

**MAUI PLANNING COMMISSION
REGULAR MINUTES
AUGUST 10, 2010**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Jonathan Starr at approximately 9:03 a.m., Tuesday, August 10, 2010, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Starr: Welcome to the August 10, 2010 meeting of the Maui Planning Commission. Like to welcome everyone. We have with us our good commissioners, Commissioner Kent Hiranaga, Commissioner Jack Freitas, Commissioner Orlando Tagorda, Vice Chair Commissioner Ward Mardfin. Michael Hopper Deputy Corporation Counsel who is here today representing the commission. I'm Jonathan Starr. I'm the Chair. We have Deputy Director Ann Cua. We have Commissioner Donna Domingo, Commissioner Warren Shibuya and Commissioner Penny Wakida. Welcome everyone. We also have our secretary for the commission, Carolyn Takayama-Corden who is invaluable to our work. We have Mike Miyamoto, Deputy Director of Public Works who we're really happy comes and staffs the meeting and keeps us up to date with Public Works. We have Clayton Yoshida who administers the Current Division and also he really sets the agenda and a lot of our schedules and he really has been invaluable as well. We have Kathleen Aoki, the Director of Planning and a number of our Planning staff are here as well without my glasses, I see Danny Dias, Paul Fasi, Jim Buika and some others, I apologize if I missed anyone. Also, Commissioner Lori Sablas is here.

Quick couple of notes on the agenda today. It is a full agenda and I was actually kicking myself for not having cut it down shorter because it seemed too much, but there's one item that looks like is going to have to be deferred. So we will probably move that up after our public testimony, that's the Maui Memorial Park. Had a request to pull that off because some other agencies, I believe the Burial Council did their site inspection.

And also, we're also going to look to move up the item, what is it, 5, 6, 7 from the Director's Report which are the EIS and the SMA Exemptions simply so that if commissioners have any questions we can ask them at the beginning of the meeting and then we can get back to it at the end and in all likelihood have an answer by that time.

One other item is that we committed item G, a settlement agreement to take that up immediately after lunch at 1:00 p.m. because that party sat through a whole meeting last time and then the item had to be deferred so we gave them a time certain for that.

So before we begin any items, the public is welcome to testify on any items that will be on our agenda before us. They can testify either at the beginning of the meeting before any items are taken up which is now or during the discussion of that item before action is taken. So we ask them to testify once, we ask them to keep testimony as short as possible, three minutes maximum and with that in mind we welcome any member of the public who wishes to testify to make yourself known and please come up and testify. Anyone interested? Yes please come up, introduce yourself and welcome, thank you for coming.

The following individuals testified at the beginning of the meeting:

Theresa Wright - Item B-1, HRT Limited, Final EA, Maui Lani Shopping Center
Kaneloa Kamanu - Item B-1, HRT Limited, Final EA, Maui Lani Shopping Center
Stephanie Ohigashi - Item B-1, HRT Limited, Final EA, Maui Lani Shopping Center
Johanna Kanamu - Item B-1, HRT Limited, Final EA, Maui Lani Shopping Center

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

Mr. Starr: Other members of the public wishing to testify on any agenda item please make yourself known. Not seeing any, the initial public testimony portion of the meeting is closed. The Chair will entertain a motion to move Item No. C-2 up on our agenda, this is an item that will probably need to be deferred and that will allow us to free up staff.

Mr. Mardfin: I move we move Item C-2 on Maui Memorial Park up to the head of the agenda.

Mr. Starr: Second?

Ms. Domingo: Second.

Mr. Starr: Okay, moved by Commissioner Mardfin, seconded by Commissioner Domingo to move up Item C-2. All in favor please raise your hand. All opposed.

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

**VOTED: To Move Item C-2 Up on the Agenda.
(Assenting - W. Mardfin, D. Domingo, K. Hiranaga, J. Freitas,
O. Tagorda, W. Shibuya, L. Sablas, P. Wakida)**

Ms. Cua: Motion passes unanimously.

Mr. Starr: Okay, Deputy Cua.

C. UNFINISHED BUSINESS

- 2. MAUI MEMORIAL PARK, LLC requesting a County Special Use Permit and County Accessory Use Permit in order to expand the existing Maui Memorial Park on 10.936 acres of land in the County Agricultural District and the M-1 Light Industrial District at Waiinu Road, TMK: 3-8-046: 043, Wailuku, Island of Maui. (CUP 2010/0003) (ACC 2010/0001) (P. Fasi) (Public hearing was conducted on May 11, 2010 and scheduled for the June 8, 2010 meeting.)**

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

Ms. Cua: The item before you that we're asking deferral on is the Maui Memorial Park application requesting a County Special Use Permit and a County Accessory Use Permit. As the commission

is aware the Burial Council did a site visit, we attended that site visit and we are awaiting a letter from the Burial Council on this matter and once we get that letter we would like to place this back on the agenda for you to continue your deliberations on these applications. So at this point in time we do not have that letter so we would like to ask your approval of a deferral on this matter.

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

Mr. Mardfin: I support the deferral. This sounds similar to what we just heard a minute ago that people think there are deficiencies in some reports and waiting for things sometimes a deferral is appropriate action.

Ms. Cua: We actually see it very differently with regard to this matter. We were requesting – well there was going to be a site visit conducted by the Burial Council and we felt in respect of their work and the necessity for you to get that information we wanted that to occur first. That has occurred, we did attend, it went very well, but we would like a formal letter from the Burial Council that you can have to use in your deliberations in moving forward.

Mr. Starr: Okay, members the department has asked for a deferral on this. Commissioner Mardfin.

Mr. Mardfin: I move to defer.

Ms. Domingo: Second.

Mr. Shibuya: Second.

Mr. Starr: Okay, move by Commissioner Mardfin, seconded by Commissioner Domingo to defer. The item will be put back on the agenda as soon as the paperwork requested is in the hands of the department. Ready to vote? Commissioner Shibuya.

Mr. Shibuya: I was just wanting to ask when's the most appropriate time or most probably time that we could have this deferred to?

Ms. Cua: It's probably going to be in the month of September. If we can get it on the first meeting, we'd like to do so, but it's all dependent on when we get that the letter from the Burial Council.

Mr. Shibuya: Thank you.

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

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

**VOTED: To Defer the Matter Until the Letter from the Maui/Lanai Burial Council is Received.
(Assenting - W. Mardfin, D. Domingo, K. Hiranaga, J. Freitas,
O. Tagorda, W. Shibuya, L. Sablas, P. Wakida)**

Ms. Cua: Motion passes unanimously.

Mr. Starr: Okay, so that item is deferred. We'll come back to it. One other thing I'd like to move up, we're going to change the way we put it on our agenda from the next meeting but Items 5, 6, 7, the EA/EIS Report, I think it's G-5, 6, 7, SMA Minor Report, SMA Exemption Report, if the body is willing I'd like to move that up so people can ask questions now and then when we get – we don't do any follow through on it until later in the meeting when the department will have the answers. That will save them from having to write a written report unless it's specifically requested. Commissioner Mardfin.

Mr. Mardfin: I move we move Items 5, 6 and 7 to this point of our agenda.

Ms. Domingo: Second.

Mr. Starr: Okay moved by Commissioner Mardfin, seconded by Commissioner Domingo to move those items up. Commissioner Hiranaga.

Mr. Hiranaga: I'm wondering if a more effective process might be to encourage commissioners to email their requests prior to the meeting since they do receive the report approximately a week before the meeting. Give more time for staff to respond.

Mr. Starr: I would agree that that's preferable if commissioners do it, but since it is on the agenda commissioners have the ability to bring it up at any time, but it would be preferable and we should try to do it. Commissioner Wakida.

Ms. Wakida: If that's agreeable to whom do we email the questions specifically?

Ms. Cua: Probably to your secretary, to Carolyn and then she can make sure she gets the information to us.

Ms. Wakida: Thank you.

Mr. Starr: Members all in favor of moving these up please raise your hand. All opposed.

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

**VOTED: To Move Items G-5, 6 and 7 Up on the Agenda.
(Assenting - W. Mardfin, D. Domingo, K. Hiranaga, J. Freitas,
O. Tagorda, W. Shibuya, L. Sablas, P. Wakida)**

Ms. Cua: Motion passes unanimously.

Mr. Starr: Deputy Director Cua.

G. DIRECTOR'S REPORT

5. **EA/EIS Report**
6. **SMA Minor Permit Report**
7. **SMA Exemptions Report**

Ms. Cua: So what we've been trying to do on these reports is we have been trying to go through them before we give them to you, and we've talked to you before about how the information gets put in. It doesn't only get put in by the Planning Department, it gets put in sometimes through the building permit process and so, you know, we are working with Public Works on that. But for now, we're trying to do the best we can to get it as complete as possible before we have to get this out to you and we appreciate you being able to take this up early in the agenda. We will from the next meeting move it up so that we don't have to go and take it out of order. But it allows us the entire day to be able to research any questions you have and bring our answers to you by the end of the meeting so we can hopefully pass this report out at the end of the day.

Mr. Starr: Okay, we have our reports, EA/EIS Report, our Minor Permit and our Exemptions Report. I'd like to take them as a body, you know, if anyone has any questions or concerns on any of these please bring them up now. Commissioner Mardfin.

Mr. Mardfin: On the yellow PD Open Permits in Shoreline, the third one down is Honoapiilani Highway shoreline improvement by the State. If Jeffrey or somebody can tell us sort of what's going on there.

Mr. Starr: Okay next. Commissioner Wakida.

Ms. Wakida: On 6 about a third of the way down on the Open SMA, Shaw Street sidewalk. I know there was a sidewalk that was put in already halfway down that street and I just would like to – ends in 206 on page 6, I'd just like to know if that's built, the sidewalk is completed or is that another additional sidewalk going in?

Ms. Cua: We'll check.

Mr. Starr: Okay, they'll check on that. Members any additional? Commissioner Mardfin.

Mr. Mardfin: I have two and they just appeared so I don't think there's a time problem, but on page 7 of 8, there are two items, this is page 7 of 8 of the PD Open. One is about half way down it's Maui Electric Company installation of poles and anchors in Hana. This is right by Haneoo Highway, Haneoo Road and it's owned by Hana Ranch Partners, so it's Maui Electric that put in the application I guess. The second one is the last one on that same page and it's install 35-foot wood pole. Now I don't know why putting in a pole requires a permit but unless that's a pole house, but it raised my concern. It's right by Ulaino Road. Thank you.

Ms. Cua: On that one the applicant, Greg Kauai is actually I believe from Maui Electric and wood poles do require or poles in general if they're not within an existing right of way do require an SMA Assessment.

Mr. Mardfin: So that 35-foot pole is a telephone pole or electric pole.

Ms. Cua: Believe it's an electric pole but we'll get back to you.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: On page 4 of 8, there's two items they're right next to each other, 90368, 90379, one is The Great Pulehu Challenge, I'm challenged by that, so I'd like to find out about that and the other one is a Hana subdivision, more curious than anything.

Mr. Starr: Okay. I was just curious about where the location on the SMA Minor is on a Johnson subdivision divide property into three lots. Just mostly curious where that is. That's on the Minor page. And then also, on the Exempt, the current exemption page, construction of a single story residence, curious where the residence is whether it's on a shoreline and then the Maui Land and Pineapple subdivision in Honokohua. That's it for me. Anyone else, any more? Okay, good enough lets move along, we'll come back to this at the end of the meeting.

And we're going to ask Mr. Clayton Yoshida to come up here and introduce the next item. Ms. Cua is the planner on it so we're doing a audible. Mr. Yoshida.

Mr. Yoshida: Good morning Mr. Chairman, Members of the Commission, the first item under New Business is a request from HRT Limited, a subsidiary corporation of the Harry and Jeanette Weinberg Foundation for an Environmental Assessment Determination on the Final Environmental Assessment prepared in support of the Phase 2 Project District application for the proposed Maui Lani Shopping Center approximately 105,000 square feet consisting of a food market, retail and service shops, office space, restaurants, 569 parking stalls and related improvements on approximately 12.926 acres of land located at the corner of Maui Lani Parkway and Kaahumanu Avenue, TMK 3-8-007: 121, Wailuku, Island of Maui. The staff planner or the staff handling this is our Deputy Director, Ann Cua.

Mr. Starr: Before Ms. Cua begins I was just going to ask our Corp. Counsel, Mr. Hopper to explain one time the process regarding EAs and our approval or whether there, you know, if there may be impacts what would happen if we don't feel that all the impacts are taken care of. Mr. Hopper.

Mr. Michael Hopper: Thank you Mr. Chair. There are several of these on your agenda today and basically your duty is to review the environmental assessment. You are the accepting authority in this case and the law on this is in HRS 343, basically it states that, "a statement shall be required if the agency finds that the proposed action may have a significant effect on the environment." That's basically what your duty is to do here is to review the environmental assessment and determine whether or not based on the facts set forth in the environmental assessment show that there will – that you can make a finding there will be no significant environmental impact based on the facts disclosed here or in the alternative if you do find that there may be a significant effect on the environment based on the facts disclosed here based on the impact of the project then you can make a determination that an Environmental Impact Statement rather than just this environmental assessment would be required. That's a more extensive document and it is within your jurisdiction on this and on the next agenda item to determine whether or not if you do find the project may have

that significant effect you can make a determination that an Environmental Impact Statement needs to be done which is a more extensive document.

Purpose of these two items today are not to approve or disapprove of the project. It's to determine whether or not the environmental assessment a) adequately discloses the environmental impacts as required by an environmental assessment; and b) whether when those disclosures are made whether or not there may be a significant effect on the environment. Again, you're not approving the project, that would be at a future date. You're just determining whether or not there's an adequate disclosure document and based on that disclosure whether or not there may be a significant impact. So you could make a determination which is called a FONSI, a Finding of No Significant Impact on both of these environmental assessments or make a determination that you believe that it may and require an Environmental Impact Statement.

Mr. Starr: Thank you Mr. Hopper. Ms. Cua, and I apologize stealing it from you.

B. NEW BUSINESS

- 1. HRT LIMITED, a subsidiary corporation of the HARRY AND JEANETTE WEINBERG FOUNDATION requesting an Environmental Assessment determination on the Final Environmental Assessment prepared in support of the Phase II Project District Approval application for the proposed Maui Lani Shopping Center of approximately 105,000 square feet, consisting of a food market, retail and service shops, office space, restaurants, 569 parking stalls and related improvements on approximately 12.926 acres of land located at the corner of Maui Lani Parkway and Kaahumanu Avenue, TMK: 3-8-007: 121, Wailuku, Island of Maui. (EA 2010/0001) (A. Cua) (Draft EA reviewed on May 11, 2010.)**

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

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

Ms. Cua: Well, it's okay. So the final EA that's before us today was prepared by Munekiyo and Hiraga on behalf of the applicant, HRT Limited. And we distributed this document to you on July 27th at your meeting. The final EA includes all agency comments and applicant responses received during the 30-day public review period. We do want to mention that we did review the draft Environmental Assessment on May 11, 2010. We prepared a letter on your behalf and the applicant is going to be going through those comments today and addressing them for you.

The department did receive a few things that I wanted to go through. We received two letters. One from Clifford Beppu dated August 4, 2010 supporting the project and that's been copied for you. In addition, this morning I received a letter from Edward and Marie Nishihara again indicating that they are 64-year residents of Nakoa Drive in the Sandhills Subdivision and expressing their support

on the project.

Also, you have before you a –

Mr. Starr: Excuse me Ms. Cua, do we have that second letter?

Ms. Cua: I passed it out.

Mr. Starr: Does everyone have this one?

Ms. Cua: Dated – actually it's not dated but it's time stamped by the department it's actually as of yesterday. I got it on my desk this morning.

And the final piece of information is a memo from Munekiyo and Hiraga dated August 9th and it is basically the applicant's response to your comments and they're going to be going over that in detail with you. They just wanted you to have a hard copy of it as they take you through it.

As your Corp. Counsel mentioned to you, you do have several alternatives today. One is to accept the final environmental assessment document and issue a Finding of No Significant Impact. You can defer the final environmental assessment or you can bump it up and request that the preparation of an Environmental Impact Statement be done. So with that, I would like to turn it over to the applicant to take you through a presentation and then I'll come back to give you the department's recommendation.

Mr. Starr: About how long will that presentation last?

Ms. Cua: Approximately 10 minutes.

Mr. Starr: That's perfect.

Mr. Mike Munekiyo: Good morning Mr. Chair, Members of the Commission. My name is Mike Munekiyo. We assisted or we actually assisted in preparing the draft and final EA. What I'd like to do this morning if it's okay, give a brief bit of background information to kind of get everybody caught up on where we are and then go through the comments that we received from the commission based on your comments offered on the May 11th meeting.

So let me just begin by again refreshing the commissioners information that the project site is located along Kaahumanu Avenue. Kaahumanu Avenue here, Baldwin High School here, Maui Lani Parkway here and the Kaiser Permanente medical facility here, so right along Kaahumanu Avenue is where the project location sits.

Just a couple photos to give you an indication of existing conditions look like. This is a photo taken from the northern side of the project site looking site. This is the new Sandhills Estates subdivision here. West Maui Mountains on the right. The historic Sandhills neighborhood borders the property on the right as well. This is another photo just looking east, Haleakala in the background. Kaiser Permanente here, Maui Memorial here, Liberty Dialysis facility here and so again, just kind of a

overview of the project site as it stands today.

Real quickly the project area is about 12.9 acres. The project elements would include a food market, Safeway specifically, sub major tenant, retail and service shops and office spaces and restaurants. A total retail area approximately 105,000 square feet. Safeway would occupy about 57,000 square feet of that total and about 569 parking stalls would be provided.

This is a site plan and I thought maybe I can just go through the highlights or key elements of the site plan and it relates to the comments that we received from the commission at your May 11th meeting. Again, importantly this is Kainani Street here, Kaahumanu Avenue here, Maui Lani Parkway here, the Kaiser facility here, as mentioned earlier in testimony there will be access or ingress or egress from Kainani Street. There will be a right turn in, from Kaahumanu Avenue here.

There will be an auxiliary along Kaahumanu between Kainani and Maui Lani Parkway here. And that auxiliary lane just so that maybe the commissioners can picture it better is like that between Mahalani Street and Papa Avenue heading east on Kaahumanu where if you turn right from Mahalani Street onto Kaahumanu there's a lane that takes you all the way through to Papa Avenue without – if you were headed right on Papa Avenue you really don't need to change lanes. So that really is the function of the auxiliary lane here.

And perhaps because it is a comment that was raised this is the bulb out and I'll explain it here rather than in the response section. But this bulb out was originally – that intersection was originally proposed without a bulb out, in other words traffic would turn right along the auxiliary lane and head east. However, DOT recommended that the bulb out be included because their concern is that the traffic –without that bulb out you have traffic exiting the auxiliary lane trying to merge left, at the same you may have traffic heading east trying to merge right to enter the shopping center and that weaving pattern has been an area of concern for the DOT and so by virtue of having that weaving – in order to address that weaving concern that bulb out was installed. So just again that's background information.

We provide a new buffer area, 72 to about 120-foot buffer area here. The distance between the store now and the property lines of the neighboring residents is about 280 feet and I mentioned that the project site, project square footage is about 105,000 that's been reduced from the previously proposed 130,000 square feet.

Just one example of the architectural character of the site, the intent is to blend and integrate the architectural character with the adjoining Kaiser, Liberty Dialysis facilities so that that area would have somewhat integrated architectural presentation.

Real briefly the Project District Phase 2 application was filed in August of 2005, this commission deferred action on that Phase 2 Approval on July 10, 2007 and that deferral was based on the need to prepare a 343 Environmental Assessment. On April 23, 2010, the draft EA was published and on May 11th, the commissioners provided comments on the draft EA.

We've had a number of community meetings over the course of time. These are the four formal meetings we've had with the community in a public information format. We've also had a number

of meetings with individuals. We've also had four separate meetings with the Department of Education and Baldwin High School Administration. So we've tried as much as possible to keep our neighbors apprized of how we've progressed through the site evolution process.

So if I may commissioners real quickly run through how it is that we've addressed your comments. Twelve comments were offered at the last commission meeting. We did prepare a response by latter dated July 22nd and I believe you have that in your packets.

The first comment, "discuss alternatives to the proposed bulb out at the intersection of Kainani Street and Kaahumanu Avenue." And as I explained that, a regular curb return was originally proposed together with a auxiliary lane but due to weaving concerns expressed DOT they recommended that that bulb out be provided as a traffic safety measure.

Second comment, "examine possibilities for safe bicycle and pedestrian access to the project from Wailuku Town through the bridge." We did look at access opportunities currently available. There is a pedestrian walkway heading east on Kaahumanu Avenue on the south side of the highway, that's mauka of that bridge overpass, as you – if you are a pedestrian you would continue up the side ramp, cross the bridge to the south side and there is a sidewalk heading down Kaahumanu Avenue on the south side of the highway all the way down to Kahului. What we are proposing is that we would provide a new sidewalk on the Kaahumanu on the shopping center side, on the Kaahumanu Shopping Center side from Kainani Street to Maui Lani Parkway. So effectively along Kaahumanu Avenue between Kainani Street and Maui Lani Parkway there would be sidewalks on both sides. There is a bicycle route right now provided on both sides as well. So that geometric configuration will continue for bicyclists.

Number three, "review alternative mechanisms for eastbound deceleration and acceleration lanes along Kaahumanu Avenue between the intersections with Kainani Street and Maui Lani Parkway." Right now there is an acceleration lane. If you exit Kainani Street turning east there is an acceleration lane. As you continue down Kaahumanu Avenue there's a deceleration lane turning right onto Maui Lani Parkway. This acceleration – these acceleration lanes on the eastbound side of Kaahumanu Avenue would be replaced by the auxiliary lane that I had mentioned earlier. So again, still providing for early smooth transitioning of traffic wishing to merge left eastbound on Kaahumanu Avenue.

Number four, "that mitigative measures be considered to address problems at Baldwin High School from vehicles turning into the school from Kaahumanu Avenue." We have met as I mentioned with the Baldwin High School administration on a number of occasions. The concern really is how do we facilitate traffic movement within the campus because as we all know morning time traffic does back up and so what HRT has agreed to, and by the way what they have done is actually done a study, internal circulation study at Baldwin High School and what they've agreed to is look at ways to improve access within the campus itself. And this could include improvements which would extend the curb space for loading and unloading, improving – doing other geometric improvements within the parking lot to improve circulation and of course with all of that making sure that students can get from that entry to the classrooms in a safe way via a safe pedestrian access. So that process is in process but it is a commitment of HRT to work with the school administration to provide these improvements internal to the campus.

Number five, “discuss additional noise measures for mitigative measures for noise impacts with Sandhills neighborhood.” There is a six-foot high sound wall being provided along the boundary on the western boundary of the project site. That has provided mitigative measures and of course, as noted we have included a number of operational measures such as enclosing all of the mechanical equipment, enclosing the loading/unloading zone associated with the center and moving of the trash receptacles away from the residential area. All of these, we had our noise consultant relook at the calculations and recalculate noise impacts at the park property line and based on these measures we have found that the impacts to noise will be mitigated fully so we’re quite pleased that that result was able to be addressed.

Number six, “incorporate transit, pedestrian and bicycle movements into the project’s traffic analysis.” I spoke to this a little bit earlier but I also wanted to add that there will be – the applicant will be providing two new bus shelters along Maui Lani Parkway for convenience of bus, Maui Bus users. There are bus stops there right now but there are no shelters and again there will be a bicycle route along Kaahumanu Avenue. I think one of the comments which may have been raised at the last meeting is whether or not a walkway, a set of stairs could be provided from Kainani Street to the shopping center. This is will be considered and I say considered because what we need to do during the design process is to insure that if we do provide stairway access from Kainani directly into the shopping center at that corner, at the northwest corner that we are also able to adequately address ADA requirements as well. In other words, if there is going to be an ADA it would be quite a design challenge to put in a ramp based on the grade differentials of 20 plus feet and we’re probably looking at a ramp of several hundred feet to make that ADA compliant. And so if the stairs can be provided and it is considered that access, pedestrian – ADA access along Kaahumanu Avenue sidewalk is appropriate then certainly the applicant will put in that stairwell set at the corner.

Number seven, “discuss energy and water conservation efficiencies and renewable energy measures.” We have a number of measures that we have listed here. I also want to point out that we do have a architect who can further elaborate on some of the sustainability measures that he’s included in his design as well.

Number eight, “examine hours of operation based on community input.” Safeway does propose to be a 24-hour operation. I think some of the concerns that were raised regarding 24-hour operations relates to perhaps nuisance noise generation associated with loitering in the parking lot. We’ve looked at actual records from the Kihei, Lahaina and Kahului stores and on average between the hours of 12:00 a.m. and 5:00 a.m. there’s a relatively low customer volume in those five-hour span roughly 50 to 70 customers would visit the store, but the store would like to remain open for convenience of late night shoppers at the same time they’ll do their restocking and clean up and so forth. Also, we would implement security measures to prevent loitering in the parking lot just as an added measure of avoiding nuisance effects associated with the nighttime operation and again, only Safeway would be that 24-hour store operation.

“Examining and screening of view plains from the project site to Kaahumanu Avenue.” This was a comment received by the commission. In our packet we do have a landscape screening and treatment plan which has been presented so you can take a look at that plan as prepared by our landscape architect who’s here this morning as well.

“Further address in the DEA relating to, address sections relating to scenic vistas in the vicinity of the project site.” I believe the comment on this related to the fact that we had used the term, made reference to the term that the project site is not within a scenic corridor. We deleted that reference and we will describe the view impacts more in terms of the technical parameters, the finished floor elevation of the buildings, the height differentials between adjoining neighbors and looked at the view impact from that standpoint. So we hope that that type of revisions to the document is acceptable to the commission.

Can't seem to get the next slide – so let me just describe the last two items in your comments.

“Discuss noise decibel levels at the property boundary.” I spoke about that earlier and again, we've conducted our noise analysis and again, with the noise attenuating wall, six-foot high attenuating wall plus the operational measures that we've implemented we believe that we've been able to fully mitigate noise impacts from the project.

And finally, “discuss control and management of intersection plans relative to traffic light synchronization on Kaahumanu Avenue.” We do have our traffic engineer here. Basically what he's reported is that the traffic signals along Kaahumanu Avenue operate on three times of day plans. And that depends on the peak hours and the other peak hours of traffic during the course of the day and these timing plans which run over the course of the day are designed to optimize of course, flow of traffic during commuter peak hours.

Real briefly commissioners, this action as has been described is for your determination on the final EA. Of course we still need to come back to the commission for action on approval on the Project District Phase 2 action and so with that I'll conclude our presentation and again, we do have our project team available to answer any questions which the commissioners may have.

Mr. Starr: Thank you very much Mr. Munekiyo. Could you identify who you have in terms of resources and have them stand up?

Mr. Munekiyo: We have our project archaeologist, Lisa Rotunno- Hazuka. We have our cultural specialist Kimoqueo Kapahulehua. We do have our traffic engineer, Philip Matsunaga, our landscape architect Russell Gushi, our project design architect, Mr. Benner, there's too many names ...(inaudible)... Jeff Benner. So we do have a compliment of resources. We also have a representative of HRT, Lloyd Sueda and our civil engineering representative, Darren Unemori.

Mr. Starr: Okay, thank you. Members who'd like to begin? Commissioner Shibuya.

Mr. Shibuya: Just a simple one, I have written down on previous notes that the parking stalls and I know you changed the plans quite a bit was less than 569 parking stalls. Is that 569 the current and the latest number of stalls that you have?

Mr. Munekiyo: Yes it is.

Mr. Shibuya: It is and it hasn't changed any less than that?

Mr. Munekiyo: Has not been reduced, no.

Mr. Shibuya: Because I do have 300 something. This question is more for the Planning Department, I notice on here the date is June 22nd, the time stamp August 9th, but there's also another stamp of June 25th. I'm curious why the commissioners did not get this document because I was looking for something like this. I was trying to remember and looking through my notes and the questions and trying to flip through and see if these were addressed and they were not and this would have saved me a lot of time and appreciate you know, the Planning Department when you do get the data share it with us right a way because it will save me my personal time in trying to flip through and look through my notes and see whether we covered it or not.

Mr. Starr: Ms. Cua. You know, I also felt that you know, commission members didn't really have much time to examine the documentation. I'm wondering how we can do better in the future. I don't want to look back but how can we improve this?

Ms. Cua: And just so I understand. You're speaking of the letter that the department writes on the commission's behalf? The letter dated June 22nd? Is that what you're speaking of?

Mr. Shibuya: The one that was placed on our table this morning and this is a whole packet in which Mr. Munekiyo went through and identified responses to the various comments because those comments are actually my notes and I was looking at my notes but my notes is only the question, I wanted to know the answers.

Ms. Cua: The document – okay, there's a couple things going on and I'll explain, the final Environmental Assessment document that you received which I mentioned that you received at your last meeting so that's two weeks prior to today contained both the letter that we wrote on your behalf as well as the applicant's response. We may be confusing things, but the applicant was trying to make it easier for you rather than having you flip in your document to whether their response letter was and our letter, they took the time to make a separate copy for you to put it right in front of you. That was – this was an attempt to just try and make it easier. But if this were not here today, if this were not passed out to you today, their response and our letter was in the document that you received on the 27th? Does that help?

Mr. Shibuya: No. This one was actually much better. Thank you very much Mr. Munekiyo for this copy.

Mr. Starr: Yeah, I think what – you know, it's good to have a summary that actually gives the comment and the response and if there's a mechanism we can do that regularly and have it earlier I think that's what Commissioner Shibuya was getting at. Members questions, concerns on the document? Commissioner Wakida.

Ms. Wakida: Yes, first of all, I had a little trouble with Part 2 wherever it is, because some of the graphs are upside down hard to study them and they're tiny, but my question is on lighting. In here you say that you're going to keep the top of the light pole below ground level of adjacent residences and then it says go to Figure 9. Now Figure 9 is in like micro lettering here, and I really couldn't read – I can figure out where the grade ...(inaudible - not speaking into microphone)... help me out.

Mr. Munekiyo: Yeah, I apologize for the small type here but just to give reference for that figure. This is the western boundary of the shopping center here and so this elevation here is where the houses which border the project on the west sit in terms of elevations.

Ms. Wakida: That would be on the bottom part of that little map in the ...(inaudible)...

Mr. Munekiyo: Right here. This will be right here. So at this location this is what the grade difference would be and so when you carry the view lines across straight ahead from that point, the top of the buildings are actually below the elevation of the adjoining grades just because there's such a great, steep grade difference there. And so basically here's the top of the roof line.

Ms. Wakida: Where's 25 feet?

Mr. Munekiyo: twenty-five feet is, Darren you can correct me, but I think from this grade here to this point here, that's the grade difference. Mr. Chair, may I ask our civil to reclarify?

Mr. Starr: Yeah, please introduce yourself Darren.

Mr. Darren Unemori: Good morning, I'm Darren Unemori, the project civil engineer.

Mr. Starr: And you need to use the mike.

Mr. Unemori: The project site there's approximately a 60-foot vertical elevation difference between Maui Lani Parkway and the mauka end of the shopping center which abuts the Sandhills residents here. The elevation here at the adjoining house lots is about elevation of 190. There's about a 30-foot elevation difference between the houses here up in Sandhills and the bottom of the parking lot on the mauka side of the main Safeway building. So the 25-foot pole lights that will be in the parking lot are basically below the level line of sight of the Sandhills residents.

Ms. Wakida: What I'm interested in is is that – looking at ...(inaudible)... corner.

Mr. Unemori: Over here.

Ms. Wakida: Yes. Is that bottom – the cut section, the left-hand side shows the top of – the bottom of the shopping center right? I'm interested in the lots that are going up the ...(inaudible)... and what their relationship is to the height of the shopping center and the light poles.

Mr. Unemori: Okay, these lots here are basically up at that elevation 190. I think the lowest lot here is elevation 185. The highest lot here is about elevation 195. The parking lot stays down at about elevation 155, 157. So you maintain about a 30-foot grade difference from the south side of the shopping center to the north side of the shopping center relative to the houses on the mauka side.

Ms. Wakida: Okay, so the houses are considerable higher than the parking lot?

Mr. Unemori: That's correct. They're quite high above the parking lot.

Ms. Wakida: Okay, thank you.

Mr. Unemori: You're welcome.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: Darren since you're there and you're identifying things can you point out where the noise barriers for the – the fence that you're planning to put in.

Mr. Unemori: Well, there's a noise barrier described along the western boundary of the project site near Sandhills so that would be right here.

Mr. Shibuya: That's correct. Can you point it out on that?

Mr. Unemori: So right where this light is, right where the property line meets the Sandhills ...(inaudible).. and here.

Mr. Shibuya: That's good. I just want everybody to understand it's not down below, it's higher up.

Mr. Unemori: Up near the homes.

Mr. Shibuya: That's correct.

Mr. Unemori: That's correct.

Ms. Wakida: Thank you. I have one more question. Just about the rules, you have more than one access, pedestrian access to an area like this shopping center do you have put ADA access on all the accesses? Do you know the answer to that?

Mr. Munekiyo: I think the answer is we need to provide, ensure that there is a ADA access and when we speak of the access that I was referring to at the corner stairwell, the question is whether or not the option of using the sidewalk along Kaahumanu Avenue to enter the shopping center would meet that ADA requirement as opposed to having a separate ramp installed with the stairway at that corner location. So the idea is to make sure that we meet all of the ADA requirements and that's something that we go through as part of our design process.

Mr. Starr: I want to ask Mr. Miyamoto to chime in on that. Basically the question is if you have several entrances that are ADA compliant and you want to add another stairway that's somewhat separated from the other ramp ADA entrances can you do that or do you necessarily have to ramp that as well as all the others? Did I get that right Commissioner Wakida?

Ms. Wakida: Yes you did, thank you.

Mr. Miyamoto: I think that's going to be more of a question for the Commission on Persons with Disabilities. It's not going to be a question that Public Works typically answers. It's one that we ask all applicants to send to the board for review for public access. If they can show that there is, you

know, ADA compliant access then they can make the determination from that.

Mr. Starr: Any other comment on that from the applicant because I think it would make it a lot more convenient for local residents if there's a way to get in from Kainani.

Mr. Munekiyo Mr. Chair, I think that's the process we seek to engage to make sure that we can provide that stairwell access and at the same time make sure we've addressed all of the ADA requirements and again, we believe that the access via Kaahumanu Avenue would be an appropriate alternative, however we don't want to make a presumption as to what the board might determine.

Mr. Starr: So you will be asking that question?

Mr. Munekiyo: Yes.

Mr. Starr: It doesn't seem like you know, I mean it is longer to go around the other way but a ramp would be longer in any case.

Mr. Munekiyo: It would be.

Mr. Starr: Okay, members? Commissioner Hiranaga.

Mr. Hiranaga: Just a follow up regarding the current discussion. You are proposing a right-turn only at access between Mahalani Avenue and Kainani Street? Maui Lani Parkway, yeah and Kainani. You're proposing a right-turn?

Mr. Munekiyo Yes we are.

Mr. Hiranaga: Right. You know, I use that Kainani Street three or four times a week and the distance to that proposed entry is not very far. I mean, it's a couple of hundred feet. I really don't see a need for a second entry off of Kainani Street.

Mr. Munekiyo: Off of Kaahumanu Avenue?

Mr. Hiranaga: No off Kainani, the proposed staircase.

Mr. Munekiyo: Oh, okay.

Mr. Hiranaga: I don't see a need for it myself.

Mr. Munekiyo: Okay.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: I just wanted to, if we're over this I'd like to go into the bike path and can you show me where – I know you mentioned that there is a bike path coming down Kaahumanu. Because my

concern is you have merging, exiting traffic and the bike lane and you also have Kainani trying to get on, that's my concern right in that area.

Mr. Unemori: If I could speak to your question Commissioner Shibuya. The shopping center on this diagram is located here. The right-turn entrance is here and the main entrance from Maui Lani Parkway is here. I think you have this figure in that packet Mr. Munekiyo had given you in the morning, but the green lines along Kaahumanu Avenue represent the separate bike lanes that are available now. The green lines in this direction along Maui Lani Parkway also show the curbside bike lanes. So the access into the site for cyclists say coming out of Wailuku would be heading down Kaahumanu Avenue and turning right into the site here. Along Maui Lani Parkway, any movements into the shopping center would basically follow the driveway and you'd make a left turn basically with the vehicles here. Across Kaahumanu Avenue you would – if you want to come across like that you basically would have to get off your bike and walk your bike across, walk your bike across the street. So that unfortunately is – because of the nature of Kaahumanu Avenue, divided highway.

Mr. Shibuya: Yeah, I noticed the pedestrian route is a little different. I was looking in terms of student safety because there's quite a bit of students walking from that. Yes. And so that is highlighted in the red of course, right?

Mr. Unemori: The red line represents the I guess our current east-west connection between say Baldwin High School here and Wailuku Town. What the shopping center will basically do is improve the sidewalk along its frontage of Kaahumanu Avenue up to Kainani Street, extending the sidewalk that's already on Maui Lani Parkway. So the crossings here at Kainani at Lunalilo as well as the Maui Lani Parkway crossing here, right across of Baldwin High School will basically allow for continuous pedestrian movement here. So the pedestrian connections to the shopping center from the main walkway route should be pretty substantial with access in and out of the shopping center for pedestrians, people on foot.

Mr. Starr: I'd like to make a comment and ask a question while we're on this point. You know, I spend quite a – a lot of my time in Wailuku and I've bicycled down from Wailuku into Kahului on Kaahumanu several times and I'll never do it again because it's too dangerous and I almost killed there. And so it's neither safe nor convenient for bicycles or pedestrians and actually serves an impediment for people who would want to be able to travel by bike or pedestrians. I see the kids everyday walking from Baldwin up into Wailuku and they're on the roadway, you know, going under the bridge and it's amazing that more of them aren't killed. I know that you know that's not inside the envelope of this project and it probably would not be realistic to expect this project to fix it, but I, for one, I really hate to see it just be said that it exists as a safe and acceptable situation. I think it would be much better if we admitted that it's dangerous and inconvenient. I'd like to have your comments on that.

Mr. Unemori: I think the area you're talking about primarily is probably up here.

Mr. Starr: Yeah.

Mr. Unemori: On the approach to Wailuku Town.

Mr. Starr: Yeah and also the fact it has no sidewalk where the county built the police station as well.

Mr. Unemori: Oh, certainly.

Mr. Starr: As well, but mostly the bridge.

Mr. Unemori: The problem here on the approach to Wailuku Town has always been of course that bridge of ..(inaudible)... It's a very old structure built in the 1930's. It's very narrow from rail to rail and right now it has a sidewalk and basically shares the rest of the available space with three traffic lanes. That bridge because being a historic structure it's very difficult to deal with and that has really been the problem with both state highway and the county as well, there are very limited things we can do with such a historic structure. So that is the large part what constrains further improvement in that corridor unfortunately.

Mr. Starr: So you agree that it's not the greatest situation?

Mr. Unemori: It could be better certainly.

Mr. Starr: Certainly. Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I'm not sure if I'm getting off point, but my parents have lived on Nakoa Drive for 50 years and I did live the earlier portion of my life time there also until I graduated from Baldwin. But if I was going to be riding a bicycle to Kahului I would suggest using the Kuikahi extension. That's a beautiful drive and you end up there by I believe Pomaikai I think it's that Onehee Street, is it Onehee or?

Mr. Unemori: Kamehameha Avenue.

Mr. Hiranaga: Kamehameha Avenue and that's a more scenic route and you're off of the state highway. I know Kuikahi extension just opened recently but I think that's a great alternative route for bicycling.

Mr. Starr: Commissioner Sablas.

Ms. Sablas: I see in your proposal that you're proposing to put a bus shelter on the Kaiser Permanente side of Maui Lani Parkway?

Mr. Unemori: That's correct.

Ms. Sablas: I guess my concern is at this point, it's not going to be traffic signal and so you're going to be having pedestrians cross –

Mr. Unemori: Well, the hope is that all approvals or a traffic signal can be permitted there and if so, one would be put in. So the ideal combination of course would be to have a signalized pedestrian crossing with the bus shelters on either side. So the signal is not ruled out entirely, just something like the access from Kainani Street, there's a permitting process and a warrant process that needs

to be worked through in order to gain an approval to put something like that in.

Ms. Sablas: I kind of remember reading about the signal will be installed when it was appropriate.

Mr. Unemori: That's correct.

Ms. Sablas: So I thought if you're going to put a bus shelter there, you're encouraging people to cross that double road and going across to the shopping center might be, you know, a dangerous situation to have people cross.

Mr. Munekiyo: I think the comment regarding the signalization and its timing, installation was discussed at the last meeting and that point the applicant had indicated that he would be willing to install the signal at this point just to ensure that the traffic safety concern was addressed.

Ms. Sablas: Good. Thank you.

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: Good morning. Can you go back again to that bulb out map there? And I would like you to comment that bulb out in relation to the right turn only on the middle of the project and how far that right-turn only to the project from the bulb out from Kainani.

Mr. Unemori: I'm sorry, you're asking about the distance between this bulb out and?

Mr. Tagorda: The entry point.

Mr. Unemori: Oh, this is approximately 300 feet.

Mr. Tagorda: 300 feet and I believe downhill slope from Kainani slope from Kainani.

Mr. Unemori: That's correct.

Mr. Tagorda: And if you have 300 feet how many stacking cars would allow that entrance to that project will have?

Mr. Unemori: You mean stacking backwards into the right-turn lane?

Mr. Tagorda: Yes. 300 – how many stacking cars?

Mr. Unemori: We're estimating 12.

Mr. Tagorda: 12 cars only.

Mr. Unemori: That's backing up into the right of way.

Mr. Tagorda: So you have that auxiliary lane which is not part of that lane that goes into that project

area, right?

Mr. Unemori: No, that goes past the project area and turns on Maui Lani Parkway.

Mr. Tagorda: Now I would like you to comment for – give me some more insights on that bulb out. Do you have any reason to believe that that's going to be very safety on that kinda sloping down road highway?

Mr. Unemori: If you don't mind commissioner I'll turn the mike over Phil Matsunaga our traffic engineer.

Mr. Phil Matsunaga: Hi my name is Phil Matsunaga I'm the traffic consultant. So would you like me to explain the reasoning behind the bulb out?

Mr. Tagorda: Yes please.

Mr. Matsunaga: I have a handout here, I only have three of them so one per table but it's pretty much designed to show the conflict between the right turn from Kainani and then going along eastbound on Kaahumanu there are two lanes, right. So the rightmost of those two through lanes that would be the lane that would either access the auxiliary or continue going east. So going in this east bound direction at this point we have two lanes, two or three lanes and then we pick up another one here. So these two lanes continue east, the auxiliary lane feeds into the right turn but it also allows access to this deceleration lane accessing the shopping center. So the concern is this right turn from Kainani, people accessing this lane but then also people in the eastbound direction going one lane to their right. So you can see that's where I have it crossing in the figure. So in order to prevent that – you understand that there's sort of a conflict. If you have a three-lane situation, we have a vehicle merging to the right from the left and also a vehicle merging to the left in the right so that's the situation that we're trying to address here and that was why DOT made that recommendation, made that condition.

Mr. Starr: I want to comment on this. I think the only thing that can be said positively about that bulb out is that the location is close to the hospital and the police station because all the cars that are going to have to pull out into traffic and get hit by traffic coming down from Wailuku and cars do go fast there are just going to get broadsided by traffic coming down. Whereas if they could turn into that third lane they could use it as an acceleration lane but it seems like someone in DOT had some cockamamie idea that they should prevent using the lane that's being built there anyway as an acceleration lane. I just see it as dangerous and stupid.

Mr. Matsunaga: Well, it's a tradeoff. This is a short distance and there's 300 feet or 400 feet to make this maneuver to go from the right lane to the middle lane or something like that and because the distance is so short that was pretty much their concern is what they elaborated to me.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I looked at the exhibit that you just distributed and for whatever reason my previous interpretation of the bulb out was that the vehicle – can we have order please? The

vehicle had to go around the bulb out but it goes through –

Mr. Matsunaga: Oh, I'm sorry, the reason I did that –

Mr. Hiranaga: It goes through the bulb out?

Mr. Matsunaga: No, that was just to illustrate what it would be like without the bulb out.

Mr. Hiranaga: Okay. Oh, you do go around the bulb out.

Mr. Matsunaga: You do go around it. That was to show if the bulb out wasn't there that's what they would have to do. I should have given you some kind of explanation there but yes, that's what it was intended to show.

Mr. Hiranaga: So are you planning to pave the area within the bulb out in case this thing doesn't work so you can – are you planning to put curbing or stanchions or?

Mr. Matsunaga: My understanding was that would be a raised curb.

Mr. Hiranaga: So that if it doesn't work you can remove the curb and – it's sort of like the Dairy Road, Hana Highway Intersection it didn't work so they redesigned it, but since it was already paved they could do it in a reasonable time and not have to go back for any permit to –

Mr. Matsunaga: That I couldn't answer.

Mr. Starr: Commissioner Tagorda then we're going to recess.

Mr. Tagorda: Just to follow just one quick question Mr. Chairman, thank you very much now since you're up there now let me follow up with this question. Have you have a study done or traffic analysis without the entrance from Kaahumanu Avenue?

Mr. Matsunaga: We believe that that would put too much stress on the single access on Maui Lani Parkway.

Mr. Tagorda: You have also study to put another access area in this project? Without that Kaahumanu Avenue entrance.

Mr. Matsunaga: So you're saying another access area or with this one access?

Mr. Tagorda: You know you have done all this studies about traffic analysis and all that what's the end result if you put that access at Kaahumanu Avenue to the project.

Mr. Matsunaga: What is the –

Mr. Tagorda: I think –

Mr. Matsunaga: I have it our report.

Mr. Tagorda: Oh, okay, I like to know that please.

Mr. Matsunaga: That's one thing but it's also that's desirable to the developer having the direct access from Kaahumanu Avenue, but I do have that number.

Mr. Starr: We're going to come back in 10 minutes. After recess you can read that when we come back.

A recess was called at 10:36 a.m., and the meeting was reconvened at 10:48 a.m.

Mr. Starr: Everyone take your seats please and I'm going to ask for quiet in the back please. We're back it's August 10, 2010 with the Maui Planning Commission. Order please. Thank you.

Okay, when we left we had a question that was posed by Commissioner Tagorda and we're awaiting a response on that. Where's the applicant? Okay, Mr. Munekiyo, we had a question pending when we took our break please respond.

Mr. Munekiyo: Thank you Mr. Chairman, I'll have our traffic engineer continue with the response.

Mr. Matsunaga: Okay, so we were talking about the right turn in from Kaahumanu and we project 41 vehicles to access that during the p.m. and afternoon peaks but mainly the p.m. peak.

Mr. Tagorda: That's all coming from the west, right?

Mr. Matsunaga: Coming from the west in the eastbound direction correct.

Mr. Tagorda: Do we have any bulb out in the county that we have experience that it's really safe to have those things or is this the first one in Maui County?

Mr. Matsunaga: I am not familiar with another one.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: Can you tell us where you have it on Oahu that works and how well does it work?

Mr. Matsunaga: Actually there are not too many situations where you have something like Kaahumanu Avenue where you have acceleration, deceleration lanes at every intersection. That kind of thing is very uncommon as well.

Mr. Shibuya: Well you do have freeways that have –

Mr. Matsunaga: That's true we have freeways, but in terms of an arterial road that's not a freeway something like a Nimitz Highway or Kamehameha Highway you typically wouldn't have this kind of thing – well depending on the area because it changes depending on where on the highway you

are. Some places have more access. But generally you don't have acceleration and deceleration lanes in the really urban areas where there's lots of this kind of land use, shopping center and that kind of thing.

Mr. Shibuya: You have a light there, a traffic signal light. And so how would the signaling accommodate this bulb out feature?

Mr. Matsunaga: It would treat it just as a –

Mr. Shibuya: You got a green light and you go.

Mr. Matsunaga: Correct.

Mr. Shibuya: And if you have a red light, then you stop and you can turn on red?

Mr. Matsunaga: You could turn on red.

Mr. Starr: Was this a demand by the state or was this just some idea that someone had?

Mr. Matsunaga: Well, it came up in our discussion to address the weaving issue. So I guess it was a request by DOT.

Mr. Starr: Do you have that in writing?

Mr. Matsunaga: Yeah, it should be in the packet as a condition. There's a letter –

Mr. Starr: Could you point that out to us please? I'd like to see who signed that. I'd like to memorialize his name, maybe a little plaque at the cemetery. Why don't you come back to us with that.

Mr. Matsunaga: Oh no, it's right here. It's –

Mr. Munekiyo: Mr. Chair–

Mr. Starr: What document are you looking at?

Mr. Munekiyo: This is included in our response which was included in the draft EA and it was handed out today. There is a letter from the Department of Transportation dated October 30, 2008.

Mr. Freitas: What page?

Mr. Munekiyo: It's page 50, 5 - 0. And under Item No. 3, is where the Department of Transportation asks the applicant to construct the bulb out.

Mr. Starr: You know if this gets approved today would you be willing to write a letter to Mr. Morioka expressing that there was some concern and asking whether this is really what he intended.

Mr. Munekiyo: I think that certainly can be done Mr. Chair and I think it would be helpful as well if perhaps there might be some comment offered in preparation for the Phase 2 consideration of this application that we might be able to reference as well.

Mr. Starr: Members lets move onto other areas. Commissioner Mardfin.

Mr. Mardfin: Mr. Munekiyo, this is still dealing but it's a different angle. I'm concerned – you had some meetings and correspondence with Baldwin High School.

Mr. Munekiyo: Yes.

Mr. Mardfin: There was a letter on August 31, 2007, you had a response there was a meeting – some other things and you had a letter of July 17, 2009 from them to you and I noticed and they had been asking for a traffic study that included Baldwin High School and you did that. In the Appendix O is a repeat of your letter and Appendix P you have a traffic evaluation study. What I was looking for was a final letter from them saying, yeah okie dokie we're fine with this or no, we still have some concerns or what's your status with Baldwin High School at this point?

Mr. Munekiyo: The last meeting which we had which was about a month or two ago, we were still discussing with them what the specific design options might be. Their concern extends beyond this project and so we did bring in the Maui Highways representative in those meetings and just to give the commission an understanding of what some of the broader issues are with respect to Baldwin High School, from the perspective of Baldwin High School, they're concerned about the speed limits along Kaahumanu Avenue fronting the school. They're concerned about the adequacy of the left-turn movement, eastbound left-turn movement into the school in the morning where it backs up and I think there's some congestion there and I think they were concerned about the possibility of jaywalking across the street by students.

And so what we've – those are matters which I think all parties understand that would require some feedback from DOT to the extent that we have some control over the circumstances that affect circulation at Baldwin High School we've tried to address those. And primarily to identify ways where we can help smooth the circulation process within the school campus itself. Right now one of the problems which causes the back up onto Kaahumanu Avenue as an example is the traffic ...(inaudible)... at the drop off time in the morning is just not fast enough. So you've got cars backing up at the entry to the school and then it backs up onto the highway and what limits that back – or ...(inaudible)... that back up is the limited space of drop off areas for students. What we believe can be done and this something we continue to have discussions with and that is why we have not received any final conclusions or acceptance from Baldwin High School administration is to identify ways where we can maybe create some adjustments within the parking lot. The rules require physical improvements but one way to do it would be to extend the drop off area so that there be – that process of dropping students off can move more efficiently thereby relieving that backup at the entrance.

And so the answer to your question commissioner is that we have not received an acceptance letter from Baldwin High School. We continue to be in discussion with them. We think that we'll have that consensus as to what's best to do within the school itself once we get into a more detailed

design phase. But our commitment is that we will work with the school. We're try to see what we can do in terms of facilitating internal circulation to help things really run smoothly at morning time. So that's the HRT's commitment. We haven't concluded our discussions at this point.

Mr. Mardfin: Thank you very much.

Mr. Starr: Members? I have a question regarding burials and archaeological and that is what remains have been found and sites identified on this property. Do any remain in place? And if they've been moved, how many have been moved and where?

Mr. Munekiyo: Mr. Chair, may I call our archaeologist, Lisa Rotunno-Hazuka to respond to that question?

Mr. Starr: Please introduce yourself.

Ms. Lisa Rotunno-Hazuka: Good morning Commissioners I'm Lisa Rotunno-Hazuka. We do have several burial sites on the project area. And through discussions with the Burial Council as well as SHPD approximately four burials have been relocated. These burials were located within this driving area of the parking lot and because there was concern of you know, driving over burials, Burial Council in conjunction with SHPD allowed that these burials that were here that was approximately four individuals would be relocated into this large preservation area here. Other burials that were within the parking lot what we did was remove some of the parking stalls and preserve those burials in place. There's one burial here, here. There's another in this area here and in this location. So because the – there was actually three partially intact burials in this location, because it was a driving lane, they felt that those should be relocated in this 15,000 square foot preservation area. We have 12 burials identified in this preserve here and these have all been preserved in place.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Where the buildings are being built how extensively were they searched for iwi?

Ms. Rotunno-Hazuka: Fairly extensive. We've done a lot of grading on this property. This area here as you know, this edge here along Sandhills is very high and that dune came into the project area. It was about I think eight to ten feet high in this area. And we graded here. We did a lot of grading in the footprint as well. And this was a low spot here so a lot of the grading in these areas here was pushed to this corner here as a fill.

Mr. Mardfin: So there could well be bones under there, on the right where you put more dirt over it.

Ms. Rotunno-Hazuka: Yes, one of the burials that was found there was in a low spot so it now has about 20 feet of fill on top of it. There's been an inventory survey done of this project area by another firm and then we have been monitoring the activities there off and on since 1999.

Mr. Mardfin: Has the Burial Council had a site visit to this place?

Ms. Rotunno-Hazuka: I don't believe that they have had a site visit. They know it well because of the – they have done site visits at Maui Lani and we have talked with them about each of the burials that have been found since 1999.

Mr. Mardfin: And what kind of public input did you have when you were doing the archaeological surveys, was there any?

Ms. Rotunno-Hazuka: A –

Mr. Mardfin: Any public input?

Ms. Rotunno-Hazuka: No public input as far as during the survey. There has been some public input now with how these burials are being preserved. One of the things that we have done is around this large preservation area during the times of 12:00 midnight to 5:00 a.m. there has been a ...(inaudible)... the lights will be dimmed or turned off and there will be no parking along these stalls of the large preservation area.

Mr. Mardfin: How big is that preservation area again?

Ms. Rotunno-Hazuka: 15,000 square feet.

Mr. Mardfin: How is that divided out, like 400 by 400 or something like that, that would be 16,000, oh that's a 160,000. What are the rough dimensions?

Ms. Rotunno-Hazuka: I'm not sure. Darren is –

Mr. Mardfin: It's probably in the notes somewhere but –

Ms. Rotunno-Hazuka: I think it's 100 by 120 you think? 100 by a 150.

Mr. Mardfin: Okay, that's 15,000 okay, thank you.

Mr. Starr: What are the activities that will be taking place in the areas where above where the burials are being left in place?

Ms. Rotunno-Hazuka: The long term measures consist of burial platforms being constructed over the actual burial. We have signage proposed that states it's a Native Hawaiian cultural site, please respect this area. There'll be rock walls and fencing around the burials so that you know access is not afforded into the preservation area. There's native landscaping. All of the burial sites will be recorded with the mets and bounds description and recorded at the Bureau of Conveyances.

Mr. Starr: The burials not in the preservation area, I mean will those also be fenced out or will be people be parking their shopping carts and walkways over them?

Ms. Rotunno-Hazuka: No. So each solitary individual burial that's within the parking lot and not of the larger preserve, each single burial has its own preservation area and it has a rock platform over

it, three feet out from the rock platform will be a black fencing so that there's no access to on top of the platform in case there's kids in the area. There's benches that were proposed by Burial Council you know to make it a nice peaceful area. There's a large preservation area here and then each smaller burial site has its own preservation area.

Mr. Starr: Members? Commissioner Shibuya.

Mr. Shibuya: Can you tell me what's the standard way of burying Native Hawaiians? What's the practice that's accepted? Have you talked about some of the practitioners and come up with some say in which they treat it with respect? I don't know if you put platforms on it or pebbles or I don't know.

Ms. Rotunno-Hazuka: There are a lot of burials that we have found in the past do have – it's not as formal as rock platform but these were measures that we have discussed with the Burial Council numerous times and it was a good protective measure for the surface. The signage usually goes on the platform and then when people are in this area or the Maui Lani area they'll see these platforms and know that there is a burial place there. A lot of the burials that we have found in Sandhills in the sand dunes have had maybe three or four water worn rock cobbles marking them and so we believe that was the tradition way that they were marked. So it was not a formal mound as we're proposing.

Mr. Shibuya: I can understand putting the slab of concrete or whatever so that you have little hands not being so mischievous with the little rocks I can see that. And at the same time too, I want to do it the way the native people did it and if we can perpetuate that that would be wonderful. I think we have some practitioners in the room here that maybe you can talk to them afterwards off record. But I'm also thinking in terms of a testifier mentioned that there was a battle here and some how placing some kind of monument, giving some historical information to that effect might be another way.

Ms. Rotunno-Hazuka: I believe that the applicant has agreed to do a more detailed historic background and somehow identifying the Battle of Kakanelua which is what they are talking about that was from this area all the way to North Kihei is kind of the general area where the battle took place but they are committed to memorializing the battle in some way.

Mr. Shibuya: Okay, thank you.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: On the bones that have been discovered is there any way to know whether they were warriors as opposed to women and children?

Ms. Rotunno-Hazuka: Yes, we do not see any trauma so far as far as from a battle or a warrior. The same with the burial goods we don't have any burial goods in this area that show that they were a warrior. We also have a fair representation of women, children and infants in this area.

Mr. Mardfin: How many individuals do you believe were buried in there?

Ms. Rotunno-Hazuka: So far we have 19 individuals.

Mr. Mardfin: And you say so far because you expect more?

Ms. Rotunno-Hazuka: It's possible, we're not finished yet so it's possible.

Mr. Mardfin: Is there anything you can do prior to construction to discover whether there – find any more?

Ms. Rotunno-Hazuka: You know when we typically do the test trenching to look for additional burials it is – we test different locations so it's not a 100% coverage like when you get into the monitoring during the construction. So it doesn't give you – it just gives you a picture that yes, you possibly could find them during construction. There is the ground penetrating radar that they're trying to perfect where you take it across the surface and it identifies all anomalies, tree roots, warmer pits, possible burial pits, but that methodology has not been perfected yet.

Mr. Mardfin: Is it helpful?

Ms. Rotunno-Hazuka: It can be. It can be.

Mr. Mardfin: Has it been used on Maui?

Ms. Rotunno-Hazuka: They've used it a couple of times on Maui. Some places successful, some place not successful.

Mr. Mardfin: But it hasn't been attempted here?

Ms. Rotunno-Hazuka: Oh yes it has.

Mr. Mardfin: On this?

Ms. Rotunno-Hazuka: Oh, on this job site, no, it has not.

Mr. Mardfin: Thank you.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: A follow up question relating to that penetrating instrument because it's sandy and very loose type of soil would that reveal more information or less information than if it was used in lets say a loamy clay type material?

Ms. Rotunno-Hazuka: I've received two different opinions on that. One company says it's not useful in the sand. I just read another study by an archaeologist who is perfecting this ground penetrating radar and he believes it can be effective in the sand. The person I was speaking with is doing this in Lahaina for a pipeline project and his claim was that it wasn't effective in sand.

Mr. Shibuya: Was not.

Ms. Rotunno-Hazuka: Was not.

Mr. Starr: Commissioner Sablas.

Ms. Sablas: Lisa or maybe this is a question for Kimokeo but I'd like to know again if you could tell us what efforts have been done to contact lineal descendants of the area and I see Kimokeo coming up.

Mr. Starr: Yeah, please come introduce yourself and good to see you here.

Mr. Kimokeo Kapahulehua: Aloha my name is Leonard Kimokeo Kapahulehua. I'm with Hana Pono LLC. I'm the cultural specialist on the project. The question about lineal descendants. We just had one in here, one of the interviews was Kaneakua. He just left because he had security guard last night job from Westin Maui and he's about to fall asleep in our hearing here. So he's one of the descendants from this area. His family come from the Island of Hawaii and the family was involved with the Battle of Kanekanelua.

Ms. Sablas: So what do they feel about this development?

Mr. Kapahulehua: You know this is their heritage yeah Lori, so they feel very sensitive about the place and you know the remains what they think they going to find they haven't seen any of what they have here and whether or not it is theirs, you know. They know completely knowledge of this battle from a starting organizing on the Big Island away from here. His mother is 83 years old she has some little knowledge of her father and her grandfather about speaking about this battle, but they don't physically was here about that time, you understand. So this is just a olelo was passed down to them. Mahalo.

Mr. Starr: Members should we move onto public testimony? Commissioner Wakida.

Ms. Wakida: Yes, I have a question and I believe this might be for Ms. Cua. it was brought up and this in response to I think one of our other earlier testifiers here, there are a lot of concerns by the adjacent residents at this earlier meetings and I'll just noise as one of the examples, down the road say two years from now, what's the enforcing body on these agreements that the developers make? Lets say nobody is going to come in loading after 10:00 at night, I can't remember the time that was agreed on, but lets say they change their mind or they choose to do something of this sort, how are those areas that the developer agreed on enforced after the fact?

Ms. Cua: There's a couple of questions that you're asking. One is, you know, if the applicant is agreeing with them to make certain concessions like provide addition security or if that gets put in as a condition of the approval then the county enforces that through condition. General noise concerns which could occur on an issue that maybe is not, has not been addressed, but general noise concerns anywhere could be reported to the Police Department you know if there's additional problems. I think the, you know, Weinberg Foundation or HRT, you know, is an entity that's been here for a long time and will be here for a long time. Their contact, Mr. Lloyd Sueda lives in Oahu.

I know there has been a lot of dialogue back and forth and I'm sure that's going to continue and I know they, you know, people call Lloyd if they have concerns, but I think going forward with any conditions that you choose to put on the permit would be something that the county would be enforcing.

Ms. Wakida: Thank you yes, because there's a lot of conditions that were brought up residents and they need to know that after the fact those are going to – they're going to be followed through on not just walked away from at some future date.

Ms. Cua: Well, I think just in general some of the concerns that you started off with have been addressed through plan revisions already and that's been explained to you. There's been reduction in size, just modification of siting of building, there's been a lot done so far modifications to the plans to address numerous community concerns, the Kainani Street access, the prohibition of using that, that was huge issue. So there's been a lot done just to bring us to this point and I think any further discussions that or things that the applicant has discussed with the community up until this point that maybe have not been reflected in a change in plans could be something that's considered as conditions if the commission feels they're warranted.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: Erosion. There is large cuts in the sand area can you tell me or tell us how this erosion is being abated or taken cared of?

Mr. Munekiyo: Commissioner may I ask our civil engineer to respond?

Mr. Shibuya: Sure.

Mr. Starr: Introduce yourself again.

Mr. Unemori: Commissioner if could ask clarification you're referring to the existing site or the site once it's constructed?

Mr. Shibuya: Right now you are, you've graded the slope and there's exposed slope so how are you planning to when you finish it, how are you going to finish it or are you just going to leave it there as a cut?

Mr. Starr: Introduce yourself again for the record.

Mr. Unemori: I'm Darren Unemori, I'm civil engineer for the project. The completed site once it's finished the sections that are, the areas that are not paved will essentially be stabilized with grass or some other planting. The only real remaining slope fact that you'll see are the – is the existing slope next to the Hale Koa Subdivision, the old Sandhills subdivision that will be stabilized probably with grassing and the portion of the slope that's along Maui Lani Parkway, that too, will be stabilized with grassing and there'll be a building up on top so that will probably be nicely landscaped. The remaining grade differences within the parking lot, parking areas, most of the grade difference will be taken up by retaining walls, so there'll be a finished wall there. In some cases, the walls will be

combined with slopes which will be stabilized and grassed or landscape planting. So the finished site should be fairly stable.

Mr. Shibuya: Okay, it seems quite steep to even plant grass and that's my concern. So I don't know whether grass would hold that loose material or you feel that grass will hold it?

Mr. Unemori: The finished slopes should all be at the two to one or flatter which is an angle at which grass can successfully be grown –

Mr. Shibuya: And be maintained.

Mr. Unemori: Can be maintained exactly.

Mr. Shibuya: I'm concerned with the neighbors right above that and that's why. I just don't want them to lose their property because we have erosion and it gets out of control.

Mr. Unemori: The treatment for that slope near the neighbors probably be similar to what was done for the Sandhills, the new Sandhills Subdivision next door where the slope was cut and stabilized again with grassing and maintained by – in this case would be maintained by the shopping center, but that should be a fairly stable arrangement.

Mr. Shibuya: Okay, thank you.

Mr. Starr: Okay, we're going to move onto public testimony. Members of the public, wishing to testify on this item, Ms. Apana, please introduce yourself, welcome. You need help with holding an exhibit or anything like that?

Ms. Claire Apana: Thank you very much members of the commission. I thank you for your comments and your questions. Thank you for reading through this lengthy.

Mr. Starr: Please introduce yourself.

Ms. Apana: Sorry, this is Claire Apana.

Mr. Starr: And Lucienne, why don't you come up and help. I think she needs someone to help.

Ms. Apana: I have several hats and so many things to say following this commentary here. First of all, for my neighbors I will have to say, we are worried about that drop that was created by the grading down and I think they heard them say it was 10 feet now it's 30 or is it 20 and now it's 50 and I'm not sure how you're going to get a sound barrier, but with five feet because you've kind of eliminated the chance of doing that with a six-foot wall. I just had to say that for the Aweaus.

Second, this cannot possible be accepted today. It is not complete. All information is not in and I'll explain to you that the Burial Commission met two weeks ago. They were considering the burial treatment plan and at this time they were finally given the monitoring, the final monitoring report. I think that's what it is. And they were not finished. They asked for a drawing of the large

preservation and we were considering various things and in my letters to the developer. Ann, have they received my letters? Which you probably have seen it or they're in the document, but I sent it to you separately.

Mr. Starr: Please address the commission.

Ms. Apana: Okay, so haven't probably not seen my letters. I'm sorry, I just wanted to know if you had seen my letters. I have asked for several things that I am concerned about and many of the answers said that the Burial Council will determine these kind of things and so I did go there and they are not finished giving me any answers. I wanted you to know that.

The most important thing that I have to say today is that I was not given an opportunity to be interviewed for the CIA and I have since 2006 been intimately involved in this project as a neighborhood representative, the ad hoc president for the neighborhood association and doing historical research as well as having a cultural practice on this land. I have been asked to come and take this place as my kuleana to speak for the iwi, to speak for the ancestors who have so generously sought to protect our neighborhood. As I started to find out about this area the very first plan for the Kainani Street exit/entrance was made.

Ms. Takayama-Corden: Three minutes.

Ms. Apana: And I hope that someone will ask me what my vision that was given to me by the kupuna is because I'm going to run out of time. And at that time, the kupuna told me don't worry about the neighborhood, don't worry that someone will get killed by this plan, we will be protecting you and they have. And what can we give back to them? My question to everyone is how do you mitigate putting a shopping center in a burial ground. You know that next door in the Sandhills Estate there are 10 preservation areas on the other side of where Safeway is proposed to go. The developer has told me in this, my letter that they are willing to do more studies when they get their final plans. I have been able to receive some answers about why this project cannot go forward. We have so many questions. Our neighborhood has worked so hard to get this to a place where it's even acceptable and you still have questions about that traffic. It is a sign to me to say that this is not right. There is something missing and I think that this morning I was given that answer what is missing. My kuleana is to bring peace to this area for the hundreds, and Lucienne ...(inaudible)... show it. This is the map –

Mr. Starr: I'm going to have to ask you to wrap up.

Ms. Apana: For the hundreds and hundreds of burials that have been found throughout the whole project district, I tried to map them and show which ones are preservation areas, which ones are single burials and it's all the way through there. This is not an isolated place but this is the place where we can start to build some peace and as always there is never enough time for the ancestors. The very first drawing, the very first plan brought to this commission for a Phase 2 permit was with the hill where the puu, where the burial are going to remain intact, –

Mr. Starr: Please, please –

Ms. Apana: There was a building on it. Then the next plan had a parking lot on it. You know we were not thinking about the people who actually have a say. They are in this real estate and I'm here to speak for them and I hope you will ask me about the vision I have because I think that we have come to a conclusion of no cultural impact, no cultural impact.

Mr. Starr: Will you please wrap, please wrap up.

Ms. Apana: Thank you very much.

Mr. Starr: Commissioner Mardfin has a question for you.

Mr. Mardfin: I have a couple of questions actually. On page – we do have some letters from you that were troubling at least to me. And there is one, a letter I think maybe it's an email I'm not sure dated January 6, 2008, and in it you refer to a – you said, I'm quoting from you, "I have an archaeologist who has studied Hawaiian battles and believes that battle grounds are important parts of the culture. I have his article on how to study a battle specifically for Hawaii." Can you tell me who that person is and whether they've been involved at all in this?

Ms. Apana: They have not been involved in this except for my asking him questions. His name is Tom Walporth.

Mr. Mardfin: Tom?

Ms. Apana: Walporth. He works off of the Big Island and has studied the Battle at Waipio Valley for many, many years.

Mr. Mardfin: You also asked several times for a burial overlay. Has that ever been provided to you?

Ms. Apana: I believe that it has been in the burial treatment plan. Is that right, Lisa?

Ms. Rotunno-Hazuka: ...(inaudible - spoke from the audience)...

Mr. Mardfin: So when you asked for that in your earlier letters that's at least been addressed is that correct?

Ms. Apana: There are no GPS site marks on it.

Mr. Mardfin: There's no?

Ms. Apana: There are no GPS –

Mr. Mardfin: Notations.

Ms. Apana: Notations on it. But I can see after I read the TCP, I mean the – I'm very sorry about my verbal skills at this moment. There are – it's more clear in the burial treatment plan. Where it

is although it was very hard to see where the four that were going to be moved. So I started in 2007 writing that.

Mr. Mardfin: I have at least one more. You mentioned that the Burial Commission met two weeks ago and that they are not finished. Can you elaborate a little on what the Burial Commission is now doing?

Ms. Apana: They were given the plan. It was agreed that a burial treatment agreement could be produced or had negotiated for this project. They were asking questions about the treatment of burials. They were asking whether more study could be done because of the size of some of the buildings that were going to come whether they could ask for more study because as they looked at the area the probability of more burials is high and then the thought of what will they do if they find more burials, what will happen to the burials. And my questions were not answered completely either that I had put in my letters to the developers as part of the EA.

Mr. Mardfin: Thank you very much.

Mr. Starr: Thank you very much Ms. Apana. Is there any other member of the public wishing to give testimony on this? Johanna you testified before please. Ms. deNaie, please introduce yourself.

Ms. Lucienne deNaie: Thank you my name is Lucienne deNaie testifying as a private citizen today and just want to address a little bit about the process. I'm passing out an old newspaper article from 1992, sounds a little familiar, "Burial Council calls for delay, Waihee Golf Course approval, don't know what's going to happen to all the burials there." It's a familiar scene. We all know that story had a happy ending. Those burials are at peace and this is a preserve area and a lot of people are enjoying it for a multiplicity of reasons and our education and our learning will go on.

But today we're looking at the process of this EA being complete. Now it's my understanding having worked on the passage of the law that mandated a cultural impact assessment be included in all of our environmental documents that the purpose of this CIA, cultural impact assessment, was to really seek out those who could inform the process about what impacts the proposed action might have on cultural resources and cultural practices, traditional and customary practices. As you all know these are protected under our Constitution, so you know, it's the mandate of this body to make sure that is thoroughly known and dealt with. So we have here an EA and a Project District Approval for a project where a shopping center is built in a burial area.

This does happen in Maui and you know, what are we going to do about it. I think one of the things we need to consider is that land does have spiritual aspects. Now all of us have gone to some blessing of a house or a business or land where someone concerned that the spirits were not happy there so they brought in a traditional practitioner, they brought in a priest, the brought in a Buddhist practitioner to put these spirits at rest and this is a common accepted part of our culture here in Hawaii. It may not be so in other places, but it's pretty common here. And I think that we need to look at the fact not just that we have preserve areas here, that's very good, it's good that there's little islands in the parking lot where people won't be running over the burials. They may get some trash and stuff thrown on them but you know, that can be cleaned up, but are these individuals and those who might be disturbed in the future grading excavations because Ms. Apana is right, I mean

this area is choke full of burials not just on this particular 12 acres but the adjoining lands on both sides and so forth. It's very likely that more burials would be found. Is there anything wrong with a cultural impact assessment consulting with someone who has a spiritual practice to try to bring peace and rest to the spirits of this land and is the cultural impact assessment complete if that individual is told that they'll be consulted later? That's not my understanding of the cultural impact assessment process works. It's like you do an assessment –

Ms. Takayama-Corden: Three minutes.

Ms. deNaie: So that you can inform policy makers like you of what the impacts are. You don't say oh well, we'll talk about those impacts later after you've made your decision. You bring the information up front. So Ms. Apana does have a cultural practice that helps bring peace to the spirits of this land and I happen to know that she has deep and extensive training to do just this and I have watched her do this with the people who are troubled and with places who are troubled. She's a very sincere practitioner. I believe that you should find this incomplete unless people like her who sincerely want to participate in this process have been consulted and the CIA that is included in the EA includes their manao and their conclusions otherwise I feel you must conclude it's sort of a manipulated process. Thank you very much.

Mr. Starr: Thank you very much Ms. deNaie. Any other members of the public wishing to give testimony at this time? Please come forward sir, introduce yourself and then Mr. Kapahulehua will next.

Dr. Sakae Uehara: I'm Dr. Uehara. I'm a resident of Sandhills for 45. I live in the house previously occupied by our old mayor Eddie Tam. I was surprised to hear some of the comments made by some of the commissioners. You're looking at this map in two dimensions. Look at the development in three dimensions. This bump you see here is not a flat bump. You don't pave it, you don't go through it, you will have to go around it when it's five feet tall made of concrete. Okay. So you go around it to get into this traffic or you go around it to go into that traffic. Three dimensional you gotta look at it.

And this stop light, traffic light, is the same thing. You – there are four lanes here. The first one turns left. The next two go straight ahead. The fourth one now turns right so you don't have to worry about the stop light traffic and furthermore you're going to have white big arrows painted on the pavement to go right, to go straight, to go left. So look at it in three dimension. If you can't look at it, go and visit the site, don't look at it on paper.

The other subject I wanted to talk about was the exit on Kainani. It's not on the final proposal. It was in the proposal previously but it had been dropped and I didn't know why but I heard that the County Council may act on it barring any access to Kainani. I hate the word "access" in planning. Access it means entry, it means exits. I oppose the original one on access because the entry was bad not the exit. Okay.

I supported the last one where the exit came out of Kainani. The last proposal the exit comes out Kainani then it can go this way or this way but there's no entry. So just stop talking about access. Talk about entry or exit.

Now if you look at the traffic at Walmart, around Walmart you see the entry is no problem but watch the exit from Walmart you see a log jam over there. I avoid that exit. I go around now to Puunene Avenue by Zippys because I don't like the exit from Walmart. Dangerous. So I think what the Planning Commission should do is make a recommendation to the County Council to not act on the ordinance to bar any exit or entry from Kainani and furthermore, I think Kainani Street from Kaahumanu to Nakoa as I remember an old map –

Mr. Starr: Please wrap up sir. You need to finish up soon.

Dr. Uehara: The old map, I don't remember, I'm not aware of any changes but that section of Kainani is state. So the county has no business making laws or ordinances over state street, it's a short segment but it's state. Nobody has shown me otherwise. So keep Kainani open in case we start having lot of traffic problem exiting and they come back and say let us go through Kainani because if you are a Kaiser patient and you face all that traffic coming out of the shopping center you're gonna get mad.

Mr. Starr: Okay, please finish up.

Dr. Uehara: That's it. Thank you.

Mr. Starr: Thank you. Okay, thank you very much. Mr. Kapahulehua please.

Mr. Leonard Kimokeo Kapahulehua: Aloha Commissioners my name is Leonard Kimokeo Kapahulehua. I'm with Hana Pono we were the cultural on site. I just wanted to tell you that we recently met with Ms. Apana and to address the cultural concerns and practice concerns and in your report shows you the references that we have and about the Battle of Kakanelua. I just wanted to tell you that we are and have met with her and to address the concerns that she had. And so just keep in mind that this project has been out for a long, long time and we just recently received this concerns about what she addressed us about, you know. And so we did not say to her that we did not want to listen to her comments. You know we did have a meeting with her, with the applicants so I just want to address that to you that we are addressing that comments that she made and we have it in our report. Thank you so much.

Mr. Starr: Were you at the Burial Council meeting?

Mr. Kapahulehua: No, I was not Mr. Starr.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Excuse me sir, you said you had it in your report. Is that the report that we have today or is this a forthcoming report?

Mr. Kapahulehua: No, you don't have it in your report at all, I'm just saying that we have it in our report showing our meeting with her recently about her concerns you know.

Mr. Mardfin: And we don't have a copy of that?

Mr. Kapahulehua: No, you don't have that.

Mr. Mardfin: Okay, thank you very much.

Mr. Starr: Okay, thank you.

Mr. Kapahulehua: This was just done in recent time.

Mr. Starr: Thank you. Any other members of the public wishing to give testimony on that now would be the time? Ms. Apana, you've had your chance to testify. You're out of order. You're out of order. You're out of order. Please sit down. Please sit down, sit down, sit down. You are out of order Ms. Apana. Thank you. Apologize, but everyone gets an equal chance. Any other members of the public wishing to give testimony?

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

Ms. Theresa Wright: Hi, good morning Chairman, Vice Chairman and Planning Commission Members and Deputy Chair, my name is Theresa Wright and I'm a resident of the historical Sandhills neighborhood on Naniloa Drive in Wailuku. I've been a resident since 2000. I wanted to thank you for the opportunity to share my thoughts on this EA process.

Just to give you a frame of reference of who I am, I've been an active participant in the Project District Phase 2 Approval project since its beginning five years ago. It was then when I heard false rumors I decided to find out the facts. I spent countless hours learning about the project, talking to Ann, meeting with Lloyd Sueda and I initiated the first community meetings with the developer back in 2005-2006 and became a defacto basically liaison between the community and the developer and keeping them informed.

So I appreciate definitely the many times that the development team has met with our community. I'm ultimately very happy that this project has been subject to a formal EA process. I definitely think it's brought a lot of ...(inaudible)... resolved a lot of the issues that we had in the community and our concern and I definitely believe that the EA process forced more options to be formally addressed not only by the developer but also by the Department of Transportation which resulted in some flexibilities there.

Now with all that said, I just want to caveat a couple things up front. I was not here to be part of Project District Phase 1 Approval. That started over 20 years ago, if I were I would have definitely objected to this site which is 93% of the commercial site for the entire Maui Lani Project District being next to one of the oldest and most well-established neighborhoods. Besides the north side of the gated community of Sandhills the commercial site most impacts our community which is you know, one of the oldest and most established in the neighborhood and especially with the terrain going up the hillside.

I would have also lobbied not to have a 24-hour business there that has a high volume and are short term customers that come in and out of the shopping center. Originally from what I understand the project was slated for medical buildings which I feel would have been more

accommodating than extra residential communities and then finally I would have definitely, you know, carefully lobbied for consideration the site's location, availability of traffic considerations.

Now that brings us where we are today. I have to start with the fact that it is zoned commercial with the option to build a shopping center. Perhaps, I don't know, not enough community involvement or objection happened during Phase 1 Approval to disallow this. I realize that Phase 1 Ordinances allow for far worst options for the project both in the type of building and the heights. The proposed structures are well below the four stories and 60 feet restrictions that the ordinances allow and now that we are five years removed from the beginning of the process I feel the development team has been really sensitive to our concerns as evidenced by the many concessions they've given us.

And we had concerns with the cut through traffic in our neighborhood and they eliminated the Kainani access point. Initially the draft allowed for both a major ingress and egress for the project that was huge and important concession to the community.

We had concerns over the shopping center, the size of it, it's been downsized to 20% and has 12 pump gas station. The development team has eliminated the two-story buildings, restaurants and shops next to our community. They added a buffer zone. They offered aesthetic concerns with light poles and parking, for the parking and relocated trash bins away. Noise considerations, elimination of loading zones and loading hours, enclosing equipment for us and trash pickups and finally, you know, loitering nuisance and safety concerns were all addressed and they offered night time security and ...(inaudible)...

So in closing, in July 2007 when I originally presented I objected to the project but now given all of this, I am generally in support of it. I still have, you know, an objection about the 24-hour shopping center next to our community but I feel that – and I wish that they would have more normal hours, but I feel that the developer has generally offered what they could mitigate any negative impacts the shopping center may have on our community.

In closing, I feel that the architect and the developer have carefully designed a beautiful shopping center that I believe will bring an upscale look and feel to a historic neighborhood, will add value and shopping conveniences to their community ...(inaudible)... So anyway, thank you for allowing me to talk.

Mr. Starr: Thank you. Members, wait a second. Commissioner Shibuya has a question for you.

Mr. Shibuya: Thank you very much Theresa Wright. Thank you for your efforts in working with the community and getting their needs addressed. I did have one question in terms of Kainani Street that entering Kaahumanu Avenue there is proposed a bulb like fixture. I just wanted to have your opinion about that.

Ms. Wright: Well, that was one of the four ultimate last concerns I had about the project and I think basically at the end of the day I would be more opposed to it if they prevented our neighborhood from making a right-hand turn and they're not proposing that. That was something they considered but they're not proposing that. I don't like how the bulb out works, is the community and the folks in our community which we have a lot of old, longtime residents are used to having that entrance

lane to go into Kaahumanu. But you know like they said, a lot of the roads in Maui don't offer that. I mean, we're lucky that it offers that but a lot of roads don't offer that so I have to accept that you know that's going to be one of those things that I'm not going to win on, you know, that I'm not going to get, that's just going to have to be part of the project.

Mr. Shibuya: So you're not happy?

Ms. Wright: Well, I'm not going to be a hundred percent happy with it at the end of the day and that's what I feel. I mean, I feel like they've made a lot of concessions. The biggest thing that we wanted was Kainani out of the access point. I mean it was full access before and now it's not used at all and if we to, you know, accept this to me I think that's okay.

Mr. Starr: Okay, members? Commissioner Sablas.

Ms. Sablas: I just wanted to make a comment that I really enjoyed your testimony and appreciate members of the community like yourself coming out and getting involved in the process. You know, many of us, myself included, we kind of don't like what's happening to our island but we need to go through the process, we need to go through mitigation procedures and I want to just commend you for putting out the time and effort on behalf of your community. Mahalo.

Ms. Wright: You know, I'm not within 500 feet of the project but I was wanting to make sure I had a voice because again, because of the rumors that were going around. I mean, originally we thought that there was going to be a six-story building there, you know, that was going to block our views. But I think that, more importantly I wanted some of the neighbors that are more impacted by the project to have a voice and hopefully you know, I think they definitely had a voice and hopefully they'll be here today if they object to it. Thank you.

Mr. Starr: Commissioner Mardfin. I'd like to echo what Commissioner Sablas said about being that you came out, but I want to add something to that and that is that it is unusual, I was going to say rare, but it's probably not rare, it's unusual for someone to change their mind on a project and I'm really glad to see that you've come forward and you had objections before and now they've been large – resolved enough so that you're comfortable with the project. Thank you very much.

Ms. Wright: Thank you.

Mr. Starr: Okay, thank you very much. Anyone else wishing to? Please come forward. Introduce yourself. Thanks for coming.

Mr. Kaneloa Kamanu: My name is Kaneloa Kamanu, I come from Waihee. I've been coming for a lot of the meetings for the last three years and I've come to the consensus at this time I think I've been to enough meetings and I voiced my opinions, a lot things that are happening. It's sad that our culture as far as our iwi is concerned is very low on the totem pole. People forget that you know, all these sand dunes are riddled with graves especially the one that you're building on is actually a history site. She talks about a historic neighborhood, we're talking historic itself, a Battle of Kakanelua and yet it's being pushed to the side. Again, you know, I've always come here with the attitude of presenting what is viable. I try to keep is my na`au, inside, not to confuse what

actually is law. We know that law 1860 I presented this before protecting the separate graves, protecting the graves and it specifies to what authority. You have to find the authority to be able to move the iwi, as I am concerned that they're from the 1800's they're under Kingdom law. So as far as I'm concerned, as far as my research takes me we have no authority. In other words, the state or the county you can pretend to have and you can pretend that these people put equity down on those properties and that gives them their right to move historic areas and preserve it and place it somewhere else, that's significant. But yet, so you know, for me I think my time is done coming to these meetings because I've come to the consensus you can only say so much. I can only say the same things so many times. And so for me, the thing is I know for myself the law protects me, it's ...(inaudible)... The laws tell me that I can act upon what I have, so the time for talking is now pau. Time for me to take other actions is arising and why because to see the degradation continually, continually going, people passively discarding what actually was there so we have malls, commercial buildings, houses and we have tons of houses foreclosing, we still have this thing about affordable housing, I don't understand.

Ms. Takayama-Corden: Three minutes.

Mr. Kamanu: And so the thing is, the concern is are all these valuable compared to those that have vested rights whether they're dead or alive or for me, you know, no sense come because it's going to happen. Last time we came to the meeting I was told if I had answered the EIS they was taking, no need answer, we know the truth. We know that a lot of these people lie. They make it so that they can do what they want to do. So I say, maybe good for the kupuna come back talk to them as the living they no listen. Maybe when the kupuna come, when they build they house or their business there talk to them in their ears, maybe then they going listen. Mahalo.

Mr. Starr: Kaneloa, before you go, I disagree with you. The time for you to talk is not done, but the time for you to try to join in the discussion apply whether for this or for Burial Council or Cultural Resources, stay in the discussion because it's important for all of us to hear your thoughts.

Mr. Kamanu: You got your comment to that because I'm starting to become angry. I tried to control what actually is inside. There's lot of anger inside and like the statement was made you wouldn't like me when I'm angry, you know, so I tried to control myself to a point where I'm understandable and I am not offensive. But yet there's going to be a time when I cannot, so kala mai.

Mr. Starr: Okay, aloha. Anyone else wishing to give testimony? Please, Ms. Ohigashi welcome. Please introduce yourself.

Ms. Stephanie Ohigashi: Good morning Chairman Starr and Members of the Maui Planning Commission. My name is Stephanie Ohigashi and while don't look it I've lived in that neighborhood since 1954. I live in the same house that my grandfather Tatsuji Morimoto built in 1954. It was one of the first houses on Hale Nani Drive. Hale Nani by the way means house of beauty. Sandhills is of course like Theresa said, one of the older neighborhoods, well-established with bankers, doctors, Dr. Uehara lives in Eddie Tam's former home. The movers and shakers of this island live in that community. My neighbors were all policemen named Medeiros. I had Medeiros on the right, Medeiros in the front, Medeiros on the left and felt very safe.

Initially five years ago when I came up here I did express my support for this project and I still support this project. There were many things that I didn't like about it, the biggest issue was the use of Kainani Street and thank you for Theresa for starting and bringing it to my attention. So we formed a kind of grassroots effort to have focus groups and then walk the neighborhood and get petitions to object to the use of Kainani Street. To make a long story short we have no sidewalks, we don't have speed bumps. The roads are just too difficult to navigate for cut through traffic. Of course this is not going to prevent cut through traffic we already see that and – but like Theresa said, we're going to get what we're going to get.

The developers HRT has worked tirelessly to create a good project and from the beginning it was a gargantuan footprint but now I think they are more eco-friendly, they've reduced the scale, they've removed the gas station, the big building and now it kind of fits with our neighborhood and I'm happy for that because I only have to walk two minutes to get my ice cream.

But to make a long story short, Kainani Street is the issue of my concern. I want to make sure it never gets used by the developer as ingress or egress to the Maui Lani Shopping Center. So we created an ordinance to amend a county – existing ordinance to prevent that and last Friday I am glad to say that it passed first reading at the Maui County Council and it will go onto second reading in the very near future. So I hope you will support and respect the wishes of the Maui County Council even if it means adding a condition to the final Phase 2 Approval somewhere down the line.

Clearly Maui needs an economic shot in the arm. This shopping center is sorely needed in Wailuku. It's sorely needed in the whole county because we are the crossroads of the county with government workers going through. So I'm here to support it but I ask that the developers continue to work with us to mitigate the build out, dust noise, traffic, whatever issues, that they worked with us in the past and after they get their approval that they don't say, phew, thank God they're gone. So I'm happy to be here today to support the project, and I'm here for any further follow up in the future if necessary. Thank you very much.

Mr. Starr: Okay, thank you Ms. Ohigashi. Not seeing any questions, thank you for coming. Anyone else wishing to give testimony? Please come. When your item comes up you'll have opportunity.

Ms. Claire Apana: I'm sorry I misunderstood you I thought I could testify after the item was presented?

Mr. Starr: Yeah.

Ms. Apana: Is that possible?

Mr. Starr: Yes certainly.

Ms. Apana: Okay, thank you.

Mr. Starr: Yeah, before any decision making we'll take testimony. And welcome, introduce yourself and thank you for coming.

Ms. Johanna Kamanu: Aloha Council, Commissioners. My name is Johanna Kamanu and I, too, am from Waihee and I guess the question would be why would somebody from Waihee be worried about what's going on over here in the sand hills? Because I paid some attention to the progress of this project my concern now comes regarding the Cultural Impact Assessment, the CIA and realize that Claire who has worked tirelessly to participate and bring information to that has not had opportunity to contribute or allow her contributions to be accepted in the CIA. So my concern would be at this point about the value of the CIA. And I realize it's all dependent on whoever draws it up, constructs it and submits it in a report form to you and that's going to be their work. But my question comes is when that work is submitted, is it law? I mean, I realize it's not a law, but that's the information that's submitted to you to make a decision on. There's nothing else.

Okay, so they do the report, they pull together all the parts that needs to fulfill the requirement to be a CIA but what if they're missing information? Have they gone out and actually found people who live there or who are accepting kuleana for it or who are recognizing it as their responsibility to take care of? I don't think so. So if this is missing from the CIA, then how valuable is that CIA?

Now when the fire in Olowalu took place a heiau was discovered in there and a kupuna came forward and mentioned to a family this belongs to your family, the kuleana to take care of it belongs to you. Now that family has accepted that kuleana and goes out there to malama and take care of it. The law calls it cultural practices. They're doing that, but had they known about it before would they have been taking care of it before? Unfortunately there's these situations that come up like a developer's project that brings these things to our attention. Just because it wasn't part of our family history, just because it wasn't part of the local history, does that mean it's no longer valuable. I'm thinking about all those people, the iwi that we're finding there and all the families who have connections to there just like when I drove up this morning to Kuikahi Road and I see all those white pipes sticking out of the ground and I realize those are all iwi that were discovered. They marked the site where these people were. They're all over the place in there. Now just because there isn't a cultural, a CIA that recognizes –

Ms. Takayama-Corden: Three minutes.

Ms. Kamanu: All of those burials, does that mean it's no longer important to include? Just because there's no family member that remembers this does it mean it's no longer valuable? What I'm concerned here is about the integrity of not the law but our conscience, our social conscience, our community what are we holding our value to ourselves these days. I don't see that value being strengthened by the decisions that the board is being faced to have to accept these CIAs and the EIAs without the challenges from the community and I realize that you may not have those challenges, but at the same time, all I can do is plead that in your good conscience that you would consider these kinds of things and if there is even one person out there who says I have information I want to participate that that information would be included. Thank you.

Mr. Starr: Thank you. Commissioner Mardfin has a question for you.

Mr. Mardfin: I want to thank you for your comments and of your predecessor from Waihee. I share your concern about you get a consultant report and that's kind of it. Part of the purpose of these open hearings is so that we can hear other things, but it's a short time period. And if you know of

people that – if you see one of these things and you think there are serious deficiencies in it then they should be brought out because I've found on other occasions that reports aren't complete. They're very incomplete and I thank you very much for coming and sharing your manao with us.

Ms. Kamanu: Well, you have Claire here at least and I know there's a couple others that have information, they're not here today and I believe the person in charge of the CIA was made aware of it, the company was anyway and they're not willing to accept that.

Mr. Mardfin: Thank you.

Mr. Starr: Thank you and it is important for us to hear these comments.

This concludes the testimony received at the beginning of the meeting.

Mr. Starr: Public testimony is closed. Members any other questions at this time? Commissioner Hiranaga.

Mr. Hiranaga: I think it might be helpful if either the Deputy Director or Corporation Counsel maybe, I know you had them explain the purpose of the final draft EA and also the role of the commission but maybe what the trigger is for the EA and also how the Phase 2 Project District Approval process is related to this process because you know, sometimes the lines get blurred.

Mr. Starr: Okay, yeah, I think that's a good idea and Ms. Cua, why don't you give us a little more of what the triggers are and other portions of the process.

Ms. Cua: I'm sorry, I was speaking when you asked the particular question, you want, I'm sorry.

Mr. Starr: Commissioner Hiranaga, please.

Ms. Cua: You want additional clarification on the process but which part, I'm sorry.

Mr. Hiranaga: You know the Phase 2 Project District Approval what role that has in this process.

Mr. Starr: And what the triggers were for this.

Mr. Hiranaga: For the EA what the triggers are.

Ms. Cua: So, the project district process is a three-step process as we've gone over with the commission in your training. The first step is the Phase 1 process is the actual creation of the project district ordinance which for Maui Lani was over 20 years ago. And then the Phase 2 process is an actual review of a preliminary site plan and that's where we're at with particular project. The Phase 2 application has already come to you. You conducted the public hearing. What happened as we were going through the public hearing though was as the applicant was trying to have discussions with Department of Transportation. They originally, the project initially wanted access off of Kaahumanu Avenue, they were denied. So they were trying to look for an alternate access and if you recall, the Police Department even had concerns when you were asked

to review that ordinance that got sent down to us prohibiting access from Kainani Street which you supported ingress and egress, you know the Police Department did come out and say they did have concern if all ingress and egress was going to happen on Maui Lani Parkway. And we were very concerned as well that's why we were not able, the department was not able to support that ordinance that came down from Council but the commission did. So you know, the applicant at that time when they were trying to figure out alternatives were looking at many iterations of how Kanani Street would be able to be used because Department of Transportation wasn't going to allow them access on Kaahumanu Avenue and so improvements started expanding and expanding you know, we got to the point where we realized there's actually an EA trigger here because use of state or county lands or funds is a trigger and that's when after you looked at the initial Phase 2 Project District application you had to defer action so that this separate process of the EA could take place. So the project kind of took it's own form. It had to go back to the drawing board again because now in addition to trying to find an alternate access in addition to Maui Lani Parkway they had issues with resistance from the community of access on Kainani Street and still they hadn't had the approval from access onto Kaahumanu Avenue. So that took a long time to get coordination between the applicant and the Department of Transportation. And so, you know, once that was done they were able to submit a draft Environmental Assessment to you which showed access primarily from Maui Lani Parkway and very limited access on Kaahumanu Avenue and no access, no ingress or egress, sorry Dr. Uehara, no ingress or egress from Kainani Street. Does that help?

Let me finish, I'm sorry. So now we're in the final Environmental Assessment. We've done the draft, we've done the final, if the final is accepted as a Finding of No Significant Impact this is a disclosure document, if you accept it as a FONSI you're saying that the potential impacts have been adequately mitigated to this point. That does not mean that you cannot have additional questions or bring up additional issues at the Project District Phase 2 application which normally happens when you review many projects. But the scheduling of the Project District Phase 2 application with this body, again, cannot occur until the challenge period is completed on the final Environmental Assessment document which is 30 days after it's filed with Office of Environmental Quality Control. So you know, if you get past today then at some later time after the challenge period is completed you would be able to take up once again, the Project District Phase 2 application for action. Does that help?

Mr. Hiranaga: Yes, you basically answered my questions. I just wanted clarification that the Environmental Assessment is a disclosure document and that we will have another opportunity in the future to review the project, the Phase 2 Project District approval at which time if you're looking for various issues regarding functionality of the layout or impact to slope or whatever that's really the time to start, to bring those up.

Ms. Cua: Well, that's a time where you can continue to discuss. You can you know, you can let the applicant know today you're accepting this document but when they come in for, when they come back to you for the Project District Phase 2 you want to make sure you get information on this or they complete discussions with so and so, they get approval from so and so, you could make that kind of statements to the applicant and to the department.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I have a question I'd like to ask somebody in this room. I'd like to ask Ms. Apana because her – Mr. Kapahulehua said they had discussions with her and I'd like to have her response please.

Mr. Starr: I'll allow that but I'm going to ask Ms. Apana to be to the point and brief.

Mr. Hiranaga: Just for the record, point of order, I think that is – you're requesting – the public hearing is over and she is a person of the public so I'm – it's the Chair's call but I just wanted to make that objection for the record that I feel that it is out of order.

Mr. Starr: I appreciate that, but I will allow because the question's coming from a commissioner I will allow it the commissioner is king or queen in this room.

Mr. Freitas: So we're setting a precedent?

Mr. Starr: No, we're just allowing a commissioner ask a question and we will get a brief answer please. Commissioner Mardfin, brief question –

Mr. Mardfin: Okay, the reason I asked you and I didn't ask you during the public testimony phases because you had spoken during the public testimony phase already, but your name was brought up and it was testified to that you had met with people dealing with the cultural inventory assessment and I wanted to know your reaction to that.

Ms. Claire Apana: Thank you very much. I met with the developers team and explained what my practice, my cultural practice was on this land, asked to be interviewed, asked to change the result of the CIA so the proper mitigation could be found for the cultural impact and last Friday or Thursday I was called by Erin Mukai, one of their team people and told that they would not be doing any changes on the cultural impact assessment but would at some later time interview people.

Mr. Mardfin: Thank you very much.

Ms. Apana: Thank you very much.

Mr. Starr: Thank you very much for that and good keeping it to the point. I have a question for Ms. Cua, the Burial Council were you present at their meeting and do they have outstanding process going on that would affect this?

Ms. Cua: I'm sorry, I was not present at that meeting. I did attend their site visit that morning, but I did have other meetings where I was not able to attend that particular meeting. The one thing about the Burial Council and its work and just the process of archaeological sites from understanding and I believe yours as well is an ongoing one. I don't think there's ever resolution early in the process and this is early in the process because you know the information that is done or that is found at this time is based on you know testing and inventory. Once you start the construction phase that's a whole other set. The Burial Council's work is not done and State Historic Preservation Division's work. So that's you know, my understanding, I believe that's also your understanding of the process. I don't know if any of the applicant's representatives were there

at that Burial Council meeting, I was not.

Mr. Starr: So in other words, if the Burial Council has a comment or demand related to the sites then that will be – those will definitely be implemented in the Phase 2 is that correct?

Ms. Cua: Well, the process of burials is a separate process that is ongoing and when you approve any project that doesn't mean that this work is going to stop. If, you know, depending on what kind of information we get from the Burial Council like in the matter that was before you that I said we were requesting deferral there was a situation that had come up at your meeting that it was for, you know, a graveyard site where they wanted monitoring and in that particular case, thinking how we're going to go do that because as they dig each grave site to do monitoring at that time isn't really appropriate so we went to the Burial Council and they were trying to help us figure this out because they're just as concerned. In that particular case they're going to come with some suggestions as to what can be done to resolve that. When there's known burials, it follows a different process and I don't think we're going to get the same situation where they just give us a letter and say this is it. It's an ongoing thing in that case. And Lisa was there, their archaeologist was at the meeting and she would probably be better to let you know exactly.

Mr. Starr: For my standpoint I just want to be clear that by – if we act on this today that we don't preclude the Burial Council from further interaction in having their say.

Ms. Cua: No, not at all. They have their separate agenda jurisdiction that they're charged with.

Mr. Starr: Okay, thank you very much. Members we're ready for action or more questions, comments? Commissioner Mardfin.

Mr. Mardfin: I'd like to make a motion. I move to defer this item in order to – the motion is to defer.

Mr. Starr: Is there a second? We have a motion by Commissioner Mardfin, seconded by Commissioner Sablas, the motion is.

Mr. Yoshida: To defer action on the Environmental Assessment determination.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Let me explain my reason. When we began this meeting today our Corporation Counsel said that we have a couple of options. One is to accept the FONSI, Finding of No Significant Impact. Another is if we believe it may have a significant impact on the environment then it would require an EIS. I think at this point it may have a significant impact, but rather than move for an EIS would take a great deal of time and money, I'm asking for a deferral so that the two issues that are highest in my mind are the Cultural Impact Assessment. It sounds like there have been some meetings and a deferment would allow time to come up with a new revised Cultural Impact Assessment after conferring with people that have knowledge. And the second big issue is on the iwi and a deferment will also allow time for the Burial Council to do some of their work. I understand Ms. Cua said that that can be done down the road. But if they have had a recent meeting just like they had a recent meeting for the earlier project we did today, it seems to me we

should give them a little bit of time to come forth with sort of a letter. That's my reason for asking for a deferral rather than a full EIS at this point.

Mr. Starr: Any more discussion? Commissioner Hiranaga.

Mr. Hiranaga: I'd like a comment from the Deputy if this final EA was found to have – was accepted when would you estimate the applicant to return for their Phase 2 Project District Approval?

Ms. Cua: Well, –

Mr. Hiranaga: I mean you have the challenge period and you have blah, blah, blah.

Ms. Cua: I would say probably the earliest would be October.

Mr. Hiranaga: And at that time when they come before us for their Phase 2 Project District Approval if the commission believes that the process is still incomplete they could defer that request at that time.

Ms. Cua: Defer the Project District Phase 2, oh yes, definitely.

Mr. Hiranaga: So I will be voting against the motion to defer. I feel that there is ample opportunity for the parties to meet before this will be brought back to us. There is a process that we should follow the process and we still have another stage to go through before they come before us and whether we're going to grant approval or not on the Phase 2. So I really don't see a need for deferring this issue at this time.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: I echo the same thoughts. I had the same feelings too. And so that's –

Mr. Starr: We ready to vote? Commissioner Mardfin.

Mr. Mardfin: I'd just like to say that I believe I understand there's a process down the way for Phase 2 Approval, but if this gets defeated there'll be a motion to accept a Finding of No Significant Impact. I don't believe we can do that at this point, so I would be voting no on that motion because there may be a significant impact. I think a deferral is a way to give them – avoid a big expense and give them a short time to resolve the issues that we've raised today. And I think it is at the environmental assessment phase that we should get all the information not pass this off temporarily in the hopes that we can ask for more later.

Mr. Starr: Okay, thank you very much. You ready to vote. Okay, Commissioner Hiranaga.

Mr. Hiranaga: Maybe Corporation Council could clarify for us what may have a significant impact means because all of us on this island have an impact to the island. So when does it become may have a significant impact?

Mr. Hopper: That is within your discretion commissioner but there is actually a list in the Hawaii Administrative Rules. I can go over that list if you'd like it's called significance criteria and basically it states, "in considering the significance of potential environmental effects agencies shall consider the sum of effect of a quality of the environment and shall evaluate the overall and cumulative effects of an action. In determining whether an action may have a significant effect on the environment the agency shall consider every phase of a proposed action, the expected consequences both primary and secondary and the cumulative as well as short term and long term effects of the action. In most instances an action shall be determined to have a significant effect to the environment if it, 1) Involves an irrevocable commitment or to lost or destruction of any natural or cultural resource; 2) Curtails the range of beneficial uses of the environment; 3) conflicts with the state's long term environmental policies or goals and guidelines as expressed in Chapter 344 HRS and any revisions thereof and amendments thereto, court decisions or executive orders; 4) Substantially effects the economic or social welfare of the community or state; 5) Essentially effects public health; 6) Involves substantial secondary impacts such as population changes or effects on public facilities; 7) Involves a substantial degradation of environmental quality; 8) Individually limited but cumulatively has a considerably effect upon the environment or involves a commitment for larger actions; 9) Substantially effects of rare, threatened or endangered species or its habitat; 10) Detrimentally effects air or water quality or ambient noise levels; 11) Effects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach erosion prone area, geologically hazardous land, estuary, fresh water or coastal waters; 12) Substantially effects scenic vistas and view plains identified in county or state plans or studies; or 13) Require substantial energy consumption.

So the state through its Administrative Rules has given you some guidance because obviously you know almost an unlimited amount of things that you could look at. You could say may have the environmental effect. You know, I would use those as guiding factors. Read the document you have if you think it may have a significant effect then you would say that you would need to prepare an environmental impact statement if you would come to the conclusion that it would not have a significant effect then you could issue a Finding of No Significant Impact for this document. It's true you can ask for more information later, but really it's kind of a coincidence that you are the same agency that's approving this later sometimes there's different agencies that do the EA and do the Phase 2 Project approval. You happen to be the same one so I'd generally would advise to go by the environmental assessment standards that you have here to make this determination today. So you know you should really make a determination based on the significance criteria and on HRS 343 which I read earlier.

Mr. Starr: Thank you Mr. Hopper. We ready to vote?

Mr. Freitas: Question.

Mr. Starr: Yeah go ahead Jack.

Mr. Freitas: I'll be voting against the motion. I believe that they have produced all of the information that we need and I think further delays would just drag this project on.

Mr. Starr: Okay, and lets vote. The motion is Mr. Yoshida.

Mr. Yoshida: To defer action on the environmental assessment determination.

Mr. Starr: So a vote in favor would defer this. All in favor please raise your hand. All opposed.

It was moved by Mr. Mardfin, seconded by Ms. Sablas, and

The Motion to Defer Action on the Environmental Assessment Determination Failed.

(Assenting - W. Mardfin, L. Sablas, P. Wakida)

(Dissenting - K. Hiranaga, J. Freitas, O. Tagorda, D. Domingo, W. Shibuya)

Mr. Yoshida: I have three in favor, five against, motion fails.

Mr. Starr: Okay, is there an additional motion to be made?

Mr. Hiranaga: Before we go through another motion I did have a couple questions I wanted to pose or comments.

Mr. Starr: Please keep it really brief. It would be good if we could dispose of this one way or another before lunch.

Mr. Hiranaga: I just wanted clarification from the applicant on the bulb out a vertical elevation depiction as far as you mentioned curbing. You know, are you going to use stanchions or curbing and also if you could construct the bulb out so that if it does not appear to be functioning properly it could be easily removed and some other traffic method be implemented quickly so that we don't have to go through a big process to get DOT to approve a change and also on with regards to noise, the applicant consider closing sections of the parking lot after say 10:00 p.m. closest to the residences. I know you're going to be dimming lights and closing sections with regards to the preservation area so maybe you could enlarge that and push the parking further east since you also indicated you're going to have security on site.

Mr. Starr: Okay, Mr. Munekiyo please brief answer.

Mr. Munekiyo: Mr. Chair, we will provide additional details regarding the specific design parameters for the bulb out as requested and we will look at perhaps coming up with more comprehensive parking plan for late night, early morning hours.

Mr. Starr: Okay, Commissioner Shibuya. Just a quick question, comment. I'm assuming that on the comments on conservation of energy that include possibly the generation of electricity with photovoltaic and/or wind type systems. It's just a suggestion.

Mr. Munekiyo: We'll be looking at solar energy options as well.

Mr. Starr: And energy efficiency, more stringent energy efficiency. Okay, members we're going to vote now, no we don't, aren't going to vote because we don't have a motion. How about a motion? Any motion. I'll take anything you want. Someone please. Commissioner Shibuya.

Mr. Shibuya: Move to accept this Finding of No Significant Impact and we can start the process here.

Mr. Starr: Okay is there a second?

Mr. Freitas: Second.

Mr. Starr: Moved by Commissioner Shibuya, seconded by Commissioner Freitas, the motion is.

Mr. Yoshida: To accept the Final EA and issue a Finding of No Significant Impact Determination.

Mr. Starr: Okay Commissioner Mardfin.

Mr. Mardfin: I just want to mention I'll be voting against this motion because I think there may be a significant impact.

Mr. Starr: Okay, thank you. All in favor of the motion please raise your hand. All opposed. What's the record?

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

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

Mr. Yoshida: We have in favor, three against. The motion carried.

Mr. Starr: Please take the discussion to heart. We expect to see certain things when the Phase 2 comes back.

Mr. Munekiyo: We will Mr. Chair. Thank you very much.

Mr. Starr: Okay, before we go I just would like to request that we move the item that we committed to 1:00 p.m. up to the next point in the agenda that would be Item D-1. So when we come back after lunch.

Mr. Shibuya: Item what?

Mr. Starr: D-1.

Mr. Shibuya: D-1.

Mr. Starr: Yeah could someone make that motion.

Ms. Cua: I think we have that motion.

Mr. Shibuya: We had that motion.

Ms. Cua: You made that motion earlier.

Mr. Shibuya: Yeah, we have that motion.

Ms. Cua: It's going to be at 1:00 p.m.

Mr. Freitas: Yeah we did do it.

Mr. Starr: We a motion to move it ahead. Okay, by Commissioner Freitas, seconded by Commissioner Mardfin. All in favor please raise your hand. All opposed.

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

**VOTED: To Take Up Item D-1 After the Lunch Break.
(Assenting - J. Freitas, W. Mardfin, K. Hiranaga, O. Tagorda,
D. Domingo, W. Shibuya, L. Sablas, P. Wakida)**

Mr. Starr: Good. Okay, we'll see you at 1:10 p.m. Good work everyone.

A recess was called at 12:10 p.m., and the meeting was reconvened at 1:10 p.m.

Ms. Kathleen Aoki: ... Special Management Area and Shoreline Area infractions situated at 6950 Makena Road, TMK 2-1-006:090, Makena, Island of Maui. Representing the County for the Planning Department is attorney, Mimi Johnson.

D. SETTLEMENT AGREEMENT (To be taken up at 1:00 p.m. or soon thereafter.)

- 1. Corporation Counsel will present a settlement agreement with a recommendation for action by the Commission pursuant to the Maui Planning Commission's Special Management Area Rules and the Shoreline Area Rules on property owned by LARRY D. DODGE and SARA P. DODGE (Co-Trustees of the Larry D. Dodge and Sara P. Dodge 1988 Living Trust) regarding Notices of Violation issued for alleged Special Management Area and Shoreline Area infractions situated at 6950 Makena Road, TMK: 2-1-006: 090, Makena, Island of Maui.**

Ms. Mary Blaine Johnston: Good afternoon.

Mr. Starr: And just for clarity I see Mr. Mancini is here. Are you representing the other party?

Mr. Paul Mancini: Yes.

Mr. Starr: Okay, so Mr. Mancini represents the Dodge Family.

Ms. Johnston: Okay, thank you. When we here before the Commissioners had indicated that you hadn't received a copy of the settlement agreement. Did you receive a copy of the settlement agreement? Should have been in your packet. I don't know if you've had a chance to review it. I'll just briefly go over the terms. I don't want to take any longer than we need to.

Basically the Dodges purchased some property located on the beach at Makena next to Secret Beach in September of 2007. They proceeded to make some renovations and repairs to the property without obtaining any permits. They were cited by the county for two – it was actually four violations. Two of the violations concerned a what we call a planter box wall that was constructed and the second was a repairs and renovations to their deck. They were given both the shoreline violation and SMA violation for each of those two violations so that comes to four.

We actually, Paul and I have been working on the settlement since mid-2008 and we were finally able in December of last year to sit down with a group of people including a number of representatives from the Department of Planning, planning consultants the Dodges had hired counsel an we worked out this settlement agreement.

The terms basically of the settlement agreement are agreed to fines for each of the violations and I'll go over those in a minute. In addition, the Dodges are to undertake a couple of steps that they must take. First is to remove the planter box wall, and the second is to obtain necessary permits for the repairs that were already done to the deck.

They did proceed immediately, rather immediately after we reached this agreement even before it was reduced to writing and applied for a demolition permit for the wall which was granted and also applied for the permits or applied to go forward with the repairs to the deck and that was also approved.

The amount of fines agreed to and this is set out at page 3 of the settlement agreement. The fines for the construction of planter box wall for the shoreline setback area there's a initial – the total package is \$65,000 okay total settlement which I believe is the largest fine that's ever been imposed for this kind of violation. And it's allotted in this way and I'm not even sure I could remember why we allotted it this way at the time but this what we agreed to. Initial fine of \$500 for construction of the planter box wall within the shoreline setback and a total daily fine of another \$500. As for the construction of the planter box wall within the special management area which is the main issue before you today is an initial fine of \$10,000 and a daily fine of \$49,000 for a total of \$59,000. For reconstruction and the renovations to the deck within the shoreline setback area without SMA approval, \$2,000 initial fine and \$1,000 daily fine for a total of \$3,000 and for reconstruction of the deck within the special management area without approval which you also need to approve, initial fine of a \$1,000 and a daily fine of \$1,000 for \$2,000 so that does total up to \$65,000 for the four different violations.

As soon as, hopefully today we get your approval and I can convey the settlement agreement to the Mayor for her signature and assuming she signs off then there's some triggers in there. The payment of the fines will be due within 14 days after the Mayor executes it, executes the settlement

agreement and then there are other steps that they ...(inaudible)... is supposed to take as far as removing the planter box wall. Some of that involves going back and dealing with the state.

They were cited by the Department of Land and Natural Resources in June of 2008, and a fine was imposed for the planter wall. That's on appeal. They are to withdraw their appeal and to work with the state to get that – to get the wall removed as quickly as possible. That's essentially the settlement agreement. They also will continue to have to get whatever permits you are going to require for their deck, there were some roof repairs and deck reconstruction and so forth so they have some – the permits they would still be coming to the county to seek and that's basically the agreement. And if you have any questions. I don't know if Paul wants to add anything to that. If you have any questions I'll be happy to answer.

Mr. Starr: Before questions why don't we give Mr. Mancini and opportunity and please use the mike, introduce yourself for the record.

Mr. Paul Mancini: Good afternoon, thank you for taking us out of order. We appreciate that and didn't want to be trampled behind the next project. But I tried to explain last time what a hellish nightmare this has been for the Dodges for three years. I won't repeat any of that. The settlement was reached after a number of difficulties having to do with the cross jurisdictional issue. As Ms. Johnston indicated the wall is basically other than for a small part – it's perceived to be on conservation land and that's why we were dealing for such a long period of time the Department of Land and Natural Resources. Now to remove it I've been dealing with the conservation officer to submit a plan there to get it done.

Ms. Johnston made reference to roof repairs. The permit has been issued ...(inaudible)... that's finished. One of our problems here is that the structure when it was purchased by the Dodges had some serious problems and we couldn't get those serious problems accommodated until we dealt with these two problems, the deck and the seawall or the planter box. And we've got it dealt with by the settlement agreement and it's been a case that's been very complex because of the cross jurisdictions and also it's been a difficult case because of the nature of what existed on the property and when they purchased the property, but rather than getting into that complexity I'll just ask you if you could approve the settlement and then we'll go to the next phase of the nightmare which hopefully will be a much better dream than a nightmare. Happy to answer any questions you might have.

Mr. Starr: Just for clarity sake my understanding is that both sides agree to this settlement agreement is that correct?

Mr. Mancini: That's a correct statement, yes.

Mr. Starr: Okay, Commissioner Mardfin.

Mr. Mardfin: I just have a real technical question. On page 3, the second line up from the bottom it says, writing, "if the seawall cannot be removed." Is seawall the same as the planter wall?

Mr. Mancini: That's correct. I noticed that this morning when I read over this. It was the only place

in the documentation where planter box and seawall were not combined but it's the same –

Mr. Mardfin: It's the same –

Mr. Mancini: It's the same improvement.

Mr. Mardfin: And so this planter box/wall/seawall that was a hardening of the shore is it – it is the understanding that it was a shore hardening sort of a thing?

Mr. Mancini: Well, all questions exactly what it was but basically a number of rocks which front the deck on the property.

Mr. Mardfin: Okay, thank you. I'll leave it to you to decide whether you correct the language in there. That's a lawyer thing.

Mr. Mancini: I think we all know what it means, but thank you for the clarification.

Mr. Starr: Commissioner Freitas.

Ms. Johnston: One of the biggest hurdles we had to jump over is how to clearly(inaudible - not speaking into a microphone)... I think we finally ...(inaudible)... planter wall.

Mr. Mancini: I agree.

Mr. Starr: Commissioner Freitas.

Mr. Freitas: So my understanding is that the seawall is on appeal to the state, I am right?

Mr. Mancini: Yeah, let me explain. The state came in and took the position that the rocks were on the sand and the sand was part of the conservation district and then to – either to remove it or get a conservation district use permit. So we had to go through a process in that we were involved in a contested case which was stayed or put in abeyance until we resolve this because we were dealing with two different jurisdictions and the state still maintains the position that the planter box is in the conservation district and they have jurisdiction over the removal or what happens, but I think they have – are going to be cooperating with us with regard to removal.

Mr. Freitas: I move that we accept the settlement agreement.

Mr. Starr: Just hold on for one minute, couple minutes. I just want to ask Mr. Hopper to explain our options and then we'll move into action.

Mr. Hopper: Your options are to accept the settlement agreement. You can reject the settlement agreement or you could defer if you want further information. Basically under your rules you've given the department the authority to enforce your rules but in order to settle a violation, a notice of violation has been issued, you as the commission have to approve any settlement and that's what you're doing now. Both parties have agreed to this settlement and have brought it over to you

to see if you would also agree with the settlement. Basically that's what your options are, accept, reject or differ.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: It says in our agenda, an executive session may be called by the commission. Is there any reason to do that?

Mr. Starr: I, for one, would prefer not to. I think if there were contentious questions or something. Anyway I think we're ready for Commissioner Freitas.

Mr. Freitas: I move that we accept the settlement agreement.

Mr. Starr: Is there a second?

Ms. Domingo: Second.

Mr. Starr: Okay, moved by Commissioner Freitas, seconded by Commissioner Domingo, the motion is, Director.

Ms. Aoki: You have a motion on the floor to accept the settlement agreement.

Mr. Starr: Okay, you ready to vote? All in favor please raise your hand. All opposed.

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

**VOTED: To Accept the Settlement Agreement.
(Assenting - J. Freitas, D. Domingo, K. Hiranaga, O. Tagorda, W. Mardfin
W. Shibuya, L. Sablas, P. Wakida)**

Ms. Aoki: It's unanimous to accept the agreement.

Mr. Mancini: Thank you once again for your time.

Mr. Starr: Okay, will we need to have a report ...(inaudible)... for signature and if so, who drafts it?

Ms. Johnston: ...(inaudible -not speaking into a microphone)... It just says you need to approve. I would think that there's not a signature line ...(inaudible)... commission on the settlement agreement. ...(inaudible - not speaking into a microphone)...

Mr. Mancini: It would helpful to I think all of us if the director would issue a letter pursuant to this agreement to all parties indicating the action of the commission today and that would establish the record that had been approved.

Mr. Starr: Okay, what I'll ask is that the department will draft a letter and pass it through both counsels and also through our counsel's office and on everyone's acceptance to that it will be

finalized.

Mr. Mancini: Thank you very much.

Mr. Starr: Okay, thank you.

Mr. Starr: Mr. Dias do we need, can we move straight into it or do we need to set up?

Mr. Dias: I think we can head straight into it.

Mr. Starr: Okay, Director please.

Ms. Aoki: Mr. Chair and Commissioners, you have on your agenda an application from Heritage Hall Inc., a partnership between the Maui Puerto Rican Association and the Portuguese Association of Maui requesting an Environmental Assessment Determination on the final Environmental Assessment prepared in support of the community plan amendment from heavy industrial to public/quasi-public for the Heritage Hall, a multi-purpose cultural and community center and office complex to be located along Baldwin Avenue near the Paia Mill at TMK 2-5-006: 019, Paia, Island of Maui. Planner for this is Danny Dias.

B. NEW BUSINESS

2. **HERITAGE HALL, INC., a partnership between the MAUI PUERTO RICAN ASSOCIATION and the PORTUGUESE ASSOCIATION OF MAUI requesting an Environmental Assessment determination on the Final Environmental Assessment prepared in support of the Community Plan Amendment from Heavy Industrial to Public/Quasi-Public for the Heritage Hall, a multi-purpose cultural and community center and office complex to be located along Baldwin Avenue near the Paia Mill at TMK: 2-5-006: 019, Paia, Island of Maui. (EA 2009/0003) (D. Dias) (Draft EA reviewed on September 8, 2009.)**

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

The EA trigger is the Community Plan Amendment.

The project needs a Community Plan Amendment (CPA) and a Change in Zoning (CIZ). The public hearing on the CPA and CIZ applications will be conducted by the Maui Planning Commission after the Chapter 343 process has been completed.

Mr. Danny Dias: Thanks Kathleen. Good afternoon Chairman Starr and Members of the Planning Commission. As stated by Kathleen, the item before you is a final Environmental Assessment and request for and issuance of a Findings of No Significant Impact for the proposed Heritage Hall. They plan to build two separate structures on a .68 parcel of land along Baldwin Avenue in Paia essentially across the Paia Mill. And I'll let the applicant get into the details of what they're actually

planning on building.

As a reminder this project will need a community plan amendment from Heavy Industrial to Public/Quasi-Public and a change in zoning from Urban Reserve to Public/Quasi Public. The department anticipates that the Maui County Council will initiate both of these processes before the end of this year which will then allow the commission to review this project once again.

For the newer commissioners this item was brought before for this commission previously on September 8, 2009 for comments on the draft Environmental Assessment. The applicant took the comments. Along with the comments from various state and county agencies and came up with the final EA that's before you. Given the size and nature of the project, the applicant is requesting that the commission accept the final EA and issue a FONSI. And before lunch we handed out a letter from the Department with the comments that the commission had along with the response from the applicant. I just want to point out that that information was in was the final EA under Chapter 10. So it's not new information. It was already in there and we just handed it out just to you know, make it a little easier for you folks to read it. So with that, I'm going to hand it over to the applicant for a real quick presentation, probably five minutes or so, maybe 10 minutes. Okay.

Mr. Starr: Before you do that first of all I want to compliment this format where we get a copy of the previous concerns along with the answer broken out instead of just having to go through the documents and try to see if they were addressed. Can you tell us what the trigger for the 343 process was?

Ms. Karlynn Fukuda: Thank you Chair. My name is Karlynn Fukuda with Munekiyo and Hiraga, Inc. The trigger for the Chapter 343 review is the community plan amendment.

Mr. Starr: Okay, and please proceed.

Ms. Fukuda: Okay. We'll have Erin Mukai from our office do the brief presentation.

Mr. Starr: Okay thank you. Ms. Mukai.

Ms. Erin Mukai: Good afternoon Chair and Vice Chair and Members of the Commission. My name is Erin Mukai. I'm with Munekiyo and Hiraga and I'm here this afternoon on behalf of Heritage Hall to review the final Environmental Assessment that's been prepared for their project which is also called Heritage Hall in Paia.

So to give you a little bit of background, the Heritage Hall, the organization was formed as a partnership between the Maui Puerto Rican Association and the Portuguese Association on Maui and they've come together to construct a joint cultural community center and office complex that would be open to the public.

So to summarize what they're looking at doing is constructing two separate structures totaling about 5,596 square feet and these two structures will house a social hall, a kitchen, a cultural resource center, offices, conference rooms, classrooms, an open courtyard and related amenities.

So as I had previously mentioned the project is located in Paia. It's located off of Baldwin Avenue. Here's the project site here and it's directly across the street from the old Paia Mill. This is a site plan of the project and I'll point out a few key features. This is Baldwin Avenue here. This building is the office building and the second is the social hall building. Both of the two structures will be connected by a courtyard and parking will be provided at the rear of the lot.

Now I have a couple of site photos. So this photo was taken actually looking across the street at the old Paia Mill. So standing on the sidewalk fronting the project site. And the second photo was taken from the sidewalk looking into the project site. And this last slide here is an architectural rendering of what heritage hall will look like after it's constructed.

So at this time I'd like to go over the comments that the planning commission made at the last September 2009 meeting. So as Danny had said we do have copies of your letter and we have copies of our response to your comments attached there. And some of the answers are responded to directly in the letter, others there's more information actually provided in the text of the final EA. So to summarize, – that concludes the power point presentation and now we'll go over the eight comments that were raised by the commission.

The first comment was regarding the use of energy saving devices so as represented at the September 2009 meeting the applicant is exploring the option of installing PV panels for the project on the roofs of the building and additionally, the applicant and architect are looking at the extent to which other energy saving devices could be used. So details will be worked out when preparing the construction plans but to mention just a couple, some of the things that they are considering are installing instantaneous water heaters for the kitchen, the light fixtures will be energy efficient as well as the exterior lighting will be on timers.

The second comment from the commission was regarding a letter from SHPD, so to summarize the contents of the SHPD letter basically what they were asking for was for the submittal of archival photographs of the old Paia Dispensary which was formerly located on the project site. So in December of 2009, the project's archaeologist submitted the AIS, the Archaeological Inventory Survey which included the photos to the Architecture Branch of SHPD and he did receive a subsequent letter from SHPD whereby they determined that their project would not affect historic properties. So again, all the information is within the final EA document.

The third comment from the commission was regarding the drainage system so following the September planning commission meeting the engineer and Heritage Hall looked into the comments that were raised and as part of the analysis, the engineer looked at the proposed garden as an area for additional retention for the runoff. However, due to the size of the garden and the grading constraints it was determined that the garden area wouldn't sufficiently reduce the discharge. So the engineer concluded that the 72-inch subsurface drainage system that's proposed will reduce the post development runoff from the project site onto adjacent lands at a rate that's lower than the current pre development runoff.

Comment four from the commission was regarding the drainage of petrochemicals. So again the engineer and the applicant looked at alternatives for filtering the petrochemicals coming from the project site and they investigated three alternatives and those alternatives are found in the text of

the final EA. To summarize the first would be the installation of catch basin inserts. The second would be the installation of a hydrodynamic separator and the third would be using the subsurface drain as a pollutant pool and based on the engineer's analysis this last option using the subsurface drain as a pollutant pool was determined to be the most feasible to implement.

The fifth comment from the commission was regarding the commercial kitchen. So after discussing this with Heritage Hall the kitchen will primarily be used by Heritage Hall during special events or for baking food, making food for fundraising and the kitchen will comply with food treatment requirements such as grease interceptors, ...(inaudible)... boxes and screens and the project's mechanical engineer will work with the Department of Environmental Management to insure compliance on the kitchen.

The sixth comment from the commission was regarding the Paia-Haiku Country Town Design Guidelines and these design guidelines were established for projects within the Paia-Haiku Country Town Business District. The project site actually does not lay within this district however, the architect did take some time to design the project following some of these guidelines and those include for example limiting the building height to two stories, using stucco finish for the building walls, using white, tan or earth tone colors for the building and providing off-street parking at the rear at the lot.

The seventh comment from the commission was regarding the change in zoning from Urban Reserve to Public/Quasi-Public. So pursuant to Maui County Code, the Urban Reserve designation does not permit their project use so to establish a proper zoning designation a change in zoning is requested from Urban Reserve to Public/Quasi-Public because a primary permitted use within the Public/Quasi-Public District are community centers so that's why there is a change in zoning request.

The last comment from the commission was regarding the inclusion of site photographs from the draft EA into the final EA and actually there were no photographs in the draft EA, however, the photos that were presented at the last September 8, 2009 meeting are all included in the final EA as well as the architectural renderings.

So at this time, that concludes the presentation. However, members of the project team are here this afternoon to answer any questions you may have on the project or our responses to your comments. So here today is Calvin Higuchi, the project architect and Reed Ariyoshi, the engineer and we also have quite a few members from the Heritage Hall Board if you all want to raise your hand. So thank you for your time.

Mr. Starr: Okay. Thank you all for coming down today. Members now would be a good time if anyone has any questions. Commissioner Mardfin.

Mr. Mardfin: I've got a couple. Lets start with water supply, there's a letter from the Department of Water Supply and it says it served – it says, "there's currently no additional source available." It's on page 26 I think. I don't know how you're numbering these things in this section on –

Ms. Fukuda: Chapter 10 of the final EA.

Mr. Mardfin: Section X, page 26, 26 October 2009 letter. "Currently no additional source available to accommodate new customers." Does that mean you're not going to be able to get water to it?

Ms. Fukuda: My understanding is that there are still water meters being issued by the Department of Water Supply and there is a water meter existing on the property because of the previous use as the Paia Dispensary. There are plans in place for the Heritage Hall to seek a larger water meter because they will need a larger water meter in order to service the project. So there are preliminary plans that have been prepared in order to allow for a larger meter to happen.

Mr. Mardfin: Thank you. My second question is dealing with sidewalk issues and there is a 26 March 2010 letter from the Department of Public Works let me see if I can find a page number for you. I think it's on page 22.

Ms. Fukuda: Yes.

Mr. Mardfin: Well, this is the 15 September letter, number one, "We reviewed the subject road widening lot shall be provided for the adjoining half of Baldwin Avenue to provide for a future 60-foot wide right of way, but not be – blah, blah, blah, but not be limited to pavement widening, construction of curb, gutter and sidewalks, street lights." And you guys response I think you said you don't want to do the sidewalk because it will interfere with the historic nature of it. Is there any resolution to that between you and Department of Public Works?

Ms. Fukuda: We have had preliminary discussions with the department about that. The sidewalk that has been in front of that Heritage Hall and previously the Paia Dispensary and other uses was put in as – it's the WPA, under the Roosevelt Administration, I should remember –

Mr. Mardfin: Works Project Administration.

Ms. Fukuda: Yes, yes, and those initials are put into the sidewalk in that area. So there was the feeling from the Heritage Hall Board that there was some historic value to keeping that sidewalk there and also the Paia-Haiku Community Plan also talks about, you know, providing for a rural standards for roadways. So we are continuing to have ongoing discussions with the Department of Public Works and about the possibility of preserving the sidewalk and the roadway width in front of the site, so –

Mr. Mardfin: Does Mr. Miyamoto care to comment on this issue? No?

Mr. Mike Miyamoto: Mr. Chair. Yes, we're continuing to discuss it with the applicant as they develop their construction plans on what can be accommodated and how we can be flexible in this area.

Mr. Mardfin: The third one is kind of a technical thing. Can someone tell me where Hamakua Coast is on Maui?

Ms. Fukuda: Well, I do remember that question or comment that had come up at the last meeting and in talking with the archaeologist I guess there are, it's rather a large area and it covers

Hamakuapoko which is part of the Paia area and there was I can't remember the other Hamakua I want to say it's Iki but I'm not sure.

Mr. Mardfin: So it is on Maui. We're not referring to the Big Island.

Ms. Fukuda: No, we are not referring to the Big Island.

Mr. Starr: Okay, we ready for public testimony? Okay, are there any members of the public that would like to offer testimony please come forward, introduce yourself and very much welcome to have you.

Ms. Audrey Guerrero: Mr. Chair, Commissioners my name is Audrey Guerrero, I'm Vice Chair for Heritage Hall Board. Since you already know that we're Heritage Hall and who we are, I'd like to extend to you our feelings about what we want. As the population grows it's harder and harder to find places to meet. We need places for gatherings, we need places to prepare our fundraisers and just basically to store our history, our culture. We need a place and that's what we're looking for right now. So what I'm telling you right now thank you for your time and thank you for backing us up.

Mr. Starr: Thank you. Members? Okay, thank you. Anyone else wishing to offer testimony? Not seeing any, public testimony portion is closed. What we're – Commissioner Mardfin.

Mr. Mardfin: Are you ready for a motion?

Mr. Starr: Yes. Commissioner Hiranaga. The answer is no of course. Commissioner Hiranaga.

Mr. Hiranaga: Kind of a layman's interpretation of the engineer's response regarding the drainage retention. Regarding the 72-inch subsurface drainage system, lower than current pre development runoff meets the county standards. I read it several times and having difficulty.

Mr. Starr: Yeah do you have your civil here?

Ms. Fukuda: We do. Before I bring him up Mr. Chair, I would just like to state that based on the comments received at the last planning commission meeting we did look at the comment on the 2.0 cfs that's currently existing on the site and so we are retaining some of that and I'll let the engineer explain more.

Mr. Starr: Please introduce yourself for the record.

Mr. Reed Ariyoshi: Good afternoon, my name is Reed Ariyoshi, I'm with Warren Unemori Engineering and I'm the civil engineer for the project. With regards to your question can you please restate your question, sorry.

Mr. Hiranaga: I'm trying to understand the response that was given by Unemori Engineering regarding the 72-inch subsurface drainage system reducing the post development runoff and meeting the county standards. So, when we get these applications that relate to drainage some

civil engineers say post development includes pre development and some engineers say pre development is before development, post development. So I'm just trying to understand when you're saying you're reducing the net runoff is lower than pre development you're saying you're capturing all post development which is required by County Code and you're reducing the existing runoff slightly.

Mr. Ariyoshi: By County Code we're required not to increase the runoff into adjoining properties and so –

Mr. Hiranaga: You're retaining.

Mr. Ariyoshi: Yeah, we're retaining the additional runoff that's being generated by the development but in this particular project we do have a reduction so actually the amount of runoff that will be leaving the project site will be less than what it currently is the pre development.

Mr. Hiranaga: And what is the decrease?

Mr. Ariyoshi: We've worked out a percentage. It's roughly in the neighborhood of about a 50% decrease.

Mr. Hiranaga: And this reduction is caused by the 72-inch subsurface drainage system?

Mr. Ariyoshi: Yeah, we're primarily storing a lot of the runoff on the project site.

Mr. Hiranaga: I guess it would have been simpler to say that versus the response that you've given because it seemed –

Mr. Ariyoshi: We kind of didn't want to quantify it at this stage because we're still in the preliminary stages.

Mr. Hiranaga: I understand it wasn't quantified.

Mr. Starr: Okay, we ready for a motion? Commissioner Mardfin.

Mr. Mardfin: I move that we accept the final Environmental Assessment with a recommendation of Finding of No Significant Impact.

Ms. Domingo: Second.

Mr. Starr: It's been moved by Commissioner Mardfin, seconded by Commissioner Domingo and there's no recommendation. Ann.

Ms. Cua: Just to move to accept the final Environmental Assessment as a Finding of No Significant Impact.

Mr. Starr: Okay, ready for the vote?

Mr. Hiranaga: Make one comment?

Mr. Starr: Yeah, Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I just like to urge the applicant to look at possibly retaining more pre development surface runoff because as we all know the surface runoff on Baldwin Avenue basically flows downhill into Paia Town and eventually enters Paia Bay totally untreated and the silt combined with all the dirt coming off the cane fields does harm the Paia Bay although it is some distance from this project. I would like them to at least take a stronger look at how much they can assist in the health of Paia Bay.

Ms. Fukuda: Thank you.

Mr. Starr: Do I see another hand? Are we ready for the vote? All in favor please raise your hand. All opposed.

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

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

Ms. Cua: Motion carried, eight ayes.

Mr. Starr: And just a comment, you know, while we are hoping that runoff will be reduced, energy consumption will be reduced to the maximum extent possible but this is a really good example of different parts of the community working together to really benefit the people of Maui so thank you for everyone who's working on this project. It looks really nice.

Ms. Fukuda: Thank you very much.

Mr. Starr: We're going to take a two-minute recess till ten to two just to set up.

A recess was called at 1:48 p.m., and the meeting was reconvened at 1:52 p.m.

Mr. Starr: ... of August 10, 2010 is back in order to introduce the next item Deputy Director Cua.

Ms. Cua: Thank you Chair. Your next item under Unfinished Business is a request by Mr. Robert T. McDaniel III, Development Partner of Kanaha Professional Plaza LLC requesting comments on the draft Environmental Assessment prepared in support for the Special Management Area Use Permit for the proposed Maui Medical Plaza project consisting of the construction of a six-story approximately 132,865 square foot professional medical office laboratory facility, a six-story approximately 365 stall parking structure and related improvements in the M-2 Heavy Industrial District at 151 Hana Highway in Kahului. The staff planner is Jim Buika.

Mr. Starr: And before we begin, I'm going to continue to recuse myself because of my wife's involvement with the Maui Coastal Land Trust which is named in the document that's named before us. I'll be handing the gavel over to Commissioner Ward Mardfin.

Mr. Mardfin: Thank you very much. I guess we proceed by letting the planner give his thing.

C. UNFINISHED BUSINESS

- 1. MR. ROBERT T. MCDANIEL III, Development Partner of KANAHA PROFESSIONAL PLAZA, LLC requesting comments on the Draft Environmental Assessment prepared in support of the Special Management Area Use Permit for the proposed Maui Medical Plaza Project consisting of the construction of a six-story approximately 132,865 square foot professional medical office/laboratory facility, a six-story approximately 365 stall parking structure, and related improvements in the M-2 Heavy Industrial District at 151 Hana Highway, TMK: 3-7-011: 028, Kahului, Island of Maui. (EA 2010/0002) (SM1 2010/0006) (J. Buika) (The Draft EA was circulated with the mailout for the July 13, 2010 meeting.) (Review began at the July 27, 2010 meeting.)**

The EA trigger is the utility work being done within the State right-of-way. The project needs a Special Management Area Use Permit. Action on the Special Management Area Use Permit application will be taken by the Maui Planning Commission after the Chapter 343 process has been completed.

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

Mr. Jim Buika: Yes, thank you Vice Chair. This is a continuation of the deferred draft Environmental Assessment review that was begun on July 27th. There are two handouts in front of you. One is a letter from the Law Offices of Ing and Jorgensen. I believe you have been distributed this this morning came in yesterday and also there is a copy of the power point presentation, a few slides from today and then a copy from the July 27th presentation.

Mr. Mardfin: Jim I have this one but I don't think I have the letter.

Mr. Buika: Carolyn did the letter – did the letter, Ing and Jorgensen get distributed?

Ms. Takayama-Corden: Yes it did.

Mr. Buika: It has a large letterhead Ing and Jorgensen across the top. Not that I was going to address it right now but I just wanted to make you aware that it is part of the record handed out today and available to you. So with the Vice Chair's permission what I would like to do is just kind of set what we're doing here today, turn it over to Mark Roy from Munekiyo and Hiraga to reintroduce a few parts of the project to all of you and then we can proceed to ask questions and comments on the draft environmental.

Mr. Mardfin: Please proceed.

Mr. Buika: Okay, thank you. So the Maui Planning Commission's purpose today is to review the draft Environmental Assessment only. The Maui Planning Commission will provide comments to the applicant today, ask for clarifications and request additional information for completeness of the draft Environmental Assessment.

From your comments the Planning Department will compile Maui Planning Commission comments in a formal letter to the applicant for follow up, research and response. Responses to all the Maui Planning Commission comments will be incorporated into the final EA by the applicant that you will see at a subsequent meeting.

As far as procedural matters the draft Environmental Assessment has been prepared pursuant to Chapter 343 Hawaii Revised Statutes. There is an EA trigger for proposed action that involves proposed driveway and utility improvements affecting Hana Highway, a state facility and East Kamehameha Avenue, Kahului, a county facility. The accepting authority is the Maui Planning Commission. The document does meet the requirements of the draft EA upon review by the Planning Department. And the draft EA is available and has been announced in the OEQC Environmental Notice, it is on line as of July 23, 2010 and it is open for a 30-day public comment deadline which is August 22, 2010.

Along with distribution to the Maui Planning Commission and distribution to the OEQC the Planning Department simultaneously transmitted the draft EA with the Special Management Area Use Permit to 43 agencies and organizations for review and comment. So those reviews and comments are coming back from individual agencies parallel with the process we have going on today. So once the EA – okay for the process for completing the EA review and the Special Management Area review following today's session there will be a second Maui Planning Commission meeting to review and accept the final Environmental Assessment as you just did on the previous matter and then there will be a third Maui Planning Commission meeting following the completion of the EA process, the Maui Planning Commission will conduct a public hearing to review the Special Management Area Use Permit application. So at this point, I'll turn it over to Mark Roy for a few introductory slides.

Mr. Mardfin: Please do so.

Mr. Mark Roy: Thank you Jim. Good afternoon Chair, Members of the Maui Planning Commission, thank you for allowing us the opportunity to be here before you today. My name is Mark Roy with Munekiyo and Hiraga. We're here today representing Kanaha Professional Plaza, LLC who is the applicant for the proposed Maui Medical Plaza project.

We've prepared a brief presentation today for the commission summarizing the main discussion topics that were explored during the commission's review of the draft Environmental Assessment at the July 23rd meeting.

Before getting into the main discussion topics I thought it would be a good idea just to have a few slides just to orient the commission again on the location for this particular project. We have an

aerial site photo here of the Kahului area showing the location of the project site and it's Lot 8 of the Kahana Industrial Subdivision that I'm outlining in red here that goes back towards the Kahului Harbor here. And then on the east side of the project site we have the Kanaha Pond Wildlife Sanctuary and then the retail and light industrial areas of Kahului at the bottom of the aerial photo. It's a 2.5 acre project site.

Here we have a site photo looking across Hana Highway towards the various heavy industrial uses that are in the other developed lots within the subdivision. You can see the gas tanks and the Kahului Harbor would be oriented off to the left side of this particular slide. And another shot this time looking at again, you have the gas tanks close to Kahului Harbor on the right side of the slide. This is Lot 8 here, in the middle of the slide, the Kahana Industrial Subdivision stretches back towards the Harbor and then you got the downtown Kahului, Hana Highway along this portion of the shot.

Brief project summary, as was discussed at the previous meeting, this project's intended to address the current shortage of medical space on the island and it's proposed to do so in a centrally located facility that is planned to provide enough space for future expansion needs for the medical sector on the island.

This slide just gives you the, I guess, the more pertinent elements of the project. It's a six-story structure as we discussed at the last meeting. It embraces a staggered design going back from the first story up to the sixth story. Six story is 76 feet in height. And the staggered design was adopted in light of some preconsultation consultation with the Urban Design Review Board that took place during the early planning phases for the project. 110,000 square feet of gross leaseable floor area, 365 parking stalls within an attached parking garage structure and then various landscaping, utility and driveway related improvements.

This is the site plan that we showed at the previous meeting. Hana Highway just for orientation purposes is located at the bottom of the slide. This is on its way to Paia, Upcountry, this is towards Wailuku side. The proposed Maui Medical Plaza building which I'll show a rendering of again is oriented more in proximity o the Hana Highway side of the Lot 8 project site would be 365 parking stall parking garage on the rear of the project site. And as you can see here we have the drainage canals that were discussed in answering some of the commission's questions at the previous meeting these provide drainage capacity for the Kahului Industrial areas across of Hana Highway.

This is an overall project perspective showing the architectural elements of the project and again, the staggered design that is being incorporated into the project as a result of the preconsultation comments and then here in the foreground we have Hana Highway, the six-story structure of the Maui Medical Plaza and this would be one of the, or the project access driveway with the exit driveway located further down on eastern perimeter of the site.

Just going back quickly as I discussed, here is the project access driveway that would be entered by a acceleration, deceleration lane that would be put in to facilitate the project's access requirements and the exit driveway would be oriented at this side of the project site and would be a right turn out exit driveway only.

In summary, the project represents a unique urban infill opportunity for Kahului and is consistent with the guiding principles of the Countywide Policy Plan and the directed growth strategy of the proposed Maui Island Plan that is currently being reviewed for adoption by the County Council.

As Mr. Buika noted the draft EA has been prepared to provide a technical assessment of the project and is currently undergoing review by various agencies and community groups. At the July 23rd meeting we provided the commission with a presentation on the key findings of the draft Environmental Assessment that has been prepared in this presentation also included an overview of the various mitigation measures that are being proposed for incorporation into the project design.

Some examples of these mitigation measures as we discussed at the previous meeting was the definition and implementation of a wetland mitigation plan in conjunction with the Department of Army, U.S. Corp of Engineers that would provide compensation for the loss of the approximately one acre of onsite functionally degraded wetland that exists with the Lot 8 and there would be rehabilitation of approximately five acres of wetland occurring over at the Waihee refuge and that has been deemed to provide adequate compensation through the Department of Army's assessment process for as I mentioned the filling of the wetland that would occur with the implementation of this project. That plan has been accepted by the Department of Army as of a few months back.

Now also Best Management Practices Program will be implemented to insure protection of neighboring land uses from both soil erosion and dust related nuisances during construction and also a comprehensive drainage system would be put in place that would consist of a series of retention basins within the configuration of Lot 8 that has been designed to exceed county requirements to retain all pre and post development drainage flows for the project.

The landscaping plan has had a lot of attention put into it and seeks to recognize unique environmental characteristics of the surrounding area and provides for a transition, an appropriate transition between Kanaha Pond and the industrial, heavy industrial uses located through the remainder of the subdivision as you go further back towards the Harbors.

Also number of roadway improvements that we discussed at the previous meeting designed to enhance the operational efficiency of the surrounding roadway system these improvements have been formulated in coordination with the State Department of Transportation to be consistent with the long term transportation planning objectives for the area.

And finally also we touched upon the last meeting a sustainable design program that's being evaluated for the project and the goal there is to facilitate responsible resource and energy use practices both during the construction of the facility and also the operational phases of the project.

The last couple of slides I have for the commission today as I mentioned at the beginning of my presentation are intended purely to present a brief summary of the main topics that we heard during the commission's review at the July 23rd meeting. There were questions asked and I think the commission also indicated that some of these topic areas they were interested in exploring more information in the context of the final Environmental Assessment that would be prepared following this meeting today. You know we're certainly receptive to receiving the comments from the

commission if these were deemed to be some of the comments the commission decides to move forward with at today's meeting and plus obviously any additional comments that are warranted as a result of questions and answers at today's meeting.

Just briefly going over these, a packet has been distributed to the commission for you to take a look at which includes these two slides, but just running down the list we had flight paths from Kahului Airport over the industrial subdivision that we're talking about today including aircraft using Runway No. 5, the commission was interested in exploring some additional information on that matter.

Second was the impact of future operational changes in runway use at Kahului Airport and I guess its relation to the 2009 FAA determination of no hazard to air navigation that had been issued by the FAA for this specific project.

Third, there was interest also for a more detailed view analysis of the medical plaza buildings from all directions around the site, north, south, east and west including a perspective shot looking across Kanaha Pond. Alternative site evaluation process was also discussed as to how the developer arrived at purchasing Lot 8 and selecting it for the proposed Maui Medical Plaza project. We can certainly explore some additional discussion on that process that took place in the final Environmental Assessment document if the commission would like that.

There was also at the bottom of this slide a foundation system design discussion that took place. As we noted at the previous meeting a geotechnical report has been completed for the property that analyzes the soil conditions within Lot 8 and a foundation system design has been recommended on a basis of the findings of that report and we can certainly include additional discussion into the final Environmental Assessment on the findings of that particular report.

There was also discussion regarding potential lighting impacts that would be in addition to the lighting from vehicles along Hana Highway from the parking garage on bird species within the Kahana Pond Wildlife Sanctuary. There was also a discussion about the height of comparable and existing – I'm sorry, comparable both existing and proposed commercial structures in the Wailuku-Kahului Plan region recognizing this building up to its six stories, approximately 76 feet. And also there was the commission I think was interested in learning more information about the wetland mitigation plan review and acceptance process more specifically the arrival of the five-acre wetland mitigation plan over at the Waihee dune area.

There were questions also pertaining to the height limitations under the M-2 Heavy Industrial zoning designation. Some questions pertaining to the grading plan including finished elevations for the project site following construction in relation to the surround areas. We can certainly take a look at that and tie in the necessary information into the analysis and then finally, impact of roadway mitigation improvements to the Kamehameha Avenue/Hana Highway intersection on vehicle movements in and out of Hobron Avenue just off Hana Highway.

That ties up the notes that we have, and like I said it's purely intended to be a summary of what we perceive to be the main topics of discussion from the previous meeting and certainly we'd be happy to address any additional questions at today's meeting. We have a consultant team here and would be happy to address any other questions.

One final note, I would like to make this the end of this presentation today is we understand that there has been some expression of interest by the commission as to the possibility of visiting the Maui Medical Plaza project site. The applicant certainly welcomes this suggestion and would be willing to work with staff to schedule a site visit at some point in the future.

Following completion of the commission's review of the draft EA document if it's completed at today's meeting it will likely be a couple or so months before the applicant is in a position to schedule -- window of opportunity for the commission to conduct a site visit of the property should the commission so desire at today's meeting or any future meeting. That concludes my presentation and like I said, we're here to obviously answer any additional questions the commission has during their deliberation on comments and the draft EA today. Thank you very much.

Mr. Mardfin: Thank you Mark. What we'll do -- how we'll proceed is we will continue with commissioners asking questions, if something looks like it's a comment I would urge you to note it down because we're going to do mostly questioning first then we'll have public testimony and then we'll go back to making our comments for improvement of the -- for the final EA. Would somebody like to start us off? Commissioner Freitas.

Mr. Freitas: On your site plan you have Lot 5, Lot 6 on Lot 5 along the -- there's a roadway that go back to Lot 6 where there is a metal processing facility. How far away is the Lot 5 driveway from your project driveway?

Mr. Roy: Just for purposes of clarification Commissioner Freitas are we looking at Figure 4 of the draft EA?

Mr. Freitas: This one right here, yes sir.

Mr. Roy: And we're looking at Lot 5 which I believe is the Bounty Music parcel.

Mr. Freitas: Yes sir.

Mr. Roy: Let me just confer with the owner I think he has a probably more accurate assessment as to how far that access driveway is from the project area.

Mr. Freitas: Yes because there'll be heavy trucks and stuff going back there because that's a metal process and auto processing facility.

Mr. Bob McDaniel: Good afternoon my name is Bob McDaniel, I'm the development partner for this project. Good to see you again. Commissioner Freitas, this driveway as it currently exists is shared by Lot 5 of the Midway Center, Lot 6 Mr. Kitagawa's project, legally by Lot 7 which is the drainage canal and by Lot 8 now as an undeveloped lot. The current driveway will be improved in a sense that it will be resurfaced, however the functionality of this section of driveway is going to remain the same. There will be an immediate left turn into the front of Midway Center, there will be egress and ingress to the rear of Midway Center. Mr. Kitagawa has a gate here at Lot 6. If he chooses to use that gate he will have access across the existing driveway as it is now. His traffic consultant Phillip

Rowell and my discussions with Mr. Kitagawa his statements are that he has no intention of using this driveway. All of his – Phillip Rowell his traffic consultant said that the traffic study for Mr. Kitagawa's development directed all the heavy traffic towards Hobron and Mr. Kitagawa said that perhaps 10 cars a day, his employees would use this entrance. Currently he's parked several containers to block this access and my conversation with him is that he has no intention of using this access at all. He could in the future. There is a perpetual access easement across that driveway. Our improvements and access to our property will be along a parallel newly developed driveway, but in answer to your question that driveway will remain the same and it will serve these lots.

Mr. Mardfin: Are there any other questions dealing with the driveway? Any other questions dealing with anything? Commissioner Hiranaga.

Mr. Hiranaga: I would just like to know the approximate distance of the frontage of your lot and also the additional distance between your property along – or the perimeter of Kanaha Pond along Hana Highway and Haleakala Highway and this relates to some comments regarding impacting view corridors and if you look at the aerial photo of the project you can see that the perimeter of Kanaha Pond that's exposed along Hana Highway and Haleakala Highway is quite substantial but if you can somehow quantify that.

Mr. McDaniel: The Lot 8 frontage on Hana Highway is approximately 600 feet. And our utilization would be approximately 500 feet of that with the trapezoidal area that Commissioner Shibuya referred to earlier and the existing driveway area not being utilized extensively in the new development. So the full 600 feet is what's on the TMK.

Mr. Hiranaga: Right, but what I'm asking for when you prepare your final to determine the distance of the perimeter of Kanaha Pond that borders Hana Highway and Haleakala, old Haleakala Highway.

Mr. McDaniel: Understood, certainly.

Mr. Mardfin: Any other questions? Commissioner Shibuya.

Mr. Shibuya: Just had a question in terms of trying to look for the map, an aerial view or something that shows me the flight pattern of aircraft in relation to the completed structure.

Mr. McDaniel: Following up on your question at the earlier meeting –

Mr. Shibuya: Right.

Mr. McDaniel: We do have some data but we've decided that we would compile the data in a comprehensive response in the final EA.

Mr. Shibuya: Okay, okay, thank you.

Mr. Mardfin: Commissioner Shibuya, I know they've just committed to that but if you'll remember

to put that in our comments when we get to the comments section.

Mr. Shibuya: Sure.

Mr. Mardfin: Commissioner Wakida.

Ms. Wakida: I assume that you're familiar with the Wailuku-Kahului Community Plan?

Mr. McDaniel: Yes to some extent.

Ms. Wakida: Yes, they're quite specific in here about – I'm concerned about the size of the building that you've projected and how it fits in with the Kahului urban design that's outlined in here because it says in here that they – in Kahului, the low rise character of the central business district should be maintained. Higher building forms up to six story should be sited in the central portion of lots. And it mentions that a couple of places in here and I wondered why you chose to put such a large building on the edge of Kahului rather than find some place more interior?.

Mr. McDaniel: In 2006 when we bought this property there wasn't a lot of other real estate available in the economic feasibility price range and the doctors who led this drive are at the Maui Clinic now. This is close to the projected new site and in the circle that they were interested in locating there was less to choose from. So this site presented an opportunity for us to start with and we are in the process. Two meetings with the Urban Design Review Board provided a lot of feedback for design and what would be receptive and what would blend and what would be compatible and those sort of things and we're by no means finished. We're just working it. I could ask Mark to discuss the community plan further.

Mr. Roy: Certainly, Mark Roy with Muneikiyo and Hiraga. An analysis of the Wailuku-Kahului Community Plan document itself is provided in the draft EA which the commission received. We are aware of those specific policies within the context of the community plan document itself and in fact we've had some initial discussions with staff over at the Planning Department who had similar comments to Commissioner Wakida's comments and so during the process of moving from the draft Environmental Assessment to a final EA that would come back to the commission for an acceptance determination we will be providing a more detailed analysis of the individual policies within the community plan document.

Ms. Wakida: Is there another building six feet – six stories in Kahului?

Mr. Roy: I'm not aware of one in the immediate vicinity off the top of my head, but I do believe there are some existing and proposed projects that do go up to that height standard that are in the immediate Kahului vicinity.

Ms. Wakida: Probably the hospital would be the only other one.

Mr. Roy: Right.

Unidentified speaker: Lono Building.

Mr. Mardfin: Commissioner Hiranaga.

Mr. Hiranaga: No to get into a discussion but I did mention at the previous meeting that Kahului Town Center does have their major SMA permit to build six-story rental residential mixed used project along Kaahumanu Avenue where Burger King currently is located.

Mr. Mardfin: Commissioner Wakida would you like some questions?

Ms. Wakida: I have one more in that area.

Mr. Mardfin: Please then.

Ms. Wakida: And also in the Wailuku-Kahului Plan is an emphasis on preservation of scenic vistas and certainly this project it's massive and it's on a scenic vista. You know how do you address that?

Mr. Roy: The applicant certainly recognizes that you know a six-story building is a large structure. They've taken a lot of attention to the landscaping plan for the project as I noted to insure that it provides a good transition recognizing that it's part of a heavy industrial subdivision that it is being permitted as M-2 Heavy Industrial to provide a transition away from the heavy industrial land uses towards more the retail and light industrial uses towards the Hana Highway area. But as I noted in my opening presentation we did take the comments or questions that were asked at the previous meeting regarding the view analysis for the project and we'll be providing a more comprehensive analysis in the final EA document.

Mr. Mardfin: Any commissioners have any other questions? Commissioner Tagorda.

Mr. Tagorda: Just to follow up with that massive structure that you guys propose to be built on that wetland, sensitive wetland area, I look at it as a staggered building. And so you lose some kind of footage when you go up. How about downsizing that massive structure to less than six-footer and then just on with a building that's not staggered. Would that compromise your number of units that you needed or that will be efficient to look into?

Mr. Roy: In regards to the justification of the floor area that's provided by the proposed Maui Medical Plaza project we do have the owner on hand and he can give you an overview as to how they arrived at the square footage for the project but you know, what I would like to emphasize as well is that this project has been in the planning phases for quite some time and the owners before getting going on any real permitting for the project had engaged the Urban Design Review Board for a couple of presentations and the staggered design, originally it was more of a traditional lot structure for the building, there was some comments received I believe during, although I wasn't present at those meetings, received at those meetings that indicated that a more staggered design for the stories stepping back away from the highway as we see here with the planter design around each of the floors was something to be taken into consideration. As part of the – the process of reviewing design alternatives for the project this is ultimately where the owner has ended up. Like I said, it was in response to some preconsultation comments from the Urban Design Review Board.

Mr. Tagorda: Can I just?

Mr. Mardfin: Please continue.

Mr. Tagorda: Would you be able to give us a true impact on that six-story building that's proposed into a lower structure that's comparable things.

Mr. Roy: Certainly. If the commission feels as a body at the end of today's meeting that they would like to see an exploration of some alternative designs for the proposed building that's certainly a discussion that can take place within the final EA document.

Mr. Mardfin: Commissioner Tagorda when we get to the comment phase please bring that up again. Any other questions from Commissioners? Commissioner Sablas.

Ms. Sablas: I have a comment on the design of the building with the staggered and now you see foliage on the different levels and how realistic is it that years down the line that you would still be able to maintain the foliage and avoid seepage or you know when you keep the water, the plants watered I've known of buildings that started out with planting and then they got into drainage problems and eventually it doesn't have any foliage and then it becomes to be – becomes an eyesore.

Mr. Roy: Sure. Unfortunately we don't have the landscape architect with us in the audience today so I'll do my best to address the question at hand and if there are any follow up questions that we need to provide responses to we can certainly explore that again during the preparation of the final Environmental Assessment for the project.

The landscaping, preliminary landscaping plan has been put together by Brian Maxwell of Maxwell Design Group. They're a professional landscape, architect firm based on Maui and so they're – the preparation of the landscaping plan for this project has been specifically completed recognizing the surrounding environmental characteristics around Lot 8 and the specific element that the commissioner's question is focusing on is the use of planters around each of the stories on the structure. What is I think difficult to appreciate from this perspective shot is that there will be open air lanai walkways around each or most of the floors that you see in that perspective shot. So there's certainly the opportunity for maintenance crews to get up there and access the planter boxes to make sure that the landscaping is maintained. Hopefully that addresses the commissioner's question if not, we can certainly take questions beyond that and look for the answer.

Mr. Mardfin: Would you like to follow up?

Ms. Sablas: I would like to see again, examples of foliage that still exist off buildings that have this type of landscape and just, you know, satisfy my curiosity that this kind of thing will look the same way it does as you're proposing 10-years, 15-years down.

Mr. Mardfin: Commissioner Sablas would you remember to bring that up again when we get to the comment section. Are there any other questions by commissioners? Seeing none, I have a few.

How many parking stalls are you proposing in this parking structure?

Mr. Roy: I believe the preliminary count at this point is 365.

Mr. Mardfin: 365. How many are required under County Code?

Mr. Roy: In liaising with the owner representative, Bob McDaniel, he informs me that the 365 stalls is precisely the requirement under the Maui County Code.

Mr. Mardfin: Okay. Another question. Last time we were talking about lighting and the effective lighting on the Kanaha Pond and the wetland sanctuary and I think we asked a lot of questions about that. There was a comment in one of the letters about shadows. This is a large building and shadows will be cast particularly in the afternoon across Kanaha Pond. Is there somebody that can answer questions about what the impact of those shadows might be? Of course the length of the shadow will differ depending on the time of year too.

Mr. Roy: Sure, sure and that was raised during the early consultation process for the environmental assessment which I think is what Commissioner Mardfin is referring to.

Mr. Mardfin: Yes I saw some things in there.

Mr. Roy: I think our response at the time had been, you know, we looked at some of the surrounding heavy industrial land uses within the subdivision itself and there certainly area a number of buildings further north of Lot 8 that are in closer proximity to the pond area. In specific regards to Lot 8 looking at the design for the Maui Medical Plaza the nearest point of the building itself I think we estimated I can't recall off the top of my head maybe approximately a hundred feet away from the nearest points of the Kanaha Pond wetland area. So, you know, that analysis, preliminary analysis that we had included in the draft EA document can certainly be explored in further detail. What I would like to say however, we do have Penny Levin here today.

Mr. Mardfin: I think she's ready to speak.

Mr. Roy: I think she tapped me on my shoulder once so, she is very familiar with the characteristics of Kanaha Pond. So I'll let her just kind of add to my initial thoughts to the commission's question.

Mr. Mardfin: Thank you. Penny would you please introduce yourself and then answer the questions.

Ms. Penny Levin: Aloha, Penny Levin, I'm a conservation planner and I did the wetland mitigation plan for this project. In relation to the entire pond the pond is about 235 acres and so in that regard the shadow is actually quite small in terms of its impact on the pond. What happens seasonally in that pond is the water gets very, very hot, uppers of 90 degrees and so you see impacts on the fauna in there, the fish and other things that sometimes really struggle to stay alive in there. So a shadow in that area is going to in a specific spot and shrinking or growing depending the apex of the sun but it will actually cool the water in that area a little bit. So in terms of impacts on wildlife it's not going to scare off the birds in any way. It doesn't – those kinds of impacts have not been

recorded for the area. In terms of improving a little bit the temperatures of the water in that area it actually might help.

Mr. Mardfin: Thank you very much. Mark, I'll ask you but you might want Penny back up there again for this next one.

Mr. Roy: Sure.

Mr. Mardfin: And maybe you definitely do. I believe last time you said that the site itself doesn't contain wetlands or at least the wetlands haven't been wet for a long time and I got the impression the last time, it's only an impression that basically there were no wetlands on Lot 8 that are currently wetland is that correct?

Mr. Roy: Let me provide some initial comments and if need be we can certainly bring Penny up for a more detailed explanation. Lot 8 has been classified as containing .94 acre of wetlands. There are wetlands on the site. The studies that have been done to assess the wetlands based on the delineation that was done and the studies that have been subsequent to that, the studies show that it a functionally degraded wetland and it's primarily because I believe it is completely separated from the larger wetland body which is In Kanaha Pond separated by those drainage canals that I mentioned at the previous meeting had been put in place by the Army Corp quite a while ago and now separate Lot 8 from the, you see the drainage canals just along the top of the parcel here. The wetland area and I think we have a delineation here in one of the slides, okay, can you do that, here we go, that gray area in the middle of Lot 8 is the area that has been officially determined by the Department of Army to be a jurisdictional wetland. Evaluation of the wetland has resulted in it being assigned a functionally degraded status, however it is still a jurisdictional wetland so I would like to make sure that Commissioner Mardfin you're aware of the fact that there is a wetland on the site.

As part of the Section 404 permitting process for the filling of this wetland area there has been an exhaustive and comprehensive process undertaken with the Department of Army to provide compensatory mitigation for the loss of the functionally degraded wetland would occur with implementation of this project.

Typically in the past there's been a one to one ratio for wetland mitigation where you cannot show that there's been a net decline in wetland resources as a result of a project. For this particular project they have defined a wetland mitigation plan that provides for five acres of rehabilitated wetland over at the Waihee wetland refuge and so that mitigation plan in itself has been formally accepted by the Army as being adequate compensation for the loss of the onsite functionally degraded .94 acres of wetland.

Mr. Mardfin: That's my questions. Do any commissioners have any other questions? Commissioner Wakida.

Ms. Wakida: Yes, what is the approximate square footage of – I realize each floor is a little different size but so pick a middle one, approximate square footage of one of the floors not counting the parking.

Mr. Roy: Sure. I have the owner representative here. I think he can give you a more detailed answer than I would be able to.

Mr. McDaniel: Bob McDaniel. The first floor is 20,000 square feet. The second floor is 23,000. The two in the middle three and four are very uniform, they're both 19 and then as you get to the top two they are smaller, 15 and 11, 000 square feet. Now that's the office space that's not the parking structure.

Ms. Wakida: Right. Is the developer putting in any kind of medical equipment or any kind of medical hook up or anything of that sort of thing?

Mr. McDaniel: Nothing medical specific. Infrastructure wise state of the art capabilities in terms of electricity transfer, in terms of internet cables, water supply, those sort of things just constant reliable, the best we could do. Each tenant will be responsible for their equipment and then their improvements in their space.

Ms. Wakida: Okay, because you – it's mentioned several times in here this is a medical facility this building but it isn't really, it's really a building that house medical personnel.

Mr. McDaniel: We are building the core structure and each of the tenant improvements is left to imaging, lab, the various medical specialties.

Ms. Wakida: Okay, you've got a lot of office space that you're proposing. If you don't fill it up with medical professionals will you be opening it up to other people that might want to rent in there say an insurance office or?

Mr. McDaniel: No, the options been considered, our attorney, Peter Horovitz has expressed interest in space. Dr. Smith who's in Midway Center now, the veterinarian has expressed interest in space, but we're not entertaining any other tenants other than at least peripherally medically related.

Ms. Wakida: But that could change.

Mr. McDaniel: Certainly could change.

Mr. Mardfin: Are there any other questions? Commissioner Tagorda you had one a minute ago.

Mr. Tagorda: Yeah, Mr. McDaniel, let me go back to that Kanaha Pond and that drainage canal.

Mr. Roy: Can you just repeat?

Mr. Tagorda: Lets go back to that Kanaha Pond and drainage canal. That drainage canal has been there for many years and it seems, the water is so stagnant it doesn't move downstream where it's supposed to be. Sometimes – were there times that the drainage canal was drained before because I know that was a manmade. So when you have a massive construction going on it just worries me that berms that's been made on that drainage canal on both side might collapse and you damage the wetland area.

Mr. Roy: Sure, we can certainly address those questions I believe, we have our civil engineer, Stacy Otomo in attendance today and if it's okay to the commission I'd like to invite Stacy up to the stand to address your questions.

Mr. Stacy Otomo: Good afternoon Vice Chair Mardfin and Members of the Commission, my name is Stacy Otomo. Regarding the damaging the canal, you know it's going to be a function of the contractor, you know, that's his responsibility to correct – to protect existing improvements. There's going to fill placed on the site. In terms of the drainage if you're afraid that the drainage might get into the canal during the construction period, one of the best management practices plan would include the onsite detention basins having to be constructed prior to any other work proceeding on the site. So they would have onsite measures to mitigate the runoff from the project site both during and the after the construction period.

Mr. Tagorda: Okay, I'm going back to the wetland now. There was a portion of that property that was you guys called it functionally degraded wetland which is .94 acres. What causes that wetland to be degraded? Is it because of the drainage canal that was built there or?

Mr. Otomo: I would defer that question to Penny, the definition of a degraded wetland.

Mr. Tagorda: Yeah.

Ms. Levin: Yes aloha.

Mr. Mardfin: Penny would you reintroduce yourself please.

Ms. Levin: Penny Levin. The definition of a degraded wetland and in the context that the Corp is looking at this they look at several different characteristics. One is soil whether it's a wetland soil; two is whether there is what they call hydrophytic vegetation, vegetation that normally is grown in water in wetlands; and three, seasonality of standing water. What's happened over time and going back to even the late 1800's is when the harbor was dredged when Kanaha was turned into a military facility, when the drainage canal that A&B uses to have that water exit from the Kahului area was dug, a lot of that fill was dumped onto the site and over time turned and so it's there, it's been jumbled up and mixed up and it doesn't function completely as a wetland. You wouldn't recognize it as such if you saw it there in most cases except perhaps when under really torrential rain and you might get a few things pop up. But the Corp would still recognize it as a wetland by its very broad definitions but it doesn't function as such in the way that Kanaha Pond does.

Mr. Tagorda: You would think that building a massive structure of six feet high it won't affect Kahana Pond.

Ms. Levin: It's not attached to Kanaha. There's a berm that's been built and then the drainage canals that run along that are part of Kitagawa's property that take water out from larger area above Kanaha Pond and there's about a hundred feet distance between the property and the site location.

Mr. Tagorda: Would you give us you know some input on benefits from coastal wetlands that we should really take into account, take into consideration if we are going to move along with this

proposed project? The benefits that we get from wetlands.

Ms. Levin: In a functioning wetland there's a lot of benefits including an absorption of runoff from surrounding areas including filtering of pollutants, wildlife support. The area that Kanaha was was actually a inland fishpond, originally historically in the Hawaiian contacts and it was actually inland of the coast. But in the case of this site it's been so degraded that it doesn't as such and the replacement of five acres of restored wetland in Waihee is offsetting that and that's something that's actually determined by the Corp at the federal level so we have to get their concurrence on that.

Mr. Tagorda: I don't know if I should ask this Mr. Chair. I'd like to know if you know how many endangered is in that Kanaha Pond and all that counts, like Hawaiian Stilts, Hawaiian Coots, Hawaiian Duck. Do you know numbers of existing habitat there?

Ms. Levin: I don't have the actual numbers but the Division of Forestry and Wildlife is the responsible agency for that wetland. We have in the mitigation plan the original one that we did attach a full list of species that were found in there and we can provide additional information if that's necessary within the final EA.

Mr. Tagorda: Do you have any mitigation plan that's being currently being done at Kanaha Pond at this time?

Ms. Levin: No we don't. As we shared in the last meeting, the FAA told us they didn't want us doing that in there. We worked very hard to try to make that happen to assist the DLNR to work on their improvements that they were looking for in the pond, but the FAA asked us not to do that so we were forced to go look outside.

Mr. Mardfin: Are there any other questions by commissioners? Commissioner Sablas.

Ms. Sablas: I have a question for you Penny while you're up there. On flora, I've noticed, well I've been talking to some practitioners about the area who go and collect things. This practitioner mentioned that that wetland area is one of the few if only place you can find makaloa to make her weaving and when I was reading through I didn't see any mention of makaloa. She says that's what she's gotten that's still there.

Ms. Levin: That grows in Kanaha, it does not grow on the site. The site is completely disturbed there's no standing water on it. So most of those species aren't supported there anymore. The people who do collect makaloa they go to Fern Duvall over at the Division of Forestry and Wildlife and get a permit and get access together there.

Mr. Mardfin: Commissioner Shibuya.

Mr. Shibuya: On this page 30 there's a handout on drainage plan there's several easements on there in dotted lines can you explain some of these dotted lines or easements and what impact does it have in terms of the – it seems like you're extending into the easement area right in here.

Mr. Roy: Mark Roy from Munekiyo and Hiraga. I put the drainage plan on the power point

presentation for the commissioners to reference and if it's okay with the commission I think Stacy Otomo is able to provide some information in response to that.

Mr. Otomo: Stacy Otomo again. I think at the last meeting Peter Horovitz explained that the drainage canal – A & B has an easement of that for the maintenance of that. I have an old subdivision map that was done when the subdivision was done. This is the area where I think there's five 60-inch culverts that come across the street. Comes into this open channel and heads down in the area of Valley Isle Produce and eventually into the ocean. There's an easement here for the culverts as well as there's a dirt road along here that A & B uses to maintain the canal. As far as the roadway itself it will still have access after the improvements are done to go and maintain the canals.

Mr. Shibuya: So the easements are actually – that's not part of your property then. I mean, the development property?

Mr. Otomo: The building itself is not on the easement, but access along the dirt road around the property will be maintained so that A & B can continue to go in there to maintain the canal.

Mr. Shibuya: Because I see some drawings in the upper triangle area and there is some crossing of some easement lines. It says existing drainage easement and that's not really drainage, it's actually a land mass there.

Mr. Otomo: Yeah, there's a dirt road along the perimeter of the boundary.

Mr. Shibuya: Yeah, I just wanted to have some kind of explanation of one side you say drainage but then there's land mass there and that's not really drainage.

Mr. Peter Horovitz: Are we talking about this area –

Mr. Mardfin: Would you please introduce yourself?

Mr. Horovitz: I'm sorry, Peter Horovitz.

Mr. Shibuya: On the top.

Mr. Horovitz: Up here?

Mr. Shibuya: Right.

Mr. Horovitz: Well as I mentioned at the last meeting A & B used to own all of this and when they subdivided off they created various rights and encumbrances on the property so that they could maintain the drainage system which serves all of Kahului. What they've done here is created within Kitagawa – this is I believe Lot 7, Kitagawa's lot, is a very funny shaped lot which essentially is the drainage canals and so A & B kept an easement over those to continue to use those and service those for drainage purposes. That also, that same easement document which creates or reserves A & B's right to do that also encumbers portions of our property and those portions are down here

where they have a right to go underneath our property to maintain those culverts and then over on this side there's the same thing which is where the access over on this side is. They have the right as well to go along the perimeter of our lot so that they can bring in equipment for dredging or what they may need to service the easement itself. In fact, it's labeled drainage easement is simply a function of they titled the document. So if you, you know, we can provide – I can actually provide that document to the commission as part of the final EA so that the commission can see the language and you know, what the actual reserve is, it's simply when these maps are put together they label it as to what the document itself was titled. So their right to maintain the – to put water in here as well as to cross the edge of our property here is simply contained within that same easement document. And nothing that – nothing that we are doing will impair that right as you can see we're not building down in this area, we're not changing the driveway in this area and the perimeter will remain accessible by them.

Mr. Shibuya: Thank you.

Mr. Mardfin: Are there any other – Commissioner Wakida.

Ms. Wakida: I have a question on the drainage plan on site maybe for Mr. Otomo. I don't know too much about retention basins. I wonder if you can explain to me, there's two on this map, correct?

Mr. Otomo: That is correct.

Ms. Wakida: Explain to me how they are intended to work.

Mr. Otomo: Okay, on the detention basins what we're trying to do again is if we go back to the map that showed the degraded wetland area there is some storage that currently exist, storage meaning when it rains, water is allowed to pond in there before it overflows into the canal. So when we size these detention basins, we sized it for whatever volume the site could hold which is approximately 10,700 cubic feet in that low so-called degraded wetland area and when we do the development itself it generates runoff. So the total size of these two detention basins we're looking at accommodates the existing of 10,700 cubic feet which actually is stored on the site currently plus the post development runoff which includes pre development and the increase that's sized in these two basins. And what it will do is – runoff will be diverted there either by sheetflowing or by picked up by a drainage system and outletted into the detention basin.

Ms. Wakida: Okay, and these are open landscaped areas correct?

Mr. Otomo: That's correct.

Ms. Wakida: And then once it gets into these drainage basins, then what happens here?

Mr. Otomo: The primary means would be percolation into the ground.

Ms. Wakida: Because quite a bit of – it was emphasized several times ...(inaudible)... the drainage is on this property. So I'm wondering if you're putting all this water in one place how you expect it drain?

Mr. Otomo: Right now on the low areas it's approximate elevation four going down maybe to three, three and a half feet, that would be the bottom of the detention basin. The Corp had asked us not to go below elevation four on the detention basin. So when the basins are actually constructed what the contractor would do was grub all of the vegetation that you currently see on the site and they would scratch the surface on the bottom and if need be, you know, we can replace it possibly with gravel or something that has more permeability on the bottom of the basin and it will landscaped over meaning either grassed or some kind of ground cover.

Ms. Wakida: Okay, because the idea is that the water needs to eventually drain through. We have this problem in Lahaina where the water just sits on the hard packed ground and it doesn't go anywhere.

Mr. Otomo: Yeah, we don't anticipate that here because the fact that the water table is quite high so the amount of travel from the bottom of the retention basin into the ground is not that great and during the construction of the detention basin if there's unsuitable material at the very bottom where it cannot drain it will be taken out and replaced with permeable material.

Ms. Wakida: Thank you.

Mr. Mardfin: Let me ask a question at this point. Lets look at the problem the other way. Lets assume there's sea level rise of three feet over the next 30 or 40 years what happens with sea level rise to this retention basin?

Mr. Otomo: Well, this building itself is I think much higher than a lot of the buildings that are currently in Kahului. And you know, obviously if that does occur, the retention basins would fill.

Mr. Mardfin: Then therefore inoperable.

Mr. Otomo: To a certain extent yes.

Mr. Mardfin: Thank you. Are there any questions by Commissioners? Seeing none, we will end the question phase and enter the public testimony phase. So I welcome public testimony and I believe we had a – I had a previous request by our esteemed photographer Kenny Hultquist would like to give testimony.

Mr. Kenny Hultquist: Good afternoon Commissioners. My name's Kenny Hultquist, I'm from Lahaina side. I'm a artist and a videographer and part-time rebel rouser. I've been videoing many planning commission meetings over the past few years. I was just sitting down figuring it out. I've been to at least 60 meetings, maybe more like 80 and out of that probably I've sat through 200 plus projects during those meetings. I'd also like to take this opportunity to say that even though I wear this t-shirt, my Akaku shirt everywhere I shoot I did it at the cancer walkathon, I did it at church functions, whenever I shoot I wear my Akaku t-shirt. I am not an employee of Akaku never have I been. I am a independent producer hired by Maui Tomorrow and that's why you guys get to see what you see on Akaku. It's because of the graces of Maui Tomorrow. They have never tried to influence my opinion in any way, shape or form so that's my disclaimer.

Although I do sometimes stand over here behind my camera and bite my tongue and I don't say anything but this one's just screaming out at me. Kind of feel like I've walked into some kind of bizarre Twilight Zone episode. So the day before the last, the last time this was on the agenda last month I was riding with a friend and we turned off Kamehameha Avenue up Hana Highway and I was looking over at all the guys with the windsurf rigs out in the field right there because on the end of the building where Bounty is they were all out there with their rigs fooling around and the woman that I was riding with said so that's where they're going to build the six-story medical center and I said, you're wrong, you're mistaken there's no way they're gonna -- but it's got to be somewhere like over back over there or across the highway or something. She said, no, no, that's where it's going and I said, sorry I don't believe you there's no way they could put a six-story building right there. It would block the view plain. So I just shined her off. Then I came to the meeting the next day and here it was on the agenda.

So picture this, the building next door is nine stories, cut off the top three stories. We're going to cut of the County Clerk, the Mayor's Office and the County Council and some people might say no great loss, just slice it off. Okay so take the top three stories off multiply that by two and then three, now super glue that whole thing together and pick it up and helicopter it over there onto Hana Highway and drop it right there that's what a six-story building is going to look like right there. I just don't understand why. You know there was a woman that testified this morning. The first person to testify was about Maui Lani said instead of the Safeway why not have a medical center?

Ms. Takayama-Corden: Three minutes.

Mr. Hultquist: And I thought yeah, why not this one? Put that one right there, the hospital's right there and Jonathan the Chair said something about the traffic was so atrocious, good thing the hospital was right there and the Police Station was right there and we'll just add a medical center to take care of any accidents because of the traffic problems that that might cause.

Mr. Mardfin: Can you wrap up please?

Mr. Hultquist: Is that my three minutes?

Mr. Mardfin: Yes.

Mr. Hultquist: Oh, I'm sorry. Okay, I know from experience that you know a project like this takes years to get here and I feel bad standing up here saying what I'm saying because I know all these people put years of their lives into this and a lot of them it's their future and that hurts me to stand up here and say that because I really respect this, but this is like a titanic, and I just don't understand why it would be built in that area. I think it needs to have another spot. Thank you for your time.

Mr. Mardfin: Thank you very much for your testimony. Does anybody have any questions of Kenny? Seeing none, I believe we have somebody else from Maui Tomorrow, please introduce yourself.

Ms. Irene Bowie: Good afternoon. Irene Bowie, Executive Director of Maui Tomorrow Foundation.

Maui Tomorrow testified at the last meeting on this. We do still definitely have concerns and I would start off by saying while you could technically call this an infill project I think it's really not in the spirit of smart growth planning. As Commissioner Wakida mentioned, it goes against the Wailuku-Kahului Community Plan to be right on the edge of the community interfering with the view plain. We have so few wetlands left that it's a hard to think of this going in that site. We still would like to know if the traffic improvements will be implemented at the same time as construction beginning and regarding fill and pilings and we'd like to know where the fill will come from. Will this be taken from any kind of ag or industrial sites where there could be pollutants. This can be a extremely windy area and while those canals might catch something it could easily blow onto the rest of the wetlands.

We also do question again the fact that the parking lot is in the rear. I know it was stated at the last meeting that Fern Duvall said this wouldn't bother the water fowl there but it's quite a ways back from the highway. If they have acclimated to the highway going by this is a whole other ball game to have it right there you know along the water so we would ask that that would be considered also.

Lastly I would just show you again the hazards map from Long Range Planning and nothing has addressed the fact that this is in a zone that is looked at for sea level rise. That it will not only be from the coastal areas but from the wetlands rising and I would just mention that a 2008 report from Long Range Planning titled, "Bringing Sea Level Rise into Long Range Planning Considerations on Maui, Hawaii," used the parcel adjoining the proposed medical plaza site and that's the Kitagawa scrap metal facility as an example of "high risk area due to its low elevation and proximity to the wetland." So I think that's a real factor when you're, you know, you mention that question and it's true what does happen. Hopefully if this is built it's a successful project and is here for many years.

One more thing on that, I would just reiterate that this is a very large facility. At this point there's only commitments for half of that space being rented. It would be heartbreaking if that is built and it's yet one more example on this island of half ...(inaudible)... space, once it's there, it's there. So I really hope that you will, you know, look at all of these questions before moving this forward. Thank you.

Mr. Mardfin: Thank you very much. Do the commissioners have any questions? I'd like to make one quick comment. You're both, Kenny and your testimony has been recorded by the camera and will be in our minutes but they're not official comments from the commission so I would urge you both or anybody else to directly send your comments to the project people so that they can be included in their final EA. Would anybody else like to give public testimony? Seeing none, public testimony is closed.

We are now open to our comment phase. I propose that we each make our comments that we want to make and at the end of it, if somebody makes a comment that you really don't agree with that you make a note of it and at the end we'll have a general motion to adopt all the comments made as comments from the commission, but if you have – we have separate out those with which some other commissioner has an issue. So basically, I think it will make it easier taking notes for one thing virtually anything anybody says is a comment from the commission unless after the fact we decide, we vote on whether or not it should be from the commission. Is that clear? Yes.

Ms. Sablas: May I make a suggestion that when we do our comments try to categorize it, you know, traffic –

Mr. Mardfin: I think that's a very good idea. So whoever gets the first one gets the first bite and then I'll ask for comments in the same general area. I'm sorry, I've been asked by our cameraman to have a short break. Is four minutes, five minutes enough? Ten. Can we meet at – I'll make it nine, can we meet at 3:15 p.m. Adjourn till 3:15 p.m.

A recess was called at 3:06 p.m., and the meeting was reconvened at 3:15 p.m.

Mr. Mardfin: We are entering the comment phase for this project and just to reiterate, we'll let everybody make comments, we'll be considering them commission comments unless at the end of this process somebody wants to have one or more discussed at greater length and voted on. Who wants to – and we'll try to stay by topic area largely so who would like to start first? Don't all speak at once. It can't be me, if Jonathan were Chair it would be me, but – who's next. Commissioner Wakida.

Ms. Wakida: I'll start with the Kahului-Wailuku Community Plan, I have several concerns I want addressed. How this does conform – how it conforms to the community plan, about placement of larger buildings ...(inaudible)... perimeter of the community and also about the community plan's emphasis on maintaining scenic vistas and view plains.

Mr. Mardfin: Any other comments in this general area? In this general area? Commissioner Hiranaga.

Mr. Hiranaga: With regards to scenic vistas I made the request earlier I guess I would like to know the current perimeter of Kanaha Pond that borders Hana Highway and Haleakala, Old Haleakala Highway that provides scenic vistas and what percentage of that scenic vista will be diminished by this building.

Mr. Mardfin: Any other comments in this general area? I'd like to add one. It's been said that we're concerned about how this is viewed from various angles and it's one thing to see the schematics that the artist renders, I've never seen Hana Highway look so beautiful but I've seen other presentations where and Mark in the beginning of your thing you had a lot of different views of the property from different places and I know you guys have the technology to put in a photo rendering into a real photograph you put a model of, a scale model of what it would really look like from a bunch of different views and I would at least suggest something from Maui Mall, something from Costco. Maybe, I don't know if it would be seen from the airport or not, maybe something from Dairy Road and Hana Highway, maybe something a little bit closer on Hana Highway, so really see you don't get the artist rendering you get a real proportional sense of what this will look like. Any other comments you would like to have? Commissioner Domingo.

Ms. Domingo: Following that thought, I would like to see, you gave us in this book here on the six stories, I would like to see something that has three stories. Show us some kind of different angles in that and then let us decide if you know that would be better. That's what I would like to see.

Mr. Mardfin: Commissioner Domingo, would that come under alternatives to the plan or?

Ms. Domingo: No, it could be some kind of picture with the floors.

Mr. Mardfin: Okay, you might also deal with shadows also. Commissioner Hiranaga.

Mr. Hiranaga: Maybe a friendly comment to Commissioner Domingo's request is maybe they could provide their original design proposal for the building before Urban Design Review Board suggested this staggered look. I do know that the Kahului Building which is on the corner of Lono and Kaahumanu Avenue is four stories, so you know, maybe four stories might be acceptable instead of three stories. Four stories I think is still below the coconut tree level.

Mr. Mardfin: Could I ask – I know we're doing comments but I'd like to ask a quick question because it relates to what Commissioner Hiranaga said. Was the original plan to have it four stories and then you did the staggering?

Mr. Bob McDaniel: Bob McDaniel again. Working the numbers the original plan was to accommodate 100,000 square feet of leaseable space and we first worked with Robert Hartman, local architect. We drew up a design that we took to Urban Design Review Board that was poorly received, went back to the drawing board, came up with a second design, we did a model, the scale model, very poorly received, it was only five stories, 60-feet tall, something like that. Similar to the Long, it was very poorly received.

Mr. Mardfin: Thank you very much. Are there any other comments you would like? Ms. Cua.

Ms. Cua: No, I just want to – we're referring to the Urban Design Review Board that did some preliminary comments but I think the department wants to make the commission aware that the project is going to be going before the Urban Design Review Board on the September 7th for – as part of the SMA application.

Mr. Mardfin: And whatever they do would come out in their final EA I presume.

Ms. Cua: Yeah. Yeah, because I believe there'll still be time for – I don't think the final EA would be completely done by then and hopefully – I know the comment period I think will be over correct? Jim by the 7th, but I would think the applicant would be amenable to responding to the Urban Design's comments either in the draft EA, I mean, the final EA or they're going to have to do it as part of the SMA Permit.

Mr. Mardfin: Do they commissioners have any other comments they'd like to make? Commissioner Sablas.

Ms. Sablas: I guess along the design comments on that, I had made a comment earlier about I can appreciate the design to stagger because to kind of mitigate the massiveness of the building, but my concern again is, in the pictures it looked pretty to have all the plants there but how are they going to – I want to see examples especially along that shoreline area of plants actually thriving in that kind of elevation in the way they're proposing.

Mr. Mardfin: Any other comments? Commissioner Wakida.

Ms. Wakida: I have a comment on occupancy. I would like to see more statistical information on proposed occupancy. It's kind of a general 25 physicians, though I forgot what I read here and 64,000 square foot but it's just sort of general, I'd like to see a little more evidence that there is this need and will be this need when this project is projected to be completed to fill that kind of space and that we have more physicians instead of less.

Mr. Mardfin: Thank you. Commissioners? Commissioner Shibuya.

Mr. Shibuya: Are we moving away from I guess siting and appearance?

Mr. Mardfin: Not if you would like to make a comment on it we are not.

Mr. Shibuya: Okay, I'd like to move into infrastructure and one of them is public safety and that deals with transportation and it has two parts on transportation. One is the aircraft flight pattern and I just not only want a two-dimensional type of flight pattern but the flight plan that comes in from the side, the vertical type of impact too as well as the left and right type of two-dimensional diagram.

Mr. Mardfin: And would this be from all airport – all –

Mr. Shibuya: – Runway 5 is probably where that is going to have the greatest impact if they have an impact. The other one that I would look at would be traffic and I am very concerned about the way the traffic patterns are especially with the harbor, that's where Maui's economy is actually held up in. Strategically the way we have the roads it worked in very in 1930's but today with the increased volume and heavier cargo trucks we have increased danger and hazards for pedestrians, bikers as well as for vehicle operators. I would like to see how they have mitigated some of these and helped the traffic flow for the flow of our economy not hinder or slow our heavy trucks as well as tankers delivering fuel as well as bulk sugar as well as containers to the pier. Transportation wise what are our strategic intersections and if we are going to be impacting those strategic intersections with 365 more vehicles then it's a concern and I want to see how you're going to mitigate that.

Mr. Mardfin: Any other transportation related comments? I have one. There was somewhere in the report it mentioned an alternative access through Maui Oil I believe then I never saw it show up again and you know, like two sentences about why you either can or cannot use a Hobron Lane entryway to this thing.

Mr. Buika: Could you restate that again?

Mr. Mardfin: Yeah, there was one place in the draft EA where somebody had made the comment about they could use an entryway by going down Hobron Lane and into sort of where Maui Oil is and come in through the backside rather than have the entrance and exit off of Hana Highway. And I don't know whether it was dropped because they couldn't negotiate it or whether they didn't consider it or they – I have no idea why it didn't show up again but I did see one reference to it and then I never saw it again and I think they ought to go at least have a paragraph explaining that

option.

Mr. Buika: Provide further information of alternative entrance along Hobron Avenue?

Mr. Mardfin: That would work.

Mr. Buika: Okay.

Mr. Mardfin: Any other? Commissioner Shibuya.

Mr. Shibuya: Still on infrastructure, drainage canal easements if you can explain that and that be fine and how you plan to mitigate and/or maintain some of these drainage canal operations. Commissioner Wakida mentioned in terms of holding ponds or at least I'd like you to have a little bit more confirmation on that in terms of if we're going to have onsite retention basins, their capacity especially if these retention basins exceed the easements on the state highway. Is that an accepted practice I'm not sure.

Mr. Mardfin: Related to that on the retention basins, I think there should be some discussion of what happens in the event of fairly large sea level rise. What's the impact there? Commissioner Wakida.

Ms. Wakida: And I'd like to add a concern that the – this building in a tsunami zone and have that addressed.

Mr. Mardfin: Some – Commissioner Shibuya.

Mr. Shibuya: On, go ahead.

Mr. Mardfin: No, no, please you.

Mr. Shibuya: I'm still on infrastructure. Water, availability of water where are you getting the water and what is the commitment that you're getting to supply or provide water for this project?

Mr. Mardfin: Commissioner Sablas.

Ms. Sablas: I'd like to have addressed the concern about the fill where it's going to come from because of the proximity to the pond, the wetland.

Mr. Buika: Please restate that I didn't, I just didn't understand or I didn't hear you, what you were saying.

Ms. Sablas: Sorry. I'd like to have it addressed – the concern about the fill where it's coming from because of the proximity to the wetlands.

Mr. Mardfin: And related to that a little bit, and I raised it last time, how are they going to – what's the geology like under this? And are they going to have to drive pilings down that may hit sink holes or the water table or – I just don't know what's under there and I think they need to do a good

analysis of what – this is a massive structure and how it's going to get supported from underneath if this is a wetland area. Anybody else? Commissioner Shibuya.

Mr. Shibuya: I'm still on infrastructure, utilities now. Electrical power, I would like to have some estimate of the total power that's needed and how they're going to reduce that amount by conservation as well as by generating renewable energy through several system either wind because it's very windy in that area as well as photovoltaics. So these are some of the things that I'll be looking for – looking at.

Mr. Mardfin: A related infrastructure issue is has – this is a medical facility, they're very likely to generate hazardous waste. What I had seen in the draft was, well, each office will take care of their own. I'd like them to at least address the alternative of centrally dealing with hazardous wastes. Any other commissioners? Any other topics? Ann.

Ms. Cua: I have just a question, actually maybe clarification as we were putting this letter together and this is back to design again. There was a comment that I think fell under two categories, design and alternatives and one was to have the option of looking at possibly a three-story building and then a friendly amendment was made to possibly look at a four-story building. So again in terms of clarity for the department preparing the letter, could we get some kind of consensus from the commission because my – and then I also need to know were you looking at something similar to the – I'm sorry, when you're saying having them consider additional elevations or additional two, three or four-story concepts were you looking at having it provided to you in the context of just looking at it straight ahead or in the context of the view plain. I think you mentioned the view plain.

Ms. Domingo: The view plain.

Ms. Cua: Okay, okay, so if we could just get clarification from the commission, you're looking at –

Mr. Mardfin: Commissioner Domingo, I believe it was you that wanted three.

Ms. Domingo: Since it was brought by Commissioner Hiranaga on four, trustfully I can live with four. I would like to see four.

Mr. Mardfin: It depends on how they do it but if they're doing this the way I had kind of suggested with photographic inserts, it shouldn't be terribly difficult to do a couple of them I don't know.

Ms. Cua: Okay.

Mr. Mardfin: I mean I'm not asking for a full design plan but just something that could –

Ms. Cua: Three and four, okay.

Mr. Mardfin: Something that gives an image of what it will look like from various places.

Ms. Cua: Thank you for the clarification.

Mr. Mardfin: Anybody else? I would like to see more in terms of both – I'm very concerned about the Kanaha, Kanaha Pond and I am particularly concerned with both lighting and shadows and I hope there'll be something more extensive about that and not only for the building itself, for the lighting part and the shadow part, not only the building itself but the parking structure because if this is operating at night there'll be headlights showing out unless there's some protective way of avoiding that and I think this is going to be high, you know, could be up to six stories or five stories and having headlights going out and you're making corners and it's shooting headlights across Haleakala and I think that needs a whole lot of thought and analysis. Commissioner Sablas.

Ms. Sablas: Just for clarification, so are the comments here, the summary is going to be part of our final comments because these are things we talked about but I notice some of them are duplicate from what we're talking about, but I think this is a good summary of what we had talked about. So is this going to be an accepted summary or?

Mr. Mardfin: If you would like it to be we can have a motion to that effect but those were more comments – well it's okay, if we want to have a vote on it, we can have a vote on it. Are there any other considerations? Seeing none, we have a list of things. Would anybody like any of them separated out? In other words, somebody's asked for something and you think it's inappropriate or not necessary and would like to separate it out. Seeing none, I would like to entertain a motion to – well, no, excuse me, I believe we should have James give us a summary of what he's written down. I'm sorry, Ms. Cua.

Ms. Cua: Before you do that, is it possible for you to go back to what Commissioner Sablas just raised and see if there's any of these comments that the commission – not comments – well, what was presented today by the applicant as issues that had come up at the previous meeting. Commissioner Sablas's comment was correct in that you have restated them here today in your comments that the Planning Department has taken note of, but if there are any others on this list that you would like to make comments.

Mr. Mardfin: Let me go down the list and I'll address what I think we've already gotten. Flight paths from Kahului Airport, I think we've already addressed today. Future operational changes in Kahului Airport runway use, I don't think has been addressed but I think should certainly be considered. View analysis of the proposed medical center from vantage points, we've addressed. Alternative site evaluation process, it was conducted. We really didn't raise again, but I think it's important. I would like to add it to our list for today. I would be – Commissioner Wakida, you're going to say what I was hoping to say.

Ms. Wakida: No, I was under the impression that this whole list was already added to this – this is all the comments that came up at our last meeting and we're just adding onto this list.

Mr. Mardfin: At that point we were asking questions and they were taking our questions and turning them into discussion points. I don't think they were officially comments to them which is what we're doing now which is why I'm going through them again to make sure we don't miss. Do you want me to say that again?

Ms. Wakida: Yes please.

Mr. Mardfin: I believe last week we were in the question phase. We were not in the comment phase.

Ms. Cua: Right.

Ms. Wakida: Okay.

Mr. Mardfin: And we had said make your questions – last time we said make your questions now, make notes to yourself and when we get to the comment phase bring them back. That's in a sense what I'm trying to do now.

Ms. Wakida: Yes, I recall, thank you.

Mr. Mardfin: Alternative site evaluation process, I don't think we dealt with today. I would like to see them look at really important site changes. Foundation system design, I think we raised that today. Potential lighting impacts, we raised that today. Heights of comparable existing and proposed commercial structures, I know we discussed it during questions, did we make it as a comment? Okay, so they'll respond to that. Corp of Engineers wetland mitigation plan review we didn't raise today, did somebody want to make that as an official comment? Commissioner Sablas would like that officially commented on. Height limitations under M-2 Heavy Industrial zoning. Commissioner Wakida.

Ms. Wakida: Didn't this come up when we were questioning the maximum height of auxiliary structures like air conditioning elevator? This was a six-story height but there wasn't any foot.

Ms. Cua: That's correct.

Mr. Mardfin: Their plan had a height, but maybe in the final one they can just make it very clear what the heights are including auxiliary structures. Commissioner Hiranaga did you want to say something? The proposed grading plan including finished elevations I don't think we explicitly mentioned today but that should be something I think that should be considered a comment from us. Impact of roadway mitigation improvements to Kamehameha Avenue/Hana Highway intersection I think that's embedded in the comments that Commissioner Shibuya made and so that exhausts the ones from last time. Does anybody want to add any more?

Mr. Shibuya: I'd like to maybe make a correction or – on the flight paths I think that would be glide path, flight glide path would be probably more appropriate in terms of left and right type of direction as well as height from the ground.

Mr. Mardfin: I don't know anything about this, I will assume that you are correct that that's the appropriate thing.

Mr. Shibuya: Well, as – from flying they give you a windmill of opportunity to land and the tower actually guides you in if you're coming in and it says pull up slightly, speed up slightly or slow down, drop altitude they actually have these variances in which you go left or right as well as up and down and if they can give this cone of – cone reference of how you land in reference to the changing wind

because even though the runway is facing one way the aircraft actually come in from different ways with different wind directions.

Mr. Mardfin: I imagine they have technical people that can put those things together. Commissioner Starr.

Mr. Starr: Yeah, can I just make a technical comment you're talking about what the minimums would be if an instrument landing approach were instituted at a later date for Runway 5.

Mr. Shibuya: That's correct.

Mr. Starr: That's the way the FAA evaluates it.

Mr. Shibuya: Okay.

Mr. Buika: Please repeat that Jonathan.

Mr. Starr: How would this impact the envelope of a future instrument landing approach to Runway 5, I believe that's what he was trying to get at.

Mr. Shibuya: That's correct.

Mr. Mardfin: Since we are not separating – oh I'm sorry, Commissioner Shibuya.

Mr. Shibuya: Well, I just want to give the significance of what Jonathan, Commissioner Starr just mentioned. The significance is the current main runway 2 left 20 is in need of being repaired. And the economy of Maui cannot be stopped for three to six months so you're going to have to do something and you may have to extend Runway 5, and if you do extend Runway 5 then that means you have commercials like inter island as well as some larger aircraft come landing on Runway 5 and these do not just come in visual they come with instrument.

Mr. Mardfin: James if our comment could be expanded to include the possibility of Runway 5 being extended and what the impacts would be. Any other comments? Since nobody wanted – Commissioner Sablas.

Ms. Sablas: I think Commissioner Shibuya brings up a good, you know, point about future plans for Kahului Airport and how would it impact this project. I think we need to be able to know what the future plans are and be part of the document.

Mr. Mardfin: Did you get that James?

Mr. Buika: Yes.

Mr. Mardfin: Since we didn't want to separate any out all of these will – we'll have a vote but on adopting them all as commission comments but James would you give us a summary of what it is that we said?

Mr. Buika: Sure no problem.

Mr. Mardfin: Luckily Kenny's here.

Mr. Buika: No, I'll go through them quickly. I've been kind of reviewing them as some of the comments were going on.

How does the project conform to the community plan placing buildings along perimeter and scenic vista view plains? One.

2. Provide current perimeter of scenic vistas along Hana Highway and Old Haleakala Highway. What percent of the scenic vista will be lost?

Three, if anyone wants to alter these as I go along please do that for clarification.

3. Provide scale model view of buildings from different locations such as Maui Mall, Costco, airport, Dairy Road and Hana Highway in order to provide proportional sense of what it looks like.
4. Provide a three and four-story rendering of the building, provide pictures or drawings. Also form an image of what the project will look like from various places.
5. Provide original design proposal for building prior to meeting with UDRB.
6. Provide samples of plants thriving on other buildings along the shoreline at various elevations.
7. Provide Statistical information on proposed occupancy to demonstrate the need for this kind of proposed space.
8. What is the aircraft three-dimensional flight pattern (vertical, left and right) from Runway 5.
9. Provide traffic mitigation to improve flow from the harbor area.
10. Provide analysis of strategic intersections and the impact from 365 vehicles and how it will be mitigated.

I'll try to improve my English in the final version.

11. Provide further information of alternative entrance along Hobron Avenue.
12. Explain drainage canal easements and how project will maintain drainage canals.
13. Provide Explanation of retention basins – this one I didn't get – Provide explanation of retention basins and then there was a reference to state highway, I believe that was Commissioner Shibuya. What was the reference to the state highway–

Mr. Shibuya: One of the diagrams it shows the retention basin encroaching on the state highways right of way and it also encroaches –

Mr. Buika: State highway right of way.

Mr. Shibuya: As well as the drainage easement too.

Mr. Buika: Okay. Relative to the state highway right of way and the drainage easement right of way.

Mr. Shibuya: Right.

Mr. Buika: Okay.

14. Okay that one will be-- repeating 13.

13. Provide explanation of retention basins relative to the state highway right of way and the drainage easements right of way.

14. What is the impact of sea level rise on the drainage basins and retention basins?

15. Address tsunami hazard impacts.

16. Where will water come from and what is the existing water commitment?

17. Provide information on proposed fill that will be used for the parcel.

18. What is the geology of the parcel and explain the foundation and piling structure that will be constructed under the wetlands.

19. Estimate the electrical power used and provide an explanation of proposed alternative energies to reduce the power consumption including wind and photovoltaic.

20. Address alternatives of centrally dealing with hazardous wastes.

21. Provide an analysis of lighting and shadows for the building and parking structures.

Mr. Mardfin: On the wetland.

Mr. Buika: On the wetlands.

Mr. Mardfin: Primarily on the wetlands, well anything.

Mr. Buika: On the wetlands.

Ms. Wakida: But not just the wetlands.

Mr. Mardfin: Yeah, I take that back, cross that on the wetlands, it can affect other things, it could affect ...(inaudible)...conceivably. Is that it?

Mr. Buika: Yes that's it, 21. Anything else, and then there were two more actually that we have our other list of 11 plus we had two added on when we were doing this list, this – the list from the last time. I'll read those, 22 would be, how would be the project impact the envelope approach to Runway 5.

23 is, okay, same thing – oh, 23. Add future plans of OGG to the environmental analysis or OGG Maui Kahului Airport.

Mr. Mardfin: Commissioner Sablas did you have? Before we vote on this I'd like to ask Bob and Mark if these are clear to you or do you need explanations of what we're voting on?

Mr. Roy: I'm speaking on behalf of the applicant we appreciate the commission's comments and we're concurring with the summary that's being presented by staff.

Mr. Mardfin: Thank you very much. I would like to entertain a motion to adopt these recommendations as commission recommendations. Commissioner Shibuya.

Mr. Shibuya: So move.

Mr. Mardfin: Do I have a second?

Ms. Wakida: Second.

Mr. Mardfin: It's been moved by Commissioner Shibuya, seconded by Commissioner Wakida to adopt these recommendations.

Ms. Cua: To adopt the 20 some odd recommendations that you have offered, 23 recommendations.

Mr. Buika: 23 plus there were 11 from the original list. I read 23 new ones. Sorry, but how do we do that.

Mr. Mardfin: Without worrying about how many there are we're adopting the recommendations.

Ms. Cua: Correct.

Mr. Mardfin: Is there any discussion on the adoption? Commissioner Hiranaga.

Mr. Hiranaga: Wordsmithing, they're not recommendations, they're requests for information.

Mr. Mardfin: You're absolutely correct. I stand corrected. Any other comments? Commissioner Wakida.

Ms. Wakida: There were some additional ones in this that were being added is that part of his

extras?

Mr. Buika: Yes.

Mr. Mardfin: Any other? Yes.

Mr. Roy: Just a point of clarification from the applicant's standpoint. Our understanding is that the 23 comments articulated to the commission as read by Staff Planner Jim Buika there was a reference just now that there were 11 additional comments.

Mr. Mardfin: James could you please read them off so he's clear as to what we're adding.

Mr. Roy: I think what we're looking at here is –

Mr. Mardfin: James we went through a lot of them and said we've already incorporated them, it was only the few that we had not incorporated. I can go through it again if you want.

Mr. Roy: My understanding was that there were two additional comments added in at the end which was the comments pertaining to Runway 5 and instrument approach plan. So I had a total here of 23 comments.

Mr. Mardfin: I think the flight paths we had incorporated or we did today. Future operational changes we've incorporated. View analysis we've incorporated. Alternative site evaluation process is one that should be on there.

Mr. Buika: Yeah, that would be 24.

Mr. Mardfin: I mean everybody would be a hugely lot happier if this were located somewhere else I think. I'm not coming to a conclusion. Foundation system design had been dealt with. Potential lighting impacts we dealt with today. Height of comparable structures was in there, but you might want to reiterate that one. Wetland mitigation plan review should be included. Height limitations under M-2 Heavy Industrial zoning I think we should – we've included in part but we haven't included it in part so that should be one. I forget what we said about the grading plan. Include the grading plan and the roadway mitigation improvements I think we've already got that one. So now how many are we up to?

Mr. Buika: Do we have that last one? Did we have that last one the one impact of roadway mitigation improvements on vehicle movements on Hobron?

Ms. Cua: We do.

Mr. Buika: Think so.

Ms. Cua: Yeah.

Mr. Buika: Okay.

Mr. Mardfin: It should be there if it isn't.

Mr. Buika: I'm up to 28. I had five new ones. How about you, the same Mark?

Mr. Roy: I think that matches my count.

Mr. Mardfin: Okay, now we're up to 28?

Mr. Buika: Yes.

Mr. Mardfin: So the motion by Commissioner Shibuya is to approve this 28 recommendations. It's commission recommendations, it was – request for information – comments on the draft EA, thank you very much by Commissioner Shibuya, seconded by Commissioner Wakida. Are we ready for the vote? All in favor please indicate. I see seven ayes. All opposed? I see zero nays.

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

**VOTED: To Approve the 28 Comments on the Draft Environmental Assessment.
(Assenting - W. Shibuya, P. Wakida, K. Hiranaga, J. Freitas, O. Tagorda,
D. Domingo, L. Sablas)
(Recused - J. Starr)**

Ms. Cua: Motion passes.

Mr. Mardfin: Thank you very much.

Mr. Buika: Thank you.

Mr. Roy: Thank you very much.

Mr. Mardfin: I would like to give the gavel back to our proper chair.

Mr. Starr: Jim you ready for the next one?

Mr. Buika: Yes I am, let me just get the applicant. I think Vince Bagoyo is here.

Mr. Starr: Okay. Lets take two minutes, a break till 4:00 p.m.

A recess was called at 3:58 p.m., and the meeting was reconvened at 4:01 p.m.

Mr. Starr: Deputy Director Cua.

Ms. Cua: We're now under Item E, Communications, RDOB Limited Partnership requesting to delete Condition No. 24 of the Special Management Area Use Permit pertaining to the installation of curbs, gutters, and sidewalks fronting the property at 3020 South Kihei Road in order to construct a second main single family dwelling and related improvements at TMK 3-9-004: 102 and Jim is

again our planner.

E. COMMUNICATIONS

- 1. RDOB LIMITED PARTNERSHIP requesting to delete Condition no. 24 of the Special Management Area Use Permit pertaining to the installation of curbs, gutters, and sidewalks fronting the property at 3020 South Kihei Road in order to construct a second main single-family dwelling and related improvements at TMK: 3-9-004: 102, Kihei, Island of Maui. (SM1 2007/0008) (SSD 2007/0007) (J. Buika)**

Mr. Jim Buika: Again, Jim Buika, Planning Department. With the Chair's permission I do have Vince Bagoyo who is the applicant's representative here but I will provide a short description of what this purpose of this application is, the analysis, conclusions of law and the department to recommend the approval of one condition, existing condition.

Just for orientation several of the commissioners were not on the commission at the time that this project was approved. The address is 3020 South Kihei Road along Keawakapu in South Kihei. The permit that was approved six to one at the time is SM1 2007/0008.

The purpose of the project is was to build a second home, a permissible second home behind the existing home on the shoreline on a zoned R-3 lot and it was approved by this commission. The purpose of this application here is to request the deletion of Condition No. 24. So this matter is a request from Mr. Vince Bagoyo, Jr., on behalf of RDOB Limited Partnership to the Maui Planning Commission to delete Condition No. 24 from the existing Special Management Area Use Permit No. 2007/0008.

On February 26, 2008, the director approved and signed the SMA permit with 32 conditions and it's in your packet as Exhibit 1. The project has been completed except for meeting Condition 24, and I'll read you what Condition 24 states, "that a road widening lot shall be provided for the adjoining half of South Kihei Road to provide for a future 60-foot right of way and improved to County standards to include but limited to pavement, widening, construction of curb, gutter and sidewalks and streetlights. Said lot shall be dedicated to the County upon completion of the improvements."

Exhibit 2 in your packet it is photographs taken in July 2010 that show the condition of South Kihei Road in front of the subject parcel looking south and north along South Kihei Road following completion of the subject project. The photos show that South Kihei Road along this portion of the – South Kihei along this portion has no curbs, gutters, sidewalks on any of the parcels around it. So the amendment request is being made because the Department of Public Works is not requiring the improvements by the letter dated March 10, 2010, Exhibit 3 in your document. So in essence, Public Works is withdrawing the requirement of frontage improvements as stated in Comment 6 in the November 6, 2007 original comment letter that came in as the SMA, that's Exhibit 3.

So that concludes my description of what this is here. I'll provide our analysis here that at the request of the Department of Public Works in its comment letter dated November 6, 2006, a permit

condition was added which is Condition 24 to add the 60-foot – the right of way there and the department, I won't read it again, the department has determined that on March 10, 2010 the Director of Public Works withdrew the requirement for the frontage improvements.

Number 2, there will be no additional environmental or socio economic impacts due to the deletion of Condition 24, and 3, that the condition of the frontage to the parcel will remain in its current status as depicted in the photographs in Exhibit 2.

Regarding conclusions of law, the Planning Department based on the facts presented in the department report finds that the proposed action will not have a significant adverse environmental or ecological effect, that the proposed action essentially meets the objectives, policies and guidelines of the SMA Rules and the proposed action is consistent with county zoning and the Kihei-Makena Community Plan.

Recommendation, the department recommends that the Maui Planning Commission approve the amendment to the SMA Use Permit application by deleting Condition 24. All other conditions of this special management area use permit shall be enforced pursuant to Section 12-202 ...(inaudible)... of the Special Management Area Rules for the Maui Planning Commission.

In consideration of the foregoing the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for August 10, 2010 meeting as its finding of fact, conclusions of law and decision and order and to authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission. But we recommend approval of deletion of 24.

Mr. Starr: Members, questions? Commissioner Mardfin.

Mr. Mardfin: I'd just like to ask Mike why did they decide not to have sidewalks and gutters here?

Mr. Mike Miyamoto: Thank you Mr. Chair. In discussions with the applicant, I guess I'll take the blame since I filter out the comments. I had one section of department requesting the improvement and another section identifying that under Title 16.26.3304 single family residential units that have less than three dwelling units are exempt from the frontage improvements and we just confirmed it, looked up the County Code on the website to confirm that it clearly states under exemptions that single family residences that have less than three dwelling units are exempt from the frontage improvements.

Mr. Mardfin: Thank you very much.

Mr. Starr: I have a question on this. Those properties, the frontage is kind of mixed and some there's a decent walkway getting off the pavement, some there's just grass. I notice that the intent is to build a stone wall and I want to be sure that if there's not going to be a sidewalk that there's going to be enough room for beach goers to walk laterally and be off the pavement because that road is dangerous, it's fast and there's lots and lots and lots of people that use that Keawakapu Beach access. So how much space will there be between the edge of the pavement and wall?

Mr. Buika: I believe Exhibit 2 shows the two photos of the current condition in your report. The wall that was constructed is outside of the easement. It's outside the easement so the easement exists. I think there – is there some vegetation out front? There is some minor vegetation and I'm sure the applicant would be willing to clear that out if that was a concern.

Mr. Starr: No, my concern is you know, I see that kind of low wall with that fence, black fence on top of it. So there's nothing going to be built between that, there's no additional wall going to be built between that and the roadway.

Mr. Buika: No, nothing will.

Mr. Starr: So in other words what we have there that grass will remain?

Mr. Buika: Yes.

Mr. Starr: Okay. Commissioner Shibuya.

Mr. Shibuya: Jim can you help me understand this right of way and easement. First of all, let's take a look at the electric lines and poles. That's an electrical easement is it not?

Mr. Buika: Yes.

Mr. Shibuya: And that easement seems to be in back of the stone wall. How can that be?

Mr. Buika: I think it's right at the line. I'll have Vince, I don't know it's right there. Yeah, Vince Bagoyo who's the representative.

Mr. Starr: Mr. Bagoyo please come forward introduce yourself.

Mr. Vince Bagoyo: Thank you very much. Vince Bagoyo representing the applicant. Actually the poles it's outside of the wall. It's in the easement fronting the property. If you look at the light post, Exhibit No. 2.

Mr. Shibuya: Okay so, then –

Mr. Bagoyo: Then if you look at the second picture the second pole is actually quite outside of the wall.

Mr. Shibuya: Okay, because it also demonstrates this Exhibit 2 demonstrates a public safety issue with me. South Kihei Road is a main thoroughfare that the community uses to walk, jog, do recreational biking as Commissioner Starr mentioned going to the beach, well these can be used for going to church, go shopping, things of this nature. I don't see – I see the opportunity if we maintain that right of way and we improve it then you don't have cars parked on the side and that the pedestrians would have to walk into the path of the oncoming vehicles. Is this going to be accepted practice now?

Mr. Starr: Yeah, I've been trying to ascertain the question.

Mr. Shibuya: The question is if we allow this to be deleted then are we not allowing for the public to be endangered?

Mr. Bagoyo: I think reason that we went back to the Public Works to take a look at it because of the north boundary of the property if you look at the north boundary of the property it's actually about three to four feet drop and one of the solution if we had to put in the sidewalk is to fence that area which is really impractical, you know, so prevent people from walking that edge because there's a drop. If you look at that corner of the property between my client and Beppu's property there is actually a four-foot drop at that edge and it's quite dangerous.

Mr. Shibuya: So you can put a retaining wall and fill it in would you not?

Mr. Bagoyo: It's not our property.

Mr. Shibuya: Understand. Well, maybe the county could do that. But you could do the retaining wall because it would be on your property.

Mr. Bagoyo: No, the retaining is already exists. It's that wall that you see on the front of the property.

Mr. Shibuya: I don't see the four-foot drop.

Mr. Bagoyo: At the end of that rock wall and then there's the hedge at that north end of that wall, there's a drop. It's right here.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Just to recap this SMA application. My recollection is the applicant owned this property for 50 years, 60 years as a family beach house. It's a large lot. They propose to build a second dwelling to accommodate their family needs. There is no subdivision of land proposed. This is the second dwelling that's proposed and Public Works is saying they misinterpreted the code and therefore this condition should not have been placed upon them and they are trying to correct a wrong. So I don't really see what the discussion is about making them put in a curbs and gutters because the next closest curbs and gutters is probably hundreds and hundreds of yards away so you're going to have this sidewalk sticking there with no future plans of ever connecting it to additional sidewalks so it's, you know, the department is asking us to correct a wrong and I don't see what we're trying to do here.

Mr. Starr: Commissioner Domingo you had your hand up? Commissioner Mardfin.

Mr. Mardfin: I'd just like to make two comments about the report itself that we got. There is an Exhibit 5 in here from Department of Public Works and then there is a – and that has points one through ten in it. Then in the response, from Mr. Bagoyo, it shows responses to one through four and eight through ten. There's a page missing and I would prefer that pages not be missing from

reports in the future. The second comment is there's no supporting letter from Department of Public Works. In Exhibit 7, Mr. Bagoyo has said, the applicant is asked to work with the department to comply – I'm sorry that's six, seven says, in part, after much discussion with DPW it's strongly suggested by the involved parties that SMA Condition No. 24 should be deleted. I would much prefer to have a letter from DPW to that effect but I got a verbal one today so that's sufficient.

Mr. Buika: It is Exhibit 3. Sorry, I had put them in the order that they were referenced in the report to keep the numbers consistent rather than to have a chronological sequence.

Mr. Mardfin: Sorry, my mistake.

Mr. Buika: My apology.

Mr. Starr: We're going to take public testimony now. If there's any members of the public that would like to testify on this item and this item only speak now or forever hold thy piece. Seeing none, public testimony is over. I think we had the recommendation.

Mr. Freitas: I'd like to make a motion.

Mr. Starr: Please.

Mr. Freitas: That we accept the recommendation of the Planning Director.

Ms. Domingo: Second.

Mr. Starr: Moved by Commissioner Freitas, seconded by Commissioner Domingo. The motion is.

Ms. Cua: I'm just enjoying the ride, it's to delete Condition No. 24 of the SMA permit pertaining to the installation of curbs, gutters and sidewalks.

Mr. Starr: Okay, ready to vote? Commissioner Shibuya.

Mr. Shibuya: I'm going to be voting against it because in the Kihei-Makena Community Plan it clearly says that to plan, design and construct a pedestrian bikeway network throughout Kihei-Makena region which consider utilization of existing street ... (inaudible) ..., drainageways, wetlands, public rights of way along coastal and inland areas. Here's an opportunity to have public safety. I just can't see the analogy saying well, these people are being put in a position to put in the sidewalks, that's fine. The next person can be done – I mean do their fair share too. It is for public benefit for those that are using the South Kihei Road. South Kihei Road is not Piilani Highway and so it's safer and it's a community type of roadway and passageway and so I'm going to be voting against it.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: I'll be voting for the motion. I think if we start making up rules as we go along instead of following what's been adopted, we're going down the wrong path and also I don't know if they're

promoting bicycles on sidewalks in Kihei but I think that's discouraged.

Mr. Starr: Okay, ready to vote? All in favor please raise a hand. All opposed.

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

**VOTED: To Accept the Recommendation of Approval of Deleting Condition No. 24.
(Assenting - J. Freitas, D. Domingo, K. Hiranaga, O. Tagorda,
W. Mardfin, P. Wakida)
(Dissenting - W. Shibuya, L. Sablas)**

Ms. Cua: I count six ayes and two noes. Motion passes.

Mr. Starr: Okay, thank you very much.

Mr. Buika: Okay.

Mr. Starr: Okay, next item, Item F. Going to get through this yet.

Ms. Cua: Item F acceptance of the action minutes of the July 27, 2010 meeting and regular minutes of the June 22, 2010 meeting.

F. ACCEPTANCE OF THE ACTION MINUTES OF THE JULY 27, 2010 MEETING AND REGULAR MINUTES OF THE JUNE 22, 2010 MEETING.

Mr. Starr: Corrections or a motion. Motion to accept if no one has a correct.

Mr. Shibuya: Move to accept.

Mr. Starr: Is there a second?

Ms. Domingo: Second.

Mr. Starr: Moved by Commissioner Shibuya, seconded by Commissioner Sablas. Motion is.

Ms. Cua: To accept the minutes of the dates I so mentioned.

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

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

**VOTED: To Accept the Action Minutes of July 27, 2010 and the Regular Minutes of June 22, 2010.
(Assenting - W. Shibuya, D. Domingo, K. Hiranaga, J. Freitas,
O. Tagorda, W. Mardfin, L. Sablas, P. Wakida)**

Ms. Cua: Approved unanimously.

Mr. Starr: Good. Moving right along.

Ms. Cua: The next matter is the Planning Director notifying the commission pursuant to Section 12-202-17 of the Maui Planning Commission's SMA Rules of her intent to process the time extension request administratively on two matters. The first is a request by Mr. Grant chun, Vice-President of A&B Properties, Inc., requesting a two-year time extension on the Special Management Area use Permit condition to complete construction of the Kahului Airport Hotel project consisting of 140 hotel rooms and related improvements on approximately 3.35 acres of land at TMK 3-8-079: 016 in Kahului and the staff planner is Kurt Wollenhaupt.

G. DIRECTOR'S REPORT

- 1. Planning Director notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of her intent to process the time extension request administratively on the following:**
 - a. MR. GRANT Y.M. CHUN, Vice-President of A&B PROPERTIES, INC. requesting a 2-year time extension on the Special Management Area Use Permit condition to complete construction of the Kahului Airport Hotel Project consisting of 140 hotel rooms and related improvements on approximately 3.35 acres of land at TMK: 3-8-079: 016, Kahului, Island of Maui. (SM1 01/0003) (K. Wollenhaupt)**

Mr. Kurt Wollenhaupt: Good afternoon Members of the Commission as Deputy Director Cua indicated this is a request for an extension for the completion not the initiation but the completion of what is commonly known as the Kahului Airport Hotel, a 140-room proposed hotel. I don't know if it's the pleasure of the commission to have a historical time line or not. That's up to you considering the time.

Mr. Starr: How about the Cliff Notes version of that time line?

Mr. Wollenhaupt: Briefly at the Planning Commission on September 25, 2001, the commission conducted a public hearing on a community plan amendment and a change of zoning. Subsequent to that the County Council did approve this by ordinance on March 19, 2002. In 2002 of April the 9th, the Planning Commission approved the SMA permit for the 140 room hotel. The first condition No. 1 stated that the proposed project was to be initiated by April 30, 2004. The Planning Commission in 2004, was asked to extend that initiation to April 30th of 2006 which the Planning Commission did. The Planning Department confirmed that the project was initiated and infrastructure improvements off site were completed as of November 1, 2005 at a cost of about \$4 million including water, sewer, drainage, roadway, landscaping improvements. Consequently that would have set a date to complete it at November 1, 2010. Consequently, that's why we're here today is to extend that completion date to November 1, 2012.

Mr. Starr: Thank you. Mr. Chun you want to give us a status, status update?

Mr. Grant Chun: Good afternoon Chair, Commissioners, I'm Grant Chun here on behalf of A&B Properties. The status of the Airport Hotel is that we are continuing to work towards completion of the construction on the work necessary to actually have a hotel at this site. We're in discussions with a potential joint venture partner to move the project along and right now it's looking really positive in the context of the costs. The costs of the project have been issue over the past several years, but recent it looks like there may be an opportunity to proceed as we had hoped.

Mr. Starr: So it looks like there's a good chance it will move forward.

Mr. Chun: Yes. Thank you, yes.

Mr. Starr: Okay, I'm going to open it for public – Commissioner Mardfin.

Mr. Mardfin: No.

Mr. Starr: I'm going to open it to public testimony. Any member of the public wishes to offer testimony on this item please speak now. Not seeing any, public testimony is closed. Commissioner Mardfin.

Mr. Mardfin: I'd just kind of like to say that I had no – I wasn't on the commission at the time but I would have had no problem with the time extension originally required, requested, it was granted and then you went ahead and you got some of the infrastructure in really good. In 2005, and in five years nothing, and you know, if it had been the last two years I can kind of understand it because of the economic situation but I don't get 2005 to 2008 no progress.

Mr. Starr: Mr. Chun, comment.

Mr. Chun: During that time frame Mr. Mardfin the construction costs that were coming in for the hotel made it infeasible to proceed with the hotel. The construction industry at the time was busy still and there was a degree of difficulty in making the project pencil out during that period of time.

Mr. Mardfin: I'm smiling because you know, either it's too busy and the costs are high or it's too - the conditions are bad so you don't want to build. You know, I don't have a problem with a second time extension but I wouldn't – I'd be careful about asking for a third one.

Mr. Starr: Okay, Commissioner Hiranaga.

Mr. Hiranaga: Yes, I'm having a little concern about the drainage plan. I know you state that after development you're going to decrease the surface runoff by 0.4 cfs but you're dumping it into the drainage canal that empties into the Pacific Ocean, Kanaha Beach area and the water content will be different from a undeveloped property versus a developed property because you have hard surfaces, you have you know, manmade wastes, petrochemicals and fertilizers so I'm wondering if this project will allow more retention on site on what you're unable to retain that it at least be treated, filtered before it goes into the drainage channel.

Mr. Starr: Mr. Chun, can you offer us some solace here?

Mr. Chun: Actually the existing condition is that of an urbanized property. As many of you will recall there were a number of different businesses that have been situated on that property at the time. So the property is essentially hardened. You know, there's cement pads on the property that are indicative of past uses. As Mr. Hiranaga stated correctly the development actually calls for a decrease in the amount of runoff that will occur post development. However, the particular factors that surround this property make it you know, not possible to retain any more of that runoff on property. As you know, the elevations in that area are such that the water table is pretty close to the surface of where the – the surface of the property is located. In addition, the \$4 million that has been spent during the initial phase of infrastructure improvements you know accommodates for the anticipated runoff.

Mr. Starr: How about filtration, some primary filtration are you willing to offer filtration in catch basins or something like that? At least clean up the first flush?

Mr. Chun: I'm not too conversant in the terminology that is used in terms of this sort of thing so maybe I should ask our engineer to step forward and help in that regard as far as filtration.

Mr. Starr: Please come forward, introduce yourself.

Mr. Hideo Kawahara: Good afternoon, I am Hideo Kawahara, retired Manager of Engineering and Construction for A&B Properties and I was the manager while this project was designed. So in response to your question we can look at putting filters on our catch basins. They're actually – there are not that many catch basins and there's only one inlet or outlet into the channel so it's something that we can look at doing.

Mr. Starr: I'm going to ask department how we can attach that comment so we know to be looking for it when it comes back at later stages, I think it will, right? Does it?

Ms. Cua: Well, you're being asked today to waive your review of this matter. Another thing that we could do just so that it's in the record if you're willing to waive and have the department approve the extension we could get something from the applicant that just says that, you know, as part of the project they do agree to putting in or looking at the possibility of including –

Mr. Starr: yeah, inserts. Commissioner Hiranaga.

Mr. Hiranaga: I would prefer stronger language than just looking at. Language that –

Mr. Starr: That they would implement.

Mr. Hiranaga: Right.

Mr. Starr: Mr. Chun, is that – frankly your word is plenty good that you would generate such a document. Can we – is that something you're willing to do?

Mr. Chun: Sure.

Mr. Starr: Okay.

Ms. Cua: I mean with that, we're not changing any conditions or anything like that. We're putting that as part of the record that that's part of their representation and then that way if you're willing to waive your review we have that in as documented in the document and we can go ahead and process the extension request administratively.

Mr. Starr: Okay, so our recommendation now –

Mr. Mardfin: I have one more question.

Mr. Starr: Good ahead Commissioner Mardfin.

Mr. Mardfin: Is there any connection, I read in the paper, I think within this last week about A&B wanting to do a development right across the street from this behind Costco. Is there any connection between the two?

Mr. Chun: No sir.

Mr. Mardfin: Okay.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: I understand there's going to be a realignment on the airport road, how does this impact you?

Mr. Chun: It doesn't affect this property. The airport bypass will – essentially runs behind Dairy Road where the Harley Davidson Motorcycles are located there's a corridor there that's already been –

Mr. Shibuya: I don't want you to fail that's what I'm asking. I want you to succeed.

Mr. Chun: Thank you. So do we.

Mr. Starr: Okay, Commissioner Freitas.

Mr. Freitas: Yeah, I'd like to entertain a motion.

Mr. Starr: Okay, lets get the recommendation.

Mr. Wollenhaupt: In light of the discussion that's been ensued, the recommendation of the Planning Department then would be to modify Condition 2 of the original SMA in order to have a extension that the project shall be completed by November 1, 2012 and that the record would show in the minutes today and by documented letter from A&B Properties to the Planning Department that a

filtration device will be put on the outlet into the drainage channel.

Mr. Starr: Commissioner Freitas.

Mr. Mardfin: Mr. Chairman?

Mr. Starr: Yeah.

Mr. Mardfin: May I? I think what we were going to do was to waive review and I don't know if that was the motion you were going to make or not.

Mr. Freitas: Yes, to give them the time extension to 2012 to finish the project. Waive the review and they have to what you call, finish the project two years, November 1, 2012.

Mr. Starr: I think it's either or. Either we waive the review and then the Director takes care of it or we have a hearing.

Mr. Freitas: So move. We waive the review.

Ms. Cua: Okay, thank you.

Mr. Mardfin: Second.

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

Ms. Cua: I'm sorry, to waive review of the two-year time extension.

Mr. Starr: And the rest is understood between us.

Ms. Cua: Yes.

Mr. Starr: Okay, ready to vote? All in favor please raise a hand. All opposed.

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

**VOTED: To Acknowledge Receipt of the Request and Waive Review of the Time Extension Request.
(Assenting - J. Freitas, W. Mardfin, K. Hiranaga, O. Tagorda,
D. Domingo, W. Shibuya, L. Sablas, P. Wakida)**

Ms. Cua: Unanimously approved.

Mr. Starr: Thank you. Please build it.

Ms. Cua: The second item requesting extension, two-year time extension is a request by Mr. Ryan Churchill, President and CEO of Maui Land Pineapple Company requesting a two-year time

extension on the Special Management Area Use Permit condition to initiate construction of the Kapalua Site 6-0 project consisting of approximately 42 workforce housing apartment units with a community center, three new light industrial buildings for warehousing, offices, utilities and resort maintenance with accessory storage buildings, improvement of an existing golf maintenance building and additional golf accessory storage buildings, parking, landscaping and other related infrastructural improvements as well as demolition of existing storage and maintenance buildings at TMK 4-2-004: 048 in Kapalua and the staff planner is Jeff Hunt.

- b. **MR. RYAN CHURCHILL, President and CEO of MAUI LAND & PINEAPPLE COMPANY, INC. requesting a 2-year time extension on the Special Management Area Use Permit condition to initiate construction of the Kapalua Site 6-0 Project consisting of approximately 42 workforce housing apartment units with a community center, three (3) new light industrial buildings for warehousing, offices, utilities and resort maintenance with accessory storage buildings; improvement of an existing golf maintenance building and additional golf accessory storage buildings; parking; landscaping and other related infrastructure improvements as well as demolition of existing storage and maintenance buildings at TMK: 4-2-004: 048, Kapalua, Lahaina, Island of Maui. (SM1 2006/0022) (PD1 2006/0002) (PD2 2006/0002) (J. Hunt)**

Mr. Starr: Mr. Hunt, good to see you.

Mr. Jeff Hunt: Thank you Mr. Starr, good to be here. Good afternoon Commission. The project as Ann stated is for a 42-workforce housing units in three separate buildings. It would involve a community center and three industrial buildings and other improvements. The planning commission voted to grant an SM1 and a Planned Development Phase 1 and 2 on August 14, 2007. It was a condition that the construction be initiated by August 31, 2010. They are requesting a two-year time extension to August 31, 2012 and there was an intervention in this matter but the intervenors have waived their right to require a public hearing. There was a request for a site plan, Yarrow Flower the applicant's representative is here to hand out a hard copy. We also have an electronic copy on the smart board and with that I'll turn it over to the applicant unless there's questions of me.

Mr. Starr: Yeah, I have a question which is there was one kind of sticking point with this which was safety turning onto the road from the flag driveway and I'm not – if my memory serves me well that was still to be resolved with the DOT. Do you know what happened with that because I don't think we ever heard the last word on it.

Mr. Hunt: I don't know what happened it is a county road so I'm not sure it would be State DOT.

Mr. Starr: Okay, County.

Mr. Hunt: I could try and do some research.

Mr. Starr: Maybe the applicant has something on that.

Mr. Hunt: So you're done with me?

Mr. Starr: No, I wouldn't put it that way. Lets hear from the applicant.

Ms. Leilani Pulmano: Aloha, my name is Leilani Pulmano and I represent the applicant, Maui Land and Pine. I work with Munekiyo and Hiraga. There was a condition, Condition No. 29 that talked about design, construction, pay for traffic calming measures along Lower Honoapiilani Road to address that concern and we have – we did at the time work with Department of Public Works to come up with a plan. It was submitted as part of our construction drawings. So as part of this, our building permits are already in as part of this project.

Mr. Starr: Okay, members? Commissioner Shibuya.

Mr. Shibuya: I just had – I recall this project by reading it in the newspaper many years ago and then I remember having lunch with some of the workers and they mentioned to me and you can tell me yes or no that this area that is proposed for development is actually a flood area. It's a low laying area within the gulch, is this true?

Ms. Pulmano: Commissioner Shibuya, no, it's not. It's not a low laying area. We have some existing warehouse buildings in that spot right now.

Mr. Shibuya: In the low laying area.

Ms. Pulmano: No, it's not a low laying area.

Mr. Starr: We did a site inspection it was kind of up.

Ms. Pulmano: Are you familiar with the golf course?

Mr. Shibuya: Somewhat.

Ms. Pulmano: It's been holes 16, 17 and 18.

Mr. Shibuya: No, I don't, I'm not familiar. I just look at them, I don't play them.

Mr. Starr: Okay, yeah, Commissioner Wakida.

Ms. Wakida: Aloha Leilani. I have a different, opposite concern. I was trying to figure out where this. This isn't a very good map because it doesn't show what's across the street. It doesn't show where the ocean is and I like to see things in relation to the ocean and I couldn't get anything off the tax key, the numbers it just have nothing. There's no map. But I have bigger concern about drainage and how all of that will be contained because as you say it's not a low laying area, I think it goes up a slope doesn't it this project goes up a slope?

Ms. Pulmano: Yes, it is sloping towards mauka.

Ms. Wakida: Right.

Ms. Pulmano: And if you want to just turn around there's a big picture up in the location map and
—

Ms. Wakida: And I must apologize I was not around when this came through the commission earlier so I kind of need to be brought up to speed.

Ms. Pulmano: Where Yarrow was pointing it will be an offsite retention basin that actually is existing as a retention basin right now for the golf course and it's by the driving range and the tennis courts. So that will be where our retention basin will be for this project.

Ms. Wakida: So you're not anticipating any runoff that goes across the highway and down into the ocean?

Ms. Pulmano: No, we'll be able to retain more than what the project would require, a hundred percent of what the development be.

Ms. Wakida: What the development will generate plus what would be there before the project.

Ms. Pulmano: Right, correct.

Ms. Wakida: Okay.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Quick question, maybe Jeff would know this, who knows. This is a workforce housing project I understand. What are the — I don't really need a lot of detail but what are the underlying projects for this — for which this was a requirement and more importantly, what's the status of those projects? Have they been built?

Ms. Yarrow Flower: Absolutely. My name is Yarrow Flower, I'm with Maui Land and Pineapple Company. This project is going to provide 42 workforce housing units. It is in — going to be built in conjunction with our central resort project. We were here just in June asking the commission for an extension on that SMA as well. The two projects are joined. This project is intended to provide the workforce housing units for the central resort project. Building permits have been submitted for both projects.

Mr. Mardfin: Maybe I should I ask Ann, what's the position of the department. Do you make them do the workforce housing before they can do the underlying project or they can be done simultaneously or what's the policy?

Ms. Flower: It would be done concurrently.

Ms. Cua: That's — I mean, that's normally the case that they would be done together.

Mr. Mardfin: No certificate of occupancy for the underlying project until workforce certificate of occupancy has been issued.

Ms. Cua: I think projects are a little different depending on how they might have come down from the Council. On this one I don't think there's any kind of condition requiring that. I think that's – in order for them to be able to build the central resort project they're going to have to show that they're meeting the workforce housing ordinance.

Mr. Mardfin: That's the words I wanted to hear.

Ms. Cua: Yes.

Mr. Mardfin: You can't do the underlying project unless you're also doing workforce.

Ms. Cua: Correct.

Mr. Mardfin: Thank you.

Mr. Starr: The commission did spend a lot of time on this project including a site visit and I think two times were talked about it. Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I just wanted clarification regarding the drainage retention. You did say you're going to retain a hundred percent of the pre and post development?

Ms. Flower: That's correct.

Mr. Hiranaga: Okay.

Mr. Starr: Okay, so let me open it for public testimony. Commissioner Wakida first.

Ms. Wakida: I would like clarification on point 23 on the handout that you gave us. The project is coming up with a voluntary contribution of \$16,000 to mitigate impacts on a proposed – project on public education. What impacts on public education is this project generating?

Ms. Pulmano: Good question. Before – when we first started this project out it was actually 58 units and any development over 50 units has a DOE impact because you're providing workforce housing or you're providing house. And as part of the DOE contributions we were supposed to provide assessments for your project. And I would like to add that we have already leveraged this money with the three, Hawaii 3 R's program for Lahaina Intermediate School. We provided \$90,000 worth of lockers.

Ms. Wakida: \$90,000 worth of what?

Ms. Pulmano: Lockers. Student lockers. We replaced all their lockers.

Ms. Wakida: Because I was going to ask how you came up with this figure it's so precise, \$16,317.

Ms. Pulmano: DOE has a complex little formula.

Mr. Starr: Okay, public testimony if any of the hoards of people would like to comment they're welcome to, not seeing any public testimony is closed. Director Emeritus Hunt, always wanted to call you that. What's being asked of us and what, is there a recommendation.

Mr. Hunt: We're asking that you waive the review of the time extension.

Mr. Starr: Okay, any comments or motion?

Mr. Freitas: So move.

Ms. Domingo: Second.

Ms. Wakida: Comment, I think Ms. Flower had a handout that I had requested and I'm probably the only one that needs it. It was a site plan because I had questions about all these sort of miscellaneous buildings that were lumped together.

Mr. Starr: Okay, let me get the motion on the floor and then we can have questions on it. Well, we didn't put it on the floor, it was offered by Commissioner Freitas, seconded by Commissioner Domingo. The motion is.

Ms. Cua: For the commission to waive their review of the two-year time extension request.

Mr. Starr: So now the motion is the property of the body, it's on the floor and you can continue to question.

Ms. Wakida: No, that's all, I just knew that she had –

Mr. Starr: And there are service buildings on it as well as the affordables if I remember right.

Ms. Cua: That's correct.

Mr. Starr: commissioner Hiranaga.

Mr. Hiranaga: It's kind of that live near where you work kind of a concept. Walk to work.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: I'm not going to be voting on this because I don't have adequate information. I'm not too familiar with the siting. I don't have that data.

Mr. Shibuya: Okay. Is this it?

Ms. Cua: Yeah, I believe there's a map passed out so you can see the site plan.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I would just like to echo Commissioner – Chairman Starr’s comment that previous commission did review this extensively. It was actually to me a sham when the intervenors came in and required them to lop off a floor because they felt their ocean views were going to be impacted from their villas across the Bay Course and that resulted in the reduction of units that was proposed.

Mr. Starr: If my memory serves me well, we had first of all, Ann Cua was the planner and she was so thorough painfully thorough. Dr. Iaconetti was the member from the west side and he lived across the street or down the block from it and he wanted to know every detail about it. So it was more than we wanted to know about it. Okay, ready for action.

Mr. Freitas: Ready for the vote.

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

Mr. Shibuya: I’m not voting.

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

**VOTED: To Acknowledge Receipt of the Request and Waive Review of the Time Extension Request.
(Assenting - J. Freitas, D. Domingo, K. Hiranaga, O. Tagorda,
W. Mardfin, L. Sablas, P. Wakida, Abstention - W. Shibuya
- which is counted as an assenting vote)**

Ms. Cua: So we have seven in favor.

Mr. Starr: Eight in favor. One abstention. Counts as aye.

Ms. Cua: Oh, I’m sorry. No, I have seven.

Mr. Hiranaga: Abstention counts as an aye.

Ms. Cua: Okay.

Mr. Pulmano: Thank you very much.

Mr. Starr: Next item.

Ms. Cua: Item No. 2 is designation of the Hana Advisory Committee to the Maui Planning Commission to conduct a public hearing on the following application: Crown Castle and Verizon Wireless requesting a County Special Use Permit to install a 40-foot monopole with 12 panel antennas at an existing commercial mobile radio service site at 99 Mill Street and Paul Fasi is the planner.

2. Designation of the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing on the following application:

CROWN CASTLE and VERIZON WIRELESS requesting a County Special Use Permit to install a 40 ft. monopole with 12 panel antennas at an existing commercial mobile radio service site at 99 Mill Street, TMK: 1-4-003: 009, Hana, Island of Maui. (CUP 2010/0004) (P. Fasi)

Mr. Starr: Clayton, why don't you fill in for Mr. Fasi.

Mr. Mardfin: Mr. Chairman.

Mr. Starr: Yeah.

Mr. Mardfin: May I make a motion?

Mr. Starr: No, simply because we don't have anyone in the public but still have to open it up for public testimony. Anyone wanting to give testimony please let us know. Okay, they had their chance. Mr. Yoshida any comments on this?

Mr. Yoshida: No, it's I think in the urban area in Hana and just seeing if you want to delegate to the Hana Advisory Committee to conduct the public hearing and make a recommendation to the commission.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I move we designate the Hana Advisory Committee to hold the public hearing on the Crown Castle and Verizon Wireless request.

Mr. Shibuya: Second.

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

Ms. Cua: To designate the Hana Advisory Committee to conduct the public hearing on the application.

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

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

**VOTED: To Designate the Hana Advisory Committee to Conduct the Public Hearing.
(Assenting - W. Mardfin, W. Shibuya, K. Hiranaga, J. Freitas, O. Tagorda,
D. Domingo, L. Sablas, P. Wakida)**

Ms. Cua: Eight in favor.

Mr. Starr: Okay, next item.

- 3. Planning Commission Projects/Issues**
- 4. Discussion of Future Maui Planning Commission Agendas**
 - a. August 24, 2010 meeting agenda items**

Ms. Cua: I believe the last item for today is the discussion of future Maui Planning Commission Agendas and we did distribute to you at the start of the meeting a memo dated August 9th indicating the items that we have at this point in time planned for the August 24th meeting. I won't go through them unless there's any questions.

Mr. Starr: Okay questions. Okay, keep going.

Ms. Cua: I believe that's it.

- 5. EA/EIS Report**
- 6. SMA Minor Permit Report**
- 7. SMA Exemptions Report**

Mr. Starr: Okay, well we still have our list of responses.

Ms. Cua: Oh, that's right, I'm sorry.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: No, that was it.

Ms. Cua: The department in response to questions at the start of the meeting rounded up our staff and circulated information to you on each of the projects that you had requested. So hopefully this is acceptable to be able to move forward.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: Ann, I found most of it very good. The one you have there, the one, two, three, four, fourth from the bottom, the one that Paul Mikolay is working with trying to move a bunch of telephone poles from mauka to makai, that makai area is an area that we took out of the rural growth boundary when at least from our recommendations and so I'd like a little bit more information on this. I just want to make sure there's not going to be some sort of development over there.

Ms. Cua: Okay, all right.

Mr. Mardfin: And so if I could get some additional information from Paul I'd appreciate it.

Mr. Starr: We can hold out that – which one?

Mr. Mardfin: SMX 2010/0269.

Mr. Starr: Okay, and I'd like some more information on the very first one which is the shoreline protection. I'd like to know who is – who's the approving agency and the preparing body for the EA on that.

Ms. Cua: If it's an SM1 it would be the planning –well, probably the planning commission or unless it's State DOT.

Mr. Yoshida: No, it's the State Department of Transportation.

Mr. Starr: So they're the applicant, the preparing agency and the accepting agency.

Mr. Yoshida: Yeah it is an agency action but I believe the commission did comment on the draft EA maybe about a year and a half ago.

Mr. Starr: Oh, we did.

Mr. Hiranaga: Yeah it was the proposed tetra pods to eliminate the Olowalu surf spots. You remember the power poles were in the water.

Mr. Starr: Okay. I don't love it, but there's nothing to do about it. Okay, Commissioner Wakida.

Ms. Wakida: Can you start construction on a project before it's – on one of these? I'm looking at the Shaw Street project and it says they're going to construct a sidewalk from the highway to Wainee, that's already been done.

Mr. Starr: Which one?

Ms. Wakida: It's right in the middle, Hunt is the planner on it I guess.

Ms. Cua: You know this is saying approximately 4,000 square feet land will be acquired by the county so it can't be something that's there already, it's got to be something else.

Ms. Wakida: Okay, I'm going to take another look because I think half of that sidewalk has been built already.

Mr. Starr: Can I suggest we get more information on that one and the one right below it and that we deem the rest of them as being everything else in these reports as being accepted by us. And can we get a motion to that effect?

Mr. Shibuya: So move.

Mr. Starr: Is there a second?

Ms. Domingo: Second.

Mr. Starr: It's been moved by Commissioner Shibuya, seconded by Commissioner Domingo.

Ms. Cua: To accept the reports from the Planning Department with the exception of two matters, SMX 2010/0206 and SMX 2010/0269 whereby the department will provide additional information at the next meeting.

Mr. Starr: Go ahead. Okay, all in favor please raise a hand. All opposed.

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

**VOTED: To Accept the Reports with the Exception of SMX 2010/0269 and SMX 2010/0206 for Which Additional Information is Being Requested.
(Assenting - W. Shibuya, D. Domingo, K. Hiranaga, J. Freitas,
O. Tagorda, W. Mardfin, L. Sablas, P. Wakida)**

Ms. Cua: Motion passes unanimously.

Mr. Starr: Okay.

Mr. Mardfin: Before you adjourn, can I have a point of personal privilege?

Mr. Starr: Go ahead. Commissioner Mardfin is recognized for point of personal privilege but it relates to commission I forget what we call it.

Mr. Mardfin: I would like to invite you all to the Hana Cultural Center Hoolaulea this coming Saturday from 9:00 to 4:00. It's going be held not at the Hana Cultural Center per se but right below Hana Store right across from Hasegawas and you're all invited.

Mr. Starr: Okay, the meeting adjourned. Good work everyone. I'm amazed we got through it.

H. NEXT MEETING DATE: August 24, 2010

I. ADJOURNMENT

The meeting was adjourned at 4:55 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

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

Others

Ann Cua, Planning Department (9:00 a.m. -12:10 p.m. & 1:30 p.m. - 4:55 p.m.)
Clayton Yoshida, Planning Department (9:00 a.m. - 12:10 p.m.)
Kathleen Aoki, Planning Department (1:10 p.m. - 1:30 p.m.)
Mike Hopper, Department of the Corporation Counsel
Mike Miyamoto, Department of Public Works