

**MAUI PLANNING COMMISSION
REGULAR MINUTES
SEPTEMBER 14, 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, September 14, 2010, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Starr: ... introduce our Commissioners, Commissioner Kent Hiranaga, Commissioner Jack Freitas, Commissioner Orlando Tagorda, Commissioner Ward Mardfin, James Giroux, Corporation Counsel extraordinaire, I'm Jonathan Starr, Chair. Ann Cua is our Deputy Director of Department of Planning who is kind enough to staff our meeting. Commissioner Donna Domingo, Commissioner Warren Shibuya, Commissioner Lori Sablas, Commissioner Penny Wakida from Lahaina side. We have Carolyn Takayama-Corden who's the secretary of the commission. Paul Fasi, Danny Dias, Joe Alueta and I'm sure we'll have other departmental members helping out today.

I've been asked to make a request in a form of an announcement, please ask that cell phones be turned completely off. This is because when, even if they're in vibrate mode they're interfering with the recording of the PA system. Sometimes they set if off, sometimes they just interfere and make it impossible for the transcription tape to be legible. So please turn your phones all the way off.

We'll begin our meeting as we always do with the public testimony portion. Members of the public are welcome and invited to testify on any item on the agenda. They can either testify now before the meeting or when the item is before us before decision making. We ask testimony be kept as short as possible. Any members of the public wishing to give testimony at this time please make yourself known.

The following individuals testified at the beginning of the meeting:

Richard Rost - Item C-1, Pauwela Farms, LLC, DBA and CIZ
Claudia Ledesma - Item C-1, Pauwela Farms, LLC, DBA and CIZ
Margaret Abella - Item C-1, Pauwela Farms, LLC, DBA and CIZ
Dewitte Lickle - Item C-1, Pauwela Farms, LLC, DBA and CIZ

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

Mr. Starr: Anyone else? Any other members of the public wishing to testify? Not seeing any, public testimony portion of the initial part of the meeting is closed. We'll move along to the Director's Report and before we get started, I just want to remind everyone we have a site inspection this afternoon starting at one o'clock so should be an interesting afternoon. Ms. Cua.

Ms. Cua: Just another reminder about the site inspection. We have ordered lunches early for the Commission, hopefully you'll have enough time to eat and leave here by quarter to one to be able to get to your site visit on time.

B. DIRECTOR'S REPORT

- 1. EA/EIS Report**
- 2. SMA Minor Permit Report**
- 3. SMA Exemptions Report**

Ms. Cua: So we'd like to start off by going over or talking about the SMA Minor Permit Report, Exemption Report that we've given you to see if you have any comments on that and also we did send you a letter dated August 24, 2010 regarding a status update on one of the questions you at the last meeting that we were not able to answer right at the meeting and this is regarding proposed A&B property house demolition located at 63 Alamaha Place in Kahului so I won't go and read through that. You have that. If you have any questions we can talk about that. And at this point in time if you're prepared we can get any questions on our existing reports and try and get you information prior to the time that we break for lunch if that is possible.

Mr. Starr: So is there any questions, does anyone wants answered about the SMA Minor, SMA Exempt or the list of open permits and assessments? Commissioner Mardfin.

Mr. Mardfin: Ann, could you give us some more information later on on the first page, the Approved SMA Minor, it's subdivide Uaoa Ridge Farm, the second one down, the third one down excuse me.

Ms. Cua: Sure.

Mr. Mardfin: Okay.

Mr. Starr: Anyone else? I was going to ask this is actually on the Open Permits and Shoreline, the Spirit of Aloha and I see we have an item coming up on a future agenda. I'm wondering if that's the same thing. I just don't know what this is.

Ms. Cua: Where is that again, could say?

Mr. Starr: Here. The Honig's Spirit of Aloha.

Ms. Cua: It's the same property. It is the same property.

Mr. Starr: Okay. You know, my question was just how this fits in with the other item that was before us and is coming back.

Ms. Cua: Okay.

Mr. Mardfin: I have one.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: On the PD Open Permits, it's the second yellow sheet, the third item down, Honoapiilani Highway shoreline improvement. Just sort of a comment, okay, everybody calls what they want to do is an improvement. There's a value judgment implied there. I don't always consider some of things people want to do as improvements, development is a fair word.

Ms. Cua: So I'm assuming you don't want any more information on that?

Mr. Mardfin: No, I do want more information on that.

Ms. Cua: Oh you do. Oh okay.

Mr. Mardfin: I want to know what they're planning to do.

Ms. Cua: Okay, okay, all right.

Mr. Mardfin: But every time I see improvement it just raises flags to me.

Ms. Cua: Okay.

Mr. Starr: But just to mention, it's you know, that was from March of 2009. It's been a while. Commissioner Wakida.

Ms. Wakida: I have a question on page 2 of 9 in the Open, it's third from the bottom, the ... (inaudible)... main dwelling addition. Just wondering what, where it is and what it involves.

Ms. Cua: Where specifically in Lahaina because it is in Lahaina?

Ms. Wakida: Yeah. And what kind of addition that involves.

Ms. Cua: All right.

Mr. Mardfin: And I have, did you write that down, I have one more thing. It's probably I don't know, I see the same, what looks to me to be the same thing listed twice. On the very first yellow page the top item is install a 35-foot wood pole. Then on page of 7 of 9 later on, the third, fourth one down, says install 35-foot wood pole and it's the same TMK, everything else is the same, how does it get in both places or?

Ms. Cua: Oh ...

Mr. Starr: Should we ask Paul?

Ms. Cua: Yeah, that's ... it looks, an SMX will become, an SMX which is your open assignments for Maui and Paul Fasi your name is on all of these so I don't know, but an SMX will either become an exemption which is an SM5 or it could be if it's Molokai and Lanai it would be another permit number SM6 or 7 or it could become a minor permit which is an SM2 which is showing on this list and I don't know if Paul you're prepared to comment now, if it's one and the same, or we can just

we can provide that as part of our comments when we get back to you.

Mr. Mardfin: Yeah, just what they're doing and what got approved and ...

Ms. Cua: Yeah, and why it's on both. I'm assuming it's because that SMX became an SM2.

Mr. Mardfin: That's what I would guess.

Ms. Cua: Yeah.

Mr. Mardfin: I just saw the inconsistency there and I kind of wanted to understand what's going on.

Mr. Starr: So these will come back to us hopefully later today if not next meeting. Lets move along. Deputy Director Cua, why don't we go to our first public hearing?

C. PUBLIC HEARINGS (Action to be taken after each public hearing item.)

- 1. PAUWELA FARMS, LLC requesting a State Land Use Reclassification from the State Agricultural District to the State Urban District and a Change in Zoning from the Interim District to the R-3 Residential District for the proposed Pauwela 4-Lot Subdivision (10,000 sq. ft. minimum lot size) consisting of the subdivision, related site work, landscape plantings, and infrastructure improvements on approximately 4.71 acres of land at 125 Pauwela Road, TMK: 2-7-008: 047, Haiku, Island of Maui. (DBA 2009/0003) (CIZ 2009/0005) (D. Dias)**

Ms. Cua: The first public hearing is a request by Pauwela Farms LLC requesting a State Land Reclassification from the State Agricultural District to the State Urban District and a change in zoning from the Interim District to the R-3 Residential District for the proposed Pauwela four-lot subdivision, 10,000 square feet minimum lot size consisting of the subdivision, related site work, landscape plantings and infrastructure improvements on approximately 4.71 acres of land at 125 Pauwela Road at TMK 2-7-008: 047 in Haiku and the staff planner on this matter is Danny Dias.

Mr. Danny Dias: Good morning Chairman Starr, Members of the Planning Commission.

Mr. Hiranaga: Mr. Chair?

Mr. Starr: Commissioner Hiranaga, you have a question?

Mr. Hiranaga: I apologize to interrupt, but in the spirit of full disclosure I'd just like to state that I did represent the applicant in the purchase of this property in 2008.

Mr. Starr: Okay, thank you for disclosing that.

Mr. Dias: Good morning everyone, I'll keep my presentation brief and let the applicant do the bulk of the presentation on this project. As previously stated, the item before you involves a change in zoning and district boundary amendment for a 4.71 acre property in Haiku. The property is located

along the northern end of Pauwela Road next to Haiku Elementary School. The change in zoning would be from Interim to R-3 Residential and a district boundary amendment from Agricultural to Urban. The purpose of the CIZ and DBA is to have consistency between zoning, State Land Use Designation and the community plan. The Paia-Haiku Community Plan currently designates the property for single family residential use.

There's a couple things I want to point out. First in the report page 19, it states under alternatives that the commission can approve this project with or without conditions. I want to make it clear that the commission is making a recommendation to Council and not actually approving this project.

The second thing I want to point out is as one of the testifiers said there was a notice that was sent out that was inaccurate. There were two notices and map that went out to the property owners within 500 feet. One notice was for the change in zoning, the other for the district boundary amendment. The change in zoning notice stated that the proposed project would eventually result in a four-lot subdivision while the notice for the district boundary amendment stated 10 lots. So there was some confusion there. The CIZ notice was correct. The DBA notice was incorrect. Also, the notice that went into the Maui News for the DBA was incorrect but the CIZ was correct. So what the applicant did last week was they sent out the notice again for the DBA correcting that it's not for a 10-lot subdivision, this is for a four-lot subdivision and they also renoticed in the Maui News. So I want to make that clear.

Mr. Starr: Before you proceed, the filing of the amended notice when was it done? I want to be sure that it meets the requirements.

Mr. Dias: Tuesday of last week and then the notice in the newspaper was on Friday.

Mr. Starr: Friday, the last Friday.

Mr. Dias: Correct.

Mr. Starr: Corp. Counsel, Mr. Giroux, I'm wondering since we do have agenda requirements if that comes into effect.

Mr. Giroux: Thank you Chair. Yeah, I was notified of this and I had discussions with the planner. Knowing that the reclassification notice is actually from Agriculture to Urban, the fact that the subdivision was noticed to be actually 10 lots which in effect is hitting the honey bees with the big stick instead of the little stick, I advised them to go and do that correct to clear that up but it wouldn't affect the notice issue being that it looks like there's a further area, it's says one acre minimum lot size that would, that would also be another error.

Mr. Dias: That was correct.

Mr. Giroux: I don't appreciate the errors but I don't think they amount to the level that it would actually affect the issue of notice on this application.

Mr. Starr: Okay, Members is everyone satisfied that this renoticing which was done very recently

is really in accordance with the spirit of what we're doing here. Anyone has a problem with this?
Commissioner Mardfin.

Mr. Mardfin: I agree with our counsel that if they put in 10 lots and they're only asking for four that they, it's probably done, but they did say one-acre and now they're saying 10,000 square feet so that's in effect going the other way. The minimum lot size is increased so that they made it look less bad in the first notice than it conceivably looks in the second notice.

Mr. Starr: I think you got it backwards. I think they filed originally for four lots and then they changed it to 10 lots. Am I correct in that?

Mr. Dias: Well, two notices went out at the same time. One was correct and one was incorrect and one of them said 10 lots and, you know, one acre, but -- you know, so if you got one, you got a correct one and you had a ...

Mr. Mardfin: Which is correct?

Mr. Dias: The four lots.

Mr. Mardfin: Four lot at 10,000 square feet.

Mr. Dias: Well, 10,000 square feet is minimum lot size for R-3. The minimum lot size for this project I believe is 22,000 square feet, about a half an acre.

Mr. Starr: So will it be four lots or 10 lots?

Mr. Dias: It will be four. It's four.

Mr. Starr: And can those be further subdivided?

Ms. Cua: Well, a four-lot subdivision of 10,000 square feet if the zoning is R-3 then no, it can't be further subdivided. The minimum lot size for R-3 is 10,000 square feet. Okay, if the lots are 10,000. If they're above 10,000 square feet which in some cases they are then yes, I'm sorry, in those cases because again, the minimum lot size for R-3 is 10,000.

Mr. Starr: So Commissioner Freitas.

Mr. Freitas: Did I hear correctly that he said it's going to be half acre lots not 10,000 square feet?

Mr. Dias: Correct.

Mr. Starr: So they can be further subdivided.

Ms. Cua: They could further be.

Mr. Starr: Okay, Mr. Dias please proceed.

Mr. Dias: Well, that kind of wrapped up what I wanted to tell the commission. So I'll just hand it over to the applicant. I believe their presentation will be about 15 minutes long.

Mr. Starr: Yeah 15 minutes is fine. Please proceed. Danny grab the lights.

Ms. Jennifer Maydan: Good morning Chairman Chair, good morning Commissioners, thank you for hearing our presentation this morning for the Pauwela four-lot subdivision. I'm Jennifer Maydan with Chris Hart and Partners. Also here today is Glenn Tadaki with Chris Hart and Partners and our Civil Engineer, Kirk Tanaka with Tanaka Engineering and the applicant, Hiro Nakagima, his wife, Julia Lafreda and their two children.

First, I'd just like to start off by apologizing for the error that was printed for the public notice. It was just a typo. It was a complete error. We understand that it has caused a lot of confusion for the public. We want to apologize to the public and to the commissioners. It was an error, we're sorry for that. It is a four-lot subdivision not 10-lot. Was never considered to be a 10-lot that was a typo. We apologize.

So moving along, the proposed action involves a subdivision of 4.17 acres of land located in Haiku to create a four-lot single family residential subdivision. The applicant is requesting a District Boundary Amendment from State Agriculture to Urban, Change in Zoning from Interim to R-3 Residential to establish the appropriate State and County land use designations for the subject parcel and provide conformity with the single-family residential designation for the site in the Paia-Haiku Community Plan.

This is a regional location map of the subject parcel. The subject parcel is here in orange. You can see it is off Pauwela Road about a quarter of a mile south of Hana Highway. It runs right here and about a half mile north of Haiku Town Center.

This is an aerial map of the project site right here in white. It's in the vicinity of Haiku Elementary School, Haiku Community Center and the Hale Pili Aloha Subdivision.

The project site is within the State Land Use Ag District. It's designated single-family residential in Paia-Haiku Community Plan and it's within the County's Interim Zoning District. The project site is also within the proposed future growth boundaries.

These are some photos of the subject parcel and the surrounding area. The first photo on the top is a panoramic view with the camera facing south. Just barely in the background over here is Haiku School and you can see some of the rooftops of the Hale Pili Aloha Subdivision in the background. The bottom two photos are of Pauwela Road fronting the subject parcel. The first one on the left is facing north and the second one on the right is facing south.

In this top photo it depicts the mauka portion of the subject parcel in foreground and undeveloped land in the background to the south of the subject parcel. In the bottom photo this is the eastern portion of the subject property.

So as the previous maps depicted the subject parcel lays within the State Ag District, the County's

Interim Zoning District and is designated single-family residential in the Paia-Haiku Community Plan and is also within the proposed directed growth boundaries. The subject parcel lies in an area of existing development approximate to Haiku Community Center, Haiku School and the Hale Pili Aloha Subdivision. The subject parcel was formerly cultivated in pineapple by Maui Land and Pine and it has lain fallow until just recently.

Preliminary subdivision approval for the four-lot subdivision was approved in March of 2009. An existing ohana dwelling is located on the eastern corner of the subject lot. Various agricultural crops are grown on the site including bananas, papayas and various citrus fruits.

A description of the proposed project includes the subdivision of the site into four single family lots ranging in size from a half acre to about 2.7 acres is the largest. Also, a road widening lot of about 1,600 feet would be created. The proposed project is lot only. It does not include homes, building pads, driveways, water catchment tanks, individual wastewater systems, site work or landscape planting. These improvements would be the sole responsibility of the future lot owners.

Potable water will be provided by water catchment tanks on each house lot. Fire protection will be provided an existing eight-inch water line within the right of way of Pauwela Road. Retention basins on each lot will capture onsite runoff and result in no increase in runoff to adjacent lots. The size and location of these retention basins will be determined when each lot is developed in the future to take in consideration such site improvements as dwellings and driveways. And finally, electrical and telephone service is available and will be provided by connecting to existing overhead utility lines within Pauwela Road.

This is the preliminary site plan. You can see this is Pauwela Road, lots 1, 2 and 3 front Pauwela Road and the fourth lot, the large flag strip lot encompasses this area.

Reasons justifying their request include that the reclassification of the subject parcel will not have an adverse effect on neighboring land uses as the proposed residential character surrounding – because of the surrounding area will be maintained. Additionally, the reclassification of the subject parcel will establish an appropriate area for single family residential development that conforms to the Paia-Haiku Community Plan and also lays within proposed urban growth boundaries.

Development considerations and mitigation measures were evaluated during the agency review process for the DBA and CIZ. These areas included historic resources, agriculture, infrastructures and infrastructure systems including water, wastewater and electrical and telephone service, drainage and roadways and traffic.

First, historic resources. The subject parcel was extensively disturbed during previous large scale agricultural operations. No cultural practices or resources occurred on the site. And in commenting on the subject project the State Historic Preservation Division determined that no historical properties would be affected and the proposed project, by the proposed project and archaeological inventory survey is not required.

Now considering agriculture. The Island of Maui has approximately 244,000 acres within the State Agricultural District at 4.7 acres approximately, the subject parcel accounts for a very small

percentage of Maui's Agricultural District lands. In 1995, the subject parcel was designated single-family residential by the Paia-Haiku Community Plan. For decades Maui Land and Pine used the subject parcel for pineapple cultivation, large scale agricultural operations ceased in the yearly 2000's and the site has lain fallow until recently.

The reclassification of the subject property to Urban is not expected to have an adverse impact upon agriculture nor is it anticipated to have a negative effect on the inventory of State Agricultural District lands that are available for large scale agriculture and diversified agriculture operations.

Moving onto infrastructure systems first looking at water. Potable water for each house lot will be provided via rain catchment systems which will be built on future lots by future lot owners. Fire protection will be provided by the existing eight-inch water line within Pauwela Road right of way in accordance with the modification of subdivision requirement agreement which was signed by the Department of Water Supply Director on June 28 of this year and transmitted to the State Bureau of Conveyances for recordation on July 7th. According to this agreement, the applicant will pay the storage and transmission components of the County water system development fee as part of the subdivision process. Also, the applicant will pay the prevailing source fee at the time the water meters are issued in the future and the applicant will pay the incremental difference between the amount that was originally paid for the storage and transmission fees and the amount that would be due at the time of prevailing fees, at the time of meter issuance. And finally, upon water meter issuance the applicant would also connect to the County water system and install any necessary infrastructure improvements.

Continuing on with water, since existing fire hydrant spacing along Pauwela Road exceeds the maximum spacing of 350 feet, a replacement hydrant would be installed near the entrance of lot 4 which would also provide fire protection for future lot improvements.

Wastewater flows generated by future dwellings will be disposed of by means of individual wastewater systems which will be designed and installed in accordance with State Department of Health regulations.

Power and phone service will be provided by tying into existing overhead utility lines along Pauwela Road.

Regarding drainage the existing onsite drainage pattern is characterized by runoff that sheetflows across the subject parcel and discharges onto Pauwela Road or adjacent vacant land to the north of the site. The proposed drainage system includes grass swales or underground culverts to convey runoff to retention basins on each future lot which will be designed so there is no increase in runoff to adjacent lands. Retention basins will also reduce the potential for sediment laden runoff to enter surrounding properties and the ocean. The location and size of each of these retention basins will be determined when each lot is developed in the future by future lot owners.

The provision for the construction on these retention basins will be included in the subdivision CC&Rs which will be incorporated in the deeds for each lot and they will enforce, these will be enforced by the subdivision's homeowner association and the deeds will be recorded with the State Bureau of Conveyances and run with the land.

And finally roadways and traffic. Vehicle access to the house lots will be provided by driveways off of Pauwela Road. Adequate driveway sight distances will be verified when future lot owners apply for driveway permits. The traffic study conducted for this project determined that project generated traffic will not affect the levels of service of any of the controlled movements at the intersection of Hana Highway and Pauwela Road which currently operates at a level of service C or better during both a.m. and p.m. peak hours therefore, no mitigation is required.

An existing three-foot wide strip along the adjoining half of Pauwela Road will be widened, improved and dedicated to the County. Road widening improvements will enhance the safety of Pauwela Road and will include the existing roadway pavement, installing a curb and gutter along the road, replacing the existing three-foot wide sidewalk with a four-foot wide sidewalk and regrading and grassing the shoulder area.

So in conclusion, the proposed land use meets the criteria of the District Boundary Amendment to the State Urban District and the Change in Zoning to R-3 Residential. The proposed project is not expected to result in any adverse environmental or socio economic effects. Public services and infrastructure are adequate or will be improved to accommodate the proposed subdivision. When considering the project's infill nature and its proximity to existing development the proposed single family residential subdivision is consistent and compatible with surrounding land uses. Additionally the subject parcel lays within the proposed directed growth boundaries; and finally, the granting of the applicant's request for District Boundary Amendment and Change in Zoning will establish the necessary land use designation for the long term use of the site for single family residential purposes and will fulfill the intended use of the – established within the Paia-Haiku Community Plan.

Thank you Commissioner Starr, thank you Commissioners, we'd be happy to answer your questions.

Mr. Starr: Members, questions both to the applicant and for staff? Commissioner Shibuya.

Mr. Shibuya: I just wanted to have it clarified here on page 8, it's under description of the project. There's a description of lots 1 through 5 and I just wanted to know whether these are correct and how was the square foot determined? Was it by survey or by proposed guessing and dividing the total square footage of the entire project area and divided into these lots? How was this derived?

Ms. Maydan: Thank you for your question Commissioner Shibuya, I'd like to bring up our engineer, Kirk Tanaka.

Mr. Kirk Tanaka: Good morning Commissioners. My name is Kirk Tanaka with Tanaka Engineers. We're the civil engineering and land surveying consultant for the project. In regard to Commissioner Shibuya's question, the lot area were calculated based on the layout that the owner provided. So as far as the lot sizes, if the rezoning process goes through and we accomplish final subdivision approval, this would be the exact square footages of the resulting lots.

Mr. Shibuya: And it does include the easements as well as they have all pins in there right now, right?

Mr. Tanaka: Typically we don't stake the final boundary until we get final subdivision approval from the County DSA because of the fact that the lots don't actually exist until all of the governmental processes are completed and have been approved by the County.

Mr. Shibuya: Okay, so the right of way easements are they included in these numbers or are they separated from it?

Mr. Tanaka: When you refer to right of way easement are you referring to the roadway widening lot?

Mr. Shibuya: Yes.

Mr. Tanaka: The roadway widening lot is computed and is subject to approval by the Engineering Division of the Department of Public Works.

Mr. Shibuya: Okay, so this is not a roadway that connects all of the properties within that subdivision? It's not like a flag lot? That flag lot is separate.

Mr. Tanaka: We have anticipated that there would be direct access on each of the four lots to Pauwela Road namely lots 1, 2 and 3 would have some flexibility as to where their driveway could be set along Pauwela Road and, of course, that would have to be approved by Engineering Division. One of the main criteria that the Engineering Division looks at is available sight distance, does it match or does it meet the requirements of sight distance to provide for a safe ingress and egress? Lot 4 is a flag lot and therefore, the driveway location, direct driveway location into Lot 4 is somewhat limited.

Mr. Shibuya: Okay, thank you.

Mr. Starr: Commissioner Wakida.

Ms. Wakida: There's a house on this property currently, correct/

Mr. Tanaka: I believe so, yes.

Ms. Wakida: Can you show us on the plot map where that house is located?

Mr. Tanaka: The house was built recently I believe and so that's why it's not shown on the preliminary subdivision plat because it was built after the plat was developed.

Ms. Maydan: Correct me if I'm wrong here, would this be about the current location of the existing ohana dwelling?

Ms. Wakida: And that is a two-story house?

Ms. Maydan: One story.

Ms. Wakida: One story. Is it just one building there or are there other buildings?

Ms. Maydan: It's just one building.

Ms. Wakida: And what is the current water system for that house?

Ms. Maydan: He has a water catchment system. There is a permit and inspected 20,000 gallon water catchment tank, and that's providing domestic and ag water for the site.

Ms. Wakida: Okay, and the sewer system for the house?

Ms. Maydan: Individual wastewater system?

Ms. Wakida: What kind?

Ms. Maydan: Septic.

Ms. Wakida: Septic. It's not leach field and ...(inaudible)... cesspool.

Ms. Maydan: Leach field.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I'm confused. You said there's only one. I thought you said there was a residence and an ohana?

Ms. Maydan: No, I'm sorry. No, there is just one ohana dwelling. There's just one dwelling on the lot currently.

Mr. Mardfin: One dwelling.

Ms. Maydan: One dwelling.

Mr. Mardfin: Why do you call it an ohana dwelling?

Ms. Maydan: Because I think that's how the lot owner views it.

Mr. Mardfin: They're going to build another residence in addition?

Ms. Maydan: Correct.

Mr. Mardfin: Okay. Another technical question. You said it's within the growth boundary. Was that an urban growth boundary or a rural growth boundary?

Ms. Maydan: It's within the rural growth boundary.

Mr. Mardfin: Rural growth boundary.

Ms. Maydan: Correct.

Mr. Mardfin: Thank you.

Mr. Starr: When was the property purchased?

Ms. Maydan: The property was purchased in June of 2008.

Mr. Starr: Okay, does the applicant live on the property?

Ms. Maydan: Yes he does currently live on the property.

Mr. Starr: How quickly after it was purchased did their process for this begin?

Ms. Maydan: Lets see, I believe we began working on the project in the later part of '08.

Mr. Starr: Okay, Members any? Commissioner Wakida first then Commissioner Mardfin.

Ms. Wakida: I have a question just on the language, I'm unfamiliar with. It's on page 15 and you read it to us also. On the bottom of page 15 in our packet, can you, it's just matter of clearing up what all this means. You say, "for fire protection the applicant will utilize the County water system as proposed but will also pay for the storage and transmission components of the County water meter fee." What does that mean in simple language?

Ms. Maydan: The County's water fee is divided into three components, source, transmission and storage. So as part of the modification of subdivision requirements agreement that the landowner entered into with the Department of Water Supply, it states, "that the subdivider will pay the department the transmission and storage component portion of the water system development fee for each of the four lots prior to the department's recommendation for final subdivision approval."

Ms. Wakida: So they're paying storage and transmission?

Ms. Maydan: At the time of final subdivision approval when in the future when water meters are issued, the source component of the fee would be paid, the third component of the fee and the incremental difference between what was paid originally at the time of final subdivision approval and what the fees are in the future at the time of water meter issuance, whatever the incremental difference between those fees would be because they're most likely going to increase. The subdivider would then also pay that incremental difference so that in the future at the time when he is issued the water meters he is fully paid for all three components of the fee.

Ms. Wakida: So this is normally a one-time, it's not a monthly, I mean, like on water bill, I don't get storage and transmission fees, right?

Ms. Maydan: No.

Ms. Wakida: It's a one-time thing for the installation of the water meter is that right?

Ms. Maydan: Correct.

Ms. Wakida: Okay, but these water meters may not be available for 10 years.

Ms. Maydan: Correct, we have no idea when.

Ms. Wakida: Thank you.

Ms. Maydan: You're welcome.

Mr. Starr: Commissioner Mardfin, then Commissioner Tagorda.

Mr. Mardfin: Would you go back to your slide where you gave your justification?

Ms. Maydan: Yes, hold on one second.

Mr. Mardfin: That's the one. The first one there says, "the reclassification will not have an adverse effect on the neighboring land uses, it's residential character will be maintained." We've just heard testimony today that the surrounding residences are, surrounding properties are not happy with this so I think the first reason has sort of disappeared hasn't it?

Ms. Maydan: Well, there is an established residential character in the neighborhood, in the surrounding area if you take into account the existing, the Haiku Community School, the Haiku Community Center and the Hale Pili'alo'ha Subdivision which ranges from R-3 to R-1 Residential. So there is an existing residential character in the area.

Mr. Mardfin: But the surrounding properties have, many of the surrounding, several of the surrounding properties have been here objecting to this so they must feel that it does have an adverse effect.

Ms. Maydan: Yeah, that is what they're saying.

Mr. Mardfin: Thank you.

Ms. Maydan: Thank you.

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: In line of that question by Commissioner Mardfin. I don't see any, can you give me some compelling reasons that this subject property should be reclassified from State Agriculture District to Urban District and change in zoning from Interim District to R-3 Residential District aside from those mentioned?

Ms. Maydan: Aside from those mentioned? Well, I would say those are the main reasons, the

second one being that it will conform with the existing designation within the Paia-Haiku Community Plan of single-family residential.

Mr. Tagorda: Thank you.

Ms. Maydan: I would say that those are the prevailing reasons why those would be the key points.

Mr. Tagorda: The reason why I ask that question is, this subject property is classified as prime agricultural land which is on your page 13 under agriculture which is best suited for the production of food, feed, forage and fiber crops and it seems to me that you have given us some informations about the number of acres of land within the State Agriculture District which is 244,088. Can you break down how many acres are considered prime agricultural land? And ...

Unidentified Individual from Audience: ...(inaudible)... going on over here.

Mr. Tagorda: ... other agricultural land.

Mr. Starr: You're out of order please sir. Please be quiet.

Unidentified Individual from Audience: You haven't been told them to be quiet.

Mr. Starr: Please be quiet sir.

Unidentified Individual from Audience: Could you tell them to be quiet? Why don't you tell them to be quiet?

Mr. Starr: Commissioner Tagorda please restate your question.

Mr. Tagorda: Could you go to that agriculture. I loose my thought. Like I said, since this is a – you give us a correct information as to the number of acres of land within the State Agricultural District. Can you break down how many acres are considered prime agricultural land which is one of this subject property?

Ms. Maydan: I do not have –

Mr. Tagorda: Within that 244,000 acres.

Ms. Maydan: I do not have that, number with me right now.

Mr. Tagorda: You don't have that. Okay.

Ms. Maydan: No.

Mr. Tagorda: And also, the productivity of agricultural land are related, are rated to A to E and this subject property is rated C, am I right? So out of those 244,000 acres of land in a State Agricultural District which is prime land how many are rated A, how many are rated C, how many rated E?

Ms. Maydan: Commissioner Tagorda, I do not have that information right now, but I would like to comment that the land has lain fallow. It was previously planted in pineapple. It has lain fallow since the early 2000's until recently. The current landowner has planted 400 plus banana, 50 plus lilikoi, 40 plus citrus, 20 plus papaya, 5 mango, 5 lychee, 3 fig, 3 plum and 2 avocado and he intends to plant more. He does intend to have agriculture on his lot and part of the intent of having them be large residential lots was to allow for the possibility of future lot owners to have small scale diversified agriculture on their lots within character of what some of the other neighbors have identified.

Mr. Tagorda: Excuse me, since this was a Maui Land and Pine fields for the past, what 10 years? It's been fallow from that time on when he, this applicant bought that property two years ago he just did some farming is what you're telling me?

Ms. Maydan: Yes sir.

Mr. Tagorda: Does he have receipts of the agricultural activities that he have because it looks like too, too soon to convert this property into subdivision and more ...(inaudible)... houses in that four-acre lot.

Ms. Maydan: I don't believe he's been selling the agricultural products.

Mr. Tagorda: This is my point of view ...

Ms. Maydan: ... yeah, they're young.

Mr. Tagorda: This applicant seems to be a real estate speculator in two years time he wants to turn around this property for profit without even consulting neighbors ...

Ms. Maydan: He bought this land for his home and for family.

Mr. Tagorda: ... whether that be fine with them.

Ms. Maydan: I mean you can term him what you want.

Mr. Hiranaga: Mr. Chair is this, I would ask the commissioner to ...

Mr. Tagorda: ... excuse me ...

Mr. Starr: Commissioner Hiranaga you're out of order.

Mr. Hiranaga: ... to ask questions and allow the applicant to answer. This is not a debate.

Mr. Starr: Okay, Commissioner Tagorda please proceed.

Mr. Tagorda: Mr. Chair, I would like to have some common courtesy from Commissioner Hiranaga. I want him to be courteous, to be acknowledged by the Chair before he butt in, so I still have the

floor.

Mr. Starr: Yes, you have the floor. He's out of order.

Mr. Tagorda: Thank you so much. Okay, let me finish with that agriculture. Lets go back to water.

Ms. Maydan: Would you like me to go to the water slide?

Mr. Tagorda: On page, you have a letter from the Department of Water Supply to your planner, Glenn Tadaki. You have that?

Ms. Maydan: Yes I do.

Mr. Tagorda: Okay, what number are you on Upcountry Water Service Priority List?

Ms. Maydan: The property, the previous owners A & B were on the list for two water meters. They were number 577. The current landowner put in for four water meters and I do not know what number he is. He put on, he was put on the list in July of 2008 and he was not given a number. He estimated that he's number 1,350 based on looking at the water meter list at the number a couple months prior to when he put in his application.

Mr. Tagorda: So ...

Ms. Maydan: So he was not given numbers for the last four water meters.

Mr. Tagorda: So you only expecting two water meters from that property? And if it's going to be subdivided into four ...

Ms. Maydan: He's placed on the list, the property is placed on the list for two water meters. Do you know the date? For two water meters by A & B, those are number 577, and then additional four water meters he's on the list for.

Mr. Tagorda: So a total of six water meters ...(inaudible)...

Ms. Maydan: Correct Commissioner.

Mr. Tagorda: So right now there is a possibility that you will have two water meters because being 577 priority list where is this water meters will be installed in those property, on those lots? Do you have any idea where these two meters will be installed?

Ms. Maydan: I don't believe we would know until they were issued.

Mr. Tagorda: Because you are subdividing this lot into four lots and you have only two water meters. Might be pretty soon you will be entitled to.

Ms. Maydan: We don't know.

Mr. Starr: What is the agricultural rating of this land on the ALISH scale?

Ms. Maydan: It's prime.

Mr. Starr: It's prime. Now, the bar for urbanizing prime agricultural land is pretty high. We know that Maui is very short of prime agricultural land that's usable to grow foods here. I'm still trying to understand the true justification for converting this prime agricultural land to urbanization in an area where most of the surrounding or many of the surrounding residents are both doing agriculture and are not favoring this proposal to urbanize this parcel.

Ms. Maydan: Thank you Chairperson. The justification would be that some of the surrounding land does have an existing residential character, an urban character. As we mentioned the Haiku School, Haiku Community Center and the Hale Piliialoha Subdivision. Additionally, the subject parcel is identified within the Paia-Haiku Community Plan for single family residential use and the parcel is also within the directed growth boundary. And as I mentioned small scale agriculture it is the intent to continue that on the parcel.

Mr. Starr: Commissioner Mardfin.

Mr. Mardfin: I'm sorry, you said, within what boundary?

Ms. Maydan: I'm sorry?

Mr. Mardfin: I'm sorry, you said within, did you just say within the urban growth boundary?

Ms. Maydan: I said within the directed growth boundary.

Mr. Mardfin: Directed growth boundary but it's the rural directed growth boundary not the urban directed growth boundary.

Ms. Maydan: Correct, Commissioner Mardfin.

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: I'd like to again continue on that Department of Water Supply letter.

Ms. Maydan: Okay.

Mr. Tagorda: On page, next page, on the first paragraph, page 2, can you read that for me please?

Ms. Maydan: Are you looking at the February 20, 2009 letter?

Mr. Tagorda: Yes, correct.

Ms. Maydan: Okay, I'm sorry, which paragraph?

Mr. Tagorda: That top one, the first paragraph.

Ms. Maydan: The parcel is served by the Makawao system.

Mr. Tagorda: It says about the Hawaii Administrative Rules.

Ms. Maydan: Oh, I'm sorry, second page.

Mr. Tagorda: 7-62.

Ms. Maydan: The Hawaii Administrative Rules HR 11-62 requires that no cesspool be constructed within 1,000 feet nor any treatment unit within 500 feet of a public well.

Mr. Tagorda: Continue.

Ms. Maydan: You want me to read the whole paragraph?

Mr. Tagorda: Just go to the, all the way to the half of the paragraph.

Ms. Maydan: Septic systems are not considered treatment units and are subject to the 1,000 foot setback. The fact that it would be impossible to create a 1,000 foot setback on this property indicates that future subdivisions will need to be limited to avoid becoming subject to and in violation of this rule.

Mr. Tagorda: Thank you. In your own perspective, what do you mean by this paragraph, the one you just read.

Ms. Maydan: Well, these are the rules outlined in the Hawaii Administrative Rules. The Water Department is just spelling them out for us. I'd like to bring out Kirk Tanaka.

Mr. Tanaka: I'm sorry, I – again, Kirk Tanaka with Tanaka Engineers, good morning. Your question Commissioner Tagorda is?

Mr. Tagorda: I had no question, I just want you folks to read this the Department of Water Supply letter on February 20, 2009, on the page 2, top paragraph all the way to the middle. Because I don't think you folks address this issue.

Mr. Starr: Could you comment on that Mr. Tanaka?

Mr. Tanaka: I believe if I understand the line of questioning correctly. This is regard to public wells and unavailability to be able to install a public well on the property given the fact that your going to have to treat the wastewater on site. Am I mistaken in that assumption?

Mr. Tagorda: Let me read to you what are my concern about this. HAR 11-62 requires that no cesspool be constructed with thousand feet. The fact that it would be impossible to create a thousand feet setback on this property indicates that future subdivision will need to be limited to

avoid becoming subject to and in violation of these rule.

Mr. Tanaka: I believe that ...

Mr. Tagorda: It sounds to me that there will be violations of HAR 11-62 and to avoid becoming subject to and in violation of this rule future subdivision need to limited. So you know, and I know, that there will be more residential use in this subdivision if it will be approved. Is that my understanding?

Mr. Tanaka: I believe HAR 11-6 2 refers to required setbacks between cesspools and septic systems from a public well, and therefore if I understand your line of questioning correctly, they're talking about in this particular paragraph in HAR 11-62 they're talking about set backs to public wells. And I don't believe we're proposing any public wells on the property. I think what they're saying is that the lot is too small to accommodate both the public well and individual wastewater treatment systems and I believe that's all that they're saying, yeah. Okay, thank you.

Mr. Starr: I just want to follow up to that. There was an – it seemed that the original plan was to put a well on the property and then there was some back and forth with the Water Department and then now they're saying that they want to build this using catchment and leaving it up to the new homeowners in an urban area to maintain their own safety with catchment which frankly I do want my own farm but it's not, it's very technical and very difficult to keep from getting sick. Could you explain how this is going to go work what their plans are with the water? Because it seems like they're going to get fire flow protection. They're going to jump everyone on the line as far as storage and transmission and fire protection. But they're going to have people go on catchment for their own potable, am I correct on that? It's very confusing.

Ms. Maydan: Thank you Commissioner Starr. Again, Jennifer Maydan. The applicant entered into a modification of subdivision agreement with the Department of Water Supply which was signed on June 28th by the Director and transmitted to the State Bureau of Conveyances for recordation on July 7th. The agreement states that the applicant will pay the storage and transmission component of the water system development fee at the time of final subdivision approval for four water meters. At the time that in the future when he is issued the water meters he would pay the third component, the source component of the fee and he would pay the incremental difference for the other two fees to get him up to date with the current fees. This was an agreement that was an agreement that was reached between the applicant and the Department of Water Supply. This began because of our early consultation with the neighbors and agencies. The February 20, 2000 letter from the Department of Water Supply they brought up the issues of mixed systems referring to a mixed private system for domestic and public system for fire because that's what we were proposing. They brought up that they had issue with that so we spoke to the Director and he suggested the modification of subdivision requirements agreement. We went through that process and it has been signed and sent to the Bureau of Conveyances. So domestic water will be supplied by water catchment as we stated, and fire flow will be covered by the existing 8-inch water line within the Pauwela Road right of way.

Mr. Starr: And the domestic systems, I mean will that be? Will the department under this agreement be doing water quality testing?

Ms. Maydan: No, the department, the County nor the State Department of Health have any regulation over water catchment systems. The Department of Health did provide us with information that we passed on to the landowner regarding maintaining the quality of the water catchment system. But it is the responsibility of the applicant and future lot owners to construct, maintain and insure the quality of their water within their water catchment system.

Mr. Starr: Commissioner Mardfin and please excuse me.

Ms. Maydan: I wanted to ask Danny some questions I think.

Mr. Starr: Mr. Dias.

Mr. Mardfin: There were several things here. I'm looking at page 6 of the application. And right now it's Land Use District Ag, community planned single-family residential, County zoning Interim which I do know is a bear of a system to be in, and according to the testimony it's within the rural growth boundary as proposed at least. It hasn't been adopted yet, but let me ask some questions and they're proposing to go to Urban R-3, I want to know what other options are available. Could they keep it in Ag and subdivide it into two lots?

Mr. Dias: Because it's zoned Interim, I don't believe the Interim zoning allows for subdivisions.

Mr. Starr: Ms. Cua.

Ms. Cua: Yeah, currently you need to, yeah, if you're going to subdivide the property you have to – it can't be subdivided if it's Interim.

Mr. Mardfin: Could they put it into Land Use District, an Ag Land Use District and then subdivide it?

Ms. Cua: Yeah, they could. That's a choice. The one issue that this property and other properties have if they want to subdivide land until recently now that the Council has approved that consistency bill, the problem that everybody has been faced with prior to the Council taking on that subdivision consistency bill is, in order to subdivide your property previously everything had to match, your State Land Use, your community plan and your zoning. So your State Land Use was like in this case Ag, Paia Community Plan is single family, County zoning is Interim. It doesn't match, you have to, everything has to be Urban, single family, in this case, Urban, single family residential and R-3, it matches. Now with the subdivision consistency being modified by the County Council, the Planning Department and Public Works can make a determination that Land Uses are consistent based on their uses. And that has just happened within the last month. That's, that's a change that's happened since this applicant filed and they basically had set their path and what was driving their path was the community plan designation of single family residential. So the community plan says that this property should be zoned single family, some form of single family residential and that is an urban classification and the zoning that would be appropriate for single family designation of – a community plan designation of single family residential is either R-1, R-2 or R-3. R-1, the minimum lot size for R-1 is 6,000, R-2 is 7,500, R-3 is 10,000. So the R-3 is the most, – the least intense of the Residential zoning classifications. Now there has been talk, you

received a letter from Mr. Hall, we have another case that, that the department is dealing with, you know, Rural might have been a more appropriate classification for the area but with how subdivisions were handled previously, if you were classifying to Rural it still wouldn't be consistent with the Paia-Haiku Single Family Residential classification. Now that's an option because the department could determine that zoning to County Rural and having a State Land Use classification to Rural would be appropriate with a single family residential Paia-Haiku Community Plan recommendation because the uses could be consistent. But again, that's something that's just happened recently by the County Council and you know, you have properties that have been going through the process that are kind of caught in this.

Mr. Mardfin: So, I was going to start at one end, but I'll start at the other end. They're asking for Urban R-3.

Ms. Cua: Correct.

Mr. Mardfin: They could just as easily ask for Rural R-3?

Ms. Cua: Well, I think they could ask for State Land Use Rural and they could ask for County Rural or another option, I mean, the Commission could recommend, the Commission could maybe not support the recommendation ...

Mr. Mardfin: I understand where you're going with that ...

Ms. Cua: Maybe the Commissioner could say ...

Mr. Mardfin: ... it's a matter of where it starts from them or from us ...

Ms. Cua: Right.

Mr. Mardfin: but they could in effect do what they want to do if they had Rural State Land Use.

Ms. Cua: And ...

Mr. Mardfin: And ...

Ms. Cua: ... County Rural zoning.

Mr. Mardfin: County Rural zoning.

Ms. Cua: ...(inaudible)... and that is something that you need to ask the applicant.

Mr. Mardfin: And then they could put single family dwellings up.

Ms. Cua: Correct.

Mr. Mardfin: If it were Rural, then they need half-acre minimum lot?

Ms. Cua: Or, or, there's Rural half-acre and there's Rural one-acre. So I mean, that you have to at some point ask that question to the applicant.

Mr. Mardfin: Okay.

Ms. Cua: If that would meet what they want to do.

Mr. Starr: Commissioner Hiranaga.

Mr. Mardfin: Thank you.

Mr. Hiranaga: Yeah, Ann just a follow up to that line of questioning.

Mr. Isaac Hall: How come ...(inaudible - speaking from the audience)... I understand he's recusing ...

Mr. Starr: You're out of order.

Mr. Hall: But he's recused.

Mr. Starr: He has not recused himself.

Mr. Hall: ...(inaudible)... participate.

Mr. Starr: Please you're out of order Mr. Hall.

Mr. Hall: He's recused ...

Mr. Starr: You'll have your chance to speak and to act.

Mr. Hall: He can't participate ...

Mr. Starr: First of all, he hasn't recused himself. You're out of order. Commissioner Hiranaga.

Mr. Hall: He sold the property to the ...(inaudible)...

Mr. Starr: Please you're out of order Mr. Hall. Commissioner Hiranaga.

Mr. Hiranaga: Oh, what was I think, oh okay, before I was rudely interrupted by that individual in the audience. This consistency issue my recollection came about in the early '90's by an opinion by Corporation Counsel that community plan, State Land Use and zoning all had to be not consistent but what was it, identical or?

Mr. Shibuya: Similar.

Ms. Cua: Like for like. Like how it's been interpreted by Public Works and that's how it's been,

that's been the practice.

Mr. Hiranaga: Well, for the past say, 15 years ...

Ms. Cua: A lot of years.

Mr. Hiranaga Now with this new ordinance, you're basically going back to what it was before that opinion by Corporation Counsel that if you're doing less intensified, proposing a less intensified use, you don't have to go through this change in community plan and that's the big obstacle is changing the community plan to rural because you would need a environmental assessment.

Ms. Cua: That is correct.

Mr. Hiranaga: Now, so is it the opinion of Corporation Counsel and the Council that if this type of zoning was pursued that a change in the community plan is no longer necessary under this new law that was passed?

Ms. Cua: You want to ask the Department or the attorney?

Mr. Hiranaga: Either one?

Mr. Starr: Mr. Giroux.

Mr. Giroux: Well, my understanding is that the consistency bill basically put it in the purview of Public Works and Planning to sit down, review the different layers and to come up with an agreement as to whether or not it was consistent or not. The bill basically eliminated the necessity for this conformity issue which would be a basically a higher level of that they would – a person would have to meet in order to start developing or going through the subdivision process.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: So more specifically, if the Planning Department and the Public Works Department determines that there is consistency again, the change in the community plan is not required?

Ms. Cua: If I could answer that?

Mr. Starr: Yeah, please.

Ms. Cua: In that particular case that would be correct.

Mr. Hiranaga: According to the new ordinance?

Ms. Cua: Correct. It would be determined by, by use.

Mr. Hiranaga: Thank you.

Mr. Starr: I have a quick question. If it were instead of urbanized Rural R-3 what level of Rural would allow this initial subdivision but would preclude further subdivision of the lots into the smaller parcels in the future?

Ms. Cua: Well, first of all I'm a little confused when you say Rural R-3. Are you saying if it was, it the State Land Use was changed to Rural as opposed to Urban.

Mr. Starr: Yes.

Ms. Cua: But the County zoning would be as, is requested to go to R-3? Are you, are you saying the County zoning would be some form of Rural?

Mr. Starr: Some form, some form, what form of Rural would allow the initial subdivision into I believe four large lots or would preclude any possibility of future subsequent subdivision of those into smaller lots.

Ms. Cua: Based on what I see on page 8, what the applicant is asking for today, and again, at some point we need to get the applicant to discuss some of this because we're kind of like sort of planning their future for them, what I'm seeing here is that they're asking for four developed lot and then one roadway lot. The sizes of the lots, 30,000 square feet, two of the lots would be about 30,000, one would be 22, if you put that in a category of Rural then that would be Rural half acre because you need 43,560 square feet to be one acre and right now they're not asking for that so only, only one of the lots, lot 4 would meet the one acre. The only way to prohibit any further subdivisions no matter where they go, no matter if their zoning R-3 or if they're zoning some form of Rural, the only way to do that is to have a condition and the commission has done that before. Well, the commission has recommended before and the Council has included in change in zonings where there be no further subdivisions. That has happened in the past.

Mr. Starr: Commissioner Mardfin then Commissioner Wakida, then we're going to take a break.

Mr. Mardfin: As I understand it then, they would be able to go through with what they're planning if we recommended that instead of being Urban Residential 3, which is what they're asking that we gave them Rural half acre and put a condition on the three plus acre piece that there be no further subdivision. Rural half acre would have let them have the three lots that they're proposing.

Ms. Cua: Yeah, so the district boundary would be not to Urban it would be to Rural.

Mr. Mardfin: Correct.

Ms. Cua: And the change in zoning would be from Interim not to R-3, from Interim to Rural.

Mr. Mardfin: Half acre.

Ms. Cua: Half acre. With a condition.

Mr. Mardfin: On the big piece.

Ms. Cua: On the zoning.

Mr. Mardfin: Okay.

Ms. Cua: On the zoning that they wouldn't be able to further subdivide.

Mr. Mardfin: Okay.

Ms. Cua: Yes, I believe that would take care of the concerns that I'm hearing.

Mr. Mardfin: Now let me ask if I may the additional question I was asking or I started, that's starting at the high end and going down. Lets go all the way, if it were zoned not Rural but Agriculture, State Agriculture, so how many would they be able to create two lots out of this piece?

Ms. Cua: If it remained in State Ag, and it was zoned County Ag they would be able to do two lots.

Mr. Mardfin: Would Public Works and Planning still agree that they could put up a single family residence on it?

Ms. Cua: They would -- well you're not allowed to do a single family residence in the Ag District. You could do a farm dwelling.

Mr. Mardfin: A farm dwelling.

Ms. Cua: And I want to clarify State Ag allows a minimum one acre but County Ag is more restrictive. County Ag is two-acre minimum lot size. So more restrictive would prevail.

Mr. Mardfin: They could divide it in two, and have -- and keep it in Ag and so they could keep one lot and sell off the other lot, it would stay in Ag and would the County plan be considered without having to -- would they have to have a community plan amendment or could they do it without the community plan amendment.

Ms. Cua: Again, with the -- with conformity being taken out of the subdivision and Mike, you're listening to all this, yeah, with the word, "conformity" being taken out, again, it comes down to the Planning Department and the Public Works Director to determine consistency and I believe we could determine consistency under either the Ag scenario or the Rural scenario.

Mr. Mardfin: Thank you.

Mr. Starr: Commissioner Wakida.

Ms. Wakida: A common practice up in Launiupoko with these original, I guess they were two-acre and more is to condominiumize which I'm not real clear on but it seems to be a loophole that landowners have found to sell off part of their Ag two acres. How does this factor into this discussion and what they can and cannot do?

Ms. Cua: With condominiumization they do get hit at some point, you know, like either on the forth dwelling and maybe Mike would be a little better, oh no, he wouldn't, okay.

Ms. Wakida: No, but I'm wondering if this is something that could potentially happen say should this go into even these four lots.

Ms. Cua: See, -- again, I don't want to speak for the applicant, but they want to subdivide. They are choosing to subdivide.

Ms. Wakida: True.

Ms. Cua: People that condominiumize don't want to subdivide. That's my understanding. They have made a choice. They want to subdivide their piece of property so that puts them in another avenue.

Ms. Wakida: No, but the people that condominiumize are, come to some financial agreement with somebody to put -- for this other dwelling.

Ms. Cua: Right, but it's still one. So how condominiumization works, it's still one tax map key number. The County recognizes it as one piece of property. It's the financial interest. When you, lets say if you want to take that property and you want to condominiumize it into four pieces, if I buy one of those four pieces, I'm owning my portion and one-fourth of the common area, but to the County that's recognized as one tax map key number.

Ms. Wakida: Okay, I understand. I will save my other questions for after the break.

Mr. Starr: Okay, we're going to take a break and after we come back we might hear from the applicant about whether there's any willingness to do any of the things we've been discussing. We'll back in 10 minutes.

A recess was called at 10:36 a.m., and the meeting was reconvened at 10:50 a.m.

Mr. Starr: Meeting of when are we, what's today's date, September 14, 2010 is back in session. We're still discussing our Item C-1 Pauwela Farms. Is the applicant here? Yeah. I know there had been some discussion of some of the different options available, I wanted to ask the applicant if there was any consideration on their part to adjusting their request especially in light of the change in the County ordinance that recently occurred?

Mr. Glenn Tadaki: Good morning Chairman Starr, Members of the Maui Planning Commission, my name is Glenn Tadaki with Chris Hart and Partners. With regard to our discussion regarding consistency and subdivisions as Deputy Director Cua mentioned at the time we filed our application there was no consistency provision. As it was, State Land Use, community plan and zoning all had to conform to each other. There was no allowance for consistency at all. On that basis, we went ahead and prepared our district boundary amendment first and change in zoning seeking conformity with the single family residential designation established by the Paia-Haiku Community Plan.

In August of this past year, I think it was August 10th, the County amended the subdivision ordinance to allow for consistency or land use. In this particular case we have a property that is currently State Land Use Ag, community planned single family residential and zoning which is Interim. Based on the discussions that have occurred this morning, the applicant is amenable to amending the district boundary amendment request from State Land Use Ag to State Land Use Urban -- Rural as well as amending his request for zoning from R-3 Residential to Rural half acre provided that no community plan amendment or environmental assessment will be required because that's another layer of paperwork and extends the additional processing time frame as well as incurring additional cost. So at this point in time, the applicant is acceptable or willing to amend his reclassification request to State Land Use Rural and RU-0.5 zoning.

Mr. Starr: How about as discussed adding a no further subdivision condition?

Mr. Tadaki: We've discussed the matter and preliminary indications are that the applicant would, would be amenable to that.

Mr. Starr: And how about to keeping it in Ag and making it Ag and Ag.

Mr. Tadaki: As far as reclassification -- retaining the State Land Use Ag designation and changing the zoning to ...

Mr. Starr: County Ag.

Mr. Tadaki: That is something that in terms of the applicant would not be appropriate for his needs in terms of what he has planned for his children in the future. As, and also, I feel the less consistent with the existing land uses in the surrounding area than with the Rural 0.5 zoning would provide for in that, you know, the Rural zoning basically is a transitional area between Urban and Agricultural uses. Right now the applicant's property adjoining or abuts urban development, Haiku Community Center, Haiku School, the Hale Pili'alo'ha Subdivision. His property directly abuts these land uses and these are urban type land uses, the school is a like a public/quasi-public type of use as is the community center and the Hale Pili'alo'ha Subdivision is, you know, it's urban but it's, you know, R-3 Residential. These are all developed urbanized type uses. And what we're proposing or what we were accepting is to go ahead with the half-acre minimum Rural subdivision which would serve as a natural transition area between urban and agricultural uses. Rural uses also provide for agricultural activities. So in that regard, the applicant or future lot owners would still be able to actually to me have the best of both worlds. You would be able to have a single family residence, possibly an ohana dwelling and at the same you'd be able to farm the land. And to me, it's, you know, had this consistency determination been made prior to us filing the application we would have gone in for RU-0.5 and sought a State Land Use Rural classification.

Mr. Starr: Okay, thank you. Commissioner Freitas.

Mr. Freitas: No, I'll pass for now. I'll reserve my comments for, I'll reserve my comments for the motion.

Mr. Starr: Okay, Ms. Cua.

Ms. Cua: I have a question for Mr. Tadaki. So if you're proposing to amend your application, your applications and the commission would defer action today, are you prepared to do renoticing for a new meeting for the change, district boundary amendment from Ag to Rural and Interim to Rural half-acre?

Mr. Tadaki: Yes, we would.

Ms. Cua: Okay.

Mr. Starr: And I just want to carry that one step further. One of the comments we got from a testifier was that there has not been an opportunity for community interaction and community input would as part of that process you undertake to meet with the community in an open forum and allow them to have their input?

Mr. Tadaki: We could do that. I would like to note however, that in the process of preparing our applications for district boundary amendment and change in zoning we had sent early consultation letters not only to government agencies but to all landowners within a 500-foot radius of the subject parcel and invited them to provide comments to us about the project. So to me they had an opportunity to provide their comments.

Mr. Starr: I think ...

Mr. Tadaki: And this was in March 2009, and also, I feel that the Maui Planning Commission meetings and public hearings provide a good forum for public discussion. And you know, these individuals they're entitled to speak their minds and they've taken it, well, demonstrated the initiative to attend this meeting and to air their concerns and, you know, I appreciate them for doing that. And, you know, ...

Mr. Starr: Mr. Tadaki, you know, as a member of Chris Hart and Partners ...

Mr. Tadaki: Yes.

Mr. Starr: ... I'm sure you're aware that it's customary when, you know, dealing with subdivisions, when dealing with this type of thing to have at least one or even better a series of community meetings where the community is involved to see the project before it comes to this commission and, you know, while that may not be, you know, mandatory part of the rules it's something that is almost always done for projects that are successful.

Mr. Tadaki: Under the circumstances Chairman Starr, we would be more than willing to hold a community meeting. At the onset, who would have thought that a simple four-lot subdivision would, trigger, you know, negative response from some of the surrounding landowners, you know.

Mr. Starr: Commissioners, lets finish questions and then we'll go to public testimony. Commissioner Wakida.

Ms. Wakida: I don't know if this is, this probably is addressing the Planning Department, but I'm

wondering if there's an inconsistency in the Paia Community Plan because as I look through this under land use, one of the goals is to identify prime and productive agricultural lands and develop appropriate regulations for their protection and this was stated as being prime ag land. However, it very clearly shows on the map that this particular parcel was single family. So do we see that as a inconsistency in the plan?

Mr. Starr: Ms. Cua.

Ms. Cua: On the issue of prime ag lands, I believe one of the implementing actions in not only this community plan but all community plans is that counties are supposed to come up with a way to deal and preserve these prime ag lands and that's something that's being addressed as part of the general, the whole General Plan update process. It's something that's actively being addressed and something that the department is going to be taking on coming up with our own rules if you will for protecting prime ag lands. The identification of single family residential may not be a conflict if you can, if it can be shown that the loss of that prime ag land will not be detrimental to the Agricultural District. I mean, there has to be an analysis that takes place with that. So I don't think that just because it's on the plan there's necessarily a conflict in that plan for the property. I think it just, it's something that when the plan looked at the entire area a lot of times it recognizes uses that are existing, schools, churches, you know, residential type of uses and it, it sees where or it identifies areas that is appropriate for growth and designation of an urban type of designation and this was an area identified in that particular plan as an area for single family which is an urban designation.

Ms. Wakida: Okay, thank you. I have one additional question but this goes to I guess, well it would go to the presenters, I'm a little confused on the number of water meters that are up for this whole property because you mentioned the two from A&B correct?

Ms. Maydan: This is Jennifer Maydan, yeah, thank you Commissioner Wakida. Two were put in by A&B. I don't know recall the date several years ago, their number is 577 on the list and then the applicant put in for four water meters Summer of 2008.

Ms. Wakida: So we are up to six water meters for this property?

Ms. Maydan: Correct.

Ms. Wakida: Correct. Okay, and, and what is the maximum number of dwellings that can be put on each of these parcels?

Ms. Maydan: Are you talking about under R-3 zoning?

Ms. Wakida: Yes, under the existing.

Ms. Maydan: Existing or proposed R-3?

Ms. Wakida: What you proposed, yes.

Ms. Maydan: As proposed for R-3 Residential there's a potential for 20 single family residences and four ohanas for a total of 24 dwellings. Do you want me to break it down by lot?

Ms. Wakida: Yes, please.

Ms. Maydan: On lot 1 because of the lot size there could be three single family and one ohana; lot 2, three single family, one ohana; lot 4, twelve single family, one ohana; but I also want to say that these numbers do not take into consideration any development constraints such as driveways, individual wastewater systems, and then there's also the size of the water meters. They are restricted for a typical five-eighths inch water meter can serve a ...(inaudible)... of one single family home and one ohana. Additionally, sorry, no – so if you're just looking at the raw numbers there's the potential for 20 single family and four ohana for R-3 zoning but that's not looking at any development constraints and water meter constraints.

Ms. Wakida: So R-3 zoning on a lot does not mean, when it says single family it doesn't mean one major dwelling and one ohana?

Ms. Maydan: Well, it depends of the size of the lot.

Ms. Cua: Yeah, depending on the size of the lot, you either are or are not allowed ohanas. You need a minimum 7,500 square foot lot to be able to do an ohana. And then the size of the ohana is restricted by the size of the lot.

Ms. Wakida: But she was saying three houses plus ohana per lot.

Ms. Cua: Right you can only do one ohana per lot.

Ms. Wakida: But you can do three homes?

Ms. Maydan: It's the 30,000 plus square foot lot.

Ms. Cua: Right. So remember when I talked about the sizes of the lots based on zoning?

Ms. Wakida: Yes.

Ms. Cua: For 10,000, for R-3 zoning your minimum lot size is 10,000 square feet which is what they're asking for R-3 zoning. So if you look at a 30,000 square foot lot, one house per lot, on a 10,000 square foot lot you could have three because they have 30,000, but for ohana, whether you have 10,000 square foot lot or a 30,000 square foot lot, you're allowed one ohana. That's how you get the fourth lot, I mean, the fourth dwelling.

Ms. Wakida: Thank you.

Mr. Starr: Members any other questions?

a) Public Hearing

Mr. Starr: We ready for public testimony? Any members of the public wishing to give testimony now would be a good time. Mr. Hall, please introduce yourself and welcome.

Mr. Isaac Hall: Good morning Chairperson Starr and Members of the Maui Planning Commission, my name is Isaac Hall and I represent John Volwieder. He owns property within 500 feet of the project. He's filed a timely protest and so have the Richardsons. And if you look at the map of the surrounding property they're both mauka properties of this. I'm going to go a little faster because there's going to be a new public hearing and there's going to be a new application so some of this doesn't apply. We thought his notice was deficient but that's moot at this point in time.

We still think the land should be retained in the Agriculture District because it's prime ag land, by the Ag Ordinance, by the District Boundary Amendment Ordinance itself it takes a two-thirds vote of the Council to reclassify prime ag land. But there are three tests in the Agricultural District Ordinance and in this case, all three tests are met for retaining the land in the Agriculture District.

Haiku Community Plan requires protection of prime ag lands. Don't agree with what Ann said on that. I think when they put single family designation on there they don't look to see whether it was designated prime ag land. So they don't necessarily know when they put that designation that it was prime ag land.

Urban R-3 is inappropriate. I think there's a recognition of that by everybody at this point in time. They definitely did no analysis of the potential impacts of no matter how many dwellings that could have been built on there there's no analysis of that, still hasn't been. They could have gone to Rural if they done a community plan amendment. They're saying they – that was always possible, they could have done that in the very beginning.

The water issue remains a big issue to us because they are getting service from the County of Maui. Being able to hook into the County water line and get service for the fire flow protection is still leap frogging ahead of 577 or one thousand whatever that number was citizens who aren't getting water for domestic or fire flow purposes and that violates County law. And I don't see why these people get to leap frog in front of everybody else. My particular client is number 415 on the list. You guys all know other people that are way ahead of these guys and that is just totally unfair to even consider allowing them to leap frog ahead of everybody else on the list even if it's for fire flow purposes.

And I notice they said, well, we're not going to do this if we have to do an EA. I understood that what he was saying was if we have to file for a community plan amendment which means you also have to do an EA, we're not going to do it, but what we said in our letter is is they have to do an EA because they're doing work in the County roadway right of way. I don't think he meant that, but I'm not, we're not going to give up our claim that they're supposed to do an EA on those grounds.

Ms. Takayama-Corden: Three minutes.

Mr. Hall: Thank you very much. And thanks for your concern for ag land and protecting it.

Mr. Starr: Okay, thank you, any questions for Mr. Hall? Commissioner Mardfin. Mr. Hall.

Mr. Mardfin: What would you think about keeping it in Ag and having it be County Ag 2 so they could make two agricultural lots out of it?

Mr. Hall: Boy that's fun for these guys. I've never thought about that one.

Mr. Mardfin: Would you and your client have any problem with that?

Mr. Hall: I'm sorry, Ag?

Mr. Mardfin: Approving it as a subdivision into two, two-acre ag lots.

Mr. Hall: Oh, two, two-acre ag lots, that's probably acceptable, if they could find water. Some other way of doing it other than leaping frogging ahead of everybody else on the list that's totally illegal and unfair.

Mr. Mardfin: Thank you.

Mr. Starr: Okay. Wait a second Isaac. Commissioner Wakida.

Ms. Wakida: I didn't realize that – I'm a little confused about this, hooking up to the fire hydrant, sorry, I'm a little confused about hooking up for fire protection water. The applicant is asking to hook up to the fire hydrant system is that correct?

Mr. Hall: That's right.

Ms. Wakida: Whatever.

Mr. Hall: Well, I don't totally understand, I heard him twice say, they're hooking up to an eight-inch water line. I have talked to them and they say, well we're going to hook up to that eight-inch water line by hooking up to the fire hydrants. I'm not sure what they mean. But in any event, the spacing of the fire hydrant is inadequate so they are going to relocate them closer together so there's construction work in the County roadway right of way no matter how you look at it.

Ms. Wakida; So other property owners in the area are not hooked up to this water, this fire hydrant fire protection?

Mr. Hall: Well, they're being supplied water for fire flow purposes, but the County has declared the upcountry water system in every, you know, in Haiku, everywhere to be inadequate to provide any more services to anybody in Haiku, Makawao, Kula for fire flow purposes or for domestic purposes and they County has declared that they can't do that without detriment to existing users. And it's inadequate in front of this parcel on Pauwela Road as much as it's inadequate in front of all the places everybody lives in Upcountry and everywhere else. And so there's no basis for allowing them to be served fire flow, water for fire flow purposes without violating that declaration.

Ms. Wakida: I see.

Mr. Hall: And by the way, I just want to correct one thing. There is no water meter, existing water meter on their property. That have absolutely no water right now.

Ms. Wakida: Right.

Mr. Hall: None, zilch.

Ms. Wakida: Okay. But as far as leap frogging ahead of other people in this fire protection hook up, so other people are waiting for this also?

Mr. Hall: Yeah, I think, I think if the Water Department went out and said, okay, everybody if you want to meet your fire flow. If you are a lucky person and have a fire hydrant in front of your place and you want to satisfy the fire flow requirements for your place by hooking up to your fire hydrant, that's a whole different matter. They went out publicly and said we're going to modify. They're going to go to the Maui County Council and the Council is going to modify the ordinance to say, well we're going to modify our declaration, we're going to say that if anybody has a fire hydrant in front of their house the system is now adequate to provide fire flow if you have a fire hydrant in front of your place. But the Council has never done that. They've said, the system is inadequate to provide any more fire flow for any purposes, by any means to anybody until we have more water. They're still getting water out of the system and the County has said, we don't have any water to give you except for in this case, and that's what illegal.

Mr. Starr: First, Commissioner Freitas, then Commissioner Mardfin.

Mr. Freitas: Mr. Hall, you are telling me that those houses on that Pauwela Road with fire hydrants in front of their place, they have inadequate fire flow or inadequate fire protection is that what you're

–

Mr. Hall: No, no, I'm not – I'm saying if you live on that road and you, and a fire happens and the Fire Department comes, they're going to hook into the fire, the, the, the hydrant and, and try to put out the fire. But they're not going to expand anybody's water system, they're not going to approve a new subdivision with four new lots by saying you can hook into a fire hydrant. They're not going to say you are creating a new demand, this, this, subdivision creates a new demand for additional water for fire flow purposes. County has said, we don't have any water to give you for fire flow purposes but they've created this rouse that we're going to let you just hook into this fire hydrant when we don't have an adequate supply for a new four-lot subdivision. I'm not saying if the house is burning down, somebody's existing house is burning down, they're not going to hook into the fire hydrant, but they don't have it to supply a new subdivision.

Mr. Freitas: So this house that is existing on there I'm sure it was built with legal permits and what have you. If they wanted to and do the expense of installing a fire hydrant so that they could get adequate fire protection against that?

Mr. Hall: I don't think they could – the County couldn't give it to them because there's a declaration by the Maui County Council that there is an inadequate supply of water to – for domestic, for fire flow purposes. They can't add anybody new to the system.

Mr. Freitas: My only problem with this fire hydrant issue is, the only time that the hydrant would be used would be at a time of fire. You know, this is a not a daily use. This is to protect property and human beings so I have no problem with that.

Mr. Hall: I have no problem with that if it's an existing permitted use. But when you expand those uses and that's what this is all about. When you expand it, you add a new subdivision on it creates a new demand on that system that's when the problem is created.

Mr. Freitas: But I go back to the demand would be the only time that there would be any water use would be if there was a fire. They're not going to use that for irrigation, they're not going to use that for domestic use. It's just for fire protection and I cannot see how anybody would object protecting people's property and life for fire protection.

Mr. Hall: As the Water Department said, it just makes a mockery of the declaration that that there's inadequate supply of water for fire flow and domestic purposes to allow this to happen.

Mr. Starr Okay, Commissioner Mardfin.

Mr. Mardfin: I just want a short answer because we want to get on with some things.

Mr. Hall: Yeah.

Mr. Mardfin: To be consistent with your position you'd say there can be zero subdivisions, no more, any subdivision anywhere even into two pieces you would be objecting to on those grounds in that area.

Mr. Hall: If they're asking for water service, either for domestic purposes or fire flow purposes for the subdivision.

Mr. Mardfin: Okay, thank you.

Mr. Hall: It's not my position by the way. That's Maui County Code Section 14. ...(inaudible)...

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

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

Mr. Starr: Well, I do have some sign-ins, Margaret Abella. Do you want to testify now or after?

Ms. Margaret Abella: ...(inaudible - speaking from the audience)...

Mr. Starr: Okay, that's fine.

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

Mr. Starr: Just when we get to whatever item you want to testify on. We'll open testimony then on

that particular item. And Richard Rost. Okay, come on up sir, introduce yourself and welcome.

Mr. Richard Rost: Hi, Rich Rost. I live at 255 Huelo Road. And first of all, I'd like to read this note that my neighbors who are unable to attend, Matt and Judy Montagne ...(inaudible)... so here we go. "Dear Honorable Planning Commissioners, I'm writing to protest the change in zoning proposed by Pauwela Farms known from tax map key as 2-7-008:047. This property is located at 125 Pauwela Road, Haiku, Maui. The land currently is zoning as Agricultural and the request to R-3 Residential is inappropriate when one looks at the reality that the property was purchased as Agriculture within the last two years and was known to be zoned as such. It appears that the intention was always to pursue a change in zoning without regard to the school traffic, the agricultural nature of the neighborhood plus the increase in traffic on Pauwela Road would be a challenge in a school zone. As a landowner of almost 20 years on Pauwela Road I appreciate the excitement of Pauwela Farms wanting to be established in the neighborhood and wanting to be a welcoming neighbor. My hope is that the two-acre agricultural zoning will be maintained and they will be able to enjoy the beauty of the land. It's agricultural in nature and make a true family home. Again, my husband and I both protest the change in zoning and hope that the planning commission will hear the above concerns and keep the two-acre agriculture zoning intact. Mahalo for your time. Aloha, Matt and Judy Montagne. So that's their testimony.

And mine is, is only, it seemed like there was confusion at first and that confusion caused one of our neighbors to go out and get an attorney at \$5,000, for \$5,000 who I guess will appear here later. That's kind of serious confusion on his behalf.

And my other question is how in the world is he getting water permits, water meters for these ...(inaudible)... property. Here's the mike shover. Anyway, I've been on the list for a meter since 2002 and I don't know how long Harold has been on the list but I doubt if it's, he's been on the list longer than I have. So that's a big question I have and I'm sure it will come up. I know you can buy water meters, you can do all of that. That's my problem and I'm retired, I don't leave home very often and so

Ms. Takayama-Corden: Three minutes.

Mr. Rost: ... I have seen how clogged it could be down there and of course, it will be worse. People are waiting to take their kids to school which is a big operation every morning as it is and of course, I mean, I guess that will get worse, how could it not. So that's about, that's it for me.

Mr. Starr: Okay, thank you ...

Mr. Rost: Thank you for ...

Mr. Starr: We have a question for you sir.

Mr. Rost: Sure.

Mr. Starr: Commissioner Mardfin.

Mr. Rost: Yes.

Mr. Mardfin: How close do you live to this property?

Mr. Rost: Actually if you go straight as the, ... (inaudible)... there's only one piece of property between that piece of property and mine.

Mr. Mardfin: And on your property do you do agriculture?

Mr. Rost: Yeah, and I'm zoned Agriculture. We were questioned as you know, I don't know six months ago and I showed an income of \$8,000 for my property and that allowed me to continue as Ag property and we do agriculture there. That's what we do on the land.

Mr. Mardfin: Can you tell me what you raise?

Mr. Rost: Primarily decorative palms but also we have a citrus. We have probably 20 more than 20 citrus trees and we sell citrus fruit. We have other fruits too.

Mr. Mardfin: Thank you very much.

Mr. Starr: Okay, thank you. Our next sign up is Claudia Ledesma. You'd like to testify now please come on up, introduce yourself and welcome.

Ms. Claudia Ledesma: My name is Claudia Ledesma and I'm testifying in behalf of my husband, Kevin Ledesma and myself. Aloha, Chair Commissioner Starr and Commission Members. Thank you for taking on the responsibility of looking at issues that can have an effect on the lives of fellow Maui County citizens. Again, we're here to talk about the proposed rezoning of the 4.7 acre property on Pauwela Road on TMK: 2-7-008: 047.

Pauwela Road is a small country road servicing few Pauwela Road residents, Haiku Elementary School, the Haiku Community Center, the Haiku Recycling Center and local bus services as well as local traffic looking for shortcuts in and out of Haiku Town. The sidewalk servicing the east side of Pauwela Road is another vital way of passage for elementary school children sometimes with their parents, people seeking exercise including the elderly, bikers, joggers and pedestrians. Haiku Road has had service problems such as cracked sidewalks for many, many years now and that still exists and has had a broken fire hydrant for many months last year that serves the school and is very nearby the property in question. Pauwela Road as a community our neighborhood has just a few lots ranging in lot size from two plus to 24 acres with only six driveways on the entire street above the school.

The property in question is uphill from, no, the property in question is uphill from and almost directly adjacent to the north end of Haiku School. This proposal represents a request for a boundary amendment from Agricultural to Urban and a change in zoning from Interim to R-3 Residential. This final designation allows for lot sizes of 10,000 square foot minimum.

As a 24-year resident of Haiku and 10-year resident of Pauwela Road that will be my husband,

Kevin, and myself being a 12-year resident of Pauwela Road we oppose allowing the current property owner and any in the future the ability to subdivide the land surrounding the existing dwelling into multiple lots such as the first notice stated the 10-lot subdivision. This is where our confusion comes from as neighbors because obviously there was a incorrect notice filed.

Further due to the road congestion, activity and close proximity to existing school access we suggest that any lots created from the 4.7 acre lot use one singular shared driveway for access to the lots and Pauwela Road. Further again, we suggest any restrictions with regards to lot size of access be stated in deeds to the property or properties to be passed from owner to owner running to the land. Our intention today is not to make a neighbor's plans impossible to protect the character and safety of our neighborhood. Furthermore, please consider that all of us living above on Pauwela Road are small agricultural lot owners and that we all truly actively farm our land and our small ...(inaudible)... as the rules request. And unlike most others you may remember you asked me that question a year and a half ago, we would certainly like to find an agreement with our new neighbor since we would like to maintain the wonderful and healthy atmosphere and ambience that we actually all have been able to enjoy on Pauwela Road and the years that we've been living there. Thank you for your time.

Mr. Starr: Members any questions? Could I ask that you, you say that they filed a submission that you say is has wrong information could we get a copy of that to our secretary?

Ms. Ledesma: Yeah.

Mr. Starr: Okay, thank you.

Ms. Ledesma: That was just where the confusion of all of the neighbors up above came from because there was two notices, they're both dated July 19th.

Mr. Starr: Yeah, give a copy of the notice to the secretary, you say is wrong. Any other members of the public wishing to testify on any of the agenda items?

Ms. Margaret Abella: ...(inaudible - speaking from the audience)...

Mr. Starr: Either way, come on up, introduce yourself and welcome.

Ms. Margaret Abella: My name's Margaret Abella. I'm a representative of Haiku School. I've been able to come here because my Principal let me. Their concern as far as the DOE, our public school and she did a great job Mrs. Ledesma of saying things for the school. Also, they're concerned about the traffic. Okay, it's horrendous right now and it would make it more. So that's their biggest concern.

My concern as a parent, as a grandparent, as a great grandparent having all my children, grandchildren and now my great granddaughter next year coming to our school is the precedent that it would set. Okay, if you have the map changing this into residential you've got next to it, you have another 5.3 acres. There's another 24.75 acres, I'm not sure that looks like a 147. We're concerned about the precedent that it would set because if those landowners came in to be able

to subdivide into residential, myself personally we know our school couldn't handle all of that and I believe it would be a long time before the Department of Education would, you know, be able to accommodate us with that. So that as a parent and a grandparent and great grandparent that's my concern because that would be more traffic and then as far as school trying to accommodate all those families that would be moving in. Thank you very much.

Mr. Starr: Okay Members questions? Okay thank you very much. Any other members of the public wishing - come on forward, introduce yourself.

Mr. Dewitt Lickle: Hello, Dewitt Lickle. I live 201 Pauwela Road right above the property. Been there for 25 years. Basically against any rezoning in the area. I think rezoning needs a little bit more of a higher purpose than what maybe is the underlying reason. I mean here has four acres he could reasonably subdivide it into two lots, correct, being Ag zoned. The traffic at Pauwela School, Haiku School is pretty bad and if it does goes through maybe have a little donation of land for overflow parking for the school. I know these things have a way of going through.

Mr. Starr: Hold on, I think Commissioner Shibuya has a question for you.

Mr. Shibuya: Yes, has the applicant talked with you or the neighbors?

Mr. Lickle: No. Negative.

Mr. Shibuya: There's no discussion on this matter?

Mr. Lickle: Little bit of the problem I would say. Communication.

Mr. Starr: Okay, thank you.

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

Mr. Starr: Any other members of the public who have not testified wishing to give testimony on this item now would be the time. Last call for public testimony on this. Public testimony is closed. Members, we're - any other additional questions or action? Commissioner Mardfin.

Mr. Mardfin: I move we defer action on this so the applicant can renote, can have public meeting, can consider the fire issues, and also consider subdividing into two agricultural lots.

Mr. Starr: Okay, is there a second?

Ms. Wakida: I second it.

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

Ms. Cua: Is to defer action to allow the applicant to amend their application, possibly consider doing two ag lots, look at the water issue ...

Mr. Mardfin: Community meeting.

Ms. Cua: Oh, and hold a community meeting.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: This is from a point of order. When the motion to defer, is it customary to add on these additional tag comments or is it just a motion to defer?

Mr. Starr: As far as the Chair is concerned whatever motion the Commissioner wishes to make I'm willing to accept. And just one question for clarity Commissioner Hiranaga, I know you had a disclosure there was a question about whether you were recusing, I just want to ask that ...(inaudible)...

Mr. Hiranaga: Yeah, I did not offer that.

Mr. Starr: Okay, so you're not recusing. Commissioner Shibuya.

Mr. Shibuya: I would just kinda question whether we defer. I would be more inclined to just keep it clean and just deny and then if they wish they could come back again in the proper form and there would be no conditions. They know what the conditions are that we are interested in.

Mr. Starr: Commissioner Hiranaga.

Mr. Hiranaga: Yeah, I just like to make a couple of statements. I would suggest that when Commissioners have questions regarding comments from agencies, County or State, that they ask those questions to that particular agency that made that determination or that decision or that comment versus asking an individual from the public who may be giving you hearsay. So if you have a specific question as to why this agreement was agreed to by the Department of Water Supply that you request the Director of the Department of Water Supply or his assistant or assigned person to appear to answer those questions. Because if you're asking someone from the public, he's just giving you his interpretation and it's hearsay. It does not represent the position of the Department. So I think if we defer this matter it would be very helpful if the Director of Water Supply can send someone to answer those types of questions that you have versus asking someone from the general public.

Mr. Starr: Thank you Commissioner Hiranaga. And it is sometimes useful to ask a testifier a question because you want to hear their viewpoint of it, but in this case, I was going to ask that when it comes before us the Department of Water Supply comes to us because if this occurs as presented it represents a very major sea change. There are hundreds if not thousand people waiting who want to subdivide or be able to get permits to build on their properties in the Haiku-Upcountry area. Three of us on this board have sat on the Board of Water Supply before it was autonomous where we were Commissioner Hiranaga, Commissioner Tagorda, myself. I know I sat on the committee that wrote the meter issuance rule and it was, you know, it was very, it was a struggle at that time because hundreds of people came before us crying that they have this land, family land for generations they cannot build, they cannot subdivide and you know, we put in place

a meter rule that, you know, creates this list and there are many, many subdivisions on that list that so that when water comes into the system the subdivisions get served a lot of times before the small families and it's painful. If this occurs where there's an ability by paying the storage and transmission fee to circumvent the subdivision and fire regulations and then use catchment for potable source it means that people who have been waiting many years, you know, are – maybe considered inequitable to those folks and it's something that really requires a much larger discussion. And certainly an explanation by the department why they're allowing this in case where similar requests, I do recall, were not granted years ago. Anyway we do have a motion on the floor for deferral. We have one Commissioner who says the preferred path as far as he's concerned would be denial. Commissioner Hiranaga go.

Mr. Hiranaga: Thank you. I also like to make another comment. You know, this Paia-Haiku Community Plan was adopted by the Council in 1995. And the preparation of this Paia-Haiku Community Plan probably started mid-'80's, early '80's, late '70's, anyway, many of us were on the Commission when we reviewed the 2030 Maui Island Update and in that process Long Range Planning provided us a matrix of available undeveloped potential housing units. We use that count to establish what was the additional need for the island for the next 30 years. This was part of that inventory I'm sure of that preexisting undeveloped but not fully entitled property. So you're taking away 24 units from this count that we approved. So somewhere else on Maui we've got to find "x" number of units to replace this because that's what the premise of that...(inaudible)... exercise was.

Mr. Hall: ...(inaudible - speaking from the audience)...

Mr. Hiranaga: The, ... that rude individual again, is keep continuing to interrupt, yeah, I don't understand why.

Mr. Hall: ...(inaudible - speaking from the audience)...

Mr. Starr: Okay, please, you're out of order Mr. Hall.

Mr. Hiranaga: I understand he is a professional and I would wish he would conduct himself in a professional manner.

Mr. Starr: Okay, please don't react to the out of order audience Commissioner. You have the floor.

Mr. Hiranaga: Thank you. So when you look at this process, whoever the Council was, whoever the Community Action Advisory Committee Members were in the '80's, in the '90's, they created this plan which is what we've been following for the past 15 years. Now we're in the process of revising it. But until that new plan is adopted, this is the plan and there's a methodology to calculating what is the necessary inventory to provide housing for the people of Maui. If you start whittling away at this inventory you're going to create a housing shortage. What does that do? That raises housing costs. Yeah, sure we don't want more housing, we want population to static, that's not going to happen, people are going to continue to move here, people are going to have children and the population is going to grow so it's gotta have housing somewhere and in 1995, the Council said this is where we should put single family housing. It's next to a school, it's next to a park, it's next to existing urban subdivision. So I just want to say lets not go, you know, lets try to follow what our

predecessors had laid out for us. It may not be the best but that's what we've got.

Mr. Starr: Okay, are we ready to vote on the motion? The motion on the floor ...

Ms. Cua: Is to defer action on the item as we discussed earlier.

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

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

**VOTED: To Defer the Matter as Discussed.
(Assenting - W. Mardfin, P. Wakida, K. Hiranaga, J. Freitas, O. Tagorda,
D. Domingo)
(Dissenting - W. Shibuya, L. Sablas)**

Ms. Cua: We have six ayes, two noes, motion passes.

Mr. Starr: Okay, the item is deferred. We look forward to further spirited discussion on this. Thank you. We're going to move to our next item and I'm going to ask the next item if do, we need to have the public hearing on that today, we have an item following it that we need to deal with today, if there is going to be lengthy discussion on the item after the public hearing portion on it we could defer it so we can get the following item done; if it's fairly straightforward we can deal with it. Ms. Cua. Where's Joe. Someone get Joe.

Ms. Cua: The next item is a request by the Director, Kathleen Ross Aoki, submitting an amendment to Section 12-201-41 of the Rules of Practice and Procedure for the Maui Planning Commission to allow for the Maui Department of Planning to be automatically admitted as a party to a contested case and the planner on the matter is Joe Alueta who is on his way.

2. MS. KATHLEEN ROSS AOKI submitting an amendment to Section 12-201-41 of the Rules of Practice and Procedure for the Maui Planning Commission to allow for the Maui Department of Planning to be automatically admitted as a party to a contested case. (J. Alueta)

Mr. Starr: Okay, Mr. Alueta, please you've been introduced and we're waiting for your pearls of wisdom.

Mr. Joe Alueta: Good morning Commissioners, my name is Joe Alueta, I'm your Administrative Planning Officer. I handle all of your ordinance changes as well as your rule changes. Before you today is an amendment to Chapter 201, Rules of Practices and Procedures for the Maui Planning Commission. We have a pretty simple rule amendment, basically when you have an intervention or someone's filed an intervention, and then once an intervention is granted, right, certain, ...(inaudible)... parties. Often this Commission will accept untimely interventions or if somebody wants to be a party has to file before this Commission. The department is asking that once an intervention is granted on a automatic basis the Planning Department be automatically introduced as a party. And this is a methodology in which the Planning Department can participate in the

discussions as well as introduce facts and primarily to the hearings officer, to whoever has been appointed to hearings officer.

In the past we just have been assisting during the contested case and what we were finding is that sometimes the standard conditions that we would prefer to see attached to the hearings officer report is not introduced at all either by the intervenors or by the applicant or sometimes we rely on the applicant itself to introduce our staff report as well as some agency comments that may support their project. And this way we feel that as a party we'll be able to better represent the community as well as the department's position during the hearings officer's review of an intervention.

Mr. Starr: Okay, I'm sure we've all read this. Do any of the members have any questions on this? Commissioner Shibuya.

Mr. Shibuya: Will there be an option if you grant this automatic admission to intervene, does the department have an option to not intervene? This seems like it's a requirement that you can intervene and you must intervene.

Mr. Alueta: Yeah, if there's a settlement like if the party has settled then we would just withdraw our intervention or whatever follows. So if they settled during their intervention process prior to finishing the contested case and before a report is presented to the Commission by the hearings officer, obviously the department would withdraw its position.

Mr. Shibuya: Okay, will this delay the processing?

Mr. Alueta: No, this actually would assist in making sure the process moves forward faster.

Mr. Shibuya: Thank you.

Mr. Starr: Okay, we ready for a public – Commissioner Hiranaga, grab your mike.

Mr. Hiranaga: Maybe Commissioner Shibuya may have asked this question, but why is the word used "shall" versus "may?" Why would you want to be mandated to be admitted? Why wouldn't you want to have discretion as to whether you want to be admitted?

Mr. Alueta: Because I think we need to be a party to any intervention that is granted. I mean, I think it's semantics but I think it's, it's shall meaning like it's just a matter of right that if an intervention is granted we will participate. We already participate but we don't – we want to participate as a party.

Mr. Starr: Ms. Cua.

Ms. Cua: If I could add to that. The County's responsibility is to protect the public's interest and right now in the process, the public's interest is not part of that process because we can't actively participate because we're not a party. We sit there, we listen to everything, record what exhibits are entered into evidence but we can't you know, put on witnesses. We have to have somebody introduce our staff report so that it's on the record, and you've had – the commission has had cases where a hearings officer's report comes before you and you say, what about the shoreline issues.

And we say, well that wasn't actually, that wasn't part of the scope of the intervention so it didn't get active discussion. Well, with the Planning Department being a party, that discussion will be had because we're going to make sure that the record is more complete.

Mr. Hiranaga: Again, I'm not questioning whether the County should be a party, I'm questioning the use of the word "shall" which is mandated versus, "may" which means discretionary. We can decide if we want to be a party.

Mr. Starr: It's my understanding that Corp. Counsel had recommended some – that this process go forward and was involved. Perhaps Mr. Giroux can give us some enlightenment.

Mr. Giroux: Thank you Chair. Yeah, I think, you know, in the past there's always been that semantics of when shall means may and may means shall. That's Hawaii case law. But in this case, I think the over arching idea is that the way that old rules read was that the County would sit and wait and then nothing would happen and then the staff would have to scramble and go into an intervention situation without an attorney. So what this is doing is it's basically making sure that the department has to do something, they have to do something and if they notify our department that they need an attorney, there's a meeting and the department, the Planning Department says, you know what we don't need an attorney, okay, that's fine, or we're just going to do it ourselves. Okay, that's fine, or we're going to limit our participation in this intervention that's fine, but at least people are thinking, they're making decisions, they're communicating. Otherwise the department by the time they figure out that they may need legal assistance, they have to send paperwork to our office, it gets sent around to the litigation attorneys then the County's behind the eight ball. So the department still has the discretion as far as what resources they need to use when and when they need it. It's just that if they decide to do something too late what can happen without this rule is that they can be told that they're not a party and then the County is really at a loss because the public's interest isn't being watched because we have had cases and Ann has testified that in the middle of the contested case hearing the County realizes it's shibai, the intervention is a joke. They're asking for pool use and towels and kamaaina rates and then we get the report and we're going, huh? And that's where if they're a party they can at least monitor that automatic not by chance. So I mean, I understand the question, you know, do we want to force them to do something? Well, it's not forcing to do anything. It's just saying, hey, there's going to be this here always. You're always going to be a part of it. So, it's a safety mechanism that's just going to be incorporated into the rules and you don't have to wonder if somebody fell asleep at the wheel. It's automatic. So that's the purpose.

Mr. Starr: Commissioner Shibuya.

Mr. Shibuya: I don't want to belabor this, but it does appear and that's why I asked the question because it's a discretionary but yet you want to make it mandatory that they be admitted as an intervenor. What if they don't want? Then the option is available? Would it be available for them to not be part of the intervention?

Mr. Alueta: If I may? If the intervention is granted and then they settled, the Department is automatically a party but then we can always withdraw. All this does is automatically introduce us as a party in an intervention. And then once we're admitted as a party, we can then choose to back

out or as indicated we can limit our participation to only the issues that we're concerned with, but right now, if we want to get in as a party we need to file the same process and procedures that everybody else and we feel that's a cumbersome process and a costly one for the department as well as the Department of Corporation Counsel that has to file the paperwork for us. This just says we're in and then once we're in, we can say, well, you know what, we're done, we can back out.

Mr. Starr: Okay, thank you very much.

a) Public Hearing

Mr. Starr: You ready for public testimony on this? Any members of the public wishing to offer testimony. I think we've chased them all away but we'll still allow. Last call.

Mr. Tagorda: Mr. Chair will you allow me to ask simple question?

Mr. Starr: Just wait till after. Not seeing any, public testimony is closed.

b) Action

Mr. Starr: Commissioner Tagorda.

Mr. Tagorda: Yeah, I would like to follow up.

Mr. Starr: Grab your mike Orlando.

Mr. Tagorda: Oh, I would like to follow up on this memo. I underlined something like, the department wants to be automatically admitted as a party to an intervention. And then on the next page, yeah, on the amendment it says, the Department of Planning shall be automatically admitted as a party to the contested case. Does that ...(inaudible)... the same meaning to you?

Mr. Starr: Joe. Is the wording, is the wording different?

Mr. Tagorda: Yes. A party to an intervention and on the amendment, a party to the contested case.

Mr. Starr: Are you talking about the difference between the cover sheet and the ordinance?

Mr. Alueta: That's a good question.

Mr. Tagorda: So what's the difference? Do they have the same meaning?

Mr. Giroux: Yeah, in your rules it's when an intervention is filed, the way we've separated the rules is that we've looked at it as a formal contested case. Meaning that there's a section in your rules that have formal contested case procedure. So, it's almost like the intervention triggers your formal intervention rules. So in this case it's interchangeable.

Mr. Starr: Okay, thank you. We really, if we have much more discussion we need to –

Mr. Mardfin: Motion.

Mr. Starr: Okay, go ahead Commissioner Mardfin.

Mr. Mardfin: I move the Maui Planning Commission approve the proposed amendment as written.

Mr. Shibuya: Second.

Mr. Starr: We have a motion by Commissioner Mardfin, seconded by Commissioner Shibuya. The motion is ...

Ms. Cua: To amend Chapter 201, Rules of Practice and Procedures for the Planning Commission as indicated on your agenda.

Mr. Starr: Okay, thank you Commissioner Mardfin.

Mr. Mardfin: I'd just like to make one statement in support, and this is primarily for the newer members, but there was a case, maybe a year ago where a party intervened in a case and they were focused on – this is the same thing James was talking about, they focused on such narrow interest that, and they came to a settlement, but they totally missed the issues that were important and so basically this commission had to reject the hearings officer's recommendations because he didn't include the right issues and he could only entertain the issues that were raised by the intervenor. This way the commission – the department can raise those issues at some intermittent, intervenor misses and I was afraid at the time it could lead to fraudulent contested cases to get things through that would otherwise have been a problem.

Mr. Starr: Okay, lets move along here. We ready to vote on the motion? Okay, all in favor of the motion which is to approve as recommended, please raise a hand. All opposed.

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

**VOTED: To Approve the Amendment to Section 12-201-41 of the Rules of Practice and Procedure for the Maui Planning Commission, as Recommended
(Assenting - W. Mardfin, W. Shibuya, K. Hiranaga, J. Freitas, O. Tagorda, D. Domingo, L. Sablas, P. Wakida)**

Ms. Cua: Motion passes unanimously.

Mr. Starr: Okay, thank you very much. Good work, Joe. Now, our next item Ms. Cua.

Ms. Cua: The next item is under Communications, a draft letter of support from the Planning Commission endorsing the Planning Department's co-sponsored NOAA Pacific Services Grant Submittal entitled, "Planning for the Post-Disaster Environment to Protect, Develop and Conserve Coastal Resources," and our planner Jim Buika.

D. COMMUNICATIONS

1. Draft Letter of Support from the Maui Planning Commission endorsing the Planning Department's Co-sponsored NOAA Pacific Services Center Grant Submittal entitled "Planning for the Post-Disaster Environment to Protect, Develop, and Conserve Coastal Resources". (J. Buika)

Mr. Jim Buika: Good morning Chair and Commissioners, my name is Jim Buika with the Planning Department. Please note that I have handed out a modified Exhibit Number 1, this morning to you that I'll be addressing. It's a letter of support. This Communications item is a requested follow up from the July 27th special Maui Planning Commission session that the Department conducted entitled, "Protecting, Developing and Conserving Coastal Resources." I believe most of you were there. It was a discussion of the Coastal Zone Management Program and the SMA Rules.

The package I mailed out to you, the Department mailed out to you had this letter of support from the Maui Planning Commission which is the subject of this Communication session right now regarding support for a proposal to NOAA, the National Oceanic and Atmospheric Administration for a grant proposal. That's the first Exhibit 1.

I want to address the modified Exhibit 1, Exhibit 2 was the original Letter of Intent that went in that gives a synopsis of the project that the Planning Department desires to undertake. And Exhibit 3 and 4 consist of topics we discussed at the July 27th meeting. Those were some slides that I had presented on the potential SMA Rule changes. And then Exhibit 4 is the Department's compilation of 19 parking lot issues, the issues that the Maui Planning Commission had discussed that afternoon. So Exhibits 3 and 4 are for your information only at this point unless you would like to discuss them.

So the purpose of this item is for the Maui Planning Commission to vote on a Letter of Support that I have handed out to you today. The Letter of Support is for the collaborative NOAA proposal that ended up, actually it ended up a combination of four different proposals with Sea Grant and involving four of the Hawaiian Islands. So it's a very comprehensive project. I don't have the full proposal that is due tomorrow to hand out to you at this point, but I can get that to you and I can also if you have questions, I can describe it more fully.

So today, the Department asks for your vote of approval to sign and transmit this Letter of Support as part of the project proposal which is due tomorrow to the funding agency, NOAA. And the reason I provided an exhibit modified from the original, the one here is, the only change is that when I wrote it and submitted it to you on September 2nd, the title of our project was different. The title has altered to this new title. It's entitled, "Hawaii Coastal Community Hazard Resiliency Project," and it's a more encompassing project than specifically for Maui County. So the body is the same, it's a two-page letter and what the Department is asking is we take a vote today and if we could have the Chairman sign it on behalf of the Commissioners I believe that would be what we're looking for, any questions?

Mr. Starr: Does this encompass the coordination and participation of the Big Island as they requested?

Mr. Buika: Yes it does. Also, Oahu and Kauai are involved also.

Mr. Starr: So in other words, we're leading all four counties?

Mr. Buika: Yes it is a somewhat changed scope of work. It involves Chip Fletcher's work. We will be looking at South Kihei doing sea level rise analysis. There will be a GIS component for greater Kihei also looking at risk analysis. There will be the post, or pre-planning for post disaster recovery, SMA Rules, CZM Law changes potentially and then also, a modification of the Hawaii Coastal Hazard Mitigation Guide Book that I, Dennis Wong From Sea Grant was able to provide these copies, \$25.00 each for free to all of you here. So we will be modifying this which it has a lot of good mitigation for coastal hazards. In here will be modified for Maui. So those are the four components, sea level rise. And there will – so there will be four areas of all the island involved similar to Kihei.

Mr. Starr: It's great to see Maui Department of Planning leading the State on this stuff. Commissioner Mardfin.

Mr. Mardfin: There is one change in the body, sorry to correct to you.

Mr. Buika: Oh, okay.

Mr. Mardfin: But in the second paragraph, the original said, "voted unanimously." And in the ...

Mr. Buika: Oh yes.

Mr. Mardfin: And in the modified it says, "there were vote in favor and a vote against," and there aren't numbers in there. What are the numbers supposed to be?

Mr. Buika: Well, I will just hand put those in once we take a vote. I didn't want – I shouldn't assume that it would be a unanimous vote.

Mr. Mardfin: Oh, that's what the vote is on today.

Mr. Buika: The vote is today if it's, if it's six for and two against, whatever, that's where I put the vote in, right thank you for that clarification.

Mr. Starr: Commissioner Wakida.

Mr. Wakida: Yes, Mr. Buika, would you please repeat that new name, "Hawaii Coastal ..."

Mr. Buika: It's on the exhibit, modified 1, but I will repeat it.

Ms. Wakida: Oh, sorry. I didn't see it.

Mr. Buika: It is, it's entitled, Hawaii Coastal Community Hazard Resiliency Project. Hawaii Coastal Community Hazard Resiliency Project. That was on Exhibit 1 that I handed out on your table today

that replaces.

Mr. Starr: In bold type.

Mr. Buika: Yeah.

Mr. Starr: Okay, Commissioner Mardfin.

Mr. Mardfin: I move the adoption of ...

Mr. Starr: No, not yet.

Mr. Mardfin: Sorry.

Mr. Starr: Members of the public wishing to give testimony, don't all speak at once. Not seeing any, testimony is closed. Commissioner Mardfin. Gotta go through the ...

Mr. Mardfin: I move the adoption of Exhibit 1, as modified from the original that we received today.

Mr. Shibuya: Second.

Mr. Starr: Moved by Commissioner Mardfin, seconded by Commissioner Shibuya.

Ms. Cua: To support the signing of a draft letter for the Maui County Planning for the Post Disaster Environment as we discussed.

Mr. Mardfin: That's exactly what I said. Thank you.

Mr. Starr: Mr. Buika: Is that motion sufficient for our needs?

Mr. Buika: Yes.

Mr. Starr: Okay, and I'm really, I'm really moved that the Department has taken this step and is creating this kind of leadership and I really want to compliment Mr. Buika and also all of our Current and Long Range, Planning Department, the Administration and our Sea Grant and other partners. Ready for the vote? All in favor please raise a hand. All opposed. Ms. Cua.

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

**VOTED: To Adopt Draft Letter of Support as Presented in Exhibit 1.
(Assenting - W. Mardfin, W. Shibuya, K. Hiranaga, J. Freitas, O. Tagorda,
D. Domingo, L. Sablas, P. Wakida)**

Ms. Cua: Motion passes unanimously.

Mr. Buika: Thank you very much. I have this to sign.

Mr. Starr: Yeah, get me a copy to sign, and I do want to compliment you. And please keep us in the loop and feel free to email or send us copies of documentation as it proceeds.

Mr. Buika: Thank you very much for your support, and in conclusion I do have an additional letter of intent that has been forwarded to the Sea Grant Law Center Grants Program in Mississippi, that's a smaller grant that would involve the Institute for Climate Adaptation Policy ICAP that follows directly on line with, I have that to hand out here just as an informational handout that I'll hand out right now. That goes directly to July 27th session. Thank you.

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

Mr. Mardfin: May I ask a question about that statement?

Mr. Starr: Yeah, we're really under the wire though.

Mr. Mardfin: Is this budget supposed to be covered under the grant?

Mr. Buika: Yes, the budget will be covered under the grant but the budget has been altered and I will, I will forward that to you in a mail out.

Mr. Mardfin: Thank you.

Mr. Starr: Okay, next item.

F. DIRECTOR'S REPORT

- 2. Planning Commission Projects/Issues**
- 3. Discussion of Future Maui Planning Commission Agendas**
 - a. September 28, 2010 meeting agenda items**
- 4. Wailuku-Kahului Site Inspections beginning at 1:00 p.m. on September 14, 2010**
 - a. Maui Medical Plaza at Kanaha site**
 - b. Pomaikai Elementary School at Maui Lani (drive-by)**
 - c. Maui Memorial Park Expansion site**
 - d. Wailuku II Elementary School site at Kehalani**

Ms. Cua: Yes, Mr. Chair, we just wanted to go over your items for the next meeting date which is September 28th. We've passed out a memo dated September 13th. We have four communication items on the agenda and we also have a workshop on the building permit process and an item by the Planning Director.

Mr. Starr: Just one comment on that, the item about the workshop in the permit process, we're trying to make that as inclusive and complete as possible to educate ourselves, educate the public and allow members of the public especially development and building community to comment on this process and give some feedback based on their experiences. It would be good if Commissioners helped spread the word about this and if any of the Commissioners want to have input into how, how into the process and what we'll be doing, they're welcome to contact me or Ms. Cua. I'm sure we'll be having a meeting later in the week if there are more commissioners than would meet Sunshine Law they can meet separately with Ms. Cua, whatever. Just want as much participation by the Commission Members as people have time to give. Okay, next. Didn't we have some minutes?

E. ACCEPTANCE OF THE ACTION MINUTES OF THE AUGUST 24, 2010 MEETING AND REGULAR MINUTES OF THE JULY 13, 2010 MEETING

Ms. Cua: Sorry I jumped around on your agenda. The next item on your agenda is acceptance of the Action Minutes of the August 24th meeting and Regular Minutes of the July 13th meeting.

Mr. Shibuya: So moved.

Mr. Starr: Is there a second?

Mr. Mardfin: Second it.

Mr. Starr: Motion is.

Ms. Cua: To accept the Minutes of the August 24th and July 13th meeting.

Mr. Starr: Okay, all in favor. All opposed.

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

**VOTED: To Accept the Action Minutes of August 24, 2010 and Regular Minutes of July 13, 2010.
(Assenting - W. Shibuya, W. Mardfin, K. Hiranaga, J. Freitas, O. Tagorda, D. Domingo, L. Sablas, P. Wakida)**

Ms. Cua: Motion passes unanimously.

Mr. Starr: And then ...

F. DIRECTOR'S REPORT

1. Receipt of the following Council Resolution

MS. KATHLEEN ROSS AOKI, Planning Director, transmitting Council Resolution No. 10-43 referring to the Lanai, Maui, and Molokai Planning

Commissions a Draft Bill Amending Chapter 2.88 of the Maui County Code, relating to the Cultural Resources Commission and Title 19 Article III, Maui County Code, relating to Maui County Historic Districts. (RFC 2010/0127) (J. Alueta)

Public Hearing scheduled for the October 26, 2010 meeting.

Ms. Cua: The next thing is we wanted to distribute to you the Council Resolution 10-43 which we distributed referring to the Lanai, Maui and Molokai Planning Commissions. Is Joe still here? Okay, if you have questions we can bring Joe down. And it's an amendment to Chapter 2.88 of the Maui County Code relating to the Cultural Resources Commission in Title 19 of Maui County Code related to the Historic Districts. So that's one thing.

Mr. Starr: So we'll be hearing that on October 26th.

Ms. Cua: Correct.

Mr. Starr: And can I make a request that either at that time or before that we have a presentation on the Historical Districts and what we can do and perhaps maybe some of the commissioners can help us especially regarding Lahaina and the work with the Restoration Foundation in this regard.

Ms. Cua: You want that prior to October 26th?

Ms. Wakida: What does that mean, a public hearing scheduled? Does that mean an evening?

Ms. Cua: No, no, no, no. Like you have public hearings today. It's just a public hearing item on your agenda to discuss this. Public hearing is required for you to make comments on the proposed resolution.

Mr. Mardfin: So this isn't going to the next meeting, this is going to second meeting in October?

Mr. Starr: October 26th. But we may have something on Lahaina earlier if we have an opportunity. Okay, next, we don't need action on this.

Ms. Cua: We already went over the discussion of the September 28th agenda. And the only thing is we have our site visits in an hour.

Mr. Starr: Okay, and lets, what I suggest is lets differ the SMA, the information on the SMA.

Ms. Cua: Clayton has it.

Mr. Starr: Clayton.

B. DIRECTOR'S REPORT

1. EA/EIS Report

2. SMA Minor Permit Report

3. SMA Exemptions Report

Mr. Starr: Good work Clayton.

Mr. Yoshida: Good morning Mr. Chairman and Members of the Commission we did provide information on the Uaoa Bridge Farm Subdivision SMA Minor Permit in Haiku, 16.6 acre property and subdivided it into four lots on Holokai Road. As well as the Spirit of Aloha SMX 2010/0357 which is for a potting shed, a water tank and rock retaining walls for a valuation of \$15,050.00 as shown on the map. With respect to SM2 2010/058, the ... installation of a 35-foot wood pole, that was previously SMX 2010/0291 that became an SMA Minor Permit and with respect to SM1 2009/005 under the Shoreline GEO Area Report, this is the State DOT project which the Commission reviewed the draft EA in March of 2009 for their shoreline protection in Olowalu on the Kapalua side. I guess there's overtopping at times. So that's why that's on your Shoreline GEO Area Report.

Oh, I would put in a plug for Commissioner Hiranaga's idea about, you know, if you have concerns or questions, you know, submitting them ahead of time. That would really help our staff because we have our Zoning Division and Current Planning processing these SMA Assessments in getting the information to you.

Mr. Starr: Okay, and I also, you know, would like to emphasize if we have the time and we're able to put them in advance it makes their life easier. Our last item then is everyone satisfied, we can accept the SMA, SMX Report or if there's further questions either or please.

Mr. Freitas: So move.

Mr. Shibuya: Second.

Mr. Starr: Moved by Commissioner Freitas, seconded by Commissioner Shibuya to ...

Ms. Cua: To accept the Minor Permit and SMX Report.

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

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

**VOTED: To Accept the SMA Minor and SMA Exemptions Reports.
(Assenting - J. Freitas, W. Shibuya, K. Hiranaga, O. Tagorda, W. Mardfin,
D. Domingo, L. Sablas, P. Wakida)**

Ms. Cua: Motion passes unanimously.

Mr. Starr: Thank you very much, we are – are we adjourned or are we in recess. We're in recess.

Ms. Cua: Oh yeah, actually we do have a separate agenda so we can adjourn.

Mr. Starr: This meeting is adjourned. We'll be meeting again at 12:45 p.m.

Ms. Cua: One o'clock on site. If, I guess you guys can either ride with each other. I have one more seat available in a County vehicle. Oh, okay, so I have two seats available in the County vehicle.

Mr. Starr: So one o'clock at site which is at Kanaha Pond. Everyone clear on that? Does anyone need a ride? Okay, we're adjourned.

G. NEXT MEETING DATE: September 28, 2010

H. ADJOURNMENT

The meeting was adjourned at 12:00 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, Vice-Chair

Lori Sablas

Warren Shibuya

Orlando Tagorda

Penny Wakida

Others

Ann Cua, Planning Department

James Giroux, Department of the Corporation Counsel

Mike Miyamoto, Department of Public Works