

**MAUI PLANNING COMMISSION
REGULAR MINUTES
NOVEMBER 22, 2011**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Kent Hiranaga at approximately 9:02 a.m., Tuesday, November 22, 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: ... This is the Maui Planning Commission. I'd like to call the meeting to order. At this time I'd like to open the floor to public testimony. Is there anyone here that wishes to provide testimony regarding any agenda item please come forward? Do we have a sign up sheet? Please identify yourself and limit your testimony to three minutes.

The following individuals testified at the beginning of the meeting:

Carl Van Sweden - Item B - 2, KG Maui Development, CPA, CIZ
Glen Kakugawa - Item B - 3, Clint Hansen, CUP
Bert Freeland - Item B - 3, Clint Hansen, CUP

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

Mr. Hiranaga: Anyone else wishes to provide testimony regarding any agenda item at this time please come forward. Seeing none, public testimony is now closed. First agenda item is B-1. Director.

Mr. Spence: Thank you, Mr. Chairman, Members. Your first agenda item is Mr. Alan A. Villanueva, Acting Secretary of Inglesia Ni Christo Church requesting a County Special Use Permit and Special Management Use Permit.

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

- 1. MR. ALLAN A. VILLANUEVA, Acting Secretary of the IGLESIA NI CHRISTO (CHURCH OF CHRIST) CHURCH requesting a County Special Use Permit and a Special Management Area Use Permit to demolish an existing church building and construct a new church building and related improvements in the R-3 Residential District at 1518 Malo Street, TMK: 4-5-014: 009, Lahaina, Island of Maui. (CUP 2008/0006) (SM1 2008/0025) (A. Benesovska)**

Mr. Spence: I understand there have been some notice issues surrounding this. I don't know maybe James would like to address it or Clayton, my understanding is we're gonna, they're gonna have to renotice and we can go on from that.

Mr. Clayton Yoshida: Yes, Mr. Chairman, I guess the --

Mr. Hiranaga: Please identify yourself.

Mr. Yoshida: Mr. Villanueva is no longer --

Mr. Hiranaga: Please identify yourself.

Mr. Spence: Clayton, who are you?

Mr. Hiranaga: For the record, please identify yourself.

Mr. Yoshida: Oh, Clayton Yoshida, Planning Program Administrator, sorry. Mr. Chairman, I guess Mr. Villanueva is no longer with the church and the contact number that was distributed on the notice to the neighbors is no longer in service. So therefore, upon the advice of our attorneys we felt that the, it be most prudent for the matter to be renoticed--rescheduled and renoticed so that the proper notification is given to the neighbors. So we would have that renoticed and the, under C-1, the Petition to Intervene deferred to that later date.

Mr. Hiranaga: So, Corporation Counsel do we still open the public hearing or does this actually because it's an agenda item needs to be voted upon by the Commission to defer?

Mr. James Giroux: The fact that it is on the agenda, I mean, if anybody did show up to testify I would advise that you allow them to have their three minutes. However it is clear on the agenda that there's no action going to be taken and that the intention of the board is to move this off to another date. The issue of notice, basically would take care of, you know, if as far as any voting I don't think any voting would be necessary because it's actually a legal matter that is deferring it not, not really the action of the board.

Mr. Hiranaga: Okay, so I'll open the floor at this time for anyone who wishes to provide public testimony regarding this specific agenda item please come forward and identify yourself. Seeing none, public testimony is now closed. If there's no objection from the Commission as recommended by Corporation Counsel this matter will be rescheduled to a later time.

Mr. Giroux: And just for clarification that today is not the public hearing, but it's just a courtesy that we open the floor to allow people who if they did show up to testify that they would have been allowed to testify. So there's technically been no public hearing on this item.

Mr. Hiranaga: Any objections? Seeing none, Director, Item Agenda B-2.

Mr. Spence: Members, B-2 is KG Maui Development, LLC requesting the following land use changes for the Pulelehuakea Residential Subdivision, a 13-lot single-family subdivision, Pukalani. Our Staff Planner is Danny Dias.

- 2. KG MAUI DEVELOPMENT, LLC requesting the following land use changes for the Pulelehuakea Residential Subdivision, a 13-lot single-family residential subdivision and related on-site and off-site improvements including landscaping, roadways, utilities, drainage system, golf cart path relocation and retaining walls; and to establish land use designation consistency on the golf course at TMK: 2-3-008: 036 (por.), Pukalani, Island of Maui: (CPA 2010/0003) (CIZ 2010/0006) (D. Dias)**

Area A: 6.0 Acres

- a. **Community Plan Amendment from PK (GC), Park (Golf Course) to Single Family Residential**
- b. **Change in Zoning from D-1 Two-Family Duplex, R-1 Residential, PK-4 Golf Course Park District to R-3 Residential.**

Area B: 8.4 acres

- a. **Community Plan Amendment from Single Family to PK(GC), Park (Golf Course) for 3.8 acres**
- b. **Change in Zoning from R-1 Residential District and R-2 Residential District to PK-4 Golf Course Park District for 8.4 acres.**

Mr. Danny Dias: Thank you, Director. Good morning, Chairman Hiranaga and Members of the Maui Planning Commission. As Director Spence stated this item involves a Community Plan Amendment and a Change in Zoning in order to allow for the construction of a 13-lot subdivision in Pukalani called the Pulelehuakea Subdivision. I'll let the applicant get into the details of exactly what type of land use designations exist and what type of changes are needed. But essentially, it's -- the property is located within the Pukalani Country Club Golf Course in between 5th, 6th, 7th holes.

In addition to allowing for a 13-lot subdivision this application will also create consistency for the portions of the property that are currently part of the golf course. Right now, some of the fairways and so forth are actually designated for residential uses. So ultimately this application will create consistency and add clarity to what parts are residential and what parts are for golf course use.

All of you should be pretty familiar this project. I believe everyone here has seen this project at least once. Most of you have seen this twice. The first meeting that the Planning Commission reviewed this project was on January 11th of this year and you gave comments on the Draft Environmental Assessment. And the second review occurred not too long ago, August 23rd, where this Commission reviewed the Final Environmental Assessment and issued a Findings of No Significant Impact. So with that, I'll turn it over to the applicant. We have a really short power point presentation. Thank you.

Ms. Leilani Pulmano: Good morning, Commissioners. My name is Leilani Pulmano with Munekiyo and Hiraga and we're the planning consultants for the proposed Pulelehuakea Residential Subdivision and as Danny indicated we're here today for a recommendation of approval for the Community Plan Amendment and Change in Zoning for the project.

Just to give a very short description. The proposed project is for a residential subdivision and to down zone the residential lands to Park/Golf Course which requires a Community Plan Amendment and Change in Zoning for the project area. The Commission, as Danny said, approved the Final EA back in August. And before I get into the project, I'd like to introduce you to the project team

and they'll be here to answer any questions that you may have. We have Elton Wong as the project applicant, and Mandy Saito with Ronald Fukumoto Engineering, Phil Rowell, our traffic engineer.

Just to orient you to where the project is, this is Haleakala Highway and the Hannibal Tavares Park. This green outline is the golf course, Pukalani Golf Course, and the project is in this red area here. As a closer look, to get there you'll be using Liholani Drive and Ainalani Drive. This is the stub out, Pulelehuakea Street and the project for the residential portion is located in this treeline area here. These are the areas that we'll be down zoning this area to Park/Golf Course.

So initially KG Maui looked at their current land use designations for the site which currently allows for 20 duplex housing units and they determined that this type of housing is not compatible with this area of Pukalani given the surrounding single-family Kulamalu residential subdivision. They felt that a more appropriate housing type would be single family housing units. So the applicant is proposing to develop a residential subdivision and related improvements on approximately six acres within Area A here. The residential subdivision will provide for 13 residential lots ranging from 15,000 square feet to 37,000 square feet. When the applicant held a community meeting early on with the surrounding neighbors to get their feedback and the Kulamalu Homeowners Association requested to establish land use consistency on 8.4 acres of the Pukalani Golf Course on lands adjacent to their homes that is zoned currently residential in Area B here. So the proposed project is for a community plan amendment and change in zoning to allow for Residential in Area A and Park/Golf Course in Area B.

So just to go through the existing land use changes. You're looking at the community plan. This area here is, is zoned or, I'm sorry has community planned for single-family and we're going to be changing this entire Area A to single family. In the Area B here is for single-family community plan designation currently and we'll be changing this to Park/Golf Course.

In terms of zoning, this area within Area A currently is zoned Duplex, Family Duplex. and Park/Golf Course in the green and we'll be changing this area to R-3 zoning for residential uses. And this Area B has R-1 and R-2 zoning and we'll be changing it to Park/Golf Course. This ultimately reduces the overall amount of land with residential land use designations by approximately five acres.

So in terms of the project's benefits, the project provide housing opportunities in Upcountry to meet the forecasted growth in this region. And as you saw previously, a portion of the site is already zoned for housing and the entire area currently allows for 35 total housing units. The proposed project is for 13 single-family housing units making the project less dense. It will also provide the current homeowners of Kulamalu subdivision assurances that the lands adjoining their property will be designed to golf course use instead of future housing. And the project site is located within the draft Maui Island Plan Urban Growth Boundary.

And just to give you some site photos. This site photo is looking mauka into the project site. You can see the pine trees surrounding the site and this photo here is inside the site and currently fallow lands.

So today, we're just requesting, we're requesting for the recommendations of approval for the community plan and change in zoning and just to remind you that the Maui, Maui County Council

is the final determination or the authority on, on these types of applications. So we're here to answer any questions if you have any. Thank you.

Chair Hiranaga: Does the Staff have an analysis? They have comments?

Mr. Dias: Thank you, Chair. Just in summary, we, we feel that this project is consistent with the surrounding land area and we are in support of it. Thank you.

Chair Hiranaga: At this time, I'll open the public hearing. Is there anyone here that wishes to provide testimony regarding this agenda item, please come forward? Please identify yourself and limit your testimony to three minutes.

a) Public Hearing

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

Mr. Carl Van Sweden: Okay, my name is Carl Van Sweden. I'm the President of the Board of Directors of the Kulamalu Homeowners Association and our properties adjoin or are adjacent to the proposed development on the golf course and I just wanted to offer testimony with regards to Planning and the proposed development. We have been working with KG Maui Development for some time over the past year or so with regard to their proposal. And we've been very happy and satisfied with how they responded to our request and our concerns. They've been very sensitive to our concerns as potential neighbors and we're very happy with the accommodations that they've made on our behalf and we support the proposed development.

The only the concern that we would have, of course, in the future is if by chance the zoning for the golf course would not change to perhaps restrict any future residential homeowner development on the golf course. We are very much in favor of the proposed 13-lot development which would include 13 homes, but beyond that we would have concerns and it's my understanding that these would be residential homes and that there would be no commercial use in this particular property. So again, on behalf of the Kulamalu Homeowners Association we would like the Committee to know that we've been working KG Maui Development and they have been very accommodating to our needs and concerns and so I would like to offer this testimony at this time and we're in favor of this proposed development. Thank you.

Mr. Hiranaga: Thank you. Questions, Commissioners? Seeing none, thank you.

Mr. Van Sweden: Thank you.

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

Mr. John Behris: Yes, I'm John Behris, and my wife and I live at 33 Alaapapa Place and ...(inaudible)... sixth hole of the golf course and was on the committee, subcommittee to work with this organization for this rezoning. And we're totally in favor of this because of this residential change to park property on that golf course so that in the future we don't have a problem should something occur that would cause a problem and, and that whole area would be--would change.

So we're in, in total support of this. Thank you.

Chair Hiranaga: Questions, Commissioners? Seeing none, anyone else wishes to provide testimony at this time regarding this agenda item, please come forward. Seeing none, public hearing is now closed. I'll open the floor to questions from the Commissioners. Commissioner Mardfin.

Mr. Mardfin: Who do I want to ask? I guess I wanna ask the Director. My understanding is that this is going to decrease the number of housing units in the, in this particular location fundamentally. And when we were working on the Maui Island Plan, there was a concern about where you're gonna put people. And every time we put less than was approved, we basically have to find some other place to put the ones that we're--if it's not going to go here, then the question is where are that projected population gonna be? Is the Department in favor of taking higher density area and making it lower density area?

Mr. Spence: I think we have to look at that on a case by case basis. In particular, in an instance like this, where you have an existing golf course and my understanding Residential zoning, you would, you know, would wanna preserve that that golf course that has been there since way before I ever got here. The reduction in density I think is probably gonna be insignificant as compared to what other things are gonna happen in the community plan and our changes in zoning, etc., that are gonna happen over the next 20 years of that plan. So this is an insignificant impact as far as this area goes.

Mr. Mardfin: Can I follow up? Can you tell me specifically...maybe I should ask Leilani this? Leilani?

Ms. Pulmano: Yes?

Mr. Mardfin: This is gonna serve 13 families basically when it's finished. If it had been built out in full before this change, how many families would it have accommodated?

Ms. Pulmano: Thirty-five including the areas for the golf course or that's along the golf course.

Mr. Mardfin: Okay, so we're going to about the third of the number of family, a third of the number of families. Thank you.

Ms. Pulmano: Sure.

Chair Hiranaga: Actually I have a follow up question. Kind of historically the Pukalani, I guess Pukalani Terrace is the name of the entire project? What's the official name when the developer started this in the 1960's or early '70's?

Mr. Spence: I'm not sure.

Chair Hiranaga: So is this a Project District?

Mr. Spence: No.

Chair Hiranaga: No.

Mr. Spence: No, it's not a Project District. It's got straight zoning throughout the project. I'm not sure how they built a golf course on residentially zoned property but nevertheless it's there and I think it's really a good thing to provide some consistency in the zoning by making that, you know, Park/Golf Course rather than Residential.

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

Mr. Shibuya: Just a question here, maybe Leilani, you can just show a map of the entire community area and also point out where Kaluapulani Gulch is. The question is related probably Public Works may have to address this. Where is existing, where are the existing drainages and do they empty into this gulch?

Ms. Pulmano: Thank you for that question, if you look at the map, the aerial here, this is, I wanna make sure I pronounce that correctly Kaluapulani Gulch here. And the existing flows right now actually flows across of the golf course. There's a culvert there that then enters into this drainageway. A part of the project, the project will handle all of its increase in drainage. Just about here there'll be a retention/detention basin that will handle it.

Mr. Shibuya: No, I'm not concerned too much about that because we covered that earlier. I'm concerned in terms of the surrounding neighborhood and their existing community and where the runoff and will it impact this gulch?

Ms. Pulmano: The gulch in itself is a very big drainageway. And I think I have in my notes where it actually exits out. If you follow the gulch it leads to Kanaha Beach Park near Kahului Airport. And this is not a -- I have a hard time pronouncing this word, perennial--a stream that runs all the time.

Chair Hiranaga: Perennial.

Mr. Shibuya: Perennial.

Ms. Pulmano: Thank you. It runs intermittent with very heavy flows. For the most part, it absorbs right onto the golf course and overflows into the gulch in which it absorbs inside of the gulch.

Mr. Shibuya: Yeah, I'm getting to that point. Maybe Public Works can describe where the existing runoff, storm runoff enters into this Kaluapulani Gulch.

Ms. Dagdag-Andaya: Commissioners, I don't have that information on me. I don't, I don't know if the project engineer can answer that because I didn't do that research.

Ms. Pulmano: Commissioner Shibuya?

Mr. Shibuya: Yes.

Ms. Pulmano: If I could, if you wouldn't mind? The golf course if there is any overflow on the golf course itself, there's a culvert that runs sort of around here that enters the gulch.

Mr. Shibuya: No, I'm familiar with your project. I'm asking about the impact of the existing community right now that is in the Pukalani area and it's neighboring this development and where does that runoff go because it's sloped area and I was just wondering how is it being treated now and I can wait later on, maybe Public Works can ask the question to their staff and then get back with me.

Ms. Pulmano: Are you talking about this neighborhood, Kulamalu neighborhood?

Mr. Shibuya: No, the neighborhood, the larger neighborhood, the majority of the neighborhood is above that area. It's not shown here.

Ms. Dagdag-Andaya: Excuse me, Commissioner? Is it the existing community along Alalani Drive and Alaapapa Place and that --

Mr. Shibuya: No.

Ms. Dagdag-Andaya: Well, how big of a area are you looking at?

Mr. Shibuya: I'm looking the, the main road there it starts with an "L."

Ms. Dagdag-Andaya: Liholani Street.

Mr. Shibuya: Liholani. All along that Liholani where is that runoff going to? Is it coming down Liholani or is it coming down some place else?

Ms. Pulmano: Are you talking of this neighborhood here?

Mr. Shibuya: No, the upper.

Ms. Pulmano: This here?

Mr. Shibuya: To the right, above.

Ms. Pulmano: There?

Mr. Shibuya: More.

Ms. Pulmano: This?

Mr. Shibuya: There. All that. Where the runoff going?

Ms. Pulmano: Well, this is actually, the runoff would flow this way. So this outside of this area that's affected by here ...(inaudible)...

Mr. Shibuya: Yeah, no. It's not the project. I'm looking at the gulch and it's on the right side of where that red block is that's already existing.

Ms. Dagdag-Andaya: Commissioner, I'm sorry, excuse me. I, I can have -- I'll email staff right now and, and check on that information, but is there something that the current project that impacts that the current project impacts that had a question on or is it just a general?

Mr. Shibuya: The concern is actually where that runoff is because it's more impermeable, and then there's only one access road there and that's Ala Ainalani.

Chair Hiranaga: So, Commissioner Shibuya, maybe you could restate your question as it specifically relates to the agenda item?

Mr. Shibuya: Yes, I'm looking in terms of vulnerability of the people who are in this Alaapapa, Alalani Drive and will they be impacted with this runoff by an existing community using the existing Kaluapulani Gulch?

Ms. Pulmano: For our project?

Mr. Shibuya: Yeah, your project is not a problem. You have onsite drainage. Okay, that's not the problem. I have a problem with all of the other above existing community that coming down that gulch and it crosses over Alalani Drive and that's only one in and out exit. If you wash that away, it's all over.

Chair Hiranaga: Leilani, looking at the photo that's up, downhill is right to left?

Ms. Pulmano: Yes.

Chair Hiranaga: And you have a gulch that isolates the project site from the larger section of Pukalani.

Ms. Pulmano: That's correct.

Chair Hiranaga: So the surface runoff coming off of the project site would not cross that gulch and impact.

Mr. Shibuya: That's right.

Chair Hiranaga: So I don't see how your question relates to the agenda item.

Mr. Shibuya: I'm just more concerned in terms of vulnerability for the people in the Alaapapa, Alalani and this new development. That's all.

Chair Hiranaga: For access?

Mr. Shibuya: Access.

Chair Hiranaga: Under extreme storm conditions?

Mr. Shibuya: That's correct.

Ms. Pulmano: Just to, maybe calm or provide --

Mr. Shibuya: It's not a show stopper, but it's just making the people aware there's a possibility there.

Ms. Pulmano: Along--Commissioner Shibuya, along Liholani as I had done my site visit there, the road is very well maintained in that area and there are very large culverts that actually go under the road at Liholani that handles likely all of this drainageway here probably including Kamehameha Schools that's mauka of the project site.

Mr. Shibuya: Yeah, and that's where the question is, where does that drainage go to?

Ms. Pulmano: Into the gulch.

Mr. Shibuya: Yes, I know it goes in a gulch and that's what I wanted people to say that.

Chair Hiranaga: Okay, moving on.

Mr. Shibuya: Thank you.

Chair Hiranaga: Any other questions, Commissioners?

Mr. Ball: I have a quick question.

Chair Hiranaga: Commissioner Ball.

Mr. Ball: The, the street, Pulelehuakea there are a couple residents that flank that street and were they in discussions with this and are they aware that this is going to be their, their neighbor?

Ms. Pulmano: Thank you, Commissioner for that question. We actually did meet with both of those individuals and off the top of my head, I can't recall what their names were. But this is the stub out street and we made it a point to meet individually with this neighbor here and this neighbor here and we've had several meetings with the Kulamalu Homeowners Association. They actually appointed a subcommittee to specially I guess this discuss this project. So we've been in, in lots of communications with them.

Chair Hiranaga: Commissioner Ward, Commissioner Mardfin.

Mr. Mardfin: Just as a follow up. You said you were in discussion with them. Are they happy with the project or are they unhappy with the project?

Ms. Pulmano: They're happy with the project as you heard Carl testify this morning.

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

Mr. Shibuya: During the EIS I guess we, we discussed many things but one of them that I, I brought up was that energy was a, a concern of mine. And that energy that we have is Hawaii Revised Statutes 269 which is the Renewable Portfolio Standards that we need to meet 40 percent renewable energy by 2030. You have a desalination opportunity there. I don't know if you're gonna select that option to provide water and through that desalination plant. I don't know whether you were gonna have some renewable energy projects with built-in within this development. Can you explain or tell me about them?

Ms. Pulmano: Sure. As you know, the Legislature has required solar water heaters for all single family homes. So certainly that will be a part of the project and also the project itself within its CC&Rs will require energy efficiency appliances and building materials such as windows, etc. In terms of solar generation specifically, we will provide an option for some kind of solar generating facility for the homeowners as an option for them too.

Mr. Shibuya: Okay, thank you.

Ms. Pulmano: You're welcome.

Chair Hiranaga: Any other questions, Commissioners?

Mr. Ball: I have another question.

Chair Hiranaga: Commissioner Ball.

Mr. Ball: About the wastewater service.

Chair Hiranaga: Pull the mic up.

Mr. Ball: About the wastewater service and there's a private company I guess that runs this thing and they're pretty difficult to find on line I've noticed or to talk to someone. And this may be for Will or maybe for the ...(inaudible)... actually. What happens if this company goes away? I don't know that's you or ... I mean does the County take it over?

Chair Hiranaga: Department of Health would come into the --

Mr. Ball: What happens there? I mean, it's not only this subdivision but there's quite a bit of lower Pukalani that's on that private sewer system.

Ms. Dagdag-Andaya: Yeah, I would defer that to Environmental Management, but I would believe

there's some Department of Health issues involved with this. And perhaps, I'm not sure if the developer has some sort of agreement or will draft up an agreement with the company for provision of service or I mean, what happens afterwards. That, that could be another option too. As far as the County taking over, I'm not sure what that, that would entail. But I would ask Environmental Management to comment on that one.

Chair Hiranaga: You could ask the applicant. They have comment.

Mr. Ball: You have a comment?

Ms. Pulmano: I do. Pukalani, I think it's called Pukalani Wastewater Treatment Service or some other services quite a bit of area here that includes the golf course. And the owners of that owns this development, the golf course and other vacant residential lands and it's a very integral part of their community planning for the future. They have been in business for quite a while since the '80's and they don't seem to be in any financial stress as they're moving forward. So, we, we really don't see that as being a concern. I mean, I understand that with the Molokai issue there, but I do believe here they're on solid financial footing.

Chair Hiranaga: To, to paraphrase, you're saying Kobayashi Group owns the sewer treatment plant, wastewater treatment plant?

Ms. Pulmano: Yes.

Chair Hiranaga: Okay, and that you feel that they are --

Ms. Pulmano: The applicant is here and can help to respond to that.

Mr. Ball: And maybe they can respond to how people can get a hold of them. It doesn't relate to...it's just a question that...because I've looked for them to contact them to see if in fact they were part of a lot in that subdivision and it's very difficult to get a confirmation on that and I would, in the, in the future there's quite a bit of homes there now and their, their management of that system so maybe they can answer that.

Mr. Elton Wong: Good morning, my name is Elton Wong, I'm with the Kobayashi Group. Just to clarify, we do not own the wastewater treatment plant. It has, it's under a operations and ownership of a private entity who does other plants and private systems. Again, we believe that they are a very viable company that's their line of business and they're not gonna go out of business. In terms of getting a hold of them, I can help you. I don't know specifically what their customer service is. We aren't related to them, but I can help.

Chair Hiranaga: Commissioner Freitas.

Mr. Freitas: Yeah, Elton, that, that sewer treatment is a brand new sewer treatment plant that you just put in?

Mr. Wong: I believe it's not a brand new. It's been in operations for a number of years. They are

planning to upgrade the plant and add capacity. So the added capacity should be, you know, latest technology. That's as far as I know.

Mr. Freitas: Well, a quick comment. I took down the old tanks there and they put up a unbelievable site in there when I was there maybe six, eight months ago.

Mr. Wong: Yeah, I believe they are upgrading their facilities.

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

Mr. Shibuya: Elton, since you're there, I'm wondering whether you are--have decided to desalinate the water from your brackish well?

Mr. Wong: We've been talking to the Department of Water. Desalination was an option. We understand the department is gonna look at other alternatives to satisfy the water needs of Upcountry. When we were in discussion with our -- to propose that system and add water to the basically the whole system, we found out that our water would be expensive to pump. So even though we would donate the capital improvements, the operating costs might exceed, you know, what the department is used to in terms of delivering water.

Mr. Shibuya: Right, I'm well aware of that and I'm looking at the energy aspects of it and because of the rising costs and if you're turning it over to the County, it's a huge burden.

Mr. Wong: Yes, and the County actually when we looked at the water system, the County has ...(inaudible)... to get cheaper water and so I think from my understanding, the Department of Water is looking at those others and we would be contributing to it.

Mr. Shibuya: Okay, so this desalinating, are you planning to build this desalination plant?

Mr. Wong: No, we're, we're probably gonna try to work with the County, the Department of Water Supply and we see what they're trying to do 'cause again, the Department wants to deliver the cheapest water they can.

Mr. Shibuya: I understand.

Mr. Wong: So that, that would be the goal and we understand that.

Mr. Shibuya: Okay, thank you.

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

Mr. Mardfin: Real quick thought, Elton. Real quick follow up, you said, in answer to Commissioner Ball's question, you said, it's a--it's not your company that owns it, it's a different company. You didn't give the name of the other company. What's the name of the other company?

Mr. Wong: I don't know offhand, but I can find out for you.

Mr. Mardfin: Find out for Commissioner Ball, please.

Mr. Ball: Is it the Hawaii Water Service Company?

Mr. Wong: Yes.

Mr. Mardfin: Thank you.

Chair Hiranaga: Any other questions, Commissioners? I have a couple of questions. Why no ohanas? This relates to Commissioner Mardfin's question about the reduced, reduction in residential unit counts for the Upcountry area. I'm just wondering no ohanas.

Ms. Pulmano: When we came before at the draft EA stage it was the will of the body here that asked us to specific that no ohanas would be allowed.

Chair Hiranaga: I think, Elton wishes to comment.

Mr. Wong: When we were meeting with the community association and we had our public meeting, one of the requests by them was to not have ohana units. Their experience was that, you know, uncontrolled they have, I guess, young people having parties so that was their request and we basically agreed with their request.

Chair Hiranaga: I guess a related question, would attached ohanas be allowed? So no detached or attached?

Ms. Pulmano: Correct. No ohanas.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: What's, this is speculative, but what's the potential for these becoming TVA or bed and breakfast accommodations?

Ms. Pulmano: I couldn't answer that question, but maybe Elton has an answer.

Mr. Mardfin: They'd be allowed to under the law?

Ms. Pulmano: That was also one of the concessions that we discussed with the Kulamalu Homeowners Association, they also did not want to have transient vacation rentals and bed and breakfasts in that area which we both agreed to.

Mr. Mardfin: And how will that be implemented in the CC&Rs?

Ms. Pulmano: That's correct.

Mr. Mardfin: Thank you.

Mr. Spence: Mr. Chairman?

Chair Hiranaga: Director.

Mr. Spence: Leilani, will that go up as a condition of zoning or...

Ms. Pulmano: It certainly can. We have a Memorandum of Understanding with the Kulamalu Homeowners Association. It's memorialized in that document there.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: This is for the Director. I thought we weren't in the business of enforcing CC&Rs. If, if putting it as a condition wouldn't that have the, the effect of enforcing CC&Rs?

Chair Hiranaga: Director.

Mr. Spence: Conditions of zoning would be a legislation act. The CC&Rs are a private agreement between, you know, private parties. We don't get involved with those private agreements.

Mr. Giroux: Chair, if I can --

Chair Hiranaga: Corporation Counsel.

Mr. Giroux: --hesitantly chime in? When, when you're allowing the Legislature to create ordinances and the zoning ordinance is one of them, it's law making. So basically you're, you're establishing a zoning that would either allow or not allow a certain use in a certain area. Because the discussions of the B&B law and the, the transient vacation rental where we've changed the name already, those discussions are discussions not about creating zoning but actually giving permit. And when you look at the individualized decision making that has to go on, we're trying to get the County of this CC&Rs so that those types of discussions could be made independent. But the Council has the authority to create zoning. So what you're doing is you're commenting on that process today and then they can discuss that policy making decision upstairs. To not confuse it, the Council is discussing two separate types of ordinances. One would be a land use zoning ordinance, the other ordinances are a process basically a permitting ad hoc type of process. So, just -- because I understand your comment.

Mr. Mardfin: Yeah, I think it's clear to me now. Thank you.

Mr. Giroux: Okay.

Mr. Mardfin: That if it's, if it's made part of a condition for a zoning change, it's not that we're supporting it or not supporting the CC&Rs.

Mr. Giroux: Right.

Mr. Mardfin: It's when--the issue was when we have something coming to us and there's nothing

in the law preventing them that the CC&Rs prevent them, should we help enforce that CC&R and the answer is to that is we shouldn't -- we should be neutral on that.

Chair Hiranaga: So what Corporation Counsel is saying is don't go there.

Mr. Giroux: No, no, that's not. What I'm saying is that it's open for a policy discussion at this stage for zoning.

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

Mr. Shibuya: It's more of a clarification. During the EIS hearings here, I heard and got the message from the community and that was their wish that they would not have any ohanas and/or TVRs or bed and breakfasts in this area and, and you know, I respect what they want. And in this particular case I think there's several of us that did do the very thing, we respected what was testified and brought out by the, by the audience. So as far as I'm concern if you wanna add it in, I'm, I'm fine with that.

Chair Hiranaga: So your question is?

Mr. Shibuya: No, it's just a comment.

Chair Hiranaga: I have another question. As far as water, you mentioned desal what you said it's probably feasible economically and you mentioned purchasing credits from Dowling and Company but my understanding is they sold all their credits or do you have something that's been reserved?

Ms. Pulmano: We, we don't have any reservations now. That was just an option as we went through the Environmental Assessment. Currently, our, our best option is frankly waiting until the Department of Water Supply adds water source upcountry.

Chair Hiranaga: And what number are you on the waiting list?

Ms. Pulmano: We will soon hopefully after this start getting on the waiting list.

Chair Hiranaga: Oh, you're not even on the list.

Mr. Wong: We are.

Ms. Pulmano: We are? Oh, we are. I'm sorry, we are on the waiting.

Chair Hiranaga: You're what?

Mr. Wong: ...(inaudible - not speaking in a microphone)...

Chair Hiranaga: Two hundred something? I mean, it's over a 1,000 or close 2,000, so unless you're 200, you probably got on it in the early '90's.

Mr. Wong: No, we just got on it last ...(inaudible).. I guess I could be wrong, but we did get on the waiting list this past year.

Chair Hiranaga: Yeah, so I think you're closer to 2,000 --

Mr. Wong: Okay.

Chair Hiranaga: --instead of 200. I know the Council is going to start reviewing the show me the water ordinance but currently stated and I don't know if you have this answers, when do you have to show the water? Is it before preliminary approval or...

Ms. Pulmano: Prior to subdivision approval, but actually before we submit subdivision.

Chair Hiranaga: I thought it was before construction plan approval? Is it subdivision approval?

Ms. Pulmano: Uh hum.

Chair Hiranaga: Okay, thank you. So, I have a couple more questions. How does the workforce housing agreement come into play? I know Housing and Human Concerns says it applies. Are you going to designate "x" percentage within this project as affordable housing or are you gonna find an offsite location to meet that requirement?

Ms. Pulmano: Right now, we actually have all of those options open to us and the closer we get to moving forward with the project frankly then we'll make more decisions and the agreement is also required during subdivision so we think that the closer we get to that subdivision process then we'll be making that agreement with the Department of Housing and Human Concerns.

Chair Hiranaga: I have one last question. As far as traffic is concerned, I know that the traffic study was done, could you identify the intersection that the traffic study was done on?

Ms. Pulmano: The intersection, it was Liholani Street, I'm sorry, it's kind of hard to see here, Liholani Street which is around here and we also did studies on Old Haleakala Highway at Pukalani Street and Pukalani Street and Liholani Street and there was one more. There was one more intersection excuse me. The Old Haleakala Highway/Pukalani, Pukalani and Lolani Street and Liholani Street and Ainalani Street.

Chair Hiranaga: I didn't see the report for Pukalani and Haleakala, Old Haleakala Highway.

Ms. Pulmano: It was included as Exhibit No. 29, is that correct Danny? So Exhibit No. 29 and Page No. 2 actually shows the three different intersections that was assessed on top of the intersection that's closest to the project. And if you look at Page 10, I believe, it shows what the counts are.

Chair Hiranaga: Okay, thank you. Commissioner Mardfin.

Mr. Mardfin: On a related note, I think I need to ask the Director something. Let me say what, what

I'm wrestling with a little bit related to the traffic. We're basically being asked today about down zoning in effect, a change in zoning that effect which would imply about a third of those number of homes as it is currently. Any traffic impact of down zoning is gotta be to the positive or -- so do you start from what is -- the potential existing impact or do you start from nothing's been built, so you start from zero and go up or do you start from what it currently is and go down?

Mr. Spence: I think it's probably best...I know where you're going with that. I think probably the best to, because I haven't read the traffic report--it's probably best addressed by the applicant and their traffic engineer.

Ms. Pulmano: Yeah, that's correct. So maybe Phil can address that.

Mr. Phillip Rowell: My name is Phillip Rowell, I'm the traffic engineer. If you're looking at the long range, you know, build out of the whole area then you're probably right, it's a positive if you look at the long range. The purpose of this traffic was an assessment of what the individual impacts of this project are essentially on what we know is gonna happen in the area now. So we basically start out with the existing conditions in this area, we build on what we know are in the planning process or coming on line and we do an assessment as a baseline and then we add in the traffic from these 13 units to determine what individual improvements at those study intersections need to be assessed against either this project or those other projects ...(inaudible)...

Mr. Mardfin: So you basically study from the, the expected, expected base, based and current knowledge and going up by adding these units.

Mr. Rowell: Incrementally.

Mr. Mardfin: Not figuring out what the traffic would be if it was fully built out and then improving it.

Mr. Rowell: Exactly because things like this happen. It gets down zoned, densities change so it would be very impossible to kind of work the other way around.

Mr. Mardfin: Thank you very much.

Chair Hiranaga: Commissioner Ball.

Mr. Ball: This is a in general question I guess maybe for the Planning Department and then you. So they don't have water and they're basically last on the list do we approve now and they could wait 20 years, right? Or is that typical of thing like, project like this or?

Mr. Spence: I think it can be, it can be I don't wanna say typical but those kinds of things do happen where, you know, you need, you need any number of entitlements and permits in order to build homes. You know, the zoning or community plan is only one portion of that. In a perfect world, all these things would all be approved all at once but that's just not possible. So you get one entitlement, that entitlement enables you to go get another one which enables you to go get another one and so they kind of build on each other until at some point, yeah, you have your building permit in hand and you can start building homes. So there's, there's a lot of zoned property out there that,

you know, I mean, obviously there's a lot of people on the water waiting list that either they either, they have the proper zoning, they have everything in place, they just, you know.

Mr. Ball: Did we not say that they had to get the--they had to prove they had their water before their zoning?

Mr. Spence: No, it comes at subdivision, so this, this is one step in --

Mr. Ball: Right.

Mr. Spence: --in there process.

Mr. Ball: Okay, thanks.

Chair Hiranaga: Questions, Commissioners? I have another question. So I'm looking at the conclusions of the Traffic Impact Assessment prepared by Phillip Rowell which is the last page of our staff report before it turns to green. So the recommendation says that level of service at Old Haleakala and Pukalani Street and Pukalani-Iolani operate at unacceptable, unacceptable levels of service. Traffic signals at intersections of Old Haleakala Highway and Pukalani Street should be modified. So, and then No. 4, it's say westbound Iolani-Pukalani Street currently operate Level F, conversion of intersection from two-way stop controlled intersection to a four-way stop blah, blah, blah. So I'm wondering why are these comments not part of the staff recommendation? Maybe you can explain that when they...or is this more handled at the subdivision level? 'Cause I guess probably if say they get to the subdivision level three to five years from now this study might be outdated?

Ms. Dagdag-Andaya: I know from the Public Works side we will ask for a revised report as the project nears its approval or its other approvals. So in this case, we because it's a preliminary, I mean, this is almost kind of like a preliminary assessment report. I, I believe staff may have discussed with Phillip Rowell on the recommendations but as the, as time goes on and the project nears its final approvals then we'll ask for a more detailed report and work with the applicant and their consultant at that point.

Chair Hiranaga: Okay, thank you. Commissioner Mardfin.

Mr. Mardfin: It would seem to me that you don't put it a condition of zoning approval because it's not within the ability of the project to do anything about this. This is stuff that the County has to do in terms of changing signs, no?

Chair Hiranaga: No. It can fund the changes.

Mr. Mardfin: Oh.

Mr. Spence: Yes, then can fund it.

Chair Hiranaga: Director wishes to comment.

Mr. Spence: The, yeah, they, they, they can participate in funding whatever changes but as we're discussing, they're far down on the water -- on the list, I mean, it, it could potentially be any number of years before they start breaking ground as Deputy Director of Public Works is noting, you know, they'll work with the developer at that time. Conditions may have changed. You know, there may be slight modifications. So you don't want to lock these in as conditions of zoning. Because then what if the real requirement is something different than what the conditions say.

Mr. Mardfin: I understand and I agree. And, and our Chairman correctly points out that you wouldn't have asked for the changes to be made, but just that they fund the changes to be made because the changes are beyond the ability of the applicant to do anything about. It has to be the County that does it, but I can understand if you -- well, at the subdivision level they pay for whatever changes would be required. Thank you.

Chair Hiranaga: Commissioner Shibuya.

Mr. Shibuya: It's more of a comment here again. I don't see why, you know, the developer has to be paying all, but you're saying that you would be contributing toward the solution is that what I'm hearing? And so it's not a major portion of the contribution because the existing problem is from the existing community. And it has nothing to do with the, the current proposed development.

Mr. Spence: Or it has a very minor relationship to the proposed to development.

Mr. Shibuya: That's good.

Mr. Spence: Though Public Works, Rowena can correct, but at that time, Public Works will probably go out and assess the current conditions at that time, what are their improvements do they already have in the works. So there's gonna be a lot happening between now and the time that the subdivision goes forward.

Mr. Shibuya: Okay, I just didn't want the public or anyone to get the impression that the show stopper is this development where the problem is currently existing without the development.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, maybe have the staff recommendation.

b) Action

Community Plan Amendment

Mr. Dias: Thank you, Chair. I'll start with the Community Plan Amendment. The Department recommends that the Maui Planning Commission recommend approval of the Community Plan Amendment as listed in the staff report and as presented to you by the applicant and recommend approval to the Maui County Council.

Chair Hiranaga: Floor is open to a motion. Commissioner Shibuya.

Mr. Shibuya: I'll make a motion to accept and just make -- for approval of the change to the community plan and recommendation to -- of approval to the Maui County Council.

Mr. Ball: Second.

Mr. Hiranaga: Moved by Commissioner Shibuya, seconded by Commissioner Ball. Any discussion? Commissioner Shibuya.

Mr. Shibuya: I'd like to make a friendly amendment at this point. In Change in Zoning, Item No. 2, I would like to suggest a second sentence there after the word, "in the project," I'd like to recommend that, "it is recommended at least 40 percent of development energy use be proposed by renewable power converting systems."

Mr. Mardfin: Second.

Mr. Ball: Aren't we just working on the Community Plan Amendment?

Mr. Shibuya: No, this is zoning section.

Chair Hiranaga: Is your original motion Commissioner Shibuya relating to the Community Plan Amendment or are you addressing both applications?

Mr. Shibuya: Both.

Chair Hiranaga: Why don't we separate them?

Mr. Shibuya: Okay.

Chair Hiranaga: Why don't you restate your motion?

Mr. Shibuya: Okay, the motion would be to approve the Community Plan Amendment and to make recommendation to the County Council our approval.

Mr. Ball: Still second.

Chair Hiranaga: And seconder is in agreement.

Mr. Ball: Yes.

Chair Hiranaga: And discussion relating to the Community Plan Amendment, any discussion? No, discussion. Director, if you could repeat the motion?

Mr. Spence: Is to recommend approval for the community--recommend approval to the County Council for the Community Plan Amendment.

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

Mr. Spence: That's six ayes.

Chair Hiranaga: Opposed? The motion carries.

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

**VOTED: To Recommend Approval of the Community Plan Amendment as Recommended by the Planning Department.
(Assenting - W. Shibuya, K. Ball, L. Sablas, J. Freitas, I. Lay, W. Mardfin)
(Excused - D. Domingo, P. Wakida)**

Chair Hiranaga: Next application is the Change in Zoning.

Change in Zoning

Mr. Dias: Okay, for the Change in Zoning, the Department of Planning recommends that the Maui Planning Commission recommend approval of the designations as listed in the Department's report and as presented by the applicant and recommend approval to the Maui County Council subject to four conditions.

Chair Hiranaga: Open the floor to a motion. Commissioner Shibuya.

Mr. Shibuya: I'll make a motion to approve and to make recommendations to the Maui County Council with all the change in zoning, the four specific changes or conditions.

Chair Hiranaga: Is there a second?

Mr. Ball: Second.

Chair Hiranaga: Seconded by Commissioner Ball. Discussion? Commissioner Shibuya.

Mr. Shibuya: Make a friendly amendment in the Change in Zoning conditions, Condition No. 2, after the first sentence like to add, "it is recommended at least 40 percent of development's energy use be produced by renewable power converting systems."

Mr. Mardfin: Second.

Chair Hiranaga: Friendly amendment by Commissioner Shibuya, seconded by Commissioner Mardfin. From a procedural point of view, wouldn't it be better if you made that as a formal amendment because as a friendly amendment they may vote -- I mean there's only one main motion so if, if you don't get the votes for this friendly amendment it's gonna kill the entire motion. Personally, I would prefer to see your amendment handled separately.

Mr. Shibuya: We can come back to the main motion if it fails.

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: Yeah, I tend to agree with you on procedure. A friendly amendment is when you're in a discussion and there seems to be consensus and you just add it in then it doesn't require either a motion or a second or a vote. But that's not the way...and Commissioner Shibuya you could have done that in his original motion by adding those lines in, but he didn't do that. So now I think he needs to make a formal amendment not a, you can call it friendly because it's not antagonistic but it's not what we normally mean by a friendly amendment.

Chair Hiranaga: It requires a separate action.

Mr. Mardfin: And so it's a separate action and so I would assume -- when I seconded it, I was assuming it was actually a formal amendment and so that's what I was seconding.

Chair Hiranaga: Commissioner Shibuya, would you like this to be handled as a separate amendment, a formal amendment?

Mr. Shibuya: I'll go ahead and withdraw my motion.

Chair Hiranaga: The entire motion?

Mr. Shibuya: Entire motion in terms of changing in zoning. I would like to include that one sentence so I withdraw and so someone else can make the motion.

Chair Hiranaga: You can make the motion and include it in the main motion.

Mr. Shibuya: But it's already on the floor, right?

Chair Hiranaga: You can, you can withdraw it. I mean, you can withdraw your friendly amendment.

Mr. Mardfin: Mr. Chairman, I believe he's withdrawing his main motion and, and --

Chair Hiranaga: Let's do that. That's fine. There's no objection from the seconder?

Mr. Ball: No.

Chair Hiranaga: Okay. So, floor is open to a motion.

Mr. Shibuya: Okay, I'll make another motion again. This time, I'd like to make a motion to approve the Changes in Zoning with the four conditions with a amendment to Condition No. 2 to include a sentence following the first sentence in No. 2, "it is recommended at 40 percent of development's energy use be produced by renewable power converting system."

Mr. Mardfin: Second.

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

Mr. Ball: Discussion.

Chair Hiranaga: Commissioner Ball.

Mr. Ball: I guess I need a little clarification on No. 2 from Danny or Leilani, I guess. What exactly is that saying? Is that saying, if you go -- if we're just talking about the land, what kind of water conservation are you gonna do and energy, what kind of energy is the subdivision, are we talking about at the final product when all the houses are built, they all have to have photovoltaic and solar and all that sort of thing or what does this mean No. 2?

Mr. Dias: Well, as indicated by the applicant throughout this entire process, you know they were going to incorporate water conservation measures, BMPs, and also energy savings/generating devices and they were gonna incorporate them and put them in the CC&Rs so that any future homeowner would have to incorporate them into their homes. So we're just sort of reinforcing that with this condition.

Mr. Ball: By PV and solar?

Mr. Shibuya: Or they could be wind.

Mr. Dias: Or yeah, we're trying to make it broad enough that there's some flexibility there.

Mr. Ball: Okay, and then it says in future subdivision that there is no future subdivisions here because we just changed -- if this goes through we're changing those future lots to Park/Golf Course. So this is the only thing we're talking about here is this ...(inaudible)... because there is no other...the change in zoning that we did has no other potential for development if it is passed because --

Mr. Dias: No, no.

Mr. Ball: --that is changed to, the other future lots are changed now to open, not open space, Park and Golf Course.

Mr. Dias: Yeah, but that's correct. I think future subdivision is just referring to this subdivision.

Chair Hiranaga: Leilani?

Ms. Pulmano: Thank you. Commissioner Shibuya, would it be possible to add at the end of that sentence, "as allowed by MECO." Because as we know that MECO has some limitations frankly and we just don't wanna tied to this condition if MECO does not allow this one particular --

Mr. Shibuya: Right, I understand the cap on the various circuits and so that's taken well, well-taken.

Ms. Pulmano: Okay, great. Thank you.

Mr. Shibuya: Please add. That's a friendly amendment, right?

Chair Hiranaga: Yes.

Mr. Ball: So you wanna change the 40 percent to that, to allowable by MECO or you want --

Mr. Shibuya: No, no, no. It's after, "the power converting systems," comma instead of a period, "as allowed by MECO."

Mr. Mardfin: And as a friendly amendment that's accept -- it's acceptable to the maker and it's acceptable to seconder.

Chair Hiranaga: Thank you. Any other discussion?

Mr. Ball: I'm waiting for you to call on me.

Chair Hiranaga: You have to signal the Chair that you wish to speak. There you go. Commissioner Ball.

Mr. Ball: Is that acceptable to the applicant? I mean, is that going to change the price of the lots or whatever you're gonna build there?

Chair Hiranaga: Please come to the microphone if you wish to speak and identify yourself.

Mr. Wong: Elton Wong, Kobayashi Group. It's acceptable. Thank you.

Mr. Ball: And just for clarification, so we are saying like water conservation, they gotta have like low flow stuff, right and then you gotta have the PV and you gotta have solar and all these other additional costs to your house.

Chair Hiranaga: If you look at the language carefully it's recommended. It's not shall. There's a difference. If the maker of the motion wants to restate his amendment to the staff recommendation, I believe it says, it is recommended. It's not a mandate.

Mr. Ball: Oh, okay. ...(inaudible)...

Chair Hiranaga: Commissioner Lay.

Mr. Lay: I just have a question on the 40 percent. What is this based off of? What are we working at to get that 40 percent at?

Chair Hiranaga: Commissioner Shibuya.

Mr. Shibuya: I can address that. This is a brand new housing and when you turn the key on this

new housing. It's gonna need energy. And the Hawaii Revised Statutes requires that MECO sell 40 percent of its renewable energy by end of 2030. Today we're not even close to that and we -- they keep on building more homes and new units and we have more requirements for power where do we draw the line in the sand and say, folks we've got to step up to Hawaii State Law? It's just a recommendation that you volunteer and be part of the solution or be part of the problem.

Chair Hiranaga: So the 40 percent that you're coming up with is stated in the HRS?

Mr. Shibuya: Yes.

Chair Hiranaga: Thank you. Any other questions from -- discussion, Commissioners? Seeing none, if the Director could restate the motion?

Mr. Spence: I'm not sure that I can. Is approval for the zoning with the four conditions with the addition of the language, Danny do you have the language down?

Mr. Dias: Yeah, the second condition after the first sentence, including a sentence that reads, "is recommended that at least 40 percent of the developments energy use be produced by renewable power converting systems as allowed by MECO." And continuing with, "this requirement shall be included in the CC&Rs of any future subdivision, etc."

Chair Hiranaga: So question. Is it clear that this burden of 40 percent renewable is on the homeowner and not on MECO? Or are you saying that the house can't be built unless MECO has 40 percent renewable energy source?

Mr. Shibuya: No, it's just a recommendation.

Chair Hiranaga: No, but--is the language saying MECO needs to come up with 40 percent or is it the homeowner needs to come up with 40 percent?

Mr. Ball: Is it individual or is it half--40 percent of the subdivision and the 60 percent doesn't have to do anything?

Mr. Shibuya: It's the development that comes up with it.

Chair Hiranaga: Danny, you think it's clear enough?

Mr. Dias: Give me a second here. Okay, the applicant has stated that because the language says that at least 40 percent of the development's energy to them it's pretty clear that it's their responsibility.

Chair Hiranaga: Okay. All right, we clear on the motion? Commissioner Ball, you have a question?

Mr. Ball: I still don't think it's that clear because the homeowner and the developer are two different things. And how is -- if you require it in the CC&Rs, it doesn't seem --

Mr. Dias: Yeah, point taken, but I think Condition No. 2, the last sentence sort of indicates that it is the homeowner's responsibility. It says this requirement shall be included in the CC&Rs of any future subdivision. I think maybe we should change the word, "any" to "the future subdivision" or something to --

Mr. Ball: Well, that's fine. But the 40 percent, who is that, the first 40 percent people that move and build in there and then the rest are -- the requirement's met.

Mr. Shibuya: No, statistics wise the first 40 percent to move in they do 40 percent, the remaining 60 percent of the people still have their 40 percent. Because if you do the math, it doesn't come out with 40 percent for everybody unless everybody is in there.

Mr. Ball: At the end.

Mr. Shibuya: That's correct.

Mr. Ball: So it has to be --

Chair Hiranaga: Commissioner Ball.

Mr. Ball: So it has to be divvied up at the beginning on these are the requirements that you're gonna have to do to build your house in the CC&Rs then.

Mr. Shibuya: Right.

Chair Hiranaga: So we'll staff wordsmith that with Corporation Counsel and the applicant, but the intent is to place the burden on the homeowner to achieve 40 percent. Is that clear with your maker of the motion and Corporation Counsel wishes to speak.

Mr. Giroux: Yeah, since you threw me into the mix again. He wants me to draft something.

Chair Hiranaga: Wordsmith.

Mr. Giroux: My concern is that this is again, it comes back to it's a recommendation, right. What I would, what I would strongly recommend is that instead of it being a condition because as Keone said it's easier to enforce conditions if it says shall, that you get a commitment from the developer that this will happen and one of your conditions is that any, any representations made by the developer to get the zoning needs to be followed up on and that way it is memorialized that the intent of the body is that they're seeing this as conforming to State law in pushing and furthering the renewable energy concept because come end of the day, I think it's going to be very hard for Planning to read that condition and say, have they met or haven't they met it. I mean, we can, I guess Planning at building permit could look at their CC&Rs and see if it's included but even then it's kind of hard if, if the phasing of the project isn't as we imagine it, and also being that if it's built 20 years into the future, these types of initiatives might be different. I mean, we might even have a whole new technology that we may be forcing them to build a crappy neighborhood whereas the technology available would have actually made them be able to build an awesome neighborhood

being that we can't see 20 years into the future. So I think the intent if we get the discussion on the record and a commitment from the developer that they will follow State law in driving forward that policy of getting their property to conform to this renewable energy. Otherwise, I think we really we get into a choppy system that, that really doesn't work the way we think it will work in the future.

Chair Hiranaga: Thank you Corporation Counsel. Point well-taken. So if there's no objection from the maker of the motion, you'll revise your motion to basically – Commissioner Mardfin?

Mr. Mardfin: Mr. Chairman, I think we ought to leave the words the way they are. I don't think he should revise his motion. But I do concur with Corp. Counsel that we ask the developer to make the commitment here so it's included in it, but if we take the words out then there won't be any guidance in the future. I agree with our Corp. Counsel that it's sometimes hard to determine everything that was done. If we have a commitment now that's enforceable and we have this language in there, I think it, it helps. I don't see, see the language in there harming it in any way particularly because it's a soft recommendation and then we get the hard commitment from the applicant. So I would urge that we not change the words. We pass it as is, but before we pass it, we get the commitment from the developer.

Chair Hiranaga: And what is the position of the maker of the motion?

Mr. Shibuya: The position is that the basic idea here is to make everyone aware that especially those who want to build in this area or have new development that there is a State law and that if you are gonna be using new energy so to speak then you need to use at least 60 percent new and you provide at least 40 percent.

Chair Hiranaga: Let me restate my question. Do you wish to have your motion stand as stated?

Mr. Shibuya: Yes.

Chair Hiranaga: Personally, I would follow the advice of Corporation Counsel. If we get a statement from the applicant for the record, I think it's cleaner than placing like you said a specific percentage requirement into recommendation to Council for a change in zoning because, you know, it may be obsolete or it may be contrary to State law in the future which will complicate their process. So, personal opinion, I would agree with Corporation Counsel's advice. Any more discussion on the motion? If not I will call for the –Commissioner Mardfin?

Mr. Mardfin: I would like, will, can I ask the applicant if they will make that commitment?

Mr. Elton Wong: Elton Wong with Kobayashi Group. I like the recommendation that Mardfin made. It gives us some flexibility. Right now, with the tax credits, with the energy cost and everything that's going on, photovoltaic makes perfect sense in this world. I don't know what the world is going to be when the subdivision goes up but, you know, in terms of fully going to, you know, alternate energy it really does make sense. So my –

Chair Hiranaga: The question is ...

Mr. Wong: – my commitment is there, but I want to ...(inaudible)... also is that I do not know what's going to happen in the future and that's a difficult thing for me to say, shall do it.

Chair Hiranaga: No, no, the question is are you willing to make a representation here for the record that you will basically recognize his recommendation so that it's not placed as a condition in our recommendation to Council for a zoning change?

Mr. Wong: I can recognize that.

Chair Hiranaga: Thank you. Does that answer your question, Commissioner Mardfin?

Mr. Mardfin: That answers my question. I intend to vote for the motion as it stands with the language in there. It may make the language redundant but I don't think it does any harm to have it in there since we have the commitment of the applicant.

Chair Hiranaga: I disagree, but if there's no further discussion, I will call for the vote, all in – Director, you seem to like want to say something?

Mr. Spence: No, I'm, I'm anticipating the vote. I'm ready to count. I'm leaning forward so I can see all the Members.

Chair Hiranaga: Okay, I'll call for the vote. All in favor of the motion as stated, please raise your hand?

Mr. Spence: That's two ayes, three ayes.

Chair Hiranaga: Three ayes. Opposed?

Mr. Spence: One, two, three nays.

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

The Motion to Recommend Approval of the Change in Zoning with the Four Conditions and with the Amendment to Condition No. 2 Regarding to Renewable Energy, FAILED.

(Assenting - W. Shibuya, W. Mardfin, L. Sablas)

(Dissenting - J. Freitas, L. Lay, K. Ball)

(Excused - D. Domingo, P. Wakida)

Chair Hiranaga: Motion fails. Floor is open to motions. Commissioner Shibuya?

Mr. Shibuya: I'll make another motion then. The same that we approve the Change in Zoning and for Condition 2 that we adopt the language that Corporation Counsel has mentioned to be included into Condition 2 and that will be the only change.

Mr. Freitas: Second.

Chair Hiranaga: What language did Corporation Counsel just mention?

Mr. Giroux: To clarify, that would be the language regarding that they will follow any commitments that they have made in order to obtain the zoning I believe was the language.

Mr. Shibuya: Yes.

Mr. Giroux: So that's on the record.

Chair Hiranaga: Motion so stated. Is there a second? Oh, seconded by Commissioner Freitas. Any discussion? No discussion. I'll call for the vote. All in favor, please raise your hand.

Mr. Spence: That's six ayes.

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

**VOTED: To Recommend Approval of the Change in Zoning to the County Council as Recommended by the Planning Department with the additional language recommended by the Corporation Counsel included in Condition No. 2, "that the developer will follow commitments made in order to obtain the change in zoning."
(Assenting - W. Shibuya, J. Freitas, L. Sablas, I. Lay, K. Ball W. Mardfin)
(Excused - D. Domingo, P. Wakida)**

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

A recess was called at 10:30 a.m., and the meeting was reconvened at 10:40 a.m.

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

Mr. Spence: That would be for Mr. Rory Frampton on behalf of Mr. Clint Hansen requesting a County Special Use Permit in order to operate a commercial paintball field on the westside and our Staff Planner is Ms. Kathleen Aoki.

- 3. MR. RORY FRAMPTON on behalf of CLINT HANSEN requesting a County Special Use Permit in order to create and operate a commercial paintball field with related improvements in the County Agricultural District on approximately 10 acres of land located in the vicinity of Olowalu, 814 Honoapiilani Highway at TMK: 4-8-003: 113 (por.) and 114 (por.), Lahaina, Island of Maui. (CUP 2011/0001) (K. Aoki)**

Proposed improvements include enclosing an 8-10 acre area with paintball specific netting and fencing, constructing a paved parking lot, installing a private individual wastewater treatment system, water lines and drainage basins, and using a temporary, mobile office trailer for administrative purposes.

Ms. Kathleen Aoki: Good morning, Commissioners. This morning we have before you a request for a County Special Use Permit on Ag designated property in the Olowalu vicinity. It's a ten-acre piece of property that's located on two lots. I do have the consultant here this morning who will be providing you with a brief presentation. So with that, I'd like to call up Mr. Rory Frampton.

Mr. Rory Frampton: Thank you and good morning, Commissioners. I'm Rory Frampton, the land use planning consultant on behalf of the applicant, Clint Hansen. And we're here for the Hansen Maui Paintball Field. Just a little about Clint. Clint grew up on Maui. Graduated from highschool then he went away to college. While he was in college, he had this idea that there should be a paintball facility on Maui. This was like in the early 2000's, and he kind of started looking when he'd come home from school and couldn't find a place to do it. Couldn't find a large landowner that would be willing to do it. He graduated in 2006, and a years later basically zeroed in on this Olowalu parcel that we're, we're looking at. Since then, you know, we've been in the -- I've known Clint now for almost two years. His wife has since had a baby and their little girl was here earlier. But Clint is a professional, he does real estate with his family. They're a very successful real estate company but this is really his passion to see this facility operate on Maui. So that's just my introduction. I'm gonna go through just a few slides to orient the Commission to where we are. There's a lot of testimony in your packets. I'm going to refer to one of those and then we'll be open for question and answer.

So the project summary is that it's a commercial or recreational paintball field which is also referred to as action pursuit games. These action pursuit games involves going out to a play field, there's obstacles, in this case actual trees and barriers and they, they play a variety of different games like capture the flag or survival or all that kind of stuff and they generally use air-powered markers are what they're called and it's an object that, you know, when you get hit by the object you're, you're out. That's in a very--that's a very simple way. There's many variations of, of the types of action pursuit games that can be played. The field is about ten in acres in size. It's located between the Olowalu Transfer Station and Olowalu Store mauka of Honoapiilani Highway and the access is via the Olowalu Transfer intersection. The improvements to the property would be driveway -- there's a driveway access and a parking area and I'll get back to the parking area in a little while, an office trailer, perimeter fencing to keep any kind of the markers from flying beyond the perimeter of the facility and other minor landscape and drainage improvements.

This is a location map showing the property. As you pass through Olowalu if you're heading towards Lahaina you go pass Olowalu Store, pass the stream and it would be on the mauka side of the road. This is a -- that green arrow is where Olowalu Store is. This is where the facility is and it's -- straddles two larger lots that were part of the Olowalu Mauka Subdivision. This is the map showing the various archaeological features that were found in the area when they did do a Archaeological Survey on the area. This, this photo was taken when the property was in sugar

cane use so the property was previously cultivated for most of the last century. The site -- the nearest site is Awalua Cemetery which is a cemetery that has a 60-foot buffer area with a barbed wire fence around it. We've specifically had -- we had concerns about this. I wanted to make sure that there was no chance that paintballs could go flying over and somehow land in the cemetery and we actually went out to the field and stood with our backs towards the cemetery and shot paintballs as far as we could make them go with a souped up gun and it took at least two shots to get over there and we have...Clint actually, he's a paintball fanatic. He found me an article that talks about how far paintballs can fly and they're generally about 300 feet. It's because of the round cylindrical object, there's a lot of air resistance, so it will go for a while but eventually the gravity and wind resistance slow the ball down and they, they drop. Actually the farther you are away, the slower the balls -- the balls that we were shooting very far away wouldn't even break. The ones that you shoot up close. They'd splatter all over the place. Anyways, so that was a concern in terms of the archaeological site and we do have a letter from the State Historic Preservation Division that acknowledges that there'll be impacts to archaeological features in the area.

The access to the operation, this is the highway running to Lahaina and here's the access to Olowalu Refuge and Recycle Station. There's a canehaul road that runs parallel to the highway and that's going to provide access to the field. This is a blow up of the intersection. There's a left turn lane for people who are turning into the recycling facility and that's the way that the people will go into the project site.

Just to show the plat map, this is the--on the plat map of the subdivision the preservation area for the cemetery was carved out and the cemetery's actually within this, this plot, this 2.3 acre parcel, so it's in there and that includes the buffer area. This is a rough layout of the site. We'll come into the project site on the drive--on the driveway. I'll have gravel area for parking and a staging area with an office trailer. Clint already purchased an office trailer when the Maui Land and Pine went out of business at that auction. So he has one of their old office trailers onsite not being used, but waiting for this approval. In that staging area they'll have things like a...they have this tranemometer which will track the speed of the guns. They're gonna make sure that the guns that are used on the facility are below a certain feet per second and they have a machine that you can test this. So they'll have a little place. If you wanna bring your own gun in, you come in there and you do the test shots and they make sure that you're not above a certain speed and then you're okay to play. And just as I mentioned that it is important to note that he will have to have insurance and, you know, comply with all the safety guidelines and safety standards that would be needed for a facility like this. Believe it or not, it's a very sophisticated industry. We used a--we referenced a guidebook that's about 300 pages long that a guy in Colorado put together. It was very useful that Clint actually purchased and Clint, Clint's the one that's done all the groundwork on it. He's just referred me to all these sources.

The, the we mentioned the drainage basins to capture the runoff that will increase. There won't be a lot of increase from the, the, from the action because really it's bringing an office trailer onsite, will have to be a restroom and then the slight increase imperviable, in the permeability of the soil with bringing in gravel, but really not much. The one thing that would impact the runoff is that the public -- the Planning Department is currently requiring paved parking and a paved driveway access. We were hoping that the Director could use his discretion to allow for an alterative surface which would be select borrow. Select borrow is what you use when you pave roadways and you

bring in about three, four inches of that and it provides a very nice compact setting that's permeable, doesn't increase the runoff as much and given the temporary nature of this operation we felt that was more appropriate. When we met with Planning, they were fixed on -- well, Staff was making sure that it complied with the parking ordinance. There's nothing in the parking ordinance that talks about open land recreational uses just like there no requirement for agricultural operations. But they felt the need to require the paved parking. So I, I throw that out and we'll see how that discussion goes in a, in a -- if all things went really well today, we were gonna ask for the Commission to endorse a recommendation to the Planning Director asking that he waive the requirement for paved parking.

This is just the perimeter fencing that they're gonna have around the area. The fencing will be offset from the canehaul road and they'll have sections of 20-foot fences as well as well as 12-foot fences that would keep objects from flying out. This photo shows and the previous one does too, one of the reason why this site was selected and it's because of these mature trees that are in the area and they're ...(inaudible)... trees and some kiawe but they plan on cleaning them out and the photos that I have don't show that canopy as well as the photographs in your staff report. Kathleen took some really good photos. So if you have time and you flip through her photos in that report it shows the, the, the canopy of the trees and that's really important because when you get all bundled up in all the safety gear, if you didn't have the trees or the shade you'd cook out there in the hot fields of Olowalu. So it was real important to have these trees and they also provide the natural obstacles that people can use as they're playing their game.

This is just a--oh, this is just a slide that shows the 600 feet to the cemetery. This is the intersection at the Olowalu Transfer Station looking towards Lahaina an that's the left-turn storage lane that provides people an opportunity to pull in there and that's the canehaul road that goes down to the project site. That's the conclusion of my PowerPoint and I just, I just would point, I wanted to point out, I promised that I would point out some of the testimony that was submitted, one was by my nephew and, and, and his friend Taka Tsutsui. They are part of the Eagle Task Force. They formed a little team that they play every weekend and do soft ball and they did this on their own. He heard about the facility and he called me up. He goes, Uncle how can I, how can I make sure these guys approve this thing? And I said, well, write a letter. So they wrote a letter and interesting...these are points they brought up on their own and they, they gave you 11 reasons why you should support it and some of them I thought were kinda good. First one, they said it brings communities and people together, nice chance to make friends. Helps with the economy. It's better to have legal field than to trespass, etc., etc. And I like No. 7, get out and be active rather than sit at home and play games like Call of Duty or Halo. Actually be in a battle in real life, of course, not with real guns. So these kids are great enthusiasts of the field and you'll, you'll see in the, in the testimony various comments towards that and it will be open for both tourists and kamaainas alike. So that concludes my presentation. If you have any questions, either myself or Clint would be happy to answer them.

Chair Hiranaga: Thank you. Does Staff have any additional comments they'd like to provide?

Ms. Aoki: I do have one comment that I'd, I'd like to add is that this morning I was given all the testimony that came in and I didn't -- I was actually kind of blown away at how much support has been given for this project. So I, I find that unusual in case before the Planning Commission. So

I think that's important to note. Thank you.

Chair Hiranaga: Thank you. At this time, I will open the public hearing.

a) Public Hearing

Chair Hiranaga: Is there anyone here wishes to provide testimony on this agenda item, please come forward and identify yourself and please limit your testimony to three minutes.

Mr. Garret Uesugi: My name's Garret Uesugi. I'm the owner of Island Hobbies. We sell paintball equipment on this island. I've been in business for 18 years and 12 of them doing paintball. First, I'd like to bring up the safety aspect of paintball. It's a game of tag. Don't think of it like terrorists or guns or anything like that. It's really a game of tag. Many people play it. Churches bring their groups to paintball fields to do bonding. The hotels would bring, and I'm, I'm referring to when D&D was open was Upcountry. I don't if anybody remembers D&D, but when they was open Upcountry, hotels would bring up their employees up there to, to do bonding. Mike White used to always bring up his bunch of employees. Keith Regan, County Managing Director, used to own a paintball store so he's familiar with it. It's a, it's a well -- good sport. And the safety aspect of it is statistically paintball is safer than, of course, football, it's safer than tennis, it's safer than bowling. You can look it up online. It's really safe if you look statistically wise if you play on a field that is set up for it. Now currently on Maui there is no field. Hasn't been one for probably at least six years now when D&D got closed down, five, six years now. And so people play what you call, renegade which is, you play backyards, you play illegal in other people's properties and try get away with it and so forth. It's just the way it is right now and, and luckily injuries haven't been great but I feel that we need to put something on Maui like a field again to -- so that the people of Maui is protected and of course, tourist also come to Maui to use it. I get calls all the time from concierges of the hotels and also from tourists that they're coming to Maui where can they play paintball. There's no place. I tell 'em you gotta go Honolulu. Other than that, that's it.

Chair Hiranaga: Questions, Commissioners? Commissioner Shibuya.

Mr. Shibuya: Okay, thank you very much for your testimony, Mr. Uesugi.

Mr. Uesugi: Uesugi, yeah.

Mr. Shibuya: On the paintball, that little ball what is it made out of?

Mr. Uesugi: It's, it's biodegradable. The shell is gelatin. The fill is made up of water and like, like, like what is the ink called, food coloring. And it's, it's made to just disperse and go away. It doesn't cause any hurt to soil or hurt to anything.

Mr. Shibuya: So there's nothing to pick up after? In other words, that little ball's shell?

Mr. Uesugi: Yeah, when a, when a, when a good rain comes through everything just dissolves and goes away.

Mr. Shibuya: Including the shell?

Mr. Uesugi: Including the shell which is gelatin. It's made out of gelatin.

Mr. Shibuya: Okay.

Mr. Uesugi: And, well he said 300 feet. It actually flies about 200 feet unless you got a good, maybe wind coming in the back or something I guess.

Mr. Shibuya: Okay, thank you.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: What -- I understand this has a very low injury rate. What kind of injuries do occur when an injury does occur/

Mr. Uesugi: Mainly the eye. The one thing that we always fear whenever I sell the equipment I always explain to the customer that you can get hit anywhere and you'll get a bruise or it will, you know, sting a little then it goes away, but the eye, if you get shot in the eye, you can lose your eye and it has been done on this island a couple times that I know of. People go play renegade. They never had a injury like that when had the field up D&D Upcountry. But when people are renegade and what usually happens, you know, you wear a mask, you run around shooting the paintballs and a lot of times people because there's no person managing them playing they run around and they'll get what's called stupid, they'll take off their mask 'cause oh, I wanna look around, I see better without the mask, and ... that's when they get hit in the eye, and that's what to worry about. But as far as the statistics wise, if you look on line, they talk about, I guess sports and, and how much people play it versus go to the hospital and paintball is really low on that totem pole.

Mr. Mardfin: Second question. I understand, you know, I somewhat presume that a local resident would have their own equipment but I sorta doubt that tourists or visitors are bringing in paintball guns. I wouldn't try to mess with the airline regulations, so are you, is there facilities, do you rent out the equipment or would the applicant rent it?

Mr. Uesugi: No. As a business that sells equipment, I don't rent out equipment because the liability issue is here. A field, that's what they do. They have the facility that they rent out the equipment. They manage the people playing on the property to make sure that no injuries occur. They have insurance. They have all the proper safety aspects associated with it. So what I do is sell the equipment. People already play. If they don't buy from -- they going by from whoever, Walmart, Kmart, Sports Authority or the internet. So as far as I explained it as best I can, the safety implications of playing it but that's as far as it goes.

Mr. Mardfin: One more quick one. Is there paintball machine gun sort of things or rapid fire?

Mr. Uesugi: Yeah, rapid fire. They got different type of markers. They got pump guns and they got rapid fire guns that can shoot up to 15, 20 balls a second.

Mr. Mardfin: Wow, and what kind of magazine do they have?

Mr. Uesugi: Well, they have these little hoppers on them that hold a couple hundred balls in them.

Mr. Mardfin: Okay, thank you.

Chair Hiranaga: Any other questions? Commissioner Lay.

Mr. Lay: Mr. Uesugi, in your dealing with all these people purchasing these paintball guns and then their equipment and you having seen these I don't know, what would you call it, battles before, what large groups are we looking at, you know, as far as where you've seen before you have turn outs?

Mr. Uesugi: On Maui or...?

Mr. Lay: On Maui.

Mr. Uesugi: On Maui, I would say up at D&D as far as just a local event only we had this league tournament every month. I've seen as much as 14, five-man team show up on a, just from locals, and that's what is this like 70 people, and, and that would be the monthly thing as much as that much. And then as far as, we would also have tournaments that that was put on that outer island guys and even mainland guys would show up, and I'd say we had 100, at least 100 people show up to play this sport on this island.

Mr. Lay: So there is a big need for this and interest in it still going on then?

Mr. Uesugi: Yes, it's still going on. Now of course, when the field Upcountry closed, the sport kind of dwindled, with the economy too and everything but it kind of dwindled, but you know, of course it's gonna, it's gonna grow again once something else that's just where --

Mr. Lay: With the facility it will.

Mr. Uesugi: Yeah.

Mr. Lay: Okay, thank you.

Chair Hiranaga: Any other questions for the testifier? Seeing none, thank you.

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

Mr. Glen Kakugawa: Aloha, my name's Glen Kakugawa. I'm here in support of the proposed paintball field that they're going to be doing in Olowalu. I do play paintball. I play paintball for many years. I haven't played for a while because there is no safe regulated field here on Maui so I'm just in support of it. It's very safe from experience in the past I've played in several different states and here on Maui as well when there was one Upcountry. So it's safe, it gets kids outside, you know, it builds teamwork, it builds trust, so I'm definitely in support of it. Thank you very much.

Mr. Hiranaga: Questions? Commissioner Mardfin?

Mr. Mardfin: Just a quick one. Do they usually charge for use of the field for this?

Mr. Kakugawa: Yes, field rental. It's actually not my field. So I'm not too sure of the details of what the price would be or what the field would be, but usually yes.

Mr. Hiranaga: Commissioner Shibuya.

Mr. Shibuya: I'm not a paintball player but I, can you educate me. There's apparently some kind of gun or projectile?

Mr. Kakugawa: Yeah, you use a paintball marker. There's industry standards that make 'em safe. They have to be shooting under a certain velocity. There's protective gear, there's safety briefings for the players at the field, so statistically they say it's safer than bowling, it's safer than golf for all you golfers out there, I know how dangerous it can be, but it's a very, very safe regulated sport when done in the right environment, so.

Mr. Shibuya: And the ball is how big and...

Mr. Kakugawa: It's a .68 caliber paintball, so.

Unidentified Speaker: About a bombucha marble or smaller.

Mr. Kakugawa: So yeah, it's about a .68 caliber paintball made with food products so it is fully biodegradable.

Mr. Shibuya: Oh, okay. And so it's easy to take off the stain.

Mr. Kakugawa: Yes, yes. My mom when I played when I was home was very happy that the stains came out, so. The grass stains however are another story, but paintball stains, yes, they do wash out.

Mr. Shibuya: Okay, thank you.

Mr. Hiranaga: Any other questions, Commissioners? Seeing none, thank you. Anyone else wishes to provide testimony please come forward.

Mr. Bert Freeland: Good morning, Commissioners. My name is Bert Freeland and I would like to speak in support of the paintball groups. I support by business partner in it and I know they're good stewards of the land having just witnessed them haul off a truckload of trash from the area that was dumped there by residents. So it's a community-oriented sport and I know these people will be a very cognizant of what they're doing and as the assistant to the Medical Examiner I've yet to pick up anybody killed with a paintball gun. Thank you.

Mr. Hiranaga: Question, Commissioners? Seeing none, thank you.

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

Chair Hiranaga: Anyone else wishes to testify regarding this agenda item, please come forward. Seeing none, public hearing is now closed. Open the floor to questions from Commissioners to the applicant or to Staff. Commissioner Lay.

Mr. Lay: Rory, okay, I know there's been a lot of concern as far as the graveyard being far away where these shots won't reach. What is it with the highway? I mean, I'm worried about, you know, shots reaching the highway also?

Mr. Frampton: That's another concern as well and so that's the reason why we have the perimeter fencing and also, the area closest to the highway is the area that's most vegetated and so the, the, the objects just can't go through the trees. It's very hard to go through the trees. There's one area where there's a little open or it was an opening. This aerial photo is a, I think, 2005. It's since grown up a lot, the vegetation's even thicker, but in that area where there was like a little puka, he's putting up 20-foot high fencing in that area. And the other thing too is just the nature of games, is that most of the activities will be more towards the center of the field and so like the primary game that they play is like capture the flag. The flag might be somewhere in the middle over here. People will start from down here and actually head up that way. So he's thought about that and he wants to get people kinda more playing, not playing right near the perimeter errant shots could go that way. There's the vegetation and then there's the fencing. And he's very aware of that possibility and wants to make sure that something like that didn't happen. There'll be strict rules in the facility. If anybody starts messing around and try to pop things out beyond over the fences, they get booted from the place.

Mr. Lay: Okay.

Chair Hiranaga: Commissioner Lay.

Mr. Lay: Okay, so we have our different, I guess, I'll just use the word, terminology as far as the battlefield areas, right. What are we looking at a urban area, jungle or are you doing a mixed use type of thing?

Mr. Frampton: It's mostly gonna be natural type things. There will be some objects that will be appended to the trees and, and the like, and he will be bringing in other types of objects in the future and then just kinda grow slowly in that regards. He has a arrangement with the landowner that when he's pau with the facility, he plans on being there for a while, but we -- if, if in the future he needs to relocate, he will clean up the site and restore to its previous condition.

Mr. Lay: 'Cause on Oahu you've seen on the side of the highway where it's just kind of like a hodge podge, I'll just say a hodge podge of barricades and that sort of thing and I'm just worried about, you know, keeping it visually nice.

Mr. Frampton: Yeah, that's, that's a concern as well, and the fact that you have a lot of this thick vegetation as you're driving by and combined with the netting itself, you really won't be able to see to the interior of the facility.

Chair Hiranaga: Just kind of a follow up question. I guess he has a lease for this property. Why not move the field further away from the highway? Why have it about the canehaul road?

Mr. Frampton: As I had mentioned earlier, the main -- they will, they can pull it off a little bit, but the main advantage of the site is the trees and as you proceed further up, you see how it's a lot more open and it just becomes a lot more difficult because there's no shade and especially during the summer months to have people running around in the sun with all of the protective gear on, the shade and the heat is a major consideration.

Chair Hiranaga: Commissioner Ball.

Mr. Ball: I have two questions. One is your lease? How many years is your lease?

Mr. Frampton: It's, it's a license agreement and it's pending results of this hearing, but we're looking at right now five years probably.

Mr. Ball: My second question is maybe for Rowena but maybe for Will also. There's an ingress storage lane coming from the Lahaina side. And I don't want this to fall on you at all because I know this would, would kill the project because it's expensive to do. However, an exiting storage lane heading toward Wailuku could potentially be created, I mean, there's a lot of striping there, because right down the street we approved a -- for the State DOT they're gonna repair the seawall down there, and maybe at the same time they could through some coordination and some common sense they could re -- maybe restripe that. I don't know if there's enough room there or if they're gonna repave that down to that 'cause I mean, it's right kinda there at the, at the -- on the right side of the screen and, and further on, maybe an egress storage lane. Because if, if you're gonna have a tournament, I know that you probably won't have a 100 but you might and they're all gonna leave at the same time. And a lot of times, you know, one way open up on the highway and then the other side opens up and you can never get across there, but if you had a egress storage lane it might help that situation and I'm not by any means trying to put that on the applicant to do that because I know that will be expensive and it will be time consuming also. But maybe the Planning Department can coordinate something like that with the State DOT if it's possible. If it's not, then --

Chair Hiranaga: You want the Staff Planner to answer this question because he directed to you?

Mr. Spence: Well, I think the applicant's representative has an answer to that specifically.

Mr. Frampton: I'd like, like to think so. We appreciate your comments and your concern about making sure that the burden for improving that intersection doesn't fall entirely on the applicant's shoulders. There is a condition when we get to that section that the applicant provide an update of the traffic assessment report within six months after operating and that was because, you know, the, the, the traffic consultant who was here earlier, Phillip Rowell, he did a, he did a assessment and he said he didn't really think there'd be any impacts but he noted the concern about the making a left out of the property and wanted to come back and take a look and kinda get a visual check once it's in operation and then make recommendations to DOT. So that's already as a condition and I could represent that after this meeting, I can go check with State DOT Maui personnel to see if they can incorporate that. I think you had very good suggestions regarding as the package for

the widening and the seawall improvements that are taking place down the road or just part of their routine, you know, analysis of intersections that they do ongoing when sometimes they'll come in and actually just restripe it on their own. I can...so those two things. One there's a condition for us to do--to take, actually take a look at it and turn something into DOT and then secondly, we can actually contact them to follow up on your recommendation.

Mr. Ball: Chair?

Chair Hiranaga: Commissioner Ball.

Mr. Ball: Because I don't think that the, I don't think the impact is gonna be there, impact, because there's just not enough people coming out of there. So I don't want it to get lost in that mix like, oh, no there's no impact so we can't do it when, when, when it should be done because the one person that's trying to get out or the 20 or whatever in that group that's trying to get out there is an impact, but in the grand scheme of things, there isn't. So I don't want it to get lost in, in a study where they're just looking at numbers and well, there's only 30 people coming out of here.

Mr. Frampton: And that's precisely why the traffic consultant wanted to come out and visually take a look at it once it's in place because his numbers doesn't -- do not indicate any problems but he'd rather see how it's--that intersection operates and his primary concern was the left-turn exit.

Mr. Ball: Thanks.

Chair Hiranaga: Just a comment. Sort of a catch-22. The more successful this potential proposed operation becomes the more likelihood intersection improvements will be required and I believe it will be highly unlikely that the State of Hawaii would pay for those improvements since the condition is generated by a private entity. Commissioner Mardfin.

Mr. Mardfin: Mr. Chairman, I believe Kathleen want to address herself to that issue. Can I ask?

Chair Hiranaga: Kathleen.

Ms. Aoki: Thank you. I did want to let the Commissioners know that I did speak to an engineer on Oahu about this project because I live in West Maui. I drive on that road everyday, twice a day and I've come out of that intersection and there's times you can get out in a second, there's times it will take you ten minutes to get out. There seemed to be no movement on the State's part to form an, you know, an exiting storage lane and I did sort of mention it, and I agree, it has nothing to do with this project. That kind of condition already exists. Comparatively though when you look at Ukumehame firing range which is heavily used on the weekends and certain days during the week, they have no storage lanes whatsoever, and yet everybody manages to get in and out. So when you compare it to that facility, I can see the non motivation of the State DOT to improve the intersection at Olowalu.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: Rory, what's the distance between, if you can go back to the shot of the field, that one.

What's the distance from the lower fence to the highway?

Mr. Frampton: I'm guessing about, about 80 to 100 feet if to the edge of the highway from the -- where that green line is right now to the mauka edge of the highway I'm guessing 80 to 100 feet.

Mr. Mardfin: So if somebody wanted to try to lob one onto the highway they'd be able to?

Mr. Frampton: Well, the trees would be in the way, number one; and number two, with the 20-foot fencing, you're gonna have to get even further back in order to clear. You know, so there is some buffers in there and the operator's surely gonna keep people away from that portion of the field even more so, so...

Mr. Mardfin: What's the maximum height? If you shot straight up, what's the maximum height it would reach? Maybe, maybe Clint could answer this. I suspect he has the technical knowledge.

Mr. Clint Hansen: Clint Hansen, Maui Paintball. Thank you for taking the time to review my application. If you were to shoot straight up, I know that if you're shooting at a straight horizontal, it generally goes about 150 feet just because the gravity tends--

Mr. Mardfin: Right.

Mr. Hansen: --and the maximum distance can be actually achieved by a 31-degree angle and that field 300. If you're shooting straight up given just the resistance of gravity and wind, I'm assuming that would be about a 100 feet to a 150 feet at the absolute maximum, but that of course, is vertical not ground travel.

Mr. Mardfin: Right. So you could get 300 at 31 degrees. I'm glad you have a specific there. You'd get the maximum distance, and how far back...you have 20-foot fence, how far back would you have to get to clear the fence --

Mr. Hansen: And drop it onto the road.

Mr. Mardfin: --and drop it onto the road.

Mr. Hansen: Basically the areas that -- in order to do it, you would probably have to...(inaudible)...specifically you would, of course, have to be trying no errant ball would be able to do that.

Mr. Mardfin: Right.

Mr. Hansen: You would probably have to be in a sweet spot right about here and shooting up at I would assume a 60 to 75-degree angle to both clear the fence and the trees and then come down on the highway. So somebody would have to purposely be doing it. If they were here, it would fall short. If they were here, the fence and the trees would get in the way, so you basically only have one area there since generally in game play you would be having people start right here and also, you know, up here, they'd be meeting in the middle, refs will be on both sides, you know, in the

initial start of the game and then as the collective moves toward the center, the areas, you know, generally are gonna be monitored by the referees at the starting points. So if somebody were to do that they would be, you know, penalized and kicked off the field.

Mr. Mardfin: Okay. May I ask the applicant some more questions?

Mr. Hansen: Absolutely. Oh, I'm sorry.

Mr. Mardfin: What do you plan to charge for this for a single person coming in?

Mr. Hansen: Right now, I don't have the costs down to specific numbers, but it's gonna be discounted for local play and then tourists will pay an additional charge. I'm assuming that locals if they don't have their own markers will be charged about \$20 which would include 200 paintballs. Generally on an average, beginner play you'll use about 500 paintballs to 800. More experienced players will use about 2,000 paintballs because they have the higher rates of fire and things of that nature. But -- and paintballs for locals will be about \$60 a case to \$85 a case for tourists. So it's definitely variable. If you get a membership, you won't have the per field use and air will be included. Generally, if you play three or more times a year it's gonna make sense to get a membership. And if you're a pump player and you shoot very little you could do it probably for as little as \$15 visit. If you shoot an incredible amount of paint, you could do it as much as \$65 to \$85 for a local. If you're a tourist and you know, you're shooting above 2,000 rounds and you're using a rental about \$100 to \$120, so ...(inaudible)... variable.

Mr. Mardfin: And, and when you said \$15 does that include a rental or do you --

Mr. Hansen: No, if you had a membership and had your own marker then it would be about \$15. If you were a tourist -- a local coming and renting and you didn't buy any paint it would probably cost \$20 to \$25.

Mr. Mardfin: So with paint you're talking \$40, \$50?

Mr. Hansen: Well, it includes 200 paintballs. So if you didn't need to purchase any more and you were sparing with your shots then it would be \$25. If you --

Mr. Mardfin: Okay, you got me. I see the ballpark. It's not like golf where you're spending hundreds.

Chair Hiranaga: Thank you, Commissioner Mardfin. Any other questions, Commissioners? I have a couple of questions. In here it mentions fence limit of 20 feet but I saw in the recommendation, not to exceed 40 feet. Why would something be 40 feet high?

Ms. Aoki: That recommendation was put in strictly to follow zoning requirements in the Ag District. So zoning does not allow anything over 40 feet, so I just put that in there.

Chair Hiranaga: I noted that this is the SMA area.

Ms. Aoki: Yes.

Chair Hiranaga: So if the SUP is granted he will be applying for probably a Minor SMA Permit?

Ms. Aoki: That's correct.

Chair Hiranaga: One of my concerns is the location close to the highway and visibility from the highway. I'm not sure if the applicant is planning to put the screening on the perimeter abutting the road or if he could create some type of a setback so that the screening is say ten feet off the road so it's sort of hidden. I know that as a commercial operator he wants people to know his facility is there but as a individual who may not be a paintball enthusiast, they probably don't want to know it's there so you're gonna have this ...(inaudible)... signage, flags, whatever. So you know, it is a pretty ag area and so those are some of my concerns.

Mr. Frampton: Yeah, so the fencing is gonna right -- it's set back from the highway about a 100 feet, 80 to 100 feet.

Chair Hiranaga: I would guess maybe a little less. Unless the canehaul road pulls away from the highway more than it does say where it passes Olowalu, I know there's a drainage ditch between the canehaul road and the highway and then the canehaul road is probably 20 feet wide, ditch is probably ten feet wide.

Mr. Frampton: Well, the right of way for the canehaul road is 80 feet in general in that and that's why I use the term 80 feet.

Chair Hiranaga: So that's from the -- State highway right of way and the canehaul right of way, 80 feet?

Mr. Frampton: Yes, if you could hit the lights, I'll show you this looking down the canehaul road in that area. So you can see here, this is the canehaul road. There's the edge of the right of way is on this shoulder over here some distance into there. There's the distance between there and the road, the pavement itself and then another ten or so maybe more feet. But I do know that right of way line which is shown right here, the right of way is, is 80 feet.

Chair Hiranaga: So he's gonna put the fence right on the boundary line?

Mr. Frampton: It will be a little bit in from the boundary line, but you know, you can't really weave it through the trees so it'd be right up against the edge of where the, where the tall trees start.

Chair Hiranaga: What color will the fence be?

Mr. Frampton: It's black.

Chair Hiranaga: Basic shade cloth, type of cloth.

Mr. Frampton: It will look like a nursery. I mean, there's a nursery in the area. So in that respect

it would look like a ag operation in that there would be, you know, the shade cloth running along the perimeter of the field.

Chair Hiranaga: Another question. How much noise does the air gun make?

Mr. Frampton: It's a good question, and I saw different variable levels in the, in the research that we did but it's, it's not that loud. It's an air gun itself. We did it on the property site. Kathleen actually has a video of it with us talking and the noise levels is comparable to, I think a saw one example of like a radio powered, I mean, a battery powered radio. It's, it's really not that much loud. I would suspect the yelling and hooting and hollering might be louder than the actual paintball itself.

Chair Hiranaga: Not to be mistaken to a regular gunshot sound?

Mr. Frampton: It's definitely not like a gunshot. It's a, you know, ...

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I'd like to ask Kathleen some questions.

Chair Hiranaga: Sure. Couple.

Mr. Mardfin: Page, page 8 and 9 of your staff report.

Ms. Aoki: Yes.

Mr. Mardfin: You say, state land use regulatory review, the proposed action is an approved and permitted use in the State Ag District and does not need a special, a State Special Use Permit. Then on the top of Page 9 you say, Chapter 205-4.5, Permissible Use, so I guess this is where you found it, within the Ag District and it said, you quote, "public and private open or types of recreational uses including day camps, picnic grounds, parks and riding stables but not including drag strips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs and overnight camps." I don't see paintball there.

Ms. Aoki: Paintball is not listed as a specific use, but in the State Ag District there's a lot of things that are not specifically listed, they are considered public and private open types of recreational uses, so it falls within that category.

Mr. Mardfin: So you're basically considering it more similar to a park and riding stable than you are to a golf course or driving range?

Ms. Aoki: Or a drag strip or airport. It is --

Mr. Mardfin: Well, I would agree drag strip and airports but it doesn't strike me as it might be very different from a golf course or a driving range.

Ms. Aoki: If memory serves me correct, under Chapter 205 for the Ag District golf courses were

specifically taken out. Why that was done when it done, I can't answer that. Clayton Yoshida might know more reason for that but I know that golf courses were, you know, explicitly excluded because they didn't want them going as a permitted use into the Ag District. I don't think it's a matter of the temperament of the sport or the noise of the sport. They just didn't want that much land being consumed for a golf course.

Mr. Mardfin: Okay. And we're not worried about thousands and thousands of acres going for paintball.

Ms. Aoki: I, I don't think so.

Mr. Mardfin: Okay, thank you.

Ms. Aoki: You're welcome. And if I could add. I did go on a site visit of the property with the applicant and Rory and I also took Jon Gushiken, who is from the Long Range Planning Division who is an avid paintball shooter and he brought his marker with him and I can attest that I did shoot that. I've never shot a paintball gun before and we did shoot from the boundary, I was very concerned about the graveyard. I think that was my number one concern. So we shot both ways. We shot from the field toward the paintball or towards the cemetery and then we stood at the boundary and we shot and shot and shot and we would walk to where the paintballs landed and Rory is correct, a lot of the paintballs because we were shooting as far as we want -- we were trying to get them high, they wouldn't break. So when we were trying to find them some of them were just unbroken because it didn't have that impact. But it took at least two, at least one and a half at a minimum or more than two to get it to where the paintball field is going to be located. So I felt comfortable after that site visit that the, the there wasn't gonna be any damage to the graveyard.

Chair Hiranaga: Commissioner Sablas.

Ms. Sablas: Kathleen, can you point out where on that project, where is the tomato farm.

Ms. Aoki: Rory's pointing it out.

Mr. Frampton: This map actually is a subdivision map and it doesn't show the tomato farm but the aerial photo, so the tomato farm is up here. So you come off, by the transfer station, go down the road and there's an access road that goes up to the tomato farm.

Ms. Sablas: And it's still in operation?

Mr. Frampton: Yes.

Ms. Sablas: Yeah, okay, thank you.

Ms. Aoki: If I could also add that the, the loudness of -- you know, I've shot a regular pistol and shotguns this is nothing like that. It literally just goes took, took, took. It's very minimal. The yelling and screaming is gonna be a lot louder than what the, the noise of the paintball is.

Chair Hiranaga: Any other questions, Commissioners? Question, the applicant indicated that his fence height would be 20 feet. So I'm wondering if there's any objection because the recommendation says no -- that any part of the project shall not exceed the 40-foot height limitation. Is there any need to go beyond 20 feet?

Mr. Hansen: There's really no need to go above 20 feet, and if you look on, I believe it's Page, let me check it real quick, basically Exhibit 3 or Figure 4, it has the varying fence heights. Only that one section would have a 20-foot, the rest would have 12-foot which is the insurance requirements for it. I, as an additional precaution put the 20-foot fence there even though 12-foot would be sufficient because there is a gap in the trees, so if somebody, you know, like you were saying was purposely trying, they wouldn't have that ability. So 20-foot should be sufficient.

Chair Hiranaga: So would there be any objection from the applicant if the recommendation included a 20-foot limitation.

Mr. Hansen: Oh, so you would say no more than 20 feet?

Chair Hiranaga: Yeah, wondering that -

Mr. Hansen: That would be fine.

Chair Hiranaga: That would be fine.

Mr. Hansen: Yeah.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: If that were a suggestion, I would not be in favor of that because I would want experience to dictate. If they put it in and we're starting to have trouble, I'd want them to go higher and I'd hate to see them limited to 20 if experience dictates later down the road that it ought to be higher.

Chair Hiranaga: I believe if you're experiencing paintballs going over that fence line, it's a management issue and maybe the permit should be pulled not allow -- a 40-foot fence is four stories high.

Mr. Mardfin: Yeah, but, but, but, 20 feet is only two stories and might wanna go a little higher. You might wanna go to 25.

Chair Hiranaga: He seems satisfied. The applicant seems satisfied and the applicant wishes to comment?

Mr. Frampton: I was just gonna say that I think most of the height limit for most structures and the height limit for structures in the Ag District is actually 30 feet and they allow some things to go a little higher like chimneys or antennas or something like that, but we'd be willing, the applicant would be comfortable just abiding by the Agricultural Zoning District and the 30-foot height

requirements which is, which is what would apply here. But I do appreciate the comment about allowing for just, let experience --despite all the assurances that we've made already, you know, having that -- to have the flexibility of going up to 30 if necessary, would be a good thing. And I just wanted to make one other comment if I could. In the report, it did note that there was some language that mentioned a maximum of 30 people, it wasn't intended, when we, when we reported the anticipated uses on the anticipated number of people we felt that on average you'd have 15 to 20 people using the facility and up to 30 in terms of on a regular basis that there might be times when it would be higher than that and that's why the -- there's a lot of room on the property and there's gonna be a big area created for the parking onsite. But I did wanna note that comment about the word, "maximum" and for that it's not intended to be a limit of 30 people. Thank you.

Chair Hiranaga: Commissioner Ball did you have a question?

Mr. Ball: I did. It was in the standard conditions. Do we wanna go there now or?

Chair Hiranaga: No, let's -- unless you're looking for some type of a concession from the applicant?

Mr. Ball: I'm looking at a date.

Chair Hiranaga: Any other questions, Commissioners for the applicant or Staff? Seeing none, we'll have the staff recommendation.

Ms. Aoki: Per the Conclusions of Law provided to you, we have the standard recommendations that are customary. What I'd like to go over some of the project specific conditions. If it -- the Members wanna change No. 8, we could change it to say the 30-foot height limitation if that's the will of the Commission. It does state in the Code that 40 feet is allowed but it is with chimneys and accessories to the building. No. 10, I'd like to bring your attention to No.10 please if I could? I would like to make a recommendation that we change this condition to read, "That the hours of operation will be between 9:00 a.m. and actually to 6:00 p.m." The way it's worded, they would be out of compliance if they did not operate between 9 and 4 and we don't want that. We just wanna say that they can operate between these hours and it was suggested to change it to a little bit later in the day primarily because if you had school kids that wanted to go there after school, if you close at 4 they really wouldn't have much time. So I think 6 is a reasonable hour. And No. 13, as Rory described was the condition that was suggested by the Department of Transportation, that they come back in six months with a new assessment of the area.

Chair Hiranaga: Are you amending Condition 13?

Ms. Aoki: No, no, no, I'm just stating that Condition 13 was provided by the State Department of Transportation.

Chair Hiranaga: Okay. Commissioner Mardfin.

Mr. Mardfin: Kathleen?

Ms. Aoki: Yes.

Mr. Mardfin: Rory, when he was speaking was talking about permeable parking rather than impermeable parking. I don't see a condition one way or the other in here.

Ms. Aoki: There's no condition, Commissioner Ward because that is something that comes up during the building permit process. Zoning, the Zoning Division was -- had discussions with the applicant and apparently they determined that based on the project they were required to do five paved parking stalls. I, you know, I -- it's up to the Commission on whether or not they want to add that as a condition or take it out as a condition. I just don't know what the applicability is when it's a zoning code what would trump what.

Mr. Mardfin: I'd just like to express my feeling that I'd feel better if it were impermeable -- that it would be my preference to have it permeable, but since it's not required for -- that we specify at this stage, I think we should remain silent, we could remain silent on it.

Ms. Aoki: That would be my suggestion.

Chair Hiranaga: Commissioner Freitas.

Mr. Freitas: Yeah, I'd like to make a comment on the parking, on the permeable versus nonpermeable. I live on Piipolo Road and they have what you call, the zipline here and that is permeable surface and we get a lot of rain and I've never seen that place flood. In fact, I think it's by being permeable, it keeps the water off the road and it's to the advantage for it to be permeable versus paved.

Mr. Spence: Mr. Chairman?

Chair Hiranaga: Director?

Mr. Spence: I would just point out that there's, one of the standard conditions of any permit is that full compliance with all applicable government requirements shall be rendered. That gives us some room to discuss this with the applicant and makes some interpretations to Code. I know that the, the feelings of the Commission in the past have been, you know, less runoff is better, less permeable surfaces is better, so we'll take that into consideration at the building permit time.

Chair Hiranaga: Commissioner Mardfin.

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

Chair Hiranaga: Just like to make one comment. Permeable, nonpermeable, just because of the location of the project, very close to the ocean whatever improvement is decided upon I feel it should be resistant to potential washout by a heavy storm thereby depositing whatever material in there into the ocean because if your material you're talking about earlier Rory isn't that oil-based?

Mr. Freitas: No.

Chair Hiranaga: No. What is it?

Mr. Freitas: Crusher rock.

Chair Hiranaga: Just loose rock?

Mr. Frampton: Yeah, it's real similar to the crusher waste type of material that you would get but it has a mixture of larger rock and smaller gravel but it just compacts really, really well.

Chair Hiranaga: No binding agent.

Mr. Frampton: No binding.

Chair Hiranaga: No bonding agent.

Mr. Frampton: No bonding agent. But we are gonna have -- the road is gonna come in and it will have a crown off the center and it will slope off to the sides and then there'll be, the, the -- it slopes naturally down into drainage basins. So there will be basins at the bottom of the driveway and any runoff from the roadway itself, that will be the first place it goes. So it will allow for sedimentation of the materials. And those basins are being built right up against the old berms that were created for the -- that the sugar company created. And the sugar company created berms about two, three feet high running along that entire boundary of the property. So what we're doing is right at the entry we're having the basins on either side of the entry so that water from the site would go into those basins rather than coming out through the driveway puka, but it will also help, be helped, held up by those basins.

Chair Hiranaga: Okay, thank you. Commissioner Ball.

Mr. Ball: Is this a good time to go over that standard condition?

Chair Hiranaga: Well, actually we don't have a motion on the floor yet. Would you like to make a motion?

Mr. Ball: With the following changes or how do you want to --

Chair Hiranaga: If so desire.

Mr. Ball: Sure. I'll recommend that we grant the County Special Use Permit for the proposed paintball field and related improvements. Standard conditions and possibly a change to standard condition no. 1, the permit is valid until 2016. They're gonna sign a five-year lease and that we're setting them to fail already because the permit is gonna expire before the term of the lease expires. So if we can just push that date back to, to five years to run with the lease.

Chair Hiranaga: It is five years.

Mr. Ball: Well, this is 16 but it's not gonna start until 12 and it actually says to be started by no later than November 30, 2013 on Condition No.7. So if they do take the time to go out to the November 13-- sorry, November 30, 2013 date then the permit's gonna expire in three years.

Ms. Aoki: Historically for Special Use Permits they're granted on one, two, three, five, ten-year basis. So that's why I proposed a five-year...and with Project Specific Condition No. 7 that just has to do with the building. I mean, I understand what you're saying, but that just has to do with the building of the project.

Mr. Ball: Is there a new way that Condition No. 1 can start when, when they --

Unidentified Speaker: Today?

Mr. Ball: Well, yeah, whenever they--well, when they start.

Mr. Hiranaga: It's better to be specific so there is no room for interpretation.

Mr. Ball: I understand the specific but make the date a little bit more --

Ms. Aoki: The hesitancy I have with that is just to get the lease, find out what the lease is, making this jive with the lease versus just giving. I mean, if, if the Commissioner desires to make this longer that would be better than trying to match it up with a lease agreement.

Mr. Ball: I guess, that's what my, my, my suggestion is.

Ms. Aoki: Yeah, so I you have a suggested year --

Mr. Hiranaga: Personally my feeling is in five years he'll know whether he's profitable or not and he can always come in for an extension.

Mr. Ball: It's usually given three years now or four years I guess.

Mr. Hiranaga: No, five. It's five years right now.

Mr. Ball: It's five from, from now.

Mr. Hiranaga: Right.

Mr. Ball: But he's not going to open tomorrow.

Mr. Hiranaga: I think in a year or two, most small businesses find out in a year or two if they're gonna make it or not. Commission--anyway you can make your--why don't you come up with a specific year as part of your motion and then we can have it for discussion? So are you, you wanna go with whatever, it's name a year.

Mr. Ball: Let's just put another year on it. Let's just put it on 17. That will give 'em another year and it will be a lot closer to the five-year than.

Mr. Hiranaga: Okay, moving on. That's fine. Moving on. You have any other amendments to the staff recommendation?

Mr. Ball: No. 8, to 20-foot height I think was the discussion. They said 30, but --

Mr. Hiranaga: The applicant -- it's up to you.

Mr. Ball: Well, I'm thinking of the highway, how it looks from the highway and the 20-foot is acceptable to the applicant and to see something 20 feet there instead of 30.

Mr. Spence: The applicant--I'll just say the applicant's --

Mr. Hiranaga: Director.

Mr. Spence: Pardon me, Mr. Chairman. The applicant's already representing 20 feet. If for some reason they needed to go higher, I'm sure that they would. So if we just leave it with the height restrictions of the Ag District of 30 feet.

Mr. Ball: Okay, so we'll change No. 8 to 30 feet instead of 40 and No. 10 to 6:00 p.m.

Mr. Spence: Is that with the between?

Mr. Ball: Huh?

Mr. Spence: Between.

Mr. Ball: Yes.

Mr. Spence: 9 to 4, excuse me 9 to 6.

Mr. Ball: Okay, and then that's it.

Mr. Hiranaga: Okay, is there a second?

Mr. Mardfin: Second.

Mr. Hiranaga: Discussion?

Mr. Mardfin: As a friendly amendment --

Mr. Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I think, I think Item 10 should be, "the hours of operation will be between 9:00 a.m. and 6:00 p.m.," not "to 6:00 p.m."

Mr. Hiranaga: So noted. No objection from the maker of the motion?

Mr. Ball: No.

Mr. Hiranaga: Or the seconder?

Mr. Mardfin: No.

Mr. Hiranaga: Any other discussion? Seeing none, if the Director could restate the motion?

Mr. Spence: The motion is to approve the County Special Use Permit with a change No. 1 to bring that out till September 30, 2017; and then a change to No. 8, that any part of the project shall not exceed 30-foot height limitation to the site; and then No. 10, that the hours operation will be between 9:00 a.m. and 6:00 p.m. seven days a week.

Mr. Hiranaga: Call for the vote. All in favor, so indicate by raising your hand.

Mr. Spence: That's six ayes.

Mr. Hiranaga: Opposed? Motion carries.

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

**VOTED: To Approve the County Special Use Permit as Recommended by the Department with Amendments to Condition No. 1 Changing the Expiration Date to September 30, 2017; Condition No. 8, the Height Limitation be Amended to 30 Feet; and Condition No. 10, the Hours of Operation be Amended too Between 9:00 a.m. and 6:00 p.m., Seven Days a Week.
(Assenting - K. Ball, W. Mardfin, L. Sablas, J. Freitas, I. Lay, W. Shibuya)
(Excused - D. Domingo, P. Wakida)**

Ms. Aoki: Thank you, Commissioners.

Mr. Frampton: Thank you, Commissioners.

Mr. Hiranaga: Since we have not ordered lunch, let's continue on. Agenda C, Communications, C-1, Director.

C. COMMUNICATIONS

- 1. MR. LANCE D. COLLINS, attorney for the WAHIKULI NEIGHBORHOOD COMMUNITY ASSOCIATION (WNCA) submitting a Petition to Intervene dated November 2, 2011 on the requests by MR. ALLAN A. VILLANUEVA, Acting Secretary of the IGLESIA NI CHRISTO (CHURCH OF CHRIST) CHURCH for a County Special Use Permit and a Special Management Area Use Permit to demolish an existing church building and construct a new church building and related improvements in the R-3 Residential District at 1518 Malo Street, TMK: 4-5-014: 009, Lahaina, Island of Maui. (CUP 2008/0006) (SM1 2008/0025) (A. Benesovska)**

- a. **HENRY PAGBA, SR., Corporate officer of Applicant submitting Applicant's Opposition to Petition to Intervene dated November 7, 2011.**

Mr. Spence: Yes, Commissioners, No. C-1 is Mr. Lance Collins with a Petition to Intervene for the Wahikuli Neighborhood Community Association that will be taken up after proper notification is done by the, by they church. Then we go to Item D, Acceptance of Action Minutes for the November 8, 2011 meeting and the Regular Minutes of the July 26, 2011 meeting.

Mr. Hiranaga: You went to agenda D?

Mr. Spence: No, we went to number C-1. That one will be taken up again --

Mr. Hiranaga: What were you talking about the minutes for?

Mr. Spence: --when we get to the public hearing. So we're at the minutes.

D. ACCEPTANCE OF THE ACTION MINUTES OF THE NOVEMBER 8, 2011 MEETING AND REGULAR MINUTES OF THE JULY 26, 2011 MEETING

Mr. Hiranaga: Oh, okay. Okay, Item D. Motion to accept the minutes.

Mr. Shibuya: Move to accept all.

Mr. Hiranaga: November 8, 2011 and July 26, 2011, moved by Commissioner Shibuya, seconded by Commissioner Ball. Any discussion? Seeing none, all in favor say, aye. Moving onto Item E, Director's Report, Director.

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

VOTED: To Accept the Action Minutes of the November 8, 2011 Meeting and Regular Minutes of the July 26, 2011.
(Assenting - W. Shibuya, K. Ball, L. Sablas, J. Freitas, I. Lay, W. Mardfin)
(Excused - D. Domingo, P. Wakida)

E. DIRECTOR'S REPORT

1. **Planning Commission Projects/Issues**
 - a. **Revising the SMA Boundaries**
2. **EA/EIS Report**
3. **SMA Minor Permit Report**
4. **SMA Exemptions Report**

Mr. Spence: Planning Commission project issues. Clayton, do we have --

Mr. Yoshida: We don't have any update on revising the SMA boundaries. We've circulated our various reports to the Commission.

Mr. Hiranaga: Item 5.

5. Special Maui Planning Commission meeting, December 7, 2011 at 6:00 p.m., Hannibal Tavares Center, Pukalani, Island of Maui on the following:

MR. FRED ROMANCHAK of the KULA LODGE requesting a Phase II Project District amendment to delete Condition No. 26 prohibiting kitchens inside the hotel rooms for the Kula Lodge at 15200 Haleakala Highway, TMK: 2-3-022: 087. Kula, Island of Maui. (PH2 2008/0002) (P. Fasi)

Mr. Spence: Commissioners, the special Planning Commission meeting for December 7th is going to be rescheduled. There was a mix up in communication with the applicant. You know, this is for the Kula Lodge requesting Phase 2 Project District Amendment to delete Condition No. 26 prohibiting kitchens. What had happened if you recall at the, at the meeting, it was determined that there, there should have been a public hearing and that the --because that should have been caught sooner, I offered that the Department would pay the expense for that, that additional notification and the applicant took that...there was miscommunication and the applicant understood that the Planning Department would do the notification rather than just paying for it. So no notification was apparently done, so we will be, you know, we're still continuing with the notice. They're gonna go ahead and notice, we will pay for it and then -- so you will receive a future agenda item on that.

Mr. Hiranaga: Have you identified a date that will be noticed?

Mr. Yoshida: Clayton Yoshida, Planning Program Administrator. We're working with the applicant right now regarding when they would be available, but the earliest possible date would probably be, be January at this point in time because we have to publish a notice, the applicant has to send out the notice 30 days prior to the hearing. The holidays are coming up and so forth. And probably on a Wednesday night that seems to be the available night at the Hannibal Tavares Center because of usage, dance lessons and other public usage of the facility.

Mr. Hiranaga: And the Hannibal Tavares Center is in the appropriate planning -- community plan area?

Mr. Yoshida: Yes, it has to be -- it's in the Makawao, Pukalani, Kula community plan region.

Mr. Hiranaga: Thank you. Discussion, Item 6, Discussion of Future Maui Planning Commission Agendas.

6. Discussion of Future Maui Planning Commission Agendas

a. December 13, 2011 meeting agenda items

Mr. Yoshida: Yes, I have circulated a memo indicating the public hearings and communication items as of this date scheduled for the December 13th meeting.

Mr. Hiranaga: If there's no further -- Commissioner Shibuya.

Mr. Shibuya: Just wanna ask Clayton if you could schedule that Kula Lodge thing in the early part of January because I'm going skiing with my grand kids in the later part of January.

Mr. Hiranaga: Next regular meeting is December 13, 2011, and if there's no objection, this meeting is adjourned.

F. NEXT REGULAR MEETING DATE: DECEMBER 13, 2011

The meeting was adjourned at approximately 11:45 a.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Keone Ball
Jack Freitas (in attendance at 9:16 a.m.)
Kent Hiranaga, Chairperson
Ivan Lay
Ward Mardfin
Lori Sablas
Warren Shibuya, Vice Chairperson

Excused

Donna Domingo
Penny Wakida

Others

Will Spence, Planning Department
James Giroux, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Department of Public Works (excused at 10:45 a.m.)