the Chair that the commission is not taking any action. This is an action that is taken by the Director of the Planning Department and if the applicant whose exemption was rescinded is not satisfied there is a process to appeal. So I don't really see a need for discussing the director's decision.

Mr. Tagorda: That's the only concern I had Mr. Chair because I don't want to have more litigations on the part of the Planning Department for not knowing where we're heading with this.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I move we acknowledge receipt of the letter from the Planning Department.

Ms. Domingo: Second.

Mr. Starr: Okay, so we have a motion by Commissioner Mardfin, seconded by Commissioner Domingo, the motion is to.

Ms. Cua: To acknowledge receipt of the Planning Department's letter rescinding the SMA

Exemption for the three-lot subdivision.

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

**It was moved by Mr. Mardfin, seconded by Ms. Domingo, then**

**VOTED: To Acknowledge Receipt of the Planning Department's letter Rescinding the SMA Exemption Which Renders the Appeal Moot.  
(Assenting - W. Mardfin, D. Domingo, K. Hiranaga, W. Shibuya,  
L. Sablas, P. Wakida)  
(Dissenting - O. Tagorda)  
(Excused - J. Freitas)**

Ms. Cua: We have six ayes and one no. Motion passes.

Mr. Starr: Thank you very much. Next item Ms. Cua.

Ms. Cua: Now we're back on page 1, under Communications and the first matter is a request by Mr. Curt Deweese of Sunstone Keokea, LLC requesting a two-year time extension on the Special Management Area Use Permit condition to initiate construction of the Liloa Village Subdivision and related improvements, a 65-lot subdivision at TMK 3-9-002: 116, 150 and 151 in Kihei.

## **B. COMMUNICATIONS**

- 1. MR. CURT DEWEESE of SUNSTONE KEOKEA, LLC requesting a two-year time extension on the Special Management Area Use Permit condition to initiate construction of the Liloa Village Subdivision and related improvements. a 65-lot subdivision at TMK: 3-9-002: 116, 150, and 151, Kihei, Island of Maui. (SM1 2004/0010) (C. Thackerson)**

**The Commission chose to review the request rather than to waive its review at its April 13, 2010 meeting.**

Ms. Cua: This matter came before you in the form of being listed on a request for a time extension. The commission at its April 13, 2010 meeting chose to review the request rather than to waive its review of the request and therefore, we're here today and the planner on this matter is Candace Thackerson.

Ms. Candace Thackerson: Good morning Chair Starr, Members of the Commission and warm welcome to Commissioner Wakida. Our item this morning is a review of a time extension request for a Special Management Area Use Permit submitted by Munekiyo and Hiraga on behalf of Sunstone Keokea for the construction of a 65-lot Liloa Subdivision and related improvements located in Kihei and Island and County of Maui.

The request is to extend the time to initiate construction by two years or until June 30, 2012. This is the third time extension request filed for this SMA permit. The request was timely filed and at its

regular April 13, 2010 meeting the Maui Planning Commission determined the request required additional information and would be reviewed by the Commission.

First, I'd like to give a brief overview of the project and the requested additional information provided by the applicant. We can then open the floor to public testimony and afterwards address any questions from the commission which will then be followed by the department's recommendation. Shall proceed?

Mr. Starr: Please.

Ms. Thackerson: The property consists of 21.34 acres of land on the north side of Welakahao Road and west of Liloa Drive and the South Maui Community Park. The project is a 65-lot subdivision with lots ranging in size from 6,000 square feet to 26,256 square feet. Included in the project is a 23,070 landscaped park site and 6,725 cubic yard retention basin as well as a community garden lot, sewage pump station and development of the existing drainageway as a linear park. The community plan designation is single family and the county zoning is R-3 Residential District.

This request arises from the applicant's ongoing efforts to secure a long term supply of water for the subdivision pursuant to the new water availability ordinance no. 35-02 codified in the Maui Code, Chapter 14.12. Furthermore, the uncertainty in the current economic climate and market conditions on Maui and the State of Hawaii make it difficult for the permit holder to proceed at this time. As stated earlier, this is the third time extension request filed for this SMA permit which was timely filed and the commission requested additional information at its regular April 13, 2010 meeting.

The two items of requested additional information were one, a means of securing a long-term water supply; and two, a revised drainage plan showing a capture of pre development and post development runoff in its entirety for the 50-year, one-hour storm. Exhibit 3C is a copy of the South Maui R-1 Recycled Water Verification Study relating to extending the transmission and optimization of R-1 Recycled Water from the existing South Maui R-1 Water Distribution System, the Kihei Wastewater Reclamation Facility to North Kihei and commercial properties near the wastewater reclamation facility in order to displace potable water currently used for landscape irrigation and provide a source of irrigation water for planned future projects.

Several different water distribution system expansion options for the South Maui area are discussed throughout the study and the applicant is interested in participating in the Department of Environmental Management's efforts in implementing such a distribution system in order to provide a long-term water source for the project. Moreover, the applicant has been in discussions with other landowners regarding private efforts to secure a long-term water source as well as potential private providers of water. Regardless of these efforts the applicant has been unsuccessful to date in obtaining a long-term water source which is one of the reasons for this time extension request.

Exhibit 3D is a copy of the preliminary and revised drainage plan along with a letter from Engineering Dynamics Corporation stating that the preliminary retention basin of 4,500 cubic yards would need to be increased 49% in size to a total of 6,725 cubic yards in order to capture the pre development and post development runoff in its entirety for the 50-year, one-hour storm event.

Although the increased capacity will increase the development cost for the project by approximately \$98,000 the applicant is willing to accept these revised drainage plans and incorporate them into the plans for this project in order to reduce environmental impacts to our near shore waters. Would the Chair like to open for public testimony at this time? Do you have questions?

Mr. Starr: We'll allow questions but also is the applicant here being represented?

Ms. Thackerson: Yes. The applicant and the consultant team are here to answer questions regarding the drainage plan or water study.

Mr. Starr: Would the applicant or consultant like to make any comments before we go to questions? Welcome.

Mr. Mike Munekiyo: Thank you Mr. Chair and Members of the Commission and thank Ms. Thackerson for the complete report. No additional comments Mr. Chair, but if the Commissioners have questions we'll be certainly happy to answer those.

Mr. Starr: Okay, thank you. Members does anyone have any questions related to this item for either staff or the applicant? Commissioner Hiranaga.

Mr. Hiranaga: Regarding the additional retention capacity that's proposed my personal feeling is I'm not – I don't believe you should be responsible for retaining surface runoff originating off site above the property and it infers in the Engineering Dynamics letter that you are capturing off site flow off of Keokea Gulch. Is that correct or is it where the gulch begins at the property boundary or are you capturing surface runoff originating upstream?

Mr. Munekiyo: Actually Commissioner, the way the report is structured, the intent is to allow flows passing through the Keokea Gulch as pass through flows and that the retention basin would capture exclusively the pond site flows pre development and post development. So Keokea flows of 8,000 some odd cfs would be pass through not captured by the retention basin.

Mr. Hiranaga: Oh, I see. So I misread the – all right thank you.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Normally, you know, asking for three time extensions is kind of unusual and you have some unusual circumstances. The water ordinance was passed after you got your original project and you're having to comply with that. So I understand some difficulties that might arise from that. So this isn't a funding problem that you're having. We get a lot of people coming before us now for delays because of funding. Is funding an issue for you folks?

Mr. Munekiyo: Commissioner may I ask our applicant representative to respond?

Mr. Mardfin: Please.

Mr. Starr: Come, please introduce yourself.



Mr. Curtis Deweese: Certainly, good morning Mr. Chair, Commission Members my name is Curtis Deweese from Sunstone Keokea. With respect to Commissioner Mardfin's question the primary delay in the development of this property is as in many properties here in Maui has been the water ordinance No. 35-02. We had submitted preliminary subdivision plans. Agencies asked us to revise them. When we go in to revise those subdivision plans, we're told you're not able to do so.

When you asked about financial situations, we are not immune to probably what everyone else in this room has seen in the last four or five years. Certainly it's the biggest depression that I've seen in my lifetime and with the state of the economy the housing market is softer clearly than in the mid-2000 and we see softer demand presently we're anticipating that demand will return and we hope that within the next 18 to 24 months we'll have the demand side of the equation there so that we can work with a new water source and move the project along.

Mr. Mardfin: So while it could be a concern that's not the issue here. The issue is really the water issue in general term.

Mr. Deweese: Absolutely.

Mr. Mardfin: What makes you think that two years from now you won't be back asking for a forth extension?

Mr. Deweese: Well, there are a number of things that are going on as Mr. Munekiyo noted. We're hopeful that the displacement of R-1 water to allow the county and their engineers to determine that there is potable water available for projects such as this. We and I'm sure the commissioner members know of other land owners have been exploring different sourcing possibilities. Many times that are held up by transmission line matters either cost or easements. And you know, we're just looking at every which way we can to try and solve that problem. We don't have an answer today, if we did, we'd be moving forward. But we are working on it.

Mr. Mardfin: Thank you very much.

Mr. Deweese: Thank you.

Mr. Starr: Members any other questions? Commissioner Shibuya.

Mr. Shibuya: Coming back in terms of the pre and post runoff, I realize and understand according to Commissioner Hiranaga that the pass through water in that gulch, Keokea Gulch is not the responsibility of this development. However, in this two dimensional type of plot plan I would be interested in seeing a topographical map where it would show elevations or grade differences in elevation. That would help me visualize where the water is going to go. I suspect much of this water is not only going to the park and the retention basin but is also probably going to go right into that gulch. Where does it go?

Mr. Munekiyo: Commissioner and Mr. Chair, may I introduce our drainage consultant to respond to that question, Mr. David Bills.

Mr. Starr: Yeah.

Mr. David Bills: Good morning Commission Members, my name is David Bills, I'm with Bill's Engineering. I've been assisting to work on drainage and other aspects of the project. The gulch right now as it passes through is generally a low point within the property. After development it will become more defined and it will look like a trapezoidal channel it will probably have a base width, the base width is set about a hundred feet with two to one side slopes and then the development is up about seven to eight feet above that. So basically the flow will go from the ...(inaudible) side of the property to the makai side of the property and the water will be contained in that well more defined trapezoidal type channel than what exists right now.

Mr. Shibuya: I was concerned in terms of how the plot elevations for all of the house lots is in reference to the park as well as for the retention basin.

Mr. Bills: The park is at the same elevation as the house lots. The top of the retention basin is also at the same end but that retention basin drops to the bottom of the – it's almost equal to the same elevation as the bottom of the gulch.

Mr. Shibuya: So all of the lots would be sloping towards these drainage catchment areas?

Mr. Bills: Correct. There's a general slope from the developed area to the natural drainage point.

Mr. Shibuya: And what is that slope?

Mr. Bills: It varies in some places where roadway connections are to the east ...(inaudible).. ten percent but the average cross slope is probably in the neighborhood of one to three percent.

Mr. Shibuya: Because you do have divisions such as roadways that actually separate the properties to the retention basin, how do you transfer the water?

Mr. Bills: The water from the roads slopes – anything that goes into the roadway connects into the drainage system of that roadway and connects into the detention/retention basin. From the other side of the property the roadway which is plot as a part of the development there is a drain line which passes underneath the gulch and delivers water to the retention basin.

Mr. Shibuya: Okay, thank you.

Mr. Starr: I have a question for you, does this constitute the channelization of an existing streambed that would allow for water to be recharged into the aquifer and reduce flow into a channelized concrete streambed and if so, how does the Army Corp. of Engineers permitting stand?

Mr. Bills: Well, the concept here obviously the most drastic solution as far as recharging the concrete channel but that is not proposed. What we're looking at on here is a channel that basically retains its natural bottom condition. We want to size the channel so the velocity does not increase what of the existing conditions are right now. So under low flow conditions, as really occurs on the property right now, if you go down there any water that ...(inaudible)... low flow condition there's no

discharge to the ocean, it goes anywhere, it's going to percolate into the ground. That same condition will exist. This channel will be dry for 99.9% of the time. However, it is there for health and safety, welfare purposes, if there's a sizable rain the water can pass through it. Under those conditions, yeah, water could flow through the recharge capacity is it never existent when you run into one of those really extreme conditions. But on lower events we anticipate quite a bit of the water that passes through will be absorbed the same way a long of channel which goes up towards the mountain, you need a significant rain to actually generate rainfall to come through here.

Mr. Starr: So in other words the bottom will be dirt and grass and the sides will be hardened?

Mr. Bills: We're looking at worst case a concrete rubble masonry type CRM type looking sidewall two to one, but we've been actively exploring for quite a while now even more natural looking fiber mats, they have erosion control matting that you can grow things on that can actually be used per the code design criteria is make sure the velocity through the channel is low enough so you don't rip away that type of lining.

Mr. Starr: And you're six years after your SMA approval and you're still deciding what this is going to be?

Mr. Bills: Well, those are the two options and they've always been there. You know the primary one would be the concrete rubble masonry. That's obviously something that's been used quite often on the side slopes. We're just trying to look at some other additional ones that could even be more aesthetically pleasing to even enhance what's there. There's a plan in place, we're just looking for some other ones because of water issues and some other issues, there's critical path and couple other things that stepped in front of that particular one, but there's a drainage solution.

Mr. Starr: Members any more questions on this? Yeah, Commissioner Sablas.

Ms. Sablas: Is this project considered in the flood zone?

Mr. Bills: I think it is designated in the A Flood Zone. Can't remember if it was AD but it's A for sure.

Ms. Sablas: So are you addressing it for the protection of the potential homeowners here?

Mr. Bills: The total design of the drainage based on the City and County Drainage Standards to be able to convey the water from the 50-year, one-hour storm is totally devoted to achieving that concept.

Mr. Starr: Yeah, Commissioner Tagorda.

Mr. Tagorda: Yeah, just a follow up question about the Keokea Gulch. Is this very close to your development proximity wise?

Mr. Bills: It goes right through it.

Mr. Tagorda: Okay and since we talk about drainage system here, this gulch will play an important

role in your drainage plan and if so, are there some diversions being made or planned for this gulch?

Mr. Bills: Well the gulch ...(inaudible)... is an important part of the drainage plan, the drainage – the important of the drainage plan is make sure we accommodate and keep the flow from the gulch in the gulch and not getting onto the properties.

Mr. Tagorda: Will there be some kind of maintenance plan for that Keokea Gulch if this is a – it plays an important role in your drainage plan?

Mr. Bills: This gulch is just a continuation of the gulch all the way up past the highway all the way down to the coast within the maintenance plan for the project we have recommended to the owner that you know, routine maintenance be done to make sure that you don't get undue debris and things like that in the channel. Relatively a passive operation, but you know, it should be taken care of and we've recommended that there be an operation plan to look at it periodically.

Mr. Tagorda: Okay.

Mr. Bills: I have a question for Mr. Munekiyo. Looking at the design of this project it frankly appears that kind of a somewhat dated concept with almost no pedestrian/bicycle access paths in and out it's a real, you know, bulb cul de sac design. Looks like something from the '50's and it seems to have been on the shelf for quite a few years. I'm wondering if any thought is being given to possibly making this you know, more multi modal transit friendly rather than kind of sticking to that pattern that makes people have to get in their cars to move in and out of this thing.

Mr. Munekiyo: I think Commissioner Starr the layout that we have today is – has been adjusted somewhat from the original layout. But I think the concept remains that it would be catered primarily to the single family product and to the extent that there can be pedestrian ways such as along the top of the drainage channel that has been incorporated. Also, along the lower road that borders the property that half would be I understand would be the responsibility of the applicant and so those design standards would need to fit in with whatever Liloa Drive pedestrian, bicycle a typical section would like that. But beyond that Chairman, this is the layout that the applicant would like to proceed with.

Mr. Starr: Okay, members any other questions for the applicant or their consultants? Commissioner Shibuya.

Mr. Shibuya: Just an observation. I'm looking at Exhibit 3B, Lot No. 33, that's the only defugalty I see, a little problem that I have that individual lot owner has six adjoining property owners. It seems more appropriate to be a community center than it is a lot for a home when you have six adjoining properties. But anyway that's just a comment.

Mr. Starr: Lets open it up for public testimony. Are there any members of the public that would like to give testimony on this, please make yourself known. Not seeing any public testimony is closed. Ms. Thackerson please give you recommendation.

Ms. Thackerson: Thank you. The Maui Planning Department recommends approval of the time extension to Condition No. 1 of the Special Management Area Use Permit subject to the following revision to said condition, "that construction of the proposed project shall be initiated by June 30, 2010. Initiation of construction shall be determined as construction of offsite improvements, issuance of a foundation permit and initiation of construction of the foundation or issuance of a building permit and initiation of building construction whichever occurs first. Failure to comply within this two-year time period will automatically terminate the Special Management Area Use Permit unless a time extension is requested no later than 60 days prior to the expiration of said two-year time period."

In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendation prepared for the July 13, 2010 meeting as its finding of fact, conclusion of law and decision and order and to authorize the Director of Planning to transmit said written decision and order on behalf of the Maui Planning Commission.

Mr. Starr: I have a question for Ms. Cua. In the past when we've had projects that are extended over and over and over again, what this body has done if I recall right is to authorize an extension but make a statement that is the last one and that if the construction is not done during that period then it will expire. Is that something that the department would support?

Ms. Cua: We have done that in the past. It has been for a project that had more than three extensions however, and has been more than – I think this one is six years, is that what it is, yeah, it's been like 10 or 12 years where we've done that. It's up to the commission. We would go along with whatever you decide. However, again, my answer is yes, we have done it, we've added a condition and said this will be the last permit time extension but my recollection is that it has been for projects that are beyond a third extension and beyond you know six years.

Mr. Starr: Okay members any questions, discussion or if anyone wishes to offer a motion that would be also in order. Commissioner Mardfin.

Mr. Mardfin: I'd like to have some discussion first.

Mr. Starr: Yeah, go ahead.

Mr. Mardfin: And under the conclusion of law on page 7, it's the green sheet it says, "a timely request for an extension was filed. No deficiencies or violations that would affect the applicant's request, scope of the project remains the same." This could – you know I could picture this going on forever and ever and ever. I don't see a stopping point. I guess Chairman Starr's comments had some relevance in it. On the other hand, I do think that the additional factor of the water ordinance kind of threw a ...(inaudible)... in the works and it's not exactly their fault that that happened to them. So I don't have a real problem with this, but if it got toward 10 years I'd start to have some suspicions.

The second thing I'd like to ask, under the recommendation we're essentially including all of the conditions that existed before in Exhibit 1A. They go forward –

Mr. Starr: Ms. Thackerson.

Ms. Thackerson: Yes, all the conditions on the original permit are still relevant.

Mr. Mardfin: There isn't an explicit water condition. I think it's implied in two things. I think it's implied in the condition that they get an issuance of the building permit because I don't think the Building Department will let them do it without the water. And there's another one where they have to comply with – It's Condition 8, "full compliance with all applicable governmental requirements shall be rendered."

Ms. Thackerson: Yes.

Mr. Mardfin: So that kind of incorporates the water condition. We don't need a separate water condition.

Ms. Thackerson: Yeah, when they come in for the building plans it won't happen unless they have the water, it's the show me the water bill.

Mr. Mardfin: Then I guess I'm okay with the way it is.

Ms. Cua: I just want to respond to Commissioner Mardfin's comments. You know there will be a point and I can't tell you what that is because every project is different depending on the facts, but projects do get to a point where the department comes forward and says, you know what, this is going to be the last extension that we're going to support. And I can't tell you that it's 10 years or eight years or 15 years it really depends on what's happened to every single project and in this particular case, I mean, we've had the show me the water bill that's come out. So every project is a little different where there might be different circumstances that occurred beyond the applicant's control where we might say well, you know, even though it's 10 years we're going to recommend one more. So I can tell you and assure you that at some point in the future we will be looking to make that recommendation if you don't do so sooner, but you know, we normally have reasons that lead us to making that kind of a recommendation we're just not there yet on this permit.

Mr. Starr: Okay members any more questions or does someone want to make a motion, any motion? Commissioner Mardfin.

Mr. Mardfin: I move we, we can't waive review, I recommend that the Commission recommends to the Planning Department to do the extension.

Ms. Cua: No.

Mr. Mardfin: Thank you. I move we adopt the recommendation.

Mr. Shibuya: Second.

Mr. Starr: So we have a motion by Commissioner Mardfin, seconded by Commissioner Shibuya, the motion is.

Ms. Cua: To recommend a two-year time extension for the Special Management Area Use Permit for the Liloa Village Subdivision as recommended by the Department.

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

**It was moved by Mr. Mardfin, seconded by Mr. Shibuya, then**

**VOTED: To Accept the Recommendation of Approval of a Two-Year Time Extension of the Special Management Area Use Permit.  
(Assenting - W. Mardfin, W. Shibuya, K. Hiranaga, O. Tagorda,  
D. Domingo, L. Sablas, P. Wakida)  
(Excused - J. Freitas)**

Ms. Cua: We have seven ayes, motion passes.

Mr. Starr: Thank you very much Ms. Thackerson.

Ms. Thackerson: Thank you.

Mr. Starr: Good luck to the applicant. Mr. Fasi, you ready or you need a couple of minutes? Okay, Ms. Cua.

Ms. Cua: Okay, Item B-2 under Communications is a request by Mr. Orlando Davidson, Executive Officer of the State Land Use Commission requesting clarification of the Maui Planning Commission's recommended conditions on the HAWAIIAN CEMENT request for a 10-year time extension on the State Land Use Commission Special Use Permit for the Pohakea Quarry and Base Course Operation at TMK 3-6-004: 007 in Maalaea and the planner on this request is Paul Fasi.

- 2. MR. ORLANDO DAVIDSON, Executive Officer of the State Land Use Commission requesting clarification of the Maui Planning Commission's recommended conditions on the HAWAIIAN CEMENT request for a 10-year time extension on the State Land Use Commission Special Use Permit for the Pohakea Quarry and Base Course operation at TMK 3-6-004:007, Maalaea, Island of Maui. (SP06-0400) (P. Fasi) (Commission action on the Hawaiian Cement request taken at the January 26, 2010 meeting.)**

Mr. Paul Fasi: Good morning thank you. Good morning Chair Starr and Commissioners. I'm going to read from a prepared text in order to avoid any confusion especially on my part.

Good morning, this matter arises from a letter from the State Land Use Commission dated April 15, 2010. It is the first item in your packet. The Land Use Commission is requesting clarification from the Maui Planning Commission on whether its original 23 conditions from its December 4, 2006 Land Use Commission Decision and Order were given due consideration by the Maui Planning

Commission at its meeting of January 26, 2010. At the Maui Planning Commission meeting on January 26, 2010 the department presented only seven conditions for recommendation of approval. These seven conditions are the original seven conditions as recommended and approved by the Maui Planning Commission on July 25, 2006 and included as recommended condition in the department's approval letter dated August 30, 2006. This is the third item in your packet.

In short, the Land Use Commission is requesting that the Maui Planning Commission give due consideration to all of its 23 conditions from its Decision and Order and amended Decision and Order and that it be forwarded to the Land Use Commission with the appropriate recommendation. The 23 conditions are found in the Land Use Commission Decision and Order and this is the fifth item in your packet.

Upon further review the department has no concerns with the conditions as stated in the December 4, 2006 D & O and amended D & O dated December 8, 2006, and therefore we would recommend that this body recommend approval of the 23 conditions to the State Land Use Commission.

Mr. Starr: Mr. Fasi before we go further am I correct in the belief that when this went before the commission the staff had made the assumption that the Land Use Commission conditions would remain in place since we were just recommending to them and then the commission probably should not add them in because they were already there and they weren't – you know we didn't – we weren't decision making on it. There wasn't an attempt to try to remove those conditions.

Mr. Fasi: That is correct. We're only making recommendations to the State Land Use Commission. That is correct.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Make a motion to approve staff recommendation.

Mr. Starr: We need to do public testimony first. Anyone have any questions or comments? Okay, any members of the public wishing to testify on this? Not seeing any Commissioner Hiranaga, sorry about that.

Mr. Hiranaga: Move to accept staff recommendation.

Ms. Domingo: Second.

Mr. Starr: Moved by Commissioner Hiranaga, seconded by Commissioner Domingo and –

Ms. Cua: To accept the staff's recommendation to include the 23 Land Use Commission Special Use Permit Conditions as part of this commission's recommendations.

Mr. Starr: Okay any discussion? Commissioner Mardfin.

Mr. Mardfin: I agree with the Chairman that basically when we dealt with this at least it was my understanding that weren't trying to mess with whatever Land Use Commission was doing. So this



motion is proper. However given that the issue has been raised, there are a couple of conditions I'd just like to note I particularly like. Condition 15, base course materials from the quarries shall not be exported off island. They have operating hours, I presume those are maximum operating hours not minimum operating hours in Condition 21.

Mr. Fasi: Correct.

Mr. Mardfin: And so I looked through them and they seem perfectly reasonable to me. I'm happy to go along.

Mr. Starr: Okay we ready? Oh, Commissioner Shibuya.

Mr. Shibuya: I was not present when this matter was brought to the commission, however, I was reading through it and I noticed that there was a restoration of and revegetation of the quarry at completion of the project. Was that the condition that we added in or was that a condition that was added in earlier by the Land Use Commission?

Mr. Fasi: I believe these conditions are based on the previous meeting in 2006 and I also was not present at those meetings. My guess would be that they were probably Land Use Commission conditions.

Mr. Shibuya: I understand that there's a little question here.

Mr. Starr: Hold on, please we have some expertise.

Ms. Karlynn Fukuda: Thank you, Karlynn Fukuda from Munekiyo and Hiraga, to answer Commissioner Shibuya's question that was a condition that had been placed by the planning commission back in 2006, yeah, and the Land Use Commission adopted that as part of their State Special Use Permit also.

Mr. Shibuya: My question is maybe Mr. Giroux can probably help us with this. The Hawaiian Cement is a tenant and the landowner has may or may not agree to that condition. Is that something that we are just spitting into the wind with that kind of a requirement for revegetation and restoration of the quarry?

Mr. Giroux: Can you point to the condition again, condition no.?

Ms. Fukuda: I believe it's Condition 12.

Mr. Giroux: Yeah, the tenant would be responsible for that as far as your question is it a binding condition and is it enforceable?

Mr. Shibuya: Yes.

Mr. Giroux: I think the answer is yes.

Mr. Shibuya: Because it does say the applicant including the owner of the land shall prepare a closure plan to revegetate the site or other measures to reduce erosion.

Mr. Giroux: I'm pretty sure with this size operation that they have a lease agreement between themselves as far as following all government regulations and orders. I'm sure the landowner has protected himself sufficiently enough that this condition would be followed through with.

Mr. Shibuya: Yeah, I just didn't want the applicant or the owner to rerestore the entire material that was taken out. That's not the intent. It's just to make it less offensive I guess.

Mr. Starr: That's something that's standard with all mining operations.

Mr. Shibuya: Okay.

Mr. Starr: Members anything more?

Ms. Fukuda: Sorry, Mr. Chair if I may for the record I would just like to note that when go before the State Land Use Commission we will be seeking deletion of two conditions within the State Special Use Permit and that would be Condition No. 8 in relation to the SHPD requirement because that has been met and we have submitted that compliance report to the State Land Use Commission and the second one is Condition No. 10 with regards to the transportation plan submittal to the State DOT and we do have a approval – oh, I'm sorry it's reversed. Okay, you're right, I'm sorry. Condition No.8 is related to the State DOT transportation plan which we do have an approval of that plan and Condition No. 10 which is the SHPD conditions where we do have an approved archaeological monitoring plan but that will be done at the State Land Use Commission.

Mr. Starr: Does that require any change in our motion? No, –

Ms. Fukuda: Because you're a recommending body I believe it's okay to leave it as is.

Mr. Starr: Okay, are we ready to vote? We do have a motion on the floor. Lets hear the motion again before we vote.

Ms. Cua: The motion was to add or to accept having 23 conditions as recommended by this body to the Land Use Commission on this application.

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

**It was moved by Mr. Hiranaga, seconded by Ms. Domingo, then**

**VOTED: To Recommend Approval of the 23 Conditions to the Land Use Commission as Recommended.  
(Assenting - K. Hiranaga, D. Domingo, O. Tagorda, W. Mardfin,  
W. Shibuya, L. Sablas, P. Wakida)  
(Excused - J. Freitas)**

Ms. Cua: Seven ayes, motion is carried.

Mr. Starr: Okay, thank you very much. We'll take a 10-minute recess and then come back.

A recess was called at 10:00 a.m., and the meeting was reconvened at 10:14 a.m.

Mr. Freitas was now in attendance.

Mr. Starr: Good morning everyone, Maui Planning Commission meeting of July 13, 2010 we're back in order and we're going to switch over to educational mode. When we did the orientation workshop this year, we had some very, very full agendas and we deferred some of the orientation items and then we subsequently picked up one or two more items at another meeting where we had a little break and now we have for the first time, the time and opportunity to finish the items that were still outstanding. So I turn it over to our Deputy Director Cua to lead through the orientation session.

**D. CONTINUATION OF ORIENTATION WORKSHOP (previously scheduled for the April 13, 2010 and May 25, 2010 meetings.)**

Ms. Cua: Thank you Mr. Chair, Members of the Commission, as the Chair mentioned we did start orientation and our goal is always to start and complete at your first meeting. Just as a refresher for those who have been members and for our new members we somewhat inundate you with information. However, based on our heavy agendas we were not able to conclude our training.

So today we have three sections of our training the County Policy – the Discrimination Policy, secondly, this is a relatively new part of our training exercise. We started doing it for the County Council and then we thought it would be helpful for the planning commission and the public as well where we have a flowchart and we take a typical application from when it gets into the doors of the Planning Department and the process that it has to go through and the typical application that we took is one that takes itself all the way to the County Council. So it's not an application that stops with the Planning Commission such as a SMA permit or County Special Use Permit. This is like a typical change in zoning or community plan amendment that you hold the public hearing and then you send it up to the County Council for their action. And then the final part of our training today will be on the flood hazard district. So with that, I think we can take the first part of this training and giving that portion of the training is Mr. Allan Delima.

**1. County Policy Against Discrimination**

Mr. Allan Delima: Good morning. My name's Allan Delima, I'm the Administrative Officer for the Planning Department and this morning I'm going to give you a brief overview of the County's Sexual Harassment Policy. I apologize because no matter what I do I can't make this content especially interesting so I'll compensate you by being brief. This is the most exciting slide in the whole presentation.

Now this is a copy of the Sexual Harassment Policy and you should all have these available in your binders and since we're only going to be touching on the highlights, I encourage you to read the

policy fully when you do have an opportunity.

Now the definition of sexual harassment. Sexual Harassment means unwelcomed sexual advance, requests for sexual favors and other verbal or physical conduct or visual display of a sexual nature directed by an officer or employee to another officer, employee or a private individual.

Now all personnel must refrain from the following conduct:

Making unwelcome sexual advances or requests for sexual favors.

Making remarks of a sexual nature.

Using gender based or sexually abusive language and sexual innuendos.

Visually displaying materials of a sexual nature.

Physical contact of a sexual nature.

And the catchall phrase, any other similar actions.

Now you should note that the County of Maui has a zero tolerance policy against sexual harassment and will condone or tolerate sexual harassment in the workplace. This policy is applicable to board and commission members as well as county officers and employees.

Now the process for filing a complaint is relatively simple. An individual who feels subjected to sexual harassment should immediately make a complaint to his or her supervisor. Now board or commission members who feel subjected to sexual harassment should make the complaint to his or her chairperson. If the chairperson is the alleged offender the report should be made to the County's Equal Employment Opportunity Officer and for us, that's the Director of Personnel Services.

Now there are a few other options for filing a complaint. It can be filed with the Planning Director or the Planning Deputy Director, the board and commission chairperson unless of course that person happens to be the alleged offender, the Director of Personnel Services, again who is also the County's EEO Officer, the Hawaii Civil Rights Commission or the Federal Equal Employment Opportunity Commission. But you are encouraged to first seek internal remedies before going to outside agencies. We kind of pride ourselves in keeping our own house clean.

Now the complaint may be informal, verbal or written, an unsigned allegation or formal written and signed allegation.

The investigation process. The investigation will be conducted in an unbiased, fair and discrete manner. There will be all the appropriate safeguards to maintain confidentiality and protection from embarrassment that the law allows.

An individual who is found after an investigation to be an offender shall receive the appropriate warning or discipline. Any disciplinary action prior to implementation will be reviewed by the Director of Personnel Services and approved by the County's EEO Officer. There should be no retaliation or discrimination against an individual who has made a complaint, conducted an investigation or acted as a witness. Retaliatory conduct is illegal and it constitutes a separate violation.

I promised you brevity and I delivered brevity. Are there any questions?

Mr. Starr: Members, any questions?

Mr. Delima: Well thank you very much for your kind attention.

Mr. Starr: Excellent presentation. Thank you very much. Ms. Cua.

Ms. Cua: The next portion of our training we'd like to call on Joe Prutch. He's a planner with the Current Division and he will be taking you through a typical land use application that goes from the start of the process with the application being submitted to the department all the way to going to the County Council for approval.

## **2. Flow Chart for Land Use Applications Going to Council**

Mr. Joe Prutch: Good morning Chair, Commissioners and welcome aboard Commissioner Wakida. My slides are going to be quite boring compared to his but we'll be okay with that.

Ms. Cua: Excuse me Joe, I think you need to go back one.

Mr. Prutch: Oh, am I on the second one?

Ms. Cua: Yeah. Okay great.

Mr. Prutch: Okay, I'm going to talk to you today about the applications that require Council approval. These are applications for change in zonings, for conditional – I'm sorry, community plan amendments, district boundary amendments that are under 15 acres, over 15 acres go to the Land Use Commission, conditional use permits and PH1 Project District applications. Those are the applications that require a Council approval that go through you on their way up to Council.

When an application comes in it's received by our department. It's forwarded to Clayton Yoshida, the Planning Program Administrator. That application is then assigned to a planner and it's assigned based on the type of project to go with the type of planner or the planner's workload. So Clayton does the job of trying to distribute the applications to the specific planners.

The planner gets the application and the application is reviewed pursuant to Section 19.510.010(d) of the Maui County Code and this the content of application. So that code provision provides a long list of various names, location maps, 500-foot mailing list, archaeological and historical data, on and on and on. A list of what needs to be submitted with that application.

The planner reviews this and then decides is the application acceptable or not. If it's not, the planner issues a letter to the applicant stating the deficiencies in the application and asks the applicant to resolve these issues and submit everything so that we have a full application. Most of the time this is resolved. If it's not, then we can withdraw the application or return the application to the applicant, but usually everything gets resolved, we get the application together and we move onto the next step which is transmitting the application to various government agencies, county,

state, federal, etc.

At this stage we send out a letter along with the application to, it depends, agencies depend on the type of project. Usually all the county agencies, could be State Department of Health, it could be SHPD, it depends on the project on who we deliver it to. We give those agencies 30 days to review. A lot of times we get them back within 30 days, a lot of times we don't. Most of the time we don't. So what we do is we follow through again with another letter, kind of a reminder notice saying okay, we're going to give you another two, three weeks to respond and give them time to get their comments together. At that point we might look at it as okay, that agency has no comments. They've had plenty of time to respond. Unless it's something that we need SHPD's comments for we all know that they're very bogged down and sometimes you just have to wait to get the comments if it's something we definitely need to get.

Once we get these agency comments, we send them onto the applicant and we ask the applicant to contact the agencies and work with them to resolve any issues or to at least agree to the conditions placed by the agencies. So the applicant works with agencies. This could be a time consuming process. It depends on the issues that are placed before the applicant. It depends on how long it takes to get resolved. This is kind of the question mark time period. We don't know how long this can take.

If of course the agency comments cannot be resolved, we get back to the withdrawal application or returning to the applicant. But most of the time we get through the process, eventually things can get resolved and we get to the point where agency comments have been commented on, responses have come in from the applicant and everybody's happy we can move forward to the next step which is the department, the Planning Department deeming the application complete and we schedule it for a public hearing.

Now at this stage, so what we do as the staff is we send a letter to the applicant and government agencies 45 – at least 45 days before the hearing so that we can give the applicant time to mail out their 30-day minimum notices to neighbors, usually 500-foot list of neighbors. We have to also publish it in the paper 30 days prior to the hearing and the applicant has to publish a notice in the paper for three weeks prior to the hearing. So all this needs to be done that 45-day time limit gets this clock ticking and the applicant and ourselves have to make sure we get noticing properly done in time so that the project can make it to you.

In this time of course the planner is preparing or may have already prepared the staff report, the recommendation and that application – that staff report is delivered up to Clayton about three weeks before it comes to you for his review and then it's forwarded onto Kathleen for her signature and then approximately I think it's 10 days before the hearing everything is put together and mailed out to you guys.

Then we get to the public hearing with the planning commission. Obviously most of you guys have seen these come before you. At that point, you guys deliberate, you accept testimony, you make your recommendation to defer if you need to although there is some time stipulations, I'll get to that at the end, there is a completion date that notice of completion starts a clock ticking and I'll explain that at the end as far as getting it to Council. The commission recommends denial or approval

based on the project, based on the testimony and based on issues. If they recommend approval it goes onto back to us and it goes back to the applicant to create land use maps for the change of zonings and the CPAs and DBA. conditional use permit doesn't need a land use map. But that is prepared and all of this is forwarded up to Corp. Counsel who prepares the ordinance for the Council. So James and his gang over there will create an ordinance based on our letter, our conditions and based on your testimony and any recommendation changes you made to the conditions or added conditions that all gets put together by James and that gets forwarded back to the Planning Department.

We then take all this, take the minutes, take the report, take the testimony and we forward that all in a transmittal up to the Council. Now the completion dates on there, you got a 90-day and a 120-day. For a change in zoning and a conditional use permit that has to be forwarded to Council within 90 days so we issue that completeness letter, it takes 45 days at least to get to you and then we've got essentially 45 days more to get it up to Council. In the case of all other applications, so the DBA, the CPA and the Project District applications those are allowed a 120 days to get up there.

And then once it's up at Council it's up to the Council Land Use Committee to begin processing when they can get to it. That's pretty much the application process for projects that go through you to the Council. So any questions on that?

Mr. Starr: Members? Commissioner Mardfin.

Mr. Mardfin: Joe, the example you showed can you go back to the previous page, You get on the first line on the far right it says, "letter to the applicant stating deficiencies with deadline to resolve." And then you go down and it says, "resolved and yes goes to left. But no goes, application returned/withdrawn." I remember getting some projects now maybe it's because it didn't require a Council approval but getting projects where the department recommended against it and the applicant said, I want to send it to the planning commission anyway. I can't recall any time we overruled the department on one of those, but –

Ms. Cua: I mean, I can't think a particular example, but yes that happens. I think the point we're trying to make here is and this was a comment I was actually going to make, you know a lot of times when you see a project it has undergone changes and that is because initially when you follow the steps when it comes into the Planning Department, we may have them make some changes before we even send it out to agencies. Okay so that's one part.

And then when it goes to agencies, there may be comments that come back that requires the applicant to change the project. Sometimes when it goes to agencies there's issues that come up that the applicant tries to resolve and they find they can't or they decide I'm not going to pursue this and so they withdraw the application. There are times when an agency makes a recommendation and lets say an applicant tries to address it and we may not feel it's adequate but the applicant wants to go to the planning commission anyway so we give them that option and we come before you.

Another thing that has happened, this happened oh, maybe I don't know 15 years ago to one of my projects where when the application had come in there was just – there was minor traffic

assessment done, very, very minor like one paragraph and I had informed the applicant that based on my knowledge of the process that I really felt that they needed to do a better traffic analysis and so they decided that they wanted to just analyze based on the use that they were doing and not highest and best use and so we said okay, that's fine we can submit to through to the agency but you're going to take your chances with the commission. And in those cases again, you know, we can recommend based on our experience, based on our knowledge of our reading of the commission but there's times where an applicant just wants to come forward and so they can come forward but we're going to be honest and we're going to tell you how we advised them and we tell them that. So that's different things that can happen that I did want to mention because you know maybe to the public and some of the commission it appears that I think the commission is maybe a little bit more knowledgeable because you deal with it every day but you know, to the public it seemed that oh my gosh you're just approving project after project but what is not realized is that there are many, many changes a lot of times that a project goes through to be able to even come before you and we try and work out all the issues with the applicant and the agencies before it comes to you so that we're not wasting your time and there's still are times where you have to defer. But for the most time we know the questions that you're going to have. We know they have to completely address drainage and archaeological issues and so we work with them on that and we try and make sure that it's resolved to where we think it's acceptable and that's when we bring it before you but not until then. I hope that helps.

Mr. Mardfin: Yeah, I remember my first few months on the commission and it seemed like you were approving everything and that reason is because you've already put it through the sieve a couple times, but there were a couple, I think I don't know if – I don't remember what the issue was but there were a couple things that the applicant said I just want to go to the commission and you guys recommended disapproval and I don't think we ever overturned a disapproval recommendation from the department.

Ms. Cua: You did. You have. One of mine.

Mr. Mardfin: Sorry.

Mr. Starr: Commissioner Freitas.

Mr. Freitas: On a conditional use permit what is the length, the longest length that it can be issued or is there a time length like a ten-year, five-year?

Ms. Cua: Usually on the first go round and I'd have to say it depends because every, you know conditional permits can be from a church to somebody making kim chee in their home to a transient vacation rental so it really depends on how that's going to impact the neighborhood, what kind of opposition there may be. Sometimes we recommend only one year, sometimes three years. It's on the extensions that we are more flexible where I think we're recommended up to 10 years or maybe even 20 years and the Council, I know the Council at one point tried to do it in perpetuity and our attorneys had to say no, we have to give it a time certain. So again, it really depends and a large part of it is what is the community sentiment? And when we give a shorter time initially what that allows all of us to find out including the applicant is how is the neighborhood going to respond to this new use? And if it's bothering them, we're going to hear about it.



One other thing I wanted to mention that is not in that flow chart and it's not a legal requirement but it's a requirement that this commission years ago had asked the department to make sure that we do and that is having the applicant, especially of these larger projects go and meet with the community and the community for a project usually means the people within 500 feet. What we used to require oh I don't know maybe 10 years ago we required projects to go before the respective community associations. So if you're doing a project in Kihei you'd have to go to the Kihei Community Association. What we found out and it was working fine for a while but what we found out was that sometimes the action of that community association may not have been representative of the people that are living right next to the use that's being proposed because maybe they don't belong to the community association and they chose not to go if they were invited or whatever. So what I think the commission had determined would be more effective is you know you can go and have your meeting with the community association as a place but you need to invite the people that are within 500 feet because they are the ones that are truly going to be affected and that process, you know, the department feels has really worked because, and we try and ask the applicants to do that as soon as practicable because that is another factor that may change the project's plans because the applicant obviously doesn't want to come here if the neighborhood or just an adjoining neighbor is opposed and if they could have done something minor to their plans and got their neighbors on board. So that is another part of the process that takes place before it even comes to you that hopefully will mitigate some concerns of the community and hopefully get result of a better designed project.

Mr. Starr: Mr. Giroux please.

Mr. Giroux: I just wanted to add on the issue of time you know, when it gets up to Council is usually where numbers you know get thrown around and if you look at the rules of your conditional permit it says that part of the commission's analysis has to be that if the time is so long that the sentiment is that you want to get a conditional permit that would you know like in perpetuity then analysis should be would this be more proper as a zoning change because then the use would be more proper as a outright use. So the person would never. You know, I mean, a lot of times the applicant says well, we don't want to get a zoning change because we just want to do this quickly. Whereas in the long run if they got a zoning change they would never have to come back to the county with this one-year, two-year, four-year, eight-year, ten-year, thirty-year and if that's the sentiment that actually this use it seems to be pretty reasonable, then actually getting a zoning isn't a harsh remedy it's actually a benefit to the land owner or land user.

And the other thing to think about is that if these conditional permits are being given out so regularly then we have to think is this more of a special use other than not an outright permitted use because that's what conditional permits are being used for is. You're giving somebody a use that is not outright permitted. And that's something to think about when you're in deliberations because if time is an issue then these two other ideas should also be part of the discussion and I think that this body could probably do more of it because I'm always caught upstairs with the numbers being thrown out and that's where Ann's going Corp. Counsel, and I'm well, you know we have to do that analysis and it should be done at this level really.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: I like the educational process here in terms of allowing us as well as Akaku viewers to see the process in which the various agencies and departments have an opportunity to review the proposed plans and this is very important that the public understands this that you don't make the – we don't make it by ourselves, we do the decisions and we do the reviews collectively and this takes time because this is a citizen ground as well as you have paid employees of the county reviewing it for their specific ordinances and rules. What I did want to see Joe is that if it's possible putting up the optimistic and pessimistic times for each of these processes. Lets say if you go through very quickly you know, I don't want to take more than five minutes here, go from the beginning that you have this application assigned to a planner, is it one day, two days, three days and then you go to the next one, is it acceptable, not acceptable, who makes that decision, how long does it take. You know optimistically one day, pessimistically three weeks, why? You know, is there a difference? I would be focusing on these large differences of time, optimistic, pessimistic times that's where I would be focusing on what's happening here and trying to bring this process into something that's more reasonable. I'm not putting it all on you okay.

Mr. Prutch: No, that is a good point because that is what we hear often is why is it taking so long, why is it taking so long? And sometimes it's us, sometimes it's out of our control and it's agencies, sometimes it's the applicant not responding to their deficiency letters. So it just varies quite a lot, it would be hard for me to pin down numbers. The only number I did have that I wrote down here was for the acceptable part, found this in the code it says, "within 15 business days of receiving the application the planner needs to determine completeness." That's being optimistic. Sometimes with our workload that doesn't happen and sometimes it might take a month before we get any get going on it, it just depends on the pile in our inbox.

Mr. Shibuya: And Joe, that's 15 working days not 15 calendar days.

Mr. Prutch: No, it says 15 business – yeah working days, business days, yes. And then as you move along all kinds of things can happen. The deficiency letter. If the applicant's not responding or the applicant's having trouble getting things together or the applicant can't afford to do a traffic study or whatever the case is, it can be bogged down for months or a year, I mean, it just varies. But at least in that situation the ball is in their court, it's not us dropping the ball. It's them taking the time to get their application together. Once we get past that stage then the ball's back in our court then it goes back to the agency transmittals trying to get the reminder notice out after 30 days to try and remind these people we need to get the comments please submit this is important to us to get these comments and I know most of the planners, I'm pretty sure all the planners actually as soon as, I know as soon as I get an agency transmittal, an agency comment letter back I immediately scan it and pretty much everybody's okay with email, email it to them right a way as a PDF and let them know here's the comment. You need to respond to this, you need to contact the agency and you need to react and get something in writing to them and to me close this door so that we can move onto the next step. That sometimes doesn't take long, sometimes it takes forever, it just depends on the issues and like I said earlier we give them approximately 45 days to 60 days to submit their agency comment letters but somebody like SHPD and some of the other state agencies are just so understaffed and furloughed, you know that, you've seen that before, sometimes we don't SHPD comment letters and sometimes we really need it and sometimes the planners we don't want to bring it up to the commission without an SHPD comment letter because you're going to ask for it so sometimes that slows things down and we just have to wait. Of course,

at that point it becomes something, we're stopped there's not much we can do. We can try to contact SHPD, we can email, we're trying to get a rapport with some of SHPD and if we can get that rapport going before we can email and say hey, can you act on this one it's been 60 days maybe that will speed things up a little bit. But it would be a good idea to maybe list the optimistic and pessimistic sort of breakdowns and that might be something I'll try to put into the flowchart for next year. Ann and I could sit down and come up with something but that's difficult to do based on all these different scenarios.

Mr. Starr: I want to jump in here, we're going to have some more discussion about this on August 12<sup>th</sup> when we get to our agenda portion you know future agenda, we'll talk about that but we're going to be having a bit of a program on that afternoon about the entitlement and permit approval process and we're going to allow opportunities for the public to comment and express the opinions on it. So perhaps that might be something that we could hear then. Ms. Cua.

Ms. Cua: You know, I think it would be very, very, very challenging for us to go you know block by block and tell you a time because it's very difficult to do that I'll be very honest with you. What we can tell you which I can tell you right now is that because the public asks us all the time how long will this take? From the time you get into the door till you get to planning commission, if you're at the planning commission between four to six months you're lucky. That would be quick for an application such as this. And then once the commission is done with it and they've made their recommendation the department has to wait for the minutes to be done and we have to have an ordinance prepared by Corporation Counsel and so we try and get it you know, within a month or month and a half up to the County Council. Once it gets up to the County Council. Once it gets up to the County Council, it's out of our control and they too have their time frames where you know I know they've scheduled applications and from the time it's gotten up there it's done in three months and then there's applications that have been up there for nine years the much larger applications. So that is a very, very difficult question to be very honest it'd be very difficult for the department to break it down one block at a time and I don't think we need to do that. I think you need to know the bigger picture of how long does it take until it gets to you and we can say four to six months if somebody gets to you four to six months for a land use application, community plan amendment that means that along the way there wasn't any major stumbling blocks but then it can be more like a year, they have to work out comments with agencies or problems with the community, it really does vary.

Mr. Starr: Commissioner Freitas.

Mr. Freitas: Speaking from experience, I just went through this and it took me over a year and a half and I mean we were on top of it. I mean, I was calling Chris Hart every day and it's a very lengthy and a very costly process. Now I'm going through rezoning and I'm going through the same thing. You know, it's the requirements, it all depends where you are what was there, you know, it was a cane field I had to a Hawaiian culture study, you know, so there's a lot of obstacles and getting it to them and trying to put a time line on it's almost impossible. It all depends on I believe on the project in my case and the things that was required I thought it was totally insane but I had to do it otherwise we don't get it.

Mr. Shibuya: Yeah, I just wanted to reassure the public that we are not just hearing that it does take

this long there's large time variability but this is actually being addressed. The Planning Department is looking at it and it is being addressed to shorten it to streamline the process. I believe that's what is happening.

Ms. Cua: And if I could Mr. Chair, we have submitted a proposed bill to this commission which you've reviewed where we are proposing just that to streamline, you know bump things down things that are presently have to go to County Council like maybe a conditional permit bump it down to planning commission and maybe some of the things that you review bump it down to the department and that would really help to cut the time. The challenge is you know when we do that it's whether it's the commission or the Council willing to release their authority that is going to be challenge but it would definitely help the process if we could do things more administratively and then if you could relieve the Council of some of their duties on some of their permits.

Mr. Starr: Okay, and once again I ask members to keep this in mind up until August 12<sup>th</sup> because we're going to have an afternoon session specifically on discussing these processes and maybe ways that you know, try to generate some ideas on ways that things can be improved. It's not going to be a decision making session but you know it will be an opportunity to for people to say their part. Shall we move along? Okay, thank you very much good presentation Joe. Yes Deputy Director Cua.

Ms. Cua: Okay, the last part of our training today is on Flood Hazard Districts and we have both Avelina and Carolyn from our Zoning Division who deal with this on a daily basis and they would be conducting the training for us today.

### **3. Flood Hazard Districts**

Ms. Avelina Cabais: Good morning everyone my name is Avelina Cabais and we're going to go over and learn about Flood Hazard Districts and the purpose of flood program, flood hazard district ordinance, flood maps and standards, community rating system, planning commission's role.

This picture was taken after Hurricane Iniki in 1992 and it cost \$2.8 billion in damages and affected 90% of the structures on the island.

This picture was taken after Hurricane Katrina ...(inaudible)... every mile of Mississippi's inland coastline five years ago and it cost \$100 billion in losses.

The National Flood Insurance Program purpose is No. 1, protection of human life. No. 2, protection of property from flood damage. No. 3, reduction of public cost for flood control, rescue and relief efforts.

Maui County first adopted the Code of Federal Regulation 44CFR 59 and 60 in 1981 under Chapter 19.62 of the Maui County Code and as amended as of September 25, 2009 by Ordinance No. 3697 and in our ordinance a flood permit is required for all the development in the special flood hazard area. It means if your property is located in the special flood hazard district then you need to get a flood permit. A development is defined as any manmade change to improved or improved real estate including but not limited to walls, buildings or other structures, filling, grading, excavation,

mining, drilling operations, dredging, paving, storage of equipment or materials.

There are some exempted structures for getting a flood permit and these are carnivals, luaus, fairs, camping tents and signs that are not located in a floodway, below grade water outdoor pool, temporary structures and demolitions.

There are certifications that are required. Additional requirement for your flood permit are as follows they are categorized according to the flood zone area you are located. Flood Zone AE and AO, you'll need a Special Flood Hazard Development Permit, Elevation Certificate and Flood Hazard Area Certification.

And if you are in Flood Zone VE, a Special Flood Hazard Area Development Permit, Elevation Certificate, Flood Hazard Area Certification, Coastal High Hazard Area Certification and a Non-Conversion Agreement for the areas below the base flood elevation.

And then if you are in the floodway you need a Special Flood Hazard Area Development Permit, Elevation Certificate, Flood Hazard Area Certification and Certificate of No Rise Determination.

And one more, it's a Flood Zone AO and AE with fill. You need a Special Flood Hazard Development Permit, Elevation Certificate, Flood Hazard Area Certification, Certificate of No Rise Determination, Certificate of Structures Built on Fill or Near Special Flood Hazard Areas.

These are historical flood insurance rate map and it was first used in 1981, and now we have a new digital flood insurance rate map as part of FEMA's modernization project FEMA is moving toward having all the flood maps digitized nationwide. This map was adopted in September 25, 2009, and down there in the – down the screen we have the website, <http://gis.hawaiinfip.org/fhat/>

We have different types of flood zone. On this screen shot, A Zone is shown in the light blue color and this is known as a riverine and coastal runoff. V Zones are on the red shaded color. It's the coastal flooding with velocity and the floodway area is the dark blue shaded area.

The XS or X shaded zones that are shaded green, dark green color is the areas of 500-year flooding or .2% annual chance floodplain. No critical facilities are to be located within the X shaded zones. The squiggly lines are base flood elevations which show the water surface elevations of the flooding. All of the elevations shown are relative to the local tidal datum.

This is how a floodway is defined. A floodway is a channel of a stream including any adjacent area that must be kept free of encroachment. So out of the 1% annual chance flood can be carried without substantial increase in flood heights.

This picture is taken in a normal day in Iao Stream and it's a floodway. Thank you.

And now I will give you Carolyn Cortez to continue the presentation.

Ms. Carolyn Cortez: Hi good morning everyone. Okay, this map on the left is the historical FIRM map and it shows the Kulanihakoi Gulch which was originally in the flood zone. It shows originally

how the flood zones were defined. After the channelization of the stream on the right you see what it is today. The flood was contained as shown and it allowed the subdivision to be removed from the special flood hazard area.

The code requires any change in BFE to go through the Conditional Letter of Map Revision process. And then after development they have to complete the CLOMAR and turn it into a Letter of Map Revision and what's issues is on the right where it shows that the flood zone now has changed and it takes that subdivision out of the flood zone.

Flood standards. Lets start with Flood Zone A and the design and construction are as follows: No. 1, elevate structures to one foot above the BFE; No. 2, design structures to withstand flood forces. No. 3, protect utilities; and No. 4, no rise in the BFE is allowed.

Okay for Flood Zone V which is coastal flooding and high velocities these are properties located near the coastline. They have higher design standards than the riverine flooding or Zone A which we saw previously. They have to elevate structures to one foot above the BFE and the bottom of the horizontal members shall be one foot above that's for B Zone properties. In A Zones it's the top of floor. Okay, No. 2, design structures to withstand flood forces from storm and wave surges. And No. 3, protect utilities from damages.

This is a typical building section and shows the differences in A Zone and B Zone construction. In other A and B Zones areas below the BFE may only be used for storage parking and access. If areas below the BFE are enclosed in the V Zone, the enclosure must be comprised of breakaway walls and breakaway slabs. In the A Zones areas below the BFE shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. To achieve this FEMA requires a minimum of two openings which are called flood vent located not more than one foot above grade, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

The County of Maui is the only county in the State of Hawaii participating in FEMA's community rating system. The community rating system is a voluntary program which when a county adopts higher building and development standards insured owners receive a discount on their flood insurance premiums. We are a Class 8 community which means 10% discount. We are working on becoming a Class 6 community which corresponds to a 20% discount. As a county we currently pay approximately \$5 million in premium and being a 8 Class community we save about \$500,000 for our residents that pay flood insurance.

Okay so what is the planning commission's role, what can you do to prevent flood damage, to protect life and property and reduce public cost for flood control, rescue and relief efforts? Okay, one way is to create open spaces for properties that are subject to flood hazards caused by riverine and coastal flooding. This use is intended to limit development on certain urban and non urban lands which may be inappropriate for intensive development due to environmental and physical constraints such as shoreline buffer areas, drainageways, floodplains and tsunami areas.

Good example of the designation of open space in relation to the 1% annual ... (inaudible) floodplain is lao Stream. On the right is a screen shot of FEMA's digital flood insurance rate map, this is our

current rate map. On the left is the Wailuku-Kahului Community Plan map which designates the corresponding special flood hazard area along Iao Stream as open space. The open space will protect the areas for flood purposes and limit development and exposure to flood losses. Many large streams are not protected by the open space designation. For example, Waiakoa Stream, Waipuilani Stream, Kamaole Stream are some of the larger streams that do not have that open space designation running along the stream.

So the commission reviews all development in the special management area this gives you an opportunity to review the project's impacts on floodplains and coastal areas.

These are your rules they require that an evaluation on the potential adverse impacts on floodplains, tsunami areas and erosion prone areas be done. So when you review an application that is located within or adjacent to a special flood hazard area the applicant's application and the department's staff report should describe the existing flooding occurring, what the impacts are of the new development to the floodplain, if there will be an increase or decrease in the flood elevations, if there will be filling occurring in the floodplain and how those increases in the BFE will be mitigated, is there any analysis that includes the full build out of the development? For example, ohanas and you know accessory structures because a lot of times when we or when the project comes to you it's what they're going to have as first the single family homes are not necessarily include the ohana structures. So these are things that you should be looking for and thinking about.

Thank you for your attention and are there any questions?

Mr. Starr: Members questions on the flood hazard portion? Commissioner Hiranaga.

Mr. Hiranaga: I wanted to know in the V Zone you establish your base flood elevation, do you take into consideration tsunamis or is it any wave generation such as from hurricanes? So just because you're elevated you know above the base flood elevation it doesn't say that you're being, how do I say, protected from a tsunami.

Ms. Cortez: What FEMA is telling us is that their flood zones are based on tsunami inundation.

Mr. Hiranaga: Oh it is.

Ms. Cortez: Yeah, but I think there's a hurricane study, a new study that includes hurricane that's going to be coming out in August and that will be integrated into the flood maps.

Mr. Hiranaga: So the base flood elevations that are determined for the coastal areas of Maui that's based upon tsunami inundation?

Ms. Cortez: Yes.

Mr. Hiranaga: So 17 feet along the north shore of Maui you're saying that the wave crest will not theoretically exceed 17 feet of mean sea level?

Ms. Cortez: That's what FEMA is telling us, yes.

Mr. Hiranaga: And that's a hundred-year span?

Ms. Cortez: Yes, that's correct. It's called .1% annual chance. So it has that probability of occurring in any given year. Because people – it was misleading to say the hundred-year flood because it's like – it could happen only once in a hundred years but actually it has a .1% of occurring in any given year. So we could have a .1% flood this year and we could have one again next year.

Mr. Hiranaga: Okay, thank you.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: Thank you for that information. I just want to find out how is the is data updated? Is it from the Federal Government that you get this data and then you implement it and disseminate it? And also, do we also identify through projected sea level rises and using the GIS mapping do we do that kind of forecasting?

Ms. Cortez: Okay as to your first question, FEMA does do the studies and they are the ones that issue the flood maps to the county and we are just sort of a informational body them. And we do submit flood information to them to help them in their, you know, making of the flood maps. We do as a county provide LIDAR, you know topography of different areas in the county and we have provided that data to FEMA so that they can further refine their flood maps because flood maps are done on a large area in the county and so not every stream, channel, gully is studied in detail but the major ones are on the flood maps and those are, you know, they have the flood zones, floodways, all those have been studied in detail. So I know last year you asked about the flooding upcountry and that was not – that area was not studies and it was actually in flood zone at the time it was C which is an area of minimal flooding. So FEMA just has certain limitations on their study areas and unfortunately but it's limited by budget so as a county we try to help them. So yes, the information is done by FEMA and then given to us for the most part for the FEMA flood maps.

And then for your second question, sea level rise has not been included in this the making of the flood maps. So that has not been a component I believe when FEMA does their flood mapping. Okay, and with this hurricane type of variable being added in which you are expecting to have that built in you would probably be looking in terms of the natural tides and the direction of where the ocean levels that bathyspheric type of depths have any difference. Because the problem here is that when you have this energy coming into a hurricane if you are on a flat area that energy gonna come in a greater velocity than if you have it very deep and then it's going to rise up and it's going to have height in your energy distribution. There's a difference between velocity and height and is what I'm concerned that these variables are not added in. We need to start looking at them.

Ms. Cortez: Yes I do believe actually that sea level change is something that FEMA is looking into but they have not integrated it into their flood maps yet.

Mr. Starr: I want to jump in here, first of all the LIDAR data which is being instituted, LIDAR is like radar shot from an airplane straight down and on GIS system what it does is it's able to map the geography offshore as well as on shore in terms of elevation. So when they're adding the LIDAR



data in that allows them to computer model just what you're asking and as far as sea level rise I'm just putting in a plug for August – for July 27<sup>th</sup> when Sea Grant is coming before us with the blue line maps that they've been under contract to do. So that ball is rolling and we'll hear about it at our next meeting. Members any other questions? Thank you very much for a very good presentation. Keep up the good work.

Now for our next item. We have some minutes that we can accept and file if we wish if there's a motion or if anyone has any changes to them please take a look at Item E.

**E. ACCEPTANCE OF THE ACTION MINUTES OF THE JUNE 22, 2010 MEETING AND REGULAR MINUTES OF THE APRIL 13, 2010 AND JUNE 8, 2010 MEETINGS.**

Ms. Cua: We have I guess three sets of minutes, acceptance of the Action Minutes of the June 22, 2010 meeting, Regular Minutes of the April 13, 2010 and June 8, 2010 meetings.

Mr. Starr: Okay, any motions on that?

Mr. Shibuya: Move to accept all three.

Mr. Starr: Second? Someone second.

Mr. Mardfin: Second.

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

Ms. Cua: To accept the Action Minutes of June 22<sup>nd</sup>, and Regular Meeting Minutes of April 13<sup>th</sup> and June 8<sup>th</sup>, 2010.

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

**It was moved by Mr. Shibuya, seconded by Mr. Mardfin, then**

**VOTED: To Accept the Action Minutes of the June 22, 2010 meeting and Regular Minutes of the April 13, 2010 and June 8, 2010 Meetings.  
(Assenting - W. Shibuya, W. Mardfin, K. Hiranaga, J. Freitas, O. Tagorda,  
D. Domingo, L. Sablas, P. Wakida)**

Ms. Cua: We have eight ayes. Motion passes.

Mr. Starr: Okay, Director's Report. We turn to our Deputy Director.

**F. DIRECTOR'S REPORT**

**1. Planning Commission Projects/Issues**

**2. Discussion of Future Maui Planning Commission Agendas**

**a. July 27, 2010 meeting agenda items**

Ms. Cua: Mainly we'd like to take you through your upcoming agenda for July 27<sup>th</sup> which the Chair started to talk about a little bit. Now that we have a full commission we would like to – we are planning to put on election of Vice-Chairperson for this commission and then we have two new business items. One is the – the first one is the Draft Environmental Assessment prepared in support of the Special Management Area Use Permit for the proposed Maui Medical Plaza project consisting of construction of a six-story professional medical office, laboratory facility, five-story, approximately 365 stall parking structure and related improvements in the M-2 Heavy Industrial District at 151 Hana Highway. And then also, we have an amendment to a Special Management Area Use Permit by RDOB Limited Partnership and they're asking to delete Condition No. 24 requiring the installation of curb, gutter and sidewalk fronting the subject property at Kihei. And then we have starting at 1:00 p.m. until 4:00 p.m. the workshop on protecting coastal resources and we have worked out an agenda with the Chair and I think it will be very educational for this body.

Mr. Starr: Okay, and just to add a little bit on that Jim Buika's been working on that and Sea Grant will be coming. Sea Grant has been under contract with the County to update the erosion maps and also to do a blue line study which is a projection of where the likely inundation areas from sea level rise and I believe they're going to have the Kihei portion of that and the program on how they're working that out. We'll have ICAP and Richardson School of Law and people from the state presenting on reef health and about regulatory structure so it's really going to be a great opportunity to discuss our coastal resources. Just to mention we, you know, when we have a short agenda like today or we do educational programs we're not putting current items on the back burner, we are up to speed with those current items that are ready for us to hear. So it becomes a good time for us to do a special program in the afternoon or to finish early like today. Anyway anyone have any comments questions on that? Yeah, Commissioner Wakida. Oh, I'm sorry. Okay, anyway it should be a great meeting and tell your friends if they want to learn about this stuff.

I want to talk about the following meeting which is better. The – you want to – I know I've had a number of requests from people in the communities especially people who are involved in development, construction and ...(inaudible)... architects who want to get a better understanding of what the different entitlement processes and permit processes are and to have them have an opportunity to come and testify about that and it's not really an area where we have a deciding role in changing that process whereas with the shoreline stuff we do. We are the final authority we make the SMA rules. As far as entitlements go that's really Council issues so I don't think we can end it with any kind of definitive action but we are looking forward to an opportunity to go through this and hear the public as well as the DSA and the department and also there's been –Mayor's Office has put forth a task force on trying to stream line permit processes and they'll presenting and that will be on the afternoon of August 12<sup>th</sup>. Anyone who has any other additional ideas or what to get involved in planning that is welcome to let me know or let Ann or Clayton know.

**3. EA/EIS Report**

**4. SMA Minor Permit Report**

## 5. SMA Exemptions Report

Ms. Cua: I believe your last matter is your SMA permit report and exemptions. We did pass out a July 12<sup>th</sup> correspondence from Clayton indicating or responding to some of the questions you had at your last meeting and one thing I did want to point out that we noticed with some of these reports that get generated that may have some blanks missing. Some of these get generated at the Planning Department level. Some actually get generated at the building permit level where the information with the permit tracking system, the KIVA permit tracking system, we can just copy it on over to our permits that we're using and so we are going to need to have some dialogue with DSA about these reports that gets generated and the inputting of information both from our department and their department to make these a little bit more complete.

Mr. Starr: I just want to comment that looking at the one, the one we received for this meeting it is more complete and to the point where I didn't feel a need to get anything further explained.

Ms. Cua: We're trying. It is going to be a little work in progress because it's more than our department involved.

Mr. Starr: Well thank you for that. Commissioner Mardfin.

Mr. Mardfin: I'd like to ask a couple of questions.

Mr. Starr: Sure go ahead.

Mr. Mardfin: On page 1 of 1 under SMA exempt, you had the Jeffree Trudeau revoked SMA. ...(inaudible)... today. You have the one before that was Louis Subdivision revoked. Was that a similar kind of a situation?

Ms. Cua: I'm not sure. Clayton do you know? Sky Louis.

Mr. Mardfin: It's a revoked SMA exempt. I'm assuming it's the same kind of an issue.

Ms. Cua: It's on the SMA exemption page 1 of 1. Next page, there you go.

Mr. Mardfin: First one at the top.

Mr. Yoshida: This is the –

Ms. Cua: Sky Louis. The question is –

Mr. Mardfin: They had been given an SMA exempt it appears and then it got revoked. The second one we know because that's one we –

Mr. Yoshida: Yeah, it's the same circumstances as the Jeffree Trudeau where through the subdivision review process it was discovered that there are associated construction so therefore exemption was revoked.

Mr. Mardfin: Thank you very much.

Mr. Starr: So in other words, it became a development because there was actual –

Mr. Yoshida: That's correct.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Ann on Open SMA Assessments it's about five pages in, four sheets of paper in, the first one is Hana Beachfront Association.

Mr. Starr: What page number?

Mr. Mardfin: One of eight. The first one is Hana Beachfront I thought that was going to be removed? Is that just that they haven't had time to remove it yet?

Mr. Yoshida: Yeah, it will be removed.

Mr. Mardfin: And that also happens to the one about two-thirds of the way down on page two of eight?

Mr. Yoshida: That's correct.

Mr. Starr: Okay, anyone got anything else on this? Okay, I just – Commissioner Shibuya.

Mr. Shibuya: I just wanted to get some clarification or understanding what this is on the very first page PD Approved SMA Minor projects this is Loc Truong residential, building storage room. Is this for a ohana, business, commercial? For another vehicle?

Mr. Starr: Mr. Yoshida or Ms. Cua do you know or do we need to take that as a?

Mr. Yoshida: Yeah, we can probably provide a report at the next meeting.

Ms. Cua: I'm assuming it a residential storage because it does say residential and it's a storage room but we can clarify that.

Mr. Shibuya: I just wanted to be sure that we're not doing a production of some crafts or other things which would be okay but then the residential designation would be different then right?

Ms. Cua: Yeah, that's why I'm just assuming it's somebody's adding a storage to their residence.

Mr. Starr: Okay, we'll get the report on that. Commissioner Mardfin.

Mr. Mardfin: My last one on page 7 of 8 it's the last sheet of paper but the fourth from the bottom it say Front Street County of Maui, a verbal report of what they're doing is fine I don't need anything further than that. Happen to know offhand what they're asking for?

Mr. Yoshida: We can report a report at the next meeting.

Mr. Mardfin: An oral report is fine. I don't need a –

Mr. Starr: I think it's easier for them to give it to us in writing than make the planner come sit through the meeting. Just to reiterate what this is about. It took me about three to four years to figure it out. These things we get these at every meeting and they're really important because we're the final authority on shoreline issues by the Charter and those items that are given – that the director feels should be a minor an exempt or on the list of SMAs when it comes before us on the list we have a certain period of time to either raise a comment at which point we can ask questions and understand it or if we don't we lose the opportunity to question that exemption or the SMA minor ruling is approved and it's kind of like water that flows under the bridge, it won't be on the next list. So if there's something that you're concerned about or don't understand it's good to ask a question and then if there's a concern we can discuss it, if not it's out of our scrutiny, we've kind of made the statement that it's okay. Yeah Commissioner Mardfin.

Mr. Mardfin: I did find one more, on page five of eight, about a third of the way down it says Baldwin Beach Kapukauula Parks and Rec, that doesn't tell me a whole lot of information there.

Mr. Yoshida: We can provide more information at the next meeting.

Mr. Starr: Okay.

Mr. Shibuya: I have another one. Last section page seven of eight about two-thirds down it's talking about columbarium is this related with the destruction of a columbarium in Lahaina along the shoreline and now you're going to put something up?

Mr. Starr: Which one?

Mr. Shibuya: Page seven of eight, and there's a word says permit name, columbarium. I have no objections to columbarium but I just wanted to know.

Mr. Starr: What does that mean columbarium excuse me.

Mr. Shibuya: That's where they deposit remains of deceased.

Mr. Starr: Okay so you want info on it.

Mr. Shibuya: Yeah.

Mr. Starr: Okay.

Mr. Shibuya: I think that's the way to go.

Mr. Starr: Okay, any more.

Mr. Shibuya: Just a question I noticed throughout here we have swimming pool, spa, pool with spa, spa and pool going throughout the whole thing. What's the difference? Is it whoever gets it and that's the title they use? Okay, thanks.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Just curious, swimming pool/spa why is that part of the SMA process if it's below ground?

Ms. Cua: Well, as long as something is within the special management area it has to go through an assessment and from there we determine whether it can be an exemption or a minor permit or it has to be bumped up to a major, but anything, even clearing or grubbing they have to file an assessment.

Mr. Hiranaga: Mailbox?

Ms. Cua: Well technically if somebody submits, but –

Mr. Starr: Okay. Thank you. We're pau, meeting is adjourned. Good job everyone.

**H. NEXT MEETING DATE: JULY 27, 2010**

**I. ADJOURNMENT**

The meeting was adjourned at 11:28 a.m.

Submitted by,

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

**RECORD OF ATTENDANCE**

**Present**

Jonathan Starr, Chairperson  
Donna Domingo  
Jack Freitas (in attendance at 10:00 a.m.)  
Kent Hiranaga  
Ward Mardfin  
Lori Sablas  
Warren Shibuya  
Orlando Tagorda  
Penny Wakida

**Others**

Ann Cua, Planning Department  
Clayton Yoshida, Planning Department  
James Giroux, Department of the Corporation Counsel  
Mike Miyamoto, Department of Public Works