

**MAUI PLANNING COMMISSION
REGULAR MINUTES
JULY 26, 2011**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Kent Hiranaga at approximately 9:00 a.m., Tuesday, July 26, 2011 Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Mr. Hiranaga: ...call the Maui Planning Commission meeting to order. Today is July 26, 2011 and we do have a quorum. At this time, is there anyone in the audience that wishes to provide public testimony for any agenda items at this time? Please come forward and identify yourself and you have three minutes.

The following individuals testified at the beginning of the meeting:

Jocelyn Romero Dermirbag - Item B-3, Todd and Debra Preseault, SUP2 and CP
David Darling - Item B-3, Todd and Debra Preseault, SUP2 and CP
Dick Mayer - Item D-1, A & B Kane LLC, SMA Time Extension

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

Chair Hiranaga: Is there anyone else that wishes to provide testimony at this time regarding any agenda item? Seeing none, we'll move onto the agenda, Item B, Public Hearing. Deputy Director?

Ms. Michele McLean: Thank you, Chair. The first public hearing item is a request from the Chief of the Maui Department of Fire and Public Safety requesting a County Special Use Permit and a Special Management Area Use Permit for an approximately 2,800 square foot building at the Lahaina Fire Station property situated in the County Agricultural District in Lahaina.

Chair Hiranaga: Thank you.

Ms. McLean: Paul Fasi is the Staff Planner.

Chair Hiranaga: Planner Fasi?

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

- 1. MR. JEFFREY MURRAY, Fire Chief, COUNTY OF MAUI DEPARTMENT OF FIRE AND PUBLIC SAFETY requesting a County Special Use Permit and a Special Management Area Use Permit for the proposed Lahaina Fire Station Apparatus Bay Improvements on 0.22 acres for property situated in the County Agricultural District at TMK: 4-5-021: 016 (por.), Wahikuli, Lahaina, Island of Maui. (CUP 2011/0004) (SM1 2011/0003) (P. Fasi)**

Mr. Fasi: Good morning. The applicant's requesting a Special Management Area Use Permit and County Special Use permit in order to build a 2,800 square foot storage building with related improvements. The purpose of the building is to protect the Fire Department's vehicles that are exposed to the elements currently. The total value of the vehicles will far exceed the cost of the building itself. For example, a water truck costs the County \$630,000 for one truck. The entire building itself will be about \$1.27 million.

The application is a permitted, the use is a permitted use in the State Ag District. However, it is a permitted use with a County Special Use Permit in the County Ag District. The land use designations are State Land Use District is Urban and Ag. The West Maui Community Plan is Public/Quasi-Public and the County Zoning is Ag. It is in the SMA.

So the triggers if you will for the SM1 Permit is the property is in the SMA. The proposed improvements are considered a development and it is not exempt. The cost is \$1.27 million which exceeds the \$500,00 threshold. The triggers for the County Special Use Permit are that the property is in the County Ag District and the proposed improvements are not an outright permitted use. This did trigger Chapter 343, Environmental Impact Statements because it does use State lands and it does use County funds. A FONSI was issued on May 24, 2011.

The application, I mean, the applicant has about a five-minute presentation, and in the audience also is Lee Mainaga, the Fire Services Chief is in attendance today. The application did get reviewed by the UDRB. They did suggest four recommendations and I will go over those after the applicant does his presentation. It did, they did get their final recommendation for approval on the design and overall concept. If there's no questions for the Department, I'll turn it over to the applicant. They have about a five-minute presentation.

Chair Hiranaga: Please proceed. Thank you.

Ms. Erin Mukai: Good morning, Chair and Members of the Commission. My name is Erin Mukai. I'm with Munekiyo and Hiraga and I'm here this morning on behalf of the County of Maui, Department of Fire and Public Safety to present to you the their plans to construct an apparatus bay building which would be located adjacent to their existing Lahaina Fire Station.

Here today are members from the project team who are available for questions following the presentation. The County of Maui proposes to construct a new 2,838 square foot apparatus bay building adjacent to their existing Lahaina Fire Station in Wahikuli. And as Paul had explained we are here today requesting an SMA Use Permit as well as a County Special Use Permit to construct this new building.

The existing Lahaina Fire Station is located off of Honoapiilani Highway and between the towns of Kaanapali and Lahaina. The fire station shares the same property as the Lahaina Civic Center and police station. This map better illustrates the location of the project site which is shaded in gray and covers an area of approximately .22 acres. And as I had mentioned, the site does show the same property as the court house, police station and civic center and is located next to the existing fire station. Access to the station is provided via Kaaahi Street which connects to Honoapiilani Highway at two points via Leialii Parkway and Kikowaena Street.

The new apparatus bay building will be used to accommodate the department's vehicles such as the fire truck, utility vehicle and a boat trailer combination. Currently these vehicles are not protected under shelter and are exposed to the elements. So these are a few photographs of the types of vehicles that will be parked in this garage. And for example, a vehicle such as this can cost upwards of \$600,000. And as I had previously mentioned not all of the vehicles are at the Lahaina Fire Station are protected under shelter at this time.

The structure will also contain sleeping quarters for two personnel, weight-fitness room, laundry facilities and a restroom-shower. The building will be constructed with a combination of CMU and pre-manufactured steel. It will be fully accessible in compliance with ADA requirements and will include automatic fire sprinkler protection. Related work the removal of storage sheds. Relocation of an aboveground fuel tank and installation of utility and drainage improvements.

So this here is a site plan of the existing Lahaina Fire Station accompanied with a site photograph and this is the existing fire station here in the photograph. In order to accommodate for the new building the storage shed and storage container will be removed from the property. And here is the site plan of the new apparatus bay building which I had previously mentioned will be located adjacent to the existing fire station and below you'll find a rendering of this new building. As Paul had mentioned, the project was recently reviewed by the Urban Design Review Board who recommended approval to the Commission. One of the comments that we received from the board was to consider providing additional landscaping along the property fronting the highway. So in response to this comment the team has agreed to install two additional Manila Palms in front of the apparatus bay building.

So this is a floor plan of the apparatus bay building and it will accommodate up to three vehicles which you can't quite make out on the slide. In addition to the storage for these vehicles we'll also provide for two sleeping quarters which will be connected by a restroom shower and a weight room.

Here are elevations of this new building. I think what I'd like to point out on this slide is again comments from, raised from the Urban Design Review Board one of which was to consider installing solar panels and in response to that comment, the project team will install two solar panels for hot water heating on the main building. Additionally, the team has enlarged two windows in the, the sleeping quarters for the two personnel and the project team has also lightened the color of the roof. Previously the roof ...(inaudible)... was a darker brown.

There is a significant need for the project. Move immediately, the project will provide shelter for the department's vehicles which are currently parked outside of the existing station and more broadly, the project will enhance the ability of the station to provide fire safety and emergency response protection services to West Maui.

And this concludes our presentation. We are available for questions. Thank you.

Chair Hiranaga: At this time, I'd like to open the public hearing.

a) Public Hearing

Chair Hiranaga: Is there anyone here that wishes to provide testimony regarding this agenda item?

Seeing none, the public hearing is closed. May we have the – open the floor to questions from the Commissioners. Commissioner Shibuya?

Mr. Shibuya: I guess, Mr. Fasi, maybe you might be able to help me on this one. I just wanted to know, this is a new construction of a facility, it's a County facility. Can you give me the energy burden that the County of Maui residents would have to the energy burden that the County of Maui residents would have to be paying for electricity for this structure? What is the energy load?

Mr. Fasi: I have no idea. However, I think that's an unknown quantity because we don't know exactly, you know, how often they're going to be turning the lights on or what effect, what kind of equipment that they're going to have burning and so forth. So I would probably maybe get a – ask that again in about six months into their use.

Mr. Shibuya: How about the air conditioning? Is there air conditioning features in there?

Mr. Fasi: I believe the two sleeping quarters are air conditioned. I don't believe that they selected the exact air conditioning unit. So I couldn't give you an estimate on –

Mr. Shibuya: But you would have numbers for the existing fire station would you not?

Mr. Fasi: I do not.

Mr. Shibuya: Or it's available that the fire station can provide us if they call in, they could probably give us that information today?

Mr. Fasi: Perhaps.

Mr. Shibuya: Let's try.

Mr. Fasi: We can do that.

Mr. Shibuya: Okay, thank you.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I notice that there are two sleeping rooms. Where do the people sleep now?

Mr. Fasi: I'm going to have the applicant answer that question.

Fire Services Chief Lee Mainaga: Hi, good morning, the applicant's sleeping, existing sleeping –

Chair Hiranaga: Please identify yourself?

Fire Services Chief Mainaga: Lee Mainaga, Fire Services Chief, Maui Fire Department. Okay, the existing personnel sleep in the existing station right now.

Mr. Mardfin: And what's going to happen to the room that they –

Fire Services Chief Mainaga: The room that they vacate we plan to bring the Battalion Chief who's situated right now at the Napili Fire Station. We're going to bring the Battalion Chief to a more centralized area.

Mr. Mardfin: Is this design similar to what you at Hana because I've seen the facility in Hana that's so I'm trying to clarify in my own mind?

Fire Services Chief Mainaga: Well this design is actually more for our apparatuses.

Mr. Mardfin: Right, and in Hana with the new fire station they park the cars underneath and then there are weight room – I've seen the weight room and sleeping quarters.

Fire Services Chief Mainaga: Right.

Mr. Mardfin: And it's rough, I mean, I don't – I'm not saying it's an exact carbon copy but it's roughly the scale of that?

Fire Services Chief Mainaga: It's roughly the scale of that.

Mr. Mardfin: Okay, thank you very much.

Chair Hiranaga: Any other questions? Commissioner Freitas?

Mr. Freitas: Yes, Chief, do you have adequate room for expansion if you needed additional apparatus to fight fires with this building because I, you know, Lahaina is a growing community and out on the ...(inaudible)...

Fire Services Chief Mainaga: I think with this building this is about as much as we can expand for the amount of space that we have.

Mr. Freitas: Thank you.

Chair Hiranaga: Commissioner Shibuya.

Mr. Shibuya: Are you a Fire Chief here?

Fire Services Chief Mainaga: Yes.

Mr. Shibuya: Congratulations.

Fire Services Chief Mainaga: Thank you.

Mr. Shibuya: I just wanted to review for the public here that the Fire Department on the West Maui has many missions not only for fire suppression and fire prevention in the residential and business areas which you support and you have missions also for water rescue I believe?

Fire Services Chief Mainaga: Yes, yes we do.

Mr. Shibuya: And also –

Fire Services Chief Mainaga: Mountain rescues.

Mr. Shibuya: Mountain rescue as well as mountain types of fire suppression.

Fire Services Chief Mainaga: Yes.

Mr. Shibuya: So anything else did I miss?

Fire Services Chief Mainaga: Hazardous material.

Mr. Shibuya: Okay, hazardous material and EMT?

Fire Services Chief Mainaga: EMT, emergency services, that's correct.

Mr. Shibuya: I just wanted to review that many of these services require specialized equipment and if we do not have such a facility then we won't be able to support the mission adequately because you have water type rescues too and you have separate types of equipment for that.

Fire Services Chief Mainaga: Well, I think the, the main part is to protect our equipment. Like they said the equipment costs so much, so much money. If we leave it out in the elements they don't last as long.

Mr. Shibuya: And in terms of your effort towards protecting the equipment do you have a ladder type unit?

Fire Services Chief Mainaga: Yes we do.

Mr. Shibuya: And how high is it and what's the height of some of the hotels that you support?

Fire Services Chief Mainaga: Well, the height of our ladder I think goes up to like 90 feet?

Mr. Shibuya: And the hotels?

Fire Services Chief Mainaga: And the hotels, well a lot of them exceed, exceed 90 feet. I don't really got a number for you on the number of hotel but I think if each floor is like ten feet if the thing exceeds nine floors it's out of our reach.

Chair Hiranaga: Any other questions Commissioners? Commissioner Sablas?

Ms. Sablas: Chief I have a question. About how long do you anticipate this construction to take place or be completed?

Fire Services Chief Mainaga: We hope within six months.

Ms. Sablas: Really, that quick?

Fire Services Chief Mainaga: Yes.

Ms. Sablas: Well, that's good because I was just wondering if its main reason is to protect the equipment in the meantime it's out in the hot Lahaina sun.

Fire Services Chief Mainaga: Right.

Ms. Sablas: So there is a sense of urgency to get this built otherwise why build it. Okay, thank you.

Chair Hiranaga: Any other questions? Commissioner Wakida?

Ms. Wakida: Good morning. The area where you're keeping the equipment does that have some kind of climate control and if not, is it well insulated?

Fire Services Chief Mainaga: The area that we are storing our vehicles right now is, right now at the existing station we can only store our ladder truck and engine truck.

Ms. Wakida: Actually I meant the proposed build.

Fire Services Chief Mainaga: The proposed building will, okay, will be housing the rescue boat, the relief engine and a tanker and it will be, kind of insulated.

Ms. Wakida: The building will be insulated?

Fire Services Chief Mainaga: Yes, it will be.

Ms. Wakida: Because it can get pretty hot.

Fire Services Chief Mainaga: Yes, it will be ventilated. We got vents on the back of the apparatus bay.

Ms. Wakida: And is there a solar fan or something to draw hot air out? Maybe the question, I would, should address the architect.

Mr. Mark Roy: Good morning, Mark Roy of Munekiyo and Hiraga. We actually have the project architect here. I think he can address your specific questions as to the project design.

Ms. Wakida: Thank you.

Mr. Terry McFarland: Yeah, good morning. Terry McFarland with Architects Hawaii. Yeah, there is flow through ventilation basically. So and they keep the apparatus bay doors open mostly during the day. So there's going to be really good ventilation going through. We have insulation in the, in the roof to help as well. And there's also a ventilation, it's mechanical ventilation as well and that's for both this cooling and also for, you know, the exhaust, the diesel exhaust and so on, so it sucks it up and out of the apparatus bay.

Ms. Wakida: Thank you. May I ask a additional question?

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Did you at any time consider photo voltaic on this building?

Mr. McFarland: We're considering it for the future. We've oriented the roof so that it will pick up the sun, it's facing kind of south so PV will be a future. Right now we are planning to put solar hot water up there for the laundry room and for the bathroom, but in the future, hopefully we'll be able to get PV. It just wasn't in our budget, right now we have such a limited budget we just couldn't get it in.

Ms. Wakida: I see. Do you have any idea what the additional cost is for PV?

Mr. McFarland: No, I guess it really depends on how much you're going to put up there and there's different ways of doing it. You know, there's power purchase agreement where basically it kind of doesn't cost you anything up front. So it really depends on how the County would do that. I couldn't answer that right now.

Ms. Wakida: Thank you.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Shibuya?

Mr. Shibuya: The architect, maybe you can tell us the energy burden that this facility currently is designed to provide or has?

Mr. McFarland: Yeah, I don't have that with me right now. I can say, you asked the air-conditioning question earlier. We're using a split system and it's for the sleeping quarters only. And if you compare that to the existing which you were asking to do that could be done, but you know, I don't know when that AC system was installed but probably quite a number of years ago and systems are much more efficient now than they used to be so to get those numbers really wouldn't be probably an accurate account for what the new burden would be and there's no AC any place else. So basically it's just lighting, pretty much that's the electrical load and any exhaust when the diesel trucks are going.

Mr. Shibuya: Mr. McFarland you are aware that fact that the County did provide an energy audit and has some funding to upgrade both conservation aspects as well as photo voltaic generations at nine fire stations throughout County of Maui.

Mr. McFarland: And I've heard that.

Mr. Shibuya: And Lahaina is one of them. You aware of that?

Mr. McFarland: I have heard that, this morning I heard that, first time today, yeah. Which is a good thing, a very good thing.

Mr. Shibuya: Yes. Just want to since we're on this topic I would like to address this issue with the Planning Director. The problem here is that we have energy being a burden, a larger burden on the residents here in terms of taxing. Yet in the review of many of these planning documents energy loading and/or energy conservation or any renewal energy is not addressed. Could you ask, I could ask that this be added in as a requirement for review because at this point I'm catching the applicant cold and they're not prepared to respond to this where when you design any new facility you have knowledge of the basic requirements, energy requirements of that structure.

Chair Hiranaga: Commissioner Shibuya, thank you for that comment. I'll ask the Deputy Director to defer answering that and you can put that as an agenda item in the future to give the Department a chance to prepare a response. Are there any other questions from Commissioners? Commissioner Mardfin?

Mr. Mardfin: It's not a question but I wanted to make a comment to the Fire Captain or Chief if you could step up? This is a comment not a question. I have had some interactions with the Fire personnel in Hana. They have been extremely helpful on a number of occasions outside of the normal lifesaving duties that they do over there and assume that it's fairly typical. And if so, the Fire personnel deserve a great deal of credit and support for what they do not just in saving lives and preventing fires. In Hana, it's mostly rescues, but they've gone out and done a lot for the community and other things and they deserve a great deal of mahalos for all this.

Fire Services Chief Mianaga: Thank you very much.

Chair Hiranaga: Okay, questions from Commissioners? Seeing none, we'll go to the staff recommendation. Actually, I do have a question, I'm sorry. Could the applicant briefly summarize the drainage improvements, proposed drainage improvements? I understand you're going beyond what's required by Code, if you could just give a brief description.

Mr. Roy: As Ms. Mukai pointed out in the presentation, we actually have the civil engineer here with us today from AECOM, Diane Kodama. So if it's okay with the Chair I'd like to invite her to the podium to give a summary of the drainage system improvements.

Chair Hiranaga: Sure.

Ms. Diane Kodama: Hi, I'm Diane Kodama, AECOM, civil engineer. The building is, the proposed building is on a grassy area and we are putting a grass swale around the building from the back to the front there's a slope that the building is retaining. And then in the drainage system, the additional runoff that is being generated by the building will be captured in a storm water chamber and then it will, and then it will connect to the existing County system.

Chair Hiranaga: So the retention is going to reduce –

Ms. Kodama: It will lessen.

Chair Hiranaga: – the flow off of the site?

Ms. Kodama: Yes.

Chair Hiranaga: Do you know approximately how much percentage wise?

Ms. Kodama: I think it actually reduces more than it has to. I don't remember the exact number it goes from like 5 cfs to 4 cfs or something like that.

Chair Hiranaga: All right, thank you. Any other questions from Commissioners? Commissioner Shibuya?

Mr. Shibuya: I'm concerned in terms of the multi-mission that this fire station has and perhaps the type of equipment it has today and he just identified the 90-foot ladder extension limitation right now and that the commercial hotels are even taller than that and we're not talking about just one hotel. We're talking about several hotels. So I can see right now there's a equipment inadequacy at this point. And yet, we seem to be designing a facility that may have to have an upgrade in the near future or not. Or we let the top floors burn down?

Mr. Roy: Just, just if I could offer a couple of comments in response, I think those general comments about overall fire service in the West Maui community this project as, as the Commission can see is, is a fairly minor project for the Lahaina Fire Station but a much needed one. It's, it's essentially giving them the capability to store and provide shelter for existing equipment that has already been purchased by the County. We had some photos of some of the kinds of vehicles that will be stored and are currently stored outside and get rained on and, you know, are affected by the wind and the dust that blows in the West Maui community every day. So at this point the need for this specific component of the Fire Department's mission is to provide much needed shelter for those existing equipment vehicles that are currently being stored outside the existing fire station. But we certainly take those general comments that the Commission offers with regards to overall fire service and general improvements that may be needed as the Fire Department moves forward and the West Maui community continues to develop.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Shibuya?

Mr. Shibuya: I just see this as an opportunity to protect the equipment too not only for, from the environment but for maybe pilferage and vandalism. So i see this as a good value.

Fire Services Chief Mianaga: Can I add something to Mr. Shibuya? The existing station is large enough. It's ...(inaudible)... feet. So if we do have to upgrade our ladder there is adequate space to house a bigger apparatus.

Mr. Shibuya: Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, we're ready for the staff recommendation.

b) Action

Mr. Fasi: Thank you. The proposed use by the applicant does meet the requirements of a County Special Use Permit as well as a Special Management Area Permit. The County Special Use Permit has seven conditions attached to it, fairly standard. The SM1 has 11 conditions attached to it, plus

we'll add the four recommendations from the UDRB and attach it to the SM1 conditions. So therefore, in consideration of the foregoing, Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendation for the July 26, 2011 meeting as its findings of fact, conclusions of law and decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission. Thank you.

Chair Hiranaga: Thank you. I'll open the floor to a motion. Commissioner Shibuya?

Mr. Shibuya: Before we make a motion I'd like to entertain an amendment such as suggesting a conditional aspect to this.

Chair Hiranaga: You want to add a condition to the recommendation? I think we need a motion before you do that.

Mr. Shibuya: So I so move.

Chair Hiranaga: Move to, what's your motion?

Mr. Shibuya: To accept the project as stated and recommended.

Mr. Freitas: Second.

Chair Hiranaga: Moved by Commissioner Shibuya, seconded by Commissioner Freitas. Discussion?

Mr. Shibuya: I would like to make an amendment or add a condition and that condition would be, the proposed development or facility include energy conserving and generating systems converting renewable resources into usable power and minimally consistent with the energy savings and contributions of power generation reflected in the Hawaii Renewable Portfolio Standards and that for 2030 would be 30 percent savings as well as 40 percent renewable power being generated. And that this be implemented no later than five years from the start of this construction.

Chair Hiranaga: Is there a second?

Ms. Wakida: I second it.

Chair Hiranaga: The amended motion by Commissioner Shibuya, seconded by Commissioner Wakida. Discussion on the amendment? Commissioner Shibuya?

Mr. Shibuya: The amendment is needed I believe because we have an energy audit and we have, are accruing some energy savings at this point. Here's an opportunity which we can convert some of the energy savings and reinvest it into initiatives such as energy conservation putting in the mostly efficient type of air-conditioning unit as well as generating electricity either by wind or by photo voltaics or whatever the other systems may be available.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Mr. Chairman, may I suggest that we ask the applicant their response to a condition such as this? I mean, it didn't come up, but it came peripherally during the discussion but it seems to me that it would be nice if they could give their responses to it.

Chair Hiranaga: Does the applicant wish to comment on the proposed amendment?

Mr. Roy: If we could, Chair?

Chair Hiranaga: Please.

Mr. Roy: We, we certainly appreciate Commissioner Shibuya's comments with regards to sustainable energy opportunities. I would like to emphasize that for this specific project although it's not meeting any specific benchmark standards that have been set in any specific performance criteria the project architects have taken a fairly thorough look at all sustainable design opportunities that they can integrate into this project given that it's fairly limited in scope. It's, it's essentially a garage structure for some existing equipment that they have over at the fire station. The, the Urban Design Review Board as Paul had mentioned in his opening presentation had, had several comments with regards to sustainable design opportunities. The first one was consider adding solar hot water heating to the project. The second was consider adding or enlarging – they asked that the applicant consider additional windows within the sleeping quarters just for lights and additional lights and ventilation purposes. Given the conditions on the site the architect has looked into that option and has decided to enlarge the windows within the sleeping quarters so that personnel sleeping within those quarters are able to have some, some more additional lights and ventilation which, again, is going to personal comfort within the facility which, you know, draws straight into this discussion with regards to sustainable design options. The other recommendation was that the applicant consider using a lighter color on the roof of the structure given the amount of sun and solar energy that is set forth on structures in the West Maui Community. We, we did take those comments as we thought they were very valid comments and the project design team has gone into addressing the feasibility of each of those recommendations and I believe we're actually incorporating additional solar hot water heating into the project and as I said enlarged windows and they've actually switched the color of the roof from a brown to a more off white color which is going to allow for more reflectivity for the garage structure itself. So I think really the applicant's response from the standpoint of how much can be done with this facility given the limited scope of work I think they've, they feel that they've explored all opportunities at this point and a condition given budget constraints on this particular project they really are operating under significant budget constraints with regards to what they can do. Even the solar hot water heating panels was a significant discussion item for them to be able to commit to the additional costs. So it all boils down to a feasibility evaluation at the end of the day. But they did take the Urban Design Review comments to heart and they thought that they were extremely valid. So that's our response on behalf of the applicant.

Chair Hiranaga: Discussion? Commissioner Wakida?

Ms. Wakida: I know that it is a requirement at the State level for State buildings to be LEED certified and I am a little, while I support Commissioner Shibuya's amendment I think it's on the County's part short-sighted to not be more forward thinking in energy conservation. What has been done so far is commendable but to me it's minimal and it's – the color of the roof and couple of solar

panels to me is a minimal in energy conservation and I feel that, that, that for a County building we need to be more forward thinking and certainly more in line with State requirements.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I have two related questions. My first question is has the money for this been committed by the County, the budget? There was a number in there of what it was going to cost, has that been committed by the County already?

Mr. Roy: The Fire Services Chief has indicated to me that the money has been appropriated to the project and I think indicated by the time line for the project they are looking at moving forward with this as soon as they can just because of the maintenance issues with the vehicles that are currently outside and need shelter. So yes is my answer.

Mr. Mardfin: My follow up question would be for the architect and if he could give me an estimate of what either dollar amount or percent of the cost would be incurred to comply with the amendment being proposed?

Mr. McFarland: I'm not really sure I can give you a dollar amount off-the-cuff. I will just for a second go back and talk about, you guys were talking about whether it's a LEED certified building or not. It was – because of the energy that's being consumed on this facility it's not like an office building where there's AC running all the time. It's not, it's not really that sort of a facility. There's lighting loads and that's probably the major loads are some laundry which gets done occasionally. That's a load, and, and, you know, the sleeping quarters at night. The rest of the time, there's offices over in the main facility which will be used. So it's really of, in terms of energy use, it's really a minimal use. It was discussed originally whether it would be a LEED building or not and actually just the money that it took to go through the accreditation the County decided it was better to spend that money on the fire station rather than just putting it through the LEED process. So we made this as efficient of a building as we could given the limited amount of energy that was being consumed and just spent the money really on, on the Fire Department rather than going that other route.

Chair Hiranaga: Commissioner Shibuya.

Mr. Shibuya: Fellow Commissioners and Mr. McFarland, I just want you to understand that the facility itself does not have a very high energy burden as you've mentioned. But when you start taking a step back the account of the required for the entire West Maui Fire Department and then you step back even further, the Maui County Fire Department as a whole. In addition to the nine fire stations that we have and then you step back for the County Government. We start looking at a huge burden placed upon our residents and the tax payers because of energy and if we don't start chipping away and using the roof space that we have and you admitted that we are going to have available roof space. I'm not saying you put it in right now, but within five years, you will have accrued savings from your new air-conditioning units placed in the fire stations throughout Maui County. You will have energy that you have generated and replaced from MECO. You're adding, you're contributing to that energy through the nine fire station's initiatives. We are doing that right now and we're increasing that. Those savings are not to be used for staff pay. It should be reinvested into more photo voltaic, more energy conservation initiatives. That's all I'm saying.

Mr. McFarland: Yeah, and I agree. I think it's a good thing. I just wish we had the money to do it right now.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: Yeah, with all respect to Commissioner Shibuya's amendment I'm going to be voting against the amendment and the reason is budget restraint. The project has been – the money has been set aside to building the building and the additional cost and basically what you have, you have a bedroom basically for two apparatus people to jump on the trucks in the middle of the night to go out so that the use of the electricity is minimal. I understand what he's saying. The next project we can look at and move ahead, but this thing is set in place and to delay it any further it's going to cost the equipment, it's going to cost and it maybe the things don't get even funded.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: I have a question for the architect. Because of the low electrical usage that this facility is going to use I would compare it to something like a three or a four-bedroom house, less than that?

Mr. McFarland: Probably less than that.

Mr. Lay: Like a two-bedroom house?

Mr. McFarland: Probably.

Mr. Lay: A photo voltaic system for a two-bedroom house just to give some cost for us to grasp on would be, how much would it be for a two-bedroom house with a photo voltaic system on that?

Mr. McFarland: I guess it really depends on how much you want to put into the house, 40 percent –

Mr. Lay: Well, they're saying that 30 percent, right?

Mr. McFarland: Thirty percent?

Mr. Lay: Yeah.

Mr. McFarland: I don't know, maybe 15 -- 20,000 something like that.

Mr. Lay: So it will be an additional 15 and 20,000 to have that system installed.

Mr. McFarland: Something like that. I'm not a – not a PV expert but something like that.

Mr. Lay: Okay, thank you.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I'm certainly in favor of this project and I don't want to slow it down and would like to see it go ahead now. My understanding of the amendment is not that this be implemented at the start of the project but something that is to be added on in the next five years, is that correct?

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I'd like to ask the Planning Director's – what are you, Deputy Planning Director now? The Deputy Planning Director what – how enforceable would this be if it goes in as stated because they're going to get the building permits, they're going to get the construction, they're going to get the occupant – Certificate of Occupancy. What more is there to do? I mean, how would it ever be enforced?

Ms. McLean: The applicant will be required to submit compliance reports as with all SMA projects they submit compliance reports. Final compliance reports are typically submitted once the project has been built. So as you indicated, after C.O., after it's occupied. So we would have to see in the applicant's representations how they indicate fulfilling that condition. So once it's finished they would still have a few years before that five years would expire so we'd need to see what their, what their commitment is to fulfilling the condition at that time.

Chair Hiranaga: And if they fail to fulfill the condition what would be the consequence? Would you pull their Occupancy Permit?

Ms. McLean: It would be considered a violation of their SMA Permit would be subject to fines.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: In support of the amendment again. It's five years from the time that you start that they would be implementing it. They're currently obtaining energy savings. These savings could be earmarked towards the investment of these photo voltaic systems. So it doesn't have to be right now, you got five years of savings that you can do and implement it.

Chair Hiranaga: Any other discussion? Commissioner Mardfin?

Mr. Mardfin: Reluctantly I'm going to be voting against this amendment. I hear what Commissioner Shibuya said about there will be savings. I agree there will be savings and if this were a private home they'd, they'd be getting the savings but it isn't a public home, it's a public facility. They will not, the Fire Department will not see these savings, this particular fire station will not see these savings, the savings will accrue but it will accrue to the tax payers a whole, the government as a whole so they won't be accumulating a fund that a private individual could have that could be used to install retroactively. I, I totally agree with the, the intent but I just see some practical matters here and they – the reason I asked whether they had their budget approved and it is, I'm assuming that they can't squeeze money out to do it. If they can, I would encourage them to, to do it and to do it at the beginning. But assume – and if there are any savings in the construction along the way, I'd hope they would use it in that way but I don't think we could, I can support making it a condition.

Chair Hiranaga: Any other discussion? Seeing none, I'll have the Deputy Director repeat the amendment for clarity.

Ms. McLean: Chair, if I can summarize, within five years of the commencement of construction the project shall move toward alternative energy and energy conservation in line with the State's 2030 energy goals.

Mr. Shibuya: Yes. And to be within five years.

Ms. McLean: Within five years of construction.

Mr. Shibuya: Yes.

Ms. McLean: Of the commencement of construction.

Chair Hiranaga: Okay, for clarity, will move towards not meet?

Mr. Shibuya: Yes, will move towards.

Chair Hiranaga: If there's no other questions, I'll call for the vote. All in favor of the amendment please so indicate by raising your hand.

Ms. McLean: That's two ayes Mr. Chair.

Chair Hiranaga: Opposed.

Ms. McLean: ..(inaudible)...

It was moved by Mr. Shibuya, seconded by Ms. Wakida, and

The Motion to add a condition that within five years of the commencement of construction the project shall move toward alternative energy and energy conservation in line with the State's 2030 energy goals within five years of construction, Failed.

(Assenting - W. Shibuya, P. Wakida)

(Dissenting - D. Domingo, L. Sablas, J. Freitas, I. Lay, W. Mardfin)

(Excused - K. Ball)

Chair Hiranaga: The motion fails. Any discussion on the main motion. Seeing none, all in favor of the main motion please so indicate by raising your hand.

Ms. McLean: You have five ayes, Mr. Chair.

Chair Hiranaga: Opposed.

Ms. McLean: Two noes.

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

**VOTED: To Approve the County Special Use Permit and Special Management Area Use Permit as Recommended with Conditions by the Department.
(Assenting - D. Domingo, L. Sablas, J. Freitas, I. Lay, W. Mardfin)
(Dissenting- W. Shibuya, P. Wakida)
(Excused - K. Ball)**

Chair Hiranaga: Motion carries. I think we'll take a short break and reconvene at 10:05.

Mr. Roy: Thank you.

A recess was called at 9:53 a.m., and the meeting was reconvened at 10:06.

Ms. McLean: ... Hawaii requesting an SMA Permit in order to renovate and expand two existing buildings formerly used as a preschool and dormitory facility and they will be used for clients with development disabilities and special needs on South Wakea Avenue in Kahului. Kurt Wollenhaupt is the staff planner.

2. EASTER SEALS HAWAII requesting a Special Management Area Use Permit in order to renovate and expand buildings formerly used as a preschool and dormitory facility to be used for clients with development disabilities and special needs at 155 South Wakea Avenue, TMK: 3-8-052: 009, Kahului, Island of Maui. (SM1 2011/0004) (K. Wollenhaupt)

Mr. Wollenhaupt: Good morning Members of the Maui Planning Commission. As previously identified this is a proposed project by Easter Seals Hawaii center for disability services located at 155 South Wakea Avenue in Kahului, Maui. The proposed project intends to renovate for adaptive reuse two buildings formerly used by Maui Land and Pineapple and Kamehameha Schools. The project was reviewed and an Environmental Assessment is the trigger was Federal funding from the United States Department of Housing and Urban Development funds of which are expected to be disbursed by the County of Maui's Community Development Block Grant Program Office. The Community Development Block Grant Program Office was the accepting authority of the Environmental Assessment and they issued a Finding of No Significant Impact otherwise known as a FONSI. The UDRB, the County's Urban Design Review Board did review this project in a public hearing and two comments were made of which I'm sure that the applicant will be addressing in their presentation. The reason this application is before the Commission today is that in the special management area. It's at the outer boundary of the special management area on South Wakea. This is a highly used area previously developed for many, many years in the urban core of Kahului and zoned Industrial. The Commission's duty today is to look at this project under the guidelines of HRS 205A, the Special Management Area criteria of which were noted in the staff report the ten criteria being in the later part of the report.

Mr. Dean Frampton and the Easter Seals team is going to do a presentation for you today and introduce the members. So if they can do their short presentation, they'll do it right now.

Mr. Dean Frampton: Good morning, Mr. Chairman, Members of the Commission thank you for

allowing us to be here this morning. We're here representing the Easter Seals of Hawaii and in regards to the Maui Center for Disability Services. With us today this morning, we have the project architect Mr. Steve Marlette, the landscape architect is Mr. Bill Mitchell, Easter Seals Maui County Manager Roxann Kehus is here as well, and unfortunately, Mr. John Howell who is the President of Easter Seals is in China and is regrettably not able to attend this morning. Most of you will know that Easter Seals Hawaii is a 501(c)(3) nonprofit organization and servicing Hawaii since 1946. Easter Seals purchased the subject property in April of last year. The subject property is identified by TMM 3-8-52: 009 formerly used as Maui Land and Pine Preschool and more recently Kamehameha Schools Preschool and the second building on the property was utilized as a dormitory for seasonal workers and more recently administrative offices for Maui Land and Pine. State Land Use is Urban, community plan designation is Industrial and County zoning is M-2, Heavy Industrial.

This is just a simple map showing the location of the subject property here. Here's South Wakea Avenue. Maui Land and Pine, the former cannery, Queen Kaahumanu Center, Macy's, Kaahumanu Avenue. This is a better photo here that shows the property in the context of the surrounding land uses. We'll see South Wakea Avenue here forming the mauka boundary of the SMA limits for Central Maui. So we're at the mauka limits of the SMA therefore we're here for an SMA major. Maui Land and Pine's former cannery is here, Queen Kaahumanu Shopping Center, other notable uses include Hale Mahaolu Elua here across the street, Wakea Gardens Office Building, and here's Kaahumanu, MCC, Kahului Harbor.

I'm going to run through a series of photos for you just to get you acquainted with the site. Here you'll see Wakea Avenue here. I've got a couple of photos looking from the project driveway. Here's Kea Street. We'll show you some pictures of Building 1 from the outside, from the interior, Building 2 from the interior and then from the outside and then I'm going to have Mr. Steve Marlette talk a little bit about the project plans and what we're proposing.

Here's the project driveway looking south. You can see the Wakea/Kea Street intersection here. This is looking north back towards Macy's and the Queen Kaahumanu Shopping Center parking structure. This is a view fronting the driveway looking back west towards Building 1 which was the former preschool and off in the – but you can't see is Building 2, the admin and former dormitory. Another view of Building 1, the former preschool. This is from the corner of Wakea and Kea Street, just another angle of the pods. This is from the interior portion of the property looking south towards the multi-pod structure. This is the – the second building on the site which we refer to as Building 2. It was the former dormitory for seasonal workers that Maui Land and Pine constructed in the early '90's and more recently was converted to offices and then discontinued at the time of the sale. Here's a view from the back of the property looking back towards Wakea Avenue.

So again, simply put the Building 1 improvements proposed to use the adult daycare center as a computer, as a classroom space, computer lab, kitchen area, training area and a game room. Building 2, the former dormitory first floor would be used as offices, training, programs and activities. On the second floor it aims to utilize transitional housing for the clients of Easter Seals Hawaii. At this point, I'm going to ask Mr. Marlette to just come up and kind of walk you through each project plan and then we'll be available for any questions that you may have.

Mr. Steve Marlette: Aloha, my name's Steve Marlette. I'm with MC Architects, the project architect

for the facility. Again, Dean gave you a little bit of introduction. This is actually a relocation of the existing Easter – Easter Seals facility on the island. They're in the Cameron Center, I believe, right now. And so they'll be moving that operation completely to this location. For the most part this is an existing building, it's an existing building with a couple of minor additions. It's built in a series of pods. Right now that you could see an elevation the little, one of those hut looking elements. We're doing an addition to the building in this area, in this area and then just a covered outdoor pavilion in this area. Main reception and the parking is located right here, main entry is here and then you're pretty much ...(inaudible)... from the outside.

The building itself is as Dean indicated primarily office space. There's a small, almost teaching kitchen out in this area. There's program space and space for gatherings here, therapy sessions and things like that back in this area, a quiet area for a lounge, the library, the computer learning center, restrooms and things like that in this area.

Centralized there's an outdoor pavilion in it for outdoor gardening areas. As you can see the exterior architecture is pretty simple board and batten siding, T1-11 siding, metal roof, we're restoring sky lights that are on the top of each one these pods. There is a shaded walkway that goes around the perimeter of the entire building.

Building 2, the primary relocation of the current programs are going to Building 1. Building 2 is future expansion area for the programs. It's a little bit unknown as to what that expansion will be, be the funding issues and everything. On the lower level we're anticipating offices spaces and some gathering space for conference room. On the upper level what we're showing here is an area for transitional house and it's transitional housing for program participants only. So that would be the goal. Again, that isn't the program that they have now. That's a problem that they would like to implement some time in the future and so we're showing it generally for this presentation.

We're doing a substantial renovation to the exterior of this building. As you could see in that, the preliminary presentation that Dean did it's metal sided building, window air-conditioning units, leaks like crazy. There's really nothing good about it other than it's got a good building structure. We're taking the skin off the building. We're doing an EFS siding, new windows throughout, new roof overhead, and the primary addition to it is porte cochere right in the main entryway. We did have a comment from Urban Design Review Board indicating that they want to make sure that that's sized in proportion appropriately to the exterior. We've looked to the sizing of that and the proportions of that. It's sized such that we can get a handivan for drop-off underneath that porte cochere in the shade. So go on the next one.

Landscaping. Again, this is the main parking lot, this is an existing parking lot. We're taking, we're converting some of that area to, from paved area to landscaped area. So we have a net decrease in the amount of paved area on the overall site in favor of landscaping. They don't need very many parking stalls associated with Easter Seals. Most of the people are, they have staff people coming in but most of the people arrive via bus or handi-van or delivered and picked up by their guardians or parents or whatever.

The first phase or the first building has relatively large outdoor area here and has quite a bit of landscaping in it already. We're beefing up the landscaping around the periphery of this with Areca Palms. We're keeping a lot of the trees that exist in just a grassed almost play area right now. We

do have a sign located right out by the main entry of this location. Real simple sign just indicating that it's Easter Seals Service Center. We're taking out, we're removing some Ironwood trees that are very large and very overgrown along this area and which allows us to clean up the foreground here. ...(inaudible)... landscaping, hedge material, shade trees for the parking lot. We're keeping as much of the shade trees that again is existing. We're adding a little bit of tandem parking back in here but again, cutting out areas where we can implement landscaping in and around the overall building. There's an existing fire truck turn around and fire hydrant up in this area. We're maintaining that fire truck turn around but we're talking out a lot of paved area in this area and converting it into screened landscaped area. Next slide.

Other improvements. Drainage. Generally there's an existing drainage system that is with the parking lot area, and go back to that other slide, again, it's an existing parking lot area, it does have an underground drainage system that ties into the Kaahumanu Center and the adjacent cannery project. Again, it, it, the buildings were originally part of Maui Land and Pine's operation and when they were designed and constructed they were constructed as sort of a unit so again, we have as far as overall drainage, we're using the existing subsurface drainage system so we're not doing any improvements. We're keeping the existing curb cut that exists here so we're really not going out into the street for anything. We are, we do have a total reduction in the amount of paved area on site. We do have some increase impervious area with the new additions, up in this area of about 1,500 square feet. The pavilion that's located here and the new additions here. Those down spouts will be routed to the landscape area out here and – retained generally on site. Soils are very good on this site, well, it's all sand basically. So again, the down spouts are routed to over here so we think we have total decrease in the amount of drainage on the overall site and we're making a conscious effort to, to maintain that decrease in overall drainage as much as possible.

Lighting, we have very little lighting on this site. The operation is total daytime hours. We will have a couple of poles out in the parking lot that will be LED lights, fully shielded, 20 foot's maximum height, very subdued. We don't have any residential in the immediate area. We're in the middle of a commercial facility so we don't think lighting is going to be any impact to anybody.

Parking, we have more than enough parking on the site. The Easter Seals side has very few people actually coming there. We have, we're maintaining all the existing, actually we're taking out a few stalls that exists there today because we don't actually need them in favor of reducing impervious area and more landscaping on the overall site. Next slide.

This is a view of what the improved Building 1 will actually look like. Again, the covered pavilion in the middle. We're still keeping that pod structure that you see existing with the existing building, large overhang, shading the area all the way around the building. New sort of ... standing seam roof building and painted T1-11 siding. This is a much bigger improvement as you can see to the existing building. Again, it's the profile of the existing building, we're stripping the skin off the existing building, we're doing an EFS skin on the building. The entrance pavilion here for drop off right at the main entry and new slope roof that hopefully doesn't leak like the ones that do right now. Subdued colors just trying to give an upgraded feeling. Can you go back to the before and after I guess you might say of that so you can sort see what we're doing. And while he's doing that I'll discuss about some of the items related to the energy conservation and certification.

Easter Seals is very, thinks it's very important to be sustainable and energy conscious as absolutely

possible. We do typically track all of our projects with a LEED check list. Some, some of the sustainable issues that we're addressing these building right now have no insulation. They have window air conditioning units. They have typically non-operable windows. Couldn't be in worse condition, I guess, then it is right now. We're ..., insulating, replacing the windows with operable windows. We're taking out the, the window air-conditioning units and doing series of split systems so that if the spaces aren't being used the air conditioning can be shut off. Most of the, the spaces are set up so that they could be naturally ventilated. So if the trades persist and everything's fine they wouldn't even turn on the air conditioning. They would probably only use it when we have the ...(inaudible)... or they have larger gathering that are producing heat. Yeah, there's the existing building so, quite a difference.

The Phase I Building currently has some old sky lights that naturally light each one of the spaces. We're gonna rehabilitate those sky lights to get as much natural lighting in here as possible. We're maintaining the large overhangs, the large shaded overhangs that exist around the periphery of the building. Again, you can see the sky lights that are sort of at the peak of each one of these little triangles up here that we're maintaining. So again, we're going as far as we think we can. We're doing – we will be doing solar water heating on this. As far as the PV systems that was discussed previously, I guess, in the previous presentation, the incentives – Easter Seals being a nonprofit organization can't take advantage of any of the tax incentives related to the installation of some of the PV systems although, they are doing a lot to participate in that as much as possible. It takes a private organization or a private individual to come and either donate the PV system to them to take advantage of those tax incentives or on Oahu they have a couple of facilities that they're doing with purchase power agreements which is a third party agreement with a PV vendor that they would purchase power from them and that vendor would get all that various tax incentives associated with it. Both of those system we're looking at for this facility. We welcome any donations. And again, we're talking to purchase power agreement people for this. Again, this is a nonprofit organization then as you probably know most of the funding especially through the County of Maui has been dramatically cut for nonprofits so we're squeezing as much as we possibly can on this to get as much bang for our dollar as much as possible. With that, I turn it – I'll turn it over to Dean.

Mr. Frampton: That's, that's pretty much the presentation. I just wanted to add one point that as –

Chair Hiranaga: Please identify yourself again?

Mr. Frampton: Sorry, I'm Dean Frampton. I wanted to add that this site as Mr. Marlette indicated is on sandy soils and we have consulted with SHPD and all excavation activities will be done with archaeological monitoring. So there's a monitoring plan that's been submitted for this property and all excavation work will be done in accordance with that plan. At this point if there are any questions our team is ready is ready to answer any questions. Thank you.

Chair Hiranaga: Well, actually at this time I'd like to open the public hearing.

a) Public Hearing

Chair Hiranaga: Is there anyone here that wishes to provide testimony at this time regarding this agenda item? Please come forward and identify yourself. Seeing none, the public hearing is

closed. At this time, I'll open the floor to Commissioners for questions. Commissioner Freitas?

Mr. Freitas: For the architect please. Yes, I'm very familiar with this building. How many staff will occupy this, this, this operation?

Mr. Marlette: I am going to let Roxann do that. They do have staff that they have a total staff on the island and most of the services are done not in this facility. They're doing it as outreach.

Ms. Roxann Kehus: Hi, I'm Roxann Kehus, County Manager for Easter Seals. Primary this will be a program for our adult day health services and our office staff. So we'll have about six or seven office staff and maybe four or five staff who, who serve the adult day health population. So that's about what our current staffing is in the location.

Mr. Freitas: So you will have approximately ten staff. And the Building 2 you say that's going to be offices down below. Are you folks going to rent the offices out?

Ms. Kehus: Right. We're really looking to support other nonprofits and build a community around services for disabilities. So how we can connect and network with other services that support people with developmental disabilities.

Mr. Freitas: Well, I'll tell you where I'm going. I don't think there's adequate parking because that Building 2 when Maui Pine was ready to sever their business venture I could never find a parking in there and they had four or five offices occupied. And I understand, I look at your parking plans, with knowing that area what you, what you will have, you'll minimum width parking and I think the parking law should be made where, where they widen the parking lot because people are driving SUVs, they're driving bigger vehicles and it's almost impossible to get into these places.

Ms. Kehus: Another thing that we have is five Easter Seals vans that we use to transport multiple, you know, up to six or seven participants at a time so that really cuts down on the number of traffic, but we do have our own vans that transport.

Mr. Freitas: I understand, but you're taking up ten stalls approximately for your staff and then if you're gonna rent out to a nonprofit it all depends if they have high traffic in what area. So that's, that's my concern on the parking. And I have one more question if I may?

Chair Hiranaga: Proceed.

Mr. Freitas: Is this building going to be ADA compliant?

Ms. Kehus: Yes.

Mr. Freitas: Because that's a two-story building, it does not have an elevator.

Mr. Marlette: Yes it does.

Chair Hiranaga: Please identify yourself?

Mr. Marlette: Steve Marlette with MC Architects. Yes, due to the nature of the various forms of funding it does have to be fully ADA compliant. So an elevator would end up being added to that two level building. As far as parking, I can address that a little bit. Easter Seals current needs are more than satisfied. Right now we're showing 66 stalls. Some of them are tandem. There's a total of 66 stalls on the overall site of which the nature of this particular nonprofit is, again, most of these people are out in the community and they're maybe coming occasionally for short periods of time to the overall facility here but there's 45, 46 stalls dedicated specifically to that second building. When Maui Land and Pine had it, they had a dormitory there for, and people living there and most recently I think there was offices with quite a number of people there. So, we're anticipating that we have any sort of parking issues at this time at all. The program participants are typically not driving.

Chair Hiranaga: Continue.

Mr. Freitas: I was dealing with Maui Land and Pine on their shut down period and there was very few people in those offices and it was almost impossible to find parking. I, I can see your adding more stalls than it was initially there, but what you're doing, you're – what is the width of the stall?

Mr. Marlette: Eight foot six.

Mr. Freitas: That's the minimum, right?

Mr. Marlette: I believe so, yes. I think you've, yeah, I think they've done away with compact stalls. Yes, they have.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: This would not be for you. I'm going to speak to the Executive Director, are you?

Ms. Kehus: I'm the County Manager.

Mr. Mardfin: County Manager.

Ms. Kehus: Yeah.

Mr. Mardfin: I saw that you're going to at least down the road have eight studio, one-bedroom apartments there. When they're there will there be somebody downstairs 24/7?

Ms. Kehus: Right – I'll just back up a little bit. One of the needs in Maui County is for residential options for people with developmental disabilities. And when we got this property, our vision is how can we support people with disabilities to gain skills to be able to move into apartments in their community. So not – so, yes, one of our plans is to have maybe an onsite resident who will be there but it really depend on the mix of people who are living in, in those apartments and, and what it is, the skills that we're helping them gain and that's what we do now. We kind of assess it on a individual level but we do understand that we're going to need someone there probably 24/7 to help with that learning curve but then our idea is to move people out into the community and help them gain those skills. So when we talk about transitional, it's not meant to be, you know, for the rest of

their lives. It's to learn how to shop and cook and entertain and socialize and be safe in their community so they learn those skills and then they can go and find an apartment or get a house with a peer or something along those lines because so few residential options for folks, we gotta give them a chance to learn. So yeah, that is the idea is to have somebody there to help them but we'll also have daytime staff working with them on a lot of those skills.

Mr. Mardfin: And these rooms will have individual, I want to say individual exits. They're on, an exit into a central hallway from the rooms on the second floor?

Ms. Kehus: Yeah.

Mr. Mardfin: And then from there there's a stairway going down?

Ms. Kehus: Elevator and stairway, yeah.

Mr. Mardfin: So if they went down the stairway nobody would know whether they were coming or going. If they go down the elevator presumably, they'd go by some sort of – the person that's there 24/7?

Ms. Kehus: I guess it would be on a case by case basis because a lot of these folks that we're looking at we're hoping would be able to have that high level independence and we're just working with them on specific skills so they may, I mean, like a watch – you know, like a security ... is that what you mean?

Mr. Mardfin: Yeah. Because I'm thinking of the safety and security of the residents as much as anything, and secondarily, impacts on the surrounding community but yeah, I'm wondering whether there's – the security provisions for the residents that are there.

Mr. Marlette: Yes, Steve Marlette with MC Architects.

Mr. Mardfin: Safety and security.

Mr. Marlette: Yes. The intent and the way it's set up right now is it meets the egress issues with the two exit stairs I believe on the outside. But there would be controlled access and ingress and egress through the main entry. So you have to go through that common area to see people coming in. But in case of a fire situation, yes, there's two stairways on the end of the building, everybody's out at that point, but you can't come in at that location.

Mr. Mardfin: Okay.

Mr. Marlette: It's an operational issue you're really talking about.

Mr. Mardfin: Yeah, but I'm, I'm concerned that it be set up so that it's operationally feasible.

Mr. Marlette: Yes, you can see in that plan on the lower level plan where there's two emergency exits on each end of this hallway, right, emergency exit there, emergency exit here. Same with the upper level. The intent is everybody's coming in and going out of a controlled access point with the

lobby but in an emergency situation you can get out there. It's not the intent for them to get in.

Mr. Mardfin: Thank you very much.

Mr. Marlette: You're welcome.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Just talking about the accounting for the – I guess the patients here. Do you plan to have any kind of surveillance equipment installed?

Mr. Marlette: I don't believe. In any of the existing facilities that there is any sort of surveillance equipment. They don't – not typically.

Mr. Shibuya: Okay, I'm not making it a condition. Just asking a question.

Mr. Marlette: No, they haven't had the need for that.

Mr. Shibuya: Yeah, because you have one single point failure there and then you have some disturbance down the hall and that person has to watch the main entry.

Mr. Marlette: Oh, you're talking about in this upper level plans?

Mr. Shibuya: That's correct.

Mr. Marlette: You know, that is – that entire thing is I want to be very clear about this that entire second level is on the wish list of a future program right now and there's still probably a lot of programming associated with how that will function. And the safety and security of the, of the potential residents is primary there.

Mr. Shibuya: Right, I understand and so I'm just having a brief discussion on camera surveillance.

Mr. Marlette: Right.

Mr. Shibuya: Yeah, it's not for – to intrude on their privacy but it's just to ensure that there's safety and all the tenants are okay.

Mr. Marlette: Correct.

Mr. Shibuya: The other aspect I guess Commissioner Freitas mentioned about stalls. Did you compute because you just mentioned that you had intentions of subletting or allowing for rental spaces for offices down below. Did that floor space that you have for renting be factored in? Did you compute it into the total parking stalls?

Mr. Marlette: Yes, we did. Yes, yes we did. There's a minimal number required stalls which if my eyes were better I could probably read off of the bottom of this and it exceeds that minimum allowed.

Mr. Shibuya: Five hundred square feet.

Mr. Marlette: And so it's not programs, it's meeting the county standards for code related issues.

Mr. Shibuya: Okay, thank you.

Chair Hiranaga: Any other questions? Commissioner Wakida?

Ms. Wakida: Good morning. First of all, I hardily applaud the reuse of an old building. That is a huge conservation measure and tearing a building down and building a new one is, just adds a huge carbon footprint, landfill, everything else. So this is a wonderful project. Can you tell me a little bit about any water conservation measures as far as in the low flush toilets or anything like that?

Mr. Marlette: Absolutely. We're throwing away everything in the building right now because there's nothing low flow, no flush, no whatever, in it right now and we're doing all low flush toilets, low flow sink faucets, you know, as much as of the low flow issues as we possibly can. Irrigation for the exterior we're using very low needs type of landscaping out there as much as possible and minimum amount of irrigation. Probably our stance on a couple of the other projects we're doing for Easter Seals right now is we're putting a temporary irrigation system in until everything gets established and at such a point that it can live on its own they typically not use the irrigation until the dry seasons and things like that where they need to.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: This is not for the architect, this is for the planner. You have a letter here from State Historic Preservation Division date 28, April 2011. And under Archaeology, the last couple of sentences read, "therefore we believe that a," this is because of the sand base where we find a lot of stuff, "we believe that a subsurface archaeological inventory survey should be conducted in order to adequately identify archaeological sites potentially located within this project area. This survey should be done early in order to plan for design alternatives and outline a course of mitigation in the event of discovery of historic resources." As that survey been done?

Mr. Frampton: It, Dean Frampton responding from Frampton and Ward, if you take a look at the response letter that we wrote, there's a, there's a little story behind this and I'll take a moment to brief you on that. We sent out a request letter requesting their comments to a whole broad range of agencies. SHPD, the SHPD request letter generally gets transferred. We mail it to Oahu and it generally gets transferred to the Maui staff, ... member, in this case that did not happen. If you look at the contact person below, the person who responded to this letter was out of Oahu and so they said Archaeological Inventory Survey. Prior to even starting this application process we hired an archaeological consultant who took a look at prior studies, who took a look at protocol, what's been occurring in the area and they made a recommendation for just an archaeological monitoring plan and we actually submitted that to the SHPD Office being proactive. We, when this letter came out, we went and met with the Maui staff archaeologist and she concurred that absolutely a monitoring plan was more appropriate and an inventory survey was not required and the reason for that being is that the property was previously completely graded and, and the theory is they do monitoring as we go during any excavation. If any, any sites are encountered complete

coordination with the local archaeologist would be undertaken through our archaeological consultant. So to answer your question and as we responded in that letter, inventory survey was not deemed appropriate by the local SHPD archaeologist. So no we did not do a inventory survey but we have submitted and it's pending approval and it should be approved the monitoring plan.

Mr. Mardfin: But you don't have a letter from SHPD acknowledging that. There's your letter in response –

Mr. Frampton: Our letter in response.

Mr. Mardfin: But not a follow up from them saying yes, we agree, we concur?

Mr. Frampton: That is correct, so it –

Mr. Mardfin: It would have been nice to have had.

Mr. Frampton: Okay, and again, if you – what we ran into is the, the processing SHPD has been under – they've had staffing issues and so as I think Planning Department would concur it's often times it takes a long time to get a response. Nonetheless if that is a concern for, for you we would welcome as a condition that monitoring be employed. If you wanted to include as a condition that's fine.

Mr. Mardfin: I don't think I, I don't think I need it but it would have been nice to have had.

Mr. Frampton: Okay.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Shibuya?

Mr. Shibuya: A quick one in terms of the slope and topography. I'm just concerned on the east side which is facing the Kaahumanu Shopping Center's parking lot. It seems to be a slope there. Also, when you showed the picture here on Building 2, you put vegetation there. Are you planning to put vegetation on Kaahumanu property or are you, is that part of your property?

Mr. Marlette: I can answer that. The vegetation, go to the rendering on there. There's two things that –

Chair Hiranaga: Once again, please identify yourself?

Mr. Marlette: Steve Marlette, excuse me, MC Architects. There's two parts of the foreground that we're talking about. There's a minimal amount of slope in this area and we are landscaping that area. This parcel here is actually part of Kaahumanu Center. And we started, John Howell who's not here today is in negotiation with Kaahumanu Center to clean that area up a little bit as far as landscaping. Right now, it's very overgrown, might be a few people living there, things like that and so they've got sort of an informal agreement to clean up the entire area.

Mr. Shibuya: Yes, I'm aware of that, and also if you remove the Ironwood Trees then it becomes problematic again. And so, I'm just trying to figure out who, who's responsible for that area

because if I go back to the rendering, the rendering looks very nice, but I know reality of what it was, is today and who owns it.

Mr. Marlette: Ironwood Trees are generally all on the Easter Seals site and actually the foreground for the most part that you're seeing here is all Kaahumanu Center's property. But again, they are talking to Kaahumanu Center about doing maintenance on that so it's got a more secure and nicer feel to it.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: On the note of sustainability and energy conservation as well as producing renewable power, I just want to suggest that you take a look at the opportunity to sustain your operation by cutting back on some of your utility expenses. For example, you can take a look at and see how the Maui High Tech facility has their photo voltaic and generating electricity and avoiding that much power and actually eliminating that utility cost. Another one is Cesar Gaxiola who is the Executive Director for Cameron Center. He can show you some of those installations and how it was done. So there's opportunities to do it. You don't have to fund it but there is a third-party way of funding it.

Mr. Marlette: Agree, agree. Yes, Easter Seals is pursuing that type of issue with all of the facilities right now. As the funding for nonprofits get tighter and tighter those ...(inaudible)... they become more and more important.

Mr. Shibuya: Right. I'm, I'm more concerned in you obtaining a bigger bangs for your bucks.

Mr. Marlette: Agreed.

Mr. Shibuya: Thank you.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: This is for Dean I believe. You have a letter from the Community Development Block Grant Program?

Mr. Frampton: Yes.

Mr. Mardfin: Dated May 27, 2011?

Mr. Frampton: Yes.

Mr. Mardfin: And it says in the second paragraph, our offices determined that the EA is not in compliance with the Federal Environmental Review requirements and it goes on to give one, two, three, four, five pages showing things not in compliance. Your response was that they're required to have both a State EA and a Federal EA because they're using Federal funds and you basically say, you got the State EA and you're going to use that to try to get through the Maui Planning Commission today and then later you're going to do the Federal EA and I've got so many questions about this process and some of it is for you, some of it is for maybe our Deputy Director or Corp.

Counsel. Is it, let me just lay out several of the questions then you can respond as you want. I don't know whether the State EA requirements are too lax. Whether the Federal EA requirements are too strict. I don't understand why you didn't do them both at once, you know, take the stricter one do the EA based on that and have it satisfy both things. Seem to me would save some costs. And since an EA is supposed to be an environmental document we keep being told it seems to me that some, I'll grant you some of these are kind of irrelevant for this particular project but it would be nice to have all the information and I'll let you freeform your answer to that.

Mr. Frampton: Thank you, again, Dean Frampton responding and thank you for the question. Our life would have been considerably easier if we could have processed the two together. You're correct different requirements and you alluded to doing the stricter one first. We satisfied the State requirement. As part of the Federal EA process one of the major components of that will be to demonstrate that we've got all the necessary approvals from the County, from the State and from the Federal. So assuming that we get an approval for our SMA Major Permit, that approval letter would actually be an appendix to our Federal EA. It's to demonstrate to, in this case, the HUD, the Housing and Urban Development. It's to demonstrate to them that we've gone about all of our, all of our environmental reviews, all of our permitting reviews. It's the final, it's the caboose if you will. It's the last stop for us. It's the last permit that we have to do. It's a considerably easier, straightforward process, it takes about three to four weeks to complete assuming that we have all of our paperwork in order and it would have been simpler to be able to combine them together but it's two separate processes.

Mr. Mardfin: Okay, so that explains why it can't be done in parallel, it has to be done in sequence.

Mr. Frampton: Correct. And actually that letter that you first referenced, the May 27th letter, was almost a courtesy from the, from the CDBG Office that basically that's their listing and their requirements for the HUD, for the HUD EA that we will be doing. So, it was, it was a conscious decision on our part to keep most people, most reviewing agencies see a State EA in a relatively consistent format. We made a choice to not confuse the issues. Two separate review processes so we kept our State EA, a standard review process and when we do the Federal EA, we'll comply with the Federal requirements. So that checklist, all those items on checklist, on the checklist that said not addressed, will be addressed in the Federal EA that will be processed. We'll probably go in for final processing the day, assuming we – the day we get an approval letter from the Planning Commission.

Mr. Mardfin: Okay, thank you very much for that. I had seen it in the Environmental Impact Statement. I did not see it in the staff report to us and I was wondering whether that was an intentional deletion and I guess you just didn't want to confuse us either. But some of us read EAs too.

Mr. Frampton: Yeah, we submitted a disk to all, we submitted a disk with the, with the EA to all the Members of the Commission. So if that letter was included in the disk that was on –

Mr. Mardfin: And I like hard copies so, thank you very much.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: This is in relation to public safety and electronic emissions. I'm looking at these, the distance and location of the cell phone towers and the broadcasting. Can you point that out? I believe they're in the southwest sector of your lot and tell me what the distance is and the height of that and what impact would it have if you have tenants on the second floor of Building 2?

Mr. Frampton: There's a photo and it's kind of hard to see with the lighting. Are you referring to the cell phone antenna?

Mr. Shibuya: Yes.

Mr. Frampton: I think we, that's something that we or that Easter Seals inherited when they purchased the property from Maui Land and Pine. It's not on the parcel? Okay, it's on the adjacent parcel. Is it the Wakea Gardens parcel?

Mr. Shibuya: I just want to know the distance and the height.

Mr. Frampton: Give us a second.

Mr. Shibuya: Sure. Because I'm, I'm looking at the personnel impacts of that electromagnetic microwave type of transmission impacting at least, you're gonna have tenants on the second floor I believe or at least that's one of your considerations. I have a problem with tenants. But if you're going to have some kind of storage area I have no problem.

Mr. Marlette: Well, we're a bit out of our element with that.

Mr. Shibuya: Okay.

Mr. Marlette: This Steve Marlette of MC Architects. We have processed permits for similar utility installations on Oahu and I know part of that typical permit processing is sort of proof that when you erect one of those particular towers that you're not impacting, negatively impacting uses or anything like that on other sites. Our overall site plan doesn't actually show the location of that so I'm not fully sure which lot it is even on and when it was installed or the height, I can't answer most of your questions.

Mr. Shibuya: I understand and we know generally the right thing, ho`o pono pono, we're trying to do it right and we assume and we look towards regulations and codes but in actual application it doesn't really happen because there's two elementary schools on Oahu that have cell phones within 50 feet of their school classrooms. So you know, there's reality and I just don't want the thing to be repeated on Maui.

Mr. Marlette: Agreed.

Mr. Shibuya: Thank you.

Chair Hiranaga: Any other questions, Commissioners? I have a question. Was a drainage report prepared for this application or is one not required?

Mr. Frampton: A drainage report was not prepared for this, for this project.

Chair Hiranaga: Is it required for an SMA application?

Ms. Dagdag-Andaya: I believe it can be reviewed but the rest would come during the construction phase.

Mr. Frampton: Correct. Any ground altering improvements will require a grading permit and if it's the – if DSA determines that a drainage report would be required then one would be done at that time. It was when we sent out the copy of the draft EA which was part of our application, agencies had a chance to look at that as well to say, you know need to – you are required to do a drainage report and I think at the time no agencies came back requesting that. The underlying premise is that very, very minimal changes to the existing topography, to the existing layout. In fact, an overall improvement in the drainage scenario based on the items that Mr. Marlette indicated earlier the less parking area and taking more of the improvements into the landscape areas.

Chair Hiranaga: The surface runoff is stored in a underground chamber is that correct?

Unidentified Speaker: No.

Chair Hiranaga: Oh, I thought it was represented there was a – so surface runoff is captured in a surface type basin?

Mr. Marlette: Surface – Steve Marlette with MC Architects. Surface runoff is captured with catch basins within the existing parking lot area and the pipes then tie into Kaahumanu Center.

Chair Hiranaga: So there's no storage?

Mr. Marlette: There's – no, no. We don't have underground storage tank on the property right now.

Chair Hiranaga: And do you, did someone look at what the existing storage facility is for the former cannery and the Queen Kaahumanu Center. Do you have any idea where that water goes to?

Mr. Marlette: We haven't looked into where that ends up eventually and how that gets from point A to point B.

Chair Hiranaga: I guess my concern is that Easter Seals is a separate legal entity from Maui Land and Pineapple and you're using an existing system that is owned by another legal entity and I, I think you should, in my opinion, separate yourself from that system because, unless you have a maintenance agreement with them or you have some type of agreement that allows you to continue to use that system in the future?

Mr. Marlette: Unfortunately, John Howell, the man that is in tune with those agreements, as part of the purchase agreement is the person that's in China right now and unavailable to speak to some of those issues. I know that they have looked into that during purchase of the property and have various easements and such set up for crossing electrical lines, crossing water lines and various other things to actually serve this parcel.

Chair Hiranaga: I mean, when you look at that aerial picture you see Kahului Harbor there to the left, upper left-hand corner and historically when the pineapple cannery used to operate periodically the Kahului Harbor used to have these plumes. People used to guess where that citrus smell in the water came from. And so now you're tying into an existing system that you had no idea where that water is going. It just kind of concerns me that the Department didn't look into that further, it's just, you know, I guess it's acceptable to the Department that the surface runoff goes into a black hole somewhere on a, on an adjoining property? Either department can respond.

Ms. Dagdag-Andaya: And checking – well, staff indicated, I mean, they – we can review or request, but if it's a part of the SMA document, if it's required then it should be reviewed during the SMA, but I know during the construction phase that's when we'll do an additional review. So I think if Planning Department were to require the drainage report at the time of the SMA then, to make the SMA application complete that's when we can do an initial review but like I stated earlier we do intend to review this again during, in the construction phase.

Chair Hiranaga: Okay, thank you. Any other questions, Commissioners? Commissioner Shibuya?

Mr. Shibuya: I was just wondering we have many questions here that's not answerable. Perhaps if we gave them a, another couple weeks to, to provide this information, we could table this measure and then come back and probably review at that time.

Chair Hiranaga: Well, we can consider that if, if a motion to defer is made on the floor. But at this time, I'm still having the floor open to questions from Commissioners to the applicant. Seeing none, I'll open the floor to a motion, oh I'm sorry, staff recommendation first. Thank you.

b) Action

Mr. Wollenhaupt: The recommendation of the Department is noted in the green section of your staff report and in consideration of the foregoing the Planning Department recommends that the Planning Commission adopt the Department's report and the recommendation prepared for the July 26, 2011 meeting as findings of fact, conclusions of law, decision and order and authorize the Planning Director to transmit the decision and order on behalf of the Planning Commission.

Chair Hiranaga: I'll open the floor to a motion. Commissioner Shibuya?

Mr. Shibuya: I'd like to move to defer to the next meeting with the following request for information such as the distance of the cell phone tower and/or broadcasting antennas to the second floor occupants that's being planned. The second bit of information that I'd like to have is to insure that we have a drainage plan or some identification of where the water flow is going to go, your question. And the third one would be in terms of what kind of agreement is being made or is there an agreement on landscaping and caring for the Kaahumanu properties or if you're gonna obtain properties, you know, please discuss it with us at that time.

Chair Hiranaga: Is there a second to the motion to defer? Seeing none, motion dies. Floor is open to motions. Commissioner Mardfin.

Mr. Mardfin: I move we accept the staff recommendation for approval.

Chair Hiranaga: And is there a second? Moved by Commissioner Mardfin to approve per the staff recommendation seconded by Commissioner Sablas. Commissioner Mardfin.

Mr. Mardfin: While I acknowledge the relevance of Commissioner Shibuya's concerns I believe that the Staff Planner Kurt can adequately follow through on those things and I would urge him to. I don't think we need a specific amendment to that effect. I know he'll do a good job and I can support this. I think it sounds like a good project, a creative project, a good reuse, it will turn what probably is somewhat of an eyesore into a valuable piece of property, it will save Easter Seals some money in the long run by no longer having to pay rent and in another area, it will expand their services, it will be good for the clients that they're supposed to support and I think it deserves our support.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I'm going to have to vote against it even though I really like to see this project completed and I see much benefits to all of the Maui for this complete project. However, there are questions that I really need to have answered and I really would like to see them try to minimize some of their expenses especially utility expenses. I do need answers brought up by Chairman Hiranaga about the drainage, where does it go. I don't think it's gonna be that difficult to figure out where the drainage lines go. So I'm just gonna have to – I would like to defer it but since that's not a possibility, I'm just gonna have to vote against it.

Chair Hiranaga: Any other discussion? Commissioner Wakida?

Ms. Wakida: I'm going to support the motion, but I have confidence also in our planner and in the architect and in their planner that they will follow through on some of the Planning Commission's concerns.

Chair Hiranaga: Any other discussion? I guess I would like to comment that I'm a little disappointed with the completeness of this application primarily regarding drainage. To be told that the drainage surface runoff enters an existing system that goes into a neighboring property that is owned by a different legal entity I, I think is a very incomplete and I'm wondering from a legal standpoint is that an allowable system whereby you just transport surface runoff from one property to another? Is that an acceptable practice?

Ms. Dagdag-Andaya: I'd have to consult with staff on that. I'm not sure, but I can find out.

Chair Hiranaga: You know, optimally I would have preferred that they had their own stand alone drainage system and plan versus just transporting water to an adjoining property that has a grandfathered in system that we have no idea where it goes if it's just pass through directly into Kahului Harbor or if there's filtration systems because I believe Kaahumanu Shopping Center was probably built in the early '70's and the cannery was built in the '40's so I mean, where does this water go? Okay, possibly the '20's. Commissioner Shibuya?

Mr. Shibuya: Answering your question about the water runoff, maybe we can ask our illustrious

Corporation Counsel if there's any legal precedences or case studies relating to water runoff from the upper properties into a lower properties and if there's any damages to the lower properties who is liable?

Mr. Giroux: I'm definitely not an expert in that area, no. But I know just cursory that if, if there's a – this is concerning free flow of water. If you purposely change the course of water on your property and it goes onto another person's property and it causes damage then you would be liable for that. You cannot change the course of property on your property to the detriment of somebody in the lower, lower of you, but I think in this case you're asking about just, you know, the transport of that water. I mean, if there's no damage then, then that raises different environmental issues.

Mr. Shibuya: Yes, I was – Mr. Chairman?

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I was aware of that aspect there because I had purchased a property in Kula and I so happen to have neighbors that were below me and neighbors above me and the water did flow into my property and I had to divert it onto the storm drainage system. So it was my kuleana and my expense.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: While I understand the Chairman's concerns about and it would be cleaner for Easter Seals to get some written agreement with their neighbors, the fact is we've had testimony that the amount of runoff is going to be decreased so I don't have a problem voting for this at this time. I mean, if, if there is a problem and they don't go ahead with this it's a worse problem. Putting this in, they're, they're reducing the amount of runoff so it's, at least it's a small benefit for what's going on so I have no trouble voting yes on this motion.

Chair Hiranaga: Just a comment. I'm not opposed to the project. I'm disappointed in the completeness of the application that was presented to us. If there's no further discussion, I will call for the vote. All in favor of the motion to approve please so indicate by raising your hand.

Ms. McLean: Six ayes, Mr. Chair.

Chair Hiranaga: Opposed?

Ms. McLean: One no.

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

VOTED: To Approve the Special Management Area Use Permit as Recommended with Conditions by the Department.
(Assenting - W. Mardfin, L. Sablas, D. Domingo, J. Freitas, I. Lay, P. Wakida)
(Dissenting- W. Shibuya)
(Excused - K. Ball)

Chair Hiranaga: Motion carries. We'll take a ten-minute break.

A recess was called at 11:11 a.m., and the meeting was reconvened at 11:23 a.m.

Chair Hiranaga: Next agenda item is B-3. Deputy Director?

Ms. McLean: Thank you, Mr. Chair. The third and final public hearing item for today is a request by Todd and Debra Preseault requesting a State Land Use Commission Special Use Permit and a County Conditional Permit to allow business and office uses in the Waiakoa Hale Offices, the Old Morihara Store building located in the State Rural District on Lower Kula Road in Kula. Kurt Wollenhaupt again is the Staff Planner.

3. TODD AND DEBRA PRESEALT requesting a State Land Use Commission Special Use Permit and a Conditional Permit to allow business/offices uses in the Waiakoa Hale Offices (Old Morihara Store) located in the State Rural District at 4230 Lower Kula Road, TMK: 2-3-037: 009, Kula, Island of Maui. (SUP2 2010/0003) (CP 2010/0002) (K. Wollenhaupt)

Mr. Wollenhaupt: Good morning Members of the Maui Planning Commission. The item that you'll be discussing momentarily considers two issues. One is that this Body since this is a parcel of land under 15 acres is going to be considered for a Land Use Commission Special Use Permit as the applicant is requesting an office use in a rurally zoned area. The requirements for review of a Land Use Commission Special Use Permit by this body are noted on Page 4 of 22 of the Land Use Commission Special Use Permit, subparagraph under Applicable Regulations. There are five considerations that this Body will be using today in reviewing this and this Body is the final acting Body on this Special Use Permit. I won't read each of the five of them but they are noted for discussion in a few moments on Page 4 of 22.

The second item that you'll be looking at today is a Conditional Permit for this proposed office use. Its review pursuant to Title 19 under Conditional Permits. It's important today, in today's discussion to note that the intent of the Conditional Permit is to provide an opportunity to consider establishing uses that are not specifically permitted within a given use zone. The use zone that we're looking at today is Rural, the consideration to be given is for an office use. However, a Conditional Permit upon review by this Body and recommendation to the County Council who is the final approving Body looks at this application and as to whether the proposed use is similar, related or compatible. Those are the three key points is the use similar, related or compatible to those permitted uses in the nearby neighborhood.

Those are the two major permits that we'll be looking at today for this application. As indicated before, the overview is that the proposed Waiakoa Hale Offices Conditional Permit and Land Use Commission Special Use Permit is to allow business/office uses in buildings in the Rural zoning district located at 4230 Lower Kula Road in Kula, Maui, Hawaii.

Mr. Rory Frampton will be the consultant on this project and will be presenting an detailed overview the applicant's Todd and Debra Preseault, who are also in the audience today and there's been numerous pieces of public comment that have been distributed. There are additional letters I understand that will be available at a time and will be transmitted to the Council. So without further

ado I will have Mr. Frampton give the presentation if that's the will of the Chairman.

Chair Hiranaga: Yes, please proceed. Sure, Deputy Director wishes to make a statement at this time.

Ms. McLean: Thank you, Mr. Chair. Just for full disclosure I want to inform the Commission that Planning Director Will Spence was initially the planning consultant for the applicant. Upon his taking office as Planning Director at the beginning of the year, he discontinued his consultant services and Mr. Frampton became the project consultant at that time. So just wanted to disclose that for the Commission's information that since becoming Planning Director he has had no consultant role with the project. Additionally, I'm the one who signed the staff report and recommendation and he will have no involvement or oversight, has not had and will continue not to have involvement or oversight with the project. Thank you, Chair.

Mr. Frampton: Good morning Commissioners. My name is Rory Frampton serving as the land planning consultant for the Todd and Debra Preseault who are here today and their proposal for the Waiakoa Hale Offices. I'm just going to go through a power point which the goal is to get you kind of acquainted visually with the project and the project site so that we can have a better discussion on the project and its potential impacts. Maybe if we can hit the lights? Thank you.

So as Kurt mentioned the request is to allow business and office uses in the original or the Old Morihara Store as, as he indicated in the staff report the property was used for a commercial as a commercial establishment from the '30's originally as Take Store and then Morihara Store until the mid to late '50's when it was then moved up to Waiakoa at its present, present location.

The objective is to provide office space to the local community and it's in line with the planning principles that are presented in the staff report and that were talked about earlier today in the testimony by the Director of Haleakala Waldorf School, Jocelyn as well as David Darlings testimony and it's really to try to make more office space and low key businesses available close to where people live and not to have everybody reliant on the automobile to travel several miles to do these types of basic services.

And the necessary approvals as Kurt mentioned is a Special Use Permit from the Commission that you will make a ruling on and then a recommendation, you'll be making a recommendation on the Conditional Permit which will then be going up to the County Council.

That's a picture of when it was used as a store/residence and then here's what it looks like today fronting Lower Kula Road. It has been somewhat altered in the front of the building and upstairs and we note the presence of both solar water heating and photo voltaic panels which have been a recent installation on the building.

This is a map that the colors represent various community plan designations. This yellow, yellowish color is the single family designation but this map is really, and the red is business and the blue is public/quasi-public but I just wanted to show you the kind of focus of the Waiakoa Town. The Lower Kula Road runs up along through here, Morihara Store, Café 80, Kula Gym and the Holy Ghost Church as well as the community center are all in proximity to the subject project which is at the corner of Alanui and Lower Kula Road. The project again is directly across the street from

the community center, one parcel away from the Holy Ghost Church and abuts properties that are used by Haleakala Waldorf School as part of their office administrating, administration buildings.

I'll just go through some of the photos, some aerial photos of the same, same area basically as Lower Kula Road, Kula Community Center, gateball, tennis courts, the church and the church hall and again, here's the project situated at the top of Alanui and Lower Kula Road. It's an elongated property 1.3 acres in size. The access is off of Lower Kula Road. That's the existing access and that's the access that will be used that will basically be paved for the parking lot, the parking lot's on that end of the property as well and there's a lot of, there is significant buffer between the parking lot and the roadway which I'll show and some slides on that.

The neighborhood along Alanui Street is made up of primarily half-acre lots on this side and two larger lots over here. It was – this previously was a three-acre parcel at the end of Kalihi Street, but in the '70's that three-acre parcel was turned into 14 single family lots between 6,000 and 9,000 square feet in size. So this is the end of Kalihi Street and I know a number of the residents from this neighborhood are here today and I've seen – I was just handed some testimony that they'll be discussing and they have concerns about the impacts on their neighborhood.

This is a show up, a close up of the property showing the parking and the house fronting Lower Kula Road and then the distance from the actual property to the other properties here. I would note that we do have letters of support from this neighbor who's the closest to the, and the neighbors that are abutting the property, we do have support letters from the people that have lived there since the Preseaults have lived there which has been for about 11 years. So those immediate neighbors are in support and we do have letters on file.

This is looking down Lower Kula Road looking in the Makawao direction and that's the project frontage on the street. This is looking up towards Holy Ghost Church and the area that's going to be in front of the building which will be used for parking I'll show you on the site plan. This is standing back at the, near the intersection of Alanui and Lower Kula Road. There's a dip in the road that if you drive that road you might be familiar with a little dip that happens between, basically between Alanui and the project driveway. The project driveway is on the top of that dip. This is the entry to the community, community center.

And the next series of photos are just basically walking down Alanui. You can see the substantial screening from vegetation so you can't really see the parking lot. That was something that was important to the Kula Community Association. They wanted to have all the parking onsite and behind the building. So this is walking down Alanui looking at the vegetation and towards the parking lot which are behind these trees. There is a gap or two where you can see into the parking area but for the most part it is heavily vegetated, visually screened. This is the view of the parking lot from down below and then at the intersection of Kalihi Street this is looking up at the property with the parking being blocked and this being the structure here. The family that lives immediately adjacent to the property on this side is also, you have a letter of support from that family as well. This is at, looking down Kalihi Street towards the 14-lot subdivision at the end of Kalihi Street. So there's two bigger parcels on either side couple hundred feet down the road is the 14-lot subdivision.

The Maui Island Plan does include the property in the proposed Rural Service Center and that's

described in your report, Kurt describes that. Well, he also describes the policies of the Maui Island Plan as well as the current Policy Plan, the proposed Maui Island Plan and the existing community plan which strongly supports providing low impact offices and other type of services within the communities that where people live so that we can make our communities more self-sufficient. So those policies I'm sure you're familiar with and, and Kurt has done a really good job of outlining them in the report.

The specific proposal is we're just looking at office and business uses and low key establishments. There's 3,800 square feet of existing structure both the first floor, second floor, part of the basement and a garage as well as there's a proposed bathhouse expansion of 832 square feet. All the required parking stalls will be onsite in that parking area behind the building and there will be a loading zone and ADA stall in the front.

So here's the site plan with Lower Kula Road along here, the project entry and the stalls which have been designed to meet County Code requirements for aisle width as well as the width length so that people can maneuver onsite and actually get safely into and out of the property without having to, you know, back out onto the road and stuff like that. So I've gone onto – I've used the parking lot today, I've used it a number of times for the last couple weeks. It does provide – and I got a big truck and it does provide for easy maneuvering onsite and when you get up to the property here and look down both ways you do have a substantial visibility in both directions despite that there's a dip over here you're at the top of the dip and so you can see a couple hundred feet going in either direction and it is a safe entry and access point.

There's an existing garage, the main house and then the bathhouse which is proposed for a potential future expansion and then on property they'll have a loading zone and a handicap parking stall. This was something that came out of the recommendation from the Kula Community Association. They didn't want to have regular customer parking in front. They wanted that in the back but they recognize that you're gonna have loading trips and potentially the ADA issues. So they recommended that and it was a good recommendation that the applicant has incorporated into their plans.

So here's the, standing up on the bluff by the community center looking at the existing driveway going into the property which is currently gravel. That's kind of the parking lot with the back up area and again, it will be cleaned up and paved as part of this project. So we have floor plans which you've, they are in your packet. I'm not gonna go into details unless there's questions about how the flooring, how it's laid out but the existing structures will basically remain as is and just be converted from bedrooms to offices. The bathhouse, there is a existing bathhouse with a proposed addition of two offices and a, and a central area.

The project has been in front of the community association like I mentioned. There was a meeting, public meeting last October 5th and the, you have the letter in the files and the KCA basically endorses the project for a number of reasons. One is to, again, the general principle of having more services available near where people live and they've also went into detail about the site plan which I kind of went over and, and also the – well, the one thing that they did bring up was that, there, there has been a concern about having a sidewalk in that area. There is a sidewalk that runs from Kula School all the way down just to the other side of the Preseault's property and this last stretch is something that the County Council has recommended, not recommended by they required

the Kula Ridge project to basically create a sidewalk that finish the length that would go all the way to Haleakala Waldorf School. There's a number of engineering issues involved in that making that connection. Some of them easier to address than others, but there are answers available it can be engineered and that was a existing requirement for the Kula Ridge project.

I mentioned the immediate neighbors. There's a letter that was passed out today from Mrs. Bence who has lived right across the street from the Preseaults again for 11 years, strongly in support, it's a very nice letter. The other, the Haleakala Waldorf was here provided testimony today, they're a neighbor as well as the Lozanos directly below the Preseaults. I think it says a lot that they've been neighbors there for the last 11 years. They know the Preseaults well. They've seen what they've done to the property and the immediate neighbors have basically unanimously endorsed the project. The community members, members in the community, you've seen a stack of positive letters that we've gotten not only from the immediate neighbors but all the neighbors on Lower Kula Road going up to Café 808, those neighbors have provided letters of support as well as just general people in the community, some long term members as well.

This, this project is part of the Kealahou Subdivision. which was created in 1963. It was originally 19 lots. Right now it's in 2011 it's now 39 lots because a number of those original lots were subdivided. In some of your letters, the testimony that I've seen today that was presented as well as a letter that we received about a week and a half ago. The, the restrictive covenants that were established as part of that subdivision were brought up and I just wanted to go over those and provide some background for me. I know your attorney typically will and we'll let him, I don't want to speak for him, but you will – I've heard him advise the Planning Commission that the CC&Rs are not something that the County enforces. And that, you know, the zoning is one issue that you do have, in a Special Use Permit and Conditional Permit, you do have authority over it but he's advised you in the past to not consider them but I think it's important just to provide a little bit of background. Because in each situation the CC&Rs are different. Some of them could be new and actively enforced and some of them like in this case were put in place a long time ago and I just wanted to go into just a little bit about the subdivision. Like I said, it was originally 19 lots now it's 39 lots. The restrictive covenants that were established in 1963 for these original – well, for the lots established a three-member owner committee that was supposed to provide design review and to hear things like request for waivers. That committee to my knowledge doesn't exist right now. It hasn't for 30 or 40 years to my knowledge and in talking to both the Preseaults and other people that have lived there for 40 years. Those restrictions have a minimum lot size of one-half acre or 23,500 square feet. The 14 lots at the end of Kalihi Street do not comply with that requirement. As I read through the restrictive covenants there was no provision for the waiver of that requirement. There's a provision of waiver, for waiver for the side yard setbacks, front yard setbacks and what kind of materials you can use, but it's very specific in terms of what you can get waivers for. There's also a requirement that there only be one residential structure per lot. There's a number of lots in this subdivision that have more than one residential structure per lot. Every new structure that gets built is supposed to be, go through a design review. To my knowledge that has not happened since at least the mid-70's. I had spoke to Mr. Darling who actually is still in the room. A number of his structures – well, the original structure that he built there was some type of review to make sure he was complying with the side yard and front yard setbacks. Later, projects ceased to be reviewed. There is a use restriction where the subdivision says it shall be, the lots shall be used for residential uses only. There are other uses in the neighborhood that are not residential. So that restriction has been somewhat ignored over time. The CC&Rs themselves have, were started off with a 30-

year term and there was supposed to be an automatic renewal every ten years thereafter or the majority of the owners of the, of the lots could actually modify or terminate the agreement. So, it's, it's – this is now just my opinion, it seems to me that given the – how the restrictions haven't been routinely enforced or complied with over time that the neighbors are gonna have to look at these CC&Rs and either update them, modify them or get rid of them altogether and again, that was my opinion, but they do exist but they're very outdated not complied with and I think there would be a big question mark in terms of their enforceability given all these factors.

So just to summary, you know, we, the whole, the summary rational which would support the project is this whole idea of the community self-sufficiency and smart growth and having low impact businesses near residential areas which this is. We feel it is compatible. It's an adaptive reuse of an old building which we earlier on the previous project that that makes for a much less impact in terms of environmental resources. The frontage and the access is directly off Lower Kula Road. There's no access proposed on Alanui Street. There is an existing, there's a place where a vehicle can enter the property but it's at the lower end of the property and it's used to access for yard maintenance and that type of stuff. But it's, the parking lot is not going to be connected to the driveway on Alanui. So there will be no new cars coming into, accessing Alanui to park on the property. The, and, and the compatibility with the surrounding neighborhood and again, the – I think the letters from the immediate neighbors speak very loudly as well as the letters from the KCA. So that's, in summary, that's my presentation and I guess we have testimony or questions?

Chair Hiranaga: At this time, thank you. At this time I will open the floor to public testimony.

a) Public Hearing

Chair Hiranaga: Is there anyone here that wishes to provide testimony on this agenda item that did not provide testimony earlier? Please come forward and identify yourself.

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

Ms. Jocelyn Romero Dermirbag: Good morning my name is Jocelyn Romero Dermirbag. I'm here on behalf of Haleakala Waldorf School and I'm here to support the Preseault's request for a Special Use Permit. Right now this school is strongly in support of this permitting process for them. The area on Lower Kula Road from the Upcountry Bed and Breakfast all the way down to our school which used to be the old Kealahou Public School is already the business area of Waiakoa. It has the B & B, the gas station, a mechanic shop, UH astronomy housing, Prayer Mountain, 808, Morihara's, the Glassblower's Shop, the gym, Holy Ghost Church, community center and the school so the offices seem to fit right within these uses already. The proposed offices also fit within the planning for the Kula Ridge project that will add hundreds of homes to the area.

We have found the Preseaults to be really good neighbors, very communicative, very cooperative in talking about what they want to do and very appropriately they have lots of space for both the parking and walking. So it is a beautiful, pleasant spot in the way that they have brought the Old Morihara Store and home to life. We support them in their endeavors.

Chair Hiranaga: Thank you. Questions, Commissioners? Seeing none, thank you. Next person on the list is David Darling.

Mr. David Darling; Good morning. My name's David Darling. I've lived in the Kealahou Subdivision 41 years now, very close to the Preseault project. My son didn't have the benefit of going to Waldorf School but he was educated at Kula Elementary and I've raised a family in that neighborhood. Over the years I've had the opportunity to have three different lots, sell three different lots and still maintain a home there. None of them were ever below half acre which, you know, that subdivision's half-acre zoning. I've always respected that. And Jocelyn pointed out it is the business area of Kula. She neglected to mention there's also a vet office there, the Kula Community Federal Credit Union used to be there in town. That is kind of the commercial part of Kula directly across the community center, the tennis courts. So I'd like to make note of the position of the Kula Community Association also that strongly favored the use there as business offices. It would be quiet use, it would be either, you know, professional offices, accountants, attorneys, not anything noisy. There's plenty of parking. The Preseaults have been very, very good neighbors and took over that property when it actually in condemnation, restored it and have kept the historical character of it. Have upgraded it with photo voltaic, energy efficient and would just like offices in that area and be able to rent out office space which is definitely needed. It keeps traffic off the road. The whole village concept which was also being proposed over in Olowalu, you know, you live, you work, you do your business, kind of where you live. You keep off the road, you have things convenient to where you're living and I strongly support the application of Todd and Debra Preseault for a use permit for offices in the Waiakoa area. Thank you.

Chair Hiranaga: Question? Commissioner Wakida?

Ms. Wakida: What is your relationship to the Kula Community Association?

Mr. Darling: I'm a member.

Ms. Wakida: Okay.

Mr. Darling: Have been for 35, 40 years.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Do you have, do you have any concerns about parking and sidewalks?

Mr. Darling: No, they have adequate parking right in front and then that sidewalk project that went through granted plenty of vehicle and pedestrian access all the way up to Morihara Store and beyond. I mean, all the way from Calasa Service all the way, almost to the school. The road get a little narrow there before the school, but the sidewalk goes all the way to the Preseault property all the way up to Calasa Service, totally adequate parking because when we have the Holy Ghost Feast there's just hundreds of cars if not thousands of cars that use that area and they park, there's plenty of room over by the tennis courts and then there's the entire Kula Community Center lot immediately across the street from their project which holds probably 80 cars. Parking's not an issue.

Mr. Mardfin: Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you.

Mr. Darling: Thank you.

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

Mr. Mike Crowe: Good morning. My name's Mike Crowe and I live in that neighborhood. I live on 30 Alanui Place. I have to drive by this, this residence everyday. I'm in objection to the proposed Special Use Permit for this Waiakoa Hale Offices. It's kind of funny I thought Hale meant house and it's house and offices. It's a house. It's a very nice house I don't have to tell you. They did a good job and it's a very nice area, but it's a residence. You know, I've lived there for the last 20 years. I moved back up to Kula because it rural. The Kula lifestyle is laid back and relaxed. There are such facilities that they are proposing in nearby Makawao and Pukalani. That's like a five or seven minute drive away. I'm not here for any money. I don't want anything from you except just to keep my neighborhood the way it is and the way I believe it was going to be when I bought the property nine years ago. I believe living in Kula there are many disadvantages and that's the drive and, and certain things like that but the people who live up there are willing to put up with some of those disadvantages to reap the benefits of living in such a community. I love Kula. I work in Kihei and some of the people I work with can't believe I make that drive every day and I say that's because you don't live in Kula, you don't understand. I had a good friend who's into making investments in real property and gold and commodities and he told me, you know, Mike this is the best investment you can make is in lifestyle because that investment will never go wrong. I believe that's what I did when I purchased this home for my wife and I. Now they're trying to change that. I hope it will remain the same. Thank you very much for your time.

Chair Hiranaga: Questions, Commissioners? Commissioner Wakida?

Ms. Wakida: Thank you for coming this morning, I guess it's still morning to testify. Some of the argument that has been made to support this project say that it is providing businesses that will be closer to people who live in the area. In other words, they don't have so far to drive to get to work. Do you have any comment on that?

Mr. Crowe: Yes, ma'am I do I understand that and I'm sure that's true. To go on the opposite end of that, I bet you if I opened a car dealership up in Kula it would benefit some of the people they wouldn't have to drive as far to get to my car lot to purchase a car, but I don't think that's a good idea. And I understand that they're saying it's low impact, that's an opinion and something that you all have to decide on. It is my opinion that, that area is there's enough traffic on that road. If you've ever come up Alanui which is the street I live on, make a left-hand turn or attempt to make a left-hand turn, there's already a water easement and there's like a little hill that goes up right up to where their driveway is now you can make a legal stop at the limit line you can't see so you have to edge out, edge out and it's roughly one-third to one-half of the car is going to be well past the limit line to be able to see safely through to your left-hand side. So there's already. And it's not any fault of anybody's other than the people who designed the road a 100 years ago or 80 years ago when it was built. It certainly wasn't built to handle this kind of traffic we're talking about.

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I'm gonna ask Rory to put up the map and sir, if you can show me, indicate kind of where you live?

Mr. Crowe: Yes sir.

Mr. Mardfin: He'll get that on in a minute I think. Probably as good as any ...(inaudible)...

Chair Hiranaga: Rory, could you hand him the portable mic?

Mr. Crowe: This photo is taken with the top side being mauka. This is the Lower Kula Road, Alanui Place. This is the property in question and I live down here at the bottom of the cul-de-sac here. Oops, okay, here we go. Right here.

Mr. Mardfin: Thank you very much.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you. Thank you.

Mr. Crowe: Thank you.

Chair Hiranaga: Is there anyone else that wishes to provide testimony at this time please come forward and identify yourself?

Mr. Fred Rawe: I've submitted copies. I'm Fred Rawe. I live at 32 Kalihi Place in Kula. I'm not an immediate neighbor but I'm slightly less than immediate neighbor. I live very close to the proposed project and I appreciate this opportunity express my concerns. What I have to say is actually a reflection of the concerns of several Kalihi Place residents. Some of them are testifying today while others have sent written testimonies because they couldn't be here at this time. After 20 years as Upcountry Maui teachers, my wife Maria and I spent 16 years caring for aging parents and pursuing our profession in Atlanta, Georgia, the land of irresponsible suburban sprawl. Where near our country home two mega Walmarts were constructed within one and a half miles of one and other and we had retired at the end of those 16 years. We returned with much relief to our comfortably rural Waiakoa and once there we were enormously pleased to see that Maui's Upcountry environment remained essentially unchanged unlike the egregiously ...(inaudible)... run on strip malls in Kihei. I mentioned our Atlanta experience because it had sensitized us to what we have seen as dubious or nonexistent planning under the pretense of serving community needs. This leads me to tell you what we do and don't need in Waiakoa.

What don't we need? We don't need a thinly disguised mini mall. We don't need ever revolving business failures. Imagine a colonic therapy salon that goes belly up and becomes a tattoo parlor. We don't need additional traffic at a dangerously limited view point, a view point which all Alanui and Kalihi residents experience every day and we don't need the alteration of the historic Morihara residence the appearance of which will be compromised by parking lot pavement, by additional structures that is to say, the likely extension of the bathhouse and by Building Code requirements for businesses inside and outside.

What do we need? We do need a sidewalk for the safety of residents and Haleakala School students. We do need guardrails to prevent another catastrophic crash and burn accident. We do

need consistent police monitoring oft abused 20 mile an hour speed limit. We do need a Maui Bus service that reaches Kula. And most significantly, we do need to retain our Waiakoa lifestyle as it is and has been.

With there reference to the proceeding I'm compelled to question. Did we miss the survey that asked us whether we wanted a lawyers office in our midst or an accountants office or a massage parlor? Was there such a survey? Who has had the hutzpa to presume that they know what is best for us. Moreover we feel strongly that we already well-served by the current businesses in Pukalani and Makawao. Their proximity is not really a travel burden. So to add a Waiakoa business complex is at the least superfluous. I don't think that it will come as a surprise to hear that we Kalihi residents are feeling more than a little shell shocked in view of the enormous Kula Ridge project –

Ms. Takayama-Corden: Three minutes.

Mr. Rawe: – that literally looms over us and now –

Chair Hiranaga: Please, please conclude your comments.

Mr. Rawe: – and now in view of the Morihara proposal. Finally I raise a vital question. Is it more important for you decide this issue in favor of enterprise whose usefulness to Waiakoa is dubious at best or is it more important to preserve what we residents have known for long our treasured Upcountry tranquility.

Chair Hiranaga: Thank you. Questions for the testifier? Commissioner Mardfin?

Mr. Mardfin: Dr. Rawe would you show us where you live?

Mr. Rawe: Yes. Just below this house off of ...(inaudible)... comes from the cul de sac.

Mr. Mardfin: And what's the size of your property roughly?

Mr. Rawe: 9,000 square feet I'm guessing.

Mr. Mardfin: Thank you very much.

Mr. Rawe: Hadn't looked lately.

Chair Hiranaga: Any other questions? Seeing none, thank you. Anyone else wishes to testify please come forward and identify yourself?

Ms. Mariya Donés: Good morning everybody, I'm Mariya Donés and I am the neighbor to the Rawes and I cannot tell you the size of my lot it's under a quarter of an acre I believe, it's not that big, it's not that small, it's just right for this old lady. The reason I'm here is basically because I'm concerned too about all the stuff that's happening in Kula and I don't want to take it just laying down. I want to have a voice. So thank you for being here and thank you for listening.

I'd like to say that it was most upsetting to get out of my car today here and hear Frampton and Todd talking about they pay attention to those CCRs they called it. I don't know what that stands for but they laughed about it. And they said, don't worry the County Council or whatever you guys are Chairman, persons and zoning people will ignore it. So I'd like to make that point.

Anyway, I'd like to say that life on the cul-de-sac is becoming more and more dangerous where we live. We are a hui down there. We are tight people. We are basically retired people who have worked ourselves to death and finally wound up with something to relax in and live in. And hopefully it will stay that way. I'd like to say that the danger up there is incredible with the highway plus the Alanui...(inaudible)... and the Lower Kula Road it's terrible. I don't know how they're going to do any of this. I have no idea because I keep hearing about how you guys are going to put in sidewalks or whoever is responsible and I don't know how it's going to happen because nobody seems to know. And when this, this comes about I'm sure it will bring more traffic and more disaster.

I'd like to say that as far as professional offices and services such as doctors I'd like to say we don't need them. We have more than adequate supply up at Kula Hospital. It's very close to us as well and so is the ambulance, it's very good. So I don't know what they're proposing to do other than make big business out of our lives up there and I hope it stays all right the way it is. I've seen major disconnect also I'd like to say between the, the people that are developers and the Kula Community Association. I don't even know why we have Upcountry planning any more because it keeps getting run over and not even talked about. And like Fred said just now. I'd like to say also that I never knew we needed anything up there than what we have. So thank you for listening.

Chair Hiranaga: Questions, Commissioner? Commissioner Mardfin?

Mr. Mardfin: I'm sorry, ma'am I didn't get your name please?

Ms. Donés: Mariya Donés.

Mr. Mardfin: Mariya Donés. Could you show us where you live on that map?

Ms. Donés: Sure. I think it's...(inaudible - not speaking into a microphone)...

Mr. Mardfin: That's approximate.. Thank, thank you very much. About how far, any idea how far that is from, it is about two football field lengths or something?

Ms. Donés: Far from what?

Mr. Mardfin: How far from the property the –

Ms. Donés: The proposed one?

Unidentified Speaker: Yes

Mr. Mardfin: Two football fields length? Okay, thank you very much.

Chair Hiranaga: Any questions for the testifier? Seeing none, thank you. Anyone else wishes to provide testimony at this time? Please come forward and identify yourself.

Ms. Maria Rawe: Aloha, I'm Maria Rawe and I live at 32 Kalihi Place. I'm here this morning to voice my objection to this permit being granted. My husband and I have owned our home on Kalihi Place for 22 years and as retired 40-year veteran teachers we enjoy quiet and tranquility of our Waiakoa community. I'm presenting my reasons for objecting on a step by step basis as I follow the 22-page Department of Planning's report to the Maui Planning Commission.

My first objection deals with on Page 5 of 22, paragraph 2, it states that, the proposed use would not significantly, would not be significantly detrimental to the public interest, convenience and welfare and will be in harmony with the area in which it is to be located. Well, I beg to differ. By the way, I did give our copies and it's under Maria Rawe on the top right-hand corner. So I beg to differ. I find the proposed Special Use Permit of the residential home to be significantly detrimental to our Waiakoas community's interest, convenience and welfare and it will not be in harmony with the area. Why? Simply because the home will be turned into offices, a commercial site rather than to continue to be residential. It's a beautiful home. Furthermore, on a legal matter, it is stipulated that all properties in the Kealahou Subdivision 1962 File Plan No. 829 they have CC&Rs covenant and conditions and restrictions that state that no, no lot shall be used except for residential purpose as recorded in 1962 Restrictive Covenants at Liber 4542, Page 542 and these are restriction that Mr. Frampton presented earlier. His date was 1963, mine is 1962.

My second objection on Page 8 of 22, paragraph 4, the fourth line says, visibility in front,– the visibility in front of the property is excellent at about 300 feet in either direction. I beg to differ. I differ strongly on this point. There is a dip in front of the property which used to be designated by a large yellow dip sign. There was. And that dip sign has vanished. Visibility is not excellent when exiting from Alanui Road onto Lower Kula Road because of that dip. The proposed offices will bring more traffic which compound the problem of visibility.

On Page 9, my third objection, on Page 9 of 22, last paragraph, – minutes?

Ms. Takayama-Corden: Three minutes.

Ms. Rawe: Oh, gosh.

Chair Hiranaga: Please conclude your comments, thank you.

Ms. Rawe: Okay, it reads their business name as Waiakoa Hale Office and as Mike earlier pointed out, hale home offices it's kind of a incongruity. The types of businesses it will likely include such enterprises as an accounting office, a nonprofit organization, engineering office, web page or graphics design, attorney's office, et cetera. However, on Page 10 of 22, on the next to the last paragraph in addition to the professional offices it adds personal service establishments with a list of possible uses. My question is what kind of personal service establishments, massage, beauty salon, yoga, a tattoo parlor, that's personal. These later services are remarkably different from professional offices and I object to the inclusion of personal service establishments.

Chair Hiranaga: Okay, please conclude your comments.

Ms. Rawe: I would like to add if this were, permit might be granted I strongly recommend number one, speed bumps need to be placed in front of the Waiakoa Hale Offices.

Chair Hiranaga: Okay, we have your written testimony.

Ms. Rawe: Okay.

Chair Hiranaga: So we'll take it into account.

Ms. Rawe: Okay.

Chair Hiranaga: Thank you very much.

Ms. Rawe: In conclusion, I thank you for listening but I stand on record as objecting to this permit. Thank you.

Chair Hiranaga: Thank you. Is there anyone else that wishes to provide testimony please come forward. Please limit your comments to three minutes.

Ms. Penny Humphries: My name is Penny Humphries. I live at 51 Kalihi Place. I am opposed to the change, I am opposed to changing 4230 Lower Kula Road from Rural to Conditional Use for the following reasons. The change would detract from the residential nature of the neighborhood and lower property values. I worked very hard to purchase my home 28 years ago and do not want that value compromised. The fact that the Preseault property is no longer used as the Morihara Store speaks volumes. The business was moved up the street to its present location when it lost its nonconforming use status years ago. Business should not be allowed back in. To allow 12 business, financial, professional offices and personal service establishments in would increase congestion which is a negative impact to the neighborhood bringing more traffic to the Lower Kula Road. The property line of the Preseaults lot abuts Alanui Place which is the only ingress and egress serving both Alanui and Kalihi for 23 lots. That is why there is zoning to keep that type of use to specifically designated areas. Lower Kula Road is already busy with traffic not planned for when built.

The Preseault property is lot no. 13 in the Kealahou Subdivision. Any change would be a blatant violation of the Kealahou Subdivision Declaration of Restrictive Covenants. These Covenants run with the land and are binding upon and inure to the benefit of the present and all subsequent owners. The first covenant reads and I quote, "no lot shall be used except for residential purposes provided however that Lot 12 may be used for either church purposes or residential purposes." There is also a covenant that states there is to be a 25-foot setback from the front property line to main wall of any building or structure. Their house is already a nonconforming structure and is not historical in nature. The covenants further state that, "for any failure of breach in the observance or performance of the covenants any owner of the house lot lands within the tract shall have remedy against the offending party, this can be action – this can be by action for damages either sued or injunctioned, mandatory or restraining or any other appropriate remedy. Plus, the pursuit of any one remedy for or the waiver or acquiescence in any such breach shall not preclude or present the pursuit of any remedy thereafter for the same breach or for any other prior or subsequent violation. It goes onto state that in the event that legal proceeding are brought for the breach or failure in the

observance of any of the covenants all expenses and costs including reasonable attorney fees shall be charged against the owner of any of the lots who have violated these restrictive covenants. I'd like to point out –

Chair Hiranaga: Please, please conclude your comments. Thank you.

Ms. Humphrey: I shall. On Kalihi and Alanui combined there are 14 property owners who are against this and three that are for and I have a petition that I would like to pass out to you with those who are opposed. Thank you very much.

Chair Hiranaga: Thank you. Questions for the testifier? Commissioner Freitas?

Mr. Freitas: Yes, do you know if all of the people in that subdivision is in compliance with the CC&Rs?

Ms. Humphries: It doesn't make any difference.

Mr. Freitas: No, no, –

Ms. Humphries: I've, I've already stated what the CC&Rs say whether they're in compliance or not they still have remedy at any point in time.

Mr. Freitas: Ma'am would you answer my question? My question was do you know if all, if everybody is in compliance?

Ms. Humphries: I am not part of the subdivision so you would have to, have to ask someone who is a part of that subdivision. Where I live on Kalihi it's Waiakoa Sunset.

Mr. Freitas: Okay, because you were stating this specific subdivision.

Ms. Humphries: Yes.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Mardfin?

Mr. Mardfin: Yes ma'am would you show us where you live on that map?

Ms. Humphries: (She pointed out her property on the map.)

Mr. Mardfin: And can you tell us the area of your property?

Ms. Humphries: 6,400 square feet.

Mr. Mardfin: Thank you very much. The answer was 6,400 square feet in case that didn't get heard.

Chair Hiranaga: Thank you. Is there anyone else that wishes to provide testimony at this time please come forward. Thank you.

Mr. Victor Reyes: Good morning, Mr. Chair. My name is Victor Reyes and I live in 46 Kalihi Place. There's a lot of pictures shown so I'd like to ask the Chair's indulgence if I may present a, the pictures that you have on your, on your handouts so that the other people can see. I have them with me. Anyway, I'll be giving my testimony.

Good morning and aloha Mr. Chair and Members of the Maui Planning Commission. Like I said I live at 46 Kalihi Place. We are on 35th year as residents of the neighborhood below the proposed Waiakoa Hale Offices, the former residence of the Morihara family. The house has always been part of the Kealahou and Kula Sunset Subdivisions residential neighborhood. True it was once known to house a small store but for practical reasons moved to the present Morihara Store many decades ago to also operate the Old Kula Post Office. It was a surprise and shock to us just like the significant majority of my neighbors when we received the July 26th hearing notice of the planned conversion of the subject property. After gathering and evaluating information we have concluded the project is not in the best interest of the neighborhood in our area. SPU [sic] and CP and Special Use Permit and Conditional Use Permit being sought is an open-ended permit that can only start contentious relationships and trouble for the neighborhood. The future is full of uncertainties and cannot be controlled. Who is going to monitor and enforce. We don't want to turn into watchdog neighbors.

While my neighbors have expressed their concerns and we agree with them I will address specific or establish – I will address establish or point information in transmittals and the report that have been compiled and prepared by the Planning Department for the Planning Commission. You all have copies of the materials.

A. Project Description and Purpose: As originally submitted, the project is established office business uses within an existing building known as the Old Morihara Store and to meet current requirements for office use. Please be aware that the application has been modified so that it now includes the future renovation and expansion of the existing bathhouse which is in your picture 1 to 4 and have a lot of other descriptions there, into additional office structure than went from 180 square feet which is the original bathhouse to now a total of 10 – 1,020 square feet adding 840 square feet. It was rationalized that this was for future flexibility. On closer look, this rational is akin to a crafty ploy to bank an entitlement that could only command the property a jacked-up price. The owners are not obligated to disclose their true intention suffice to say that they have revealed that they don't intend to live there.

I withdraw B in light of the disclosure provided by the Deputy Director.

Although Maui Police Department has no objection to the request for variance ...

Ms. Takayama-Corden: Three minutes.

Mr. Reyes: ...they have, they have concerns for the safety of pedestrian and vehicular movement. This is rightfully so by they UPS truck making deliveries of the property.

Chair Hiranaga: Please, please conclude your comments.

Mr. Reyes: Okay. I have a lot more other comments. I have specific rebuttal or disagreement and

differ, difference with conclusion of the planner and they're all well-written in, in the, in the testimony. So it is, but ...(inaudible)... impact of the property. So in closing, I thank the Commissioners for their attention. I respectfully request for the Planning Commission that you find the applicant noncompliant and deny the requested Special Use and Conditional Permits. Thank you very much for your consideration.

Chair Hiranaga: Thank you. Questions for the testifier? Commissioner Wakida?

Ms. Wakida: You state in your written testimony that you have some questions about water usage. You're looking at this and projecting 12 offices is that correct?

Mr. Reyes: Yes ma'am.

Ms. Wakida: And you, and you feel that, that there will probably be 20 people a day involved in any businesses that, that might open there?

Mr. Reyes: Yes, because their project is with 12 offices and 14 office workers it will only have four clients a day that's totally unrealistic. That is a ratio of .3 person per office worker. I think because the business that locate there want to their business succeed. They would like to attract clients and I think a more reasonable ratio would be three clients per office worker. So it's more like the opposite and it will jack up or increase tremendously the amount of water consumption. So that's my, my point over there. Plus, of course, it will contribute to the congestion that is well documented by the UPS delivery truck parked in front of the uphill lane blocking traffic and you can see two vehicles, the traffic going across.

Chair Hiranaga: Okay, thank you. The question was regarding water use.

Mr. Reyes: Yes.

Chair Hiranaga: Commissioner Wakida you have a follow-up question?

Ms. Wakida: Well, actually I had a question on this point that you brought up. In that picture, are you familiar with the people that live and their vehicles that live in this residence currently?

Mr. Reyes: Yeah, they have two vehicles. They have three children as far as I know.

Ms. Wakida: And they currently park there on the streetside?

Mr. Reyes: Right. Yes.

Ms. Wakida: Thank you.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Mr. Reyes, I'm going to ask you where you live in just a second but I wanted to, first I wanted to thank you. You, you did a very, we've received your testimony with all the photographs, you've done a very thorough job of documenting your position on it and it must of taken a lot of work

and I want to thank you for taking that work to keep us informed. Could you show us on the map where you live please?

Mr. Reyes: Thank you. I live in the cul-de-sac these trees are in my yard.

Mr. Mardfin: Thank you. Let me ask one more question of you. Did you ever receive somewhere after June 24th a letter of notification that describing the application and letting you know about today's hearing?

Mr. Reyes: Yes, we received the first notification which was deficient. I failed to mention that. I don't know if you were aware of that. The first letter was deficient because it says, "enclosed are is the map" but there was no map so they sent another certified letter and I don't know if even, if it even met technically the requirement of the notification.

Mr. Mardfin: Okay, but you did receive?

Mr. Reyes: I did receive, yes.

Mr. Mardfin: Thank you very much.

Mr. Reyes: Yeah, I did.

Chair Hiranaga: Any other questions for the testifier? Seeing none, is there anyone else that wishes to provide testimony at this time? Seeing none, the public hearing is now closed. We will recess for lunch and reconvene at 1:20. I do want to make one request either from the applicant or staff if someone has the time before we reconvene if they could provide us a map with the 500-foot notification radius and indicating letters of opposition and letters in favor if that's possible. Including the newly received letters.

Mr. Wollenhaupt: I'm not sure ...(inaudible)...

Chair Hiranaga: Yeah, we could maybe put the burden on the applicant. Anyway we'll reconvene at 1:20. Thank you.

A recess was called at 12:17 p.m., and the meeting was reconvened at 1:20 p.m.

Chair Hiranaga: Before I open the floor up to questions by Commissioners is there anything else the applicant or staff wishes to add to the presentation?

Mr. Frampton: Yes, thank you. Should at this point, should I respond or provide you with the map that – did you hand out the copies?

Mr. Wollenhaupt: I have.

Mr. Frampton: Okay, so there's a map that color codes the various parcels that are within 500 feet indicating the people that have voiced either opposition or support with the support in green and the opposition in yellow. And I had an additional slide that I, I had prepared last night before we

saw all these other letters. And it goes a little bit beyond the 500 feet and I just wanted to have a chance to show that real quickly. Okay, so, so this map again does not reflect all the letters of opposition and what you see on your map within the 500 feet of the properties at the end of Kalihi Street. But what it does show in addition to all the properties immediately abutting the property, other properties outside of the 500 feet within the Kealahou Subdivision bordering on Lower Kula Road as well as all the basically the residences that line Lower Kula Road all the way up to Café 808. The Morihara Store and 808 are at this location right now. So Debra has actually walked and talked to a lot of the neighbors and received those letters and those letters are in your packet. So, and even the Guguleos, who's one place up, who owns a big frontage on Lower Kula Road that's represented by that green dot there. So there are quite a bit of other people that directly front Lower Kula Road that actually potentially could be impacted even greater than the people on Alanui because they're actually on Lower Kula Road where the cars are going to be traveling on and most of those people have indicated their letter, their support.

And just a couple things that I just wanted to point out based on some of the comments and concerns raised by the neighbors and this is just, goes more into the specifics of what's being requested. Some of the neighbors are really concerned about how this project evolve, whether it might change into other types of uses that haven't been described here and that's the type of situation that would occur if you were requesting for a change in zoning. We're asking for business zoning that would allow commercial use on this property and whole range of commercial uses, it would run with the land and we'd be good – once it got through, if it successfully got zoning from a positive recommendation from the Commission and then granted by the Council they'd be free to do whatever types of business uses that they want and there's no time limit on it. The big difference here is one, there's a limitation on uses. And so it's specifically limited to the types of uses that are being requested and the, and the project improvements that we've talked about is we're tied to that as well because we're coming in just for the Special Permit and the Conditional Permit it is very, very limited to exactly what was represented by the applicant and importantly, the applicants have to come back and renew it. So they will have to come back in, they will have to renew it, they will have to justify at that time that they're in compliance with all the conditions that were put in them so it's not like your typical change in zoning or a change to commercial use that occurs like I said with a change in zoning. So I think that's, it's not an open-ended permit as one of the testifiers spoke to. So, I, I, you've heard all the other information and if there's any questions, we're available. Yes?

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I notice there are no letters of either support or opposition from mauka of the Lower Kula Road is that correct?

Mr. Frampton: That's correct. The big property here is the community center and these are, these properties lining Kula Road, they're up on the hill if you're familiar with the area, higher up and they're larger one and a half to two-acre pieces. And to my knowledge we haven't gotten any.

Mr. Mardfin: So they don't care one way or the other it seems? Thank you.

Chair Hiranaga: Any other questions from the Commissioners to Staff or applicant? Commissioner Wakida?

Ms. Wakida: Mr. Frampton, what is the maximum number of office space use that the proposed project is, is looking at? Number of, number of offices?

Mr. Frampton: It's kind of hard to – it's really depends on who the tenants are and how they choose to set up their offices. But the maximum number of spaces I haven't counted it, it might be – someone mentioned 10 or 12 earlier, that's, that's conceivable but it's more likely that it would be like one firm or one, one person taking up a couple of those spaces.

Ms. Wakida: And again, how many parking places have you planned?

Mr. Frampton: We've got nine and so we meet, we are compliant with the County Code in that regards. The parking plan has been approved by Zoning and Enforcement Division.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Mr. Frampton, maybe you can respond with the consent of your, your client. Many of the neighboring property owners have been talking about and complaining about the line of sight and also the speed in which traffic flows and its increasing numbers that's the volume. So we have volume, line of sight and also the speed in which the traffic actually comes through this intersection to their subdivision. Is there a way that we can mitigate some of these things. Maybe if we trim certain things or maybe we grade maybe something that's high, that will allow the drivers to at least see left side more or what if we put a speed bump by the edge in fronting the subject's property. That might work. I mean, if the property owners are willing to do that perhaps that will help mitigate the safety aspects of this. I'm just trying to come up with some kind of compromise that's workable with the community subdivision members and the property owner who wants to exercise their right to develop.

Mr. Frampton: I'll start off and then I'll turn it over to Todd because they're, as you might imagine share the same concerns about speeding and controlling of traffic in the area. But what I heard from the testifiers were comments about the intersection at Alanui. And when they come out of Alanui, one fellow mentioned that, you know, have to inch out forward to get a better line of sight. The, in terms of the driveway, we're not accessing Alanui. Obviously the access is off of the project driveway and the project driveway has a very good line of sight in both directions. In terms of mitigating the ... the existing situation, it's a existing problem right now that I've heard people referring to leaving Alanui. We could possibly look at whether or not trimming vegetation might help. That would be an easy fix if there is anything on the Preseault's property that might be trimmed a little bit more to include that. I'm not sure if it is or if it's because of the topography. I didn't really look at Alanui because again, we're not impacting Alanui. The volume of traffic is, is pretty low, it's almost comparable to a single family house in terms of total daily trips coming in and out of it. In fact, an active house could almost rival the trips that you know, during the peak morning period there will be a few more cars coming in. There was a recent study that was done for Kula Ridge that didn't find there to be a, you know, a significant volume issues on Lower Kula Road. And then with the speeding and the possibility of hump, I'll let Todd speak to that and he can fill in on the other two.

Mr. Todd Presault: Todd Presault. Yeah, Deb and I have been there approximately a dozen years. Traffic speed there is definitely an issue. There's signs posted up and down Lower Kula Road, 20

miles an hour, school crossing, anything and everything you can imagine other than perhaps a flashing light that tells you what your speed is so you would slow down. I would love to see that kind of thing happen there. It would be wonderful. When we moved in there she was eight months pregnant. We had little teeny kids. The first thing I did was build a wall right, right in front of Lower Kula Road so my kids couldn't get out that way. It is definitely a concern and I would love to approach that with the County at any time to speak about speed bumps and any way to mitigate the speed to make it more controlled there, it would be wonderful.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Rory, can you get on the screen, I'm going to ask you about sidewalks and I don't whether a photograph would be best or a nice view but I want to see, I want you to show me where the sidewalks would be proposed to be mauka or makai side is what I'm – is much concerned with as anything. Can you get closer?

Chair Hiranaga: Commissioner Mardfin, if you're asking a question about proposed sidewalk improvements related with the Kula Ridge you might want to ask Public Works instead of the applicant's consultant?

Mr. Frampton: I can take a stab at it.

Mr. Mardfin: And I trust Public Works will make any corrections for adequacy, for accuracy.

Mr. Frampton: So I'll start with just this map here and just showing what the existing sidewalk situation is and there's basically a sidewalk running down this side of Lower Kula Road.

Mr. Mardfin: Makai side.

Mr. Frampton: The makai side. And from the stores all the way down past the church and it basically stops right about at Alanui which is across the street from the Preseaults ... and then here's the Haleakala Waldorf School campus. So this is the section where there's no, there's no current sidewalk right now. But at, at this side of the, let me just zoom in, so this is zooming in just a little bit more. And on this section of the property, it's a vertical drop-off. There's a wall that has about a, I don't know, eight to ten-foot drop-off and it's old historic wall. So one of the concerns has been, you know, how do you add a sidewalk onto this area? And the condition that was put on Kula Ridge was you gotta do a sidewalk from Haleakala Waldorf to the community center and on either side of the road is what they left it at in terms of the Council. And so that gave them, it gave Kula Ridge an opportunity to do that. You know, they have the option of crossing, crossing the highway, crossing Lower Kula Road getting onto the mauka side and going that way getting the community center or coming along the makai side and then crossing the road to the community center. If you do it on the makai side what would likely happen is they would, they would keep the wall there and acquire land from the neighbor on the mauka side over here and shift the whole roadway profile over so that you make room for a sidewalk on the makai side. That's the most feasible alternative that I've heard in terms of keeping – because the KCA really wanted to keep the sidewalk on the makai side of the road. And, we couldn't do that – it would be very difficult to do that with that existing vertical wall there. So if you just, what the, what my understanding is is what the Ridge is looking at is expanding the roadway mauka and that frees up room so that you

can have sidewalk on where the existing pavement edge is now. And again, that's the condition on the Kula Ridge that, that they've been asked to provide.

Mr. Mardfin: Because, and expecting kids to be walking down Lower Kula Road crossing the street to get to the community center to go along and then to cross back over first is nuts, crossing the road twice; secondly, kids don't behave that way. They just won't do it.

Mr. Frampton: Right.

Mr. Mardfin: Now, can you show me on photographs not, well, this is a photograph on a, on a ground level what it looks like right in front of the place?

Mr. Frampton: Right in front of the place. So further down is the vertical wall, but this is right in front of the property and, and the roadway they have about 15 feet between the property line and the structure. So the property line runs right along the roadway then the part where the parking is going to be is going to be private land. So if they did do that alternative that we spoke about about running it along the existing pavement probably what would make the most sense is to run it along close to the structure to keep people along there, taking it all the way up and then, you know, having the road be on the outside obviously, – no, that would be like sidewalk, parking and then road would be the, in my mind, would be the best line up, but that's still all to be determined through the negotiations.

Mr. Mardfin: I understand. I understand it's not part of this.

Mr. Frampton: Yeah. But there are options.

Mr. Mardfin: It looks like you don't have very much way to go on the right.

Mr. Frampton: The right is actually, it's I don't know if I have a photo of that. There is a bank here, but you know, it's a earth embankment and it would be easier to excavate there rather than trying to mess with what's on the makai side of the road. So going mauka, you know, you could, you could excavate out and create it flatter on this side and actually the slope gets a little bit better as you proceed further down the hill it's not as vertical as that is right there.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: To follow up on this. However, looking at your, your map of parking. If you should choose, if the County or whoever, the subdivision chooses to do this down the road then that takes away four parking places in front of the building is that correct if the sidewalk runs along there?

Mr. Frampton: No. First there's only two parking spaces there, official parking spaces. It's the loading zone which has a greater length than the typical standard stall, it's a 35-foot long stall. And then the handicapped parking is there. All the rest of the parking is located behind the site. What I talked about was if the sidewalk was going to go on the makai side that it would be routed along close to the building and then come back out and then go along the roadway like that. It would take some shifting property lines, right-of-way and provision of the sidewalk on this property.

Ms. Wakida: So I was looking at Exhibit 3, so I guess Exhibit 4 shows the new parking and it would – so it would take away your loading zone, is that correct?

Mr. Frampton: Not under, not under the scenario I just described.

Ms. Wakida: If a sidewalk ran along the edge of the road?

Mr. Frampton: Everything would be shifted. Yes, so just like you have in Makawao Town or a lot of other places where you actually have a sidewalk, then you have parking and then you have the travel lane. So like I said, under that scenario things would have to be shifted mauka, the travelway, the two travel lanes and then the parking would actually be shifted a little mauka as well, but there is a way to do it, we just don't know – those details still need to be worked out.

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: Rory, can you show me how that, that dip before your project where it runs through the property?

Mr. Frampton: .Todd you want to ...

Mr. Lay: ... concerning you got that turn around area.

Mr. Preseault: Here's Alanui, the dip starts right there, it goes underneath the driveway -- a gulch

Mr. Lay: It flows through that direction.

Mr. Preseault: ... for the whole upper section of that area.

Mr. Lay: Okay.

Chair Hiranaga: Any other questions? Commissioner Wakida?

Ms. Wakida: Mr. Frampton, on the bathhouse remodel how is the addition – you didn't provide a, or at least if you did I missed it, a rendering of the bathhouse, proposed bathhouse addition, so I'm not sure how the addition is connected to the existing, for the existing bathhouse.

Mr. Frampton: There is a floor plan that's provided. That's the floor plan and I believe it's in, I believe it's in the report as well.

Ms. Wakida: Right, we have the floor plan but not a ...

Mr. Frampton: Right. So the existing ...

Ms. Wakida: Rendering of that.

Mr. Frampton: Yes, you don't have an elevation, just the, just the floor plan. So it would just be

connected through a hallway, stairway and be adjacent to it basically, the expansion area.

Ms. Wakida: So how was, how was the portion, the larger portion connected roofwise to the other – is there a ...?

Mr. Frampton: Todd, do you know?

Mr. Preseault: I'll do my best on the bathhouse because the bathhouse we sort of put in on the 11th hour just to make sure that everyone knows that yes, this is something we could possibly be doing in the future. This is the only floor plan that exists and it's just a, right now it's a dream. It's something that may or may not happen in the future and there are no drawings other than this. Back of napkin, get it into a plan, that's as far as we've gone with it. And well, there's a long of complications with this area is why. Because of the complications of the topography what have you, and I said okay well, I want to make sure to put it in here now so that you guys know that it's there as a possibility as opposed to coming back. Say, say we're successful with this and in five years we want to expand the bathhouse. All the rest of it is rented. We have other tenants that are looking to rent other space. We now have this already approved, we can go forward and do something like that. You know, of course, going through the whole building permit process what have you. As opposed to coming back to you guys and saying, oh, now, now we want to make it bigger. I want to put it all out there on the front end so that we're looking at the whole thing today. That's really why the bathhouse exists on this at all.

Ms. Wakida: Thank you.

Mr. Preseault: Thank you.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Mr. Preseault, you used to live in this house, do you currently live in this house?

Mr. Preseault: Yes we do. We've lived there since 1999.

Mr. Mardfin: And what are your plans for when this is developed into a, if and when this is developed into a office space?

Mr. Preseault: We've been blessed and lucky enough we own another property right in the area and we'll move over to there.

Mr. Mardfin: Approximately how far from this area?

Mr. Preseault: It's about, Calasa Road, half mile. Just near the fire station.

Mr. Mardfin: Oh, it's in the same general neighborhood.

Mr. Preseault: Oh, absolutely. I mean, our kids go to school at Waldorf, our kids go to school at Kula School. We're, we're not going anywhere.

Mr. Mardfin: And would, would you actively manage it?

Mr. Preseault: Absolutely. My goal, I bought it in 1999. When I bought it in 1999, I told my wife well I'm going to give it up in 2049. I'll be 85, if I'm lucky enough to make that goal, the kids can have it.

Mr. Mardfin: Thank you very much.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Just a point of information here. Maybe the Deputy Director or the Staff, Planning Staff, can give me a, a feeling for this. He's requesting a two-year time extension, I mean, excuse me, I'm reading the wrong stuff, I'm looking at the Conditional Permit and Special Use Permit, what is the time limit for this or is there such a time limit. Let's say this body approves it. Is there a time that it expires and then has to be reviewed or reviewed?

Ms. McLean: Thank you, Commissioner. The staff recommendation for the State Special Use Permit is for five years. And the same time being recommended for the Conditional Permit is also five years. And both of those would be subject to renewal as the consultant indicated. And there was, again, that's the staff recommendation. The Commission has final authority over the State Special Use Permit and the Conditional Permit will go to the County Council for final decision.

Mr. Shibuya: I'm looking at the possibility because it's a trial period. It was once before a non-conforming use. And then community came up and denied the use of the non-conforming use and now we're back to trying again. Perhaps we may need to address some of the problems that's noted by the, the neighborhood. Is the owner willing to go halfway in funding part of that speed bump fronting their property?

Ms. McLean: One comment that I do have Commissioner and Public Works can also chime in, it would be a County decision of whether or not to install a speed hump and I believe the statute requires input from the certain number of surrounding property owners before a speed bump can be installed. So even if the applicant were to say that they would completely fund it that doesn't mean that it can be put in.

Mr. Shibuya: Oh, okay.

Ms. McLean: Input from other property owners in the area needs to be obtained.

Mr. Shibuya: Okay, it's a benefit that both the property owner proposing as well as the neighborhood could benefit too. Not so much, maybe I'm using the wrong term speed bump versus speed hump. The speed hump would slow it down to probably about 20 miles an hour where a speed bump, I mean, you come almost to like a dead stop and I don't believe we want to do that. The other part is to mitigate the turning left. I don't know whether it's, you know, I've never driven that area so, I mean, going up Alanui so therefore I don't know the problem of taking that left turn. If there's brush then perhaps maybe the brush can be trimmed and that will be a easy fix. The other one is if it's a stone wall then maybe the stone wall can be shifted or lowered. I'm just trying to come up with something that's workable that it's not no can do, it's just perhaps maybe if we work

at it together we can come up with a good solution.

Ms. McLean: Absolutely. I'm quite familiar with the area, not that exact intersection but it looks like the image that they have up on the screen now. The applicant's property does come all the way up to that intersection so it does appear that the applicant could maintain the vegetation in a way to allow clear sight distance of the intersection. I think that would be a reasonable request.

Mr. Preseault: ...(inaudible)... the correct –

Chair Hiranaga: Excuse me, you're, you're out of order.

Mr. Preseault: Oh.

Chair Hiranaga: Unless a Commissioner asks, wants to ask you a specific question.

Mr. Preseault: Sorry about that.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I'd like to ask Mr. Preseault if he could explain how you would cut back the bush to make it safer?

Mr. Preseault: Certainly. The, in front, what do you call it, directly to the left of Alanui that is a bed of Carissa which is a ... bed, it runs about 18 inches high. Glad to chop that down to whatever height to make the visibility better. I mean, unless you're driving an MG you can pretty much see clear right over that. The trees that are behind it are Koa trees and I'd be glad to trim those back too. They could use some as well.

Mr. Mardfin: As a follow up, does that dip, does that act as sort of a natural speed bump?

Mr. Preseault: I've seen people catch air off it.

Mr. Mardfin: So it doesn't?

Mr. Preseault: I think the kids kind of enjoy it. You know, you get that little lift, but no it would definitely serve better to put a real speed bump in there somewhere. I mean, we've actually, you know, went around the neighborhood and try to get signatures to do just so Lower Kula Road would slow down. We kind of ...(inaudible)...

Mr. Mardfin: Thank you very much.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I'll address my comments to Mr. Preseault. There's been a number of objections to your use of, of allowing what they call personal services and I would like to know what your interpretation of that phrase is. What kind of businesses that means to you?

Mr. Preseault: Well, to me I'm trying to leave it as open-ended as possible because I don't know what the future holds for personal services. I know you know, I was approached at one point with a guy that was looking for a place to do tattoos and I said no thank you. It's not the cup of tea that we're looking for in this neighborhood. Having people that are, well, professionals is what I'm really looking for for the area. I mean I think that's, there's a lot of people that have home-based offices in the area and people that have approached us have always been kind of in that ... so my, my desire to do this is really more out of inquiries from the neighborhood or from the Kula community in general. What will really end up there? Until I have a tenant that says yeah, I want this space, let's strike a deal I really don't have a, you know, a definitive answer for you today.

Chair Hiranaga: Any other questions? I have a couple of questions. Primarily for staff, I notice the Fire Department did they comment on any type of fire protection requirement, safety? I couldn't find any type of a correspondence from the Fire Department, maybe I missed it.

Mr. Wollenhaupt: There was, there was a comment, it was Paul Haake and it says, "thank you for allowing our office to, our office an opportunity to comment. At this time, the Fire Prevention Bureau has no specific comments or objections. Our office does reserve the right to comment specifically when detailed plans are submitted during the building permit process. At that time, fire apparatus access, water supply and issues regarding the special use shall be addressed".

Chair Hiranaga: Okay. I'm not sure if you can answer this but is the four-inch water line fronting the property is that adequate to provide water pressure for fire protection for business use?

Mr. Wollenhaupt: Mr. Frampton can address that specifically.

Mr. Frampton: There, there are actually two fire hydrants. There's a fire hydrant on Alanui Road right here fed by separate line as well as just across the street from the structure. So in order to answer your question, there's gonna have – it's gonna be a detailed set of calculations to determine what the fire flow rate is calculated for that building and that can change depending on whether or not you've put in sprinklers or not. And they haven't gone through the detailed calculations yet, to determine what the required rate is versus what can be supplied from the four-inch lines. Typically a four-inch line would not suffice. The nearest six-inch line is just almost ... (inaudible).. up from where I'm taking this picture now back up the road there is a six-inch line so the point of adequacy is pretty close and it might be with – it's probably really close to within the 350 limit that they would need it to be. So the applicant is aware is that they're gonna have to do detailed calculations. If the two fire hydrants combined do not provide the adequate flow when looking at the specific requirements for that building which might include putting in sprinklers then they're aware that they might have to bring the, either extend the six-inch line down a little further to the point of adequacy or put in a new fire hydrant where the six-inch line is right now. Which again is, if it's not within 350 feet, it's really close and that's the limit that Scott English at the Fire Department had told me he would be looking for.

Chair Hiranaga: And that would be addressed at the building permit stage?

Mr. Frampton: Yes, the, the applicant in order to convert the use has to do a building permit to convert the use and that's when they would look at bringing it up to meet the current Fire Code.

Chair Hiranaga: Now there's been some concerns expressed by neighbors regarding the sight distance safety and also, possible increase in traffic and I'm wondering from a conditional permit point of view are those types of studies normally requested or is it up to the applicant to determine if they wish to have a sight distance report done and a traffic study done?

Ms. Dagdag-Andaya: Chair Hiranaga, I did check with my staff on whether or not they would require a sight distance analysis or a traffic impact analysis report done at this stage and typically, I mean, they answered that we typically don't. Depending on the size of the project though it would be required. However, in this case, I think they analyzed it as it was such that it wouldn't warrant at the current moment. So that's the response from Public Works.

Chair Hiranaga: Will Public Works have another opportunity to review that possible impact?

Ms. Dagdag-Andaya: Yes, it would. We could also review it at the Council level and depending on the number of comments perhaps even at the further down when they go in for construction if warranted.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I have a question about your, currently it's a cesspool on the property, correct?

Mr. Frampton: Yes.

Ms. Wakida: And that cesspool is for what maximum load of people, number of people?

Mr. Frampton: The existing – well there's the calculations that were provided in your report and I believe it was, it's been working for a number of years. There hasn't been any failure and I'm getting to that right now. The existing cesspool capacity was calculated to be 800 gallons per day and the estimated flow based on the proposed office use is 305 gallons per day and that's because you're not going to have a lot of the typical household activities like washing clothes and taking showers and baths and so there's just not, there's not as much wastewater generated from an office use as there is from a single family home.

Ms. Wakida: Has there been any discussion about moving, you know, we're trying to move away from cesspools and installing septic.

Mr. Frampton: There has been and the applicant's willing to comply with whatever the Department of Health requirements are. You know, our initial discussions with Department of Health indicated that at this, utilizing the existing structures that the cesspool would be adequate, but you know, that will have to be verified again when we go get the building permit and any subsequent building permits for the bathhouse expansion. It might be when the expansion comes up it's very likely that at that point they might require the upgrade to the septic. There is room on property for it, it's, it's something that can be done if the Department of Health requires it.

Ms. Wakida: Okay, but – another question?

Chair Hiranaga: Yes.

Ms. Wakida: And the water usage consumption was, was based on – how many, how many people again?

Mr. Frampton: The, I'm looking at the wastewater analysis and that's, that's where they generated the number of people and gallons per day per people. And they were looking at ten, ten people working in the building per day and an average of eight to ten people in the building per day and four clients.

Ms. Wakida: Okay, okay.

Mr. Frampton: And that's what the analysis was based on.

Ms. Wakida: Okay, but it is possible that there could be businesses that require more water usage such as I don't know, – downhill bike operation or something with the hosing off things.

Mr. Frampton: You know, I don't know if that would fall. I don't think that would fall into the definition that we have right now for the professional offices, professional and business offices. That, that would be considered a baseyard.

Ms. Wakida: But if it were, you know, regular business people, ... coming in, picking up bikes, going up the hill sort of thing?

Mr. Frampton: That type of use is not really anticipated and we would have to come in and amend the permit if we were doing something that was blatantly against what's being allowed and what's being requested as part of the permit.

Ms. Wakida: Well, I do, that's very true. However, as Mr. Preseault said, the definition of personal services is a little open-ended because he's not sure what, what's out there.

Mr. Frampton: Right, right. Well, that's, you know, I think that's more like counseling, maybe massage or acupuncture or something like that.

Chair Hiranaga: Mr. Mardfin?

Mr. Mardfin: I, it was earlier testimony that seemed to indicate you just said you might have eight to ten people working there and four clients. That's strikes me as an awful low ratio of clients to offices. But it seems to, but didn't you, you said, it currently is 800 gallons a day?

Mr. Frampton: That's the, yeah, existing cesspool capacity. That's according to the engineer.

Mr. Mardfin: Eight hundred?

Mr. Frampton: Yes.

Mr. Mardfin: And the projected is 300?

Mr. Frampton: Correct.

Mr. Mardfin: So even if there were –

Mr. Frampton: Double that.

Mr. Mardfin: Double that, triple that, you'd still be well within the, the water –

Mr. Frampton: And the client visits are looked at as less, generating less flow per day than say a client, I mean, I mean an office worker. And office workers themselves, you know, they're there longer. There's going to be more visits and more usage. The clients not necessarily do they always, you know, use the facilities. And, and just a comment about the professional offices, you know, I do a lot of work out of my house, and now days with the internet you don't need to always do a lot of face to face meetings for a lot of the professional ... people and you can do a lot of it on line and that's just the way things are progressing. So it's not like you're going to have a steady stream of clients coming in and out. Not necessarily for all the tenants.

Mr. Mardfin: But if you're going to do it on line, you might just as well do it in your home residence rather than rent an office for it.

Mr. Frampton: Not necessarily.

Mr. Mardfin: The water issue doesn't seem to be too terribly subject to problems just from the number of clients, but the parking might.

Mr. Frampton: There's additional– the property is 1.3 acres in size and so if they do need to get additional, I mean, they're going to notice the problem before anybody else if people can't come onto the, on the adequately park on the property. There is sufficient space to expand that parking lot and to go a little bit further into the yard and provide other parking spaces utilizing the existing driveway entrance.

Mr. Mardfin: Okay, thank you.

Mr. Frampton: Yeah.

Chair Hiranaga: Any more questions? Seeing none, we'll have the staff recommendation.

Mr. Wollenhaupt: As indicated at the beginning of this meeting there are two actions that this body needs to make a decision on. The first one is the Land Use Commission Special Permit and the second is the Conditional Permit. As noted in the comments of the Director this body is the final body for the Land Use Commission Special Permit and this body is an advisory body for the Conditional Permit. The recommendation is noted in the staff report for the Land Use Commission Special Permit were to approve the Land Use Commission Special Use Permit subject to the conditions as noted. There are eight conditions that obviously I can either read, but I'm sure the Members have read them. The most notably one that's probably different is that no building permit shall be issued for the proposed expansion of the bathhouse until the Department of Health has issued a ruling regarding the continuing use of the cesspool or it's determined that a septic system must be installed. That one is of special notice on this particular application. So the recommendation for that would be that the Maui Planning Department would recommend the

Commission adopt the report and recommendations prepared for the July 26th meeting authorizing the Director of Planning to transmit the findings of fact, conclusions of law, decision and order on behalf of the Planning Commission. Did you want me to continue with the recommendation of the Conditional Permit?

Chair Hiranaga: Let's address them separately. Commissioner Mardfin?

Mr. Mardfin: I just want to confirm this is for a five-year Special Use Permit from the Land Use Commission and we're the final authority on that?

Mr. Wollenhaupt: You're the final authority on the Land Use Commission Permit and it would be valid till July 31, 2016.

Mr. Mardfin: And it, so it's essentially five years and it is not, not transferable or it is transferable?

Mr. Wollenhaupt: It's Condition 3, the Land Use Commission Special Use Permit shall not be transferred without the prior written approval of the Maui Planning Commission.

Mr. Mardfin: Thank you very much for that verification.

Chair Hiranaga: So just for clarity, the Special Use Permit is to allow business/office uses in buildings located at 4230 Lower Kula Road?

Mr. Wollenhaupt: That's correct.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I just didn't want to have the silence go on any further. I'd like to make a motion to approve the recommendations of the Maui Planning Department to the Land Use Commission Special Permit subject to the eight conditions.

Mr. Freitas: Second.

Chair Hiranaga: Moved by Commissioner Shibuya, seconded by Commissioner Freitas? Discussion?

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I'd like to make a mention here that I know both sides of the issue here and I know the personalities involved also. It's just that here's an opportunity to extend the business community of the Lower Kula area and here is the extension to at least across from the community center. It's a quasi-public type of use of the land and going up towards the Lower Kula Road you have the Morihara Store and the gym and other activities. So these are all community types of requirements and they're really expanding it I believe in a nicer way. My concern is that we can be able to work because it's conditional you have the five years in which you can work towards mitigating some of the problems if there's any problems that may pop up.

Chair Hiranaga: Any other discussion? Commissioner Mardfin?

Mr. Mardfin: I'm going to vote in favor of this despite the fact that we've had a great deal of community input. I understand the concerns of the community. I try to put, I live in Hana and I'm trying to put myself in the position of how would I feel if something like this were done near my house? And I think I'd be basically okay with it. Now that's not to say Hana and Kula are the same, they're obviously not. My big concern is sidewalks. But whether this is approved or not, the sidewalk situation isn't affected. I mean, if nothing, if we turn this down the sidewalk situation will be needed. If we approve it, the sidewalk situation will still be needed. The traffic issue with the speed bump or the, or the dip and that sort of stuff doesn't change whether this is approved or not. The view from coming out of the side street onto Lower Kula Road at least potentially has a possibility of being improved by cutting down some of the bush that's doing it. So there's actually an improvement there. The concerns that were raised about what kind of businesses can be in there, well, that's what to deal with the Conditional Use Permit I think have been adequately addressed by the conditions that we'll see. And that it is a temporary five-year permit. It's not a change in zoning. And so if there are problems at the end of five years it can be corrected. I suspect there won't be. So while I am somewhat sympathetic to the people that have testified against this. I think on the main problems that are being raised have nothing particularly to do with this project except for the, the change in usage and the change in usage has to do with the Conditional Permit. I will be supporting the motion.

Chair Hiranaga: Kurt?

Mr. Wollenhaupt: There's been an issue that's been brought up by the Planning Staff and the applicant and perhaps I need some clarification from Corporation Counsel. The first one says, the Land Use Commission shall be valid till July 31, 2016. However, this is tied to a Conditional Permit and should there be language that this is valid until July 31, 2016 or upon the date of the expiration of the Conditional Permit whichever is later as the Council we have no idea when they may act on this whether it be in a few months or a few years. So we don't want to get into a situation where we have a Land Use Commission that's approved to a specific date and a Council Condition that's approved for another date. So we probably need to do a bit of change of language.

Mr. Giroux: Yeah, normally when we see these dual permits we try to put language into the Special Use that says that it will be, come into, well, effective five years from the date that the Conditional Permit is granted.

Mr. Shibuya: That's acceptable to the maker of the motion.

Chair Hiranaga: And the seconder?

Mr. Freitas: Yes.

Chair Hiranaga: Any other discussion? Commissioner Mardfin?

Mr. Mardfin: I have a question about that. So, we grant the Special Use Permit and our date is going to coincide with the Conditional Permit that the Council is going to grant or not grant, but assuming the Council grants it. Whatever, they're going to use five years from the date that they

act on it?

Mr. Giroux: Well, the language should have, you know, for five years or –

Mr. Mardfin: Whatever the Conditional –

Mr. Giroux: The language I just stated or five years from the date that the Conditional Permit is granted. Because if the Council never acts then the, the, it's going to be the five years, five years from this date. So if Council doesn't act in five years, then the permit will expire. But if it takes four years and Council acts in the fourth year then your permit will be extended for the five years from the date of the Conditional Permit which was granted. So that way you don't have two permits –

Mr. Mardfin: I get it. I get it.

Mr. Giroux: – floating around.

Mr. Mardfin: I get it and that sounds like the right way to do it. Thank you.

Mr. Wollenhaupt: So the language would be, "the Land Use Commission Special Use Permit shall be valid shall be until July 31, 2016 or five years from the date that the Conditional Permit is granted whichever is later".

Chair Hiranaga: Any other discussion? Seeing none, I'll have the Deputy Director repeat the motion.

Ms. McLean: The motion is to approve the State Special Use Permit subject to the eight conditions as listed in the recommendation and including the additional time provision as described by Corporation Counsel.

Chair Hiranaga: All in favor so indicate by raising your hand.

Ms. McLean: Five ayes.

Chair Hiranaga: Opposed?

Ms. McLean: Two noes.

State Land Use Commission Special Use Permit

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

VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended with Conditions by the Department.
(Assenting - W. Shibuya, J. Freitas, D. Domingo, I. Lay, W. Mardfin)
(Dissenting- L. Sablas, P. Wakida)
(Excused - K. Ball)

Chair Hiranaga: Motion carries. Floor is open for another motion regarding the Conditional Permit.

Mr. Lay: Motion to accept.

Chair Hiranaga: Commissioner Lay motion to approve as recommended. Is there a second?

Mr. Freitas: Second.

Chair Hiranaga: Sorry? Oh, Staff has a ... okay, sorry. Go ahead.

Mr. Wollenhaupt: With regards to the Conditional Permit, the Planning Department would recommend that the Commission recommend to the County Council approval of the Conditional Permit subject to the conditions as noted Conditions 1 through 7. Again, two conditions specific to this have to again, to reiterate, that upon building permit review of the proposed bathhouse that the Department of Health will again look at for the continuing use of the cesspool. The other specific condition is that the office uses shall be limited to two specific categories following the terminology in the Business Country Town Zoning Code namely that the offices shall be limited to business, financial and professional offices, and two, personal service establishments. In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Department's report and recommendation prepared for the July 26, 2011 meeting as its findings of fact, conclusion of law, decision and order and to authorize the Director of Planning to transmit the recommendation to the Maui County Council on behalf of the Planning Commission.

Chair Hiranaga: Thank you.

Mr. Wollenhaupt: And I'm not sure if there needs to be some other language. Condition permit no.2 says that the Conditional Permit shall be valid until July 31, 2016. So does there need to be some additional language for the date set by the County Council?

Mr. Giroux: What we like to do is for the Conditional Permits that you put a date certain. However, that's because we have to transmit it to Council. Once it gets to Council, the Chair will notify Corporation Counsel to either, you know, change that by motion of the floor or whatever, but what they want to know is are you, is this body requesting that the permit last for five years? By issue of Policy again, the lapse that it takes for this to be transmitted and acted on there's a lot of confusion once it gets to the floor is it from five years of, that it comes out of the Land Use Committee or is it from five years of the ordinance? And that ends up being a policy discussion. But what they want to know is are you okay with a five-year permit and then the issue then is when does that five years start? So again, as far as Corp. Counsel's concerned if your intention is for five years then just put the date certain and then we'll deal with the drafting later as far as when the policies are then made clear.

Chair Hiranaga: Commissioner Lay. A motion to approve with conditions and recommendation.

Mr. Freitas: Second.

Chair Hiranaga: Move to approve by Commissioner Lay, seconded by Commissioner Freitas.

Discussion? Commissioner Mardfin?

Mr. Mardfin: My earlier comments hold at this point. I do think the protection is there on the kinds of limitations of what can be operated and actually very much the goodwill of the Preseaults. They seem to – they're going to be in the neighborhood and that's a real positive from my point of view. But I don't know if Commissioner Sablas or Commissioner Wakida wish to comment but if they think that I've overlooked something I'd be happy to be open to persuasion.

Ms. Sablas: I think –

Chair Hiranaga: Commissioner Sablas?

Ms. Sablas: I'm sorry. Permission to speak? As a long time resident of my home, you know, I have strong feeling in support for people who have made their homes for a long period of time in an area and I respect that. To me, there's not one or two, there's 16 people who oppose it and it's in their neighborhood. They've been there for 30 some years. I would like to speak for them. I would like to respect their rights, and that's, you know, I understand and I appreciate the applicants but I would think if you would buy in a residential area you would know that would be something that they would have to contend with and I would have hoped that they would have spent more time before coming in this room to speak to the neighbors because that's a major issue of protecting the little guys who bought a place of wanting to live in an area that they wanted the open space. I respect that a lot and for that reason, I cannot support this.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Well, I want to thank Commissioner Sablas, she very eloquently expressed my feelings. I, too, was struck by the number of opposition to this project by people who live in the area. It's a rural area. They live here because they like the rural lifestyle and yes, there are other community establishments around but this is a purely commercial enterprise going in here and there are other peripheral issues like there's no telling what kind of personal services are going in here. Generally when there's empty office space or empty space the landlord will rent to whoever they can because they want to get it rented and that's understandable, but then there is not that control that one would hope of who's in there. I have concern about the, the traffic generated and the number of cars and parking and that kind of thing. Yes, they might have met the County requirements but it seems a manini amount of parking for the amount of business and people that they want that, that I can see are anticipated using this. So that's why I'm voting in opposition.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: Yes, I made the second on this motion and the reason why I chose to support thing is the immediate neighbors around this property has supported this thing. They haven't voted against it and as I look at the map, you look at one cul-de-sac area that is opposed to it. Victor Reyes and I are very good friends, he live in that area and I hope our friendship stays after this but somebody could have very easily really politically gone and mustered all of these neighbors to send opposition letters to this project and they're not impacted immediately by the property and this is why I chose to support the project and I believe that it will be a good project.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: Okay, I made the motion to approve this project because of a couple of reasons. The first being that this business kind of retains the look in that area. I like that. I know it's like Commissioner Mardfin said, we're keeping everything in one area and I also like that also. But I do like where our businesses camouflaged in an area and ...(inaudible)... people are choosing this spot to have their business either one because of the closeness to their house where they don't have to travel so far and two being the atmosphere that's there. If you have clients in this personal, you know for this personal help that you might need that atmosphere that's there might be one that creates greater opportunity for their job and that's one of the reasons why I, I approve this.

Chair Hiranaga: Corporation Counsel wishes to say something.

Mr. Giroux: Yeah, I, I misspoke on the issue of the date certain versus the five years from the time. Yeah, when it's a, when it's a time extension is when we want the time certain. When it's the original ordinance in the drafting we will, we would prefer to just put five years from the time of the granting of the ordinance. Sorry about that. We've just been having so many time extensions that are kind of jammed up like this.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: May I ask the Chairman if he'll check with the maker of the motion and the seconder to see if that's an acceptable friendly amendment?

Mr. Lay: Acceptable.

Mr. Freitas: Acceptable to me.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: First, I want to thank the Commissioners sharing their mana`o on this. It's always helpful to my thinking if I know what other people are thinking and how they're thinking about things. I will still vote in favor of this. I know change is scary for people. They don't want to see something happen, but as Commissioner Freitas said the people closest to it are in support. It's the people that are further away that are in opposition. That's important to me. The second thing is, I hadn't addressed the issue of the CC&Rs because it been talked about a little bit but we have received instruction in the past from our Corp. Counsel. CC&Rs are not supposed to be considered by us and if the neighbors are really in opposition they can have a couple of options. One is to testify before the City Council, County Council in opposition. The second is to take them to court if they think that the CC&Rs should in fact block it. I would be cautious about that if they're living on lots that are smaller than the CC&Rs call for but that's their business. Thank you

Chair Hiranaga: Any more discussion? Just a couple of personal comments. Personal services establishments kind of raises a yellow flag to me because that will generate traffic to the property. When you have office use, you may not necessarily generate as much traffic again, because business is conducted on the internet, via telephone and personal service establishments such as hair dressers, whatever, pet grooming, you know, people are gonna go to that establishment to

receive the service. So that's one of my concerns. Also, if you were concerned about increased activity you could limit office hours. You could limit days of operations. And see how this property operates for that first five years. I just want to throw that out as ways of mitigating some of the concerns of the neighbors without denying or approving the application. We'll take a minute to think. Anyone wants to put a amendment on the floor. Seeing none, I'll call for the vote. I'll have the Deputy Director repeat the motion.

Ms. McLean: Thank you, Chair. The motion is to recommend approval to the County Council of the Conditional Permit with the seven conditions listed in the staff recommendation and with the modification to the time limit that it be for a period of five years from approval by the Council.

Chair Hiranaga: All in favor of the motion, please so indicate by raising your hand.

Ms. McLean: Five ayes.

Chair Hiranaga: Opposed?

Ms. McLean: Two noes.

Conditional Permit

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

VOTED: To Recommend Approval of the Conditional Permit to the County Council as Recommended with Conditions by the Department.
(Assenting - I, Lay, J. Freitas, D. Domingo, W. Shibuya, W. Mardfin)
(Dissenting- L. Sablas, P. Wakida)
(Excused - K. Ball)

Chair Hiranaga: Motion carries. We'll take a ten-minute recess.

A recess was called at 2:23 p.m., and the meeting was reconvened at 2:35 p.m.

Chair Hiranaga: Next agenda item is C, Acceptance of Minutes.

C. ACCEPTANCE OF THE ACTION MINUTES OF JULY 12, 2011

Chair Hiranaga: Have a motion to accept the minutes?

Mr. Freitas: So move.

Ms. Domingo: Second.

Chair Hiranaga: Moved by Commissioner Freitas, seconded by Commissioner Domingo to accept the minutes of July 12, 2011. Any discussion? No discussion. All in favor say, "aye".

Commission Members: Aye.

Chair Hiranaga: Opposed?

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

**VOTED: To Accept the Action Minutes of July 12, 2011.
(Assenting - J. Freitas, D. Domingo, L. Sablas, I. Lay, P. Wakida,
W. Shibuya, W. Mardfin)
(Excused - K. Ball)**

Chair Hiranaga: Motion carries. Next agenda item is Director's Report. Deputy Director?

Ms. McLean: Thank you, Chair. A & B Kane, LLC has requested a two-year time extension on its SMA Permit to, two-year time extension to initiate construction of the Kane Street mixed use commercial project. So that's a mixture of nearly 22,000 square feet of commercial space plus a 103 multi-family residences on property bounded by Kane and Vevau Streets in Kahului. The Planning Director is notifying the Commission of his intent to process this time extension administratively. So the matter before the Commission is whether to, is to acknowledge receipt of the request and to decide whether to waive its review and allow the Director to approve that administratively or if the Commission wishes to review the time extension request a future meeting. Gina Flammer is the staff planner.

D. DIRECTOR'S REPORT

- 1. Planning Director notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of his intent to process the time extension request administratively on the following:**

A&B KANE, LLC requesting a 2-year time extension on the Special Management Area Use Permit condition to initiate construction of the Kane Street Mixed Use Commercial Project consisting of 21,819 square feet of commercial space, 103 multi-family residential units, on- and off-site infrastructure improvements, streetscape improvements along Vevau Street, and landscape planting for property bounded by Kane and Vevau Streets at TMK: 3-7-005: 003, 011, and 023, Kahului, Island of Maui. (SM1 2005/0004) (G. Flammer)

Ms. Flammer: Okay, good afternoon, Commission. I think by now you're probably familiar with how we do our time extensions. I'm not going to give a presentation or go into detail. The only thing I did notice that wasn't in the description is the property we're talking about is about 3.8 acres. I do have the, well, he's not the consultant. I have Grant Chun from A & B who can introduce his project team who can answer any questions that you might have.

Chair Hiranaga: Do you wish to say something, Grant?

Mr. Grant Chun: Only if there's questions, Mr. Chair.

Chair Hiranaga: Questions, Commissioners? Commissioner Mardfin?

Mr. Mardfin: We had testimony this morning to the effect that you had extension after extension and this is the third one and there's concern that either we turn this one down or we grant this one but make it absolutely final, no renewal possible. Do you want to explain why, I saw two explanations in here as to why you needed it. On the first time extension you said you didn't get permits. On the second time extension, permit, building permit approvals were still pending. Do you have all the permits now?

Mr. Chun: Mr. Chair, Mr. Mardfin, my name is Grant Chun representing A & B Properties in this request. To answer your question Mr. Mardfin, we are, we don't have building permits now and it's not because we're not in a, in a position in terms of the County's process to obtain the permits as was the case in the previous two requests. However, the market situation currently makes it infeasible for us to proceed with permits at this time.

Mr. Mardfin: Does that mean that we should for any other A & B projects we should not approve them because there's going to be financial concerns, funding concerns?

Mr. Chun: No, that's not what it means, Mr. Mardfin.

Mr. Mardfin: It's not what it means.

Mr. Chun: No.

Mr. Mardfin: You want to keep piling these things up and, and then when the financial concerns are, and I grant you it's really scary. I haven't seen the news today but it can be really scary. You're sort of banking these projects and then when the financial considerations end then you'll start to go ahead with a lot of them?

Mr. Chun: Well, I don't know exactly which projects you're referring to but I can speak directly to the situation that exists and has existed in the marketplace as far as this project is concerned. The, you know, we did in earnest go to market with the units in this project in 2006. There is a, there was at the time a market for the kind of product that this project offers to the community. To be quite frank, it's a very localized market. The folks that are, that expressed an interest and actually sought reservations on the units were all local folks from Central Maui. We didn't have anybody from Lahaina, we didn't have anybody from Upcountry. It's all Central Maui folks. And when the market took a downturn subsequent to that a lot of these folks weren't able to proceed with their goal of acquiring a unit because their personal situations were very much dependent upon them being able to sell their own homes and downsize essentially. These were a lot of empty nesters with homes in the marketplace, the Central Maui marketplace. So essentially we, we had a situation where, you know, reservations had to be discontinued and we didn't have any buyers and absent that key element in the process and it wouldn't have been prudent for us to proceed and hence the situation where now where we're respectfully requesting Director and the Commission's consideration for an extension on the time in which to begin construction.

Mr. Mardfin: Can I do a follow up?

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: So the funding is by selling lots. You're not going to the bond market, you're not going to banks or financial intermediaries. You're financing is through people that are purchasing the properties and you get, you have enough sold you start to build is that?

Mr. Chun: No sir. The funding occurs because a lender is willing to finance the construction of the, of the project. In order for that to happen we need to show that we have a market for the units.

Mr. Mardfin: Oh, okay, I get it. So you're going to a financial intermediary?

Mr. Chun: Right.

Mr. Mardfin: Or some sort of bank or?

Mr. Chun: Yes sir.

Mr. Mardfin: Thank you.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Along this line, you addressed, maybe I missed it, the multi-family residential units. How are things looking for the commercial space right now? The 21,000 square foot commercial space? Is there any, are you thinking you may be able to go ahead with that in the next two years?

Mr. Chun: Actually it's a mixed-use project, ma'am. So the commercial space was on the lower level and the units were upstairs.

Ms. Wakida: Oh, I see. Oh, I see, okay.

Mr. Chun: We could necessarily, this project couldn't exist one independent of the other.

Ms. Wakida: I see. So, I don't know if I heard an answer though to the question of are you going to be able to proceed with this project within the next two years. Are you getting commitments?

Mr. Chun: We don't have any commitments on the space at this time.

Ms. Wakida: Okay.

Mr. Chun: We hope to be able to achieve that ...

Ms. Wakida: I see. I see. Are you, are you, you are actively pursuing commitment is that true?

Mr. Chun: Correct.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Mr. Chun on this particular project for A & B, do you happen to have a milestone chart as to what actions that you have planned since 2006 till today and looking ahead for the next two more years? What are some of those actions on your milestone chart? And what has been done?

Mr. Chun: Well, a whole lot has been done, Mr. Shibuya. I mean, in the interest of, you know, realizing our ultimate goal of constructing this project we actually, you know, as I said, went to market we actually had a lottery and at the time when the lottery occurred we had more demand than we had units that were made available at time. We actually even opened a sales office in Maui Mall that is staffed by, you know, real estate agency. You know, made quite the concerted effort actually to bring this, this project to the point where we could actually begin, begin physical work on the, on the site. Just hasn't quite come together as yet given the particular unique nature of the market that this project appeals to.

Mr. Shibuya: So there was no permitting, no commitment of planning other than the fact that you just marketed it?

Mr. Chun: No, I mean, the project has been designed, building permit plans has been established, submitted to the County, we've been working with the various applicable agencies, got signed off on our traffic impact assessment report by the State Department of Transportation, Highways Division. There's been, you know, a lot of work and effort on our part to lay ground work so that this project can be as well situated as possible to proceed when in fact our buyers are ready.

Mr. Shibuya: Well, I recall being on the Board and Variance and Appeals when this issue came up --

Mr. Chun: Right, yes.

Mr. Shibuya: Because of a use of the properties and I'm on a different commission and all of a sudden I see the same project again and this is for the, probably the second time I'm seeing it on the Planning Commission. So I'm quite concerned in terms of extensions and yet I sympathize but yet I want to see movement and I haven't seen that and that's where I'm, I'm kind of reluctant at this point. I know that A & B has a lot of entitlements already approved throughout Central Maui especially Kihei and some of the industrial areas and right around the airport. You know, when are we going to get off dead center?

Mr. Chun: Well, you know, to give you, I remember the last time we spoke, I don't know if it was in this particular matter but you did ask for sort of an update and you know, since we last spoke on the issue the, the Kahului Airport Hotel has begun construction. The industrial area that you referred to Mr. Shibuya around the airport contracts have been awarded, the large lot subdivision has been complete. We're actually just waiting on an easement from the State, DOT Airports before we can actually allow the contractors to proceed with the site work for the subdivision improvements there. So there's been progress you know, and we think that it's promising that hopefully our local economy is progressing in the right direction.

Mr. Shibuya: Yeah, it's unfortunate sometimes we, we focus in on marketing and we don't focus in on making sure that people have jobs or opportunities to have work jobs and so that's my concern. Thank you.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: I've had a chance to think about what you said earlier. The concern isn't that the financial intermediaries are having problems getting funds. The problem is that and I like the fact that the Central Maui people are going to be hopefully downscaling as they get older. But to get it work what you really need is, is a recovery of the real estate market before you're gonna get people buying into this. It has nothing to do with interest rates particularly or or funding availability externally.

Mr. Chun: These people can't sell their homes to downsize.

Mr. Mardfin: Yeah, so you have to get – you're really dependent on the real estate market in Central Maui improving before you can go ahead with this are you?

Mr. Chun: Yes, sir.

Mr. Mardfin: Any forecast for when or if that's going to happen?

Mr. Chun: It will happen.

Mr. Mardfin: I mean, I know it will happen eventually.

Mr. Chun: I don't know when, but ...

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: Yeah, I don't know if this is proper, but when that project was, was marketed my wife and I looked at, looked at moving down there because I live Upcountry and I'm getting older and at the time I could do it. Today, I could not, I could not purchase a unit in there. I believe the problem that we don't have people working that was going to buy that. It's just in all fairness you don't have the buyers out there because they're not working, they don't have money, my business is down, I couldn't sell my house today to move down there. And I mean, we were seriously looking at purchase that so I can understand their plight and why they need the time extension.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Mr. Chun, the report says you've taken care of Condition 16 on archaeological monitoring plan, that's been approved?

Mr. Chun: Yes.

Mr. Mardfin: Condition 21, the NPDES Permit you have?

Mr. Chun: Yes.

Mr. Mardfin: Condition 25, final traffic impact analysis report approval letter?

Mr. Chun: Yes.

Mr. Mardfin: You have. Condition 20 – cause it says, under the, two paragraphs later says, Conditions 25, 28, and 29 documentation evidence and compliance will be submitted but the traffic impact has been.

Mr. Chun: Yeah, it hasn't – I know it was received in late May ...(inaudible).. drafting.

Mr. Mardfin: Condition 28 – okay, thank you. Condition 28, DPW and Department of Environmental Management comments.

Mr. Chun: I think we continue to work with DPW on some of the traffic related comments that they have for the area.

Mr. Mardfin: Evidence that the permittee has addressed DOT comments?

Mr. Chun: Actually, might be better for me to have the actual project manager speak to these particular elements.

Mr. Mardfin: I would love to have the actual project manager speak to these particular questions.

Mr. Chun: I'd like to call forward Ms. Natalie Kim.

Ms. Natalie Kim: Hi, okay for the –

Chair Hiranaga: Please identify yourself?

Ms. Kim: Oh, I am Natalie Kim. I'm Vice President of Development and Project Manager for the Aina O Kane project. We actually, the last time we were here for an extension we still, the biggest approvals outstanding were from the State Department of Transportation and Department of Public Works on the traffic conditions. At that time, right before this last extension they required brand new studies. We just got both of them to approve our studies. We got our last letter in June of last month. So we have been actively processing these studies and trying to move the permitting process forward.

Mr. Mardfin: So Condition 25 and 29 are settled?

Ms. Kim: They're all, they're all met now.

Mr. Mardfin: And 28?

Ms. Kim: Yes.

Mr. Mardfin: That's good to know.

Ms. Kim: Any other questions?

Chair Hiranaga: Questions, Commissioners? Commissioner Shibuya?

Mr. Shibuya: What other actions are pending?

Ms. Kim: We still need to have a pro rata share of traffic improvements assessed basically by the Department of Public Works and we needed the traffic study to be approved first so we're gonna be commencing decisions relative to that.

Mr. Shibuya: And that will be contingent on sales?

Ms. Kim: No, it has nothing to do with sales. That's, that's still part of the entire permit processing.

Mr. Shibuya: And when the good, get well date projected for that?

Ms. Kim: I'm hoping we get done before the end of this year.

Mr. Shibuya: And after that, what else do we have floating around?

Ms. Kim: That should be it. In terms of permitting, but we still need, we need buyers.

Mr. Shibuya: I thought you oversold?

Ms. Kim: No, they all – we lost all the buyers. As people became unable to purchase they dropped out.

Chair Hiranaga: Warren, you have an opportunity to be first on the list?

Mr. Shibuya: No, I can't afford it because my house in Kula is probably not worth enough to get a Place down here.

Ms. Kim: This is the same problem most of our buyers are having.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Wakida?

Ms. Wakida: Yes, I have a question for the Deputy Planning Director. I'm relatively new to this, to the extension process and what triggers when a project has multiple extensions, what would trigger saying we have to go back to step one and take another look because so much time has gone by, the environment's changed, has that ever happened?

Ms. McLean: Actually it looks like the staff planner would like to respond to that.

Ms. Flammer: I can talk a little bit about the law just to, what we use as our guidelines when we look at this. Our SMA Rules in order to allow it to use this process we have to first do an analysis of whether any changes have occurred in that Special Management Area. So we need to take a bigger look, you know, has it been a lot of years, has there been a lot of building going on. Have there been any infrastructure changes that would make the project different than what it was before. We then also have to take a look at, I did it backwards. We have to look at the project first and see

if any, oh ...(inaudible)... There's two different things. We first take a look at the project itself and see if there's been any changes and then we take a look at the Special Management Area the larger to see if there's been any changes in there that could adversely affect the capacity or the condition of the infrastructure. That's what the Department looks at. Again, the applicant when they come through this process they cannot ask for, they could ask for changes but it's a separate process, it can't go through this way. So the project has to be just as it was granted originally. I don't know if that exactly addresses, but –

Ms. Wakida: Yeah, thank you.

Ms. Flammer: Now we have had cases where you've not waived and we've gone back and taken a close look. One of mine was in Kihei there had been a lot of construction in that particular area so we did go back and take another look. You had asked about drainage a couple times on different projects and we've actually gone back and done more information. Had the applicant think a little bit more about what they could do to improve their drainage system. Those have been other times that we've taken a closer look.

Ms. Wakida: Thank you.

Chair Hiranaga: Commissioner Sablas?

Ms. Sablas: So Gina, I have a question. Have there been occasions where an applicant come and asked for extension after extension after extension and you've had to deny them?

Ms. Flammer: I am not aware of that. What I have seen happen is this Commission ask if that applicant would state that this would be their last condition, their last time that they would come in for an extension. With the economy the way it is now and factors that are beyond that, the applicant's control, I haven't seen too much of it in this kind of economy. What I've seen the most is just request to update the drainage improvements.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Yeah, I've been bothered over the years with extension after extension after extensions. But and you know, even if we approve this two-year one, you know, if we took the earlier, the testimony from this morning and said it's the final one. I don't see it being the final one because I don't – if they're not dependent on financial intermediaries having money their, which was the problem over the last couple years, the problem is buyers and that takes the real estate market to recovery and you know, I have hopes that it will recover in two years but I don't have any firm conviction it will recover in two years sufficiently. So this is like, there's a very good chance this won't be the last two-year extension. Is it possible to give more than two years at a time or is this just going to come back to haunt us every two years?

Ms. Flammer: Well, you know, we have the time extension waiver process where the rules states we can grant a time extension for two years, the department can. First we notify you then you waive. If they want to come in for more you would review the project, I would do a staff report. I have had cases where applicants have wanted longer and they've decided they'd either go that route or they'd start with two years and then see where they are in two years. You may want to

know in two years how much progress has been made versus giving five and just leaving it at that.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Gina, can you tell me what happens, just what if, what if we said, no, no extensions, that's it. The project rolls over dies, the price of the land, does that change too? The plans changed.

Ms. Flammer: I'm going to back up just a little bit and talk a little more about process. What we're doing today is a notification that the Department is going to grant the extension. If you disagreed with that, you would state that, you do a motion and then we would come back on another agenda where you could actually review the project at that point. In terms of if you lose your entitlements to a piece of land does your land go down? I'm a planner not a tax assessor. My guess would be yes. If the applicant were to lose the permit they would have to start from the beginning if they wanted to develop the land again and get all new entitlements.

Mr. Shibuya: Or they could sell it.

Ms. Flammer: Without the entitlements, yes, they could sell it. Yes.

Mr. Shibuya: That's correct.

Ms. Flammer: You know, one thing that doesn't get put in the headline is that half of those units are affordable based on the developer, decided that that's what they wanted to. I don't know if today that would happen as much as it could have happened back when times were really good. I know we do have an affordable housing requirement now too so.

Mr. Shibuya: Yeah.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Mr. Chairman, are you ready for a motion?

Chair Hiranaga: Yes.

Mr. Mardfin: I move that we acknowledge receipt of the request and that we waive review.

Mr. Freitas: Second.

Chair Hiranaga: Moved by Commissioner Mardfin, seconded by Commissioner Freitas to waive review. Discussion? Commissioner Shibuya?

Mr. Shibuya: I object to this and I'm going to vote against it. The reason why is that we've had continuous extensions and I need to have substantive progress. You know, when we start putting millions of dollars into space orbit, you know, time extensions are not acceptable. Reliability is an acceptable excuse, performance is the other. This is not acceptable to me. You get the entitlement, you move out smartly and you proceed and you complete it and you do it not just

extend it for job security.

Chair Hiranaga: I've been notified there's a procedural error, I forgot to allow public testimony. So we'll take a step back and allow public testimony at this time. If you've not provided testimony regarding this agenda item and would like to do so please come forward, state your name.

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

Chair Hiranaga: Next individual is Dick Mayer.

Mr. Dick Mayer: Morning. Thank you very much. I'm speaking with regard to the A & B Kane project, the large Kahului Town project that was right across from the Maui Beach Hotel. It's a very large project and they're coming for a third extension I understand for two more years. I'm urging you to not give them an additional extension or if you do give them the extension at this point because I think this project is absolutely needed. It was put in as a place where many of the older residents in Kahului would be able to have an apartment building right near stores, shops, et cetera, right near the library and the banks, et cetera, where it would be an ideal place for elderly people to live and there were over 400 units planned in that project. It's very much needed. It would free up a lot of housing in Kahului for the younger family, for the children, et cetera and solve I think many of our housing problems in Central Maui. I would urge you at this point, A & B has come in over and over again, they should have built it, they can't argue it's financing because it was authorized when boom times were going on when they could have easily gotten the financing. And now they're coming again.

But if you do decide to give them an extension, I would urge you to make it the very last extension. Make it very clear that you would not give a further one and what particularly concerns me is this past week, I've been going through their application for 2,550 additional units at the Waiale project over here beyond Maui Lani towards Waikapu and they're asking for more entitlements at this point. And so I would make it very clear that you won't even look at their Waiale project until you see this project actually built. This is something that I think is much needed. I'm not opposed to the project. I think it's an important project, and just giving them extension after extension for a need that our community has and then at the same time asking for even more entitlements. I have a similar experience up in Haliimaile when I was the Vice-Chair of the Upcountry Community Plan they came in for around a 150 units as an addition to the Haliimaile community. They still after 17, 18 years now have not built that project since our committee recommended that. And so this process of getting entitlements and not building. So please make it very clear to them this is the very last extension that you would ever give if you decide to give that extension. That's one of your communications from the Director. Thank you very much.

Chair Hiranaga: Questions from the Commissioners? Seeing none, thank you.

Mr. Mayer: Thank you.

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

Chair Hiranaga: Seeing none, public testimony is closed. We'll now go back to the motion on the floor. Any further discussion? Commissioner Wakida?

Ms. Wakida: Am I still allowed to ask Gina a question?

Chair Hiranaga: Sure.

Ms. Wakida: Are you ...(inaudible)... process, you mentioned something about the affordable housing and that this project has an affordable housing ratio and that has changed since that was put into effect? Did I hear that?

Ms. Flammer: No, I'm sorry. The law has changed. So now we do require developers to do a certain number workforce housing. This project was approved prior to that. They voluntarily offered to do that.

Ms. Wakida: Okay.

Ms. Flammer: I don't know if that clarifies it or not.

Ms. Wakida: Yeah, it does. Thank you.

Chair Hiranaga: Actually I have a question for the applicant and I may have asked this two years ago but you are retaining 100 percent of post and predevelopment surface runoff onsite?

Mr. Chun: Mr. Chair, we have Stacy Otomo here to reconfirm that that is the case.

Chair Hiranaga: Okay. I read the report, but I'm not a civil engineer, so.

Mr. Chun: Would you like Mr. Otomo to come forward?

Chair Hiranaga: Whoever, whoever you feel appropriate.

Mr. Stacy Otomo: Good afternoon Chair Hiranaga, Members of the Planning Commission, my name is Stacy Otomo. Just to confirm we are handling 100 percent of the pre and post development runoff onsite.

Chair Hiranaga: Okay, thank you. And just a side note, my grandfather used to live on that street. Company employee housing for Kahului Railroad. So I have sentimental attachment to that area. Commissioner Mardfin?

Mr. Mardfin: I'm going to vote for the waiver of review. And their letter did not give really good reasons that were clear to me and that would have made me vote against, to make this a final one but I think in my somewhat tough questioning of Mr. Chun, I understand what the underlying economics of it are and why the funding is now the hangup and I think they have made progress. For the first two extensions they didn't have the permits and it sounds like they've taken care of that problem and they really have to wait for the market. I don't have any confidence it's going to be okay in two years, but I do think that's sort of beyond their ability to do anything on their part about it. It's now something the County can't do any, the County government can't do anything about so I'm willing to give them the extension and that's why I moved to waive review.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: Yeah, I seconded the motion and the reason why I second the motion is because I'm in business, in know the economic problems that is out there where even what you call space agency went out of business and our Federal government is in problems. So I, I understand that they've invested a lot of money in to get to this point and I cannot see just not supporting something that would be very good to the community. It's neat project. I was willing to move from Olinda to Kahului on in an area like that.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: And the reason behind my parting comment on previously was that we need to start looking at the opportunities for workers to work and we have not, A & B has that opportunity, they have entitlements to develop medium and heavy industrial areas and they're not doing it. They need to get off dead center quickly because that's where the people can earn their living and then have enough to buy the affordable housing that he's making proposals for. Now this is where if you got the cart before the horse you ain't going to push. That's the problem. We need to start looking ahead and if they don't have their priorities straight, I'm going show 'em which way it is, which ways go first. Failure, sometimes we learn from failures and it's unfortunate that we have to do this. I want to see milestones. I want to see when you're gonna get certain things done without these milestones that are publicly open how you're making progress, gosh, I cannot side with no information of making decision from ignorance. I need more than that.

Chair Hiranaga: Any, any further discussion? Seeing none, Deputy Director repeat the motion for clarity.

Ms. McLean: Thank you, Chair. the motion is to acknowledge receipt of A & B Kane's request for a two-year time extension on its SMA Permit and to waive its review of the time extension and allow the Director to approve that administratively.

Chair Hiranaga: All in favor of the motion, please raise your hand.

Ms. McLean: Six ayes.

Chair Hiranaga: Opposed?

Ms. McLean: One no.

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

VOTED: To acknowledge receipt of the request and to waive its review of the time extension request.
(Assenting - W. Mardfin, J. Freitas, D. Domingo, L. Sablas, I. Lay, P. Wakida, W. Mardfin)
(Dissenting - W. Shibuya)
(Excused - K. Ball)

Chair Hiranaga: Motion carries.

Mr. Chun: Thank you very much.

Chair Hiranaga: Next agenda item D-2, 3, and 4. Deputy Director?

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

Ms. McLean: Thank you, Chair. The next three items are the EA/EIS Report, SMA Minor Permit Report and SMA Exemptions Report. There do not appear to be any EA or EISs pending to report to you. The SMA Minor's on the yellow sheet, Exemptions on the white sheet that follows a variety of Open SMA Permits on the following on the following yellow sheet and then Open Assessments on the following pages.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I did ask on the last meeting about Ulumalu Energy that 250 kw ...(inaudible)... solar farm in Haiku. If we have more information on this sheet. I didn't get any information.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I emailed Carolyn and requested information on Nalu Ola Ranch in Maliko and ...(inaudible)... our Planner Kurt got this to me this morning considerable amount of information and I would just like to put on the record that I have just at a cursory glance at this some considerable concerns about this project and this consolidation and resubdivision on shoreline, large shoreline parcel out there and hope that it gets close scrutiny by the Planning Department.

Chair Hiranaga: Any other discussion? Seeing none, we can just move forward to D-5, Planning Commission Project and Issues.

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: Yes, Commissioner Mardfin?

Mr. Mardfin: I had asked a couple of meetings ago about the SMX 2011/0276, I still haven't heard back.

Ms. McLean: What was that number again, I'm sorry?

Mr. Mardfin: SMX 2011/0276.

Ms. McLean: Okay.

Chair Hiranaga: Any further discussion regarding these reports? Seeing none, we'll move onto D-5, Planning Commission Project and issues. Anything to report Deputy Director?

5. Planning Commission Projects/Issues

a. Revising the SMA Boundaries

Ms. McLean: Nothing to report, Chair.

Chair Hiranaga: Any new projects or issues? Commissioner Shibuya?

Mr. Shibuya: I'd like to, I don't know if this is the right place to bring it up, but apparently energy conservation and energy renewable energy generation are two issues that I continually bring up because it's complying with the Hawaii Clean Energy Initiative and it's a, it's a Hawaii State Law. It's applicable to all of the State facilities and this should be applicable to all of the County as well as to County developments. Reason for that is that if the County is not going to step up and produce the energy savings or generate renewable energy we're gonna be in a world of hurts. When I say, "we" I'm talking about collectively we customers of MECO. In another week or so, I won't care. Reason why is because I'll probably be a F.I.T., feed-in tariff. My excess I will get compensated for, okay. So I won't pay electric bill. You going pay me and MECO is going to get that income from who? We, us except me.

Chair Hiranaga: ...(inaudible)...you still care.

Mr. Shibuya: I still care and that's why I'm bringing this subject up because sooner or later there's going to be more FIT guys, feed-in tariff folks that gonna be at the feeding trough and your price ain't gonna go down, it's gonna faster, higher, up.

Chair Hiranaga: Maybe I can make a suggestion that staff have someone prepare some type of presentation actually explaining the Hawaii Clean Energy Initiative to us so we understand what the County's obligations are, State and County obligations are. I haven't bothered reading the actual Act, so.

Mr. Shibuya: Right, it's Section 196.

Chair Hiranaga: At some appropriate time we could schedule that on the agenda.

Mr. Shibuya: And please include the RPS which is the real, I mean, the Renewable Energy Portfolio Standards and the standards come up with goals and that's where the PUC has the ability to fine the utilities or penalize the utilities for noncompliance. I can share with you if I may, Mr. Chair? This is a report called the Quality of Life in Hawaii. It's a 2009 report written By DBED, Hawaii and the University of Hawaii. The total energy, renewable energy that's percentage that we consume that's being sold on MECO on Maui is 19.3%. In Honolulu at the same time period it's 3 percent.

Chair Hiranaga: Why don't I ask you to work with staff to come up with a presentation versus going off on this particular –

Mr. Shibuya: No, no, I going to make one point that's why I'm giving the numbers. The energy consumption that we use the number of BTUs per person, per person on Maui is 312 BTUs on Oahu it's 262. What's that translate to? They have more traffic, they have more non conservation kind of things and all of a sudden we have actually spent more on gas and diesel and that's because we truck around heavy equipment and goods on Maui. And most of us, doesn't seem like we care about energy.

Chair Hiranaga: Thank you. Commissioner Wakida?

Ms. Wakida: I would like to encourage including in this presentation which I think is very important I would like to see the County conform to the State standards and so I would like to see the County's position on that or the County's, how we can make that work?

Chair Hiranaga: Thank you. Commissioner Mardfin?

Mr. Mardfin: This is a, this is a change of topic but we had two things in our, on our desks today that if somebody can explain what we're going to be doing with them. One is the notice of appeal to Circuit Court about Dairy Road Partners and the other is Clare Apana's pre-trial statement about the Maui Lani area. Is this for just for the future when these items come on the agenda?

Ms. McLean: I believe that those are court actions that they're provided more as informational for you. I don't know that they'll be coming back.

Mr. Mardfin: Okay, thank you very much.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: I'm sorry what I forgot to, the point I was trying to make was I would like to see the State standards for their State buildings be addressed for our, as County standards for our County buildings. That was, I don't think I made that –

Ms. McLean: Just one comment I want to make on that is that would be a policy that would have to be adopted county-wide. That's not something that this Commission would –

Ms. Wakida: I know.

Ms. McLean: – would enact. So some of these things can be appropriately discussed in project review but as each project is presented to you the law under which it's being applied for has specific criteria and that's what the Commission is to follow in approving or disapproving or otherwise considering a project and where alternative energy might be one of those criteria then it's, that's where you can really focus on that particular project, but until that type of policy is enacted county-wide, the Commission's ability to in a sense create that policy is narrowed down to the criteria that's used when you're reviewing projects. But that's something we can talk about further in this future meeting. And we'll also, I'm thinking that we can bring in the County's Energy Coordinator to talk about current efforts that the administration is making as well as current applicable laws to County projects.

Chair Hiranaga: Any other discussion? Seeing none, we're moving onto D-6, discussion of future Maui Planning Commission agenda.

6. Discussion of Future Maui Planning Commission Agendas

a. August 9, 2011 meeting agenda items

Ms. McLean: Chairman, there's a memo that was issued to the Commission from Clayton Yoshida indicating that at the August 9th meeting there would one public hearing item which is the SMA Permit for the proposed Maui Medical Plaza project in Kahului. That's the one adjacent to Kanaha Pond and then one item of New Business is the final EIS for the Auwahi Wind Farm project.

Chair Hiranaga: Okay, any discussion? Seeing none, if there's no objection, this meeting is adjourned. Thank you.

E. NEXT REGULAR MEETING DATE: AUGUST 9, 2011

F. ADJOURNMENT

The meeting was adjourned at 3:18 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Donna Domingo
Jack Freitas
Kent Hiranaga, Chairperson
Ivan Lay
Ward Mardfin
Lori Sablas
Warren Shibuya, Vice Chairperson
Penny Wakida

Excused

Keone Ball

Others

Michele McLean, Planning Department
James Giroux, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Department of Public Works