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PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

REGULAR MEETING

Held at the Planning Department Conference Room, Kalana
Pakui Building, 250 South High Street, Wailuku, Maui,
Hawaii, commencing at 9:00 a.m., March 22, 2011.

REPORTED BY: Rachelle Primeaux CSR No. 370

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A P P E A R A N C E S

CHAIRMAN:

JONATHAN STARR

COMMISSIONERS:

WARD MARDFIN, VICE-CHAIR
KENT HIRANAGA
WARREN SHIBUYA
DONNA DOMINGO
ORLANDO TAGORDA
JACK FREITAS
LORI SABLAS
PENNY WAKIDA

CORPORATION COUNSEL:

JAMES GIROUX

1 MAUI COUNTY PLANNING COMMISSION

2 TRANSCRIPT OF PROCEEDINGS

3 * * *

4 CHAIR STARR: Good morning, one and all. Welcome.
5 Glad to see the room full today. This is the March 22nd
6 meeting of the Maui Planning Commission. I would like to
7 welcome everyone and thank everyone for joining us. To
8 introduce the commissioners, we have Commissioner Kent
9 Hiranaga, Commissioner Orlando Tagorda, Commissioner Ward
10 Mardfin. We have James Giroux, Deputy Corporation Counsel
11 extraordinaire, who represents the Commission, keeps us out
12 of trouble.

13 I'm Jonathan Starr. I'm Chair of the Commission.
14 We have our Director of Planning, Mr. Will Spence. We have
15 Commissioner Donna Domingo, Commissioner Warren Shibuya,
16 Commissioner Lori Sablas and Commissioner Penny Wakida.
17 Carolyn Takayama-Corden, she's the Secretary for the
18 Commission. Rowena Dagdag-Andaya is Deputy Director of
19 Public Works representing Public Works. The Director of
20 Public Works is an ex-officio member of the Commission.

21 Clayton Yoshida administrates the current division
22 and takes care of our agendas for all the Planning
23 Commission and does a great job. Planner Joe Prutch,
24 Planner Erin Wade, Planner Ann Cua, Planner Danny Dias,
25 Planner Kathleen Aoki. And if my eyesight were better, I

1 might spot a couple more. Kurt Wollenhaupt.

2 Anyway, we'll proceed with our meeting. We have a
3 full agenda today, and we have actually some time
4 constraints. We're going to be breaking early and taking a
5 little bit of an early lunch today, so somewhere between
6 11:15 and 11:30, we're going to break for lunch. And we do
7 have the last hour today from 4 to 5 set aside to finish our
8 shoreline workshop with the SMA and shoreline people ready
9 to finish that project.

10 We have a number of people who have signed up to
11 testify. Members of the public are invited and more than
12 welcome to testify on any item that's on our agenda. You
13 have an opportunity to testify either before we start the
14 agenda item, which will be now, or while we're doing
15 deliberation on the agenda item before we do
16 decision-making. So, either if you have a particular item
17 you want to testify on, you can either testify now, or you
18 can wait until we're discussing the agenda item later today.
19 That being said, I would like to call up some testifiers,
20 and I ask you in advance to excuse me when I mangle your
21 name.

22 And it's my fault, not yours, but this looks like
23 John Crinion followed by Mr. Bud Pikrone. Mr. John Crinion,
24 and please come up to the mic. I would ask you to keep it
25 as short as possible, under three minutes or less.

1 Introduce yourself for the record.

2 MR. CRINION: My name is John Crinion. I live in
3 Olowalu Mauka, Lot 8, and I'm also president of the HOA
4 board, and I just wanted to tell the Commission that we are
5 in favor of this intersection going in, the HOA board
6 members. And myself personally, I hope it goes through, and
7 it will clear up -- it will be wonderful to have an
8 intersection, that's for sure. And I don't know if some
9 kind of a surety can be attached to it that it will go in
10 promptly, but I'll leave that in your hands, of course. And
11 thank you very much.

12 CHAIR STARR: Okay. Thank you for clear
13 testimony. Members, okay. Thank you, sir. Mr. Bud Pikrone
14 will be followed by Ellen Ernisse. Mr. Pikrone, good to see
15 you today.

16 MR. PIKRONE: Bud Pikrone, general manager of the
17 Wailea Community Association. Also, general manager of the
18 Wailea Resort Association. I'm here for the Auwahi Wind
19 Farm project. It's a wonderful project. I'm for
20 alternative energy, especially gas prices keep going up.

21 But what I'm asking you is that, as you do look at
22 the environmental impact, that you look at what impact it's
23 going to have on the community during the construction
24 phase.

25 We believe lack of planning in the past has led us

1 to the only alternative or giving them the only alternative
2 to run all of the construction traffic right through the
3 middle of the resort. And this is a resort that has been
4 touted as an economic hub of the County. And what effect is
5 it going to have just physically on the roads, I don't know.

6 If you recall, we've had three sink holes on
7 Alanui, Wailea Alanui over the last seven years. The last
8 one took the County over 18 months to repair. We don't know
9 what other culverts could be affected by all this heavy
10 truck traffic. And you have the mental aspect of trucks
11 being run through the community for this long period of
12 time. We figure at the peak, one truck every two and a half
13 minutes, and these are not just small trucks. We're talking
14 these large super loads, which they were planning on
15 possibly running through at night.

16 If you've ever heard a truck go down Wailea Ike
17 during the day, it makes a lot of noise, so imagine at night
18 where it will reverberate throughout the community. There's
19 also the economic impact this could have on the resort with
20 the hotels. Again, the same problem with traffic and noise.
21 There are alternatives. And we believe again because of the
22 poor planning in the past, Piilani Highway was never
23 extended as it should have been and we've been asking for
24 for years. This would provide in the future an egress from
25 Makena Resort.

1 And as we saw in the tsunami, that one road out of
2 Makena could have been in jeopardy. And so, this offers an
3 opportunity now for a third party to get involved and help
4 make that road possible to run that through for their
5 construction traffic and then put in what would be then a
6 road for future construction traffic and a future road to
7 Makena that would put the base in.

8 So, we think there is an alternative that we wish
9 would have been looked at more carefully. I believe they
10 said they did do a study on it, and economically, it didn't
11 work because there were some culverts that they would have
12 to build, and it didn't fit their time line. We have been
13 in contact with other parties, land owners in that area. We
14 think it would be possible and we are going to be holding a
15 meeting on April 4th with all parties to try and discuss
16 this further. So, what I'm asking for is that you look at
17 this very carefully in your planning.

18 COMMISSIONER SECRETARY: Three minutes.

19 MR. PIKRONE: Thank you.

20 CHAIR STARR: Mr. Pikrone, you talked about a
21 meeting to discuss -- what was that, and who is involved
22 with that?

23 MR. PIKRONE: April 4th. It would be with Sempra.
24 It will be with Ulupalakua, 670, Honua'ula, Makena-Wailea
25 Community Association and other Makena -- not just Makena

1 developers, but also Makena homeowners association.

2 CHAIR STARR: Is this a public meeting, or is that
3 a working group type?

4 MR. PIKRONE: It's a working group, but we are
5 inviting -- as a matter of fact, I would invite anybody here
6 who would like to come to that meeting. Please contact me,
7 and I'll let you know exactly when and where it will be.
8 But it will be April 4th in the afternoon.

9 CHAIR STARR: You don't want to say where?

10 MR. PIKRONE: Right now, it's going to be at the
11 hotel in Wailea. Probably not now, because this meeting is
12 growing in size, not in our office conference room, but I'll
13 have one of the rooms there at the hotel to hold it in.

14 CHAIR STARR: Okay. Good.

15 MR. PIKRONE: And right. Now tentatively, the
16 time is either 2:30 or 3:30. We're trying to get that
17 settled.

18 CHAIR STARR: Thanks for trying to bring everyone
19 together on that.

20 Members, any questions? I'm going to ask for --
21 thank you, Mr. Pikrone. I'm going to ask for the public's
22 forbearance. We have two resolutions that the Director
23 wants to read, and we have a lot of our staff here for --
24 specifically for that, so I'm going to take a break in
25 testimony and move through that so the Department can get

1 back to work. They work a lot of hours, and I don't want
2 them to need to put in midnight oil to make up this ending,
3 so Director.

4 DIRECTOR SPENCE: Thank you, Mr. Chairman. And
5 for the members of the public, this is -- this is our last
6 Planning Commission meeting with Commissioner Orlando
7 Tagorda and Chair Jonathan Starr. So, what we would like to
8 do is read the resolution into the record and also a letter
9 of thanks by our Mayor.

10 So, the resolution for Mr. Tagorda.

11 Whereas, the Maui County Planning Commission was
12 established in 1958. And whereas, since December 2009,
13 Orlando Tagorda has served as a member of the Maui Planning
14 Commission; and whereas, Orlando Tagorda has served the Maui
15 Planning Commission with dedication and provided valuable
16 guidance in serving the needs of the people of Maui County.

17 And whereas, Orlando Tagorda's term of office will
18 expire March 31st, 2011. Now, therefore, let it be resolved
19 by the Maui Planning Commission that it does hereby express
20 its deepest gratitude and appreciation to Orlando Tagorda
21 for his service during the past one year and four months and
22 does hereby extend its best wishes in his future endeavors.

23 And be it further resolved that copies of this
24 resolution be transmitted to the Honorable Alan M. Arakawa,
25 Mayor of Maui County, Honorable Danny Mateo, Chairman of the

1 Maui County Council.

2 And from our Mayor dated February 10th knowing you
3 know, there would be a change.

4 Dear Mr. Tagorda. Congratulations on a job well
5 done. On behalf of the people of the County of Maui, please
6 accept my deepest appreciation and gratitude for your
7 dedication and service on the Maui Planning Commission.
8 Your efforts and contributions have made a positive
9 difference. I truly believe that it is important for
10 citizens to play an active role within both our community
11 and government.

12 The process of recruiting and selecting nominees
13 for the various Maui County boards and commission has given
14 me a greater appreciation for voluntarism and community
15 service. I would like to commend you for your willingness
16 to devote your time, energy, resources and insight to the
17 betterment of Maui County. Once again, thank you very much
18 for doing your part to make Maui the best that it can be. I
19 hope that your experience has been rewarding and worthwhile.
20 Sincerely, Alan M. Arakawa, Mayor.

21 COMMISSIONER TAGORDA: Thank you.

22 DIRECTOR SPENCE: And we have a nice certificate
23 signed by the Mayor.

24 Also, for outgoing chairman Jonathan Starr, a
25 resolution here.

1 Whereas, the Maui County Planning Commission was
2 established in 1958. And whereas, since April 1st, 2006,
3 Jonathan Starr has served as a member of the Maui Planning
4 Commission; and has served as chairperson of the Maui
5 Planning Commission from April 2008 to March 2009 and April
6 2010 to March 2011; and whereas, Jonathan Starr has served
7 the Maui Planning Commission with dedication and provided
8 valuable guidance in serving the needs of the people of Maui
9 County.

10 And whereas, Jonathan Starr's term of office will
11 expire March 31st, 2011. Now, therefore, let it be resolved
12 by the Maui Planning Commission that it does hereby express
13 its deepest gratitude and appreciation to Jonathan Starr for
14 his service during the past five years and does hereby
15 extend its best wishes in his future endeavors.

16 And be it further resolved that copies of this
17 resolution be transmitted to the Honorable Alan M. Arakawa,
18 Mayor of Maui County, Honorable Danny Mateo, Chairman of the
19 Maui County Council.

20 Now, also from the Office of the Mayor.

21 Dear Mr. Starr. Congratulations on a job well
22 done. On behalf of the people of the County of Maui, please
23 accept my deepest appreciation and gratitude for your
24 dedication and service on the Maui Planning Commission.
25 Your efforts and contributions have made a positive

1 difference. I truly believe that it is important for
2 citizens to play an active role within both our community
3 and government.

4 The process of recruiting and selecting nominees
5 for the various Maui County boards and commission has given
6 me a greater appreciation for voluntarism and community
7 service. I would like to commend you for your willingness
8 to devote your time, energy, resources and insight to the
9 betterment of Maui County.

10 Once again, thank you very much for doing your
11 part to make Maui the best that it can be. I hope that your
12 experience has been rewarding and worthwhile. Sincerely,
13 Alan M. Arakawa, Mayor, County of Maui.

14 CHAIR STARR: Commissioner Tagorda, do you have a
15 comment?

16 COMMISSIONER TAGORDA: I just have to say a few
17 words. Today I would like to say aloha to my fellow
18 commissioners. Although my stay was very short, I consider
19 it to be a very incredible experience and privilege and a
20 tremendous honor to serve the people of Maui County on this
21 Commission. I also want to thank the Planning Department
22 staff for their hard work in preparing this Commission for
23 every meeting.

24 Also, I want to extend my special thanks to our
25 outgoing Chairman Jonathan Starr. He has proven himself to

1 be an able leader and capable leader of this Commission.

2 And thank you so much for all the help.

3 CHAIR STARR: Thank you. It was our honor to
4 serve with you, Commissioner Tagorda. You did a good job,
5 and this has been a great experience for me serving. I've
6 learned so much, and I've learned most of it from the people
7 I've had the pleasure and opportunity to work with. The
8 planners in Maui County are real heroes in my eye. They
9 really try. With every project, they really try to make it
10 as best possible to try to resolve the issues. And most of
11 the major serious problems are dealt with before it ever
12 gets here.

13 You know, at first, I didn't understand why a lot
14 of times they're positive about projects when they come to
15 us, and that's because behind the scenes, they've worked to
16 try to mitigate and identify and make the project less
17 destructive as best they feel it can be done within the
18 framework of the laws and rules. And, you know, I've
19 learned a lot on how to not just make noise about something,
20 but to actually accomplish from our planners.

21 And it's really been my greatest honor. You know,
22 our Commissioners are great, and I really respect and
23 appreciate all of us, and I feel we've been trying to do the
24 best we can. But the planners are exceptional and take what
25 opportunities they have for education and, you know, I just

1 want to single out some people like Ann Cua, Clayton
2 Yoshida, and Erin Wade and I mean many of the others. Paul
3 and Danny and Kathleen and Will. Everyone really, really
4 tries, and they work really hard.

5 And it's been my pleasure. Joe also. I don't
6 want to leave everyone out, but this is really an
7 exceptional department. And I want to thank everyone for
8 the work they've put in. And having said that, we're going
9 to take -- we're going to go back to testimony.

10 DIRECTOR SPENCE: May I comment?

11 CHAIR STARR: Yeah, go ahead, Director.

12 DIRECTOR SPENCE: And I would also like to extend
13 my thanks to Commissioner Tagorda and Commissioner Starr,
14 Chairman Starr. My tenure has been short, but it has been a
15 pleasure to work with you, get to know you a little bit on
16 this kind of basis. So, I also want to extend my thanks.
17 And, you know, so many of my staff have shown up today as an
18 expression of their appreciation for your work. Thank you
19 very much.

20 CHAIR STARR: I want to thank Commissioner
21 Mardfin, who served as vice-chair this last term and done a
22 good job, coming in from Hana O-dark-30. I'm going to take
23 Chair's prerogative. I'm just going to take a one or
24 two-minute recess and give the planners a hug.

25 (Recess taken 9:22 a.m. to 9:24 a.m.)

1 CHAIRMAN STARR: Okay. Maui Planning Commission
2 is back in session. Our next testifier will be Ellen
3 Ernisse followed by Neola Careny. Please, Ms. Ernisse,
4 introduce yourself, and welcome.

5 MS. ERNISSE: Good morning. And thank you for the
6 opportunity of speaking before you after all the
7 thank-you's. We wish to testify in behalf of the
8 intersection at Olowalu Mauka. We are one of -- our family
9 is one of the original lot owners. In fact, I think we were
10 the first, and we purchased in 2002.

11 And we have just moved into our new home up there
12 that's taken us three years to build ourselves. And I would
13 like to add that we've been on Maui for 25 years. And we
14 have three grown children, who all went to Kihei, Lokelani,
15 Baldwin, and one son who went to MCC. So, we're not new to
16 Maui. And our main concern with the intersection is safety
17 and how very, very dangerous that intersection is to go into
18 Olowalu Mauka, to go into the village and to go into the
19 store, the fruit stand. It is very, very dangerous.

20 And it's either direction, whether you're coming
21 from Lahaina or Kahului or whether you're coming out of
22 Olowalu. And it's not just -- this intersection is not just
23 for Olowalu Mauka. It is for the entire county. And there
24 have been accidents along that road, and we would just -- we
25 think that because we've been following all of this, and we

1 think that Olowalu Elua has met all the objections like the
2 removal of the trees. We understand that there will be no
3 trees removed, the drainage.

4 And we would just like to request that we get an
5 intersection down there for everyone. And with the safety
6 and lives are at risk, and just they are ready to build it.
7 So, please approve it, and give us the intersection.

8 CHAIR STARR: Commissioner Wakida has a question
9 for you.

10 COMMISSIONER WAKIDA: Yes. Thank you for coming
11 this morning. When you bought your property in 2002, at
12 that time, what kind of egress or intersection onto the
13 highway was in the plans when you bought your property in
14 2001?

15 MS. ERNISSE: It was the original -- it was
16 driveway deep. And that's why it's being changed to the
17 other, and we were promised an intersection down there. And
18 it just never has happened, and it's getting difficult.

19 COMMISSIONER WAKIDA: So, you were promised an
20 intersection, the original one being down, further down
21 towards down south?

22 MS. ERNISSE: Right.

23 COMMISSIONER WAKIDA: Okay. Thank you.

24 CHAIR STARR: Commissioner Mardfin.

25 COMMISSIONER MARDFIN: During your testimony, you

1 said that they've changed the plans enough to preserve all
2 the trees. In my reading of it, I'm not sure that that's
3 actually occurred. If the trees could not be preserved,
4 would you still approve it?

5 MS. ERNISSE: Yes.

6 COMMISSIONER MARDFIN: Thank you.

7 MS. ERNISSE: I feel -- I love the trees there,
8 but I think lives are more important.

9 CHAIR STARR: Thank you very much.

10 MS. ERNISSE: Thank you.

11 CHAIR STARR: Next will be Neola Careny followed
12 by Lisa Hotchkiss. Welcome.

13 MS. CARENY: Aloha kakou. I'm here to --

14 CHAIR STARR: Introduce yourself. They tape the
15 meeting.

16 MS. CARENY: I'm Neola Careny, and I live in
17 Huelo. I'm a neighbor of Hale Akua Garden Farms, and they
18 have an application for a Special Use Permit for an
19 educational retreat center there at the farm. I'm here to
20 really support the approval of their application. I've been
21 a neighbor of theirs for about ten years now. I live really
22 close on Door of Faith Road.

23 They have been instrumental -- the owners and the
24 management there over the years have been instrumental in
25 maintaining our road, the private road. We have a private

1 water line that the community depends on. They've been
2 maintaining and repairing that. And the farm has been a
3 great community resource. We have a community fridge. They
4 call it the honor system. And we go up and get wonderful
5 fresh vegetables.

6 If you've had some pizza at Flatbread Pizza, you
7 probably had some of the Hale Akua Farm vegetables. As far
8 as any impact on the neighborhood, when they have had
9 meetings, seminars and such there, they are scrupulous about
10 having everyone park on the property. There's nobody
11 parking along the road. There's no noise. I have never
12 heard one complaint from the neighborhood.

13 They have been offering seminars in permaculture
14 and other agricultural related subjects. And as a farmer,
15 they've been very -- very, very helpful to me. So, they're
16 wonderful members of the community for a lot longer than the
17 ten years that I've been there. And I would love to see
18 their permit for an educational retreat center approved. I
19 did submit written testimony by e-mail.

20 In case it didn't have time to get through, I do
21 have a copy of it if I can submit that. Thank you.

22 CHAIR STARR: Okay. Thank you very much. Next
23 testifier will be Lisa Hotchkiss followed by Leonard Rabago,
24 Jr. Welcome.

25 MS. HOTCHKISS: Aloha, good morning. My name is

1 Lisa Hotchkiss, and I'm an independent organic crop
2 inspector for Hawaii Organic Farmer's Association and also
3 International Certification Services.

4 I'm also the farm manager at Hale Akua Garden
5 Farm. And it is my responsibility to not only manage the
6 farm, but also to manage our labor force, which is not your
7 typical farm labor force. As per request by the owner, Lori
8 Grace, we use what's called Woofers, which stands for
9 Worldwide Opportunities on Organic Farms. So, these are
10 volunteer people with no experience who come to the farm,
11 usually younger generation in their 20's, but sometimes
12 older, who come for unique experience to learn about organic
13 farming from seed to harvest. And that's my job.

14 So, the goal is for them to be able to grow their
15 own food by the time they leave the farm. And then also as
16 per request from the owner Lori Grace, we incorporate
17 workshops on nonviolent communication and personal
18 development as well. So, I am testifying on behalf of the
19 hopeful approval of the special use permit for Hale Akua
20 Garden Farm. We also deliver vegetables, as Neola was
21 saying, to a lot of locally-owned vendors such as Flatbread
22 Restaurant, Mana Foods, Mama's Fish House, Pukalani
23 Superette and Maui Kombucha. Thank you.

24 CHAIR STARR: Thank you very much. The next
25 testifier, Leonard Rabago, Jr. followed by Debbie Arakaki.

1 MR. RABAGO: Good morning. My name is Leonard
2 Rabago, Jr. I'm testifying on behalf of Hale Akua Garden
3 Farm. I've been there for two years just about as a farm
4 maintenance. I work on all the irrigation lines. I till
5 beds. I've hand tilled beds from the beginning before we
6 got our tiller fixed and stuff like that. It's a big
7 property. You can see that. It's a lot of work, but
8 something I'm willing to do and put my time into.

9 I hope you guys consider that and consider them as
10 a farm. Thank you.

11 CHAIR STARR: Thank you for coming forward today.
12 Debbie Arakaki followed by Lori Teragawachi.

13 Good morning.

14 MS. ARAKAKI: Good morning. My name is Debbie
15 Arakaki. I'm an owner up in Olowalu Mauka. I'm testifying
16 on behalf of the road. I would like it approved. I am also
17 an -- I work for West Maui Land in the real estate division.
18 But I've been an owner up there for many years, I'm not
19 exactly sure when. But it would be a very good thing to put
20 in that road for safety for going in and out. And I ask you
21 to approve it. That's it. Thank you.

22 CHAIR STARR: Thank you very much. Next will be
23 Lori Teragawachi followed by Laura Yeh.

24 MS. TERAGAWACHI: Hi. You didn't slaughter that
25 one too much. In fact, you got it right on. It is

1 Teragawachi. Good morning. My name is Lori Teragawachi.
2 And I'm the Director of the Continuing -- of the UH,
3 University of Hawaii, Maui College, Office of Continuing
4 Education and Training, which is a mouthful. Let me first
5 say thank you for allowing me this time to provide a short
6 testimony in support for Hale Akua Garden Farm in their
7 application request for a special permit.

8 And I wrote my notes down, so that I could be
9 concise and to the point. So, bear with me when I read.
10 Each year, every year for the last four years, the owners of
11 Hale Akua Garden Farm, Mr. Michael D'Addario and Ms. Lori
12 Grace were gracious hosts for the Ka Ipu Kukui Fellows
13 Leadership Program. This is a year-long program developing
14 future leaders of Maui County, an initiative that first
15 started with Focus Maui Nui and Decisions Maui.

16 Every month the participants meet for two to three
17 days, and they learn about a topic that is important to Maui
18 County. The topic discussed at Hale Akua Garden Farm
19 revolved around food sustainability here on Maui. They're
20 also able to learn about organic gardening. And as they
21 walk through their three and a half -- three and a half
22 acres of organic farming, we're able to see fields of
23 tumeric, ginger, taro, bananas, papayas, chard, eggplant,
24 fennel, noni, squash, okra, sweet potato, and a number of
25 other fruits and vegetables.

1 Also, in the midst of their property, there's a
2 seminar conference room that is perfect for presentations
3 and small group discussions. There's also a large kitchen
4 and dining facility for group dining and gatherings. It's
5 truly a great place -- a great learning environment and a
6 great place to foster discussion and dialogue and just
7 becoming more aware of the topics at hand.

8 All participants are given a tour of the facility
9 as soon as they arrive, so they're aware of their
10 surroundings and what organic farming is all about. And
11 they've also -- the owners have also given me the
12 opportunity to facilitate strategic planning retreats and
13 leadership workshops out there. And it's a beautiful
14 location, perfect for teams to get away and focus on topics
15 that they need to discuss and focus on the task at hand.

16 It gets them away from the office environment and
17 the daily interruptions. So, in conclusion, I believe this
18 property is a perfect setting for learning and provoking
19 individuals to think and think outside of the box. The
20 beauty of nature truly promotes renewal and reflection, and
21 I'm hoping to use that property to develop future leaders of
22 Maui, those that will interact with you, those are that are
23 more aware of issues and information and can see both sides
24 of an issue so they can have an intelligent dialogue and
25 come up with synergistic solutions that will help make Maui

1 a better place or keep Maui the beautiful place that it is.

2 I thank you for allowing me this opportunity, and
3 I also want to thank you the time and energy and commitment
4 that you all spend being involved in commissions. Because I
5 know it takes a lot of time and commitment and energy on
6 your part. So, thank you so much, and thank you for those
7 that are retiring and moving on to other adventures. Thank
8 you.

9 CHAIR STARR: Okay. Thank you very much. Next
10 will be Laura Yeh followed by Donald Regalmuto, I believe.
11 Please welcome and introduce yourself.

12 MS. YEH: Hi, my name is Laura Yeh, and I'm a
13 Woofers on Hale Akua Garden Farm. And I'm here to support
14 the farm in their educational endeavors. I've been a Woofers
15 on the farm for two months, originally from California. And
16 my goal in coming here was to learn how to farm. And I did
17 extensive research on various organic farms in Hawaii. And
18 after talking to several farms and hearing their
19 recommendations to come to Hale Akua Garden Farm, I decided
20 to come to the farm.

21 And the past two months have been an incredible
22 learning and growing experience for me. And coming in with
23 little gardening knowledge, I feel like I will be confident
24 upon leaving in starting a garden and/or a small farm
25 myself. I've been through the process of -- the entire

1 process from seeding to planting to amending soil to
2 harvesting to delivering organic foods to places such as
3 Mana and Flatbread.

4 And I've been -- even Hale Akua Garden Farm has
5 also helped me develop relationships with neighbors. Some
6 of the Woofers have worked with -- have helped one of our
7 neighbors recently in developing their chicken coop. And
8 we've developed an exchange where we help him create his
9 chicken coop, and he's been giving us some of his eggs. And
10 one of the things that I value most about this particular
11 learning environment is it's integration of connection with
12 the land and its value of the community and the people who
13 are involved, and that's what draws me most.

14 And I hope you support Hale Akua in their
15 endeavors. Thank you.

16 CHAIR STARR: Thank you very much. Next will be
17 Donald Regalmuto followed by Judith Michaels.

18 MR. REGALMULTO: Hello. My name is Donald
19 Regalmuto, and I'm a neighbor of Hale Akua. I live up the
20 street next to Kualanapueo Church. I've been there 20
21 years. And I've had the pleasure and experience of being a
22 part of some of the seminars and workshops regarding
23 gardening and communication.

24 And I've noticed Hale Akua's support in the roads
25 and the water system. They've been a great benefit to our

1 community. And I just wanted to speak on their behalf, and
2 I have such great appreciation for things I've learned. I
3 can always go over there for gardening things. I have a big
4 garden. They've taught me a lot about my own garden and
5 growing organically, and it's just been a great benefit for
6 the community. And I would like you to consider them. So,
7 thank you very much.

8 CHAIR STARR: Thank you for coming today. Next
9 will be Judith Michaels followed by Peter Longhi. Judith.

10 MS. MICHAELS: My testimony is about the wind
11 farm. Can I do it right before you do that, or now?

12 CHAIR STARR: You can do that when we get to the
13 item.

14 MS. MICHAELS: When you get to the item. Thank
15 you.

16 CHAIR STARR: Peter Longhi will be followed by
17 David Minami.

18 MR. LONGHI: Hi, my name is Peter Longhi. I'm an
19 owner up at Olowalu Mauka. I bought there in '02. I've
20 lived there since 2004. The intersection has been an issue
21 ongoing throughout the years. And right now, Luuwai Street
22 sort of goes down to the highway. We have to cross the haul
23 road, excuse me, and then get on the highway.

24 I'm in favor of having that as our access point.
25 There's been talk about driveway A, B, C. I can't really

1 keep track of them all. But if we had a turn lane from
2 Lahaina, a pocket lane going towards Kahului and actual
3 Luuwai connection to the highway, I think that would solve
4 our problem.

5 I've been there seven years waiting for someone to
6 run into the back of me coming from Lahaina, and it would be
7 nice just to have a little safety there. And it seems to
8 work. It's a nice road going up, and a nice subdivision.
9 And that's pretty much all I've got. Thank you.

10 CHAIR STARR: Thank you. Next will be Dave Minami
11 followed by Michael Gagne.

12 MR. MINAMI: Commissioners, good morning. My name
13 is Dave Minami, life-long resident of Lahaina as well as an
14 employee of West Maui Land.

15 CHAIR STARR: Excuse me, could you guys keep it
16 down?

17 MR. MINAMI: Basically, I'm here to testify in
18 favor of the proposed location of the intersection at
19 Olowalu. You know, primarily from a safety standpoint, it's
20 a road that we use every day usually seven days a week.

21 I used it coming here to this meeting. As far as
22 the view corridor, it's probably the best place and the
23 safest place. I encourage visitors, family members of
24 whoever I'm affiliated with when they come into the area to
25 either use that location or the one further north. You

1 know, and I realize that trees may be an issue here.
2 There's a couple of trees that people are worried about.
3 But when it comes to people's welfare and safety and lives,
4 you know, we need to really make some sound decisions in
5 that area.

6 And may I tell you that I do have additional
7 trees, if that helps. I would be glad to transplant those
8 for you. But when it comes to the safety of the public and
9 the people and the residents and the employees and our
10 families, that's the best location for it. Thank you.

11 CHAIR STARR: Okay. Thank you, David. Michael
12 Gagne. Good morning, Mike. You're followed by Richard
13 Michaels.

14 MR. GAGNE: Good morning, Members of the
15 Commission. My name is Mike Gagne. I live in Huelo, a lot
16 of years, 33 years, same location. I live right next door
17 to Hale Akua Garden Farm. I'm number 100. They're number
18 110. I share two boundaries with them. As most of you know
19 looking at your documentation, Hale Akua has gone through
20 tremendous efforts to meet all of the requirements of the
21 County and the building department and the Health
22 Department. And we know what minimum requirements are.
23 It's a D-minus and you pass.

24 But I would like to say that they deserve an
25 A-plus for their efforts, for their outreach into the

1 community, for the facilitation of community meetings,
2 opening their facility just for discussion of issues that
3 come up in the community like ours. It's been, you know, a
4 very dramatic process at some times, but they've always been
5 there for us.

6 Whenever they have an event, as others have
7 mentioned, they really go all out to make sure that the
8 parking is covered, that nobody is inconvenienced. It's
9 been really a great experience to be there with them. I've
10 also attended a couple of conferences, some of them comped
11 because I was a neighbor, which is kind of fabulous; others
12 because I was invited by the people doing the -- doing the
13 conference. The Maui Agriculture Design Committee, which
14 met there recently was really great. Five days of intensive
15 communication between farmers from around the state.

16 They came up with plans and programs that are
17 ongoing today, you're going to begin to see some of. So, I
18 wanted to say right from me, I'm -- I'm president of the
19 Haiku Community Association, but as a disclaimer, I speak
20 personally, that this is a fabulous place. It actually
21 represents one of the few places where groups can meet in
22 our community and in our agricultural area, and they support
23 us tremendously. So, I just wanted to offer my views in
24 favor of this vote. Thank you very much.

25 CHAIR STARR: Thank you, Richard. You want to

1 testify now or later?

2 MR. MICHAELS: Yes, I'll be later. Thank you.

3 CHAIR STARR: Thank you. Next will be Joan

4 Heartfield followed by Thomas Heartfield. Welcome.

5 Introduce yourself. Thank you for coming.

6 MS. HEARTFIELD: Aloha, my name is Dr. Joan
7 Heartfield, and I've lived on Maui since 1970. And I've
8 lived in the beautiful community of Huelo since 1998, so
9 I've been there a long time. I live six doors down from
10 Hale Akua Garden Farm. And it has been the most -- probably
11 it has been the most centralized experience. It has brought
12 our neighborhood together like I've never lived in a
13 neighborhood that has had such an absolutely beautiful
14 heart-based experience.

15 And the owners of Hale Akua have absolutely made
16 sure that's been happening by providing workshops, very
17 often free or very lost cost, particularly to the residents
18 of Huelo, but really to all the residents. They've brought
19 us together to learn farming, to learn communication, to
20 learn about our water rights, everything that we've needed.
21 And the owners are always open to hearing anything that
22 is -- that doesn't feel right to us and making it right.

23 So, I feel like there's an -- and also the
24 experience of the place itself is so beautiful and so
25 healing. And there has been many groups there that just by

1 being on the property, I've heard people say, oh, I feel
2 like a new person, or I feel healed in a way. And so I'm
3 very grateful, deeply grateful for this wonderful place that
4 we can have as a resource.

5 And as many people have said, there aren't very
6 many places on Maui that are like this. So, I really hope
7 very much that you will approve their permit and allow this
8 wonderful resource to continue. And I thank you so much for
9 your time and attention, because I know being on a committee
10 and sitting for hours is probably not as much fun as you
11 would like to have other places. But thank you for doing
12 your job. I really deeply appreciate it. Thank you.

13 CHAIR STARR: Thank you. Next will be Thomas
14 Heartfield followed by Peter Martin.

15 MR. HEARTFIELD: I want to thank you for giving
16 this discussion the time that you're giving it. And I want
17 to speak for communities. And I know that all of you live
18 in communities. And all of you are having a deep
19 relationship with this concept of aloha. And I've seen the,
20 let's say the situation at Hale Akua evolve over the last
21 ten years where I've lived about 300 yards from the
22 property. And I've seen the ongoing battles going on with
23 the bed and breakfasts of the local people trying to provide
24 aloha for a visitors to have them come and visit and not be
25 imbedded in a corporate structure, to actually feel the

1 aliveness of the communities that we all live in.

2 And I've seen Hale Akua do so many things to bring
3 the community together. So, I see Hale Akua as a community
4 center, as a place where the community can gather and speak
5 to the issues that are impinging on their capacity to live
6 with this feeling of aloha. Over the years, our
7 organization, Joan and I also teach, and we've brought three
8 or 400 people here for ten to 14 days over the last ten
9 years. And all of them have been deeply nourished by being
10 able to actually feel what's going on in the communities.

11 And I'm so grateful that Governor Abercrombie has
12 decreed a friendly atmosphere for those that are wanting to
13 have small kind businesses in the middle of the communities
14 and bring the spirit of aloha to the people that want to
15 come and visit and really live in these areas where the
16 community is functioning as a whole entity. So, I'm happy
17 to see this chapter come to a close and Hale Akua finally
18 able to breathe deeply that they conduct their business and
19 their generation of so many activities that you've heard
20 today that provide quality of life for the people of Huelo.
21 Thank you.

22 CHAIR STARR: Okay. Thank you, Mr. Heartfield.
23 Next will be Peter Martin followed by Dick Mayer. And, you
24 know, if you do have cell phones, please turn them off.

25 MR. MARTIN: Good morning, Commissioners. My name

1 is Peter Martin. I'm speaking as an individual and also as
2 a land owner on West Maui. I'm part of West Maui Land, a
3 principal, also a principal of Olowalu Land and Makila Land
4 on the West Side. Also, active in Kaua'ula lands, too.

5 I'm testifying today about Doug Posely's lot in
6 Olowalu, and it's not on the agenda until a couple of weeks.
7 I'm not even sure when it's back on the agenda. But I want
8 to use that example on the last -- his lot, I passed out the
9 pictures. But I wanted to use his lot as an example of what
10 I would call -- I don't know if you want to call it a broken
11 process, but a process that needs to be understood better.
12 And I'm constantly understanding. And all you Commissioners
13 are also, and even the Planning Department.

14 If you -- the big picture is first I wrote down,
15 "We want to learn something." You know, I love that movie
16 "Camelot". It said, if you want to be happy, learn
17 something. I hope I learn something and you learn
18 something, and I also went to go by my office to get one of
19 my favorite books by Hayek called, "Road to Serfdom." But I
20 thought I had enough copies for everyone. I didn't, so I
21 had about eight. And you guys are nine, so maybe next time.

22 But anyway, let's start with the facts. Doug and
23 Donna Posely and her parents -- now, Doug is 72 years old,
24 lived on Maui since 1956. And his parents bought this lot
25 from Olowalu from me. And some people said, well, buyer

1 beware. It was zoned agriculture as you can see on that
2 map, but it was community planned park.

3 So, he goes, well, Doug, why didn't you worry
4 about the community plan park? Well, for a couple of
5 reasons. One, single family houses are exempt from SMA.
6 So, you're wondering why is Doug Posely even here. Well,
7 and state law says -- it's bigger than County law. State
8 law says they're exempt. Well, it gets a little cloudy
9 here, but his community plan was park, designated park in
10 1992, passed in '96.

11 Did the government ever buy the land? Oh, no.
12 No, they're not going to do that. They just designate it
13 park. And they go -- and it's sloppy. If you look at this
14 map, this is a full scale. This is a map I copied from the
15 full scale map. The line between park and open space is
16 pretty hard to tell where. These people weren't thinking
17 about Doug Posely or a single family lot. They just had an
18 idea something should be park. Almost 20 years later,
19 nobody ever buys Doug's lot.

20 He comes in, wants to build a house. They go,
21 change the community plan, because it's park.

22 COMMISSION SECRETARY: Three minutes.

23 MR. MARTIN: Really, government should have
24 changed it for him. Either they should have bought it or
25 fixed, not make him spend close to \$100,000, come here with

1 his wife, testify and make him do study after study on a lot
2 that from 1848 and I think quite a bit before was a single
3 family lot.

4 CHAIR STARR: Please finish up, Peter.

5 MR. MARTIN: Okay. So, all I would like to say is
6 I hope you're willing to ask me questions if you want. And
7 in all fairness, next time this guy comes up here,
8 apologize, and let him build his house.

9 CHAIR STARR: Okay. Thank you, Mr. Martin. I
10 think Dick Mayer next. I don't know if anyone else is
11 signed up.

12 Welcome, Mr. Mayer. Please begin.

13 MR. MAYER: Thank you. I've written up a
14 statement here that I'm going to ask that you consider when
15 you consider the Auwahi wind project EIS that will be before
16 you. I'm going to read the first paragraph, and I'm going
17 to comment on some other items.

18 I first wish to state that I'm strongly in favor
19 or developing new wind energy resources on Maui, so that we
20 will have -- we will not have to continue burning fossil
21 fuels. Nevertheless, I feel it is necessary to make sure
22 that any new alternative energy project be sensitive to
23 Maui's physical and cultural environment. Therefore, the
24 following is a list of items which the Maui Planning
25 Commission should consider in reviewing and eventually

1 accepting or rejecting the environmental impact statement.

2 Your job will be to look at this draft EIS, make
3 recommendations. And then several months from now, you will
4 be asked to approve a final EIS. And I'm listing here --
5 I'm not going to read this whole document to you, but there
6 are lists here of items that need to be considered. I'm
7 just going to touch on the underlined items. The water is a
8 major issue up in that region.

9 Truck routes. I'm particularly concerned about
10 the routes through Kula. I know there are people in South
11 Maui concerned about the routes in South Maui. Potential
12 segmentation. There's a geothermal project that's being
13 discussed in that area. And is there an interaction between
14 the two? Going to the next page. Issues have been raised
15 by a number of people about land titles in that region and
16 whether they're all secure.

17 Electricity transmission route. From that remote
18 site, there will be electric lines running through Kula and
19 through Wailea into the Wailea area. The construction crane
20 is an enormous 600-ton piece of equipment. What effect will
21 that have on the local archeological sites as well as how it
22 will get up back and forth to the site. Noise from the
23 windmills themselves and prior to that during the
24 construction. Lights. Will there be a lot of lights in
25 that area?

1 This is a remote area where many people live off
2 the grid in a very rural, super rural type of environment.
3 What effect will that have on their environment? The
4 construction time frame is an issue. And just going on just
5 touching on the main items now. And I'll explain what I
6 want you to do with them. The project's viability. The
7 reliability and life span of this project and how often will
8 it have to be repaired given the large amount of salt air
9 that will be blowing through that equipment.

10 What effect will this have on Maui's electricity
11 rates? Will it be a benefit to us? Will these benefits be
12 passed on to us, or will it be absorbed in profits for the
13 wind company? Then there's a major issue which I wish you
14 would consider. And I would say the same to the Lanai and
15 Molokai Planning Commissions if it's a project they're on.
16 These projects are being built in very rural, remote areas
17 that will have a great effect on the people living in
18 Kahikinui and Kanaio.

19 Will they get any benefits of this project, or
20 will there only be disruption to their life of noise,
21 lights, et cetera? And I would hope that they will get
22 benefits from it either by having a local place where they
23 can recharge their batteries and things of this sort. Many
24 of them are off the grid. Some mechanism by which they will
25 receive benefits and not just harm from a project.

1 And finally, I would like to read the last
2 paragraph on the last page what I'm recommending. Finally,
3 I request that the Maui Planning Commission strongly urge
4 its staff to make sure that the questions raised here are
5 answered in the final EIS. And so essentially, I'm going to
6 ask you to pass this document onto your staff, so that the
7 letter that you eventually write to the people preparing the
8 final EIS include answers to these types of questions.

9 And secondly, that the Maui Planning Commission
10 itself make sure that the final EIS contains the necessary
11 and appropriate mitigation measures to protect Maui's
12 environment. In other words, they will say, yes, we will be
13 disrupting this or affecting the roads or impinging on
14 archeological sites, et cetera. I hope that as you go
15 through the final EIS --

16 CHAIR STARR: Please wrap up.

17 MR. MAYER: -- that mitigation measures are in
18 place to minimize disruptions. Thank you.

19 CHAIR STARR: Thank you. Do any other members of
20 the public wish to testify on any item?

21 MR. MAYER: Are you accepting questions?

22 CHAIR STARR: Thank you, Mr. Mayer. Any other
23 members of the public wishing to offer testimony on any
24 agenda item, please make yourself known. Not seeing any,
25 the initial public testimony portion of the meeting is now

1 closed.

2 Director, please let's move on to our agenda.

3 DIRECTOR SPENCE: Thank you, Mr. Chairman. Item B
4 has been taken care of. The director's report is Item C.
5 Commissioners have received the SMA minor permit report.
6 Are there any questions on any of the projects? I know
7 there's been some information requested.

8 CHAIR STARR: Members. I had two here, which is
9 the Gary Stice pavilion. SM 2-20110013. I don't know if
10 anyone else had requested info on that previously. And
11 also, Maui Electric Company, install overhead conductors.
12 Really I want to know if that is putting new poles somewhere
13 or just conductors. Commissioner Mardfin.

14 COMMISSIONER MARDFIN: Mr. Chairman, I would just
15 like to -- I had contacted the planner on the Gary Stice
16 property and seen the plans, but I don't have a copy of
17 them. And I also received this week an e-mail that had
18 the -- I was concerned about the -- it says approved with
19 conditions. And but I think it's perfectly appropriate for
20 the rest of the Commission to get that information.

21 CHAIR STARR: Thank you. Okay. Anything else on
22 this? Not seeing any, we'll move along to our public
23 hearings today. Director.

24 DIRECTOR SPENCE: Commissioners, we're going to
25 take up public hearings. The first item is Mr. Trent --

1 CHAIR STARR: Hold on a second. We're looking at
2 different agenda items.

3 DIRECTOR SPENCE: My apologies.

4 CHAIR STARR: There was an amended agenda
5 published for this meeting, which removed one of the -- one
6 of the items. It was felt not necessary for one of the
7 projects. Director.

8 DIRECTOR SPENCE: Okay. Commissioners, the first
9 public hearing is Mr. Trent Timmons requesting a State Land
10 Use Special Use Permit in order to operate the Honolua Hale,
11 a six-room bed and breakfast in the State Ag District at
12 Kapalua. The staff planner is Kurt Wollenhaupt.

13 CHAIR STARR: Take it away, Mr. Wollenhaupt.

14 MR. WOLLENHAUPT: Good morning, Members of the
15 Maui Planning Commission. The project before you today is a
16 request by Mr. Trent Timmons for the operation of a bed and
17 breakfast, a six-bedroom bed and breakfast in the Plantation
18 Estates homeowners subdivision, which is located in Kapalua.
19 Bill Number 3611 passed by the County of Maui does provide
20 for bed and breakfast homes to be approved on agriculturally
21 zoned land subject to the applicant having gone through the
22 requirements for the bed and breakfast application and also
23 subject to this body, the Planning Commission, approving a
24 State Land Use Commission Special Use Permit as this project
25 is located on a property less than 15 acres.

1 Just by way of history, I believe most of the
2 members would know this. In the Plantation Estates
3 subdivision, there have been two previous applications,
4 which have been approved that would have been for Ron and
5 Karen Mayuiers on Plantation Club Drive and Alfred and
6 Sharon Lapeter. At that time, there was significant debate
7 about the CC and R's. That debate has been discussed, and
8 there was a condition put on those two approved bed and
9 breakfasts that there would be a minimum of a 31-day rental
10 period.

11 That condition has also been put into this
12 application; however, I just did want to remind the
13 Commissioners that the Department does not consider, cannot
14 enforce the individual CC and R's for each neighborhood.
15 The second piece of information that I think is
16 illustrative, is the Plantation Estates owners association
17 had been looking at this B&B issue in the past. And within
18 your packet today, there is a letter from Wayne Cober that
19 expresses the support of the Plantation Estates homeowners
20 association for a bed and breakfast that can comply with
21 their CC and R's and that are approved by this body.

22 That being the case, the applicant, Mr. Timmons,
23 did adequately notice the bed and breakfast application with
24 a sign on the property. There were letters received on the
25 project; however, there were not -- there were not 30

1 percent objection. Therefore, the bed and breakfast can be
2 approved administratively by staff subject to the approval
3 of the Special Use Permit by this body today.

4 Just to give a bit of background on the letters,
5 most were in support. There were a couple that were
6 objections as they believe this is more of a commercial
7 enterprise. However, this question has been thoroughly
8 discussed by this Commission on the past two applications
9 and by the Department and that bed and breakfasts are
10 considered to be a residential use.

11 The applicant did provide a handout of a short
12 Power Point presentation recognizing a big agenda.
13 Mr. Timmons and Mr. Lloyd will be doing their short
14 presentation at this time if that's the discretion of the
15 Chair.

16 CHAIR STARR: About how long will that be.

17 MR. WOLLENHAUPT: It's about seven slides.

18 MR. LLOYD: Good morning. My name is Steve Lloyd.
19 I'm an architectural designer. I've known Mr. Timmons for
20 over four years now. I was involved with Mr. Timmons,
21 retained by him and his partners on a project on Kauai for
22 four years. And I was also one of the designers involved in
23 this project. And I just -- I do want to say that I have a
24 working relationship with Mr. Timmons, but I also consider
25 him my friend and someone who really cares about people and

1 about the community. And I appreciate that very much.

2 So, all I want to do is just kind of go through
3 the slide show to show you a little bit about the property,
4 the project. This first slide is a shot of the entrance of
5 the driveway towards the house. So, it's a hillside lot in
6 Plantation Estates. The next slide gives you a little bit
7 of an orientation where the house is. This is an overview
8 of Plantation Estates. And obviously, the dark green areas
9 are the fairways of the golf course. The yellowed-in lot is
10 Lot Number 6. That's the subject property. It's located on
11 the 16th fairway.

12 And so, from the property looking towards the 16th
13 fairway, you're looking west towards the ocean. These are
14 just some older shots that I had taken some pictures of
15 sometime ago. And it gives you a little bit better idea of
16 the surrounding area. The upper left slide is a shot from
17 the main houses where the six-bedroom bed and breakfast is
18 proposed to be. And that's a cottage, the garage and the ag
19 room below. On the right is just the driveway down to that
20 area.

21 The left shot is a shot looking more to the south
22 I believe. And then the lower right-hand shot is a shot
23 looking out towards Molokai on the 16th fairway. As it's
24 been mentioned already, this is a piece of property zoned
25 agricultural. It's outside the SMA. It's part of

1 Plantation Estates subdivision. We're proposing a
2 six-bedroom bed and breakfast application. It has met all
3 the regulations. And applicant has -- applicants have
4 responded to agency comments.

5 So, all that's been taken care of. Over 50
6 percent of the subject property has been preserved for the
7 active farming of Areca palms and Norfolk pines. I believe
8 there is 300-plus -- 300-plus trees have been planted on the
9 property, and the operation of the bed and breakfast will
10 not interfere with the agricultural production of the
11 subject property. And I'll show that on another slide in
12 just a moment. This is a little bit hard to read, but what
13 you can see here is the orientation of the house. The house
14 is on the right.

15 The cottage, garage and ag room are on the lower
16 left. And then the fairway would be to the left as well, so
17 facing west. What you can see here is up along the upper
18 property line, there's a more dense hatch. And then also on
19 the bottom of the page, a more dense hatch there. Those are
20 exclusively Areca palms. And then the hatching throughout
21 the property is the farm area as well with the combination
22 of Areca palms and Norfolk pines.

23 One other thing I wanted to point out here, which
24 we'll talk about in just a moment, but there are some areas
25 that aren't hatched. And what we wanted to emphasize here

1 is that the B&B will not have a negative impact on the
2 farming area. There's sufficient living space, exterior
3 living space on the property. There's lanais, covered
4 lanais. There's a pool area and areas around there where
5 people can enjoy the grounds.

6 And so, the farming area is actually on a steeper
7 slope area. It's not really conducive to exterior living.
8 Here is a shot of the subject property and the plantings
9 that have -- trees that have been planted on the property.
10 That's looking -- the shot on the right is from the golf
11 course area looking up back towards the house. And I think
12 it's important to understand that Mr. Timmons is dedicated
13 to agricultural -- the agricultural nature of the community
14 and provides good stewardship of the property and land.

15 It's going to be an owner-operated farm operation
16 with the owner personally growing, cultivating and
17 harvesting trees. And just as an aside, Mr. Timmons and I
18 were talking this morning, his boys are very excited about
19 being a part of this and learning about the environment and
20 these trees and how to plant them, how to cultivate them.
21 So, I think it's really a good thing for his family as well.
22 This is just to show you the floor plan of the house.
23 There's two more slides, and we can kind of go to the next
24 one probably. And all this is really showing is the six
25 bedrooms. The dark arrows that you see are just identifying

1 the second means of egress out of those rooms. Five of the
2 bedrooms have doorways to the exterior. The sixth, or one
3 of the bedrooms there on the lower right with the dark
4 arrow, that has an egress window out of that room as well.

5 And then that's just the other half of the house
6 with the other three bedrooms. Okay.

7 CHAIR STARR: Thank you very much,
8 Mr. Wollenhaupt.

9 MR. WOLLENHAUPT: I just did want to indicate that
10 as a strict requirement of this application, Farm Plan
11 2008-0007 was reviewed by our Zoning and Enforcement
12 Division. On-site inspections were done. It was deemed to
13 be approved and implemented. Therefore, that's why the
14 Department at the time the Chairman wishes can give its
15 recommendation. If there's any questions of myself, the
16 applicant.

17 CHAIR STARR: What comments did you receive from
18 neighbors?

19 MR. WOLLENHAUPT: There were -- most of the
20 comments -- the comments are in the application. As
21 indicated before, there were two residents within the
22 500-foot area that expressed concerns. Those were based
23 upon their reading and interpretation of the Plantation
24 Estates CC and R's that they believe this is a commercial
25 enterprise.

1 As stated in the past, the Plantation Estates
2 homeowners association, Mr. Cober's letter supports B&B's as
3 long as they are applicable for all of the rules and
4 regulations. So, the Department also recognizes this is a
5 residential use, so it becomes an interpretation question.
6 That was the thrust of the letters expressing concern
7 similar to those letters that were expressed at the time of
8 the hearing of Ron and Karen Mayuiers and also of Sharon and
9 Al Lapeter, who have approved B&B's.

10 CHAIR STARR: We're going to take a five-minute
11 recess. We're going to try to keep it short, because we
12 have an early lunch break. Then we'll come with questions.
13 Commissioner Freitas.

14 COMMISSIONER FREITAS: How many residents within
15 the 500 feet area?

16 MR. WOLLENHAUPT: There was a map that was located
17 on Exhibit 1, and there were 16 TMK's that were notified on
18 the B&B. That was the initial application for the 16 lots
19 within the homeowners association. There was also then a
20 second notice that was sent out for this hearing today. And
21 according to a strict interpretation of the rules of the
22 SUP, only the adjacent neighbors needed to be notified;
23 however, the applicant decided to go the full 500 feet again
24 for the SUP. So, 16 is the answer to your question.

25 CHAIR STARR: Okay. Any -- before we break,

1 Commissioner Shibuya.

2 COMMISSIONER SHIBUYA: I just -- could you help
3 me, Kurt, identify where the amendment was made to the CC
4 and R?

5 MR. WOLLENHAUPT: In the recommendations?

6 COMMISSIONER SHIBUYA: Well, there's one that says
7 that Mr. Cober, I believe, says it was amended.

8 MR. WOLLENHAUPT: Oh, there's --

9 COMMISSIONER SHIBUYA: So, I was looking for that,
10 that supports the bed and breakfast. I read the CC and R's.
11 And I did not see anything that represented approval or
12 acceptance of bed and breakfast type operation, or it does
13 specifically say no commercial activities on the properties.

14 MR. WOLLENHAUPT: Right. Exhibit 8 is a letter
15 from Plantation Estates lot owners association. And just
16 briefly, it says the Board of Directors has adopted a policy
17 of supporting bed and breakfast permits as long as the usage
18 complies with the minimal rental period of 30 days as
19 permitted by the CC and R's, and the owner complies with all
20 the State and County statutes. It is our understanding that
21 the owner, aka Mr. Timmons, in this case is in agreement.
22 Sincerely, Wayne Cober, Vice-president, Agent for the
23 Plantation Estates lot owners association.

24 So, that's been an interpretation that the HOA has
25 looked at their CC and R's. They've looked at what the

1 County indicates that B&B's are considered residential. And
2 that after their review and interpretation after the
3 discussion with the two previously approved ones,
4 Mr. Mayuiers and Al Lapeter, the HOA has determined that
5 this is a -- also a residential use; therefore, they could
6 support this as they indicated in their letter.

7 So, that's -- this has been a discussion
8 apparently at their board of directors for a considerable
9 amount of time. It does -- yes, it does say that commercial
10 activities are prohibited from the CC and R's, but B&B's
11 according to the Department are a residential activity. So,
12 there would be no mention of residential -- residential use
13 as permitted as this is a residential subdivision.

14 COMMISSIONER SHIBUYA: Mr. Chairman, I find this
15 issue, and I don't want to take up too much time, but it is
16 troublesome. And it says that if you don't like the answer
17 that momma gave you, go see daddy. And daddy will give you
18 another letter that gives you the right answer. And I find
19 this very troublesome.

20 Because in their CC and R's, property owners have
21 a right to expect certain conditions, and these conditions
22 say no commercial activity. And it clearly says that. So,
23 I'm saying why is it even before us? You need to fix and
24 clean up your act in your own community before you come to
25 see this board and commission. I feel that take care of

1 that business first, and get your CC and R's amended
2 correctly and properly.

3 MR. WOLLENHAUPT: With the respect of the
4 Commission, the bed and breakfast ordinance and the
5 Department is under instruction not to consider, not to
6 enforce the CC and R's, so we did not include the CC and R's
7 in the previous two applications, as it is not our
8 obligation, responsibility or indeed our mission to look at
9 the CC and R's. But there were questions. That's why they
10 were included in this one.

11 However, under a strict interpretation, the
12 Department, and I would presume by extension, the Commission
13 does not consider the CC and R's for any case, this one or
14 any other one as there are hundreds of CC and R's out there,
15 and we just don't have that. So, that's been our
16 interpretation from the management, that we should not be
17 looking at CC and R's. However, in the past because of the
18 Lapeter case and the Mayuiers case and an extended
19 discussion with this body, it was determined to put the
20 condition of the 31 days in in order to make the Commission
21 agree with an approval of the past.

22 So, we were trying to be amenable to give you the
23 CC and R's, even though in the ordinance, it says we're not
24 supposed to even look at them. So, it creates a difficult
25 situation here.

1 CHAIR STARR: We're going to have a comment from
2 corp counsel when we come back from our break. We're going
3 to take a short break though and then come back and discuss
4 this further.

5 (Recess taken 10:20 a.m. to 10:31 a.m.)

6 CHAIR STARR: Maui Planning Commission meeting of
7 March 22nd, 2011 is back in session. When we broke, we were
8 taking questions regarding the Honolua Hale, and there had
9 been some discussion about CC and R's and our interaction
10 with the above, whether they're actually an expression of
11 the community interests or they're something else. We're
12 going to turn to our legal representative, Mr. James Giroux,
13 for comments.

14 MR. GIROUX: I personally liked the band.

15 Anyway, looking at Chapter 19.64, that's our bed
16 and breakfast law passed by Ordinance 2609, 1997. If you go
17 to 19.64.030 under Section H, I'll just read it into the
18 record. It says, "In permitting bed and breakfast homes,
19 the Planning Director, the Planning Commission and the
20 Council shall not consider, nor be bound by any private
21 conditions, covenants or restrictions upon the subject
22 parcel. Any such limitations may be enforced against the
23 property owner through appropriate civil action."

24 So, if there's any deviation from the permit as
25 opposed to what the association may deem as it being a

1 violation of their CC and R's, they can take that up into
2 the Circuit Court and the -- what will trump the
3 CC and R's ultimately. But the County is not going to be
4 responsible for interpreting that private contract.

5 CHAIR STARR: Commissioner Shibuya, any further
6 questions or comments?

7 COMMISSIONER SHIBUYA: I feel that I am well aware
8 of the legal precedencies here relating with CC and R's and
9 bed and breakfasts. This is very troublesome because the
10 land use is noncomplying. You have agricultural zoned type
11 of property, and then you have properties that are really
12 residential, because you have improvements, all residential
13 types. And you have a CC and R that has a specific
14 provision that prohibits commercial activities within this
15 community. And then they come and try to get it resolved by
16 this Commission.

17 I feel that this Commission should not address
18 this and send this, remand this action back to the community
19 for their resolution. It's not the kuleana for this
20 Commission to pass judgment on this.

21 CHAIR STARR: Yes, Mr. Wollenhaupt.

22 MR. WOLLENHAUPT: Just a point of clarification.
23 Looking at the CC and R's that I guess we're not supposed to
24 look at, but it does indicate here that there's nothing in
25 the section that shall be deemed to prevent the leasing or

1 the renting of any dwelling from time to time by the owner
2 to a family for residential purposes and not for the
3 transient accommodation purposes, the definition of
4 transient accommodation being that the rental accommodation
5 is 30 days or less.

6 And that was why the Department had in the past
7 put in the condition that it had to be 31 days or more, so
8 that was -- that's the definition that the CC and R's have
9 on transient accommodations, 30 days or less. We put a
10 condition 31 days or more trying to address that issue as
11 best as we could.

12 COMMISSIONER SHIBUYA: I don't want to be
13 argumentative in this particular case, but CC and R's are
14 amended by the community members themselves. And either
15 two-thirds or three-fourths of the membership must vote on
16 this. And in this particular case, you have a management
17 firm that is interpreting and giving their impressions of
18 it. And this is unconscionable. You're overriding it with
19 some kind of a policy that may or may not have any bearing
20 on it. And I think they can resolve this through the
21 courts, not through this Commission.

22 CHAIR STARR: I'm a little confused here. Is the
23 rentals for this proposed B&B going to be longer than 30
24 days?

25 MR. WOLLENHAUPT: The condition that we put on,

1 and I'll read it directly, that the applicant shall not rent
2 out the bed and breakfast home for a period of time less
3 than 31 days. And that was the same condition put on the
4 previously two approved. And I worked on one of them, and
5 Mr. Dias worked on the other. And according to the KIVA
6 records, there has been no request for service, which is a
7 complaint that has been filed with the County.

8 Also, there's no request for service on record for
9 this property as a single family house.

10 CHAIR STARR: Thank you. First Commissioner
11 Sablas and Commissioner Wakida.

12 COMMISSIONER SABLAS: So, how do you enforce the
13 31-day limitation?

14 MR. WOLLENHAUPT: Well, as with anything, we have
15 a compliance report that's required for the B&B and the SUP,
16 too, that has to be delivered on a yearly basis to the
17 Department. And enforcement of any condition, the Planning
18 Department staff, as they are, you know we have conditions
19 on every project, trying to enforce the myriad of conditions
20 on any project is a matter of community involvement as well
21 as the Department doing the best it can through its
22 compliance report process.

23 Obviously, we can't have someone stationed at the
24 houses, the many B&B's that have all kinds of permits, the
25 SMA's that have permits. We just try to do the best we can

1 through the compliance report process. And it gets back, of
2 course, that this is a requirement of their HOA, so if
3 there's problems, the HOA is also going to look into that.

4 So --

5 CHAIR STARR: Commissioner Wakida.

6 COMMISSIONER WAKIDA: I have a concern in another
7 direction. I am concerned about all over the island
8 nonagricultural uses of agricultural land. And it's very
9 clear in our Hawaii Revised Statutes that says the Planning
10 Commission may permit a desired use, but only when it would
11 promote the effectiveness and objectives of this chapter.

12 And in the chapter, it goes on to say that on
13 agricultural policies, it says to direct nonagricultural
14 uses to other areas to promote agricultural lands and so on.
15 So, I have a concern with the increased use of ag -- of ag
16 lands for something like a bed and breakfast. Particularly
17 in reviewing this application, the agricultural end of it
18 seems kind of sketchy in my opinion.

19 The picture that we have, it looks more like
20 landscaping rather than serious agriculture. Trees planted
21 in the ground like this, I guess they expect the landscapers
22 that they have a contract with to dig them up. There's
23 no -- they don't seem to be in containers or at least the
24 ones in the pictures that I saw. So, I have a real concern.
25 I know that -- I mean it's clear that two other properties

1 have gotten permission. I have a real concern about this in
2 an ag area. It's ag for a reason, and I don't see that this
3 promotes the agricultural industry, this type of operation.

4 MR. WOLLENHAUPT: Of course, part of the
5 discussion on each of these ag permits is what could
6 conceivably be used in the agricultural setting. That's a
7 bigger debate as to whether or not this entire Plantation
8 Estates part of Maui Land and Pine, which was used for
9 pineapple cultivation, whether it should have ever been
10 subdivided, that's a point for another day. However,
11 recognizing that the subdivision has occurred, that these
12 are approximately two-acre lots, large scale farming aka the
13 pineapple and sugar cane production would be just not
14 possible.

15 So, the Council in 3611 did adopt the ability of
16 this body to look at how can a sense of agriculture be
17 preserved and also allow the bed and breakfasts to operate.
18 I can only say that over the period of time that I've been
19 here, there have been a number of different farming
20 operations. This one I think is -- is somewhat notable in
21 that they do have a contract with the landscaping company.
22 Part of the conditions of this are though that the B&B will
23 expire at the end of that contract, which is only until
24 January 9th, 2013. So, it's a relatively short period of
25 time to see if this indeed will work.

1 The other two applicants up there, they had -- are
2 using cuttings of different like plumeria for lei, bananas,
3 so this does seem to be within the theme of other
4 agricultural B&B's have been approved not only in
5 Plantation, but also in the Kula and also in the Haiku area.
6 Perhaps the greater discussion is that might be taken up
7 with Zoning. But the farm plan has been approved and
8 implemented, and we've been following that as required by
9 our code.

10 CHAIR STARR: Commissioner Freitas.

11 COMMISSIONER FREITAS: Yeah, I have a question.
12 Will there be multiple renters? You have six bedrooms here.
13 A couple comes in. They rent one bedroom. And then another
14 couple come in and rent another bedroom. Is this how this
15 thing is going to operate, or it's going to be just a
16 one-shot deal?

17 MR. WOLLENHAUPT: Well, now we're -- the
18 traditional B&B, six bedrooms, six families. They come and
19 they go here and there. But now we're back to the CC and
20 R's again. And the -- this bed and breakfast here is to be
21 only rented to one entity at a time for a period of time not
22 less than 31 days, so that they would not have this problem
23 that you're saying of two people come in. They go. Three
24 days later, two more come in. So, that's another
25 requirement again of the two other previous applications,

1 only at Plantation Estates.

2 However, I have to say this. Other B&B's are
3 exactly like you're saying. They come in. They go. All
4 over. This one, however, it has to be rented to one entity
5 at a time for a period of time not less than 31 days.
6 Again, an attempt -- however, whether we should be doing
7 this or not, but in an attempt to try to be in harmony with
8 the Plantation Estates lot owners association's rules.

9 So, that's the debate that we had. And so,
10 they're under the condition you can only rent to one body at
11 a time, which does obviously minimize the wear and tear, the
12 noise. And the applicant fully understands this and is
13 fully in agreement with that.

14 CHAIR STARR: How about we take public testimony.
15 Or Commissioner Wakida, and then we'll take our public
16 testimony. Then we'll continue our discussion and
17 questioning.

18 COMMISSIONER WAKIDA: One question. You said rent
19 to one family at a time. Does it say that in here? Because
20 I didn't see that.

21 COMMISSIONER FREITAS: It does.

22 COMMISSIONER HIRANAGA: It does.

23 COMMISSIONER WAKIDA: Does it?

24 MR. WOLLENHAUPT: It's been in the report. And
25 let me look at the --

1 COMMISSIONER WAKIDA: But it's not part of the
2 conditions?

3 MR. WOLLENHAUPT: The substantial compliance with
4 the representations made, that would include that the
5 applicant is going to have to do the representations which
6 were made in the report, which talks about that. But that
7 could certainly be a recommendation of the body that we have
8 added an additional condition specifically stating that it's
9 only rented out to one entity at a time. That's been vetted
10 with the client. They understand that. Plantation Estates
11 lot owners association knows that.

12 So, we can certainly craft something to those
13 words and to that effect.

14 CHAIR STARR: I suggest you do that. And, you
15 know, to my mind, any representations made should be
16 memorialized in conditions. And I think that if they're not
17 in a condition, they're not worth the paper that they were
18 written on. Let's take public testimony and continue our
19 discussion.

20 I would like to invite members of the public who
21 wish to offer testimony on this item to come forward. Any
22 members of the public wish to testify on this item? Not
23 seeing any, public testimony is closed. Commissioner
24 Mardfin.

25 COMMISSIONER MARDFIN: I have a number of

1 questions.

2 CHAIR STARR: Go ahead.

3 COMMISSIONER MARDFIN: Does the owner currently
4 live on the property?

5 MR. WOLLENHAUPT: Yes, they do.

6 COMMISSIONER MARDFIN: How long has the owner
7 lived on the property?

8 MR. WOLLENHAUPT: I think the owner is best to
9 address those questions.

10 MR. TIMMONS: A year and a half.

11 CHAIR STARR: Stand up at the mic and introduce
12 yourself.

13 MR. TIMMONS: I've lived on the property for a
14 year and a half.

15 CHAIR STARR: Please introduce yourself.

16 MR. TIMMONS: Trent Timmons. I'm the owner and
17 applicant.

18 COMMISSIONER MARDFIN: Have you been operating as
19 a B&B in the past?

20 MR. TIMMONS: I have not.

21 COMMISSIONER MARDFIN: Have not at all. You have
22 an agricultural plan. Have you sold agricultural products
23 in the past?

24 MR. TIMMONS: I have not. The farm plan has just
25 recently been implemented.

1 COMMISSIONER MARDFIN: And you just signed a
2 contract in January, I believe?

3 MR. TIMMONS: Correct.

4 COMMISSIONER MARDFIN: Are you aware that if
5 you'll get the B&B, you'll have to give up your home tax
6 exemption?

7 MR. TIMMONS: I am.

8 COMMISSIONER MARDFIN: Thank you.

9 CHAIR STARR: Members. Commissioner Wakida.

10 COMMISSIONER WAKIDA: There's a letter in here
11 from the -- well, maybe I can ask you -- from the Department
12 of Health about the wastewater system didn't get final
13 approval. What's the up --

14 MR. TIMMONS: The engineer is working with the
15 County. It's my understanding that's either resolved or
16 closed.

17 COMMISSIONER WAKIDA: It's what?

18 MR. TIMMONS: It's resolved or closed. The
19 on-site inspections have been concluded, and the engineer
20 was finalizing that with the County was my understanding.
21 I've discussed that with Kurt, and we were going to have
22 that as a condition as a final approval is my understanding.

23 COMMISSIONER WAKIDA: Thank you. Thank you.

24 CHAIR STARR: Commissioner Mardfin.

25 COMMISSIONER MARDFIN: We had public testimony,

1 and Sergio Alvarez was not here to testify, but I have their
2 letter, which is in the packet. I want to ask you a couple
3 of questions.

4 MR. TIMMONS: Sure.

5 COMMISSIONER MARDFIN: They say the
6 owner/proprietor does not live on site. You're telling me
7 that's incorrect?

8 MR. TIMMONS: That's absolutely not the case. My
9 business is here.

10 COMMISSIONER MARDFIN: They say there's currently
11 no agricultural use of the property, nor has there been for
12 the past two years. You're saying basically that's
13 accurate?

14 MR. TIMMONS: There has not been for the past two
15 years, that is accurate.

16 COMMISSIONER MARDFIN: This is a gated community,
17 isn't it?

18 MR. TIMMONS: It is.

19 COMMISSIONER MARDFIN: That's the main things I
20 think that were brought up in this. Thank you.

21 CHAIR STARR: Okay. Members, if no further
22 questions, thank you, Mr. Timmons.

23 MR. TIMMONS: Thank you.

24 CHAIR STARR: If we could have the recommendation
25 and then possible action.

1 MR. WOLLENHAUPT: I was talking to Mr. Fasi, and
2 he was indicating that, of course, the Special Use Permit
3 does allow these nonagricultural activities, which the
4 Department did outline in their report in somewhat great
5 length about the five points that were brought before the
6 Special Use Permit.

7 That being the case, the recommendation of the
8 Planning Department would be the approval of the Land Use
9 Commission Special Use Permit subject to the conditions as
10 outlined on the green paper. The first one being that it
11 would be valid until January 9, 2011, that subsequent
12 extensions would have to then go through the process of
13 getting a new contract signed and approval by our Zoning and
14 Enforcement Division.

15 I won't read all of the additional conditions,
16 except we were going to need to craft a new one such as to
17 the effect that the applicant shall not rent out the bed and
18 breakfast home to more than one family aka or entity. I'm
19 not sure if someone has better language, but that would --

20 CHAIR STARR: What's the number of that new
21 condition?

22 MR. WOLLENHAUPT: That would be Condition
23 Number 9.

24 CHAIR STARR: And that's part of the
25 recommendation?

1 MR. WOLLENHAUPT: Yes, sir, that is correct.

2 CHAIR STARR: Okay. Members, any further
3 questions, or would someone like to make a motion? Possible
4 motions are to recommend approval, recommend denial, or to
5 move for a deferral. Commissioner Shibuya.

6 COMMISSIONER SHIBUYA: I move for denial based on
7 the fact that the CC and R's are specific. And they say no
8 commercial activity. And the respecting property owners'
9 rights, I think that this Commission is not the body to
10 adjudicate on this type of matter. Therefore, I'm going to
11 be asking for the dismissal of this action.

12 CHAIR STARR: Yeah, Mr. Giroux has a comment.

13 MR. GIROUX: Warren, we hear your motion.
14 However, I just want to point that I read into the record
15 that Section 19.64.030. And it says that the Commission
16 shall not consider. And I would hate for the motion to be
17 based on something that the law specifically says not to
18 consider.

19 CHAIR STARR: Yeah, I'm going to ask you to hold
20 that motion for legal reasons. I would ask if you do want
21 to make a motion, that it be based on some other criteria
22 such as impacts to -- you know, not, you know, in
23 furtherance of community plan, and, you know, maybe
24 something to do with the wastewater, whatever, but not
25 having it based solely on that one area of discussion.

1 COMMISSIONER SHIBUYA: Okay. I withdraw.

2 CHAIR STARR: Director Spence.

3 DIRECTOR SPENCE: Thank you, Mr. Chairman. What's
4 before the Commission, excuse me, is a Special Use Permit
5 State Land Use Commission Special Use Permit. There are
6 guidelines outlined in Land Use Commission administrative
7 rules. There are five guidelines. One is the issue may not
8 be contrary to the objectives sought by the chapters in 205.
9 You know, we've -- they may be limited, but they are doing
10 farming on the property, and they are using an existing
11 home. The second one, the desired use will not adversely
12 affect surrounding property.

13 The -- we haven't heard any testimony, but we
14 certainly have some letters for and con, mostly in favor.
15 The use would not unreasonably burden public agencies. We
16 haven't heard anything from public agencies. And I would
17 comment to the Department of Health, what they're -- what
18 they're doing, anytime you pull a building permit for a
19 residence, the Department of Health wants to see the plans
20 for a septic system.

21 What they then want after the fact -- they
22 review and approve the septic system as part of the building
23 permit. What they're doing after the fact is they're saying
24 we want as-builts. We want to see where it was finally
25 located, that kind of thing. That's the question by the

1 Department of Health. So, we don't have any indication that
2 there's a -- there's a burden on public agencies.

3 Unusual conditions and trends have arisen. And
4 then finally, the land on which the proposed use is sought
5 is unsuited for the uses permitted within the district. So,
6 those are the criteria before the Commission. Those are the
7 legal things that are set before the Commission. And we
8 have already had clarification from corp counsel as to what
9 is not before the Commission. I just wanted to make that --

10 CHAIR STARR: Okay. Members, so Chair would be
11 receptive to a motion either for approval, denial or
12 deferral. Any of the above? Commissioner Wakida.

13 COMMISSIONER WAKIDA: I am not going to make a
14 motion, but I am going to stand by my concern. Because I
15 feel that the first item, excuse me, for special permit
16 application is not followed. I feel that there's -- we're
17 just deviating so strongly from the spirit of ag lands.

18 CHAIR STARR: Why don't you put that in the form
19 of a motion.

20 COMMISSIONER WAKIDA: You could --

21 CHAIR STARR: If you feel it's not in the spirit
22 of the zoning and community plan, then make it as a motion,
23 as a motion to deny or to defer or whatever.

24 COMMISSIONER WAKIDA: I shall. I move to deny
25 this application based on the fact of Chapters 205 and 205-A

1 of the Hawaii Revised Statutes.

2 CHAIR STARR: Is there a second?

3 COMMISSIONER SHIBUYA: Second.

4 CHAIR STARR: So, we have a motion by Commissioner
5 Wakida, seconded by Commissioner Shibuya. The motion is?

6 DIRECTOR SPENCE: To deny the application based on
7 205, Chapter 205.

8 CHAIR STARR: Okay. And comments or amendments.
9 Chair would welcome any additional specificity in favor, or
10 anyone speaking in favor of the motion. Commissioner
11 Hiranaga.

12 COMMISSIONER HIRANAGA: Just a comment regarding
13 ag use. The applicant prior to submitting his application
14 for this B&B permit was not engaged in ag use. But in order
15 to qualify for this application, he had to put at least 50
16 percent of his property into ag use, so it actually promotes
17 ag use.

18 He's increased the property's ag use by 50 percent
19 in order to comply, so I cannot support the motion to deny.

20 CHAIR STARR: Members. Commissioner Mardfin.

21 COMMISSIONER MARDFIN: I also want to comment.
22 And I'm a little troubled by some of this, too. But I'm
23 going to vote against, I'm afraid, the motion to deny. And
24 my reason is primarily based on Exhibit 3. Granted this
25 contract was for January 2011, but he does have an agreement

1 to sell a minimum of 100 containers per year. If you look
2 on the back of the sheet, it says depending on what he
3 sells, it's somewhere between \$350 and \$500 each. Well, if
4 it's \$500 each times 100.

5 That's \$50,000 worth of ag. I wish it were
6 already in operation. I would feel a lot more comfortable
7 if it were. But I think on the -- since this is -- except
8 for renewal in a few years, I'm going to vote against the
9 motion to deny. But when it comes up for renewal, I hope
10 the Department will look at it seriously.

11 CHAIR STARR: Members. Commissioners Sablas.

12 COMMISSIONER SABLAS: I would be supporting the
13 motion to deny. I think if he truly wants to farm, come
14 back when it's ready to farm, when he's actually farming.
15 And we'll consider the application then.

16 CHAIR STARR: Yeah, I -- in my own experience, it
17 takes several years to actually bring these kind of palms to
18 market, so it's probably a ways down the road. You know,
19 there may be some discussion about whether this was an
20 existing dwelling or this was kind of a hotel built for this
21 purpose. Anyway, members, are we ready to vote?

22 Commissioner Hiranaga.

23 COMMISSIONER HIRANAGA: Can I ask a clarification
24 from staff?

25 CHAIR STARR: Yeah.

1 COMMISSIONER HIRANAGA: Has the ag use been
2 implemented at this point?

3 MR. WOLLENHAUPT: Yes, the ag use has been
4 implemented, approved by our zoning and enforcement.
5 On-site inspections have been completed.

6 COMMISSIONER HIRANAGA: By implementation, that
7 means the trees are in the ground?

8 MR. WOLLENHAUPT: That is correct.

9 COMMISSIONER HIRANAGA: Okay. Thank you.

10 MR. WOLLENHAUPT: Just one other thing. This is
11 unusual there is a contract, which is perhaps a higher
12 threshold than people who just have cuttings and plantings
13 and banana trees, so that's part of the reason the
14 Department was more happy to recommend approval is they
15 actually have proof they're in an ag operation that has a
16 contract.

17 CHAIR STARR: Okay. Thank you. Commissioner
18 Tagorda.

19 COMMISSIONER TAGORDA: What I'm going to do is I'm
20 going to support approval for the bed and breakfast, but I
21 want to see a letter from the Department of Health when you
22 submit your septic tank report from your engineer that it's
23 been approved. That's my concern.

24 Because I know there will be more people occupying
25 the property, and that septic tank probably was too small.

1 It's going to be too small for the use presently for the bed
2 and breakfast. That's my only concern, and I think you
3 folks never mentioned about the parking on site. You guys
4 going to have a problem with the parking on site?

5 MR. WOLLENHAUPT: The parking has been approved by
6 the zoning. There is adequate parking for the six spaces of
7 B&B and the two for the cottage. So, the zoning department
8 had approved the parking, so yes, there's sufficient parking
9 on site for the house according to the rules of the B&B.

10 There's a three-car garage, plus a two-car garage.
11 Plus there's also a circular driveway, yes.

12 COMMISSIONER TAGORDA: Lastly, Mr. Chair.
13 Mr. Timmons, would you have a problem meeting your signed
14 agreement with that landscape company about your production
15 of palm trees?

16 MR. TIMMONS: I'm sorry, repeat the question,
17 please.

18 COMMISSIONER TAGORDA: My question is about your
19 signed agreement with the landscape agreement, who is going
20 to buy your palm trees. I saw them on the ground. It's too
21 small. It's going to take a lot of years before they grow
22 up.

23 MR. TIMMONS: Absolutely. I think it's important
24 to note that I do have another signed agreement as well for
25 the purchase of plants. Norfolk pines are very valuable.

1 They're very desirable, especially in West Maui. And I do
2 have another company that has signed an agreement with me to
3 purchase Norfolk pines. They're very desirable.

4 CHAIR STARR: We have a motion on the floor.
5 We're going to vote on the motion. The motion is for
6 denial. All in favor of the motion, please raise a hand.

7 DIRECTOR SPENCE: Three in favor.

8 CHAIR STARR: All opposed, please raise a hand.

9 DIRECTOR SPENCE: Five against.

10 CHAIR STARR: So, the motion fails.

11 DIRECTOR SPENCE: The motion fails.

12 CHAIR STARR: Is there anyone who would like to
13 make a different motion? Commissioner Mardfin.

14 COMMISSIONER MARDFIN: I don't want to make a
15 motion. I want to ask a question.

16 CHAIR STARR: We really need to move along. Go
17 ahead.

18 COMMISSIONER MARDFIN: My question is on your list
19 of owners -- this is Exhibit 1 -- it lists Plot 7, which is
20 the applicant, as being located, the owner, Mokuleia Place
21 Trust, is located at Sherman Oaks, California. How does
22 that square with living on the property?

23 CHAIR STARR: We'll have the owner come up.

24 MR. WOLLENHAUPT: That's an adjacent residence.

25 That's not --

1 COMMISSIONER MARDFIN: Seven is not his?

2 MR. WOLLENHAUPT: No, no, no, that's not his.

3 Seven is an adjacent. The homeowner is subject -- if you
4 look on Exhibit Number 1 map, second page map, you're
5 talking about the Sherman Oaks. That's a -- that's another
6 land owner.

7 COMMISSIONER MARDFIN: So, which one is this?

8 CHAIR STARR: Could we get a motion?

9 MR. WOLLENHAUPT: Number 7 on the map.

10 COMMISSIONER MARDFIN: I want to find out where on
11 the list the applicant is.

12 MR. WOLLENHAUPT: The applicant is not on the
13 list, because this was --

14 DIRECTOR SPENCE: They don't show up on those
15 lists.

16 MR. WOLLENHAUPT: This is the list notified within
17 500 feet.

18 CHAIR STARR: Would someone like to make a motion,
19 please; approve, deny, defer? If you can't decide, then
20 defer. But please do something, someone, please.
21 Commissioner Hiranaga. Come on, help us out.

22 COMMISSIONER HIRANAGA: Motion to approve as
23 recommended by staff with the additional condition. Did you
24 include that about the 31 days?

25 MR. WOLLENHAUPT: The 31 days is included, but the

1 additional condition had to do with only renting to one
2 family. And that was --

3 COMMISSIONER HIRANAGA: Okay. Thank you.

4 CHAIR STARR: Is there a second?

5 COMMISSIONER TAGORDA: Second.

6 CHAIR STARR: Moved by Commissioner Hiranaga,
7 seconded by Commissioner Tagorda. The motion is?

8 DIRECTOR SPENCE: To approve the Special Use
9 Permit as amended.

10 CHAIR STARR: All in favor, please raise their
11 hand.

12 DIRECTOR SPENCE: Five aye's.

13 CHAIR STARR: All opposed.

14 DIRECTOR SPENCE: Three nay's. Motion is carried.

15 CHAIR STARR: Congratulations. Could we move
16 right into the next one?

17 DIRECTOR SPENCE: Commissioner, I'm going to
18 let -- I'm going to let Deputy Director Michele McLean take
19 over. The applicant in this case is a former client of
20 mine.

21 CHAIR STARR: Okay. Thank you, Director.

22 I'm going to ask Deputy Director Chouteau --
23 McLean, McLean to introduce our next item.

24 DEPUTY McLEAN: Thank you, Chair. Good morning,
25 Commissioners. The next item is Sunrise Center,

1 Incorporated requesting the following land use entitlements
2 on approximately 7.85 acres of land for the Hale Akua Garden
3 Farm Retreat Center at 110 Door of Faith Road, TMK
4 2-9-9-007:056, 057 and 053, Huelo, Haiku, Island of Maui.

5 State Land Use Commission Special Use Permit and
6 County Conditional permit to operate a retreat center by an
7 educational organization providing classes and workshops on
8 Hawaiian culture, sustainable living, communication and
9 health, with all classes including an agricultural component
10 and also providing accommodations for students and teachers
11 on land located within the State and County agricultural
12 districts.

13 MR. FASI: Thank you. And congratulations,
14 Commissioner Starr, and I wish you well on your next
15 endeavor.

16 CHAIR STARR: Thank you, Mr. Fasi. I'm not going
17 to repeat what the Deputy Director just said. I'm just
18 going to get into it. I know you want to move this thing
19 along. It is located within the special management areas.
20 It should be noted the applicant filed for a County Special
21 Use Permit, but the determination was made by the Department
22 that it was not necessary, so we retracted that requirement.

23 The applicable regulations are Chapter 205-6 of
24 the Land Use Commission, Title 19 of Maui County Code,
25 Chapter 1930-A, special uses in the ag district, and Maui

1 County Code Chapter 19.4 conditional permits.

2 Very briefly, Hale Akua Garden Farm Retreat Center
3 is situated in Huelo approximately 12 miles distance on the
4 Hana side of Paia Town. There are three parcels involved
5 for a total of 7.65 acres. All the parcels are owned by the
6 applicant. Of these three -- of these three parcels, there
7 is a total of nine structures, including 18 bedrooms, 14
8 baths, three half-baths and six kitchens.

9 I just want to point out that our Zoning and
10 Enforcement Division is working very closely with the
11 applicant and trying to get them permitted and get them
12 through the after-the-fact permitting process. Water is
13 served from a private well system. They do -- recently
14 converted to cesspool -- I mean septic tank system. The
15 applicant is requesting two requests, an ag education
16 program for ag and nonag related uses, and overnight
17 accommodations for the students and teachers.

18 There is no construction-related activity
19 associated with this application. My report listed 15
20 overnight accommodation rooms. I need to amend that to 12
21 since the report was written. It is -- has been agreed to
22 by the neighboring property owners and the applicant that
23 the 12 is an acceptable number. And that is an acceptable
24 number to the Department as well. As far as the State Land
25 Use Commission Special Use Permit is concerned, it is in the

1 state ag district. As such, any of the proposed uses on the
2 subject property which are not permitted or related to an ag
3 use will require a State Land Use Commission Special Use
4 Permit and also a County conditional permit. And this is an
5 important distinction.

6 You're going to have to bear with me because I
7 want to get this on record. Chapter 205-2 districting and
8 classification of land, and this is from 205, that ag
9 districts shall include activities or uses as characterized
10 by the cultivation of crops, orchards, forage, et cetera,
11 et cetera, bonafide agricultural services and uses, which
12 support the ag activities of the fee or leasehold owner of
13 the property.

14 Per this statute, the overnight accommodations can
15 be considered as a use which supports this particular
16 activity because they are housing the students as well as
17 instructors on site. And that's kind of a critical
18 component of this whole application here. So, the
19 distinction that I wanted to try and make you understand is
20 that these are overnight accommodations and not TVR use,
21 okay. The distinction has to be understood there.

22 Chapter 205-6 also allows for the establishment of
23 unusual and reasonable uses in the state ag and rural
24 districts. Consideration for what is unusual and reasonable
25 is determined by the Hawaii Administrative Rules Chapter 15.

1 And the Director read the five criteria to you earlier in
2 regard to the previous application. I'm not going to repeat
3 them here.

4 But the applicant has to meet all five criteria in
5 order to be eligible for consideration. The Department has
6 determined that the proposed use by the applicant meets the
7 five criteria and satisfies the requirements for a State
8 Land Use Commission special permit. I also want to point
9 out that the sole designation is not ALISH. It's not
10 Agricultural Lands of Importance to the State of Hawaii.

11 It is rated with a soil level of D. It's not A or
12 B, which is prime ag. And so, therefore, we feel that the
13 proposed use is suitable for this particular property. As
14 far as County land use regulatory review, the Department
15 determined that a conditional permit is required for several
16 reasons. It's in the County ag district. The proposed
17 nonag uses such as yoga, meditation, personal well-being
18 classes, et cetera, do require a conditional permit in order
19 to have these nonag uses in the ag district.

20 Also, Hale Akua's proposed overnight
21 accommodations will trigger the conditional permit as well.
22 And so, therefore, the conditional permit is required by the
23 Department. I could get into this in a little more detail,
24 but basically to make a long story short, the Department has
25 concurred and determined that the State Special Use Permit

1 and the County conditional permit is appropriate in this
2 particular instance. Although they do have overnight
3 accommodations, they are not TVR's. They are doing bonafide
4 hands-on agriculture in the ag district. Thank you.

5 CHAIR STARR: Okay. And thank you for the
6 in-depth analysis, Mr. Fasi. That was a good presentation.

7 Before we begin, I want to ask how many people who
8 have not testified before are likely to testify on this?
9 I'm going to depart from our usual sequence, because we are
10 going to need to break quite early for lunch. And so,
11 I'm -- if it's okay with the members, we're going to take
12 testimony so that they can testify and not have to wait
13 around, because we'll probably have to come back to finish
14 it.

15 So, I want to invite members of the public who
16 would like to testify to come on up and introduce yourself.
17 Try to keep it short. Who wants to come up first?
18 Mr. Mina, come up and introduce yourself.

19 MR. KAHIAMOE, JR.: Hi. Good morning, everybody.
20 Mr. Chairman and members of the board, my name is Moses
21 Kahiamoe, Jr. This is my father. We are the original
22 owners of said properties in the area. So, I just want to
23 -- if he needs any help, I'll be here to assist him.

24 CHAIR STARR: Stay with him, but first your father
25 is going to testify, and have him introduce himself. And

1 I'm glad you're here. So, come up to the microphone, and
2 give us your name.

3 MR. KAHIAMOE, SR.: My full name is Moses
4 Kahiamoe, Sr. I was born and raised in Huelo, and I'm the
5 oldest one right there now. My mom and dad, they both pass
6 away, my uncle, my grandma. My great-grandma died, 104
7 years old. So, I'm next in line there to take care. I want
8 to say that the property that Lori Grace is doing is
9 wonderful, and I want to make sure that my son and my
10 grandchildren, who is coming up, we want to make sure
11 everything is right and by the law. So, thank you guys for
12 hearing my testimony. And I'm supporting of Grace.

13 CHAIR STARR: You're supporting?

14 MR. KAHIAMOE, SR.: Yes.

15 CHAIR STARR: Thank you for coming in today.

16 MR. KAHIAMOE, SR.: You're welcome.

17 CHAIR STARR: Come. Introduce yourself.

18 MR. KAHIAMOE, JR.: My name is Moses Kahiamoe, Jr.
19 I live on the said property. Born and raised over in that
20 area, and I just want to stress this. My feelings about the
21 whole situation is pono. I don't want to see this go out
22 into something different what it was intended for. So, my
23 voice of what I'm saying is that I was born and raised there
24 with our family, only the ones in that area.

25 And because people's testimony saying the place is

1 so beautiful and nice, yes, that is true. And that is why
2 we want to keep it that way. So, in the future planning
3 decisions, you know, I don't know if somehow a point if we
4 look ahead that we can still maintain the integrity of what
5 the place was originally made for, the blessing it was and
6 it is today. Thank you.

7 CHAIR STARR: Okay. Thank you. Mahalo.

8 And please introduce yourself, and welcome.

9 MS. DECODOSTERD: Aloha. My name is Kutira
10 Decodosterd. And I consider Moki as our unofficial mayor of
11 Huelo. He is really our elder. We look up. We ask for
12 guidance, and we are a thriving community. I'm there since
13 1988, and Jonathan Starr, I am so glad to be here for your
14 last official -- you were here when I was up here almost
15 three years ago.

16 I have an off-the-grid place where we work hard,
17 and we teach our young people about sustainability. Myself,
18 I feel so blessed Hale Akua has given me education and
19 tools. I'm now a certified permaculture designer. I have
20 learned -- I go there. I pick up my greens I'm not able to
21 grow on my place. We exchange. And about the body and the
22 soil, as we are getting to places in our lives we have to
23 take care, not only of our body and educate, we also have to
24 know how to treat our soil, and Hale Akua is a tremendous,
25 beautiful example to all of us. And our community is more

1 worth than the real estate. For me to know that I belong to
2 a neighborhood I can call up, down the line, up, down, is
3 more worth than anything.

4 And I feel honored to know that Moki and the
5 Kahiamoe family and Hale Akua Garden has kept that for me,
6 and I don't want to go anywhere else than be there. I
7 deeply hope you can grant that application to the Hale Akua
8 Garden Farm, because they're the heart of our community.
9 Thank you.

10 CHAIR STARR: Okay. And thank you for coming
11 today. Mr. Mina. Good to see you down here today, Vincent.

12 MR. MINA: Aloha.

13 CHAIR STARR: Aloha.

14 MR. MINA: I would like to just draw the attention
15 to the box of diversity that the folks from Hale Akua
16 brought up here. I'm a small farmer. I just came from my
17 farm to be here, because it's important to me. We started
18 an organization back in 2001 called Maui Aloha Aina, and
19 it's an educational outreach organization. And I met Lori
20 Grace, she same to my conference. I didn't know who she
21 was, but what struck me about her was her passion around the
22 message that we had, what our mission is, to promote
23 life-nurturing practices for the body and the soil.

24 Like Kutira was just saying, it's all one, yeah,
25 folks. And so, in this day and age of our farms becoming

1 smaller, the importance of diversity becomes so important.
2 Hale Akua Garden Farm, and I stress the word farm, because
3 they are farming, it's beautiful to see the commercial
4 aspect of their small acreage turning into a production of
5 fruits and vegetables that is being commercially marketed as
6 a farm and the people that come in to be educated in these
7 ways.

8 It's heartening, because younger people now are
9 wanting to farm. They're seeing that it's an attractive
10 livelihood. It's not miscreates that are being sought out
11 to farm. And so, being of a small farmer who has a son who
12 works on our farm, you could have knocked me over with a
13 feather when he said he wanted to come back and work on the
14 farm to make a living. So, it's really important that we
15 have these type of places to help educate our youth. And we
16 just recently had a five-day County-funded agricultural
17 design conference that we were -- that Lori was gracious
18 enough to support our being there for those five days.

19 We brought people over from the mainland, experts.
20 They were able to be housed there. So, we not only got the
21 opportunity of working with 40 people locally to design this
22 plan for Maui County during the day, but at night, we were
23 able to still be there because we were housed there to kuka
24 with each other and continue the process over those five
25 days. So, it was really a beautiful situation. So, I would

1 like -- I can't stress enough the importance of these kind
2 of entities coming to be more developed on our island, so we
3 can truly become food security and have our sustainable -- I
4 mean all these great words, sustainability and food
5 security. But Lori has put the action behind it, and that's
6 what is encouraging to me, yeah.

7 So, mahalo nui. And thank you for all your work,
8 Jonathan, over all the years. I didn't realize today was
9 your last day here, so I'm privileged to be here. Thank
10 you.

11 CHAIR STARR: Thank you, Vincent. And thank you
12 for the work you do. He's -- for those who don't know him,
13 he's really a rising star in producing food for local
14 consumption and educating people about how to -- how to do
15 it in the best way possible.

16 Who else would like to come and testify at this
17 time? Please come on forward.

18 CHAIR STARR: You testified before. Did you
19 testify on this one or another one?

20 MR. GAGNE: I testified on this one.

21 CHAIR STARR: We usually ask people to testify
22 just once on an item.

23 MR. GAGNE: Okay, thank you.

24 CHAIR STARR: We got it from before.

25 MR. GAGNE: I do support it.

1 CHAIR STARR: Ms. DeNaie, welcome, welcome. Good
2 to see you.

3 MS. DeNAIE: Good morning, all. Lucienne DeNaie.
4 And thank you for your service, Chairman Starr and
5 Commissioner Tagorda. I'm sure there's good things in both
6 of your futures. I'm here to testify in support of this
7 project. I am a neighbor. I drive by this place every day.
8 I get my vegetables there. It's real ag. They really have
9 a farm. They didn't start like last week or last month to
10 qualify for a permit. They've been doing it for years.
11 They've been having these classes for years. They've been
12 open to the community for years to try to bring people
13 together when there's a need to have a place to meet.

14 It's -- I have to say that my support of something
15 always has to be earned, and this place has earned that
16 support. They have really provided a service and I think
17 hopefully a new model for our neighborhood of reaching out
18 to folks, hearing their concerns, not just telling them
19 their concerns are wrong, so there's no problem, but really
20 listening to the concern and saying, okay, here is how we
21 would like to deal with that. We hear you have some
22 concerns.

23 This is what we need. If more projects did this,
24 you wouldn't have these divided communities that we have
25 about this is bad, and this is good. We would have worked

1 it all out and saved you folks a lot of time. So, I do
2 support what they're trying to do. I do support. I think
3 they qualify for having these permits. They're doing a good
4 job, and they're in harmony with our neighborhood, so thank
5 you for your consideration.

6 CHAIR STARR: Okay. Thank you, Ms. DeNaie.
7 Anyone else wishing to testify on this? Not seeing any,
8 testimony is closed.

9 We have a couple of minutes before we need to head
10 out. Mr. Fasi, is there a Power Point?

11 MR. FASI: There's about a ten-minute presentation
12 by the applicant's representative if you want to see it. If
13 not, we can go into the recommendation.

14 CHAIR STARR: Is it a short ten or a long ten?

15 MR. FASI: I don't know.

16 CHAIR STARR: Let's keep it short, and we'll see
17 it now. And then we've got to head out.

18 COMMISSIONER MARDFIN: Chairman Starr, can I ask a
19 couple of quick questions and have the presentation after
20 lunch?

21 CHAIR STARR: Yes, that's certainly fine. I'm
22 worried about time utilization.

23 COMMISSIONER MARDFIN: I understand. I'll try to
24 be quick.

25 CHAIR STARR: Go ahead, Commissioner Mardfin.

1 COMMISSIONER MARDFIN: And I think I want to ask
2 the land owner, the applicant, if you may, if she could come
3 up.

4 MR. HIRANO: Lori Grace.

5 CHAIR STARR: And please introduce yourself, and
6 welcome.

7 MS. GRACE: I'm Lori Grace, and first of all, I
8 wanted to say that I was so moved to feel all the love and
9 support. I've been here since 1984, and I really became
10 passionate about agriculture, and I just feel so moved, I
11 need to feel recognized. And I so want to contribute to
12 Maui. I just had to put those emotions aside before I
13 answer any questions. Thank you everyone so much.

14 CHAIR STARR: Okay.

15 COMMISSIONER MARDFIN: I have a couple of quick
16 questions I hope. You've been engaged in agriculture for
17 many years now, I understand; is that correct?

18 MS. GRACE: Very actively since 2007.

19 COMMISSIONER MARDFIN: And for the last year, do
20 you have a rough approximation of how much agricultural
21 sales you have?

22 MS. GRACE: Yeah, Lisa could probably -- the total
23 amount of money?

24 MR. HIRANO: \$28,000 a year.

25 MS. GRACE: \$28,000 a year.

1 COMMISSIONER MARDFIN: And you've paid general
2 excise taxes on that, I presume?

3 MS. GRACE: Yeah.

4 COMMISSIONER MARDFIN: Do you have any plans to
5 hold either weddings or wedding receptions on the property?

6 MS. GRACE: No, not at all.

7 COMMISSIONER MARDFIN: And my last one. The plan
8 is to -- there's a condition that the housing be for
9 students and teachers?

10 MS. GRACE: Uh-huh.

11 COMMISSIONER MARDFIN: Would you explain to me how
12 that will work? Will there be students and teachers there
13 for an entire semester, or will they be for a week at a time
14 or a night at a time?

15 MS. GRACE: Most of our courses are either in a
16 weekend format, two days, two-and-a-half days are the ones
17 that we like to do, or in a five-day format. And when they
18 are there right on the land learning about farming, learning
19 and eating the food that they're learning about, they stay
20 on the property. We also have some people who commute. You
21 know, there might be some students locally, because we've
22 had local education as well.

23 COMMISSIONER MARDFIN: But it's -- it's not like a
24 semester long course or anything like that?

25 MS. GRACE: No, they're short. They're short.

1 COMMISSIONER MARDFIN: Thank you very much.

2 CHAIR STARR: Okay. Commissioner Wakida first.

3 COMMISSIONER WAKIDA: I have a quick question,
4 just clarification. I'm a little confused on the difference
5 between Hale Akua and Sunrise Center.

6 MR. HIRANO: Hale Akua is the name of the
7 property, but Sunrise Center is the applicant, is the
8 nonprofit organization that runs and manages the Hale Akua
9 and the educational programs.

10 COMMISSIONER WAKIDA: And how long has that been
11 in existence?

12 MR. HIRANO: Sunrise Center was established I
13 think in 1989 in California, and recently established in
14 Hawaii in 2007.

15 COMMISSIONER WAKIDA: Okay. Thank you.

16 CHAIR STARR: Okay. Members, any other questions?
17 Commissioner Shibuya.

18 COMMISSIONER SHIBUYA: Just a clarification for
19 the owner, Lori Grace. It's just dealing with a question of
20 massage. I understand holistic type of operations, and
21 you're talking about classes of nutrition and classes of
22 aquaculture or ag culture. And massage is part of it. I
23 just read about it, but I didn't see it in the conditions.

24 CHAIR STARR: Mich, why don't you let Lori answer.

25 MS. GRACE: Years ago, we were also operating

1 retreats before 2007. Then we closed down in compliance
2 with the changes going on. And there were some massage
3 workshops there. There was also somebody from out of -- if
4 there was a student who in the off hours wanted to get a
5 massage, there's some local neighbors that are certified
6 that could come to the property. That's all it was.

7 COMMISSIONER SHIBUYA: So, it is an axillary
8 service, it's not a primary service?

9 MS. GRACE: No, it's not at all a primary service.

10 COMMISSIONER SHIBUYA: It's not a primary service?

11 MS. GRACE: No.

12 COMMISSIONER SHIBUYA: I just wanted to --

13 MS. GRACE: Yeah. Of course, I can understand
14 you're wondering. Anyone else?

15 CHAIR STARR: Any other questions at this time?
16 Okay. We're going to break for lunch.

17 (Lunch recess 11:26 a.m. to 12:57 p.m.)

18 CHAIR STARR: Welcome everyone to the Maui
19 Planning Commission meeting of March 22nd, 2011. I
20 apologize for a rather lengthy lunch break. But we will
21 pick up where we left off. We're under discussion and
22 deliberation on the Hale Akua Sunrise Center. And when we
23 had left off, we were about to have a Power Point
24 presentation, and we will proceed. Mr. Fasi, how long will
25 the presentation run?

1 MR. FASI: Thank you Mr. Chair. Approximately ten
2 short minutes.

3 CHAIR STARR: That's fine. Please proceed,
4 Mr. Hirano, and thank you for your patience.

5 MR. HIRANO: Good afternoon, Chair Starr and
6 Commissioners. My name is Mich Hirano with Munekiyo &
7 Hiraga. And with me is Lori Grace with Sunrise Center.
8 She's a board member of Sunrise Center, and we have the
9 Power Point presentation that we'll provide for the
10 commissioners.

11 CHAIR STARR: Excellent.

12 MS. GRACE: Sunrise Center for your information is
13 a nonprofit organization in both California and Hawaii with
14 a strong emphasis on teaching gardening, green living, also
15 communication training. And Hawaii is the main location
16 where Sunrise Center wanted to begin to teach agriculture
17 and those kinds of things. And we're here to obtain our
18 permit to hopefully expand our educational programs. I
19 actually teach some of the communication stuff myself and
20 health things.

21 CHAIR STARR: Okay. Thank you, Lori.

22 MS. GRACE: Uh-huh.

23 MR. HIRANO: Just to go over the permit
24 requirements, there's a State Land Use special permit and
25 the activities for the nonagricultural education programs on

1 sustainable living, Hawaiian culture, communication and
2 health, and as well, to provide overnight accommodations for
3 those students and instructors enrolled in the program. The
4 conditional permit is for the same activities.

5 This is the subject property. There are three
6 parcels. It's located in Huelo about 12 to 13 miles east of
7 Paia, Hana Highway and about a quarter-mile down the Door of
8 Faith Road and the Door of Faith Road is a private
9 agricultural road. There are three properties, three
10 separate TMK's. This is parcel 56. This is parcel 57, and
11 this is parcel 53. The agricultural activities occur on
12 each parcel.

13 And as Paul mentioned in the staff report, it
14 really is one operation. There are trails and walkways that
15 connect the organic fields to one another. And so, the
16 properties really function as one integrated property.
17 There are a number of dwellings on the properties that will
18 be housing the students and teachers who attend the
19 agriculture courses. As you can see outlined in the dotted
20 areas are the agricultural areas of the properties. And so,
21 there are quite a large number or quite a large area of
22 agriculture on each property.

23 And the square symbols are the buildings where the
24 students and teachers will be accommodated. This is the
25 organic fields on parcel 56. Very beautiful gardens and

1 fields growing organic crops. This is the organic parcel --
2 fields on parcel 57, and this is the organic fields on
3 parcel 53. The agricultural operations span approximately
4 three to 3.5 acres and are used for the agriculture.

5 The Hale Akua started aquaponics operation in 2010
6 and they're starting to convert some of the existing raised
7 garden beds into aqua ponds. Irrigation for the
8 agricultural operations are provided by an on site well on
9 parcel 57. And in 2009, the farm income was about \$28,000.
10 These are the, I guess the worldwide opportunities on
11 organic farms are willing workers on organic farms, which is
12 shortened as Woofers. They provide a lot of the
13 agricultural employment at Hale Akua.

14 And in exchange for the employment, they are
15 provided room and board and agricultural education and
16 instruction on organic farming. As you heard earlier in
17 testimony, the produce that are grown at Hale Akua include
18 pumpkin, squash, tumeric, fennel, bok choy, herbs, lettuce,
19 papayas, mangoes and bananas. And it really depends on the
20 growing season and the demand for the products. So, it
21 varies from season to season. You also heard in earlier
22 testimony the buyers of the farm produce. There's Mama's
23 Fish House, Flatbread Pizza Restaurant, Pukalani Superette,
24 Mama's -- or sorry, Mana Foods, Haliimaile General Store,
25 Casanova's Restaurant and Colleen's Restaurant.

1 Example of the agricultural educational programs
2 that are offered by Sunrise Center. These include
3 introduction to organic farming and certification, marketing
4 and cost control in organic farming, composting and seedling
5 cultivation, soil analysis and composting and growing
6 Hawaiian healing herbs organically. Examples of the
7 nonagricultural programs. And these are the programs where
8 the permits are applied for. And although all -- all of the
9 programs will have an agricultural component, there will
10 also be other nonagricultural topics at these programs.

11 You heard earlier as well Maui College, the
12 leadership program that's offered at Hale Akua by University
13 of Hawaii Maui College. There's also communications skills
14 being taught. Native Hawaiian cultural studies, and these
15 are led by Hawaiian practitioners. Kehualani Souza from the
16 Big Island was teaching Hawaiian agricultural practices,
17 which is a very popular topic at Hale Akua most recently.
18 And then as well, there will be courses or programs on
19 health and wellness. In terms of just the operations of the
20 programs, in terms of students and instructors,
21 approximately ten to 24 students including instructors
22 attend the educational programs. The duration ranges from a
23 typical period of two to five days. The time that these
24 programs occur at Hale Akua will range from about 8 a.m.
25 And in the evening, sometimes they have evening sessions.

1 And that's why it's important to have the student
2 accommodations and the instructor accommodations at Hale
3 Akua. And the frequency on average, about two educational
4 programs per month. In terms of the accommodations, the
5 applicant Sunrise Center is applying for a permit for the 12
6 bedrooms for the overnight accommodations to house the
7 students and instructors. There will be -- in parcel 53,
8 there's the main house. There will be one bedroom in that
9 particular location. Parcel 56 has a main house with four
10 bedrooms for students and instructors, and there's a student
11 accommodation building on parcel 56.

12 As well on parcel 56, there's a seminar room that
13 is about 1,000 square feet, and that's where the classroom
14 sessions will be held. Parcel 57 has the main house with
15 two bedrooms and an ohana with one bedroom, a total of 12.
16 The application had originally applied for 15; however, with
17 meetings with neighbors, the neighborhood felt very
18 comfortable with 12, and so the applicant had reduced the
19 request to 12.

20 In terms of neighborhood considerations, students
21 and instructors will be instructed to be respectful of the
22 peace and quiet in the neighborhood. Huelo is a very quiet,
23 rural neighborhood. And so, the students and the
24 instructors will be respectful of that. And there will be
25 on-site management at all times. Transportation provided by

1 Sunrise Center. Sunrise Center offers and encourages all
2 students and instructor participants to accept
3 transportation by Sunrise Center. Rental cars will be
4 discouraged and will be surcharged to benefit the
5 neighborhood road maintenance fund. And I think I heard
6 from earlier testimony this morning that Hale Akua has been
7 providing road maintenance funds to maintain Door of Faith
8 road, which is a private roadway, and they will continue to
9 do so.

10 There are three vehicles to pick up and transport
11 students and instructors. This is an eight-passenger van,
12 this is a seven-passenger van, and then a five-passenger
13 pickup. In terms of community benefits, Sunrise Center has
14 committed to contribute towards the neighborhood road
15 maintenance fund. They've also committed to contribute
16 towards the East Maui Irrigation Community Water System
17 Maintenance Fund. Hale Akua and Sunrise Center provide
18 employment opportunities for their neighborhood.

19 They provide organic agricultural products to the
20 surrounding neighbors and the local stores and restaurants,
21 and agricultural education is provided not only for
22 off-island guests and students and participants, but also
23 many of the topics are very central and important to the
24 local residents. And they benefit greatly from the courses
25 that are taught by Sunrise Center. This is just a picture

1 of a neighbor buying the organic produce. And again, this
2 is an honor system. There's a fridge on property, and they
3 stock it with the vegetables from the gardens. And the
4 neighbors come in, and they pick up the groceries that they
5 need.

6 This is a map of the supporting neighbors. And as
7 you can see, here are the three parcels. And all these
8 neighbors, the surrounding neighborhoods, and you heard many
9 of the testimony today from the surrounding neighbors, are
10 supportive of the application. When the applications were
11 made, a number of these neighbors provided letters of
12 support for the application, which were included in the
13 application and more recently have as well provided letters
14 of support for the application. And that concludes our
15 presentation, so thank you.

16 CHAIR STARR: Okay. Thank you.

17 MR. HIRANO: Members, questions for Mr. Hirano or
18 for the applicant? Commissioner Freitas.

19 COMMISSIONER FREITAS: Yes. Mr. Hirano, how many
20 buildings is not permitted on the property as it stands now?

21 MR. HIRANO: Well, there were eight. When the
22 application was originally submitted, there were eight
23 outstanding structures that did not have building permits.
24 Since that time, all buildings have been -- all permits have
25 been submitted for the building permits.

1 And as well, after-the-fact SMA's have been
2 included. I think of the eight, there may be just three
3 that have just gone in recently. And those are still
4 outstanding.

5 COMMISSIONER FREITAS: So, you have three
6 buildings that is not permitted; all of the rest is
7 permitted?

8 MR. HIRANO: Yes. On parcel 57, that building,
9 there were two permits and a well permit that were
10 originally submitted, and they've been approved. Or the SMA
11 for those have been approved, and then I think the building
12 permits were approved. Parcel 57, there was a well permit
13 for storage water -- sorry, water tank storage building
14 permit, and I think that that was recently approved. So, I
15 think there are three outstanding permits.

16 COMMISSIONER FREITAS: And what three are they?
17 Is it the --

18 MR. HIRANO: Those are for parcel 56, which is the
19 Hale Akua parcel, and it's for the main dwelling. And there
20 were two -- there was a water tank permit and some
21 agricultural out-buildings that didn't have permits.

22 COMMISSIONER FREITAS: Thank you.

23 CHAIR STARR: Commissioner Mardfin next.

24 COMMISSIONER MARDFIN: Mich, you know, we've had
25 testimony that they've been operating an agricultural

1 production for quite some time. Have they been offering
2 these educational programs for quite some time?

3 MR. HIRANO: The educational program, prior to
4 2007, they were offering the retreat, or more like a retreat
5 center. When the cease and desist order came across the
6 County, they stopped. However, they started to do the
7 agricultural programs because they felt that those were
8 permitted under the -- you know, the existing ordinances.
9 And so, they started to focus on the agricultural program
10 back in 2007.

11 COMMISSIONER MARDFIN: And those are still
12 ongoing?

13 MR. HIRANO: Some of them are. They curtailed
14 really in 2010 -- in August 2010 when we were notified that
15 a County Special Use Permit was required for the
16 agricultural program, at that point, they stopped those
17 programs, submitted a County Special Use Permit for those
18 and recently have been, you know, told that they were not --
19 that County Special Use Permit was not required. So, they
20 started resuming some of the ag programs.

21 COMMISSIONER MARDFIN: Have the overnight
22 accommodations been done in the past?

23 MR. HIRANO: They have been done in the past.
24 They were stopped in 2007. There were some -- subsequent to
25 that, there were some occasional programs that, as you heard

1 this morning, that I guess had overnight accommodations
2 connected with their operations, but they were the
3 exception. There were just a few of those.

4 COMMISSIONER MARDFIN: Do the students pay tuition
5 for the -- or have a fee for these programs?

6 MR. HIRANO: They have a fee for the programs, but
7 not for the overnight accommodations. They're included in
8 the tuition, the room and board.

9 COMMISSIONER MARDFIN: So it's a bundle?

10 MR. HIRANO: It's a bundle, yes.

11 COMMISSIONER MARDFIN: And you pay GET on the
12 revenues from that?

13 MR. HIRANO: I believe so, yes.

14 COMMISSIONER MARDFIN: But you don't pay a
15 transient accommodations tax?

16 MR. HIRANO: They're not considered transient
17 accommodation.

18 COMMISSIONER MARDFIN: Thank you.

19 CHAIR STARR: Commissioner Wakida.

20 COMMISSIONER WAKIDA: Based on all the testimony
21 that we heard this morning, it sounds like you have a
22 sterling operation. And it warms my heart because I'm very
23 protective of ag lands to see these small parcels used so
24 productively. I have a couple of questions about the nonag
25 things that are happening.

1 Can you explain how the meditation, yoga, health
2 and wellness programs, how those relate to agriculture on
3 this?

4 MR. HIRANO: I'll ask Lori. She's more familiar
5 with the programs.

6 COMMISSIONER WAKIDA: Thank you.

7 MS. GRACE: It's very minor in terms of the total
8 amount of time put in. In terms of communication training,
9 I've been teaching people basically communication for
10 effective business management in farms and in marketing,
11 marketing communication. And then in terms of -- we run
12 some yoga classes for many years since -- just for the
13 neighborhood, and some people come. It's actually Shiva who
14 works with me, and I feel that the benefit for health and
15 centering and tuning in is also helpful in terms of
16 management.

17 None of it is required. It's just something that
18 actually the neighbors have been coming to it all the time
19 for -- since God knows, ten years, 12 years. It's just an
20 hour twice a week.

21 COMMISSIONER WAKIDA: Yeah, I think so. My, you
22 know, reading this, I'm not familiar with your property, and
23 I'm from another part of the island.

24 MS. GRACE: Sure, sure.

25 COMMISSIONER WAKIDA: And so, you know, it's

1 possible that another sort of land owner with another sort
2 of vision would be segueing into some kind of pricey,
3 high-end spa retreat for people with a little organic
4 farming on the side. And it doesn't appear to me this is
5 what your vision is.

6 MS. GRACE: No, I actually share your passion with
7 agriculture. And actually, I'm in dialogue with Clyde
8 Sakamoto right now, the Chancellor of Maui Community
9 College, about finding more ways to integrate organic
10 agricultural education into the college. And we've brought
11 school groups over and various things, and so I'm not
12 interested in this other avenue. I've attended conferences
13 on food security here in Maui, and I want to see -- and I'm
14 very, very sensitive and connected to the plight of small
15 farmers. I've worked, as Vincent Mina said, actively in
16 that.

17 COMMISSIONER WAKIDA: Thank you.

18 MS. GRACE: You're welcome.

19 CHAIR STARR: Commissioner Shibuya.

20 COMMISSIONER SHIBUYA: I just want to ask the
21 difference between aquaculture and aquaponics or
22 hydroponics.

23 MS. GRACE: I can answer that.

24 CHAIR STARR: Let's have Lori answer that. I was
25 going to ask the same question.

1 MS. GRACE: This is a wonderful system. You know,
2 basically, we're offering organic, farm-raised tilapia, and
3 on top of our big tanks, we are growing hydroponic
4 vegetables like watercress and celery and many different
5 things. And then, you know, we can sell this. This is
6 something recent that's come through, and we're going to be
7 doing prawns next.

8 COMMISSIONER SHIBUYA: So, hydroponics is the
9 growing of --

10 MS. GRACE: The vegetables on top of the fish
11 tanks.

12 COMMISSIONER SHIBUYA: And droppings go into the
13 fish tank?

14 MS. GRACE: The roots go down into the fish tank
15 and they suck up the nutrients from the fish excrement, and
16 it's a whole combined system. And you see, what I want to
17 create is as many learning centers as possible. So, we have
18 the worms that we take the people to, and then we take them
19 to the fish. And then we take them to the field, and then
20 we have a section on permaculture, which is a whole other
21 gardening approach, so expanding horizons.

22 COMMISSIONER SHIBUYA: Okay. I just wanted to
23 know the difference. Thank you.

24 MS. GRACE: You're welcome.

25 MR. HIRANO: Thank you, Lori.

1 COMMISSIONER SHIBUYA: Also, another question.

2 CHAIR STARR: Go ahead, Commissioner.

3 COMMISSIONER SHIBUYA: It is related to renewable
4 energy and conservation systems. What renewable energies
5 have been incorporated in this project or have been
6 incorporated?

7 MR. HIRANO: Well, right now, there's solar on the
8 property, but Lori Grace is looking at wind generation
9 electricity. However, I think the resources have been
10 focused on, you know, just getting the permitting in place
11 right now. And I think if the operation proves successful,
12 that they can expand into wind generation. And that's one
13 of the -- that's one of the alternative energy sources that
14 they're looking at.

15 COMMISSIONER SHIBUYA: And because you have public
16 persons there who may or may not be as familiar as the
17 owner, at night, you have many pathways. Are these lighted
18 for safety?

19 MS. GRACE: Yes.

20 MR. HIRANO: Yes, they are.

21 COMMISSIONER SHIBUYA: So, these are lighted on
22 the ground, or is it some kind of overhead type of
23 structure?

24 MR. HIRANO: Lighted on the ground. Garden
25 downcast lighting.

1 COMMISSIONER SHIBUYA: So, there's some renewable
2 type of photovoltaic systems?

3 MR. HIRANO: Just solar.

4 UNIDENTIFIED SPEAKER: Low voltage DC.

5 COMMISSIONER SHIBUYA: Some of them are low
6 voltage DC?

7 CHAIR STARR: We're starting to regress here.
8 Commissioner Mardfin, we need to keep moving.

9 COMMISSIONER MARDFIN: I know we do. I want to
10 ask two questions. Why are you going for both a Special Use
11 Permit and a conditional permit?

12 MR. HIRANO: Good question. I think that's what
13 the -- in dialogue with the Department, that's what's
14 determined to be the appropriate permits, so when we -- it's
15 for the nonag courses and for the overnight accommodations.
16 And that's what the Department has determined. So, they're
17 the same activities under a State permit and a County
18 permit.

19 COMMISSIONER MARDFIN: And my second question is
20 for Paul, I think. Paul, would you explain to me again, I
21 was just a little unclear on why this is not a TVR, but is
22 an overnight accommodation. I don't get the distinction
23 quite honestly.

24 MR. FASI: Excuse me. In definitions in Title 19,
25 under the definitions of transient, it does not include a

1 nonprofit organization. If you're a nonprofit, the
2 definition of transient does not apply to your entity, as
3 long as, and the caveat is no rental income is produced.
4 And no rental income is produced because they're nonprofit.

5 COMMISSIONER MARDFIN: Income can be produced
6 even --

7 MR. FASI: Correct.

8 COMMISSIONER MARDFIN: Because it's bundled.

9 MR. FASI: It can be produced, but it cannot be
10 rental income per se.

11 COMMISSIONER MARDFIN: Thank you.

12 CHAIR STARR: Members. Commissioner Hiranaga.
13 Grab your mic.

14 COMMISSIONER HIRANAGA: Actually, this is a
15 followup to Commissioner Mardfin's question. So, the
16 rationalization and justification of the overnight
17 accommodations is it's neither a TVR or a B&B, it's this new
18 thing that's -- because it's a nonprofit?

19 MR. FASI: Yeah, there is no clear definition for
20 this. The closest thing the Department can label it is
21 overnight accommodation. It's not a TVR, and it's not a
22 B&B. The Department has determined that it'S just basically
23 housing for the students and the instructors. And it is not
24 considered as a short-term rental under the strict
25 definitions under Title 19.

1 And we went round and round and had many
2 discussions on this.

3 CHAIR STARR: Yeah, Deputy Director is going to
4 comment.

5 DEPUTY McLEAN: I think in looking at the
6 applicability in the term TVR, and the V is the critical
7 word, it's vacation. And this isn't a vacation facility.
8 It's for education, and it's for classes. It's for field
9 work. We didn't see this in the same way that you would
10 look at accommodations for visitors.

11 They're coming to the place for a specific
12 purpose. And as Paul explained, it's the nonagricultural
13 component, which is a small part of what they're proposing.
14 It's the nonagricultural component and the overnight part
15 that the Department wanted to make sure had a higher level
16 of review than all of the legitimate ag purposes that
17 they're proposing.

18 We did struggle with this, because there are, as
19 Paul mentioned, in the County code the definition of
20 transient does have an exception for nonprofit education and
21 charitable foundations. But we were looking at that really
22 strictly, so as not to create a loophole for people who
23 wanted to do TVR's to create a nonprofit and say, oh, we're
24 going to do classes, and then they can have a TVR under that
25 provision.

1 What's important here is that clearly the primary
2 component of what they're doing is agriculture. And the
3 other things are subordinate to that, but still require the
4 State and County permits that we're requesting.

5 CHAIR STARR: Commissioner Hiranaga, continue.

6 COMMISSIONER HIRANAGA: A followup. So, you're
7 saying in the proposed TVR ordinance, there is an exception
8 for nonprofit activities or organizations?

9 DEPUTY McLEAN: In the current County Code, it's
10 the definition of transient.

11 COMMISSIONER HIRANAGA: Can you provide us a copy
12 of that section? You don't have to hold the meeting up. I
13 would like to see it before we --

14 DEPUTY McLEAN: It's very unusual.

15 COMMISSIONER HIRANAGA: And you've consulted with
16 corporation counsel, and they agree with your
17 interpretation?

18 DEPUTY McLEAN: Yes.

19 MR. GIROUX: I told you I would jump for the book.

20 DEPUTY McLEAN: Yeah, it's -- we did struggle with
21 this project, because we think it's a great project and
22 trying to figure out all these activities they're doing.
23 Some of them would be allowed outright, but some of them
24 require permits.

25 COMMISSIONER HIRANAGA: Corporation counsel

1 concurs with their conclusion?

2 CHAIR STARR: Mr. Giroux.

3 MR. GIROUX: Yeah, and we understand, you know,
4 the position of the Planning Department and what they're in
5 as far as the different types of projects they're looking at
6 and trying to make sure that they're actually allowing the
7 Commission and the Council to get a sufficient look at this
8 themselves as far as the type of permitting that they're
9 requiring.

10 CHAIR STARR: Commissioner Shibuya, and I do want
11 to remind us we do have a quite a number of other public
12 hearings to deal with today.

13 COMMISSIONER SHIBUYA: It's more of a
14 clarification for my comprehension or understanding. If you
15 have agricultural workers, they normally have what is called
16 work house -- work force housing. If you have students,
17 then you would call them dormitories, would you not?

18 DEPUTY McLEAN: Sure.

19 COMMISSIONER SHIBUYA: In this case, they're both,
20 are they not?

21 DEPUTY McLEAN: They're some of both, but to me,
22 those other ones imply a longer duration than what they're
23 proposing here. Worker housing, farm worker housing is
24 typically during the course of a season. Dormitories is
25 typically for the course of a semester, and these are two-

1 to five-day classes. So, there's a much smaller time period
2 that they'll be there.

3 COMMISSIONER SHIBUYA: I just want to pigeonhole
4 it into my --

5 DEPUTY McLEAN: It was a hard one, yeah. It was a
6 hard -- it was a challenge for us to figure out how to
7 categorize it.

8 COMMISSIONER SHIBUYA: Thank you.

9 DEPUTY McLEAN: Certainly it was.

10 COMMISSIONER MARDFIN: Yes or no, are Woofers
11 housed on the property?

12 MS. GRACE: Yes.

13 COMMISSIONER MARDFIN: And they're not being
14 counted in this new total?

15 CHAIR STARR: Can we have clarity? Mich, why
16 don't you come to the mic and answer the question?

17 MR. HIRANO: Woofers are housed on the property,
18 and they're not counted.

19 CHAIR STARR: Okay. Commissioner Tagorda.

20 COMMISSIONER TAGORDA: One quick question,
21 Mr. Chair. I'm just kind of concerned about your domestic
22 water supply.

23 MR. HIRANO: Yes.

24 COMMISSIONER TAGORDA: You don't -- you're not
25 hooked up with the County water supply?

1 MR. HIRANO: No, it's a private system.

2 COMMISSIONER TAGORDA: It's a private system.

3 This on-site well that you have, is this for domestic supply
4 and for agricultural use, too?

5 MR. HIRANO: It's for agricultural -- primarily
6 for agriculture, but I think the Sunrise Center is looking
7 at converting it and filtering it for domestic use. Because
8 right now, they're all on the EMI system, and they filter it
9 on site.

10 COMMISSIONER TAGORDA: So, the capacity of this
11 on-site well is how many gallons per day?

12 MR. HIRANO: It's 60 to 70 gallons per minute.
13 That's what the capacity is.

14 CHAIR STARR: Commissioner Hiranaga, then we need
15 to wrap up questions and move on.

16 COMMISSIONER HIRANAGA: I am not going to be
17 pressured by you in limiting my questions.

18 CHAIR STARR: Ask your question.

19 COMMISSIONER HIRANAGA: Thank you. I understand
20 that this is ag zoned property.

21 MR. HIRANO: Yes, it is.

22 COMMISSIONER HIRANAGA: So, you have three
23 parcels, three main farm dwellings, and three accessory farm
24 dwellings?

25 MR. HIRANO: Yes.

1 COMMISSIONER HIRANAGA: And they all comply with
2 the ag ordinance regarding square footage?

3 MR. HIRANO: They were built before 1989.

4 COMMISSIONER HIRANAGA: With permits or without
5 permits?

6 MR. HIRANO: They were with permits, but there
7 were additions done after I think that were unpermitted, and
8 that's what I think is being done now.

9 COMMISSIONER HIRANAGA: So, how large are these
10 dwellings, please?

11 MR. HIRANO: This is a breakdown in the staff
12 report on the size of the dwellings. Maybe I can clarify
13 the issue. I can't give you the square footage off of the
14 top of my head, but as condition of approval --

15 COMMISSIONER HIRANAGA: I see it. Page 5.

16 MR. HIRANO: Yeah, Page 5.

17 MR. FASI: Commissioner Hiranaga, as a condition
18 of approval, the Department is going to require a clearance
19 letter from the Zoning Enforcement Division to make sure
20 that all of their structures are in compliance with Title
21 19.

22 COMMISSIONER HIRANAGA: So, why does parcel 56
23 have three structures on it? It seems to be labelled with
24 bedrooms.

25 MR. HIRANO: Again, I believe that was built --

1 those structures were built before 1989, or '98 rather.

2 Parcel 56 you said? I'm sorry, number two is not a
3 dwelling. It's -- it's an office for the farm operations.

4 COMMISSIONER HIRANAGA: Okay. Thank you.

5 CHAIR STARR: Can we move along to recommendation?

6 COMMISSIONER HIRANAGA: Actually, I'm not quite
7 done yet. I was going to yield the floor to other members.

8 CHAIR STARR: If you have a question, ask it,
9 please.

10 COMMISSIONER HIRANAGA: Okay. I need to
11 understand the applicant is the Sunrise Center, correct?

12 MR. HIRANO: Yes.

13 COMMISSIONER HIRANAGA: And you have Ms. Grace as
14 owner?

15 MS. GRACE: Of the farm, yes.

16 MR. HIRANO: She's on the board of Sunrise Center.
17 But Sunrise Center is a nonprofit organization.

18 COMMISSIONER HIRANAGA: So, as far as the County
19 is concerned, because it is a legal entity, that has no
20 bearing on the interpretation regarding accommodations,
21 overnight accommodations?

22 MR. FASI: Could you -- I don't understand your
23 question.

24 COMMISSIONER HIRANAGA: Because it's a nonprofit
25 legal entity, big corporation, whatever, that has no bearing

1 on your interpretation regarding the overnight
2 accommodations?

3 MR. FASI: No, it has a direct bearing on
4 overnight accommodations, because it's not considered a TVR
5 if they're a nonprofit. And that's something the Department
6 is going to struggle with in the future in the very short
7 term, and this Commission will be struggling with again in
8 the very near short term.

9 COMMISSIONER HIRANAGA: I have one more last
10 question.

11 CHAIR STARR: Go ahead.

12 DEPUTY McLEAN: Mr. Chair, if I may.

13 CHAIR STARR: Yeah go ahead, Deputy.

14 DEPUTY McLEAN: I'm sorry, Commissioner Hiranaga.
15 I need to clarify, and this demonstrates how the Department
16 has been struggling with this. Because we do not want to
17 use that nonprofit status as the way for this overnight --
18 for these overnight accommodations to be provided, that is
19 why we are requiring the conditional permit and the State
20 Special Use Permit for the overnight accommodations.

21 So, the answer to your question is does the
22 nonprofit status have anything to do with it, in our
23 opinion, no, it does not. We are requiring the conditional
24 permit and the State Special Use Permit to allow the
25 overnight accommodations. I apologize for the confusion. I

1 mean you get a glimpse of how we've been struggling with
2 this.

3 COMMISSIONER HIRANAGA: Okay. So, my last
4 question is is a major SMA permit required for the
5 improvements on these properties since you are obtaining
6 after-the-fact permits, and they exceed the number of
7 dwellings allowed or structures? Are you exempting all of
8 these vertical constructions?

9 MR. FASI: No, the Department is not exempting
10 anything on these properties, and the enforcement is with
11 our Zoning and Enforcement Division, and if they make the
12 determination that this should be an SM-1 major, and the
13 dollar amount exceeds the \$125,000 threshold, then we would
14 be more than happy to bring it back before this Commission
15 as an SM-1. But so far, it has not.

16 COMMISSIONER HIRANAGA: But their determination
17 has not been finalized, whether a major SMA is required?

18 MR. FASI: That is correct. And I did do a site
19 visit, and the improvements that we're looking at, I mean
20 it's just really manini small kind stuff really. I would be
21 surprised if it even gets close to a threshold.

22 COMMISSIONER HIRANAGA: It would be per lot
23 anyway?

24 MR. FASI: It would be per lot, that is correct.

25 CHAIR STARR: Commissioner Shibuya.

1 COMMISSIONER SHIBUYA: I just have one public
2 safety related type of issue here. And that's with the
3 septic. Normally if you have your own homeowner, I would
4 not be asking for a septic operation and maintenance type of
5 plan. When you start getting into a commercial type
6 operation, in which this sort of gets into, public safety
7 and concern that I have jumps right in, even though it is
8 only for a conditional type of approval.

9 Is there an operation and maintenance type of plan
10 for the septic?

11 MR. FASI: Yes, I believe there is. I heard a yes
12 in the back. And, you know, just to remind you, the
13 Department of Health requires certain standards that it
14 would be built to and all engineered and designed and
15 permitted by the County.

16 COMMISSIONER SHIBUYA: I understand. I just
17 wanted to see if there was a plan. Thank you.

18 CHAIR STARR: Thank you. Mr. Fasi,
19 recommendation, please.

20 MR. FASI: You would be referring to the pink --

21 CHAIR STARR: Why is it pink? That's what I've
22 been wanting to ask. We've never seen a pink --

23 MR. FASI: It was the available colored paper we
24 had. I'll leave that to Carolyn. I think the Director had
25 something to say about the period. Deputy Director.

1 DEPUTY McLEAN: Mr. Chair, before Paul goes into
2 the recommendation, the recommendation, as it's been
3 transmitted, provides for a three-year permit. And given
4 the testimony and the support that they have in the
5 neighborhood and the Department's support of the project, we
6 would like to propose your consideration of five years
7 rather than three years.

8 CHAIR STARR: Will you be requesting -- will you
9 be recommending a five-year?

10 DEPUTY McLEAN: Yes.

11 CHAIR STARR: Okay. Please proceed.

12 MR. FASI: The Department -- the conclusions of
13 law, State Land Use Commission Special Use Permit, there are
14 13 conditions in total. We would like to make that for a
15 period of five years. There are six standard conditions and
16 seven specific project specific conditions. I would note
17 that the maximum number of rooms for overnight
18 accommodations shall be limited to 12 max. And there shall
19 be a property manager residing full-time on the property.

20 The County conditional permit of which you will be
21 making a recommendation to the County Council basically are
22 the same conditions. There are 12 total. They will be for
23 a period of five years, and there are seven project specific
24 conditions. And they basically mirror the state special
25 permit conditions; twelve rooms and overnight -- I'm sorry,

1 property manager shall reside full-time on the property.

2 Thank you.

3 CHAIR STARR: Okay. Thank you. Members,
4 questions, possible motion. Commissioner Hiranaga.

5 COMMISSIONER HIRANAGA: Question on the staff
6 report, Page 22, at the top. Someone, I guess staff has
7 items of concern, but not limited to, and I guess you have
8 resolved some of those issues. Can you go down that list of
9 five issues and tell us what's outstanding and what's been
10 resolved?

11 MR. FASI: I don't have those numbers in front of
12 me, and that will require a report from ZAED, an update from
13 them. I don't have that currently.

14 COMMISSIONER HIRANAGA: All these issues are under
15 ZAED's domain?

16 MR. FASI: Yes, they are, with the exception of
17 the DSA portion.

18 COMMISSIONER HIRANAGA: And you haven't gotten the
19 report from them,

20 MR. FASI: But I can tell you the Applicant is
21 doing their due diligence, and as far as this planner is
22 concerned, he's satisfied with the efforts being made on
23 behalf of the applicant insofar as resolving the issues.
24 Because they know as a condition that they're going to need
25 a letter of clearance from the zoning division in order to

1 get their permit.

2 CHAIR STARR: Commissioner Shibuya.

3 COMMISSIONER SHIBUYA: I would like to make a
4 motion to accept this recommendation by the staff for the
5 State Land Use Commission Special Use Permit and the County
6 conditional permit.

7 CHAIR STARR: Is there a second to the motion?

8 COMMISSIONER SABLAS: Second.

9 CHAIR STARR: Moved by Commissioner Shibuya.
10 Seconded by Commissioner Sablas. The motion is?

11 DEPUTY McLEAN: To approve this State Land Use
12 Commission Special Use Permit and County conditional permit
13 to operate a retreat center by an educational organization
14 providing classes and workshops on Hawaiian culture,
15 sustainable living, communication and health, with all
16 classes including an agricultural component and also
17 providing accommodations for students and teachers on land
18 located within the State and County agricultural districts
19 for a period of five years.

20 CHAIR STARR: And as recommended.

21 DEPUTY McLEAN: As recommended.

22 CHAIR STARR: Okay. Commissioner Hiranaga, do you
23 have a question?

24 COMMISSIONER HIRANAGA: Well, actually a comment,
25 because there's a motion on the floor. I am not opposed to

1 the purpose of this application. I support it. But I
2 believe the application is incomplete without ZAED's formal
3 response. We have a similar situation on a property nearby
4 on Haumana Road that made an application I believe for an
5 SUP and possibly a conditional permit. His application was
6 incomplete.

7 The Planning Commission voted to defer it until he
8 resolved all his issues with the various agencies before the
9 Planning Commission made a determination. And I believe
10 this application is incomplete. If the zoning department
11 requires an SMA, major SMA permit, it's got to come back to
12 the Planning Commission, and I just see that being awkward
13 that we're granting these permits.

14 And it's just -- I don't understand the sense of
15 urgency, because I understand they're still continuing
16 operations without the permits in place, so if someone can
17 explain to me. I know that the previous incomplete
18 application was done under the previous administration. But
19 I just want to provide notice that I do not appreciate
20 incomplete applications coming before the Commission.

21 CHAIR STARR: Okay. Thank you, Commissioner
22 Hiranaga. Members, are we ready to vote? Okay. We have a
23 motion on the floor which is to approve as recommended. All
24 in favor, please raise your hand. All opposed.

25 DEPUTY McLEAN: Five aye's, three no's.

1 CHAIR STARR: So, motion --

2 DEPUTY McLEAN: Motion carries.

3 CHAIR STARR: Congratulations. I just want to
4 comment that the role that is being taken in terms of trying
5 to educate the farmers, especially of tomorrow, about the
6 mechanisms and the need for -- of growing food for local
7 consumption is invaluable, and I want to thank you for doing
8 that.

9 MR. HIRANO: Thank you very much, Commissioners.

10 CHAIR STARR: Are we ready to move straight along?

11 Joe, are we ready to go? I'm going to ask
12 everyone to please be quiet. We're moving on to our next
13 item, so you're welcome to stay and join us for that, but
14 please keep it quiet. If you want to converse, go outside.

15 Okay. Director, introduce our next item. Please,
16 quiet back there.

17 DEPUTY McLEAN: Chairman and Commissioners, the
18 next item on the agenda under New Business is Tetra Tech,
19 Inc. on behalf of Auwahi Energy, LLC requesting comments on
20 the draft environmental impact statement prepared in support
21 of the Auwahi Wind Farm project, a wind farm with a net
22 generating capacity of approximately 21 megawatts; augmented
23 with an energy storage system; a collector switchyard;
24 operations and maintenance facility and related
25 infrastructure; a nine-mile, 34.5-kilovolt generator tie-in

1 line; a interconnection construction access route along
2 existing route along existing public roadways and pastoral
3 roads, located at Ulupalakua Ranch, Districts of Hana, Kula,
4 and Kihei, Island of Maui.

5 The accepting authority for the Environmental
6 Impact Assessment is the Maui Planning Commission, or excuse
7 me, Environmental Impact Statement is the Maui Planning
8 Commission. And the triggers for the EIS are the use of
9 State and County lands for a portion of the generator tie-in
10 line, interconnection substation and microwave communication
11 tower and the use of State Conservation District lands for a
12 small portion of Papaka Road and Upcountry Piilani Highway
13 road improvements.

14 The project also needs a Special Management Area
15 Use Permit and County Special Use permits. The public
16 hearing on the SMA and conditional permit applications will
17 be conducted by the Maui Planning Commission after the
18 Chapter 343 process has been completed. And today's action
19 is to provide comments on the draft EIS.

20 CHAIR STARR: Take it away, Mr. Prutch.

21 MR. PRUTCH: Thank you. Pretty much, as Michele
22 just said --

23 CHAIR STARR: Can we have quiet in the room,
24 please?

25 MR. PRUTCH: What Michele just said was pretty

1 much -- I wanted to give you just the process itself. We're
2 here for the EIS, for the draft. We're here to make
3 comments. Your comments will be forwarded to applicant in a
4 formal letter written by me tomorrow. I'll make sure at the
5 end of your comments today, I will repeat everything that
6 you said to make sure I do get it correct and that you guys
7 agree to it, and those comments will be forwarded on to
8 them.

9 A few months later, 3 months, 6 months, whenever
10 they finish with all the comments, they'll bring that
11 forward to you as a final. You guys can review your
12 comments, review their responses. And at that time, you can
13 either accept or you can push it back and have them respond
14 more adequate if they don't. Then, of course, after the EIS
15 is finished, then they will come forward with the SMA and
16 the CUP. Those will come forward to you for your review as
17 a public hearing, so the public can testify again at that
18 time. And you guys will have a review of the SMA and the
19 CUP.

20 I'll keep mine short. Leilani is here. Kivette
21 is here from Munekiyo & Hiraga. They're consultants for the
22 agent. The applicant is Mitch, and Mitch is in the room,
23 the tall guy in the back. He will be here to answer
24 questions as well. And I believe Sheri is here from MECO as
25 well, so she might be able to answer a few questions. But

1 we're going to let them go ahead, because they probably have
2 about a 15-minute presentation.

3 CHAIR STARR: So, they're going to do a Power
4 Point that's about 15 minutes long?

5 MR. PRUTCH: Yes.

6 CHAIR STARR: Fine. Please proceed.

7 MS. PULMANO: Good afternoon, Commissioners. My
8 name is Leilani Pulmano from Munekiyo & Hiraga. Our firm is
9 the planning consultant for this project. We're here today
10 on behalf of Sempra Generation to present the Auwahi Wind
11 Farm. Before getting to the project, I would like to
12 introduce the project team.

13 We have with us today Pardee Erdman of Ulupalakua
14 Ranch; Mitch Dmohowski of Sempra Generation; Mike Munekiyo
15 and Kivette Koepp of Munekiyo & Hiraga; Alicia Oller and
16 Anna Mallon of Tetra Tech who drafted the EIS; John Holson
17 of Pacific Legacy who did the archeological study; Eric
18 Guinther of AECOS, who did the biological study.

19 To give you an overview of our presentation, we'll
20 talk about the purpose of the meeting, the project needs and
21 benefits. We'll give you a description of the project.
22 Talk about the community outreach and the EIS process and go
23 through the County of Maui approvals. And then we'll have a
24 question and answer period along with receiving your
25 comments. As Joe discussed, we're here today to get your

1 comments on the draft EIS for the Auwahi Wind Farm Project.
2 This body is the accepting authority for the EIS. And the
3 use of State and County lands triggers a requirement for an
4 EIS.

5 Of the 50 states, Hawaii is the most dependent on
6 imported energy. Hawaii is the world's most remote island
7 chain and has no fossil fuel resources of its own.
8 Approximately 95 percent of Hawaii's energy is derived from
9 imported fossil fuels, mostly in the form of petroleum and
10 coal. This translates to consumer energy prices being one
11 of the highest in the nation and makes our State and County
12 exceedingly vulnerable to fluctuations in oil prices.

13 Today's oil price stands at over \$100 a barrel.
14 And in an attempt to wean the State and County off of its
15 dependence on imported fossil fuels, our State and County
16 leaders establish renewable portfolio standards that require
17 MECO to generate renewable energy equal to 15 percent by
18 2015, 25 percent by 2020, and 40 percent by 2030.

19 Hawaii also established the Hawaii Clean Energy
20 Initiative with the goal of providing 70 percent of Hawaii's
21 energy needs through renewable resources by 2030. In
22 addition, the Global Warming Solution Act requires Hawaii's
23 greenhouse gas emissions to be reduced to levels at or less
24 than 1990 levels. These are all mandates for MECO to
25 achieve. And Auwahi Wind Farm will help to meet these

1 standards.

2 As of December 2009, almost 24 percent of MECO's
3 energy needs are from renewable energy sources. Based on
4 the purchase power agreement with MECO, the construction of
5 Auwahi Wind Farm will need to start by March 2012. In terms
6 of the project itself, the wind farm will produce 21
7 megawatts of clean renewable wind energy for Maui Island,
8 which is enough to produce electricity for about 10,000
9 homes and reduce greenhouse gas emissions by 12,000 tons
10 each hour.

11 The project is located in Ulupalakua region, and
12 the owner of the lands underlying the various project
13 components is Ulupalakua Ranch. To give you a regional
14 context, there are three main components. The wind farm
15 site is located in Ulupalakua. The transmission line
16 corridor and interconnection substation crosses both
17 Ulupalakua and South Maui, and the construction access route
18 runs from Kahului to Ulupalakua.

19 In terms of the wind farm site, the project area
20 is 1,466 acres. Within the wind farm site, the project
21 components include access from the Upcountry highway here, 8
22 to 15 turbines depending on the manufacturer chosen, and
23 electrical -- and electrical collection system that runs to
24 all of the wind turbine generators, which is this dotted
25 green line. It runs to a collector switchyard located here,

1 and operations and maintenance are O and M building, which
2 is this green dot here. A permanent meteorological tower or
3 MET tower located there. Access road to all of the wind
4 turbine generators, which is the white lines, and about a
5 mile of the 34 kilovolt or KV transmission line, this black
6 and yellow dotted line. Also a temporary construction
7 staging and equipment lay-down area.

8 The transmission line will connect the wind farm
9 site, cross Upcountry highway between the two restoration
10 areas and terminate at the interconnection substation. The
11 total length of the line is about nine miles. It runs from
12 here to there. The majority of the transmission line will
13 be similar to MECO's wooden transmission lines that we
14 currently see now and will be a maximum of 60 feet tall.
15 There may be a need for two poles to reach as high at 100
16 feet to span the southwest rift of Haleakala, which is
17 located here.

18 The interconnection substation is located about a
19 mile mauka of Wailea. The 69 kilovolt transmission
20 interconnection substation will be shared by Auwahi Wind and
21 MECO. A fence would mark the change in ownership. The
22 fence line is approximately like this. The substation will
23 include a battery energy storage system to store about ten
24 megawatts of energy. The battery energy storage system will
25 smooth and provide firm power generated from the wind farm.

1 The substation will include circuit breakers,
2 transformers, control buildings and a microwave
3 communications tower. Additionally, an access route from
4 Kula Highway will need to be constructed to the substation.
5 Most of the materials for the wind turbine generators will
6 be imported to Maui from Kahului Harbor. The most feasible
7 construction access identified is a route that follows Hana
8 Highway to Dairy Road to Mokulele Highway through
9 Wailea-Makena up along pastoral roads called Papaka Road on
10 to Upcountry highway to the wind farm site.

11 The wind turbine generators are considered super
12 loads that require special transportation equipment.
13 Tri-Isle completed a detailed transportation plan and
14 identified areas that will need temporary fixes such as
15 removal and reinstallation of signs and traffic signals at
16 these following intersections: the Piilani Highway-Wailea
17 Ike Drive, Wailea Ike Drive-Wailea Alanui Drive. There will
18 be some tree trimming along Wailea Alanui Drive and Makena
19 Alanui Drive at the golf course road intersection.

20 Heading up to Ulupalakua from Makena will require
21 Papaka Road to be improved with gravel surface. It's
22 currently gated at both ends. And during construction,
23 guards will be placed at both ends to manage traffic. In
24 the long term, the road will continue to be gated and would
25 be used for transporting replacement parts if needed.

1 On Upcountry Piilani Highway from Papaka Road to
2 the wind farm site, in this area here, there will be nine
3 areas on the highway that need some improvements to
4 transport the wind turbine generators. For clarity, this
5 segment of the highway, which extends from the end of Kula
6 Highway is referred to as Upcountry Piilani Highway in the
7 draft EIS. This is about four miles in distance. The
8 improvements will be to smooth out bumps and modify S curves
9 along the highway.

10 In regards to community outreach, Sempra continues
11 to meet with the community on the project status and in
12 receiving input. Key meetings held to date include the
13 following listed here. In addition, we've had meetings with
14 State Legislatures, State and County Administration and
15 County Council members. And we are also going to be holding
16 meetings on the draft EIS in both Kihei and Ulupalakua as we
17 had and previously for the EA/EIS preparation notice last
18 year.

19 And in terms of the EIS process, the EA/EIS
20 preparation notice was published in March 2003 -- I'm sorry,
21 March 23rd, 2010 of last year. And the draft EIS was just
22 published on March 8th of this year. The comment period
23 runs until April 21st. We also want to know, as Joe had
24 mentioned, that Maui Planning Commission will have the
25 opportunity to review the final EIS as part of its role as

1 accepting authority. And following the completion of the
2 EIS, there are other permits that will be required prior to
3 construction. And as Joe mentioned, portions of the project
4 fall within the County's SMA, and certain elements of the
5 project will require a County Special Use Permit. And both
6 of these applications are being processed concurrently with
7 the EIS.

8 In this regard, once you act on the final EIS,
9 we'll be back before the Commission for your consideration
10 and action on the SMA and the special use applications.
11 This concludes my presentation, and we have various members,
12 as I pointed out, here to answer any questions that you may
13 have. Thank you.

14 CHAIR STARR: Thank you. Members, questions.
15 Commissioner Wakida first.

16 COMMISSIONER WAKIDA: While that picture is up,
17 Leilani, is that a picture of the site, or is that a picture
18 of something else?

19 MS. PULMANO: That's a picture of the site.

20 UNIDENTIFIED SPEAKER: That's a picture of the
21 transmission line area.

22 MS. PULMANO: The picture of the project
23 component, which is the transmission line area.

24 COMMISSIONER WAKIDA: Okay.

25 MS. PULMANO: On the cover of your EIS is a

1 picture of the actual site where the wind farm is going to
2 be showing, of course, fake wind turbines at the moment.

3 CHAIR STARR: Commissioner Hiranaga.

4 COMMISSIONER HIRANAGA: So, we're supposed to ask
5 questions or make requests for additional information at
6 this time?

7 CHAIR STARR: Well, right now, I prefer if we just
8 had questions where we want clarification. Then we'll have
9 public testimony, and then I'll ask for comments, which will
10 be taken down by Mr. Prutch, and then he'll give them back
11 to us.

12 I have a question. This is regarding the Piilani
13 Highway. And I'm -- I have a little familiarity with it.
14 I've driven it about four to six times a week for the last
15 26 years. And it's -- in your comments, you seem to say,
16 first of all, that there's not much use or traffic on it,
17 which seems to be contrary to what I experience, because
18 it's very, very busy. It's one of the most highly traveled
19 visitor routes in the afternoons as well as the route for
20 local residents.

21 You also said that that area doesn't seem to have
22 any great scenic or visual qualities, which, you know,
23 that's not what I experienced yesterday morning. I happen
24 to feel that's one of the most scenic and beautiful places
25 on earth, you know, and certainly on Maui driving through

1 there. And it's a vista that, you know, thanks to the
2 Erdmans will be perpetually kept natural.

3 And, you know, this is the only road -- the only
4 scenic road on Maui that is not pole land, that is not lined
5 with either wooden poles or the jolly green giants marching
6 along. So, you know, that's part of why it's been, you
7 know, it's been up for designation as a, you know, scenic
8 byway for a long time and is -- has some wording in the new
9 general plan, which is still under consideration for its
10 scenic nature.

11 Since it is in the area below the road, is in the
12 SMA, and some of the prerequisites in the SMA regarding --
13 regard the viewplane from the road closest to the ocean, to
14 the ocean. It seems that by putting -- having the power
15 lines go up on poles below the road and then traverse the
16 road is really going to degrade that one pure scenic vista
17 and viewplane and will be in contrary to the SMA rules;
18 whereas, if it were to travel underground until it was
19 somewhat mauka of the road and then come up and travel on
20 poles, it would not do that.

21 So, I would like to ask what consideration has
22 been given regarding keeping it underground until it's mauka
23 of the road, so that the scenic vista in the SMA is not
24 obscured?

25 MS. PULMANO: Thank you for that question. It

1 looks as if the EIS will definitely need to be updated in
2 terms of the quality of the roadway and its visual impacts
3 as you drive along the roadway. Having said that, in terms
4 of the undergrounding of the transmission line makai of the
5 wind farm site and then mauka of the wind farm site
6 traversing up or being on poles, we can take a look at that
7 in terms of its feasibility for the final EIS. And we can
8 add some information about that in the final EIS.

9 CHAIR STARR: Thank you. You know, when we get to
10 comments, I'll put that in. But it's a wonderful, wonderful
11 project, and I just would hate to see that -- it disturb the
12 viewplane. And I think the windmills below it, the lower
13 elevation than the road, are actually an interesting
14 addition to the viewplane; whereas, the power lines would
15 detract from it.

16 Commissioner Shibuya, did I see a hand?

17 COMMISSIONER SHIBUYA: I can start. I want to
18 compliment the Erdman family for being such wonderful
19 stewards of the aina and for the agricultural perpetuation.
20 Also the continuation of the effort to restore the high
21 elevation fauna, of course, that we have there. And also
22 now looking at sustaining Maui with a source of renewable
23 energy, I really appreciate this effort,
24 Mr. Pardee. Mahalo.

25 I also want to ensure that we step off in the

1 right direction, and I want to take a look at your
2 operations and maintenance plans for all of your moving
3 parts in your -- the components of your -- your wind turbine
4 system. Also, reiterating putting in the underground
5 interconnect services if possible. I would like to do that,
6 especially because we're now populating the areas mauka of
7 that with native forest. And believe it or not, native bird
8 species are coming back. And with these birds coming back,
9 we've got a windmill that could cut up the birds as they fly
10 around, and this is very disturbing. I hate to see that
11 image.

12 I would like to see minimum amount of exposure.
13 The turbines, fine, I can accept that. As Chairman Starr
14 mentioned, that we need to bury if possible some of these
15 interconnecting distribution lines. Also, I would like to
16 see some kind of sunset clause. If and when this project
17 fails or stops or discontinues operating, I want to be sure
18 that you remove all these monopoles service substation
19 interconnect and pad installations. We need to be cognizant
20 of the aina. If we make a commitment to build, then we need
21 to make a commitment to keep it clean. I defer to other
22 members.

23 CHAIR STARR: Okay. Members, questions.
24 Commissioner Mardfin then Commissioner Wakida.

25 COMMISSIONER MARDFIN: I was very glad to see in

1 the appendix for the archeological inventory survey that
2 Professor Patrick Kirch was one of the members of that. He
3 has a wonderful reputation for doing fantastic archeological
4 work, not only in Hawaii, but in the rest of the Pacific.
5 What I was kind of looking for, and maybe you can provide it
6 in the final, would be a map, and maybe you know it now, a
7 map showing -- he does a lot of work in Kahikinui. And the
8 fact that he was involved in this means he got -- knew the
9 area where the wind farm was planning to be.

10 What I would like to do is see a map of where his
11 other work is outside of the wind farm area, so that I can
12 be satisfied that that isn't going to be jeopardized by this
13 project. You know, I've read some of his technical reports,
14 and he just does wonderful studies of what life was like in
15 the prehistoric era when Kahikinui was a very densely
16 populated area.

17 MS. PULMANO: We have John Holson of Pacific
18 Legacy, and he would like to respond to your comment,
19 please.

20 CHAIR STARR: Mr. Holson, please come up to the
21 mic and introduce yourself.

22 MR. HOLSON: Hello, my name is John Holson. I'm
23 with Pacific Legacy.

24 CHAIR STARR: You can pick that mic up.

25 MR. HOLSON: Anyway, there are a couple of

1 dissertations by Lisa Holm and James Coil about the
2 Kahikinui area, so I'll check. I'm actually going to see
3 Pat tonight, so I'll ask him if we can get copies those
4 things to you.

5 COMMISSIONER MARDFIN: I would be very interested
6 in that kind of work.

7 MR. PRUTCH: If I may, Mr. Mardfin. This item
8 is -- this project and the EIS is going to the Cultural
9 Resource Commission, CRC, on April 7th, I believe it is.
10 So, if you're interested in any of that, you might come to
11 that. They will have the archeologist there making a
12 presentation to the CRC. You might find some interest in
13 that.

14 CHAIR STARR: Commissioner Wakida.

15 COMMISSIONER WAKIDA: I have -- I would like some
16 additional information in several areas, and they relate to
17 the current wind farm that we have, because we have a
18 current wind farm, as we all know. So, I would like a
19 little better understanding of how that compares to what is
20 proposed and for specifically in the area of electrical
21 impact, in other words, compared to the one that we have
22 now, how much of the electricity is the proposed one putting
23 out and what impact is that going to have on the average
24 guy, the average citizen, that kind of thing.

25 CHAIR STARR: Do we have someone from Maui

1 Electric that can help us on the spot with some facts and
2 figures?

3 UNIDENTIFIED SPEAKER: I don't have the exact
4 figures. We can follow up with the applicant.

5 CHAIR STARR: Okay. Continue, Commissioner.

6 COMMISSIONER WAKIDA: And along these lines, I
7 have a couple of others. It brought up a repair schedule.
8 I'm just interested in how these things are similar or
9 different from what is currently going on with our current
10 windmill. I'm also interested in lighting. It's a small
11 thing, but it says it's going to be low lit. I don't know
12 what that means. And how does that compare to what we
13 currently have?

14 Is that low -- I've never noticed there was any
15 lights we have on the ones that we have currently.

16 CHAIR STARR: Uh-huh, the red lights.

17 COMMISSIONER WAKIDA: And lastly, I'm interested
18 in the road going up to the current windmill farm, and I
19 don't pretend to know very much about it, it looks to me
20 very steep and arduous. And yet, they manage to do it. I'm
21 interested in how that compares to -- well, let me back up a
22 little bit. They've chosen not to go up Haleakala Highway
23 and go around that way. They've chosen to go through
24 Piilani as you've explained. I would like a little more
25 information on why this other route isn't feasible. It says

1 it has twists and turns in it, but I'm looking at this going
2 up the side of the mountain. It looks horrendous to haul
3 all that equipment up there.

4 So, I don't see -- I would like to have a little
5 bit more information on that. Did I make my question, my
6 request clear?

7 MS. PULMANO: Yes, you did, Commissioner. I
8 actually can respond to a couple of those questions.

9 COMMISSIONER WAKIDA: Great.

10 MS. PULMANO: And in terms of the lighting, the
11 lighting refers to most of the lighting that will be on the
12 project would be for the buildings itself. Low lightings
13 for like the control buildings and the operations and
14 maintenance buildings. In terms of lighting the turbines,
15 it will be, as you see up in Kaheawa, the lights for the
16 FAA, the airplanes, lights on top of it.

17 COMMISSIONER WAKIDA: Beacons, you mean that kind
18 of thing?

19 MS. PULMANO: Yeah. I think it's red flashing.
20 And in terms of the steepness of the road, in terms of why
21 we chose this route as opposed to using Haleakala, Kula
22 Highway area -- Kivette, do you mind going to -- if you're
23 familiar with that roadway, as you pass Grandma's, the
24 breakfast place, you're familiar with that, Keokea area?

25 And there's a cute, quaint little breakfast area

1 there as you're driving towards Ulupalakua Ranch. That
2 roadway from the -- from Grandma's going down to the ranch,
3 there's a lot of dips, up-and-downs, that it would require a
4 lot more work to have done on the actual state highway as
5 opposed to a grading Papaka Road.

6 CHAIR STARR: Could I ask for a clarification?
7 Did you say that there will or there will not be FAA
8 flashing red beacons on the windmills?

9 MS. PULMANO: There will be. There will be,
10 similar to the Kaheawa.

11 CHAIR STARR: Commissioner Mardfin.

12 COMMISSIONER MARDFIN: This is sort of a followup
13 to Commissioner Shibuya's question. On Page 2-27 of your
14 main report, on 2-27, you have Item 2.1.A.D, commissioning
15 and restoration. And it tells what would be done. What it
16 doesn't say is how they will be assured financing for this.
17 I mean if the thing goes bankrupt, who is going to be paying
18 for it?

19 So, I would want to see some sort of financing
20 plan to assure bonding or whatever that the fund would be
21 available to decommission and restore.

22 MS. PULMANO: Thank you for that question. I
23 actually -- we have a representative of Sempra Generation
24 who can actually talk about their company as a whole. They
25 are a Fortune 500 company, and to talk about their, I guess

1 their capital, their capital investment.

2 CHAIR STARR: Can we hear a little bit of
3 background on Sempra? Come introduce yourself, and welcome.

4 MR. DMOHOWSKI: Can you hear me?

5 CHAIR STARR: Sure.

6 MR. DMOHOWSKI: Hi. I'm Mitch Dmohowski from
7 Sempra, and I'm the development director for this project.
8 Sempra is a Fortune 500 energy company based in San Diego.
9 We were formed out of what is San Diego Gas and Electric,
10 which is equivalent of what Hawaiian Electric is here.
11 We're a 150-year-old company. Since then, we've grown into
12 a number of other energy related businesses, and that's the
13 group -- that's the group that I'm in.

14 We build, own and operate power plants. We have
15 about 2,500 megawatts of natural gas plants in operation,
16 and that's about equivalent to what Hawaii's load is. We
17 also have about 500 megawatts of wind projects in operation.
18 And we have -- we actually just built the largest solar
19 photovoltaic project in the U.S. It's a 50-megawatt project
20 in Nevada. We have about nine billion in revenues and about
21 30 billion in assets. And that's, you know, that's who
22 Sempra is. And our business is we build, own and operate
23 projects for the long term. Our intent is to own this
24 project for its 25-year life.

25 And depending on what the situation is in 25

1 years, we would potentially want to rebuild it.
2 Specifically relating to your question on removal of the
3 equipment, you know, that's a very good question. And
4 that's something that's sort of a standard practice in the
5 industry, that you do look at what's going to happen to the
6 project at the end of the life. And typically, what is done
7 is that the company, when it's a substantial company like
8 ours, that the parent company will give a guarantee that it
9 will be removed.

10 And, you know, knock on wood. Sempra should be
11 around. It should be around in 25 years. The other ways it
12 could be handled is through a letter of credit, or like you
13 had mentioned bonding. But this is very standard. The
14 other thing I would like to point out is in our lease with
15 the Erdmans, they were concerned with that issue, too. They
16 didn't want these things left out there if they -- after 25
17 years if they weren't running anymore, or you know,
18 unfortunately if something happened so they weren't running
19 before then. So, in the lease, we specifically are required
20 to -- one of the covenants of the lease is that we must
21 remove the equipment and return it to its -- the site to its
22 original condition at the end of its life.

23 And the exact mechanics of that, if it's going to
24 be -- effectively right now, what it is is a corporate
25 guarantee on Sempra's part. That might change over time to

1 a letter of credit or something to that effect, but that's
2 how we're handling it. And that's the industry standard.
3 The other thing is I would like to point out is this
4 equipment, even though after 25 years, it would be, at the
5 end of the useful life, the material is very valuable, the
6 metals that are in it. So, it's almost going to pay for
7 itself. Taking it down is more than going to pay for
8 itself, taking it down. That's how that issue will be
9 handled.

10 CHAIR STARR: Commissioner Mardfin, one more.
11 Then Commissioner Freitas.

12 COMMISSIONER MARDFIN: I'm not intending to be
13 rude, but there are a lot of Fortune 500 companies 20 years
14 ago that are no longer Fortune -- no longer exist. I came
15 out here on Pan American Airlines.

16 MR. DMOHOWSKI: Fair enough. Point taken.

17 COMMISSIONER MARDFIN: So no offense, but I would
18 like to see in the final EIS some at least alternatives of
19 how the County of Maui can be assured that that would be
20 paid for.

21 MR. DMOHOWSKI: We'll definitely address that.

22 CHAIR STARR: Please hold these ideas on a parking
23 lot until we get to that part of the meeting. Commissioner
24 Freitas.

25 COMMISSIONER FREITAS: I see 15 wind turbines

1 going up. On West Maui, they put the initial wind turbines
2 up, and they're now putting up additional wind turbines.
3 The mobilization for, what do you call, any project is
4 extremely expensive. Do you folks foresee expansion on
5 these wind turbines; and if you folks do, why don't you set
6 your sights up now and get them in place?

7 MR. DMOHOWSKI: The best way to handle that, there
8 is plenty of wind over on Auwahi. I've been doing this for
9 15 years. It's the best wind site ever seen. And there's
10 plenty of land over there to build the project. But where
11 we stand right now is Maui Electric -- you know, this is
12 literally, you know, it's an island. It's a small grid
13 here. There is only so much energy that Maui can take.

14 And Maui Electric decided after some very detailed
15 technical work that the largest this project could be at
16 this time and for the foreseeable, probably five to ten
17 years, is 21 megawatts. Maybe -- you know, maybe at a later
18 date, it could be improved. But for the foreseeable future,
19 this is the size of the project. You know, there's --
20 again, it could potentially grow. We would love to -- you
21 know, we would love to build a bigger project, but right
22 now, that's -- working with Maui Electric, that's as large
23 as it can go.

24 CHAIR STARR: Commissioner Wakida.

25 COMMISSIONER WAKIDA: As long as you're here, what

1 is a turbine year? It says here there's 14 faults per
2 hundred turbine years.

3 MR. DMOHOWSKI: A turbine year, we'll just say you
4 had ten wind turbines at a project. That would be ten
5 turbine years. Each individual turbine would sort of have a
6 year of operating life in that year. So, when you're
7 looking at statistics over a fleet of turbines, you would
8 say this is how much experience they have in turbine years
9 and how many -- you know, and how it's performed.

10 CHAIR STARR: Commissioner Mardfin.

11 COMMISSIONER MARDFIN: Is a wind farm considered a
12 base load energy generator? I guess -- I think I'm using
13 the right term. I could be wrong. What I'm saying is
14 because the wind comes and goes, I grant you it blows a lot
15 out there. But does Maui -- and part of the reason they
16 wouldn't let you go bigger, because they can't depend on the
17 electricity coming in?

18 MR. DMOHOWSKI: That's exactly correct. A base
19 load plant is sort of a farm plant that can produce power
20 effectively 100 percent of the time. You could -- you know,
21 you could say like an (inaudible) plant, which are Maui
22 Electric's base load plants, or a nuclear plant or a coal
23 plant. Those are base load plants. Wind plants are not
24 producing all of the time, and that is the issue here.

25 Because Maui's peak load during the day is close

1 to 200 megawatts. At night, it's going to drop down to
2 close to 70. And those base load plants that are running
3 can only be turned down so much at night, because they've
4 got to be brought up immediately in the morning.

5 Now, wind is intermittent, but we're looking at
6 putting a battery in on this project. And that battery is
7 going to smooth the production right now. But eventually,
8 those type of batteries could allow effectively, by storing
9 energy, you could basically create firm power with both wind
10 and solar. And that's something that's probably five years
11 out, that sort of advancement in technology, but that's
12 something we're looking at.

13 COMMISSIONER MARDFIN: Thank you.

14 CHAIR STARR: And can we take public testimony?
15 We're going to open up the floor for public testimony. So,
16 I would like to invite members of the public who would like
17 to offer comments on this to make themselves known. Come on
18 up. Introduce yourself, Judith.

19 MS. MICHAELS: Yes, I'm Judith Michaels, and I'm
20 from Makena. And good afternoon, Board, and thank you for
21 all your hard work. And Jonathan, thank you particularly
22 for all the contributions that you've made to this community
23 of Maui over the years. We're very, very appreciative. I
24 want to first say that I'm very supportive of alternative
25 energy sources including wind energy sources such as this

1 wind farm that's proposed.

2 But my concerns today really are, after reading
3 this draft EIS, which is over 390 pages, I think I read
4 almost every word, but I specifically was concentrating on
5 the sections of the draft that address construction access
6 routes, because I live in Makena. And I am concerned that
7 that is a weak area of the EIS.

8 Actually, there are many areas that are just
9 incredible, including the archeological studies. I was
10 extremely impressed. But I think none of -- the comments
11 that they cited were from information from 2007, which is
12 extremely outdated. Because one of the statements they say
13 there were three traffic lights on Piilani Highway. We
14 haven't had three traffic lights on Piilani in over ten
15 years. We actually have eight.

16 And then there are a number of areas, because I've
17 looked at all the pictures and all the dimensions of the
18 super load that will be coming and also the cranes. There
19 is one particular crane that is 600 tons. Might I tell you
20 that is 1.2 million pounds. And to move that through that
21 area, which is a high tourist area and also a high resident
22 area actually, is definitely going to have a great impact.

23 All the lights across Piilani Highway actually are
24 across the streets. And if my -- if the pictures are right
25 and some of their information in the EIS is right, those

1 lights will have to be -- all of them will have to be moved.
2 There a lot of electrical transmission lines. I think it's
3 much more -- it's going to be much more impactful. They
4 actually make a comment at the bottom of the statement of
5 all of the areas of the construction and access routes that
6 it will be very -- will have little or no impact to our
7 area. I really do not think that's so.

8 And I would like that you guys look much more
9 closely at that. They also under the construction schedule,
10 there is a period of 30 days where they want to bring I
11 believe 116 of the super loads. And you saw what the super
12 load looks like. That's the blades. That's the real large
13 elements of the towers. And that would mean they would have
14 to move five to six of those loads per day to actually meet
15 that 30-day schedule.

16 Well, we live -- you know, you come down Piilani
17 Highway. It's four lanes wide. You come down Wailea
18 Alanui. They've already said they have to take out the
19 medians. They have to take out the light, the traffic light
20 there to make that turn. But once you get through Wailea,
21 then they've got the lights that overhang, which I also
22 believe --

23 COMMISSION SECRETARY: Three minutes.

24 MS. MICHAELS: -- if you really look at it, and
25 I've been looking at this closely, might have to be removed.

1 A lot of the trees would have to be cut back. But then you
2 get to Makena. It's a two-lane road. And it is a rural
3 road. It is totally different. And that is where if
4 anything goes wrong in that area, any collapse of the road,
5 any problems go on, we would be cut off. We could not get
6 out. There's no exit road.

7 So, I'm really concerned that they really look at
8 another potential about how to move this heavy equipment.
9 The -- and that could be by extending, by going out on
10 Piilani Highway. There's already a small construction road
11 that goes above Wailea and Makena. It leads to Makena, and
12 it's a road we've been talking about for years that could be
13 extended as a temporary road for construction in Wailea 670,
14 also for Makena Resort.

15 And the owners I know are open to some
16 discussions. We've been discussing it with them for years
17 in the Wailea-Makena area as using that road to less impact
18 Wailea. Because you know Wailea has a lot of hotels.
19 There's a lot of visitors there, and this is going to
20 definitely have a financial impact.

21 CHAIR STARR: I'm going to have to ask you to wrap
22 up.

23 MS. MICHAELS: Okay. One other point. The other
24 concern I have is that the widening of Piilani Highway from
25 Kilohana to Wailea Ike is scheduled for 2012. Now, if

1 they're under construction there and this project is also
2 moving all the equipment through, what is going to happen?
3 I mean they both can't occupy the same space.

4 And, of course, all this comes down to safety
5 issues when you're moving this kind of equipment. So, I
6 would like you to look closely at this section of the EIS.

7 CHAIR STARR: Okay. Thank you.

8 MS. MICHAELS: Okay.

9 CHAIR STARR: Good points. Other members of the
10 public wishing to offer some testimony. Richard, come on
11 up. Introduce yourself. Good to see you here today.

12 MR. MICHAELS: Thank you, Mr. Chairman. My name
13 is Richard Michaels. I'm her husband. We live at Makena
14 Surf. And I am here today to make comments on the draft
15 EIS. Specifically, the quarter of a mile right in front of
16 our property, Makena Surf, because you may or may not know
17 some of these things. Makena Surf is 103-unit condominium,
18 and it empties and entrances and exits right on Makena
19 Alanui Road.

20 There are six driveways. All of them are on
21 curves or hills or both. And as such, it is marked with
22 limited sight distance. And the County of Maui has
23 authorized a reduction in speed from the 30 miles an hour
24 through Wailea and the rest of Makena to 20 miles an hour in
25 front of Makena Surf because of the danger of the entrances

1 and exits from the driveways. The road in our area has
2 three sets of twin 84-inch drainage pipes under the road.

3 And by definition, that means that the road on top
4 of these pipes is not supported by as much, you know, ground
5 support as where there is no pipe. You heard Bud Pikrone
6 this morning testify that Wailea Alanui has experienced
7 several sink holes where their drainage was. We have a
8 question as to whether or not the Maui County engineers have
9 certified that 1.2 million pounds can cross that area of the
10 road without breaking through.

11 And as Judith testified, the -- everybody who
12 lives south of Kaukahi Road, which is where the Kea Lani
13 Hotel is, everybody south of that has no other alternative
14 road other than Makena Alanui. If something were to happen
15 to that road, nobody could get in, and nobody could get out.
16 We also have questions of where the speed of vehicles, like
17 particularly cement trucks, we had an experience with the
18 building of Palauea One where cement trucks were running up
19 and down the road for months actually, all much more than
20 the 20-mile-an-hour speed.

21 I'm a member of the Makena Homeowners Association,
22 and we had a meeting last Wednesday, which was attended by
23 Council Member Don Couch. We discussed the wind farm, and I
24 would like to say that we are all in favor of the wind farm.
25 We would like to snap our fingers and have it be there.

1 It's how to get it done. And the two alternatives that were
2 discussed are the ones that Judith just mentioned to you,
3 which is the road, the potential of extending Piilani
4 Highway with a construction road, gravel or what whatever it
5 is so that you can see that instead of going down Wailuku
6 Ike and through Wailea in front of the Grand Wailea and the
7 Four Seasons and all the hotels and all the condos, they
8 could come straight across through the blue line road that
9 they need to get to.

10 And as far as feasibility is concerned with Wailea
11 670 needing access and the build-out of Makena Resort, this
12 now becomes a real financial possibility, especially given
13 the kind of money I think they're going to have to spend for
14 the plan they've presented to you. The other one
15 possibility that was discussed at the Makena Homeowners
16 meeting is you'll see where the wind farm is is 1,000 feet
17 from the ocean. So, somebody said, well, why don't, instead
18 of off-loading in Kahului harbor, what would be the
19 possibility of coming around to where the wind farm is?

20 And long-time Makena residents said that they
21 believe that you could construct a way to offload that
22 equipment right there. And then they don't have to drive
23 through Maui to get there. So, I'm not an expert on that.
24 I don't really know whether that could be done, but I think
25 it's something that should be considered given the location

1 and the impacts that this would have. And I would also love
2 to suggest before you approve any final EIS that the
3 Commission maybe do a field trip on the route through Maui
4 that they have suggested and see what it's going to look
5 like when these big, huge things are going through. Thank
6 you very much.

7 CHAIR STARR: Okay. Thank you. Other members of
8 the public.

9 Ms. Bowie, please come forward. Introduce
10 yourself.

11 MR. ERDMAN: Yes, my name is Pardee Erdman of
12 Ulupalakua Ranch. And we've been working first with Shell
13 Wind Energy and now with Sempra for quite a while hoping
14 that we can get this project under the way. It is a win-win
15 for the ranch; in other words, that we still plan to be in
16 the cattle business, but the roads and the infrastructure
17 they'll put in will actually make that land more productive
18 agriculturally than it is today. We'll be able to control
19 our grazing better and be able to utilize the land better.

20 As far as the other things going, I noticed
21 mention of the traffic thing. Yes, we do have a road up
22 from the end of the Piilani Highway that is owned by
23 Ulupalakua, and -- most of it, and there's a possibility
24 that could be used. But it's -- it's something that
25 really -- it's going to take more engineering than people

1 think on it. Any other questions? I would be glad to
2 answer any questions.

3 CHAIR STARR: We'll get to more questions later.

4 MR. ERDMAN: All right. Fine.

5 CHAIR STARR: But thank you for being here today,
6 and thank you for this. Ms. Bowie, you're next. Welcome.

7 MS. BOWIE: Good afternoon, Chair Starr and
8 Commission Members. And aloha nui loa, Commissioner Starr.
9 We thank you for all your dedicated service.

10 Maui Tomorrow Foundation is absolutely in support
11 of alternative energy projects. We think much of this looks
12 like a great addition to our community, and we welcome
13 Sempra as a community member. We do have a couple of
14 questions like most of the comments here. We question the
15 traffic, the construction route for the project going
16 through Makena and the Wailea area. I know in the draft
17 EIS, it states that the route, the Wailea 670 route is cost
18 prohibitive, but it doesn't give any details on that.

19 And it sounds like this route through Wailea and
20 Makena is going to really be complicated with taking down
21 medians, possibly stop lights and, you know, a lot of
22 arranging. So, we would like to see more information on
23 that as to why the other one would be more cost prohibitive.
24 Also, I attended a meeting from the geothermal company,
25 Ormat, and they said that they would also use the same

1 construction road if their project is -- goes forward.

2 So, we're looking at yet one more project that
3 would need to come through a really populated area. So, I
4 just think we need to ask some hard questions on that.
5 Also, to what extent would Sempra be looking at road repair
6 when the project was finished because with the tonnage of
7 these trucks and things, I think, you know, there's
8 definitely going to be some weak areas in all of that.

9 And as was mentioned earlier, having been a part
10 of an advisory group with the new owners of Makena Resort, I
11 know that they're considering one route into Makena being --
12 partnering with Wailea 670 and moving that road forward.
13 So, if you've got Makena Resort and you've got Wailea 670
14 and you've got Auwahi Wind Farm, is there some conversations
15 that could be had to partner together and make that route,
16 the construction route? I think it makes sense to at least
17 look at it more closely.

18 And then as Chair Starr brought up the
19 transmission lines in the SMA area. I think it -- really we
20 should be looking at how much of that could be underground.
21 And I would just point out that the one thing I found a
22 little bit disturbing in going through the EIS on both the
23 generator tie-in line alternatives and the route from
24 Piilani Highway through Wailea 670. It says, "The easement
25 process for approval of the roadside alignment with multiple

1 owners could potentially far exceed the available window of
2 time to complete the approval stages of the proposed
3 project." And then for the direct route, it says again, "In
4 addition, both of these alignments pass through several
5 privately-owned parcels, and it was determined that the
6 appropriate approvals may not be obtained for the use of
7 these parcels within the project time constraints."

8 So, I question that, if we're making these
9 decisions based more on an internal time line that the
10 company has rather than what is best for our community and
11 best for the environment on that. I just -- I would say
12 that I'm really --

13 COMMISSION SECRETARY: Three minutes.

14 MS. BOWIE: -- glad to hear there will be that
15 meeting on April 4th, and Maui Tomorrow will definitely
16 attend. We look forward to talking to Sempra and asking
17 these questions of them. Thank you.

18 CHAIR STARR: Thank you, Ms. Bowie. If any other
19 members of the public would like to testify on this, now
20 would be the time. Anyone else?

21 Ms. DeNaie, welcome. I like your shirt. I think
22 it's the same as mine, but smaller.

23 MS. DeNAIE: Thank you. Lucienne DeNaie. I did
24 submit some comments on the wind farm and for the prep
25 notice. And I think that, you know, the EIS has done a very

1 thorough job in some areas. The archeological section is
2 very impressive, as Commissioner Mardfin commented. And it
3 was really nice to see how interested the land owners were
4 in seeing that sites were found.

5 This is very refreshing, and you don't see it very
6 often in projects. But the contributions made by the Erdman
7 family to helping understand that there were some features
8 there was really neat to read about. I do have some
9 comments about some of the discussion in the EIS. I think
10 there needs to be more about the community benefits. I
11 agree with Mr. Dick Mayer who talked about that earlier. I
12 realize that Ulupalakua Ranch has been neighbors with the
13 folks out at Kahikinui for a long time. There's probably a
14 lot of back and forth.

15 But it's not really clearly discussed. This is an
16 area that doesn't really have a water supply, doesn't really
17 have access to electricity. And yet, there's going to be
18 this tremendous amount of infrastructure, possibly a well.
19 I discussed this with the Erdmans when we were all talking
20 about the easement for the Maui Coastal Land Trust and just
21 brought up then that, you know, it would be good to look at
22 how this can benefit folks that are, you know, trying to
23 live a traditional lifestyle out there.

24 If there were water available, if there were
25 charging stations or this kind of thing available, that

1 would make sense. I'm also concerned about the native
2 plants. I mean the biological survey was amazing. I've
3 hiked out there before to the Auwahi project and to the life
4 exclosure. And I'm aware that it's a wonderland of plants,
5 even though it looks like there's just a lot of lava out
6 there.

7 But it -- I'm kind of trying to figure out, you
8 know, how all these roads and everything figure out, you
9 know, work in with preserving plants. Now, the Erdman
10 family told me there's going to be quite a large plant
11 preserve set aside with the best of the best. But it seems
12 even in the roots of these things, there's a lot of best of
13 best, too. So, I think that should be very, very clearly
14 discussed, you know, like how many trees are going to be
15 lost. There's this vague reference that they will be grown
16 in nurseries and replanted elsewhere. A lot of native
17 plants don't just work this way. You know, it's like some
18 can be taken from seed.

19 So, I would like to see those things better
20 addressed in the EIS process. And also, I just want to
21 point out this body reviewed the EIS for Wailea 670. I
22 brought up at that time that the transmission line, which
23 goes right through the middle of that project, right through
24 the middle of where golf courses and homes and so forth are
25 going to be located. Never mentioned it. It was never

1 discussed. Its impact were never discussed. And it should
2 be discussed somewhere. I think it should have been in that
3 EIS, and it should be in this EIS. Because people are going
4 to be living right next door to this transmission line.

5 COMMISSION SECRETARY: Three minutes.

6 MS. DeNAIE: Thank you.

7 CHAIR STARR: Thank you for being with us today.
8 Looking for other members of the public offering testimony.
9 Now is the time. Come on up. Introduce yourself. I'm not
10 seeing any. Last call.

11 Okay. Yeah, come. Aloha.

12 MR. PELLEGRINO: Aloha mai kakou. I'm Hoku
13 Pellegrino. I'm a cultural land specialist for Nohoana
14 Farms in Waikapu and cultural resource coordinator for
15 Kamehameha Schools. My testimony this afternoon will be
16 based on my experience as a cultural land specialist, not as
17 my formal position at Kamehameha Schools. However, I make
18 note of that because of the ongoing partnership that
19 Kamehameha Schools, our extension education services
20 division has had with the Leeward Haleakala Watershed
21 Partnership.

22 I would like to mahalo the Erdmans for caring for
23 that beautiful moku of Kahikinui as well as the ahupua'a of
24 Ulupalakua and Ka'ono'ula and so on. But I would also like
25 to mahalo the Leeward Haleakala Watershed Partnership,

1 because they're the people that are actually on the ground
2 doing the restoration work in the Auwahi ahupua'a. So, my,
3 you know, concerns after reading the EIS, very impressed
4 with the archeological report. I think that's probably one
5 of the most extensive archeological reports that I've ever
6 read before. And to see that Patrick Kirch is very much
7 involved with this project makes me happy, because during my
8 graduate work, I focused on a lot of the research that he
9 put together on that Kahikinui moku.

10 Some of the concerns that I have are regarding the
11 impacts on the archeological sites. Although there is a
12 very impressive archeological record that was done in the
13 EIS, I was not all that impressed with how these sites will
14 possibly, potentially be impacted by not only the project
15 itself where the windmills are going to be put, but also the
16 transmission lines and some of the other structures that are
17 going to be built. You know, we're talking about
18 sustainability here, and I commend where Hawaii is moving
19 towards.

20 However, our kupuna were very much sustainable as
21 well. And I would like to see a win-win situation here.
22 Because I think the archeological sites and the former
23 habitation sites that were there represents how a community
24 in such a very arid, dry region was very much sustainable.
25 And so I think the Kahikinui, people that live in Kahikinui

1 are trying to replicate that lifestyle in very much more of
2 a 21st Century way. And I think there's many possibilities
3 that I did not necessarily see within the EIS that some
4 potential collaboration, partnerships with the Kahikinui
5 community and allowing again a win-win situation, so that
6 they might be able to benefit from this project.

7 But also the knowledge and the ike, you know, that
8 they know and have known through their kupuna can also be
9 implemented somehow in this project. And by that, I mean
10 educational -- you know, being an educational person myself,
11 I'm interested in seeing this extensive archeological report
12 come to life. You know, it's one thing to have it in an
13 800-page document, and show this is a habitation site. This
14 is a heiau. This is possibly an agricultural site and so on
15 and so on.

16 But I would like to see how our people, people of
17 Hawaiian ancestry, but also the general population here on
18 Maui, the County, be involved --

19 COMMISSION SECRETARY: Three minutes.

20 MR. PELLEGRINO: Sorry, time.

21 CHAIR STARR: Take another half-minute.

22 MR. PELLEGRINO: Be involved with somehow bringing
23 this archeological report to life where we can educate
24 others about the sustainability of our ancestors and how it
25 relates to the movement of, you know, sustainability today.

1 The biological impacts. My biggest concerns is the Auwahi
2 restoration plan, because right now, that line goes right on
3 the side of Auwahi restoration project, which Leeward
4 Haleakala Watershed Project manages. And my biggest concern
5 is, although it doesn't go right through it, it will
6 definitely have impacts on the biology of that area.

7 I've seen nene that have died due to Kaheawa Wind
8 Farm. And again, I'm not against wind -- you know, wind
9 farms and wind projects, but I would like to see how that's
10 going to be mitigated, especially because of the rich
11 biodiversity of that area, probably more rich than anywhere
12 else on this entire island you're going to find on the
13 leeward slopes. In fact, there's more biodiversity in the
14 leeward side of native plant species than what you would
15 think of in a wet forest situation.

16 So, I would like to see that in the final, you
17 know, final EIS to see how these benefits can help the
18 community, how this is going to -- you know, better
19 mitigation plan on how they're going to impact the
20 archeological sites as well as the impacts on the biological
21 diversity, which is, you know, to me, goes hand in hand with
22 archeological sites. Our kupuna utilized the material that
23 was found in the Auwahi restoration project. And restoring
24 that is just one very important component with the makai
25 portion of where this project is going to be and how it's --

1 how they could possibly correlate again in the future for
2 future, you know, the future people of this island. Mahalo.

3 CHAIR STARR: Thank you. Thanks for coming
4 forward. Anyone else wishing to share their manao with us
5 on this? Last call. Not seeing any, public testimony is
6 now closed. We're going to recess for ten minutes.

7 (Recess taken 2:43 p.m. to 2:53 p.m.)

8 CHAIR STARR: Please, we're going to come back to
9 order. We're continuing the March 22nd meeting of the Maui
10 Planning Commission. There's a very important and very
11 interesting matter. I just want to remind ourselves that we
12 do have at least one other public hearing after this, so we
13 need to -- we need to at least get through the public
14 hearing portion of that one today. And then we have to be
15 finished by 4:00 to finish the shoreline program.

16 So, I don't want to diminish the discussion of
17 this because this is important, but, you know, let's just
18 try to keep it in mind and do the best we can. Moving right
19 along, we have just finished up public testimony on the
20 draft EIS for the Auwahi wind farm. Now we're back to
21 anymore questions or questions by the Commission. And when
22 we are finished information gathering, we're going to change
23 modes slightly and give planner Joe Prutch those comments
24 and questions that we want included in the document.

25 So, any last questions, which, you know, are not

1 directly comments to go in the document? We'll start with
2 Commissioner Hiranaga. And Mr. Erdman offered himself as a
3 resource if we have questions for him, and thank you for
4 that, sir.

5 COMMISSIONER HIRANAGA: I may have missed this in
6 the draft EIS, but I'm just wondering why does the project
7 site have to be in the SMA area?

8 MS. PULMANO: Commissioner Hiranaga, that's an
9 excellent question. Several years ago the Department of --
10 DBEDT, I can't remember what that stands for, did a wind
11 regime study for the island. And within this wind regime
12 study, they identified the Auwahi parcel, both mauka and
13 makai as good wind regimes. And since that study, Shell
14 Energy before Semptra actually put up some meters to test
15 which area would be best.

16 And what they found in that data collection was
17 the makai portion actually was a much better wind regime
18 than the mauka portion, which is in the SMA. And the EIS
19 requires a number of permits.

20 CHAIR STARR: Go on. Continue.

21 COMMISSIONER HIRANAGA: I guess at what point do
22 you determine that the makai site is superior to the mauka
23 site with regards to impacting ocean views? I mean at what
24 point are you saying this makai site is so much more
25 superior that we're willing to lose these ocean views or

1 impair these ocean views with these structures? Who makes
2 that decision?

3 MS. PULMANO: That's a good question and a tough
4 one to answer. The project, as I understand it, will
5 provide 21 megawatts and reduce 69,000 barrels of fossil
6 fuels that come through this island and 12,000 tons of
7 greenhouse gases. And I understand your question between
8 the difference between the mauka and the makai area. What's
9 interesting to note that before they came on, the ranch --
10 the ranch employees said the makai area has the best wind.
11 It's consistent, comes off the ocean on a consistent level.
12 And that's the reason why the -- that area was chosen as the
13 most proper area.

14 CHAIR STARR: Members. Commissioner Wakida.

15 COMMISSIONER WAKIDA: I would like to add to my
16 list of things I want to compare to the current wind farm.
17 And that is the number of wild life killed, if there are any
18 statistics on that, on the current wind farm annual rate of
19 birds or geese, and what they project for this new wind
20 farm.

21 CHAIR STARR: I'm going to switch us to the next
22 mode here. So, we're going to engage our writing these down
23 since we seem to be going there. And we're going to start
24 as our first item with the information that has been
25 requested by Commissioner Wakida, which, you know, since

1 we're at that point. Let me know if you need more
2 clarification on that.

3 Joe, have you got the questions that she asked
4 both now and before? I don't need to hear them back.

5 MR. PRUTCH: Yes, I've got comparison of the
6 Kaheawa farm, megawatt comparison, benefit to customers
7 comparison and now wild life take. That's what I have so
8 far.

9 COMMISSIONER WAKIDA: Okay.

10 CHAIR STARR: Okay. Other members who have
11 questions or comments to be included? Commissioner Mardfin.

12 COMMISSIONER MARDFIN: I think I would like to see
13 them include some information on how the financing of the
14 decommissioning plan would be assured would be one. A
15 second issue is I wish there were more discussion about the
16 impact of the sea wind that's going to hit these and how
17 it's going to affect the metals and other materials of the
18 turbines. I had an informal discussion earlier, but I think
19 that should be in the environmental impact statement.

20 CHAIR STARR: Okay. I'm going to add the removal
21 of the transmission line from the SMA area, keeping it
22 underground until it's at least a few-hundred feet mauka of
23 the road. And then also a restatement about both the usage
24 and visual value of that -- of that road.

25 Commissioner Freitas, did you have your hand up?

1 COMMISSIONER FREITAS: Well, no. I just want to
2 make a comment. It's not a comment session. But the
3 statement was made that there was a million tons running on
4 the road on the crane. That crane is a 600,000 -- 600-ton
5 crane, and it will pick up 600 tons. It's not what the
6 crane weighs. I have a 75-ton trailer. It will haul 75
7 tons. It is not a 75-ton trailer. It does not weigh that.
8 I just wanted to clarify that.

9 CHAIR STARR: How about we turn that into a
10 question, which is what's the maximum per square foot
11 loading that's going to be on the road surfaces?

12 COMMISSIONER FREITAS: I would like that.

13 CHAIR STARR: Commissioner Wakida.

14 COMMISSIONER WAKIDA: Yes. I didn't see anything
15 in here, and I might have missed it, about the impact of
16 earthquakes on this project.

17 CHAIR STARR: Commissioner Wakida, why don't you
18 continue, and then we'll go to Commissioner Shibuya.

19 COMMISSIONER WAKIDA: Well, actually, I was going
20 to reference Dick Mayer's handout, so I can come back to it.

21 CHAIR STARR: Commissioner Shibuya.

22 COMMISSIONER SHIBUYA: I would like to see a
23 cross-section view of the various avian flights with flight
24 frequency with the terrain and the proposed monopole turbine
25 structures and blades. I want to see the impact or

1 projected impacts of possible impacts of these avian listed
2 in Table 3.7-1.

3 CHAIR STARR: Commissioner Shibuya, did you have
4 another one?

5 COMMISSIONER SHIBUYA: Yes. The next one is to
6 consider helicopter transporting long blades and components
7 versus realigning and improving the highways and/or
8 mitigating or minimizing the traffic on Piilani.

9 CHAIR STARR: I would like to add one kind of in
10 that vein, which is to ameliorate concerns expressed by
11 Wailea Community Association and members of Makena and South
12 Maui communities in terms of the construction transportation
13 plan. I leave that to how you're able to work it out.
14 Commissioner Mardfin.

15 COMMISSIONER MARDFIN: As a followup to that, it
16 was suggested -- and I don't know how practical it is that
17 to bring it by sea and offload it. I think I can see 100
18 real problems with that, but at least I think somebody ought
19 to explore the possibility. I agree, I think there's going
20 to be coral issues among other things, but at least have a
21 quick look. I do know that they used to do cattle loading
22 in there, but cattle weighs a little bit less than the
23 turbines.

24 COMMISSIONER HIRANAGA: Well, they swim, too.

25 COMMISSIONER MARDFIN: They swam them out and

1 picked them up by -- they hoisted them up on the ship.

2 CHAIR STARR: I used to keep a Zodiac on that
3 shoreline, and frankly, I think by wormhole would be easier.

4 Anyway, Commissioner Wakida.

5 COMMISSIONER WAKIDA: In the appendix in this
6 wonderful archeological report is a section on recommended
7 treatments, specific recommended treatments of archeological
8 sites. And it says Table 25. I would like a little more
9 information on how the recommended treatments are going to
10 be monitored.

11 CHAIR STARR: Commissioner Shibuya.

12 COMMISSIONER SHIBUYA: This one is to have a
13 description of the proposed energy storage systems that
14 augments the turbine contributed power into MECO grid and
15 whether MECO agrees with these alternatives. I have --

16 CHAIR STARR: Go ahead.

17 COMMISSIONER SHIBUYA: It's a continuation of
18 something I mentioned earlier, but I don't know whether it
19 was recorded. It was operation and maintenance plan to
20 ensure that all moving parts are accessed or at least
21 identified in this plan, that because of our environment,
22 because of the stresses caused by wind energies, these tend
23 to break and so -- or wear out.

24 And so, if you have a maintenance plan, then I
25 would be interested in taking a look at that.

1 CHAIR STARR: A request for the description of the
2 long-term maintenance plan?

3 COMMISSIONER SHIBUYA: That is correct. How do
4 you intend to operate this?

5 CHAIR STARR: And I have first a comment, which is
6 that my -- the one thing I don't like about it is I wish it
7 were a lot of bigger. And the question is what can be done
8 to enable a larger system to be built and increase the -- I
9 guess increasing penetration into the Maui grid. I believe
10 there's a federal project right now ongoing to try to
11 increase the penetration, so with smart grid.

12 Commissioner Mardfin next.

13 COMMISSIONER MARDFIN: I thought Commissioner
14 Wakida was going to do this, but I'll do it. This is a
15 quick and dirty. I think all of Dick Mayer's comments
16 deserve responses, and so I will suggest that all 13
17 questions be addressed in the final EIS. I think he spent a
18 lot of time and thought on this. I appreciate it.

19 CHAIR STARR: Commissioner Hiranaga.

20 COMMISSIONER HIRANAGA: One of the testifiers
21 wanted some type of an emergency evacuation plan if the
22 Makena Road was somehow blocked, so I think you should
23 prepare something.

24 COMMISSIONER SHIBUYA: Contingency, type of
25 traffic contingency.

1 COMMISSIONER HIRANAGA: Yeah, alternate route.

2 CHAIR STARR: Okay. Commissioner Shibuya.

3 COMMISSIONER SHIBUYA: This would be a very simple
4 question, because I know the public is going to ask this
5 one. Why is a monopole white? Why can't we have a
6 camouflage color scheme? And if Carolyn had her way, it
7 would probably be pink.

8 CHAIR STARR: Blend in with the flamingoes.

9 Members, any others? Commissioner Hiranaga.

10 COMMISSIONER HIRANAGA: Yeah, I would like a -- I
11 understand that your goal is to generate 21 megawatts of
12 electricity. And I wanted a comparison between the mauka
13 site and the makai site indicating say due to the less
14 desirable wind location, you would have to put up X more
15 windmills to generate the electricity that you're trying to
16 generate, which is the 21 megawatts.

17 Because if you just say the makai site is
18 preferable, is better, it doesn't really tell me how much
19 better. And why -- we have to be, especially when you're
20 coming in for your SMA permit, you have to be satisfied that
21 the loss of this viewplane is justified because it is an
22 unobstructed ocean viewplane.

23 CHAIR STARR: Commissioner Mardfin.

24 COMMISSIONER MARDFIN: It's -- I lost it. Sorry.

25 CHAIR STARR: You snooze, you lose. Anymore?

1 Commissioner Sablas.

2 COMMISSIONER SABLAS: I guess more a comment
3 regarding the makai side, followup on Commissioner Hiranaga.
4 I remember going on a cultural site inspection with Cultural
5 Practitioner Kaponoai. And I think I mentioned about the
6 names of the winds there that go back to ancient times. And
7 I would recommend, because he's done a lot of research in
8 the area. And there is a reason why there's winds makai in
9 that particular area, so -- as high as it is.

10 And it goes back to ancient chants, so it might be
11 a good idea for you to consult him and find out more about
12 -- the ancient chants tell a lot about what happened way
13 before we were here. And it was Kaponoai Molitau. I think
14 that might help.

15 CHAIR STARR: Yeah. Commissioner Mardfin.

16 COMMISSIONER MARDFIN: It came back to me. I had
17 asked earlier about, as I said, I thought the archeological
18 report was excellent, but I had asked about surrounding
19 areas. I can understand why you might want to be a little
20 discrete about exactly identifying where they are, but if
21 there were kind of ovals or something on a map that would
22 protect sites sights, but at the same time, let us know how
23 close we are to other significant sites in the area.

24 Because I know Patrick has been probably over
25 every square inch of that area. And I just want to be sure

1 that if there's stuff around it, that that will also be
2 protected in some fashion.

3 CHAIR STARR: Okay. Commissioner Sablas.

4 COMMISSIONER SABLAS: I think I would like to add
5 to, if we haven't already, a better mitigation plan for the
6 biological resources, as the testifier had mentioned earlier
7 about a mitigation plan.

8 CHAIR STARR: Okay. Are we ready to have them --
9 will you give them back to us in a nutshell, Joe, the Cliff
10 Notes version?

11 MR. PRUTCH: Okay. I'll try to go through these
12 quickly. Your comments, first one, comparisons of other
13 wind farm site as it pertains to megawatts, benefits, wild
14 life take, et cetera.

15 CHAIR STARR: Commissioner Wakida.

16 COMMISSIONER WAKIDA: Not others, the one that we
17 have, specifically the one on our ridge up here.

18 MR. PRUTCH: The only other one we have.

19 COMMISSIONER SHIBUYA: Kaheawa.

20 CHAIR STARR: Should we extend that to other ones
21 in Hawaii?

22 COMMISSIONER WAKIDA: Yeah.

23 CHAIR STARR: Yeah, also some information on the
24 other -- on the other existing projects in Hawaii.

25 MR. PRUTCH: So, others in Hawaii as well. Number

1 2, info on decommissioning. The financing for that. How
2 torn down, how removed, what happens at the end. Number 3,
3 sea wind and corrosion of metals, how is that affected, how
4 does that impact equipment. Number 4, removal of the
5 transmission line from the makai side, having it underground
6 until approximately maybe 200 feet mauka of the highway and
7 then going over land.

8 Number 5, usage, visual value of the roads.
9 Change the wording in the draft EIS to show that that is a
10 valuable area. Visuals from the road. Number 6, what are
11 the max weights that the road surfaces can handle along the
12 different routes? Number 7.

13 CHAIR STARR: I think it was what's the load --
14 what's the loading --

15 COMMISSIONER FREITAS: Load capacity.

16 CHAIR STARR: Yeah, the loading of the loads
17 compared with the road.

18 COMMISSIONER FREITAS: Yeah.

19 MR. PRUTCH: Okay. So, the weight of the
20 equipment and the trucks as opposed to what the road can
21 handle.

22 CHAIR STARR: It's not weight, because you have to
23 divide it by how wide the tires are and how many of them.
24 There's actually a metric for pounds per square foot.
25 That's what we're looking for. That's how you're able to

1 tell if a culvert can take it.

2 MR. PRUTCH: Okay. Number 7. I have impact of
3 earthquakes to the site. Number 8, a cross-section view of
4 structures and bird flight paths for the birds I guess that
5 were listed in 3.7-1. Number 9, consider helicopter
6 transportation of blades or other equipment rather than road
7 surfaces. Number 10, concerns by Wailea residents and
8 homeowners association about construction issues, I mean
9 construction traffic issues. Number 11, consider delivery
10 by sea to the site directly.

11 Number 12, in the appendix, the archeological
12 report treatments in Table 25, how are these going to be
13 monitored? Number 13, a description of the energy storage
14 system and the agreement with MECO on these alternatives.
15 Number 14, operation and maintenance plan for breakage,
16 wearing of equipment. Describe the long-term maintenance of
17 the facility. Number 15, any possibility of building a
18 larger system, more megawatts into MECO system and whether
19 or not MECO can accept.

20 Number 16, all of Dick Mayer's comments. I'll
21 have to get a copy from Carolyn. I don't believe I had one,
22 so I'll have to get one from you. And there's a comment
23 letter anyway to go to the applicant, so they'll have that
24 letter to respond to. But I'll address it in ours.

25 Number 17, an emergency evacuation plan for Makena

1 area in case the road happens to collapse or there's some
2 destruction of the road surface. Number 18, oh, why white
3 poles? Why can't they be camouflaged? They can respond to
4 that. I think it's actually FAA, if I remember right, but
5 they can respond to that. Number 19, compare the mauka and
6 makai sites for wind and kind of a comparison of 21
7 megawatts on the makai side and what 21 megawatts on the
8 mauka side might look like; 12 on one, 15 on the other just
9 to get a comparison of equal to equal and how many WTG's you
10 might need.

11 Number 20, consult with the -- I'll have to get
12 the name on the Sablas -- consult with the ancient chant or
13 about the ancient chants. And you said Kaponoai. If you
14 could help me with the spelling of that. I didn't get that.

15 COMMISSIONER SABLAS: Kaponoai, K A P O N O A I,
16 Molitau, M O L I T A U.

17 MR. PRUTCH: M O L O?

18 COMMISSIONER SABLAS: M O L I T A U. He has the
19 store on Market Street, Native Intelligence.

20 MR. PRUTCH: Okay. Thank you. Number 21, looking
21 for kind of a generalized map the archeological surrounding
22 the site in the nearby neighborhood, nearby area.

23 COMMISSIONER MARDFIN: Actually, I was thinking
24 about for a very broad area.

25 MR. PRUTCH: Okay.

1 COMMISSIONER MARDFIN: And maybe on an aerial
2 photograph or something. And, you know, when you do
3 archeological work, you don't want amateurs trampling all
4 over the place. I understand the reason to be -- have fuzzy
5 lines.

6 MR. PRUTCH: So, a map showing important
7 archeological sites.

8 COMMISSIONER MARDFIN: Where significant
9 archeological work is being done and might be done in the
10 future.

11 MR. PRUTCH: And last one I got was a better
12 mitigation plan for the biological section.

13 CHAIR STARR: There was one more, which was
14 basically to include all of Dick Mayer's -- oh, did he say
15 that?

16 MR. PRUTCH: Yeah, I said that.

17 CHAIR STARR: Okay. Sorry. Commissioner Wakida.

18 COMMISSIONER WAKIDA: When you brought up the
19 underground transmission lines, you were just going from the
20 windmill site up to across the road, was that all?

21 CHAIR STARR: My own feeling is that it
22 shouldn't -- there shouldn't be overhead lines through the
23 SMA, which means below the road. And if it was carried
24 underground several hundred feet mauka, then it would not
25 really be destructive of that gorgeous, gorgeous viewplane.

1 COMMISSIONER WAKIDA: And how about the -- they
2 call them generator tie-in lines? What about all the
3 telephone poles that march across the side of the mountain?

4 CHAIR STARR: You mean the ones going over the
5 mountain?

6 COMMISSIONER WAKIDA: Yeah.

7 CHAIR STARR: Well, they get smaller as you get
8 farther away from them. So, I don't think it's bad --

9 MR. PRUTCH: Technically, they don't get smaller.

10 CHAIR STARR: They appear smaller. They're
11 less -- yeah. And they're not blocking the view to the
12 ocean.

13 MR. PRUTCH: Exactly.

14 COMMISSIONER WAKIDA: But those poles, you said
15 only 60 feet, and they were wood; they're not those big,
16 giant gray ones?

17 MR. PRUTCH: Yes.

18 CHAIR STARR: And the document stated that they
19 might be metal. So, I may need some clarification that they
20 will be wood. And I just wanted to add a comment. When I
21 asked about the possibility of enlarging the system, I
22 didn't mean to go back and ask MECO again. I asked maybe
23 someone who really does this type of thing professionally
24 what would be involved, you know, if we weren't in the
25 kingdom of MECO. I think they understand what I'm talking

1 about.

2 MR. PRUTCH: Okay. Is that the consensus or --

3 COMMISSIONER FREITAS: That's it.

4 COMMISSIONER MARDFIN: I heard somebody ask about
5 lights on top of the windmills.

6 MR. PRUTCH: I thought that was in the question
7 period, but that can be a comment if you want. I know they
8 have to put up, I believe it's like a red strobe light.

9 CHAIR STARR: Yes. Please describe all the
10 lighting. I believe the beacons, that's an FAA issue.

11 MR. PRUTCH: Yes.

12 CHAIR STARR: And I don't think that's something
13 under discussion.

14 MR. PRUTCH: No.

15 CHAIR STARR: But, you know, maybe area lighting,
16 we can make sure that it's contained in downlight, which I'm
17 sure that's what they'll do.

18 Commissioner Shibuya.

19 COMMISSIONER SHIBUYA: Under the heading of
20 alternative construction traffic routes, you can add in the
21 partnership that was recommended by Maui Tomorrow, Makena,
22 Wailea 670, Auwahi, get together to see if there's a
23 possible partnership that would come up with an alternate
24 route. And this goes right next to the helicopter business.

25 MR. PRUTCH: Well, I do believe they are meeting

1 on April 4th. They already are meeting with Maui Tomorrow
2 and some of the Wailea HOA's and some of the residents. I'm
3 not sure who else, but they are meeting on the 4th to
4 discuss that exact issue. I'll probably be there for that
5 meeting, too.

6 CHAIR STARR: Commissioner Mardfin.

7 COMMISSIONER MARDFIN: But the discussion and the
8 resolution, that should be in the final EIS.

9 CHAIR STARR: Can we wrap this up now?

10 COMMISSIONER FREITAS: Let's move along.

11 CHAIR STARR: Someone make a motion.

12 COMMISSIONER FREITAS: So move.

13 COMMISSIONER SHIBUYA: Second.

14 CHAIR STARR: Motion by Commissioner Freitas.

15 Seconded by Commissioner Shibuya. The motion is?

16 DIRECTOR SPENCE: To wrap up to the comments.

17 COMMISSIONER FREITAS: Wrap up the comment period
18 on the wind farm.

19 CHAIR STARR: Okay, per Joe's list. All in favor,
20 please raise their hand.

21 DIRECTOR SPENCE: Motion carried.

22 CHAIR STARR: All opposed. Makes lots of watts.

23 DIRECTOR SPENCE: And just so the Commissioners
24 know, the Planning Department will be commenting as well.

25 CHAIR STARR: Danny. Danny, do you need to set

1 up, or are you ready to roll? Okay. We're going to take a
2 very, very short intermission until 25 after.

3 (Recess taken 3:22 p.m. to 3:28 p.m.)

4 CHAIR STARR: Okay. I would like to call the Maui
5 Planning Commission meeting of March 22nd, 2011 back to
6 order. Director will introduce the next public hearing.

7 DIRECTOR SPENCE: Thank you, Mr. Chairman. This
8 is Item F-1, Pauwela Farms, LLC requesting a State Land Use
9 reclassification from State Ag District to State Rural and a
10 change in zoning from Interim to RU-0.5 Rural District for a
11 four-lot subdivision in Pauwela Road in Haiku. Danny Dias
12 is the staff planner.

13 MR. DIAS: Thanks, Will. Good afternoon, Chairman
14 Starr, members of the Planning Commission. I know we're
15 running out of time here, so I'll keep my presentation as
16 brief as possible. And I'll ask the applicant to do the
17 same. As previously stated, this property, I'm sorry, this
18 project involves a change in zoning in District Boundary
19 Amendment for 4.71-acre property in Haiku. This property is
20 located along the northern end of Pauwela Road next to Haiku
21 Elementary School.

22 Just some quick background. On December 14th of
23 last year, this item was reviewed by this Commission. The
24 former request involved a District Boundary Amendment from
25 agriculture to urban and a change in zoning from interim to

1 R-3 Residential.

2 On the day of the meeting, we received letters of
3 testimony from people that live in the vicinity of the area
4 that expressed some concerns. And when I say vicinity, it's
5 because some of the people that did express concern didn't
6 actually live within the 500-foot area, but just in the
7 broader area of the project site. The issues brought up
8 that day were inconsistent notices that were sent out by the
9 applicant, the fact that a community information meeting
10 wasn't held and concerns over converting the property to an
11 urban use.

12 Ultimately, the Commission voted to defer the item
13 and asked the applicant to do the following things. One was
14 change the request from an urban type designation to a rural
15 type designation, which obviously they've done that. In
16 addition, hold an informational meeting for the community.
17 And that meeting was held at the Haiku Elementary School on
18 February 8th. And a couple of other comments made at the
19 meeting. I believe Commissioner Mardfin requested that the
20 applicant consider rezoning the property to agriculture and
21 doing a two-lot subdivision.

22 And lastly, the Commission requested that this
23 meeting that we have representatives from the Department of
24 Water Supply to clarify some of their comments. And I do
25 believe we have some of their staff in this meeting. So, in

1 closing, as the director stated, the District Boundary
2 Amendment request is from agricultural to rural. Change in
3 zoning from Interim to Rural, RU-0.5 or four-lot
4 subdivision.

5 And as a reminder, the Commission is making a
6 recommendation to the Maui County Council. So with that,
7 I'll hand it over to the applicant. I believe it's going to
8 be Chris Hart of Chris Hart & Partners.

9 CHAIR STARR: Mr. Hart, how long is your
10 presentation?

11 MR. HART: We have 26 slides, but we're going to
12 do our best to summarize.

13 CHAIR STARR: How many minutes?

14 MR. HART: Now, listen --

15 CHAIR STARR: Tell me a number. I don't care what
16 it is.

17 MR. HART: You don't care what it is?

18 CHAIR STARR: Yeah.

19 MR. HART: Say ten minutes.

20 CHAIR STARR: You've got ten minutes or less.

21 MR. HART: Thank you. All right.

22 First of all, my name is Chris Hart of Chris Hart
23 & Partners. And with me I have Glenn Tadaki and Jennifer
24 Maydan, and also I have our client Hiro Nakajima and his
25 wife and two children. As indicated to you, the action

1 involves the proposed subdivision of 4.71 acres of land
2 located in Haiku to create a four-lot rural zoned
3 subdivision, 0.5-acre -- 0.5-acre, one-half-acre minimum lot
4 size. The applicant is also requesting a District Boundary
5 Amendment from State Agricultural District to State Rural
6 District and a change in zoning from Interim to Rural 0.5,
7 Rural District to establish the appropriate State and County
8 land use designations for the subject parcel.

9 I'm not going to read this. The most important
10 part about it I think, as Danny indicated to you, that on
11 February 8th, 2011, we did, as requested, had a public
12 meeting with essentially the community. It was an
13 information meeting held at Haiku Elementary School, and
14 there were approximately ten members of the public attended
15 the meeting. This is the location of our proposed project.
16 This is Pauwela Road. This is Hana Highway. This is Haiku
17 School, Haiku Community Center.

18 And the Halepili Aloha subdivision, which is a
19 County, basically low cost -- low income subdivision that's
20 above the Haiku Community Center. This also is an area,
21 this shows our parcel, the Halepili Aloha Subdivision.
22 Haiku school and Haiku Community Center. And also, could I
23 just go back just one second? I want you to note the other
24 urban development that exists in the area, and then this is
25 Haiku proper, which is also urban.

1 This is the State Land Use District boundary map,
2 which shows urban designation in the immediate proximity,
3 the subject site, and, of course, the light green is
4 agriculture. This is our community plan map, which is a
5 very important document, because when Mr. Nakajima came to
6 talk to us in 2008, you know, the site is actually
7 identified as single family. So, the proposal that we made
8 to him in 2008 was that we would, in accordance with the
9 community plan map that actually was adopted by the Council
10 in 1995, we would propose an application for land use
11 District Boundary Amendment from agriculture to urban and a
12 change in zoning from interim to R-3 residential district.

13 And that was the initial proposal, and that was
14 the initial application. And the area of land again is 4.71
15 acres. The -- it's important to note that R-3 residential
16 is 10,000 square foot lots. Immediately next door, the
17 Halepili Aloha Subdivision is R-2 residential, which is
18 7,500 square foot lot. That's a 38-lot subdivision. This
19 is the County zoning map, which shows Haiku School, Haiku
20 Community Center. It shows the R-2 residential district for
21 Halepiilani -- Halepili Aloha Subdivision, the R-3
22 residential district above the road and also the R-3
23 residential district below the road.

24 This is Hana Highway. This is Pauwela Road and
25 our subject site. This is an important map because at the

1 time of the -- of the hearing, Isaac Hall submitted a
2 letter, first of all, that said -- that suggested that we
3 should change the application from urban to rural, and he
4 suggested that in his letter.

5 And also, the County submitted or made us aware
6 that the island plan had proposed that this area, which is
7 this is our parcel which is within the rural service area
8 would actually be proposed as rural, would be a more
9 appropriately proposed as rural. So, we talked to our
10 client. And in the context of the recommendation that was
11 made by staff, we decided that the Rural District would be a
12 more appropriate designation, so we went ahead and done
13 that. I might add though that in the context of that that
14 we have reduced the density by 63 percent.

15 When you consider the rural or the single family
16 residential density of one lot per 10,000 square feet,
17 that's basically four lots per acre. So, we're reducing it
18 down by 63 percent to 0.5-acre lots, which would be
19 half-acre lots, two lots per acre. This shows our parcel.
20 And this is the Halepili Aloha County housing project, which
21 is 38 lots. This is Kihei School -- or I'm sorry, Haiku
22 School, excuse me. And this is the Haiku Community Center
23 and the ball field. And this is all R-3 residential
24 development.

25 This is above Hana Highway, and this is below Hana

1 Highway. I might add that this portion along the -- along
2 the east side of or West Side of Pauwela Road is actually in
3 the agricultural district, and Pauwela Road actually leads
4 up to the Haiku urban district. Thank you. Go ahead. I'm
5 going to turn this over to Jennifer, and she's going to go
6 through the slides quickly. Jennifer.

7 CHAIR STARR: We're getting close to the ten
8 minutes.

9 MS. MAYDAN: I'm Jennifer Maydan. Good afternoon,
10 Commissioners. Okay. The top slide is the subject parcel
11 looking north. This slide on the left is Pauwela Road
12 looking north. On the right, Pauwela Road facing south.
13 This is the subject parcel looking northwest and the
14 southwest portion. The subject parcel is currently
15 designated single-family residential by the Paia-Haiku
16 Community Plan. Beginning in 1992, a 13-member citizen
17 advisory committee met over a period of time to develop the
18 document which would serve the region for through 2010.

19 Beginning in 2003, input was done for the Maui
20 Island Plan, which involved broad-based community input to
21 develop the maps and the plan. August 29th of '09, this
22 Planning Commission unanimously approved the proposed Maui
23 Island plan, including the growth boundaries. The subject
24 parcel lies within the rural directed growth boundaries for
25 the Haiku area as set forth by the proposed Maui Island

1 Plan. In determining the boundaries, future growth
2 projections through 2030, availability of infrastructure and
3 services and environmental constraints and approximate
4 density of land development were taken into account.

5 The subject parcel, as we said, is within the ag,
6 State Ag District, the County interim zoning district. It
7 lies within the -- it lies next to existing development,
8 Haiku Elementary School, Community Center, et cetera. The
9 subject parcels was formerly cultivated in pineapple by Maui
10 Land & Pine. Preliminary subdivision for the proposed
11 four-lot subdivision was granted in March of '09. There's
12 an existing single family dwelling on the lot. Various
13 agricultural crops are being cultivated. And on February
14 25th of this year, the Department of Public Works indicated
15 that the proposed subdivision will comply with 18.04.030 of
16 the Maui County Code regarding subdivision consistency.

17 A description of the proposed project includes the
18 subdivision of the site into four rural lots ranging from
19 just over a half-acre to just over three acres and also
20 including a road widening lot. It's a lot-only subdivision,
21 does not include improvements, which will be the sole
22 responsibility of future lot owners. Potable water will be
23 provided by water catchment tanks on each lot. Fire
24 protection will be provided by existing fire hydrants along
25 Pauwela Road. Retention basins on each lot will capture

1 on-site runoff and result in no runoff to adjacent land, and
2 electrical and telephone service is available.

3 This is the preliminary subdivision plan. You can
4 see Pauwela Road, lots one 1, 2, 3, and the larger
5 flag-shaped lot 4. Reasons justifying the request include
6 that the reclassification of the subject parcel will not
7 have an adverse affect on neighboring land uses and the
8 rural character of the surrounding area. Reclassification
9 of the subject parcel will establish an appropriate area for
10 rural land use that is consistent with the Paia-Haiku
11 community plan. The subject parcel is also located within
12 the directed growth boundaries for the Paia-Haiku area in
13 the Maui Island plan.

14 And finally, the proposed use of the subject
15 parcel for a rural zoned subdivision will result in lower
16 density and less intense use than residential zoned
17 development. Some of the --

18 CHAIR STARR: Excuse me, that's 15 minutes. How
19 much longer are you going to be going on?

20 MS. MAYDAN: I could probably wrap it up in four
21 minutes.

22 CHAIR STARR: Two minutes.

23 MS. MAYDAN: So, no concerns with historic
24 resources. Moving on to the agriculture, as we've said,
25 it's identified single family residential in the Paia-Haiku

1 community plan. It was -- it hasn't been cultivated since
2 early 2000's. It's identified by LSB as C lands and prime
3 by ALISH; however, it's 4.71 acres, very small percentage of
4 C lands and prime lands.

5 The agricultural zoning ordinance does not
6 prohibit land owners from seeking change in zoning, seeking
7 change in land use, especially if there's a good reason to
8 support such a request. The reclassification will not
9 exclude agricultural uses on the property. And the
10 reclassification will not have an adverse impact on
11 agricultural or the inventory of agricultural lands within
12 Maui. Moving on to water. Potable water be provided by
13 rainfall catchment.

14 CHAIR STARR: You need to wrap it up. Thank you.

15 MS. MAYDAN: So, in conclusion, the proposed land
16 use meets the criteria of the directed growth of the
17 district boundary amendment, the State Land Use District
18 Boundary Amendment change in zoning. The proposed project
19 is not expected to result in any adverse, environmental and
20 socioeconomic impacts. Public services are either adequate
21 or will be provided. It is designated single family
22 residential in the Paia-Haiku Community Plan, and it is
23 within the rural growth boundary for the Maui Island Plan.
24 And given the parcel's community plan designation and
25 location next to existing residential development,

1 reclassification of the subject parcel to the State Land Use
2 Rural District and the community and the County rural
3 half-acre zoning district will be an appropriate low density
4 transitional area and buffer between existing urban
5 development and agricultural uses. Thank you.

6 CHAIR STARR: Thank you very much. Members, if
7 it's okay, I would like to invite public testimony. And
8 then we'll go to questions if time permits. So, please,
9 gentlemen in the back and the -- please introduce yourself
10 and welcome.

11 MR. SADLER: Good afternoon. My name is Steve
12 Sadler, and I'm here to testify on Hiro's property, and he's
13 a friend of mine. I've known him for a long time, and I
14 believe that what he is doing in Haiku is a great -- it's
15 very consistent with the Haiku community, the half-acre
16 lots. It will give them plenty of room to grow your own
17 food, and it's a very low density project. And I'm very
18 happy to see that it is a low density project and not the
19 use that it could have been if they wanted to stick to it.

20 But given that it's only four lots, it's very low
21 impact and walking distance to the schools and close to
22 Haiku Town. You can also walk up to the town, so I think
23 it's an excellent location for people to live. And I
24 believe that we all need a little bit of extra land for --
25 because the island is always growing. I've been here since

1 '77, and since then, the population has doubled.

2 And it's nice to see some low density places to
3 live as opposed to some of the other higher density places
4 that are going up with, you know, larger projects. So,
5 thank you very much for your time.

6 CHAIR STARR: Thank you for joining us today.

7 Next testifier.

8 MR. SAUCIER: Aloha, Council. I would just like
9 to say that the Nakajimas, they seem to have a good plan for
10 their land. They have cleaned it up really nicely and done
11 a good job. I do live in --

12 CHAIR STARR: Excuse me, you didn't introduce
13 yourself. My name is -- I'm sorry, my name is Tyson
14 Saucier, and I just broke Roger's Rules. I have been living
15 in the Pili Aloha subdivision for the past three years at
16 the end of this month. And I live within 500 feet of -- I
17 live close to the back of the triangle. I live about
18 straight up to where the end would be of the subdivision or
19 something like that, but it's within the 500 feet. I'm
20 pleased with what he's done. He's had to clear out some
21 derelict vehicles from up there and whatnot.

22 I know that they're good neighbors, because of the
23 fact that we have that Haiku School fundraiser there, and
24 it's always a huge traffic mess. They let as many people
25 that were working the thing park there as possible to

1 alleviate some of that on their property just two weeks ago.
2 And they're planning on adding a widened and proper sidewalk
3 from the school to the top of their land, which they
4 probably have about, I don't know, seven, 800 feet or
5 something like that. I think that they're good neighbors,
6 and they'll be an asset to have in our community.

7 And as we live -- we have zero lot lines in our
8 place, and that's all R2. I think maybe they should get
9 R2-D2, too. I wish you guys aloha, and thank you for
10 letting me speak.

11 CHAIR STARR: Okay. Thank you. Other members of
12 the public wish to testify on that. Come forward.
13 Introduce yourself.

14 MR. SHEETZ: Hi, my name is David Sheetz. And
15 Hiro Nakajima is a friend of mine. And he asked me if I
16 would be interested in being a character witness for him,
17 and I told him I didn't think he was on trial, but I would
18 be happy to provide some personal information. I've known
19 Hiro for ten years. And he's a friend of my mine. My
20 family is friends with his family. He lives here. He's not
21 an absentee landlord.

22 I know he's worked very hard on this project for
23 the last three years. And I know that his plan is to live
24 on this property with his family, so I wanted to support
25 him. Thank you.

1 CHAIR STARR: Thank you. Welcome, Ron. Good to
2 see you today. Introduce yourself.

3 MR. SANDATE: My name is Ron Sandate. I'm here to
4 speak in support of the project. I've known Hiro since he
5 purchased the property. He has always sought advice for the
6 right way to proceed with what is allowed by law in turning
7 this land into something for he and his family to have a
8 home and be able to stay together on Maui. He's not asking
9 for the highest density allowed, but merely a place to raise
10 his children and perhaps where they might remain and raise
11 their children.

12 He's been a good steward of the land, worked hard
13 and vastly improved it from what it was. Before his
14 purchase, it was a haven for people camping on the land with
15 rampant drug use, no sanitation and no oversight, old
16 pineapple land gone fallow and basically abandoned. He has
17 cleared away rubbish, weeds and five acres of cane grass.
18 He hauled away derelict car parts and loads of trash and
19 planted extensively with decorative palms as well as shade
20 and fruit-bearing treats. He should be able to sell a lot
21 to recoup some of his investment by providing another family
22 the opportunity to own a home.

23 The property, as you know, is supported by ag
24 properties as well as residential use. It's not conflicting
25 with any community plan, nor is it creating any undue amount

1 of traffic. It's right next to Haiku School allowing
2 children to walk to school rather than contributing to Haiku
3 School traffic. I thank you for your consideration and
4 humbly ask this Commission to grant his request and allow
5 him to subdivide his property as proposed.

6 CHAIR STARR: Okay. Thank you. Good to see you,
7 Ron. And welcome.

8 MR. SADLER: Hi, my name is Steve Sadler, and I
9 have a written testimony from Danielle Sears I would like to
10 read. It says my name is Danielle Sears. I'm resident of
11 Haiku, a mother of two boys, who attend Haiku Elementary
12 School and a Deputy Public Defender on Maui. I'm in support
13 of the subdivision proposed by Hiro for the property named
14 above. I know Hiro and his wife Julie as friends, fellow
15 residents and as event chair for the Haiku Ho'olaulea and
16 Flower Festival put on by the Haiku School PTA.

17 I grew up in Huelo in the 70's when Haiku Town was
18 the cannery, the Post Office, Fukushima's, Toma's and the
19 Haiku Store. I attended Haiku School until eighth grade.
20 After high school, moved to the mainland for college, law
21 school and the beginning of a career. I'm grateful to have
22 moved back to Haiku in 2005. I noticed how Haiku had
23 changed, but it was not a semi -- it was now a
24 semi-metropolin area with great restaurants, gym, bike
25 stores, hardware stores and so much more. A natural

1 extension of this development is more people wanting to live
2 in this amazing community and more residences to house them.

3 As far as I can see, Hiro and Julie are using the
4 proper channels, following the law and requesting and
5 creating this potential subdivision in the right way. In
6 addition, they are giving back to the Haiku community in a
7 huge way. As event chair of the Haiku Flower Festival for
8 the past five years, I have discovered that securing parking
9 for this event is very challenging. And this year, Hiro and
10 Julie have graciously devoted their property for that
11 purpose.

12 They have told me that they would do the same in
13 the years to come as the subdivision hopefully becomes
14 reality. This is a huge benefit to the Haiku School and the
15 Haiku community in general. As without parking, we could
16 not allow as many patrons to the festival and make the much
17 needed money for our children's educational needs. Please
18 approve this proposal. Aloha, Danielle Sears.

19 CHAIR STARR: Thank you. We have I guess a list.
20 Some people have already testified though. Did Gary Meola
21 testify already?

22 MR. MEOLA: I'm right here.

23 CHAIR STARR: Come on up. Introduce yourself.

24 MR. MEOLA: I'm Gary Meola. I live in Haiku. And
25 I'm here for the opposition to the opposition. So, I'm for

1 the project. Looks pretty good. I don't see much impact,
2 and that's about it.

3 CHAIR STARR: Okay. Thanks for coming in and
4 sharing with us. Next is David Sheetz.

5 MR. SHEETZ: Once again, I'm for the project.
6 Tyson Saucier I know testified. Steve Sadler, you
7 testified. And Roland Chen. Come, introduce yourself, and
8 welcome.

9 MR. CHEN: Yes, my name is Roland Chen. And I am
10 for the project. I know -- I've known Hiro for quite a
11 while, and I know that when he bought the property, it was
12 like -- it looked like an ongoing crime scene. People were
13 partying out of stolen cars there. The gulch was full of
14 cars, and there were a number of homeless people living
15 there on the property also. And so, at least how now it is
16 all cleaned up, and it's not nearly as bad as the other end
17 of Pauwela Road where there's practically a carnival going
18 on. So, I am for the project.

19 CHAIR STARR: Okay. Thank you, Mr. Chen. Any
20 other members? Mr. Hall, welcome. Come on up. Introduce
21 yourself.

22 MR. HALL: Good afternoon, Mr. Chairperson,
23 Members of Maui Planning Commission. My name is Isaac Hall.
24 I represent John Volwieder, who lives within 500 feet of the
25 project. We filed a protest to the rezoning of the land

1 along with the Richardsons. The protests still stand.

2 I've reviewed the staff report, the attached
3 exhibits and the staff recommendations, and they don't deal
4 with the issues that are essential to this. Most of the
5 people that testified here came to the public meeting, some
6 of them live in Pukalani and around about, but they're not
7 the immediate neighbors. This meeting was scheduled at a
8 time when the immediate neighbors most affected could not be
9 here. We asked them to change the date. They refused.

10 At the public meeting, we asked to -- for some
11 accommodations for the immediate neighbors, and they refused
12 to give us any accommodations. You heard what we've asked
13 for. I didn't ask for rural. We asked for ag or rural.
14 That wasn't done. At that community meeting we had, we
15 asked for some concessions. They refused to give us any of
16 these concessions. Anyway, in this letter, we asked for two
17 minimal conditions that would satisfy the immediate
18 neighbors, not these other people who don't -- except for
19 that one person, who actually don't live near this project.

20 And those two conditions were that there would
21 only be one access onto Pauwela Road. And the other was
22 there wouldn't be any further subdivision or any
23 condominiumization of these lots. We asked for those in
24 that meeting. They said they would look at the one access
25 condition and get back to us. Never did. On the other --

1 on no further subdivision, said they would get back to us.
2 Haven't gotten back to us. But those are minimal.

3 They wouldn't really protect us from all the
4 deleterious impact of this project, but most of the
5 neighbors were saying you do that, we'll leave you alone.
6 You -- either they agree to those two conditions, or this
7 Commission recommend the attaching of those conditions and
8 we won't oppose this project any further. Those neighbors,
9 the Ledesmas, you may remember them, were here. A woman
10 named Persis and a couple of other people, there were about
11 five or six of them, that couldn't even be here today.

12 They knew it. They brought all their people, but
13 these people couldn't even come today. And they knew they
14 couldn't be here and refused to reschedule the meeting. But
15 that's what their position is. Mr. Volwieder, for his part
16 is if they don't either agree to those conditions or you
17 don't impose those conditions, he just full out opposes it
18 for all the reasons that I've already given you. When
19 Mr. Hart said that this adjoins urban lands, it does in a
20 very tiny place. The majority of the surrounding lands if
21 you look at those pictures are ag lands.

22 And our ag ordinance says you cannot or should not
23 reclassify lands if they meet three tests. One is they're
24 prime lands. Two, they were in ag at the time our ag zoning
25 ordinance was passed in the 1998. They were. And 75

1 percent of the land surrounding the property are in ag use,
2 which they are.

3 And so, they meet these three tests. They should
4 be reclassified out of ag.

5 COMMISSION SECRETARY: Three minutes.

6 MR. HALL: Okay. Then there's the water issue,
7 which we kind of talked about a lot before, but it's the
8 same water issue. Now, we said an EA was necessary, an
9 exemption determination was issued. We think that's an
10 illegal exemption determination. I can't get it all in, but
11 you've got my letter I hope. Thank you very much.

12 CHAIR STARR: Mr. Hall.

13 MR. HALL: Yes.

14 CHAIR STARR: What would be a mechanism that you
15 and your clients feel would be useful for creating some kind
16 of useful discussion to try to ameliorate the concerns?

17 MR. HALL: We were hoping, and I thought you were
18 in asking for that community meeting, that that community
19 meeting would have that. But all it was was them standing
20 up and saying what the project was, and then the Ledesmas in
21 particular stood up and said would you agree to one access
22 way. And there was -- Chris Hart I don't think will deny
23 this. He said, we'll take that under consideration, and
24 then we never heard from him. So I don't know. Mediation,
25 that's premature.

1 There is no intervention in this process, but
2 something where either you don't take action until there's
3 meetings or either you recommend that those conditions get
4 imposed.

5 CHAIR STARR: Okay. Commissioner Mardfin and
6 Commissioner Hiranaga.

7 COMMISSIONER MARDFIN: Is there some reason you
8 haven't formally asked for intervention as a contested case?

9 MR. HALL: It's my understanding, and I think your
10 corp counsel is going to tell you if the final
11 decision-making entity is the legislative body, you can't
12 intervene.

13 DIRECTOR SPENCE: You can't intervene on
14 legislative actions. Administrative actions you can.

15 MR. HALL: I wish I could.

16 CHAIR STARR: Commissioner Hiranaga.

17 COMMISSIONER HIRANAGA: Just clarification,
18 Mr. Hall, you stated that your client lives on the property
19 within the 500-foot radius; he lives on the property, is
20 that what you said?

21 MR. HALL: You mean full time?

22 COMMISSIONER HIRANAGA: Lives, L I V E S,

23 MR. HALL: Well, I don't know what you mean by
24 lives. He doesn't live there full time. I want to be clear
25 with you. I don't know what you're trying to get at. If

1 you mean does he live there full-time, no, does not live
2 there full time.

3 COMMISSIONER HIRANAGA: So, he has a dwelling on
4 the property?

5 MR. HALL: Yeah.

6 CHAIR STARR: Commissioner Tagorda.

7 COMMISSIONER TAGORDA: Mr. Hall, I like to know
8 why you are so strongly opposed to four driveways?

9 MR. HALL: Oh, that's -- I think the Ledesmas
10 testified about that to you before. Their kids live mauka
11 of this project, and they walk to school going down there.
12 And with four driveways, you have four sets of cars leaving
13 and entering this area.

14 COMMISSIONER TAGORDA: You know when looking at
15 that map right there, the plot there, you know this parcel
16 is going to be sold to somebody else?

17 MR. HALL: I understand. One thing I want to add
18 it's on a hill, a pretty steep hill. And an entrance and
19 exit by four cars out of four driveways is a real safety
20 problem from their perspective and our perspective that
21 nobody has looked at. I've looked at Mr. Rowill's traffic
22 impact study, and I think he's underestimated the amount of
23 traffic that's going to be coming in and out of those four
24 driveways, number one.

25 But by having traffic come in and out of four

1 driveways instead of just one, you've got these kids going
2 to school that have to cross over four additional driveways
3 for no good reason.

4 CHAIR STARR: Okay. Thank you, Mr. Hall.
5 Commissioner Wakida, did you have a question?

6 COMMISSIONER WAKIDA: Well, no, not to Mr. Hall.

7 CHAIR STARR: So, we're continuing our public
8 hearing on this item. Any other members of the public
9 wishing to testify on that? You testified already,
10 Mr. Sandate.

11 MR. SANDATE: Can I provide some information?

12 UNIDENTIFIED SPEAKER: It's a letter.

13 CHAIR STARR: You're out of order. Anyone else
14 wishing to offer testimony who has not already testified,
15 please come forward. Ms. DeNaie.

16 MS. DeNAIE: Aloha, Lucienne DeNaie. I wasn't
17 here to testify on this item, and it sounds like there's
18 good points to be made on both sides. But I noticed these
19 folks have young children, and I did enjoy parking on your
20 land. I was one of the vendors that parked up on your land.
21 And it was great during the Ho'olaulea to have that parking
22 area. During my research of the water resources of Maui, I
23 seem to recall that an extremely polluted well was located,
24 I think it was immediately north of this property. It was
25 an old Maui Land & Pine well. It was near where like the

1 Head Start program of the Haiku School is.

2 So, I just, you know, they've talked about using
3 the land for farming and this and that. They might want to
4 get their soil tested, because this well was just eventually
5 closed down. It was too polluted to use, so just to provide
6 that as a point of information.

7 CHAIR STARR: Thank you, Ms. DeNaie. Any other
8 members of the public wishing to offer testimony who haven't
9 testified? Please make yourself known. Not seeing any, the
10 public testimony portion of the public hearing is now
11 closed.

12 Members, we have a conundrum, which is that we
13 have about another 10 to 15 minutes to deal with either this
14 item or the Driveway D, and we have to finish our workshop
15 to be done by 5, which is when we need to close up shop.
16 What?

17 COMMISSIONER FREITAS: Go over. Go to 6.

18 CHAIR STARR: That's not fair to -- that's not
19 fair to staff who have kids that they need to pick up. But
20 in any case, is there a desire -- I think one of them will
21 likely have to be deferred, possibly both. Should we
22 continue -- should we continue with this?

23 COMMISSIONER FREITAS: I don't think it's fair to
24 the applicant if you're going to rush this thing through,
25 and they've been here before. I think -- you know, they

1 have showed up. They've brought all their people. What is
2 fair?

3 CHAIR STARR: We can continue. We'll probably
4 need to put off Driveway D. Commissioner Hiranaga.

5 COMMISSIONER HIRANAGA: Yeah, personally I did not
6 appreciate the abbreviated presentation and the limited time
7 you allowed the applicant to present their application. So,
8 I would not be in opposition to defer this matter to another
9 meeting. The Olowalu project is kind of a safety issue, and
10 if we can resolve that, get that moving, I would prefer to
11 address the Olowalu.

12 CHAIR STARR: That actually is the way the Chair
13 feels, and also possibly there might be an opportunity to
14 resolve some of those outstanding issues with this, so
15 whatever the body wants. I wanted to finish the public
16 hearing, because if we defer the public hearing, that costs
17 a lot of staff time and a lot of money and inconvenience to
18 people who have been noticed, so whatever your pleasure.

19 COMMISSIONER HIRANAGA: I make a motion to defer
20 this matter to what, the next meeting certain or --

21 CHAIR STARR: Yeah, can. It's a short agenda.

22 COMMISSIONER FREITAS: Second.

23 CHAIR STARR: Moved by Commissioner Hiranaga.
24 Seconded by Commissioner Freitas. And I apologize to the
25 applicant. The motion is?

1 DIRECTOR SPENCE: The motion is to defer this
2 item, action on this item until the next meeting.

3 CHAIR STARR: All in favor, please raise their
4 hand. All opposed.

5 DIRECTOR SPENCE: Motion is carried.

6 CHAIR STARR: And I do apologize for everyone who
7 came here for this, but it does deserve proper time and
8 discussion. And I do apologize for cutting short the
9 presentation, but we needed to do the public hearing. Thank
10 you.

11 I would like to add one comment, which is if it
12 came back before this body with people more on one page, it
13 would probably be for the best. Isaac, take it outside,
14 please. Director.

15 DIRECTOR SPENCE: Commissioners, we are moving on
16 to Item G, Unfinished Business. This is for Mr. Peter
17 Martin of Olowalu Elua Associates, and this is with regard
18 to Driveway D. This has been a continuation of several
19 deferrals. Kurt Wollenhaupt.

20 CHAIR STARR: Once again, I apologize we've been
21 deferring this item, and I ask please both our planner and
22 the applicant and consultants, let's try to keep it as
23 efficient and short as we can. We do want to try to resolve
24 this today.

25 MR. WOLLENHAUPT: Good afternoon, members of the

1 Maui Planning Commission. As indicated before, this is a
2 continuation -- this is a continuation of SMA Type 1
3 2010/0008 for the relocation of improvements for Driveway D
4 for the Olowalu Mauka subdivision and related improvements.

5 As the Chairman had indicated, this was originally
6 heard on February 8th, 2011, deferred to February 22nd for
7 additional comments. And today, March 22nd, the applicant
8 has addressed the continuing items that the Commission had.
9 There were five, as indicated in staff report. And I guess
10 without further ado, I believe it's probably best to have
11 the consultant address these comments as you desired. And
12 Mr. Munekiyo of Munekiyo & Hiraga will be doing the
13 presentation.

14 CHAIR STARR: Mr. Munekiyo, please give us the
15 shortest version as you can. We've seen it a few times
16 already.

17 MR. MUNEKIYO: I will, Mr. Chair. I would like to
18 go to the comments raised by the Commission at the last
19 meeting, February 22nd. The first comment is to continue
20 review in the reduction of in the length of the Lahaina
21 bound acceleration lane. And that reduction would be to see
22 if there might be a possibility to preserve the two
23 monkeypod trees. And if I may, Mr. Chair, this is the site
24 intersection plan for the original proposal that was first
25 presented to this Commission on February 8th. And the point

1 of interest, if I may -- is this working okay?

2 The original intersection improvement called for a
3 690-foot long acceleration lane including taper lane, and
4 that alternative required removal of two monkeypod trees
5 here and here. And the Commission then -- the Commission at
6 this last meeting asked if we could relook at what design
7 alternatives might be appropriate, and we did it. We met
8 with the Department of Transportation.

9 And although it's not shown clearly on this slide,
10 we have been able to reduce the acceleration lane from an
11 acceleration lane to a stop controlled taper lane, which
12 reduces the overall length to approximately 225 feet. And
13 through that reduction in the -- that geometric
14 configuration, we are able to preserve two monkeypod trees.
15 If I may, again, we are looking now from a full-blown
16 acceleration lane to a stop controlled and taper tape of
17 configuration.

18 Here are the two trees. They would be preserved,
19 and so I would discuss it with the Department of
20 Transportation. Charlene Shibuya from DOT is here this
21 afternoon if there are questions regarding this
22 configuration. So, we believe we've addressed that matter,
23 Mr. Chair. Going to Question Number 2, there was an inquiry
24 as to how this intersection compares with Ukumehame. We did
25 submit plans for the Commissioners to review.

1 We do in our response letter have a table, which
2 compares the two intersections in terms of geometrics. I
3 might point out these are somewhat kind of different
4 circumstances in terms of speed limit, so we do have at
5 Ukumehame a somewhat greater acceleration lane. And we do
6 have about 1,330 feet on the right turn acceleration lane.
7 But the comparison is there in our letter of response to the
8 Commission, and we hope that this information is
9 satisfactory to the Commissioners.

10 The next comment that the Commissioner asked for
11 was a list of advantages and disadvantages for both the
12 current location and the original location. And if I may,
13 this is the original location, if you recall, Commissioners,
14 just mauka of the shoreline here. We did have actually an
15 evaluation done by retired Maui Police Captain Charles
16 Hirata, who is also here this afternoon. He did prepare a
17 memorandum, which was attached to our letter where he
18 delineates what he believes to be advantages or
19 disadvantages with this particular location.

20 I think we've outlined those previously, but we
21 thought it might be helpful to have a third party look at
22 it. And Mr. Hirata does have a lot of experience in this
23 area. So, we thought his observations would be valuable,
24 and those are included as part of our letter. And
25 Mr. Hirata is here should there be questions for him. The

1 next comment that was put forth was the request that we
2 relook at the makai drainage channel just in this area where
3 there is standing water. We did go back and talk about it
4 internally. You may recall that the source of this water is
5 an underground spring source on the mauka side of the
6 highway. It traverses under culverts to the makai side.
7 Our civil engineer did indicate that to have that standing
8 water mitigated, we would be required to have a culvert
9 condition along the parallel to Honoapiilani Highway.

10 And in further considering that option, we
11 unfortunately, Mr. Chair, need to convey to the Commission
12 that it's not something that we believe is within the scope
13 of this project. The ownership issues, permitting issues
14 that I think would make this a fairly complex undertaking.
15 So, again, this is something that we did look at once more,
16 and unfortunately, it's not something we feel could be
17 accommodated within the scope of this project.

18 And finally, Mr. Chair, I think you did ask the
19 Department to relook at whether or not the conditions of
20 compliance or compliance with conditions from the original
21 SMA were addressed, and I can leave that to Mr. Wollenhaupt
22 to respond to.

23 CHAIR STARR: Okay. I thank you for that. I want
24 to ask Mr. Hirata, you've been waiting here patiently, to
25 just give us a real short form of his, what he's -- his

1 feelings on safety regarding this location versus the
2 others. And I would ask you for the short form, but you
3 have unparalleled experience with it.

4 MR. HIRATA: Good afternoon, Mr. Chair and Members
5 of the Commission. Fire away.

6 CHAIR STARR: Tell us what you think about this
7 location versus the other location.

8 MR. HIRATA: Well, Driveway D, the so-called new
9 location, has numerous advantages. Number one, if you look
10 at it historically back in 2003, Officer Nagita, now
11 Detective Nagita, submitted a memo recommending the new
12 location, which also concurred by lieutenant, now Captain
13 Victor Ramos, who is a qualified traffic reconstructionist.
14 He also concurred with that recommendation as well, as did
15 I, because of the reasons; number one, the site distance.
16 If you have better site distance, it gives you more time to
17 react if you're coming out of an intersection.

18 That's so it also helps in case somebody is doing
19 a speed that's higher than the posted speed limit. The
20 location is on a straight-away. There's also room over
21 there. You have the other location located closer to mile
22 post 14 has a very narrow shoulder, as a matter of fact, a
23 soft shoulder on the makai side. I've been pulling people
24 out of there for a number of years. The best part about
25 that location is that you do have the acceleration lane.

1 You have the storage pockets over there to accelerate out
2 of. The speed limit also -- if you look at the speed limit
3 there, the mile post 14 location is a tenth of a mile from
4 the 55-mile-an-hour speed limit; whereas, the new location
5 is .6 miles north of that 55-mile-an-hour zone.

6 So, what I did just to -- just to ensure that, you
7 know, I had my thoughts correct, I did a speed survey,
8 counted 500 cars, and found out the average speed at that
9 location was 42 miles an hour at the new location. Also,
10 the 85 percentile speed was 47 miles an hour, which was well
11 close to the posted 45-mile-an-hour speed limit. You're
12 also coming out of a 35-mile-an-hour zone coming out of
13 Olowalu from the Olowalu Store direction.

14 So, as far as safety, you know, this is a much
15 better safety location than the mile post 14 location.

16 CHAIR STARR: Okay. Thank you. Commissioner
17 Mardfin.

18 COMMISSIONER MARDFIN: Real quick. You're
19 referring to the general location at D. Did you look at the
20 two configurations for D, one where they lose the trees, and
21 the other where they save the trees?

22 MR. HIRATA: Yes, I did.

23 COMMISSIONER MARDFIN: Do you have comments on it?

24 MR. HIRATA: Well, any time you're able to, you
25 know, have a longer acceleration lane, it's going to help.

1 Because, you know, you don't need a (inaudible) engine in
2 your car to get up to speed. You know, the more gradual you
3 can make your entrance, the more safer you can make that
4 intersection. So, having a long runway, if you will, will
5 definitely make it safer.

6 COMMISSIONER MARDFIN: So, you prefer the one
7 where we sacrifice the trees?

8 MR. HIRATA: I hate to sacrifice anything, but,
9 you know at the cost of safety, that's for -- something for
10 you people to evaluate.

11 COMMISSIONER MARDFIN: Do you think it's
12 significantly different safety?

13 MR. HIRATA: From going to a stop to a merge,
14 yeah, I think it's a lot easier and better. Because, you
15 know, if you travel on some of the merge lanes like on
16 Kuihelani Highway and whatnot, there's definitely an
17 advantage of being able to see an opening and being able to
18 merge safely and get up to speed versus going from a
19 complete stop.

20 COMMISSIONER MARDFIN: Thank you very much.

21 CHAIR STARR: Commissioner Shibuya.

22 COMMISSIONER SHIBUYA: Thank you for coming,
23 Officer Hirata. I just want to let you know that on Dairy
24 Road going up Hana Highway towards Kula, there's an access
25 acceleration lane. I've seen many people go on the access

1 lane trying to merge in, but they get to the very end, and
2 they stop and then they try to merge in.

3 MR. HIRATA: Yes.

4 COMMISSIONER SHIBUYA: They don't seem to
5 understand that --

6 MR. HIRATA: They don't know how it works. They
7 don't know how it works.

8 COMMISSIONER SHIBUYA: That's right.

9 MR. HIRATA: Yeah. Because, you know, I used to
10 see it in front of -- on Mahalani Street as you're merging
11 onto Kaahumanu Avenue, you see people. They come out, and
12 they go all the way to the end, and they stop. Basically
13 screws up everybody else behind, right. Yeah, so you know,
14 that's -- it's an education thing. Too bad we can't educate
15 more people on that point.

16 COMMISSIONER SHIBUYA: I'm in favor of some longer
17 acceleration lanes. Don't get me wrong. It's just that I
18 noticed there's two sides of this, and you have long
19 acceleration lanes and people who come to the very end and
20 then start to accelerate.

21 The left hand turn from Driveway D going towards
22 Maalaea, that once they get into that merge lane, it's
23 short, shorter than the acceleration lane going to Olowalu.
24 Is that a problem with you?

25 MR. HIRATA: No, if you can find an opening. I

1 think having a storage pocket over there just when you make
2 the turn so you can at least wait. Because I go surfing in
3 that area. I go surfing at Puamana. And have you ever
4 tried to come out of Puamana Park to go into Lahaina? It's
5 very, very difficult, and, you know, it's a little scary
6 sometimes.

7 You know, having a place where, you know, that's
8 usually the case where one side is clear, but the other side
9 is not. You know, this solution eliminates that problem
10 where at least you can cross over one set of lanes in safety
11 and then wait for an opening.

12 COMMISSIONER SHIBUYA: I'm concerned that the
13 left-hand pocket of what you call the storage area is short,
14 too short, in fact. And do you see it as adequate?

15 MR. HIRATA: Well, that's not my forte. But, you
16 know, so long as there's a pocket over there where you can
17 wait for an opening, that's a lot safer than not having one.

18 CHAIR STARR: Thank you very much. I'm going to
19 call for public testimony on this. Any members of the
20 public wishing to offer testimony on this item, now would be
21 a good time. Please make yourself known. Last call for
22 public testimony. Public testimony is now closed.

23 Members, any further questions? This is about the
24 fourth time through with this. Commissioner Mardfin.

25 COMMISSIONER MARDFIN: Yeah, this is for the

1 consultant probably. In your -- the March 7th letter from
2 Frampton & Ward -- by the way, I like the way you responded
3 to the comments. I thought it was very helpful. But I want
4 to focus on Comment Number 1.

5 And you say in that letter, since the design
6 formulation and evaluation process at this writing, a
7 specific engineered solution has not been finalized. You go
8 on, combined with the shorter acceleration lane, taper may
9 be acceptable to the DOT. The next sentence, assuming this
10 alternative design scheme can be evaluated, the two
11 monkeypods wouldn't have to be removed.

12 Then you say we will continue to work with DOT
13 over the next two weeks to provide the necessary supporting
14 engineering analysis to come to a final determination. I
15 guess I want to know what the final determination is. We
16 had a speaker this morning that said that you saved the
17 trees. And I said that's not what the report says yet.

18 MR. MUNEKIYO: It was a process, Commissioner. If
19 I may ask Charlene Shibuya from DOT to kind of summarize.

20 CHAIR STARR: Yeah, Ms. Shibuya.

21 MR. MUNEKIYO: If there's any progress.

22 CHAIR STARR: Welcome.

23 MS. SHIBUYA: Good afternoon, Commissioners and
24 Chair. We actually, the consultants have been working with
25 myself diligently to look at all the, I would call it

1 constraints. And, you know, given the sentiment of the
2 trees, we're sensitive to that, and we realize that with no
3 improvements, it really puts the subdivision, you know,
4 motorists at risk.

5 And so, I think it's come down to getting a
6 balance. Yes, it would be ideal to have, you know, very
7 long acceleration lanes. And without it, what happens is
8 the drivers may have to wait a little bit longer to get out
9 and then the drivers on the main highway might have to slow
10 down. But it's basically, you know, weighing out all the
11 alternatives and looking at the trees on both sides.
12 Because the situation with trees exists also on the Maalaea
13 side. So, then if we start to try to get, you know, ideal
14 situations, then we start to impact those trees.

15 So, I think basically this layout is probably the
16 best we could come up to balance everything and basically
17 respect the sentiment of, you know, saving those trees and
18 having some level of -- a comfortable level of safety for
19 the subdivision.

20 CHAIR STARR: Commissioner Mardfin.

21 COMMISSIONER MARDFIN: I just -- so, DOT is
22 comfortable with the shorter lane and saving the trees?

23 MS. SHIBUYA: Yes, because we basically sat down
24 together and, you know, looked at -- I mean you can
25 remassage things mauka, makai, this way and that way trying

1 to massage the lanes to minimum width. And, you know, I
2 hate to say it. We can't get an ideal situation, but we
3 feel that this is a comfortable, how do you say, like a
4 happy medium to balance everything. And, you know, really
5 every time we got to back to this Commission, we feel like
6 we're just delaying these intersection improvements that
7 could really benefit the subdivision. And it makes us
8 nervous.

9 COMMISSIONER MARDFIN: I just wanted to have it
10 clarified, because the letter from Frampton & Ward was very
11 ambiguous. And now you're clarifying it's acceptable to
12 DOT.

13 MS. SHIBUYA: Well, I think this is what they're
14 trying to say this is the concept to come out, and we still
15 have to work out all the details on this. But, you know,
16 it's basically coming up to this concept that will address
17 everybody's concerns and constraints and then start to move
18 forward. It gives a good idea that this is how we --

19 CHAIR STARR: Okay. Thank you. I would like to
20 have our recommendation if that's okay. Commissioner
21 Shibuya, you wanted to say something?

22 COMMISSIONER SHIBUYA: Yeah, I just wanted to ask
23 Charlene on the Driveway D taking a left turn, and there's a
24 holding area or pocket going towards Maalaea?

25 MS. SHIBUYA: Yes.

1 COMMISSIONER SHIBUYA: How long is that pocket?
2 How many car lengths?

3 MS. SHIBUYA: Right now, as far as it's
4 approximately 50 foot storage, so typically passenger cars
5 would be approximately two cars could stack at a time, not
6 including the taper.

7 CHAIR STARR: Okay.

8 COMMISSIONER SHIBUYA: Thank you.

9 CHAIR STARR: Mr. Wollenhaupt, the recommendation
10 please in the short form.

11 MR. WOLLENHAUPT: The Maui Planning Department
12 recommends approval of the Special Management Area Use
13 Permit based upon the conditions as stated on the green
14 paper. Just briefly summarizing that the project shall be
15 initiated by March 31st, 2014.

16 CHAIR STARR: We don't need to read that in.

17 MR. WOLLENHAUPT: And in consideration, it
18 recommends that the Commission adopt the report as findings
19 of fact, conclusions of law, and decision and order and
20 authorize the Planning Director the transmit the decision
21 and order on behalf of the Planning Commission.

22 CHAIR STARR: Okay. Members.

23 COMMISSIONER FREITAS: So move.

24 COMMISSIONER SHIBUYA: Second.

25 CHAIR STARR: Moved. We have a motion by

1 Commissioner Freitas. Seconded by Commissioner Shibuya.

2 And Director Spence will translate the motion.

3 DIRECTOR SPENCE: The motion is to approve as
4 recommended by staff.

5 CHAIR STARR: Okay. Commissioner Wakida.

6 COMMISSIONER WAKIDA: I will be voting in favor of
7 this recommendation as long as the Department of
8 Transportation is going to save those two trees. If they
9 find out for some reason those two trees cannot be saved, I
10 would sure like to know about it. And I don't know that
11 this group would take any action, but I as a citizen may.

12 CHAIR STARR: Okay. Well said. But I think we've
13 heard it from the person responsible, so I think we can --

14 COMMISSIONER MARDFIN: Mr. Director, is the motion
15 you read the version with this revised entryway?

16 DIRECTOR SPENCE: Thank you, Commissioner Mardfin.
17 I'm looking at -- I looked specifically for that. Condition
18 Number 10 has been modified over the successive meetings.
19 It now reads the applicant shall develop property in
20 substantial compliance, et cetera, et cetera.

21 And supplemental documents presented at the
22 Commission February 22 and March 22nd, 2011 meeting. So,
23 yes, it would be in compliance with this new plan.

24 CHAIR STARR: Okay. All in favor, please raise
25 your hand. All opposed.

1 DIRECTOR SPENCE: Motion carries.

2 CHAIR STARR: Go build it. We'll drive it.

3 MR. MUNEKIYO: Thank you very much. We will.

4 CHAIR STARR: Mr. Buika, do you need a couple of
5 minutes, or are you ready to rock and roll?

6 MR. BUIKA: We'll just bring up some slides, and
7 we'll be ready to go.

8 CHAIR STARR: We're going to take about two
9 minutes while he sets up slides. We'll be right back.

10 (Recess taken 4:30 p.m. to 4:32 p.m.)

11 CHAIR STARR: Coming back to order. Maui Planning
12 Commission meeting of March 22nd, 2011 is back in order. We
13 turn it over to good Dr. Reverend Jim Buika.

14 MR. BUIKA: Thank you, Chairman Starr and
15 Commissioners. My name is Jim Buika, planner with the
16 Planning Department. And I would also like to introduce
17 Anna Benesovska, CZM, Coastal Zone Management program
18 planner with the Planning Department. I appreciate your
19 time on the agenda today to move forward on some priorities
20 of the Maui Planning Commission and also priorities of the
21 Director of the Planning Department regarding review and
22 update of the special management area rules for the Maui
23 Planning Commission over this next year.

24 This review will also include a review of the
25 shoreline rules for the Maui Planning Commission. I have

1 distributed a handout, which has 12 slides on it. I'll look
2 at the first four, and turn it over to Anna to conclude our
3 presentation, hopefully have a little time for discussion.

4 So this session, this session is a conclusion of a
5 session that was started on February 8 regarding recent
6 flooding impacts to the special management area with focus
7 on reducing future impacts to flood-prone areas of South
8 Maui. We had gotten through five out of six of the agenda
9 items on February 8th with some comments by myself as
10 background; Tara Owens, our UH Seagrant Coastal Hazard
11 Specialist; Rob Parsons from the Executive Assistant for
12 Environmental Concerns for the Mayor's Office; Director Will
13 Spence on the Administration's directive to simplify and
14 streamline the SMA permitting process and also some
15 excellent comments from David Goode, Director of Public
16 Works regarding the flooding impacts and runoff to Kihei and
17 South Maui.

18 This was after both of the flooding events, the
19 Christmas event that we had, and then also January 11th and
20 12th, we had additional events out there. So, that brings
21 us to this final item, which is comments by the Planning
22 Department on priority changes to the SMA rules followed by
23 the -- some discussion with the Planning Commission. So,
24 just to recap very quickly, the directives to streamline the
25 SMA rules is to partner with Public Works from our Planning

1 Director. Our Director Will Spence has asked the County
2 Planning Department to review and prioritize changes to the
3 SMA rules and the shoreline rules in order to improve the
4 rules as well as to help streamline the permitting process
5 where possible, and also to facilitate a formal process via
6 a stakeholder working group for reviewing SMA rules.

7 And this will be assisted by the UH Seagrass
8 Coastal Hazard Specialist Tara Owens. And then the final
9 two are to work closely with Public Works, our coastal zone
10 management team to work with Public Works first to
11 streamline some shoreline and road maintenance permitting
12 processes to include best practices, a lot to do with
13 culverts, road maintenance, easements there where they can
14 do work, set up like the streamline permitting process
15 there.

16 And also, the fourth one is to work with Public
17 Works on coastal runoff and drainage issues. This includes
18 working with the subdivision engineering standards committee
19 to pass the Postdevelopment Storm Water Quality Rules. A
20 lot of what happened as we know happened on the slopes of
21 Haleakala and inundated Kihei and the offshore area from the
22 flooding events. So, those are our four directives.

23 So, what our next steps are -- this is just, I
24 have a few process slides here, two slides. Next steps are
25 first to solicit feedback today from our presentation from

1 the Maui Planning Commission on areas for rules of change
2 and for this process.

3 We have had a discussion in the July session and
4 followup to that where we have various -- we have 19 issues
5 that you have identified to be looked at, and we've
6 prioritized some of them here. The director and staff then
7 from here on out will identify the required resources to
8 conduct this project in order to set a process in place.
9 We'll initiate internal review of the rules with our Deputy
10 Planning Director and Will Spence. We'll begin with the
11 shoreline rule changes, in particular first, and we'll
12 establish a stakeholder working group membership probably by
13 this summer after some project parameters are well
14 formulated and resources are defined.

15 And at this point, we can report back to the
16 Planning Commission as far as how we're going to proceed
17 from here. So, our goal is to finalize a subset of rule
18 changes within one year, so approximately this time next
19 year, hopefully we'll have some rules to present to you even
20 sooner and then finalize the remainder of these rule changes
21 within two years. So, it will be an ongoing process. And
22 the objective is to phase it, not to overwhelm you, but to
23 look at what we can do short term and intermediate term.

24 And so again, to complete the rules with the
25 Commission as the two-phase process or a multiphase process.

1 There are rules under Chapter 201, Rules for Practice and
2 Procedure 12-201-92 for adopting SMA rule changes and
3 regulations.

4 Very simplistically, either the Planning
5 Commission themselves or the Planning Department or the
6 working with corporation counsel can propose rule changes,
7 so we'll work with you on that. Or the public can put forth
8 a petition and come back to the Planning Commission to
9 propose rule changes. So, hopefully we can combine both by
10 having a stakeholder, a public stakeholder working group.
11 We would -- so that requires a public hearing. It would be
12 within 30 days a Maui Planning Commission decision. And
13 from there, three signatures are required; corporation
14 counsel, Planning Director and mayoral approval after
15 your -- if you approve the rule changes. And then they
16 would be adopted as new rules.

17 So, there is actually no legislative County
18 Council process here. And then as far as the stakeholder
19 working group, looking at the purpose of having this group,
20 it would -- first of all, it would sanction a formal process
21 to what we're doing, and that's what we're striving for. It
22 would create a process that would be structured. It would
23 be timely. It would be transparent to the public and
24 inclusive of the public. It would certainly promote
25 discussion. And some of that discussion we need from the

1 public is to further understand the impediments to
2 streamlining the current planning process. You know, from
3 the Planning Department point of view, a lot of times, we
4 don't understand what the public is up against in our permit
5 processing.

6 We do recognize it can be complex for the public.
7 And so, having that public input would be very, very
8 valuable as to where we can streamline. But also some of
9 our permit processing is -- can be rather convoluted and
10 complex to the public because of lawsuits and decisions
11 against the Planning Department. So, it's a -- it's a yin
12 and a yang where we want to streamline, but there are
13 restrictions because challenges in the past that we have to
14 comply with. So both of those hopefully will come out in
15 the discussion.

16 And so, it will actually educate some of the
17 stakeholders on our working group about reasons why we do
18 things the way we do them. We will look at -- as a group,
19 we can prioritize these changes into two or more phases.
20 And so, with the stakeholder group, we will augment the
21 process with the required expertise and experience from the
22 public, others who have gone through this process before or
23 who have experience with the permitting process. We can
24 also divide up some of this work into smaller subcommittees,
25 provide a reporting process with periodic reports to the

1 Planning Commission and other stakeholders.

2 It will provide for a legal review. And finally,
3 we can document our successes with this project and apply
4 them to Molokai and Lanai. So, from this, we have six
5 additional slides looking at specific shoreline rules and
6 SMA rules that we looked at -- we look to tackle over this
7 next year and two years.

8 And I'll turn it over to Anna Benesovska, who
9 works closely with the shoreline rules SMA rules along with
10 myself and others on the team. And we have six slides, one
11 or two introductory and just to give you a quick review, so
12 we can have a few moments for discussion and a moment for
13 review.

14 MS. BENESOVSKA: Good afternoon, Commissioners.
15 My name is Anna Benesovska. I'm a planner at the current
16 division. In my presentation, I will take you through the
17 proposed SMA and shoreline rule modifications that the
18 Department is currently considering. This current slide and
19 the next slide are summary slides, and so I will talk about
20 each of the introduced areas in a bit more detail throughout
21 my presentation.

22 So, starting with the current slide, Chapter 203
23 shoreline rules, the Department is proposing the revise
24 shoreline setback calculations, revise the allowable
25 activities and structures in the setback area and add

1 coastal construction mitigation practices to the Chapter 203
2 shoreline rules. Moving on to Chapter 202, special
3 management area rules. The Department is considering adding
4 runoff and drainage requirements, adding best management
5 practices for development, adding rules for rebuilding post
6 disaster, revising the current emergency permit procedures
7 governing SM3's, and streamlining SMA application process.
8 One example there is to provide -- to provide the Director
9 with more discretion to waive DLNR certified shoreline
10 surveys, for example, as part of the streamlining effort.

11 So, a little bit more detail about what the
12 Chapter 203 changes for shoreline rules may entail. We're
13 going to explore potentially updating setback determination
14 calculations in light of the sea level rise as well as the
15 longer average life span of coastal construction, coastal
16 structures. The University of Hawaii is providing an
17 updated shoreline atlas with updated erosion rates that will
18 have to be approved by you, by the Maui Planning Commission
19 prior to taking effect. And U of H is also releasing new
20 sea level rise maps.

21 So, in light of the new information updating the
22 shoreline setback determination calculations may in some
23 cases result in larger setbacks and more protection from
24 coastal hazards. We would like to take a look, second
25 bullet on the slide. I'm sorry, not next slide, just second

1 bullet on the slide. We would like to take a look at
2 refining the allowable activities and structures in the
3 setback language and as different structures and activities
4 have different impact on the natural beach processes.

5 A good example here would be a rock permit or wall
6 versus a wood fence, for example. Each has a very different
7 impact on beach processes. But currently, the rules just
8 say fencing is allowed in the shoreline setback area, but do
9 not really specify what type of fencing. So, that is just
10 one example of potential further refinement of the language
11 that will be examining. Finally, exploring elevating new
12 coastal -- new coastal construction beyond the current base
13 foot elevation requirements, which is the BFE plus one foot
14 currently, is something we would like to propose to be
15 included in the shoreline rules with the aim of reducing
16 property damage caused by coastal hazards, hopefully
17 reducing flood insurance rates and offering more protection
18 from coastal hazards in general to the shoreline homeowners
19 by implementing these requirements.

20 So, moving on to the next slide. For the changes
21 that are proposed for the SMA rules Chapter 202, for both of
22 these runoff and drainage and also for best management
23 practices additions, we want to work very closely with
24 Public Works and other relevant agencies to include the
25 appropriate language into the SMA rules. For drainage and

1 runoff requirements, our goal is to identify and control
2 sources of harmful runoff into the nearshore waters and onto
3 coral reef from SMA parcels. Things like fertilizer runoff
4 from the shoreline parcels or runoff from the automobiles in
5 parking lots. We realize that more needs to be done to
6 prevent runoff from parcels mauka of the SMA boundary, and
7 we have been working with Public Works on identifying some
8 potential solutions and continue to do so.

9 However, this rule section would govern runoff and
10 drainage within the SMA area only and would set forth clear
11 requirements for developers regarding drainage and runoff
12 requirements as it is always better to know what is expected
13 as opposed to be guessing with respect to this area.
14 Additionally, for the area of best management practices, we
15 would like to specify some very high level Tier 1 best
16 management practices that must be followed for any
17 development taking place in the SMA, even exempted
18 development.

19 Currently, we do not have such specifications in
20 our rules. And then most planners and developers have
21 different ideas as to what constitutes best management
22 practices. We do have a standard condition requiring the
23 use of best management practices for our SM-1 and SM-2
24 permits, but we have no actual BMP standards to refer to.
25 And further, we have no way to condition BMP's on exempted

1 projects. But as you know, some of the exempted projects
2 are quite large in nature, and for example, large single
3 family development happening right on the shoreline. And
4 for those, we have no way to condition BMP's, nor do we have
5 BMP standards really. So, BMP's would provide developers
6 with some practical guidelines. The followup would enforce
7 common standards and ultimately help streamline the
8 permitting process.

9 Next slide. This is considering the proposed
10 changes continuing in Chapter 202 SMA rules. Adding
11 proposed disaster rules and revising current SMA emergency
12 permit procedure, SM3's. So currently, it is in our SMA
13 rules that in the event of impending or presently occurring
14 disaster or in the event of state declared emergency, the
15 Mayor and/or the governor can suspend SMA review process
16 entirely, essentially suspending the rules and the Maui
17 Planning Commission reviews, your role in the process.

18 This has happened in the past. A recent example
19 from Big Island earthquake in '06. So, arguably in this
20 chaotic postdisaster time when we need the rules governing
21 rebuilding the most, the rules may end up being suspended.
22 Our goal with revising this section is to make sure we put
23 people back on their feet and back into their homes as soon
24 as possible, and at the same time, continue protecting our
25 environment while strategically planning for the future.

1 Looking at our SMA rules in a predisaster
2 environment, so today, and setting up conditions as to what
3 can be permitted to be rebuilt without a permit and what
4 should undergo more scrutiny and public review is essential.
5 And again, we need to do that kind of -- we need to do that
6 kind of thinking and delineation prior to a disaster so that
7 the guidelines are already in place.

8 As part of the postdisaster rules drafting
9 process, we're looking -- we're hoping to look at revising
10 the current emergency rules section governing the SM3's. As
11 it is written today, it seems to be focused on coastal
12 erosion where there is no shoreline protection such as
13 seawalls in place. It is geared towards allowing property
14 owners to put in a temporary measure, measures like beach
15 bags and provides a 180-day period to submit an application
16 for a permanent fix.

17 However, practically and in our experience at the
18 Department, we have been dealing with requests for emergency
19 repairs that are permanent in nature such as fortifying of a
20 fallen seawall, for example. And the current emergency
21 rules are not providing a good guidance and time lines for
22 these type of scenarios. We would like to look at
23 potentially authorizing permanent fixes and looking at how
24 we can involve review by your body, by the Maui Planning
25 Commission in the emergency permit approval process prior to

1 commencement of emergency repairs for projects with
2 significant impact.

3 This should help us minimize after-the-fact Maui
4 Planning Commission reviews of emergency repairs,
5 essentially repairs that have already happened and were
6 coming in after the fact for review. Last but not least.
7 We want to continue streamlining efforts, and we've been
8 looking at revising our assessment SMX application
9 procedure. And one particular area that continues to be
10 coming up is shoreline certification requirement. And so,
11 in this change, we're hoping to provide the Director with
12 further discretion with regards to waiving the BLNR
13 certified shoreline surveys. This would help a lot with
14 streamlining our process.

15 And then there are other streamlining
16 opportunities being identified as we speak, so this is not
17 an -- you know, an exhaustive list by no means. But that's
18 essentially in a nutshell, and hopefully we have some time
19 for discussion and questions. Thank you.

20 CHAIR STARR: Thank you, Jim and Anna. And I want
21 to compliment the work you've put on this. From when we
22 first had the discussions and we had a parking lot list, it
23 seems like it's really evolved into something that's
24 starting to be workable. And I really think that a lot of
25 what you're looking to do, although it will improve --

1 improve the effect in our built environment, it will also
2 make it easier for applicants, because it will be clearer.
3 And the Commission won't feel the need to try to impose
4 BMP's and retention requirements on a case by case -- kind
5 of an ad hoc case-by-case basis, because rather they will be
6 engrained in the rules, so I really compliment that.

7 Members, questions or comments? Commissioner
8 Wakida.

9 COMMISSIONER WAKIDA: I like what you said about
10 getting the public's input on this, because we all know that
11 people all over the place complain about the planning
12 process. However, how does one get these adequate -- other
13 than just complainers out there, how are you going to get
14 them to come in and give you some good feedback?

15 MR. BUIKA: We haven't determined the exact
16 process yet, but we would like to convene a formal
17 stakeholder working group with people who have experience
18 with permitting and also with rules changes. So, we will
19 solicit people from the community to formally be on our
20 stakeholder working group and formalize the process. So,
21 certainly, we're looking to all of the Maui Planning
22 Commissioners to recommend people who you might know. We
23 can -- we can do a solicitation, you know, a formal
24 solicitation, but all of that hasn't been determined yet.

25 And the administration is looking at working this

1 all out over time, over the three- to six-month time frame.
2 We're looking at the rules right now. We'll begin looking
3 at the rules and putting in a stakeholder working group
4 sometime this summer. So, how that is done, we're
5 looking -- we're looking for input. We haven't thought
6 through that entire solicitation process yet. But I
7 think -- I think we're looking for more of a formal input
8 rather than an informal. Certainly, there is a -- there
9 would be a public hearing process involved, but to look at
10 it formally for input from the public.

11 CHAIR STARR: Thank you. Commissioner Mardfin.

12 COMMISSIONER MARDFIN: I want to thank you. I
13 think you've done a great job. And especially want to thank
14 you. I think streamlining is great, streamlining and
15 transparency, but not weakening. And I was very happy with
16 what Anna said about looking at exempt development and
17 making sure they are covered. And so, I think you're going
18 to improve our protection of the reefs and the ocean
19 environment at the same time you're going to make it easier
20 for the applicants, and I think that's a great way to go.

21 MR. BUIKA: Thank you. And I think the intent is
22 not to be onerous, but to be more educational. It's always
23 good when we're dealing especially with shoreline properties
24 to educate the homeowners. Many of them now with the value
25 of coastal lands, many of them are not from Hawaii. So, it

1 always is good to -- if we can incorporate some of that into
2 the rules where they are educated about the process, I think
3 will be helpful in the long run. Thank you.

4 CHAIR STARR: How will lessons learned from the
5 tsunami, the minor tsunami in Maui and the major tsunami in
6 northern Japan be implemented into the anything?

7 MR. BUIKA: Certainly, I think our scenarios for
8 Hawaii are seriously outdated and need to be updated. I
9 think it will depend on the University of Hawaii, our
10 coastal hazards specialist and all of the greater U of H
11 scientific community and lessons, you know, the lessons
12 learned from the tsunami which happened less than two weeks
13 ago I think will be incorporated into our planning process.

14 Certainly, our director and the Planning
15 Department was gearing up for potentially many coastal homes
16 being damaged and what are our procedures and policies for
17 rebuilding any aftermath of a tsunami, any high hazards
18 event, coastal high hazard event or a wind event for sure or
19 an earthquake. So, there are a multitude of hazards, but
20 certainly the tsunami is I think between the 2004 Sumatra
21 tsunami, the Chilean scare we had last year and then this
22 event, I think we have a lot of attention where we can
23 incorporate some lessons learned.

24 Something that we've discussed internally is
25 elevation. I mean certainly you don't want two feet wall of

1 water going through people's homes. It would be much better
2 having yet go underneath people's homes, so we need to
3 understand the implications of a larger tsunami event for
4 Hawaii.

5 CHAIR STARR: How about mapping of fault lines
6 that might be closer to us? You know, are we looking at a
7 fault line 100 miles away the way Sendai was? I don't know.

8 DIRECTOR SPENCE: Yeah, we have earthquake data
9 for over the last hundred years.

10 CHAIR STARR: You know --

11 MR. BUIKA: Certainly we do. We have a very
12 strong scientific community focused on coastal hazards. We
13 have a coastal hazards mitigation handbook that has been
14 developed by the University of Hawaii. Folks, I think I've
15 distributed it to many of you. And they are revising it.
16 Hopefully, they are revising a coastal hazards mitigation
17 handbook specific for Hawaii, I mean for Maui. And so, we
18 are engaging the U of H Seagrant, the greater Seagrant
19 organization on this project, so this will evolve. But it's
20 a valid comment. Certainly, potentially we have a tsunami
21 with 15 minutes' warning just like Japan had from the Big
22 Island over here. That probably would strike the South Maui
23 coast with a heavy impact.

24 CHAIR STARR: You mean off the Big Island?

25 MR. BUIKA: Yes, off Kilauea side. I mean it's

1 postulated. I don't know whether it's a possibility, but I
2 think we're looking at -- we need to look at more extreme
3 tsunami events in our planning at least for sure.

4 How it gets incorporated into the rules will be a
5 process that I think the stakeholder committee and all of
6 you will be involved with.

7 CHAIR STARR: I would like to open it up for
8 public testimony on this. If there's anyone here who wants
9 to offer testimony, please. Not seeing any, public
10 testimony is closed. Members, questions, comments or even a
11 motion to accept this as a work product. Commissioner
12 Shibuya.

13 COMMISSIONER SHIBUYA: It's a comment first, and
14 then I'll make a motion to accept. But the comment here is
15 that the Hawaii Coastal Hazards Mitigation Guidebook, it
16 gives procedures. And I think you're familiar with it, and
17 you even alluded to many of the procedures are actually in
18 here. And so, I was following along looking at two sides.
19 There are helpful hints here. The part about merging
20 general plans and community plans, the ones in Upcountry
21 N/A, South Maui, West Maui and perhaps Central Maui, yes.
22 Perhaps they can get involved. And Hana, of course,
23 naturally there.

24 My biggest concern here is how much do we prepare
25 for? In Sendai, they had barriers 40 feet high protecting

1 the villages. The wave went right over. And then as it
2 went over, it actually flooded the places where they were
3 supposed to protect. So, are we creating a disaster, or are
4 we really protecting the people? These are concerns that I
5 had as I watched the disaster tragedy there. And so, I
6 think it's a two-edged thing.

7 How much do we protect ourselves? How much do we
8 spend for it? In other words, how much insurance are you
9 willing to pay for it? I would like to make a motion to
10 accept.

11 COMMISSIONER MARDFIN: Second.

12 CHAIR STARR: Motion by Commissioner Shibuya, and
13 seconded by Commissioner Mardfin. The motion is?

14 DIRECTOR SPENCE: To accept the presentation by
15 staff as work product.

16 CHAIR STARR: And can I add a possible --

17 COMMISSIONER MARDFIN: With our gratitude.

18 DIRECTOR SPENCE: Yes.

19 CHAIR STARR: And with the desire to keep moving
20 forward with the project. Is that understood?

21 COMMISSIONER SHIBUYA: Yes. That's a good
22 objective.

23 COMMISSIONER WAKIDA: Sure, absolutely.

24 CHAIR STARR: Is that what you need, Mr. Buika?

25 MR. BUIKA: Yes, thank you very much.

1 CHAIR STARR: All in favor, please raise your
2 hand. All opposed.

3 DIRECTOR SPENCE: Motion is carried.

4 CHAIR STARR: I just want to comment, you know,
5 I've sat in this room for five years. There have been a few
6 wonderful moments. There have been a lot of frustrating
7 moments. I've really appreciated the people I have worked
8 with both on the commission and the staff. But I think the
9 one thing maybe I've had a hand with that is the most
10 valuable is moving this process forward, so I really want to
11 thank everyone for participating in this.

12 COMMISSIONER FREITAS: Jonathan.

13 CHAIR STARR: Yes.

14 COMMISSIONER FREITAS: We didn't do the minutes.

15 CHAIR STARR: We're not over. I just wanted to
16 propose that item.

17 COMMISSIONER FREITAS: Okay. I'm done.

18 CHAIR STARR: Come on. Let's finish it up. Well
19 done, Jim and Anna.

20 MR. BUIKA: Thank you.

21 DIRECTOR SPENCE: Thanks, Jim. Thanks, Anna.
22 Okay. Commissioners, Item I, acceptance of action minutes
23 from the March 8th, 2011 meeting and regular minutes of the
24 November 9th, 2010 meeting.

25 CHAIR STARR: Commissioner Mardfin.

1 COMMISSIONER MARDFIN: I move acceptance of the
2 minutes.

3 COMMISSIONER WAKIDA: I second.

4 CHAIR STARR: Moved by Commissioner Mardfin.

5 Seconded by Commissioner Wakida. The motion is?

6 DIRECTOR SPENCE: To accept the minutes from March
7 8, 2011 and November 9, 2010.

8 CHAIR STARR: All in favor, raise your hand. All
9 opposed.

10 DIRECTOR SPENCE: Motion carries.

11 Okay. Director's report. Excuse me. There's a
12 report on SMA emergency permits, two permits. Mr. Buika is
13 here if the Commissioners have any questions on it.

14 CHAIR STARR: Jim.

15 MR. BUIKA: Yes, I know you're running late. We
16 have the SMA emergency permit to Lahaina Roads, which is on
17 Front Street near Canoes, just south of Canoes. I do have
18 some representative from Lahaina Roads here and Raymond
19 Cabebe from Chris Hart & Partners. What has happened here
20 is -- I can run through just show you some pictures.

21 CHAIR STARR: Yeah, real fast.

22 MR. BUIKA: There's Front Street project site.
23 Here is the seawall in front of a large AOA apartments that
24 has been there since the '60s. What has happened is there
25 have been major voids behind the seawall here, and I'll just

1 show you. Can you turn off the lights? These are some
2 photos. There you go. This is a permitted nonconforming
3 seawall. Here you can see three photos of it. No beach in
4 front. There is a concrete lanai area that connects into
5 the pool.

6 There's about ten feet to the seawall there. You
7 can see the wall. You can see Lanai in the distance. And
8 what is happening is the -- all of the sand substrate very
9 similar to Kahana Sands that we saw a year ago, the sand is
10 being sucked out from underneath it. And there are huge
11 voids underneath it. And much of this, as you can see, all
12 the way down the end, there are holes, pukas forming where
13 the sand from behind the seawall is being sucked out from
14 underneath.

15 And for half of this, they -- we permitted a
16 slurry of concrete to be put in underneath this lanai right
17 here. They had four holes drilled confirming that there
18 were up to six feet of void. And then for, let's see, for
19 this half here. And then for the southern half, you can see
20 it's just the dirt behind it. Let me get to the engineering
21 photo. What they are proposing on doing is just filling the
22 very -- filling the very bottom with -- filling the base of
23 the seawall with some concrete and filler and then just
24 filling it back in with dirt just to stabilize it.

25 And then they will come in with more of an

1 engineering solution within 180 days, so that's the project
2 here. So, that's our report. Any questions on it?

3 CHAIR STARR: Any questions? Thank you.

4 COMMISSIONER HIRANAGA: I have a question.

5 CHAIR STARR: Commissioner Hiranaga.

6 COMMISSIONER HIRANAGA: You've already granted
7 this emergency permit?

8 MR. BUIKA: Yes.

9 COMMISSIONER HIRANAGA: The director's purview?

10 MR. BUIKA: Yes. I did a site visit with our
11 coastal hazards specialist, Tara Owens. And we recommended
12 approval of this.

13 COMMISSIONER HIRANAGA: But when they come back
14 with a more permanent fix, is that an SMA application?

15 MR. BUIKA: Yes, it's a -- it would be a major
16 application and a shoreline setback variance for the
17 project, yes, 180-day. This is definitely a temporary fix,
18 and there will be permits to follow. They're required to
19 follow all permits.

20 CHAIR STARR: Thank you very much, Mr. Buika.

21 MR. BUIKA: And then there is the other one which
22 is the Hauoli Street in north Kihei with Public Works which
23 were authorized. The culverts that were damaged due to the
24 storms to fix. There is a big sink hole equipment fell in,
25 so that was the other emergency permit authorized.

1 CHAIR STARR: Any questions on the Hauoli Street?
2 None. Thank you, Mr. Buika.

3 MR. BUIKA: Thank you.

4 CHAIR STARR: And Mr. Yoshida, do we have anything
5 to finish up?

6 MR. YOSHIDA: Very quickly, Mr. Chairman, Members
7 of the Commission, our next meeting is April 12. We plan to
8 have our annual orientation session, but that's contingent
9 upon what the Council does to the nominees for this
10 Commission from the Mayor. We are hoping that they are
11 confirmed by April 1st.

12 And we have one public hearing, which is an SMA
13 application for upgrades to the Koa Restaurant at the Kea
14 Lani Hotel. And I understand that you did defer the Pauwela
15 Farms change in zoning. On another matter, the Uakea Bridge
16 SMA permit, several months ago, the Commission did designate
17 the Hana Advisory Committee to conduct a public hearing,
18 which is our normal procedure. We canvassed about eight to
19 nine weeks ahead of time to see if we could get a quorum,
20 because we don't want to start notification and so forth if
21 we're not going to get a quorum. We thought -- we had
22 scheduled the meeting for March 15th.

23 When we went out to Hana, we didn't have a quorum.
24 And they are under the state -- the applicant, the State
25 Department of Transportation is under some deadlines to

1 encumber funds or try seeking funding after July 1. The
2 Department plans to -- and talking to members of the Hana
3 Advisory, those that were present, they didn't seem to have
4 a problem with us passing that forward to the Commission.
5 So, we plan to have a public hearing conducted by this
6 Commission on May 10th for this Uakea Bridge improvement
7 project if there aren't any objections. And once again, we
8 thank Commissioners Tagorda and Starr for their service over
9 the years.

10 COMMISSIONER TAGORDA: You're welcome.

11 CHAIR STARR: Mr. Yoshida, since the Commission
12 had moved to send it to them for the public hearing, perhaps
13 an agenda item on the next Commission meeting say where
14 this -- where we agree to hold the public hearing would
15 preclude any possible legal ramification later.

16 MR. YOSHIDA: We could do that, but our noticing
17 for May 10th is going to be before that. Because we have to
18 publish the notice 30 days in advance.

19 CHAIR STARR: Can we do that today right now?

20 MR. GIROUX: Yeah, this kind of put us in a tight
21 spot. But my suggestion was to Clayton that he at least
22 bring it up as a communication. And if there was no loud
23 objection at this meeting, that that would give the
24 Department an indication that they could go ahead and give
25 notice. And then, you know, you could -- if you wanted to

1 formally just ratify that at the next meeting, that would
2 save everybody some time and money without getting into a
3 legal entanglement.

4 CHAIR STARR: Okay. So, does anyone have a
5 problem with that? Everyone agrees. So, you'll ratify that
6 at the next meeting -- or not ratify it, but --

7 MR. GIROUX: But you would have the public hearing
8 anyway, because you gave notice.

9 CHAIR STARR: Okay.

10 MR. YOSHIDA: Thank you, Mr. Chairman.

11 CHAIR STARR: Anything else? Director, do we
12 anything else?

13 DIRECTOR SPENCE: Yes. Commissioners, Item L is
14 adjournment.

15 CHAIR STARR: I had asked you a couple of
16 questions about stuff on the SMA list. Did the Stice --

17 DIRECTOR SPENCE: Clayton, did we get comments
18 back on the --

19 CHAIR STARR: The Stice and the conductors.

20 DIRECTOR SPENCE: On the SMA list.

21 MR. YOSHIDA: Yes, I believe it's just a
22 construction of a picnic pavilion on the property.

23 CHAIR STARR: It's not like a closed house or
24 anything, it's just an open pavilion?

25 MR. YOSHIDA: Yes.

1 CHAIR STARR: And the conductors, is that a power
2 line?

3 MR. YOSHIDA: Yes. We did pass around an e-mail
4 from Anna Benesovska, the staff planner, providing a more
5 detailed description of the project.

6 CHAIR STARR: Okay. Thank you, Mr. Yoshida. So,
7 last item of business is adjourned. Take good care. Aloha.

8 (The meeting ended at 5:14 p.m.)

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C E R T I F I C A T I O N

I, RACHELLE PRIMEAUX, Notary Public for the State of Hawaii, certify:

That the proceedings contained herein were taken by me in machine shorthand and were thereafter reduced to print under my supervision by means of computer-aided transcription; that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

I further certify that I am neither attorney for any of the parties hereto nor in any way concerned with the cause.

Dated this _____ day of _____, 2011.

NOTARY PUBLIC, State of Hawaii

My commission expires 6/14/2012