

**MAUI PLANNING COMMISSION
REGULAR MINUTES
OCTOBER 11, 2011**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Kent Hiranaga at approximately 9:00 a.m., Tuesday, October 11, 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: ...Tuesday, October 11, 2011 and all Commissioners are present. At this time, I'd like to open the floor to anyone who wishes to provide testimony regarding any agenda item today. You may testify now or wait until the agenda item comes up. Bobby Patnode.

Ms. Patnode: Wait till the item comes up.

Mr. Hiranaga: Okay, thank you. Karen Mawae Spence. Nellie Stokesberry, Steven Sutrov.

Mr. Sutrov: I'll testify when the item comes up.

Mr. Hiranaga: Dick Mayer. Is there anyone else that wishes to provide testimony at this time, please come forward. Seeing none, we'll now proceed with the agenda. Director.

Mr. Spence: Thank you, Mr. Chairman. Members, we are on Item B-1 of your agenda this morning. Mr. Michael Broadfoot of Broadfoot Maui Trust requesting an SMA Permit for two unit, two-story duplex in, it is in Kihei, Maui and our Staff Planner today is Candace Thackerson.

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

- 1. MR. MICHAEL BROADFOOT of BROADFOOT MAUI PROPERTY TRUST requesting a Special Management Area Use Permit for the Broadfoot Duplex, a two(2)-unit, two-story duplex project with approximately 3,458 square feet of living area and related improvements in the A-1 Apartment District at 83 West Kapu Place, TMK: 3-9-009: 007, Kihei, Island of Maui. The project will also include a basement, landscape improvements, retaining walls, and a pool. (SM1 2010/0002) (C. Thackerson)**

Ms. Candace Thackerson: Good morning, Commissioners. This item is under your review because the subject parcel is located within the Special Management Area requiring a review of the project under HRS 205. The applicant is requesting a SMA Use Permit in order to construct a two-story duplex with approximately 3,458 square feet of living area. The project will include a basement, landscape improvements retaining walls, a pool and all offsite and onsite utility connections. The property is located at 83 West Kapu Place, Kihei, Hawaii and is approximately .19 acres in size and rectangular in shape. The property is currently vacant, however, the property was used for residential purposes for more than 75 years. According to County records, the single-family dwelling was built in the 1930's and was demolished in 2000 by previous owners.

The property's adjacent to a State of Hawaii Beach Reserve, although the property itself is located over 300 feet from the State certified shoreline. The parcel is State Land Use District Urban, Kihei-Makena Community Plan designation Single-Family and County zoning A-1, Apartment. The consultants are here and they would like to give you a PowerPoint presentation that will describe the project in better detail.

Mr. Bill Frampton: Good morning, Commissioners. My name is Bill Frampton from Frampton and Ward and we're here today as the planning consultants for the Broadfoot family duplex as Candace noted earlier. I also have here today, my brother, Dean Frampton who's also an assistant helping me on this project as well as some of the project team members. The owner, Mike Broadfoot apologizes, however, he's up in Canada and was unable to make the trip for family reasons, but I think we'll be able to answer everything. Our architect is Jim Niess of the Maui Architectural Group, our civil engineer, Stacy Otomo, engineer. He's here today. Archaeologist was Mike Dega, our landscape architect, Kevin Tanaka. Cultural Consultants, Hana Pono LLC and our environmental consultant was Mr. Robert Hobdy and again, we're the planning consultants. And also, Jim Niess was unable to make it, our architect, but we have Dan Sheehan, who's here to fill in. He will be able to answer questions.

As noted earlier, the subject project is located in Kihei, South Maui within sort of the central core of the area. Land uses surrounding the area is very reflective of the urbanized setting of Kihei. You can see from this slide various uses that try to help locate you geographically. St. Theresa's Church, Times Market, Azeka's Mauka, Makai, Lipoa Parkway on the bigger roadway and again, the subject property is located at the end of Kapu Place.

More closer to the property the surrounding land uses in this area are...the subject property is located here again in blue. It's encompassed and surrounded on the north and west by a very large State beach reserve which runs all the way up the coastline to the north as well as to the south. On the mauka side, to the west, is a large regulation reservoir also known as the Laie Wetlands. That's a -- it serves to collect storm water runoff from the area. We'll talk more about that later and then to the immediately abutting it to the south are the 12-unit apartment building, Kapulanikai, Maui Gardens is another large apartment building and there's other single family residences in the area. And as Candace noted, again, the subject property itself is located just over 300 feet mauka of the certified shoreline. Here's the tax map key's site just to help orientate you again. South Kihei Road at the top of the slide. Here's Kapu Place, a 40-foot wide roadway for the first stretch and then the stretch that runs north-south is 20 feet wide and it's a private roadway owned by the five individual properties along the makai side. Here's that State beach reserve and you can see it stretches a long way to the north and south with public access offered off of Lipoa Street as well as off of Waiohu, Waiohuli Place. Kapulanikai bordering it and here's the Laie Wetlands, St. Theresa's Church.

Topographical survey just to show you again the distance from the certified shoreline. We did do a certified shoreline just to--for this purpose to establish where it was located. Again, the large State beach reserve encompassing the northern and southern, I'm sorry, the north and west boundaries. The regulation reservoir and Kapulanikai apartments.

This slide I wanted to put in just to show an interesting geologic process that's occurring at this area. There is a groin located just out on the makai, about 300 feet away. It was built in the 1960's

early 1960's from what we could determine. That had a big impact on the sand erosion. In this situation, you see down by Halama Street. I'm sure you're very familiar with a lot of the erosion that's taken place. In the area fronting this property, the subject property and several others, we actually have accretion that's occurred which interesting to just keep in mind and I think that largely had to do with the groin.

This is a view of the subject property standing within the State beach reserve looking southeast back towards Kapu Place. Another photo of the subject property standing still again in the State beach reserve looking sort of makai, makai-mauka, I added some of these arrows just to help orientate us. This is standing at the far mauka edge of the property looking directly makai where the shoreline is not visible, again, because it's 300 feet away. And this slide I tried to show that there's a interesting topography feature. The property runs flat for this ...(inaudible)... portion and at the very end it jumps up about seven, almost eight feet, there's a plateau where old retaining wall was there. There, there you can see that a lot better.

This out standing in the beach reserve looking mauka and I'm about maybe 150 feet away from the property line which is roughly here. You can see Kapulanikai apartments are here and if you're familiar with that area from the edge of all of those properties, all the way out to the ocean are those very large, green, landscaped yards, if you will. That's not the plan for this property and we'll talk about that later about the native plant restoration project that we want to do joint, private-public partnership with DLNR.

Just to give you some of the surrounding land uses. This is Kapu Place, the corner of Kapu looking north to the subject property. Here is the regulation reservoir, the Laie Wetland which is very interesting, later in the slides at the last slide I'll show you what has occurred since we first started on this project which was a massive clearing of all of the non native plants and trees and a new restoration project that Mr. Broadfoot, our applicant, has shared the water from his water meter to the Community Workday folks who are doing this project, didn't have any water to establish the plants. So Mr. Broadfoot agreed to do so. Kapu Place standing from South Kihei Road looking makai, ...(inaudible)... Laie Wetlands and the Maui Gardens. Same corner of Kapu Place now looking back towards South Kihei Road. You can see the Laie Wetland maybe eight months ago to a year ago was in pretty sad shape. It's now come a very long way. Here's South Kihei Road close proximity to the project, fully urbanized, curbs, gutters, sidewalk and you can see Laie Wetland here and here's the church. Same South Kihei Road looking to the south. This is a photo from standing across South Kihei Road looking back to the project site where you can see Kapulanikai apartments, this is another nearby project or duplex and our property site, right here, but this starts to show all of the clearing that has taken place. Some of the architectural character immediately abutting the property. This is standing on the makai side of these same units looking back you can see the heavily landscaped areas which is this is all part of the State beach reserve. Kapulanikai again, apartment and just the beginnings of all of the clearing and removal of vegetation you can see here.

As Candace noted earlier, the property is located down here, single-family community plan designation. Apartment zoning, A-1, Apartment District is our subject property zoning. The zoning standards, I won't go into detail but we are in compliance with all of the zoning standards including height regulations, lot coverage, floor area, lot area ratio and all of the yard.

The proposed project, we're proposing the construction of a two-unit, two-story residential building designed by duplex, but Code, as the Code states designed for the occupancy by two families living independently of each other versus a multi-family unit which is three units or more. This is duplex is unique in that it's only two units. The layout will be as Candace noted early, two separate floor units, first floor and second floor overlaying on top of a shared basement area. The basement will include two, single-car parking spaces one for each unit, separate rooms for laundries, mechanical equipment. First floor will be located nine feet above grade, approximately 1,700 square feet, three-bedrooms, two bath, living and dining and kitchen. Second floor is the same layout, three-bedroom, two-bath. Other key components though of the project that were shaped and impacted by the close proximity to the State beach reserve and the wetland include this, the drainage system. The drainage system is gonna consist of catch basin, landscape detention basin and subsurface drainage retention areas, also requiring that they be designed by the NPDES Department of Health requirement because of, again, making sure that we not providing any pollutant, petrochemicals, silt runoff but not make it go into the wetlands or the State beach reserve, 100 percent of that will be retained on site. The saline pool will be located out front, a patio, native landscape plants with drip irrigation will be in this area and we'll go on later. We'll come back ...(inaudible)...

This was the site plan that I believe was in your packet. I just wanted to show this image in that the next sections that we'll be showing Section A, is cutting a slice right through the middle of the building looking north; and Section B is the same, a slice right through this section of the building looking mauka. There's the garage basement, 1,800 square feet roughly. Two shared parking stalls for each unit. With two additional parking stalls for each unit out front, storage, laundry facilities, and the mechanical room. The first floor will be at elevation nine feet, approximately nine feet, three-bedrooms, two bath, dining area, kitchen and entry. The second floor, the uppermost floor will be a very similar layout was shown below, three-bedrooms, two baths. And the second unit starts at 18 feet above, above existing grade. The exterior elevations, this is the south facing elevation view from Kapulanikai. So if we're standing from the south looking back up to the north you'll see the first two floors at this area is 20 feet above grade. The next highest point is at 29.6 feet above grade, but the basement you'll see is, is dropped below grade by way of building retention walls around the sides. North facing view standing on the north looking south, same identical view there. Standing out from the makai side, State beach reserve looking back. This is what you'll see are the two units. You won't be able to see the basement because again, it's going to be below grade down in this area. And standing on the east side or the mauka side looking back, you would see two floors and then here's the parking garage area. ...(inaudible)... and there's the building sections I talked about earlier that slice right through the middle of the building. Section A is looking to the north. The first floor you'll see starts at nine foot elevation, the next floor begins at 18. The roof's at 27 and the ultimate peak portion is at below 30 feet is the maximum that we can be and here's the pool out front. And I just want to note here the retaining wall that's about two feet above grade here, but it's built up to hold that pool area and also to be able to design the subsurface drainage to be able to be dropped in because of the type that we're putting. Section B looking from the makai side back to mauka. Again, this is below grade. These are the only two units that would be visible from there. And last image of the plan this is a conceptual rendering to try to help portray the character of the building, the layout of the building, the massing of the building, this is the State beach reserve and again, you won't see the basement area, you'll just see the two floors. The architectural character, it's not just a rectangular shape building like we see in a lot of these other areas, it's got some really neat contemporary design that breaks up the massing and the architect's here to describe more of the details if you'd like.

We did go and meet with the Kihei Community Association very early on was the first group we went and met with. They sent us a letter accepting the design as long as we incorporated some of these items that they wanted which included adequate drainage plan to prevent or protect Kapulanikai, the park keeps flooding, use of porous material or grasscrete to increase natural drainage in areas where possible, and use of KCA Green Building Design Guidelines very similar to the LEED Design Guidelines which we've incorporated in.

This slide, again, drainage being something that's very important because we have -- State beach reserve and the wetland area it's critical and it warrants that we provide extra precautions. There are the catch basin inserts that we will be using at all of our catch basin areas. And what it, the important component here are these absorbent pouches that rather than having just typical catch basin with a graded top, you insert this area, drops inside as a basket and you include these absorbent pouches. They really, they work very well. I've used them in other projects and they serve to absorb sediment, any other pollutant type of chemicals before -- and they're changeable. You change them every six months, eight months, another safeguard against any possible damage to groundwater resources. The existing runoff for a 50-year, one-hour storm today is 0.20 or .20 cubic feet per second. After construction it will be .52 and increase of .32 and we're gonna be containing 100 percent of the drainage runoff on the property.

This last slide, I just wanted to show you some of the efforts that have been taking place with that Laie Wetland project which is really a fantastic project. We have someone here today from Community Workday that will offer some more information if you'd like. But I just wanted to show you the progress that they've made and it's really been a nice neighborly effort because Mr. Broadfoot, our client, has provided all of the water for them to do this initial planting and without that water they'd wouldn't have been able to do so, but that was sort of a, a no-brainer. Our client is very sensitive to the needs here and wanted to be a good neighbor. But it's a really neat project if you're ever down in the South Kihei area, I encourage you to go down and check it out. And that will wrap up the slide show.

I'll just end it with that slide, and I believe that when taking a look at the overall surrounding area, the setback distance of this project will be more than 300 feet away from the shoreline. The incorporation of LEED principles including photovoltaic for energy, the storm water runoff measures that the project's gonna be incorporating and given the surrounding design of the character -- the other design character going on the other buildings, we think it's an appropriate designed project and are available for any questions that you'd like from this point forward, thank you very much.

Chair Hiranaga: Staff, do you have an analysis for the Commission?

Ms. Thackerson: Just a brief on. The project was reviewed by 15 government agencies as well as the Maui Electric Company and the Kihei Community Association. The project was also reviewed by the Urban Design Review Board which recommended approval to the Maui Planning Commission at their regular December 7, 2010 meeting subject to design-related comments which we have incorporated into this SMA Permit review. All the government agency comments that came back as any concerns or any conditions have all been placed into the recommendation section of the report. So I will spare you reading all 24 of those conditions. But there was no concerns by any agencies that we couldn't take care of with conditions in the recommendation.

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

b) Public Hearing

Chair Hiranaga: Is there anyone here that wishes to provide testimony on this agenda item please come forward. Seeing none, the public hearing now closed. We'll reopen the public hearing for one person.

Ms. Maile Carpio: Sorry about that. Aloha Members of Maui County Planning Commission. My name is Maile Carpio, I am the Program Coordinator for Community Workday Program. Thank you for allowing me to provide testimony for both myself and my Executive Director Rhiannon Chandler who is unable to make it today. Community Workday Program is an environmental nonprofit organization that has partnered with community business and government project for the Maui nui since 1992. In January of 2010, Community Workday began work on an HTA Grant for the restoration of the Laie, Laie Wetland. The wetland is located next to St. Theresa's Church on South Kihei Road and is mauka of Mr. Broadfoot's property. Through our restoration work at Laie, CWD has removed an incredible 380,000 pounds of invasive vegetation to replant the wetland with native species. Native plants have an important function in wetlands to filter out land-based pollution and improve water quality before water reaches our near shore environment. In total, over 7,000 native plants have been planted in the site throughout this restoration effort. Early on in the restoration process, we contacted neighboring landowners to ask for their involvement and support. When conducting native plant restoration outside of the rainy season the most valuable resource is water especially in the very dry environment of Kihei the success of planting depends on our ability to provide enough water to give them a good start. Mr. Broadfoot responded with overwhelming support for our project by offering that we could irrigate our native plants with water from his property. Without Mr. Broadfoot's generosity, our wetland restoration project would not have been successful as it has been. We sincerely appreciate having wetland neighbors that value our precious resource areas and actively support environmental restoration efforts. If you have any questions, you're welcome to call our office. Thank you for all your time.

Chair Hiranaga: Excuse me, there's a question from Commissioner Wakida.

Ms. Wakida: Thank you, and I think your organization does wonderful work. What are some of the major plants that you have used? You know, I don't expect you to list them all, but what are some of the major plants that you used in this particular project?

Ms. Carpio: In this particular project closer to Mr. Broadfoot's property as you can tell in the corner here on the sandy area we have planted probably about 5,000 aki aki. We have pohuehue which you can see crawling here. We -- let's see, there are some that are coming back like ...(inaudible)...

Ms. Wakida: That's okay.

Ms. Carpio: I'm trying to think of what it is, Kaluha which actually during the restoration and the clearing of the invasive actually had a native seedling. So it was real lucky, along the water, along the ...(inaudible)... of this area we had a very large comeback of Kaluha and there are other native species that are coming back with the ...(inaudible)... but we still have planting efforts through the end of this year.

Ms. Wakida: Do you use naupaka?

Ms. Carpio: We do use naupaka not in this, not in this condition.

Ms. Wakida: My observation is it gets to be terribly, it takes over and encroaches on beach areas have you found that?

Ms. Carpio: Yes, but in this project based on what our restoration plan is, we -- are not including naupaka on this project and it is a six-acre project.

Ms. Wakida: Thank you.

Chair Hiranaga: Excuse me, there's another question from Commissioner Shibuya.

Mr. Shibuya: Thank you, Maile for your efforts in the Community Workday Program. You use the acronym HTA Grant. What is that?

Ms. Carpio: It's the Hawaii Tourism Authority.

Mr. Shibuya: Oh, okay.

Ms. Carpio: So it is a grant that we received in order to beautify and we actually use a lot of volunteers is what it is in order to beautify the area and that we work with Hotels and everything to bring tourists in to help this do this restoration effort.

Mr. Shibuya: So the grant is actually funding full-time workers and not so much the volunteers?

Ms. Carpio: Actually it's funding more of the implementation and not so much a full-time staff. Majority over 90 percent of our efforts are volunteer. It's the purchase of the plants and being able to implement those in the process is really what it is.

Mr. Shibuya: Thank you. And you're not putting kauna`oa in the pohuehue are you?

Ms. Carpio: No.

Mr. Shibuya: Not at this time.

Ms. Carpio: Not at this time, if it grows, it grows, but no we don't have any there right now.

Mr. Shibuya: Okay, thank you.

Ms. Carpio: Okay.

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

Ms. Sablas: Thank you, Maile for what you're doing. It's in my neighborhood and I drive there every day and I've watched the progress, I've watched the volunteers and appreciate all the work

that your organization has done for that area. My question is in the restoration planting have you considered sedge makaloa because it's dying native plant but weavers really look for that and I would suggest that maybe if you if it's it's -- because this sedge from my understanding grows very well in wetland areas. And it's the weavers who weave really look to that, so just some consideration.

Ms. Carpio: Thank you for saying that because that was actually the one I was looking for.

Ms. Sablas: Okay.

Ms. Carpio: So we actually have it on the side of the project where it has a native seed bank but we also are, I think we have about 1,500 that we'll be installing basically on those areas that have more of a, the underground percolation salt water because they do well in that case. So yes, thank you for mentioning that.

Ms. Sablas: Thank you.

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

Ms. Carpio: Thank you.

Chair Hiranaga: Is there anyone else that wishes to provide testimony at this time regarding this agenda item? Going once, public hearing is closed. At this time, I'll open the floor to Commissioners for questions? Commissioner Mardfin.

Mr. Mardfin: I just, I wanna get a visual of how the height of this building corresponds to the neighbors and I think, you showed us a nice view of the artist's rendering, if you show, you had a couple of slides in there earlier showing, yeah, this is could be from the ocean, from looking mauka, right? Well actually I like the other one. This is from the beach looking up.

Mr. Frampton: Correct.

Mr. Mardfin: How--compared to that to that top white one, how, is your building gonna be higher than that, lower than that, same height?

Mr. Frampton: It's not gonna be any higher that's for sure. I don't know the exact height of that building, but it does look fairly high given that it comes up. The topography you'll see that for whatever reason that topography rises right there so it does protrude fairly high. I don't know if that was done prior to some of the new grading ordinances that used to work from existing grade. I don't know the details on that, but that does seem fairly high. Our project will be below the 30-foot required.

Mr. Daniel Sheehan: ...(inaudible - speaking from audience)...

Mr. Frampton: Height of that adjoining building? That's Daniel Sheehan, our architect representative.

Chair Hiranaga: If you're gonna speak, you need to come to the mic, identify yourself please.

Mr. Sheehan: Aloha, I'm Daniel Sheehan, I'm with Maui Architectural Group. Our, our building is, we have a shorter floor to ceiling, finished floor to finished floor height of about nine feet. And by looking at this building, this shown building, I, I, I assume that that is actually higher in this building. We're -- I don't picture us being any higher than that.

Mr. Mardfin: Okay, thank you. Can I?

Chair Hiranaga: Go ahead.

Mr. Mardfin: Again, looking from the ocean looking in, you've made kind of a cryptic comment about the ... the picture is a good one, oh, maybe that's a better one... you show grass over there and you said you were going to say something about this in here?

Mr. Frampton: Yeah.

Mr. Mardfin: Please do that.

Mr. Frampton: Thank you. The area you can see the lighting, our lights that are on, but this as we saw in some of the other slides has been heavily landscaped with grasses, palm trees for recreational enjoyment. This area the State beach reserve is gonna be left in it's natural state and very similar to the effort that's taking place on the mauka side within as Maile explained earlier, their, their project, excuse me, their project's underway and, and occurring right now. That's the goal of out here is to remove non native, replace with native. That's an effort though on, this is on State land, Maile's project is on County land. This effort would be working in conjunction with Mr. Daniel Ornellas, who wasn't able to make the meeting today, but we've been having discussions with him and Mr. Broadfoot would like to participate to help fund some of that efforts. He has already funded, let me get back to--this drainage channel and Commissioner Sablas, you might know that drainage channel fairly well has been heavily, heavily overgrown with mangrove. Mr. Broadfoot joined efforts with this neighbor, right here, a new landowner, paid just over \$20,000 for a restoration project that Daniel Ornellas requested to remove a substantial amount of that mangrove to allow that water to flow much more nicer now. But he, again, the applicant, Mr. Broadfoot is very much commitment to whatever he can do to help enhance that area, but that's what that discussion was earlier. You can see, see this black dash line that roughly is the area of the County controlled wetland project. This area is different and you can see this versus this and this is what we want is a natural state and much more appropriate for the area especially because of the dune. It's a substantial dune, nice bank of sand right there. Putting the proper plants on there to help armor it, think would a good idea.

Chair Hiranaga: Commissioners, any questions?

Mr. Ball: Question.

Chair Hiranaga: Commissioner Ball.

Mr. Ball: I have a few questions. One about the--there was absorbent things that you change out

every six months.

Mr. Frampton: Uh huh.

Mr. Ball: Whose responsibility is that?

Mr. Frampton: The landowner. The landowner, and those will be onsite, Mr. Ball. They'll be onsite as part of the designed drainage plan.

Mr. Ball: Okay, they have a maintenance schedule or whatever for that?

Mr. Frampton: Yeah, yeah.

Mr. Ball: The building, you showed there is a--in one of the raw land shots where the thing kinda went up --

Mr. Frampton: Yeah.

Mr. Ball: Where does the building sit in reference to that seven-foot?

Mr. Frampton: The building, this dashed line is existing grade.

Mr. Ball: Okay.

Mr. Frampton: And right there is that drop that's not reflected that well on this ...(inaudible)... but you'll see the back wall of the garage was pretty close to that. It was a natural feature that helped design the idea was you have this high area. The old former residence, part of it was down here and part of it was up there.

Mr. Ball: Well, that leads me to my last question. I've been in that old residence. I knew the previous owners of this and seen some of your other slides too, there's obviously trails there and my biggest concern is that, you know, we're trying to do all this restoration with the plantings and all that and making it all nice, well that's for the public consumption if you will, but yet we're cutting the public access to all these areas. You might wanna go back one or forward one I guess. See right there, so you have that, that Kapu Place?

Mr. Frampton: Yes, Kapu Place.

Mr. Ball: And down at the bottom there, we're at the end of the Kapu Place.

Mr. Frampton: Yes.

Mr. Ball: We used to go there and then go down to that beach.

Mr. Frampton: Yeah, you come down here and the people would drive through this bottom portion of this property and then onto the State beach reserve.

Mr. Ball: Yeah. So my concern is not so much the driving but able to park on, on Kapu and walk around and down into that area whether it's going to be fishing or hanging out for the day, I think we're losing something by trying. I mean, I really like that he's trying to, to enhance the area and get rid of the evasive plants and put in, you know, Hawaiian plant and stuff, but if no one can see it, it's all for naught. No one can enjoy it, it's all for naught. You block the access down there and then they gotta come from whatever it was Lipoa Street or one of those streets and walk way down there. You're not gonna do that with a bunch of kids and a bunch of stuff. I mean, you gotta walk a little bit down there, but I remember we used to go right there and then, you know, this incredible beach in the middle of Central Kihei --

Mr. Frampton: Yeah, it's a spectacular sort of area.

Mr. Ball: --and no one was there.

Mr. Frampton: The area is secluded.

Mr. Ball: So I guess my request would be to have some sort of beach access and not through his property but, you know, I don't know if he can work something just to go right around the, the gate and then down-- I mean, the trails are obviously there already.

Mr. Frampton: Yeah.

Mr. Ball: People have been, been going around the gate that's up there now. And I don't know if that, you know, I'm not saying, you know, put a-- you know, bulldoze a paved path through there.

Mr. Frampton: No, no, no, I --

Mr. Ball: But some kind of, you know,-- help to make it more accessible.

Mr. Frampton: Just to reply to some of those comments and provide a little more information. It has been accessible which is evidenced by a lot of the homeless folks that have been setting up camp in this area. It's been pretty nasty back there because it has been so easily accessible. Because of that, the owners of Kapu Place put a gate up. There's a gate right at the end of Kapu Place. So it's gated now for vehicular access. They allow for a pedestrian access, a little gate so you can walk around through. We have had discussions and I, and I wish Mr. Ornellas was here today, but we did have discussions with them on that very same measure because Mr. Broadfoot recognized that as a result of his project, in no way do we wanna be saying there's no more access along Kapu Place. We've had discussions with the wetland folks, we've had discussions with Daniel of where could you provide vehicular parking for example and then be able to walk down a nice trail path, it's got the nice wetland restoration project, come down the side of Kapu Place, continue on and just skirt around the property. There's plenty of room there. Ample amount of space to be able to have pedestrian access easily. Again, you can even do boardwalks, there's many ways you could do. But there was concern of providing almost too much access because I'll explain. There's a public beach access up here. I just parked there yesterday in fact and there were 12 vehicles parked there and they walk into here and they go north and south and enjoy that area and then there was a handful of local guys fishing out here and those trails exist and there's a lot of efforts underway in South Maui to make that long lineal makai lineal accessway. They're

there and like you said Keone it's spectacular to walk through here because it is hidden and what the efforts that are undergoing now it's a very nice area to walk through. That being said, that is State land and County land and if there is something that could take place I know Mr. Broadfoot would gladly participate just like he wants to help upgrade the State beach area. We've talked with him about it and he's sort of taken the lead saying what can we do? And it would be coordinating with the landowners who own Kapu Place and then coming up with some off-street parking here but we don't want to encroach into the wetland area but there are other areas on North Kihei. There are several public beach accessways that just don't have parking. They just have that open area so that if you're walking along South Kihei Road you could walk through similar like what they have down at Keawakapu except for Keawakapu has that big parking area on the north side. Anyways, I hear what you're saying. There's a lot of evidence of people going through there.

Mr. Ball: That whole Kapu Place is private then?

Mr. Frampton: Yes.

Mr. Ball: ...(inaudible)...

Mr. Frampton: Yeah, owned by Mr. Broadfoot, Kapulanikai and three other owners here. Five entities own that road. And so you can, you can appreciate the security concerns and the liability concerns related to the homeless folks but at the same time, providing coastal access is not unreasonable. It's just we don't own the land, so it be some kind of joint effort that would need to maybe take place. That answer some of your questions about that area?

Mr. Ball: It does. It does.

Mr. Frampton: Thanks.

Chair Hiranaga: Just a follow up question. When you say it's a County owned property is that under the jurisdiction of the Parks Department?

Mr. Frampton: I believe Public Works is what I understand right now. Public Works is the-- manages that and in conjunction with they've allowed Community Workday to come in and do the restorative efforts.

Chair Hiranaga: Would the Department like to address the Commissioner's concerns about access?

Ms. Dagdag-Andaya: At this time, I'm not quite familiar with the, the property in general, but I do know that we have this ongoing relationship with Community Workday and the restoration project that takes place there. Our Highways Division works hand in hand with Community Workday. And as far as beach access that's a continuing discussion that we can have with the DLNR. I've already taken some notes down regarding this. So that's something that we could probably address maybe at a later time.

Chair Hiranaga: Okay, thank you. Commissioner Shibuya.

Mr. Shibuya: A related question on this reserve area or reservoir. Whenever you have reservoir and you have water coming in can you describe where it's coming from the source of that water and is there sediment that builds up over a period of time and if so, is there a maintenance problem, I mean, program to remove some of the sediment or how do you work this thing?

Mr. Frampton: Yeah, Commissioner Shibuya, thank you for that question. There's a lot to what you just said. The source of the runoff is largely from the surrounding areas and the County drainage system. A lot of these are County roadways and they drain into what's supposed to be this drainage reservoir. There has been however, ongoing concerns at the mouth of this drainage channel it piles up with sand. And one of the owners down here, Mr. John Lucia, who's very much involved with that is on the phone contacting the State and/or the County continuously because the concerns for floods. It starts to pile up and you if can just open that thing up then it functions properly but that's an ongoing concern that I don't know if the County would like to make a comment to. But when they have opened it in the past it's nice 'cause it flows. It just needs to happen often because you'll the see the water start to back up along here and gets up close to roadway level because it's based on the function of the height of that accumulation. But when they do open it, it goes.

Ms. Dagdag-Andaya: Commissioner Shibuya, this was a area of concern during the flooding that we had earlier this year in January and the, it's correct that when you open it up everything just washes right through. So we have our, again, our Highways Division going in and doing regular maintenance. There is--it's lot--it's a very intensive process because one of things, a lot of it has to be done by hand. Mechanical equipment sometimes although it makes it easier to go in to do the maintenance, you know, there's some regulations in being able to use mechanical equipment there. So like I mentioned earlier we do have a maintenance schedule with our Wailuku baseyard. They go in ever so often to clean that area out and again, with the work that's being done with Community Workday there's been this tremendous effort to, to allow the water to flow through and to be able to restore the area.

Mr. Frampton: And just to add to that, because of the clearing of that drainage canal recently, by taking out a lot of that mangrove, the water's able to push through a little bit more it seems like. So it hasn't been as much of a concern as say a year and a half ago.

Mr. Shibuya: I'm more in terms of long-term type of solutions and what you've identified is a solution and it's a very good solution. The only problem I have is that because it is a drainage catchment area, you have the water sourcing from various areas and the owner such as Mr. Broadfoot and other impacted neighbors adjoining this property are not the only ones responsible for maintaining this and I just want to make sure that the County and the State understands this and that it is a joint type of effort that we come up with a joint workable solution. When the water comes in, you got sediment buildup. You have to pull it out and at the same time you have native plants going in there. So how do you, how do you restore this. You wanna ...(inaudible-changing of tape)...

Mr. Frampton: If you'd like we do have two resources here. Stacy Otomo is our civil engineer who understand the drainage patterns of the area, but also Mr. Robert Hodby, who does know wetlands very well and that's who we hired to help do the assessment for us, if you'd like to have him answer?

Mr. Shibuya: Thank you. Please.

Mr. Frampton: How about Bob, would you be able to come up and answer some of that?

Mr. Robert Hobdy: Good morning. My name's Robert Hobdy. I do environmental consulting work and I'm familiar with this area. You would like me to just describe some of what's there first and then get questions?

Chair Hiranaga: Well, actually first specific questions from Commissioners.

Mr. Hobdy: Okay.

Mr. Shibuya: What are some of the recommended solutions to this where you have a common drainage area of many owners and then you have the County as well as the State jurisdiction involved and who somehow presses the button at the right time to remove the sediment or and remove some of the native species and remove the sand berm?

Mr. Hobdy: I would think that it's the Public Works that is the primary --

Chair Hiranaga: The Department wishes to comment?

Ms. Dagdag-Andaya: Commissioner, that particular area as mentioned earlier is basically owned by the State and so it's a function of DLNR to clean out that area because again, the tidal--the tidal water deposits and it comes, it kinda pushes it in and then you go water coming out and then it's this ongoing process that keeps going back and forth and we've actually come in, the County has come in to assist the State in cleaning out this portion of land and due to the State's funding constraint so often times the State does call upon our Department for assistance and we do go in and help them.

Chair Hiranaga: I would think that in order to do work in a wetland even for the State they would need a permit.

Ms. Dagdag-Andaya: Right.

Chair Hiranaga: So it's not just pressing a button. It's seeing a need and then applying through the process to get a permit to do the work. I don't see it being done that frequently.

Ms. Dagdag-Andaya: And in addition to that, we have been working with Army Corp of Engineers in getting these types of permits for maintenance of these areas along the shoreline as well. So it's not just this one. There's a lot of areas out in Kihei along South Kihei Road that need these maintenance and especially with the events that took place at early this year there have been a heightened, an increased effort to, to work through this and, and be able to, to work with the Corp of Engineers in getting those permits and in fact we've already gotten those permits in as well.

Chair Hiranaga: Any other questions, Commissioners?

Mr. Shibuya: I just have one last one. Is the sustainable level of the water, who determines what

level of the water is adequate for public safety as well as for the wetlands?

Mr. Frampton: Again, I don't know if there is an adequate level but Mr. Otomo, Stacy do you have any comments on that or not? Yeah, it's a matter of, again, as, as Public Works has stated, because of what happened earlier this year with the heavy floods as well as the tsunami impact, when the tsunami came through there. It did the opposite push, it punched through and then carried out a lot as well. But that level so far a lot having to do with the immediate neighbors who start to watch this and see it come up, they get on the phone and contact the County. The County has been very helpful and does go down there fairly rapidly and pull it through, but coming up with a long-term consistent plan it's just not there yet. But I'll tell you the one indicator as far as how high it gets, the first area that it would breach is South Kihei Road. That's the area and if you start to see water coming over there it needs to be pushed, but it hasn't gotten to that point yet even in the extreme heavy flood that occurred. When it punched through, that drainageway--South Kihei Road in that area was fairly flowing.

Mr. Shibuya: It's just a comment in terms of sea level rise, we know it's gonna happen.

Chair Hiranaga: Commissioner Shibuya, this is time for questions. Commissioner Mardfin.

Mr. Mardfin: As long as we have Mr. Hobdy here, I'd like... I know he's a great expert in this. Have you, are there any endangered species either flora or fauna in this area that would be impacted by this?

Mr. Hobdy: Well, the --

Chair Hiranaga: Could you identify yourself once again, please?

Mr. Hobdy: Yeah, Robert Hobdy. The areas frequented every once in a while by Ae`o, the Hawaiian Stilt and possibly more rarely the `Alae ke`oke`o, the Coot. It's a natural wetland that builds up around the coastal sand dune all through Kihei. Anyone that lives down there knows that that water accumulates down there. This particular water comes from mauka from Waiohuli Stream comes down crosses laterally over Halekuai Street and then comes down through that big structure under the road there to the coastal wetland. And this is the only area where the water is standing. The other water flows through and during those big storms it's very substantial.

Mr. Mardfin: Is there any evidence in your mind that this project would interfere with any endangered flora or fauna?

Mr. Hobdy: No, I think actually it enhances it because the, the growth of mangrove and the heavy growth of the sour bush or plukia built up over there if you're familiar with the area you know it was probably under six or eight feet of, of dense vegetation. That makes the wetland unusable by the, by the water birds. And so the restoration plan is a wonderful one and the species that are used compatible with periodic inundation, you know, so it's opened it up. It's made it so that the birds would be helped.

Mr. Mardfin: Thank you very much, sir.

Mr. Hobdy: Yeah.

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

Mr. Mardfin: This will be for Bill.

Mr. Frampton: Two things. One, can you explain again what's happening...I like that photograph. No, the one you just had. You said there was accretion. Can you kinda describe what's been happening with erosion and accretion in that general area? I'm mostly concerned about where that curve juts out.

Mr. Hobdy: Yeah, I definitely am not a coastal geologist expert. However, this coastal atlas study that was done years ago obviously like what Mr. Shibuya talked about sea level rise, it's a very much concern along the coastlines. This study showed that rather than what's occurring in a lot of areas is you have erosion taking place. With the construction of that groin from what I've gathered in talking with Corp of Engineer folks and other coastal geologists that served to capture a lot of this sand that laterally moves up the coastline. You can see by putting that groin out there in the 1960's, this is where that coastline used to run. It started to pile up and accumulate out there.

Mr. Mardfin: And what's happening on further north?

Mr. Hobdy: It's more--it's similar to what's on Halama Street --

Mr. Mardfin: It isn't, it isn't catching it there and depleting it somewhere else?

Mr. Hobdy: It's being captured there and not transporting up and so it's an interruption on the natural process. Yeah, whether that's good or bad, just to understand why it's happening. There has been talk about going out here and taking that groin which consist of large boulders and possibly removing slowly over time some of the boulders, but that's a question definitely related to the State DLNR people and Daniel Ornellas. But just as far as what's happening, it's at one point years, and years, and years ago, the shoreline would have been possibly closer to the property even if everything say was removed and it corrected itself, the property's still substantially set back.

Mr. Mardfin: My second question is, you referred to this area as dune structure. Is the footprint of this new proposed building the same as the footprint of the old one or are you gonna be digging in, disturbing ground that hadn't previously been disturbed.

Mr. Hobdy: Let's see, you wanna go to there, go back to that, sorry, that one. This is the area that previously you can see the old foundation and the pad of where the house was and on this side of the property is where, you will go down into that for several feet of that bunch of sand and so you will impact that area clearly by going down and putting where you're gonna put the pool and whatnot. I think, I'm not sure if you're gonna go to that related to burials.

Mr. Mardfin: That's exactly where I'm going.

Mr. Hobdy: Yeah, okay. As you know, I was a member, eight-year member of the Burial Council and one of the very first things we did on this property was went out there with archaeologists. We

did do an archaeological inventory survey. But one of things we did was we substantial number of trenches. It's only a--it's a small, 8,000 square foot parcel, we put in multiple trenches to see if we could locate any sites, any form of historic features, properties. It was sterile. There was nothing there. Regardless, monitoring is required and will be implemented. But that amount of sand from what again, what I've heard from the coastal geologist and even our cultural consultant who is here today, this sand is always shifting quite a bit of sand versus other areas where the burials could be more present. This seems to have been accumulating because of that groin. So over the last 40, 50, 60 years that sand's built up. So the other level I think would normally be a much lower area.

Mr. Mardfin: Thank you very much.

Mr. Hobdy: Yeah.

Chair Hiranaga: Commissioner Wakida.

Ms. Wakida: Good morning.

Mr. Hobdy: Morning.

Ms. Wakida: I'm always a little bit suspicious when builders start messing about in the beach reserve area and --because I've noticed that often times it benefits the builder rather than the general public and as you have pointed out in one of your slides the neighboring property has this big grassy area and I think it would be difficult for anybody walking down the beach to know that's public area there. So on your project what will delineate your boundary from the beach reserve and how, how will the public know that that's beach reserve and not an extension of, of this development?

Mr. Hobdy: The delineation with be that--will be right here. This small retaining wall, the little bit more of a wall there and that will be the delineation and unlike, yeah, it's very difficult to see the delineation on the other side and it very much has that presence of am I trespassing. That hopefully is not gonna be the feeling in this area.

Ms. Wakida: I see. Actually this is a question maybe for Mr. Spence. Is it appropriate to have signage along where there's a beach reserve boundary to say this is public area? This is public beach reserve?

Mr. Spence: I'm not familiar that that's ever been done before. I don't know, I think if the applicant was say, you know, little signs of home and beach reserve or something like that, you know, that's something they could do. I don't--I don't know that we've ever required it or --

Mr. Frampton: Dan Ornellas from the DLNR has been very focused on that. There's been a lot of efforts to go in and remove any structures, showers, benches that folks have put that would give them the enjoyment of a private landowner and discourage people from feeling comfortable to walk along those areas. We'll be working closely with Daniel. He's the consulting person that we have to work with during building permit. But the signage, if you do walk up and down that areas there are signs saying--some of the areas have bold signs, private property.

Ms. Wakida: Is it on the beach reserve areas?

Mr. Frampton: No, not on the beach reserve. There used to be some signage that did do that because some of these private landowners had easements that they went and got from the State to utilize that land. I believe that's not the direction where the State's going now, to reverse that trend.

Ms. Wakida: Yeah, well I like what I see from your drawings and I hope that you follow through on that.

Chair Hiranaga: Just a follow up statement. I mean, obviously this area is being irrigated because Kihei is not green like that near the ocean by natural causes. So these individuals probably got easement rights to install irrigation. So the question is, is that the intent of the owner is to also irrigate the State beach reserve fronting his property?

Mr. Frampton: No, absolutely not. What would potentially happen is what you were saying Commissioner Hiranaga is you see these areas, this parcel right here, parcel -- I can't read that TMK number, directly in front of it, that's an easement that they acquired from the State to do what they're doing. Another one occurred down here. That occurred up and down the South Maui shoreline in areas where there are large State beach reserves. In the case of Mr. Broadfoot, the only irrigation that would potentially be put on the State beach reserve would be something similar with what we did with Community Workday, very temporary irrigation to help establish the native plants. It's surface irrigation remove and just to help get those plants going but nothing of the nature that you've seen in the other areas.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I'm intrigued by the saline pool because I've been somewhat bothered by all the freshwater pools that pop up like mushrooms. Is it, he's gonna get ocean water and pump it in there?

Mr. Frampton: No, no. It's just a function of the -- rather than chlorinating using bromine or bromine or chlorination of the pool, it's a saline type solution that is...I'm not sure--I've gone to them, a lot of the hotel pools are doing this, switching over to it.

Mr. Mardfin: Okay, but it's not, it's not ocean water that's going in?

Mr. Frampton: It's not ocean water and it's also a function of it's less harmful to the environment without those hard chemicals of chlorination and bromine. It's saline to be more natural, I guess to some level.

Mr. Mardfin: My second question is, this is a duplex, what's the intention? Is Mr. Broadfoot gonna live in one and rent out the other or have any idea?

Mr. Frampton: We, we have talked about that. We've discussed that by code a duplex clearly indicated that there's two separate families living independent from one and another. He does have friends in Canada who are interested in acquiring the other portion. You can CPR it. It would be

separate ownerships. As far as doing some kind of more transient type use, he's never talked about doing something like that. And if so, he would obviously have to go and get permits and approvals for something of that nature.

Mr. Mardfin: Does he normally live in Hawaii, 90--you know, like--

Mr. Frampton: No, he comes very often but part of the reason of purchasing this property is he wants to be here. He has two children. He works ...(inaudible)... He and his wife are raising these kids, they'd love to be here much more full-time basis than coming every couple months.

Mr. Mardfin: Thank you.

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

Mr. Shibuya: Just to redirect the question to the developer. It's on the Kihei Community Association letter that we got in the packet. It says that they've attached the green building guidelines and I believe Mr. Frampton talked about the green guidelines and I was just wondering why we, as Commissioners, did not get these attached green building guidelines? Maybe Staff can address it. You would not know.

Mr. Spence: Why all of the Kihei Community Association's green building guidelines are not attached to the staff report?

Ms. Thackerson: I can answer that actually, if you'd like to.

Mr. Shibuya: Yes.

Ms. Thackerson: They did not give me a copy of the green building guidelines. When you go to the Kihei Community Association website. They have videos of all their meetings and recent document so anyone in Kihei can view them and see them and they include the architectural guidelines and designs and a copy of this letter which is also, if you notice the letter's not signed. This is just what they have provided. I'm sure the green building guidelines packet--it's also, the Department of Water gives us a packet every time they comment on a project as well about ways you can save water and we just don't include those. They're cute little drawing and turn off your, you know, turn off the faucet when you brush your teeth and things like that. And we just, we just don't include that because the packet as you can see is already quite thick.

Mr. Shibuya: Okay, Mr. Frampton, can you just summarize some of the features there?

Mr. Frampton: Sure I appreciate that just for Candace's sake, we did not include the letter when we gave it to her. They are very easily accessible when you go to the KCA website. The other interesting thing with KCA is when our project was up for review they put it on their website now. I'm not sure if you're familiar with the review now is any time there's a project that they've reviewed, rather than just go to one of their meeting which they hold a meeting and we discuss the project, they also put it up on their website so all KCA members receive notice here's a project. We gave them all of our drawings, all of our plans, they were thoroughly reviewed which is a nice thing to know for you folks in the future. The other, related to the green building design guidelines, Mr.

Shibuya, they're almost identical to the LEED certification process. They mimic them, they take a lot of pieces and chunks of those, so everything from photovoltaics, drainage concerns, grasscrete versus impervious, using porous instead, color schemes, any similar standards than what you would expect, sorry if I'm not giving you more detail, but I know you know them very well, but they are similar to the LEED certification requirement.

Mr. Shibuya: Thank you.

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

Mr. Ball: Going back to the shoreline access. I had big concerns about that because of some of the other things that you've said about the neighbors, extending their properties out with these no trespassing signs, and the one person obviously got the State fooled somehow to get them a lot all the way to the ocean, but the surrounding neighbors don't seem to be good stewards of that area and are increasing their property sizes in a sense telling people don't come over here. With the closure of Kapu Place that's even a bigger sign of don't come over here. You have a homeless area, there's ways to get rid of that besides cutting the whole public off. I understand they can do that. They own that road, but they're not being good stewards of that thing even though they're trying to take away all these evasive species and all that. They're not making it so the public can consume that, that nice area very easily. That, that gate thing at South Kihei Road is a real concern for me even though I know they can do it because there is no parking there and we've discussed that previous and, and how do you park on South Kihei Road and take all your stuff through the little gate and all the way down. I mean, you can go to Lipoa and come down or whatever, but I mean, if the people that, that own that road are those four lot owners there, five lot owners there. I just feel that they're not being good stewards of that land there because of the way that they are closing that area off and I'm surprised the Kihei Community Association didn't mention that that, you know, that you guys are trying to make this thing nice but yet you're cutting it off to everybody that...(inaudible)...

Mr. Frampton: They did. We had definitely had a thorough discussion on that. Couple things to point out. The public beach access where you can bring vehicles close to the shoreline, one's up here, one's just out of the view here within 3 or 400 feet, I'm sorry 500 feet each direction, fairly close. With Kapu Place just to bring back that is privately owned and so for Mr. Broadfoot to be able to be able to do anything he's got to get the other owners to agree. However, the other thing is the native birds and whatnot that we're trying to bring back as well, it's a fine balance. They didn't want to encourage a substantial amount of traffic I don't think coming down through there because there might be more appropriate areas to do so that wouldn't impact some of the birds or species by having cars drive down there increasing traffic. It's substantial traffic over here, if you did that there. Mr. Ball, there is an area out front here that could be potentially used for parking. There's areas over here where the guys who were fishing, yesterday was a holiday, there was 12 kids at one point that I counted all fishing along here for Tilapia. It was, it was cool. They park right here. It's an unimproved parking area but there was six cars parked right there. From there, to get down to the shoreline, it stops right here because it becomes a private driveway. They couldn't get there and that's where the discussion with KCA, with the County and the State has been with us is how could we do something similar maybe with signage. Improve parking here. There's ... amount of space. Walk down the sidewalk, walk down and over, maybe put some parking here, but again that's a function of working with the County and we would gladly do so. And

I think you know as well as I from growing up here, the last thing you wanna do is be continually cutting off that access. We gotta low --

Mr. Ball: And that is my main concern.

Mr. Frampton: I got that.

Mr. Ball: I mean, we've seen it over the years and over the years all the way down to Makena and where places where we used to go, stop get out, walk a hundred feet and there you are, right.

Mr. Frampton: Yeah.

Mr. Ball: Now it's like, oh gotta hopefully park way up the street.

Mr. Frampton: The fisherman fishing there I asked them, they parked up here and another one parked down below. They seemed okay. Do we wanna include more vehicles that much closer that's a, it's a balance. That's something though that I would encourage the County to look at we would gladly look it with them. I know Mr. Broadfoot's committed to doing anything like that.

Mr. Ball: And I'm not blaming him. I'm just --

Mr. Frampton: Oh, I get that. I appreciate it.

Mr. Ball: --'cause you're here, but --

Mr. Frampton: They're valid concerns, Keone. Those are--that's happened up and down this entire coastline. Private property signs, where do we go? And if we do go, are we--feel like we're walking through someone's front yard, it's not comfortable versus our local style over here being able to go. That's one area that you talked about that's still natural and you can walk around there and still feel comfortable. We gotta try to figure out how to preserve that.

Mr. Ball: Yeah.

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

Mr. Shibuya: Just wanna, my favorite topic. What is the estimated kilowatt hour usage to operate this property after it's built?

Mr. Frampton: Figured you'd have a good question about that. I can ask either our architect or civil engineer might have that number which I don't know.

Mr. Shibuya: It's an estimate.

Mr. Frampton: I'll ask Dan to do it, but our -- the client, Mr. Broadfoot has been pounding down on them to maximize whatever it is, he wants to do it. He wants to-- if pool involves any heating he wants photovoltaic. So whatever it is, he's pounding down on them but maybe Dan, you have a rough number what that might be? You don't. We don't. But I imagine, yeah. There's two, it's a

duplex so two separate families. You probably know what a two-bedroom, three-bedroom, two-bath house might generate.

Mr. Shibuya: Air-conditioned.

Mr. Frampton: Absolutely.

Mr. Shibuya: Central air.

Mr. Frampton: Sure, sure all that. And then powered by the PV.

Mr. Shibuya: Right, and there's -- so you have more lighting because now you have another structure above, so you don't have skylight.

Mr. Frampton: Yeah. Sure, sure. And so there are substantial though other light sources that they've designed remember seeing the rendering.

Mr. Shibuya: That's correct.

Mr. Frampton: But that's a concern, but they will maximize whatever they can get with that square footage of the roof top.

Mr. Shibuya: Okay, I was just looking in terms of the capacity of the renewable power that is generating to the system. Will this comply with HRS 269 which is the RPS, Renewable Portfolio Standards, 2030 we should be generating at 40 percent. Will this come fairly close to that?

Mr. Frampton: Oh yeah. I'm hoping that like what you're able to do with house system is to hopefully spin it backwards at times.

Mr. Shibuya: Right.

Mr. Frampton: They're not going to be there at all times, but it will continue to be having that that, those panels will be up and they get a fair amount of sunlight, south shore.

Mr. Shibuya: That's correct.

Mr. Frampton: And then ideally it's doing what you're able to do.

Mr. Shibuya: Thank you.

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

Ms. Thackerson: I had a couple of comments first actually. Commissioner Mardfin, if you would like some more information on that sediment and why that's happening the way it is. I can ask our Sea Grant Agent, Tara Miller Owen to take a look at that. Maybe she is familiar with it and will know. She's not here right now. I mean, I can get this to you later.

Mr. Mardfin: I'm okay with that.

Ms. Thackerson: Okay. As far as SHPD concerns we do have Condition 12, 13, and 14 in the recommendation packet. I think one of them is fairly extensive for monitoring. And then, Commissioner Wakida as far as your concern with the encroachments on the State Beach Reserve there and making that an extension of their home, we do have Condition No. 11 that says that they will not use any of the State beach reserve without express written consent from DLNR. And Commissioner Shibuya, if you would like a copy of the green building guidelines that they provide I could get a copy of that.

Mr. Shibuya: No, I'll just -- thank you, I'll just look at the website.

Ms. Thackerson: Okay.

Mr. Shibuya: Thank you.

Ms. Thackerson: The Planning Department recommends approval based upon the 24 conditions as listed in the report. In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the October 12, 2011 meeting as its findings of fact, conclusions of law and decision and order and to authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

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

Mr. Shibuya: It's not more a motion but I would just question of clarification. Candice, can you tell me why the standard renewable energy clause is not in here?

Ms. Thackerson: Is that in the standard conditions or the project specific conditions?

Mr. Shibuya: Standard conditions such as energy conservation and energy generation.

Ms. Thackerson: I'm not sure why it's not in there. It should be. It's the same conditions that have been on all the SM1 reports, there's no difference. So if there's something missing I can compare it to one that has been recently approved and amend it as such if I find that there's something missing.

Mr. Shibuya: Sure, please.

Ms. Thackerson: Yeah, I can definitely amend that.

Mr. Shibuya: Okay, 'cause I was gonna --

Ms. Thackerson: If, if there is anything.

Mr. Shibuya: Make an amendment to it.

Ms. Thackerson: Yeah.

Mr. Shibuya: But I don't--I'm not gonna make a amendment or motion to it. I'll just make a motion to accept the recommendation.

Ms. Thackerson: Okay, but I will, I will look into that for the verbiage.

Mr. Shibuya: With inclusion of that conservation renewable energy generation clause.

Chair Hiranaga: Okay, motion to approve staff recommendation by Commissioner Shibuya. Is there a second?

Ms. Sablas: Second.

Chair Hiranaga: Second by Commissioner Sablas. Discussion? Commissioner Shibuya.

Mr. Shibuya: I'm gonna go ahead and recommend approval on this. I've also had concerns that the applicant should not hold the State or the County harm -- should hold the County and State harmless if there's some noxious odors or vapors and flooding resulting from these reservoirs and the outlets there. I don't know how you other Commissioners feel about this. If you feel strongly about it then we can make amendment.

Chair Hiranaga: Any other discussion? Commissioner Mardfin.

Mr. Mardfin: Mr. Shibuya, Commissioner Shibuya raised an interesting concern. Maybe James would wanna weigh on this a little bit as to whether you can. I mean, I can think of something else. If the sea level rise and this, and this thing goes underwater, they should be able -- I would not wanna see the County or the State get sued either. Are there hold harmless clauses that can be put into these things? Make James earn his money today.

Mr. Shibuya: Well, the concern I have feeding off of this for clarification is that if the State and the County do not maintain this reservoir --

Chair Hiranaga: Okay one second Commissioner Shibuya, let the Department or Corporation Counsel answer Commissioner Mardfin's question because I think they have an answer.

Mr. Giroux: Thank you, Chair. I think your concern is covered by Condition No. 7. They have a million dollar insurance and indemnity.

Ms. Thackerson: No, actually I think he's asking the opposite. He not concerned with -- he's concerned that if the County lags on their maintenance of the wetland area and the drainage channel and that should cause flooding onto the property. Are they, do they have any protection, like can they say, well, can they try to sue the County and say we didn't do a good job cleaning the wetland.

Mr. Giroux: Yeah, that would, that would, you know, create a situation.

Mr. Shibuya: That's why I'm asking.

Mr. Mardfin: And sea level rise could do the same thing.

Chair Hiranaga: I guess I'm not an attorney but if you could place blame on the County for sea level rise you may have a case, but if the County's not causing the sea to rise, you may have a weak case. Well, I guess it could be debated in court.

Ms. Thackerson: It also might be covered by their homeowner's insurance as far as flooding and things that occur on the property. Yeah, and 'cause they are in the flood zone and according to the FEMA maps and things like that, but I'm, I'm not sure.

Chair Hiranaga: Commissioner Shibuya.

Mr. Shibuya: See other concern is noxious odors. If you don't maintain the flow in this area then it gets stale. There's a stench and then it becomes very annoying. And it can be--the quality of life it becomes an issue and so these property owners do they have the right to sue the County for not maintaining the natural flow of this water?

Mr. Spence: I know that sometimes, you know, particularly when properties are sold in agricultural areas there's a notice given to potential buyers that, you know, you're subject to dust, odors, chemicals, etc., etc., perhaps, I'm just suggesting, I'm not--you know, perhaps there could be notice given to whatever buyers that, you know, you're next to wetlands and sometimes it stinks, you know.

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: Did the Department answer your question?

Mr. Shibuya: No, I was aware of that, but this is not an agricultural area.

Mr. Spence: Right, well it's the same kind of thing applies. You're next to a natural area.

Mr. Shibuya: So do we need to state it? Do you wanna be held harmless?

Mr. Spence: I think if, guess if there was a really simple, if there was a really simple condition that says the applicant will notify buyers that you are next to a natural area and it's subject to, you know, possible inconveniences or something like that. I'm not one to be adding conditions on the permit.

Chair Hiranaga: I would caution you from opening that box. It is to me, buyer beware. For the County to start having to disclose possible cane smoke coming from Central Maui, dust from agricultural activities five miles down the road, I mean, this property abuts a wetland. If he hasn't noticed that he should come and check his property out.

Mr. Shibuya: ...(inaudible)... okay.

Ms. Dagdag-Andaya: Commissioner, Chair, you know, in addition to that we've also had areas, you

know, along North Kihei Road right where Kealia Pond is located so all of those condominiums there, there's also a drainage canal in that area that has water that sits. So I know for the County, for Department of Public Works when there is an issue that arises the condominium association contacts us, we go there and we assist. State Department of Health, Vector Control, also goes in and does some work as well. But in that, you know, in that Kealia Pond wetland area, I don't know what kind of mitigation efforts are, you know, in terms of noxious odors. But I'm assuming also for property owners along Hana Highway in front of that wetland area, that would be another area of concern too, and you know, I'm not an attorney and I don't know on the legal side, but I know from our Public Works side we work really well with the landowners and in trying to clean up the areas and making sure that it's on a regular maintenance schedule.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I think we've noted these concerns. I think at least the owner will hear of the -- that we've addressed it. We think he has to live whatever consequences there are and I don't think we need to add a direct condition at this point unless somebody has a strong view to the contrary.

Mr. Shibuya: Call for the question.

Chair Hiranaga: I'd just like to make one comment. I know the landowners made a lot of effort to clean up adjoining properties but when you look at the architectural style of this house unfortunately in my personal opinion it looks more suited for Malibu Beach in California than on South Kihei Beach. It lacks the Hawaiian contemporary style with the flat roof. I know he's trying to maximize floor area which maximize return on this investment, but this house may end up being a landmark where people say, you know, just go look for that house that looks like it should be in Malibu instead of on Maui. One personal comment. If there's no further discussion, I'll call for the vote. All in favor of the motion please so indicate by raising your hand.

Mr. Spence: That's seven ayes.

Chair Hiranaga: Opposed.

Mr. Spence: With one nay.

Chair Hiranaga: Motion carries.

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

**VOTED: To Approve the Special Management Area Use Permit as Recommended with the Additional Standard Condition Regarding Energy Conservation/Renewable Energy.
(Assenting - W. Shibuya, L. Sablas, D. Domingo, J. Freitas, I. Lay, P. Wakida, W. Mardfin)
(Dissenting - K. Ball)**

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

Ms. Thackerson: Thank you.

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

Chair Hiranaga: Okay, Director.

Mr. Spence: Commissioners we are onto Item C-1 of your agenda. Mr. Fred Romanchak of Kula Lodge requesting Phase II Project District amendment to delete Condition No. 26 prohibiting kitchens inside the lodging at Kula Lodge. Our Staff Planner is Mr. Paul Fasi.

C. COMMUNICATIONS

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

Mr. Paul Fasi: Thank you, Director Spence. This matter arises from a request for deletion of Condition No. 26 of the Project District Phase II approval received by the Planning Department on May 18, 2011. The request was filed pursuant to Chapter 19.45 Project District processing regulations. It is as amended by Chris Hart and Partners on behalf of Fred Romanchak, the owner who is the applicant. The TMK is 2-03:022: 087 is the property. The purpose of the request is the applicant's requesting deletion of Condition No. 26 of the Project District Phase II approval granted by the Maui Planning Commission on March 30, 2010. The Condition No. 26 states, "that kitchens in the units are prohibited." Kitchens are defined as Maui County Code, Chapter 19.04.040 in Definitions.

A brief history of the application and how we got to where we are today. On May 8, 2000, the Maui Planning Commission granted the applicant's first Project District, Phase II approval. On March 30, 2010, a new amended Project District, Phase II approval was granted by the Maui Planning Commission due to the project's significant redesign. Condition 26 which prohibits the kitchen was added to this approval. On April 7, 2011, the Department received a request from the applicant to delete Condition 26 from the Phase 2 approval.

I'm going to get into the justification for the kitchens on this particular request. Maui County Code, Title 19, Chapter 19.75 in the Makawao-Pukalani-Kula Project District 1 which is Kula is in your report and is reprinted entirely, in its entirety in the report. I'd like to bring to your attention 19.75, the purpose and intent of this zoning ordinance specifically the purpose and intent of the Project District 1 at Kula, Maui is to establish permissible land uses, appropriate standards of development and specific allocation of building area for hotel and commercial uses within the project district. 19.75.020, Lodge, A, permitted uses within the Project District 1 the following uses shall be permitted, and the first principal use is a hotel not a lodge. In 19.75.030, Land use allocations the following are established as maximum square footage for various land uses and Item No. 1 is a hotel and not a lodge. So Maui County Code, Title 19, specifically addresses the issue of a hotel in the project district. The Makawao-Pukalani-Kula Community Plan was adopted by Ordinance 2510 and became effective July 23, 1996. Then in April of 25, the Ordinance 2494 in the Makawao Community Plan which became effective April 25, 1996 amended the description and

the description states that the Project District should primarily contain retreat accommodation that provide a restful and quiet experience in an isolated location. An existing restaurant and hotel use shall be allowed along with other limited expansion for other hotel uses. So clearly intent of the Makawao-Pukalani Community Plan as well ...(inaudible- changing of tape)...

The reason I bring that up is the crux of the matter today is whether we are gonna define this particular Project District of the hotel or are we going to consider it as a lodge. So by definition is it a lodge or is it a hotel which will determine basically whether or not they can have kitchens or not. Kitchens are allowed in hotels, lodging units do not allow for kitchen. Presently Condition 26 considers this a lodge so therefore, kitchens are prohibited. Since this matter came up, I had to reference the Zoning Enforcement Administration as they give us a definitive definition when we have questions about definitions and how are they defined.

So I'm going to read to you verbatim an email between myself and Francis Cerizo, who is the Supervisor for the Zoning Enforcement Division. And he says, "typically other Hotel Districts in the Project District," a good example is Kapalua, "allows all the uses within the Residential and Apartment District." The Kula Project District is different where Apartment Residential Uses are not listed as a principal use. Therefore, apartment or long term uses are not permitted." Okay, this is important. Therefore, for apartment or long term uses are not permitted. And what this address later on is the issue of possible turning these hotel units into condominiums. The County does not regulate ownership which condominiumizing is. That's a form of ownership, this's not a use. The hotel is a use. So although the owner may condominiumize these units, they cannot be used for long term use. So it's kind of self-defeating to turn this into a condominium when you can only have short term use and short term use is defined as a 180 days or less. The Kula Project District is different, let's see, ...Therefore, condominiums are not a use, it is a type of ownership and it is not regulated by the County. Again, he says that Section 19.75 of the Maui County Code principal uses the first one is Hotel, again, it is not allowed. If you go still further down in the Maui County Code, 19.75, it also says, maximum hotel units, but also says, 15 lodging units plus one caretakers unit and I think then is where the confusion begins. This has maximum hotel units, but then in the next wording it says 15 lodging units. So is it a hotel or are they lodging units? Well, the cannot be lodging units because lodging units imply long term usage, 180 days or more. Okay, let me say that again, lodging units imply long term usage of 180 days or more. So therefore, these are not lodging units. They should clearly be defined as hotel units because they are short term units. He goes on to say further, the Makawao-Pukalani-Kula Project District has only one district Lodge PD1 MPK/1. It appears that since the project known as the Kula Lodge that subject subdistrict retain part of its name, okay. What he's saying is because it's named the Kula Lodge is part of the reason why the project district is called Lodge PD1-MPK/1 because it retains part of the Kula Lodge name. Also, the use of lodge was consistent throughout the standards whereby its use is synonymous to a hotel.

Section D(4) of the Maui Code states, "maximum hotel units," "hotel units," and then it goes on to say "15 lodging units plus one caretakers unit." The purpose of D(4) and I'm quoting from Mr. Cerizo is to describe the maximum number of hotel units for the lodge. It describes the maximum number of hotel units for the lodge. "If we restrict," and he's underlining this, "if we restrict the use of lodging units then it's use would be restricted to long-term residential use which would not allow the hotel use." Okay, so clearly they are not lodging units because we do not allow long-term use in this project district. Everything is short term, a 180 days or less. He goes on to

say further, "also the term, "lodge" is again, in reference to the Kula Lodge and not in reference to "lodging units" whereby definition a kitchen is not allowed. For example, if the project was called the Kula Chalet, then would you probably have -- then you would have probably seen terms like "15 Chalet units plus one caretaker's unit or the project district may have been names "Chalet PD-MPK/1." So the use of "lodge" in this ordinance appears to be in reference to that project's name, the Kula Lodge, okay. And he then concludes, "in conclusion, the lodging units are considered hotel units. There are no restrictions that prohibit kitchens in hotel units, therefore kitchens are allowed. The Department concurs with this definitive definition and we support the kitchens in the hotel units. Thank you.

Chair Hiranaga: Paul, can we have a copy of that correspondence?

Mr. Fasi: I can give you a copy.

Chair Hiranaga: Yeah, why don't you make hard copies so we can look at it. Does the applicant wish to make a statement or presentation?

Mr. Chris Hart: Thank you, Mr. Chairman. My name is Chris Hart of Chris Hart and Partners and we've been the land planners and landscape architect for the Kula Lodge since the beginning of this process. With me today, and we do wish to have--we have a PowerPoint presentation we would like to be able to present that to the Commission. The purpose for doing the PowerPoint is that the last time that we brought this before you was in March of last year and there's new Commissioners and we just feel that it would be good to give an overview of the project.

With me today is Brett Davis, who has been the planner assigned to the project. Also, Fred Romanchak and his wife Suzie are present and Fred, at the conclusion of my presentation may want to say a few words about why, you know, this request is before you today. So with that, just a little bit of project history and again, I would also like to say that I thank Paul for his introductory remarks on presentation.

In April of 1996, Ordinance 2495 was approved amending Chapter 19.75, for Project District 1, Kula Lodge. May 8, 2000, Maui County Planning commission granted Phase 2 Approval for the redevelopment of the Kula Lodge. Note, we understood that kitchens were permitted. There was no prohibition in the context of that Phase 2 Approval before the Maui Planning Commission. November 14, 2000, Phase 3 Approval is granted for the Kula Marketplace which is the commercial part of Kula Lodge. In 2008, the applicant retained Phillip White and Associates to prepare a new design. The reason that was done is that the architect back in 2000 was a man by the name of Mr. Tedd Benson and there were some issues that came up in the context of the feasibility of building his design, you know, on the sloping site of the Kula Lodge and there wasn't the same kind of understanding and sensitivity that was--should have been incorporated into the design. So Mr. White is a Hawaii-based architect from Honolulu. He did for Molokai Ranch, the Lodge, Molokai Ranch at Maunaloa, and some of you may have seen it. It's a quite nice facility and so Fred Romanchak hired him to be the architect. On September 16, 2009, the Urban Design Review Board recommended approval of the proposed redevelopment plan. On March 30, 2010, the Maui Planning Commission granted Phase 2 Approval of the new design plans for the redevelopment of the Kula Lodge and it's important to note that, you know, this is the second time that we've come before the Commission--or in 2010 was the second time. We came before the Commission for

Phase 2 Approval of the Project District. Note, the kitchens are shown in each of the 850 square foot units but were prohibited at the time, at the Commission meeting. It was interesting at that time the issue came up, the Director said, he, he basically made a comment saying that the issue could go either way and I think that it's important that the Department has had, you know, the further analysis done by the Zoning Enforcement Division because I think that clarifies it quite completely. July 7, 2011, a meeting was held with adjacent neighbors. Now, the issues that came up were issues related to noise, and also there was concern, you know, about ownership. I can say at this point regarding ownership, Mr. Romanchak, you know, maintains that he would be the owner, you know, of the units. However, in the context of the evolution of the project, again, condominiumization is, is a sale tool and it's something that could happen in the future, but that is not the intent of Mr. Romanchak at this time. And also I might add, you know, the issues of noise when it came up, if you call--I call your attention to the actual Project District Phase 2 Approval letter, the first five conditions under the project specific conditions, 11, 12, 13, 14, 15 are all related to noise, all related to noise. So the, the fact that there would be kitchens in a unit is not going to be an issue that's gonna contribute to more noise. Kula Lodge redevelopment project, demolition of the existing Kula Lodge Restaurant, guest cottages which are three at this time, and the Upcountry Harvest Gift Shop. We would be keeping the Kula Marketplace, the existing outdoor dining area and the caretaker's cottage and the roadway sign. The new restaurant and commercial space and 15 new 850-square foot units would be proposed as part of the construction.

The Kula Lodge redevelopment project would include site improvements. There's going to be not impervious concrete in the parking lot, but pervious concrete in the parking areas. Wastewater treatment system to be located underneath the proposed parking expansion area adjacent to the Marketplace and the applicant will implement a storm drainage system approved by the Department of Public Works that accommodates the voluntary reduction of runoff from the predevelopment drainage conditions by 10 percent.

This is an aerial location map that many of you are familiar with of the Kula Lodge. This is Haleakala Highway. I might also this is the Silversword Inn which is also a Project District in the Makawao-Pukalani-Kula Community Plan. It has not been, you know, basically moved forward. The Kula Lodge is located here and it's actually located on a system of gulches. It's a plateau area and you can see that the gulches go around the Kula Lodge. Now this was part of, of a residential development by a man by the name of Frank James. It's called the James Tract. And the Kula Lodge is actually been in existence for more than 50 years and development, of course, have occurred around it.

This is the landscape planting plan. It shows the gulches that are on the property of the Kula Lodge. There are also portions of the gulch that are on the other side, on the neighboring property side. The, basically the project district zoning requires that 20 percent of the Kula Lodge site be dedicated as open space. In the context of this plan there's 63 percent of the overall site that has been dedicated as open space and you can see the amount of, of setback that exists on, on south and on the north side of the property. The maximum height on all buildings will not exceed 35 feet. The proposed site plan provides approximately again 63 percent of open space, 20 percent was required and all proposed structures are located within a minimum building setback 50 feet from both Haleakala Highway and the south boundary of the property and 30 feet setback required from other property lines. This is the caretaker's cottage which is an existing piece of architecture on the site which will be preserved and then this is the outdoor dining area which is also on the site

which is going to be preserved. So the --some of the character features of the site will be preserved. This is the proposed restaurant building. You can see the work with the architect to try to make sure it's integrated, you know, in the sloping site. And the character of the building, you know, it's residential and it certainly has a good feeling of Upcountry Maui and this is the proposed hotel building, another hotel building. This shows the site sections which I think are important because, you know, we are being very sensitive in the use of the site. Now these are shots from Haleakala Highway. This is the Kula Lodge Restaurant. This is before and this after with the landscape planting. The reason for these shots is to give you the sense that even with the redevelopment that there's not going to be a significant change in the visual character from Haleakala Highway. This is the Kula Marketplace and this is the proposed simulation of the Marketplace after development.

Now our justification, the Kula Lodge has existed at the same location in the Kula community as a lodge and has provided hotel accommodations to visitors to Upcountry Maui for more than 50 years. I think that distinction of the name, Kula Lodge and the confusion between lodge units and hotel units is important. In 1981, the Upcountry Community Plan designated the 3.7 acre Kula Lodge as a retreat resort with a hotel room density of four units per acre or a total of 15 hotel rooms at 850 square feet per unit. Now a normal unit is basically a 400 to 500-square foot hotel unit. So the opportunity of having kitchens in a 850-square foot unit is, is a very logical proposal. In 1996, the proposed Kula Lodge redevelopment was legislatively defined being subject to Chapter 19.75 of the Project District 1 and that hotel is a permitted principal use for the Kula Lodge Project District. In addition, 19.75.030, Land Use Allocations, identified having 850 square foot living area per unit.

The justification are Maui County Code, Chapter 19.04.040, Definitions, provides the following. A hotel means a transient vacation rental other than a bed and breakfast home containing lodging or dwelling units. Now, a dwelling unit means a room or group of rooms connected together constituting an independent housekeeping unit for a family and containing a single kitchen. This subject request for amendment of Project District 2 Approval for the redevelopment of the Kula Lodge will result in no physical change in the exterior design or density of the approved project plans.

Our conclusion, as previously mentioned, the Kula Lodge Project District Ordinance also identifies hotel as a principal permitted use and a definition of a hotel allows dwelling units and dwelling units permit kitchens. Therefore, it is our firm belief that based on the comprehensive zoning definitions provided that kitchens in the Kula Lodge hotel units can and should be permitted. On July 7, 2011, a meeting with adjacent neighbors as noted in our summary letter to the Planning Commission dated September 28, 2011, talked about noise and ownership as the primary concerns. These are out floor plans and clearly when the project came before the Commission in 2010, kitchens were shown. So the addition of the kitchens results in no change to the proposed project plan. Again, this is the Kula Lodge and we just wanted to give you a sense in the context of neighbors that are concerned of the open space that does surround our project. Again, we have 63 percent of open space whereas 20 is required by the project district zoning. These are views of neighboring properties. This is the view from the Kula Lodge facing north, the neighboring properties facing south, the neighboring properties facing southwest. Once again, hotel is a principle permitted use and the definition of a hotel allows dwelling units and dwelling units permit kitchens. Therefore, it is our firm belief based on the comprehensive zoning definition provided that kitchens in the Kula Lodge hotel units can and should be permitted. Thank you for your consideration.

Chair Hiranaga: Okay, at this time I'll --

Mr. Hart: Mr. Chairman, I'm sorry, if Mr. Romanchak, you wanna say anything?

Mr. Fred Romanchak: Aloha Members, Planning Commission. My name is Fred Romanchak. I am the owner and I've been the caretaker of Kula Lodge since 1984. It has always been my vision to bring the Kula Lodge to current -- to bring it to its full potential, to offer the kinds of amenities that the guests have expressed, they would expect in a lodging environment. And what's really been made clear to me is the need for kitchens. We have a lot of guests asking whether we have kitchen facilities because they would like to stay for a longer period of time than just an overnight stay. Being in Kula to either enjoy family members or most likely Haleakala National Park. So by not being able to offer kitchens all these years to guests asking them, it's really put the Kula Lodge at a disadvantage and on a really an uneven playing field with bed and breakfasts who offer kitchen and of course, that's where the guests go knowing that the Kula Lodge do not have these kinds of amenities. So as I'm saying in all these years and wanting to bring the Kula Lodge to offer the kinds of amenities that guests truly look forward to as opposed to what I've experienced all these years having to make excuses for not having these kinds of amenities has been the biggest challenge for me all these years in running the Kula Lodge as a hotel which it's always been. Thank you.

Chair Hiranaga: Okay, at this time, I will open the public hearing. We have several people signed up first individual is Bobby Patnode. Please identify yourself and please limit your comments to three minutes. Thank you.

Ms. Bobby Patnode: Thank you. And it's Bobby Patnode. I am Vice-President of the Kula Community Association, and Ron Montgomery, our President sent a letter to you and I would like to read that letter.

Chair Hiranaga and Commissioner Members, in March 2010, the Kula Community Association, Board of Director presented testimony opposing the inclusion of kitchens in the proposed renovation of the Kula Lodge units. This opposition was result of concerns expressed from local residents as well as the intent of Maui County Code 19.75.020, Lodge PD-MPK/1.

The KCA supported the Maui Planning Commission's Condition No. 26, prohibiting kitchens in the 15 lodging units and continues to support to it today.

We believe that the Maui Planning Commission was, and still is, legally correct by including Condition No. 26 for the following reasons:

Maui County Code 19.75.020, Lodge PD-MPK/1 wording is specific. The project district has a principal use as a hotel.

Maui County Code 19.040.040, Definitions states that hotels can potentially have two types of units: dwelling units or lodging units.

Maui county Code 19.040.040, Definitions defines these units as follows: Dwelling units means a room or group of rooms connected together constituting an independent housekeeping unit for

family and containing a single kitchen. Lodging units means a room or a group of rooms connected together constituting an independent living unit which does not contain any kitchen.

The question then is what does this Kula Lodge Project District specifically require in the hotel? Maui County Code 19.75.020, Lodge PD-MPK/1 is very clear and precise. The units are to be lodging units. Maui County Code 19.75.020, Lodge PD-MPK/1 states:

C. Other Uses Permitted. All uses which are not identified as permitted or special uses are prohibited in Makawao-Pukalani-Kula Project District1.

D. Development requirements for the lodge district shall be: 1. Minimum lot area three acres; 2. Minimum lot width 250 feet; 3. Minimum building setback 50 feet from both Haleakala Highway and the south boundary of the property, and 30 feet from other property lines; and 4. Maximum hotel units, 15 lodging units plus one caretaker's unit; and 5. Maximum height not to exceed 35 feet. Dwelling units which would have allowed kitchens are not mentioned.

Beyond that legal justification for prohibiting kitchens, the KCA Board feels that allowing kitchens would significantly and adversely affect the neighborhood around the Kula Lodge Project District. Many of the neighbors have testified to this effect in their written comments to the Maui Planning Commission. Kitchens could increase already disturbing noise levels because of outdoor dining on the 15 apartment lanais immediately above and adjacent to the many single family homes.

Chair Hiranaga: Please conclude your comments.

Ms. Patnode: I'll just finish up here. The Kula Community Association Board sincerely appreciates your consideration of our request to deny the application to delete Condition 26. Thank you.

Chair Hiranaga: Questions, Commissioners? I have a question. Just before I cut you off, you mentioned the reason for opposing kitchens was possible generation of additional noise and did you say dining on the lanais, could you...

Ms. Patnode: There's a possibility that people could choose to dine outside, yes.

Chair Hiranaga: So the primary concern is creation of additional noise from kitchen activities and the possible additional noise generated by dining on the outdoor lanais of those units?

Ms. Patnode: There is a possibility of additional noise. There also is a concern that down the road the hotel would become a condominiumized unit which is, that's my last paragraph which I didn't read to you.

Chair Hiranaga: Okay, thank you. Any other questions? Seeing none, thank you. Next individual, Karen Mawae Spence.

Ms. Karen Mawae Spence: Morning Commissioners. My name is Karen Mawae Spence. Approximately about eight years ago I bought my property at 18 Upper Kimo Drive. It's a flag lot so the house actually is right across from Kula Lodge that faces out over the lodge area. I'm against the addition of kitchens in this area. I know Mr. Hart said that they're top five concerns of

or conditions or regarding noise and I have a feeling that those won't be addressed if this is built to include the kitchens of course. Because the noise levels now are not addressed. I moved to Kula to enjoy the beauty and the peace and to be honest, if I could sell my house right now, and move from there, I would. There is a constant loud hum from this Kula Lodge. I don't know what it's from but it's really loud. Excessive traffic going in and out just that park there, their horns are going off, it's every single day. Sunday mornings they have leaf blowers that go in the morning. I don't know if they start at 8 o'clock but that's every weekend. And I just feel that, you know, he's-- the owners are not cognizant of their neighbors. If he was, you know, maybe there would be more support for this, but I lived there for nearly eight years and you know, the noise that's happening now is something that I don't enjoy and I can only imagine once this place is built what it's going to be like. So I'm against it. That's all.

Chair Hiranaga: Questions, Commissioners? Commissioner Mardfin.

Mr. Mardfin: Yeah, in Chris Hart's presentation he said that there was a meeting with neighbors on July 7, 2011. Were you at that meeting?

Ms. Spence: No, I wasn't. I wasn't able to attend.

Mr. Mardfin: Thank you.

Chair Hiranaga: Commissioner Freitas.

Mr. Freitas: Have you addressed Mr. Romanchak and ...(inaudible)... of your concerns that the leaf blowers and what have you or you just sit in your home ...(inaudible)...

Ms. Spence: No. No, I haven't addressed that. You know, I understand what it is over there. You know they have--it's a restaurant you gotta have that, but you know, maybe I should have made a concern but I did in past, they had a cook that finished work at 10 o'clock at night and used to rev his motorcycle before he left so you'd hear this motorcycle screaming out of there every night and I did call down and I talked to manager and I said, could you guys please let 'em, you know, roll out of there and leave. I mean, we've got all these people that are, you know, they work in the morning and then you gotta hear that loud motorcycle every night when this guy leaves and it was addressed so it's --just from things that have happened, it just didn't make me feel like, you know, he cares about the neighbors. I mean, we are, it is a residential area.

Mr. Freitas: Yeah, but I have a devil for a neighbor and I addressed them. You know what I mean?

Ms. Spence: Well, that's probably one of my faults I haven't --

Mr. Freitas: ...(inaudible)...

Chair Hiranaga: Hold it, we're not here for a debate. Commissioner, you have a question? You ask the testifier a question and you allow the testifier to answer. You have a question?

Mr. Freitas: No.

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

Ms. Spence: Thank you.

Chair Hiranaga: Next individual is Nellie Stokesberry.

Ms. Nellie Stokesberry: Before I begin can I distribute my 15 copies of my letter to the Members here?

Chair Hiranaga: Just hand it to the Staff and they can pass it out for you.

Ms. Stokesberry: Thank you. My name is Nellie Stokesberry and thank you very much, Chairman Hiranaga and Members of the Maui Planning Commission for this opportunity to speak to you. I'm a owner of a home at 1576 Lower Kimo Drive and when you showed the -- when Mr. Hart showed the picture of the north side, that light of Cyprus trees is right in front of the roof. So I'm very close. There's one lot between me and the lodge. I'm submitting written and oral testimony in opposition to the request by the Kula Lodge to overturn the Maui Planning Commission's Condition 26 prohibiting kitchens in the 15 lodging units. The Maui Planning Commission I believe acted legally and correctly by including the Condition 26 prohibiting kitchens and I believe they should stick to it. Although this project district has a principal use as a hotel, the hotel designation specifically states that there shall be lodging units not long-term residential dwelling units. I can already hear the same constant hum that Mrs. Spence mentioned. It is constant and it must be coming from kind of machine they have at the lodge, possibly fans or air-conditioning units. Sound carries very easily in the cool and quiet air of Kula. A small hotel I believe can be a good neighbor in a principally single family residential neighborhood because a hotel has a single management unit. A single management that holds all operations to certain rules such as quiet hours and parking restrictions. ...(inaudible)... we would hope that would be true. However, as Mr. Romanchak has not denied having the ability to add kitchens to the rebuilt units would allow the lodge to potentially be converted into multi-family condominium apartment complex. This would add very considerably to noise and traffic levels and very likely reduce the amount of control over activities in the building. Indeed, if these units were sold in fee simple there will be virtually no control over how much noise additional people and cars could be injected into our community. This would urbanize and ruin quiet rural character of Upper Kula which we all love. Thank you very much for considering my strong request to deny the application to delete Condition 26. Thank you.

Chair Hiranaga: Questions, Commissioners? Commissioner Mardfin.

Mr. Mardfin: Ms. Stokesberry, Chris Hart said during his testimony that on July 7, 2011, there was a meeting with neighbors, were you at that meeting?

Ms. Stokesberry: No, I believe I was on the mainland visiting family at that time.

Mr. Mardfin: Thank you.

Chair Hiranaga: Question? Commissioner Ball.

Mr. Ball: Ms. Stokesberry, how long have you lived at that residence?

Ms. Stokesberry: I purchased that property in April of 2006.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, thank you. Next individual is Steven Sutrov, Sutrov.

Mr. Steven Sutrov: Morning, Commission Members, Planning Director, Chair. My name is Steven Sutrov. I live at 291 Ainakula Road. I'm within 500 feet of the lodge project, but not a bordering property of the lodge. I've been testifying for the 25 years it's been in the process from the formation of the project district ordinance which I believe Chris Hart wrote as Planning Director and he did a very ...(inaudible)... presentation. I have to appreciate that. Okay, I have concerns for the neighbors that border the property mainly and the community in which this project is gonna impact. I believe that numerous times when this project has been going under discussion from the project district formation the owner of the lodge property has requested additional lodging units for the lodge numerous times. He talks about additional lodging units for the lodge going through the community plan update, going through the Commission meetings early on. I have copies of them all here and even recently in 2000, it talks about 15 lodging units. If, if, if it was described as being a hotel, initial formation of this project district ordinance in the early Commission meetings, if it was described as a hotel with kitchens it never would have flown, it never would have passed at all. This is a, this is a deception by the planners, by the lodge owner and to what he wanted to do eventually and now not really bringing the truth to the community to take an honest look at this. If there was any possibility this lodge, this quiet retreat resort as they called it was going to be an apartment house or units being sold individually nothing would have passed through the community, through the Planning Commission, the County Council and the Mayor wouldn't have signed it. This is the truth. And so now we're here, get to the point, it's no longer a longer a lodge, it's a hotel and they wanna change the units. Okay, that's main concern, my main observation.

Also, the noticing of this meeting I don't think was adequate for the neighbors. It came out officially on the 30th, September. We had last week to actually try to respond to this and make it, make a, make an attempt to come to this meeting. Everybody, we're talking about a hundred families that border that property or close by in the neighborhood that are within sight or hearing of this property and it wasn't proper notification for the community to come to this meeting or, or -- for this very important topic. Adding kitchens to these, to these units at this point I think is deceptive. For you to change this condition...this condition, all this condition did was verify the truth of what was done back when the project district was written. For you to do anything about this condition right now, you are changing that project district designation and to do that you have to give proper notification to the neighbors and also bring it, to make decision and go to County Council for that determination, to change that project district ordinance. That's about all I have really. I thank you for your consideration. Please keep an open mind here and there are many neighbors that could not make it today. Hopefully you have the 10 or 15 letters that were sent in and study those because all have, we all have a lot to lose here by allowing this to become something besides a quiet retreat lodge that was promised to the community, promised to the Commission and the County Council in the past.

Chair Hiranaga: Questions, Commissioners? Commissioner Shibuya.

Mr. Shibuya: Mr. Sutrov, thank you for coming and testifying. How did you find out about this issue being discussed at the Planning Commission?

Mr. Sutrov: I received a letter like, I think a select group of neighbors got from the Planner, himself, saying there's a meeting scheduled for the Planning Commission today. It did not say the meeting was officially scheduled. There was no official notification from the County and it said, please send comments if you have any to the planner, the lodge's planner. And knowing the lodge operations over the past 25 years and the planner that works for him on payroll, he is-- we, as neighbors, are very wary of tactics to, to feel our, out of our comments so they can use them as a tactic against us as far as in opposition to what we actually think is fair. So nobody really responded to that I don't think, maybe a couple neighbors did. But officially I got notice of this meeting on line on September 30th which was, you know, ten days ago.

Mr. Shibuya: Thank you.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: Chris Hart said during his presentation that there was meeting with neighbors held on July 7, 2011, were you at that meeting?

Mr. Sutrov: I was not. I was informed about it, and I understand there was maybe three neighbors that attended that plus Kula Community Association meetings is all.

Mr. Mardfin: Do you happen to know if any of them are present here today?

Mr. Sutrov: Pardon me now?

Mr. Mardfin: Do you happen to know if any of them are present here today?

Mr. Sutrov: No, I don't.

Mr. Mardfin: Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, next individual is Dick Mayer.

Mr. Dick Mayer: Thank you, Commissioners. My name is Dick Mayer. I was present at that meeting. I believe, I have testimony that was just handed out to you and I'd like to read it. I believe that this application for deletion should not even be considered because the Maui Planning Commission was legally precise on March 30th by including Condition 26, and I would like to give the reasons why. Maui County Code, 19.75.20 states very specific, "this project district has a principal use as a hotel." That's clear. So what does a hotel have? The definition in the County Code, this project district states that, "hotels can potentially have two types of units either dwelling units or lodging units." So what's the difference? Again, according to the definition in the Code, "a dwelling unit means a room or group of rooms connected together constituting an independent housekeeping unit for a family and containing a single kitchen. A lodging unit means a room or group of rooms connected together consisting of independent living rooms which does not require, does not contain any kitchen." And there's nothing in the Code in that section in the definition of a lodging unit which says it has to be long-term unlike the statement that was read by Mr. Fasi or Mr. Cerizo. The question then is, what does this Kula Lodge Project District specifically require for a hotel? And the thing is very clear and precise. The units are to be lodging units. It says it clearly

in Item D-4 where it says, maximum hotel units ...(inaudible)... 15 lodging units. They could have said, dwelling units. I was the Vice-Chair of the Upcountry Community Plan when this project district was written up. Those lodging units was intended, a retreat resort was intended, a quiet and restful place. There's absolutely no mention in the ordinance of a dwelling unit anywhere which would allow kitchens.

Next page, Item C in that same section says, other uses permitted, all uses which are not identified as permitted or special use are prohibited in the Makawao-Pukalani-Kula Project District 1. Those dwelling units are not identified and therefore, they must be prohibited. Even today's Maui Planning Commission meeting agenda for this Communication used the word, "lodging units" not "dwelling units." That itself should make clear the legal status of the units under discussion.

There are several other items worth noting. There's a statement in the staff report that there have been no comments from the public as of the 28th. Of course not, because it wasn't even posted until the 30th. But I would urge you to take a look at the fact that the, this agenda is incorrectly noted. It's giving the wrong tax map key. Tax map key that's listed is 027 and it should have been 087 at the last part. If the Department had looked in the files for 027, they might have found complaints listed by neighbors. Of course, there would be no listed under the wrong tax map key.

Item B, in the staff report the applicant is described as having mailed out letters to some of the Kula Lodge neighbors. However, the letters were not certified as required and were not sent to all the neighbors as required. Furthermore, and most seriously, the applicant letter told anyone who wished to comment to send to their comments to the applicant not the Planning Department. This was not helpful to the Commissioners.

Chair Hiranaga: Okay, Mr. Mayer, please conclude your comments.

Mr. Mayer: I will do that. Significantly, as soon as the public notice was made many neighbors sent in ...(inaudible - changing of tape)...to deny this application to delete Condition 26.

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

Mr. Mayer: Thank you.

Chair Hiranaga: Anyone else wishes to provide --

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I do have a question. Excuse me, I'm slow in the uptake today. You said you were at this meeting that was called. Can you tell us the nature of what went on at this meeting?

Mr. Mayer: There were I think four or five members of the Kula Community Association Board there. And there were I think three or four residents, neighboring residents who were there. Mr. Hart conducted the meeting and presented more or less the information that he's presented to you today of their intent to ask for the waiver of the deletion of Condition 26 that they would have

kitchens in there and the members around the table, no one agreed that that would be a good idea at that meeting. People mentioned the concern for noise, concern for other aspects of, of the project. Some mentioned other issues that had come up over the past where they had made complaints, for example, the sewer plant which I think EPA cited the company, cited the lodge for and fined the lodge for violation. So there was issues that were brought up and I think the overall tenor was we're not quite sure that this is going to be best for our community. But no formal was --the group didn't assemble as a group to vote, yes, no or anything of that kind.

Mr. Mardfin: So they basically made a presentation to express their positions and they asked for input from you folks?

Mr. Mayer: At the meeting they asked for any feedback or any input and people indicated as I said, certain concerns.

Mr. Mardfin: Have you determined that there has been any response to those concerns raised?

Mr. Mayer: No feedback to the community or to the KCA.

Mr. Mardfin: How 'bout the behavior of the way the lodge is operating?

Mr. Mayer: I couldn't comment. I have, I, I live further away than within the 500-foot boundary and so I have not detected any particular change myself, others may have. There may be a change in noise levels, there's may be change-- I just have no, no knowledge about that. That meeting was held about a month and a half ago, two months ago.

Mr. Mardfin: Were you specifically invited to it?

Mr. Mayer: I got a letter probably, and I think people who had testified at the last March meeting, year and a half ago when you first adopted. I think they're probably are the ones who got the letters. But I don't think any effort was made to get let's say all the people within 500 square feet. None of the official public notice that would normally be required for a change of conditions or changes, none of that I think went out. I believe only a select few got it.

Mr. Mardfin: Thank you very much.

Chair Hiranaga: Any other questions, Commissioners?

Mr. Ball: Question.

Chair Hiranaga: Commissioner Ball.

Mr. Ball: At that, at that meeting were there any compromises or anything like that suggested like maybe having a kitchen in every other unit or what is this big hum? Can you get a new non humming thing that's, that hums there. I mean...

Mr. Mayer: No, I don't...no, I think we're basically being told that that was what the applicant was going to be doing and we very much, I think for those who were there appreciated having that early

notice that that was gonna be coming up before the Commission, but there was no discussion per se of what should be done solving--how do we resolve a problem or anything of that kind. But I think, I think the people who were there, certainly myself, because we knew the basis upon which you had made that previous decision, this was clearly lodging units and that kitchens were not allowed. I think we were surprised that they were coming back to try to waive a requirement at which for a dwelling unit, get it saying this is a dwelling unit. Which Mr. Hart's main point this is a dwelling unit. No where in the ordinance that allows this is there mention of dwelling units.

Chair Hiranaga: Okay, you needed to just answer the Commissioner's question. Is there any other questions from Commissioners? Commissioner Shibuya.

Mr. Shibuya: Dr. Mayer, you were at the meeting in March 30th at the Kula Community Center were you not?

Mr. Mayer: Yes.

Mr. Shibuya: At that meeting, I'm looking at the minutes now and Mr. Cerizo from the Zoning and Enforcement Division mentioned that if you have a kitchen you would have three components to it. You would have to have a sink, a refrigerator, and a cooking appliance. If we removed any one of these then it would no longer be a kitchen. If this body removed the sink and allowed for convenience's sake, a refrigerator, a small maybe 10 cubic inch type, 10 cubic foot refrigerator, a small one, maybe a microwave convection, perhaps maybe even a appliance to brew your coffee and tea, would that be acceptable?

Mr. Mayer: I cannot speak for the whole community. I can give my own, my own impression. If, if the kitchens were--if, if there was not a sink obviously that would make it very difficult to have washing the dishes that you would have afterwards, and if you know, it possibly could be okay. But again, the main concern is still again, if you have a microwave in there or refrigerator in there, if people, if somebody said, sitting out on the deck and, and eating outside there, because the lodge is right above, and I think that's needed to be said, it's right above the residences and the yards of all those residents and their homes are, you know, right, you know, right there to the lodge. And people eating out there...one of the ideas when we originally set up this retreat resort was that there would be a restaurant. That the people in the lodging units would go to the restaurant and eat there. This would be a retreat type of, it's not a place where they would be living and, and doing things. So as you step...it's a slippery slope as you get there to the point where they may be actually utilizing it as a kitchen.

Mr. Shibuya: Okay, thank you.

Chair Hiranaga: Anyone else has questions for the testifier? Seeing none, thank you.

Mr. Mayer: Thank you.

Chair Hiranaga: Is there anyone else wishes to provide public testimony at this time, please come forward? Seeing none, the testimony is now closed. I believe, before we open the floor to questions, I believe the Director has a statement he would like to make.

Mr. Spence: Okay, Commissioners and applicants and everybody, I think we have a procedural issue here and I take responsibility for this. This is, this is my kuleana to go and double check these things. But as Mr. Mayer is testifying and he said, you know, proper notice, and I guess, Steve Sutrov also said proper notice was given and so I went and I looked in the project district processing regulations that Chapter 19.45 and I went, okay, Phase 2 Approval is this and that. And I looked for, usually there's an area that says, "amendments or revisions." Okay, so out of 19.45.060, it says, "proposed substantive revisions of the preliminary and final site plan shall be subject to Phase 2 Approval procedures." Okay, you go back and you look what Phase 2 Approval procedures, it calls for a public hearing within in the community plan area. So this is my responsibility that I did not find this sooner. I sincerely apologize to the Commission, but I think if to make a substantive change and I believe this is because the site plan itself, you know, shows kitchens within the unit, the original when it was submitted. Well, there's going to be change in the site plan I'll put it that way, I believe this is substantive and there should probably be a public hearing within the community plan area and this is, I apologize to Mr. Romanchak and to Mr. Hart and members of the community.

Chair Hiranaga: Does the applicant wish to comment?

Mr. Hart: Thank you, Mr. Chairman. Chris Hart of Chris Hart and Partners. Yes, I would like to comment. First of all, I'd like to say that we did send out notices of this meeting to everyone within 500 feet. We worked with the Planning Department and we sent out...now it was our understanding that this meeting was a Communication item on the agenda. It was not a public hearing. Okay, and so we sent out notices of the meeting as a courtesy to every resident that's on our list within 500 feet. And in addition, on July 7th, we did have a meeting of the basically the adjacent neighborhood other individuals like Mr. Mayer who has been a consistent interested party at the Kula Lodge and there were seven, seven participants.

Now, in the context of the plans that are before you, the plans that are before you have not changed at all. The plans that you considered back in 2010 showed kitchens. They're the same plans that we're presenting to you today. There's no physical change in the character of the project and that's why we went through the process that we went through to show you that there's no change. I really don't, do not believe that this is a substantive change that requires a public hearing. So I would respectfully disagree. Thank you.

Chair Hiranaga: Corporation Counsel, do you wish to comment?

Mr. Giroux: ...(inaudible)...

Chair Hiranaga: Planner Fasi.

Mr. Fasi: Being the Senior Planner on this project, we did consider that. Is this a substantive change or not and we determined that it was not because the site plan did not change and the use was already, has been discussed in a public forum previously when we had this before the project district up in Kula. The site plan has not changed. What is perhaps being amended is the use. And the use is the kitchen or not to use the kitchen. To have it or not to have it. So, we determined that this was not a public hearing item internally and in defense of Director Spence, he is somewhat correct. We made these decisions at the Division level, and so therefore, this not being a public

hearing item it was not required to be noticed as certified mail and regular first-class postage stamp mail went out and it was, in fact, a courtesy to the community and to have the consultant have that meeting we thought was very beneficial to both sides and the fact that this was noticed in the paper as well.

Lastly, I would just like to comment that it's unfortunate that we have to sit here, I have to sit here and listen to the public disparage the Planning Department, i.e., me, the Planner, Mr. Sutrov, in particular and being accused of lying and being deceitful which I am not, which the Planning Department does not ever do. We are neutral and we interpret the Code properly without any hidden agenda.

Chair Hiranaga: Okay, Mr. Fasi, let's not address public testimony. Do you have any more comments regarding the Director's position or statement?

Mr. Fasi: It is the Director's call, but in defense of Mr. Spence again, I say he was not aware that we had made this decision at the Division level.

Chair Hiranaga: Does Corporation Counsel wish to comment?

Mr. Giroux: I think the Director stated his position clearly.

Chair Hiranaga: Okay, because all this talk about kitchens made me, makes me hungry so I think I'm gonna take an early lunch break and we'll reconvene at 1 o'clock. We'll reconvene at 1 o'clock. Thank you.

A recess called at 11:47 a.m., and the meeting was reconvened at 1:00 p.m.

Mr. Lay and Mr. Freitas was not present at this time.

Chair Hiranaga: We concluded public testimony but if there is anyone else here that wishes to provide testimony regarding the agenda item, please come forward. Seeing none, do you wish to make a comment? Go ahead.

Mr. Hart: Mr. Chair, Members of the Commission, my name is Chris Hart again, and we're the consultants on behalf of Kula Lodge and Fred Romanchak. I'd just like to put this forth as clarification. On March 16, 2010, which was St. Patrick's Day, we had a public hearing in the Kula Community Center in Kula, and the same plans were presented to the Planning Commission. And at that meeting, the prior Planner, Ann Cua was present and also, Paul Fasi was present, and also Francis Cerizo was present. And there was discussion, you know, about the issue of kitchens. And the Planning Commission chose not to take action at that meeting, that public hearing was held, it was closed, the issues were discussed and instead they had a special meeting on March 30th here in this meeting room and at that meeting the recommendation was presented to the Planning Commission in the context of review of the recommendation, the issue of kitchens came up and in the context of, of the last condition, Condition No. 26, there was discussion and the Planning Director sat at the table and said, well, you know, in my view the issue of conditions could go both ways. You could, you could check the minutes I'm pretty sure that's pretty accurate of what he said. As a result, the Commissioners decided to add the Condition No. 26 and, and essentially the

recommendation was approved with that condition added. My point is that the hearing was held, the issue was discussed, the Commission at another meeting decided to, to basically consider the recommendation with all the conditions. They considered it. The issue of kitchens came up specifically and it was added as the last condition of the approval.

Now, you know, I feel that the procedural that there have been proper procedures. We actually went so far as to, you know, in terms of meeting with the Department, to actually have a meeting where we met with all of the--with the surrounding landowners at the Kula Lodge. We invited them to come plus there was mail out to everybody within 500 feet that was on our list of the original public hearing. And this meeting was specifically identified. I know it wasn't a legal certified mail, mail out, but it was a mail out that we made to each individual within 500 feet. So notification, I believe has been given and I believe that it's appropriate for the Commission in the context of how the process was bifurcated back in 2010 to be considering this recommendation and this proposal to delete one condition. Thank you very much.

Mr. Lay and Mr. Freitas were back in attendance.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I'd like to ask Chris a couple of questions. I was at that meeting in Kula and I was, it was correct that the issue of whether there were kitchens or not kitchens was brought up. There are currently, my understanding is there are currently no kitchens in the rooms?

Mr. Hart: That's correct. There are three units and no, no kitchens.

Mr. Mardfin: And then we looked at the plans and you had kitchens in them?

Mr. Hart: That's correct.

Mr. Mardfin: The reason we adjourned to here for a couple weeks later is because we didn't have time to finish. We adjourned here and we had a large meeting, we, I think we took some more public input I don't remember for sure, but it was at time that we decided in our wisdom and according to the laws we saw it that we would prohibit kitchens because of the definition of these rooms as lodging units.

Mr. Hart: Uh huh.

Mr. Mardfin: And so it wasn't like we sprang it. You make a big thing about, about --

Chair Hiranaga: You have a question?

Mr. Mardfin: Yeah, I do. You made a big thing about the plans being the same. How come they're same if we said there are no--that there aren't kitchens?

Mr. Hart: Because we, we--those are the same plans that were presented at the public hearing in the context of continuity.

Mr. Mardfin: Which got rejected by the Planning Commission.

Mr. Hart: We weren't prepared to amend the plans. We wanted to ask the Commission for reconsideration and I'm not saying that you surprised me with it. It was discussed. I'm not saying it was a surprise. I'm just saying that in the context of this meeting the issue came up, the issue of whether or not we were going to be able to rent for more than a 180 days came up and that's a condition.

Mr. Mardfin: ...(inaudible)...

Mr. Hart: Well, it's one of the conditions and we're abiding by that.

Mr. Mardfin: Okay.

Mr. Hart: In other words, it's not a long-term project. It's short-term, it's hotel. And the condition was added. And the Director, if you read the minutes said, as far as I'm concerned, it could go both ways.

Mr. Mardfin: And he said it was up to the Commission to make the decision.

Mr. Hart: He did.

Mr. Mardfin: And we made the decision.

Mr. Hart: He did, he did, he did. I'm not saying that they didn't.

Chair Hiranaga: Director, do you wish to comment?

Mr. Spence: Oh yes. Commissioners, before lunch I said that I believe that this is a substantive change and whether, you know, as a part of your staff report you have--I don't know if can call this the site plan or not, but if you look at the Code, it says, "proposed substantive revisions of the preliminary and final site plan shall be subject to Phase 2 Approval procedures." I think there is, you know, you could make an argument either way whether this is the site plan or not, but this is what was presented I'm assuming this is back in March 2010. To me, this is a substantive change to, to be putting kitchens when the previous Commission said no kitchens. And for that reason, I believe, I believe that there should be a public hearing, but that's, and really what you would be interpreting is, what the County Council said as a part of adopting the, the Zoning Ordinance that might raise other issues. But I'll leave it up to the Commission whether they believe that they should act today or not or whether you believe that a public hearing should be required. I don't mean to open it up to whatever kind of discussion, but that's my feeling as the Director, there should be a public hearing on this.

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: Actually, I'm gonna allow Corporation Counsel if he wishes to make a statement.

Mr. Giroux: I don't want to, Chair, nah. I think the issue here, I think this is a good thing for this

body to see because when you're dealing with project districts there's a unique process that you're dealing with where you're -- you're dealing with a piece of property that is going to basically have its own unique special zoning and it can be unique from all other aspects of Title 19 if, if so be it. And you know, right now we're going through Pulelehua, you know, you're gonna see other project districts plans coming before you. And thing is is that, in Phase 1, when you look at Phase 1, that's when the County Council basically solidified the uses that it wants to see in this district. And those uses are based upon what they see as the impact and what they see as the benefits to the community. But at that point, there -- they know that it's gonna go into a Phase 2 Approval for more analysis as far as what the thing's gonna look like. You know, massing, grading, those types of, of issues. And when I look at all of the conditions, you know that were put on at the Phase 2 by this body, it kinda makes me nervous because I'm looking the law and it's saying that during the Phase 2 that you're looking at drainage, streets, parking, utilities, grading, landscaping, architectural design, building elevations, building sections, construction phasing, open spaces, land uses, and signage, recreation and community facilities, floor area ratios, lot coverages, open space ratios, density factors, potential environmental, socioeconomic, and aesthetic impacts, okay. And then the final result is that this, this preliminary site plan is reviewed by you and it says that you can, you can accept it with or without modifications.

Now when you made a condition that there's no, no kitchens, that's a modification. You made a modification to the site plan. And if you look at the other 26 conditions, you know, what those conditions have to be in conformance with is what Phase 1 is. So if Phase 1 allows a use or disallows a use, in Phase 2 you can't go opposite of what the Council's doing. You have to be in conformance with Phase 1, and you can't go outside of that bound. So it's really important when you're reading--well, when you're making decisions on Phase 2 that you understand what Phase 1 required. And that's part of what the Planning Department supposed to help you with. They're supposed to say, well, we looked at their, their plans and they all seem to be in order with Phase 1. But ultimately that's, that's your decision. That's your decision whether it is or it's not. And the Director has already stated, you know, that he sees the addition or the deletion of the kitchen use as a substantive change. The argument that we always asked for kitchens, you always saw the pictures, always--the pictures always had kitchens, all we're doing is we're asking for kitchens. I think what we're forgetting is, is that the Commission distinctly ruled that you weren't gonna allow kitchens. So that is a major change. That's a major change in the site plan right there, and what you're doing is they're asking for you to change a decision you already made, back to a decision that they wanted in the first place which again, should be done in the public process not, not six months to a year, two years, after you've made that decision. I mean, you've got 26 conditions here. You wanna be sitting here listening to amendments. People who get, you know, after a public hearing to just come to you during a communication and say, oh, can we take the insurance off? Maybe we shouldn't have to do landscaping? What about the thing about the septic, can we get rid of that too? How many meeting are you guys gonna sit through whittling away at conditions as people figure out they either don't wanna do 'em or can't do 'em. And the issue of, of use is always a major concern. So it really concerns me, you know that, that the change in condition is not being done under 19.45.060.

I agree with the Planning Director and I'm not completely comfortable with, you know, just going forward without really nailing down the issue on notice and procedure because even if there was notice, actual notice that we don't know about because it wasn't done through certified mail, still we're not having a meeting in the community plan area. You know, so we go from bad to worse

really fast procedurally if we go down that slope. And then on top of that is whether or not the change that they're asking for really fits within the borders of the Phase 1 requirement of what the Council has put down as what the units are and what those units are going to be used for. So, I mean, that, that just heightens the scrutiny of that decision on whether or not we're gonna look at it as substantive or not because obviously it's controversial. So I think that's all I can say on the matter. The Director has seen it as substantive, so I would suggest that we do follow 19.45.060 and then once we have that procedural issue worked out then we can look at the substantive issue.

Chair Hiranaga: What I'd like to do is just open the floor, well, I guess procedurally I guess we could ask questions of the Staff or applicant or we can open the floor to a motion to defer, deny, proceed. Commissioner Mardfin.

Mr. Mardfin: I'd like to ask the Director for some clarification. When you said, you think that it's a substantive change I basically agree with you. Is and, and I think it was implied by what our Corp. Counsel said, that our next meeting on this would be held up in the community area is that correct?

Mr. Spence: That's correct.

Mr. Mardfin: I think that's a proper way to proceed.

Mr. Spence: And because this is something that I should have caught earlier, you know, we will of course, expedite it and we will foot the bill for the notification. So I think that's only fair that we correct, the Department correct to the degree possible the procedural area that, you know, we should have caught in the first place.

Chair Hiranaga: Paul, you wanted to make a comment?

Mr. Fasi: Yes, two things I need to say. The Director's entirely correct and Corp. Counsel is entirely correct. It would be a substantive change, substantive change to a site plan. However, we are dealing with the floor plan not a site plan. If I asked an architect to send me your site plans, he's not going to send me his floor plans. Likewise, if I ask for his floor plans, he's not going to send me the site plans. If it was a change to the site plans that would be a substantive change, the Director is entirely correct. I think if we're gonna be exacting and procedural then we need to look at the word, "site plan" versus "floor plan" because the change is on the floor plan, not on the site plan.

Chair Hiranaga: Okay, I think from a procedural standpoint, since this is an agendaed item, I would like to follow the regular process, allowing Commissioners to ask questions of the applicant and Staff and then we'll open the floor to a motion as far as disposition of this particular item. So at this time, I'll open the floor to Commissioners to ask hopefully brief questions of Staff and applicant. Commissioner Mardfin.

Mr. Mardfin: I have a question for Mr. Fasi. Mr. Fasi, you passed out a thing today with definitions on it and it said, "lodging unit means a room or group of rooms connected together constituting an independent living unit which does not contain any kitchen." I presume that's straight from the Code?

Mr. Fasi: Correct.

Mr. Mardfin: You then hand wrote in, "long-term use, i.e., a 180 days or less." Where did that come from? Did that come from lodging house definition?

Mr. Fasi: That is the intent of a lodging house, it also comes from Francis Cerizo's definition of lodging unit. If you look on Page2, at the very top paragraph that's underlined. It says, "the purpose of Section D-4 to describe the maximum number of hotel units for the lodge." If we restrict the use to lodging units then the use would be restricted to long-term. If we restrict the use to lodging units, the use would be restricted to long-term residential use. So lodging units are considered and defined as long-term in the Planning Department.

Mr. Mardfin: Can you tell me --

Mr. Fasi: If this were a lodging unit, the hotel wouldn't exist.

Mr. Mardfin: I would call your attention to the part at the bottom of the page where it says, "the MCC provided the definition of the following: Hotel or motel means a transient vacation rental other than a bed and breakfast home containing a lodging or dwelling units. Transient vacation rentals means occupancy of a dwelling or lodging unit by transients for any period of less than 180 days." So it seems inconsistent when at the bottom it says, "it's a 180-days or less," to say that a lodging unit has to a 180-days or more. And I think part of the problem is coming about because we're -- we're looking at a definition for a lodging house. Now a lodging house is a not lodge. A lodging house is where borders stay for long period of time and we're, we're confusing -- it seems to me we're confusing lodging unit with a lodging house and we're trying to use the definition for one that does have the 180-day restriction with one that doesn't. Is there in the Code a definition for lodge, not lodging house, not lodging unit, but lodge?

Mr. Fasi: No, there is not.

Mr. Mardfin: there is not.

Mr. Ball: Question?

Chair Hiranaga: Commissioner Ball.

Mr. Ball: Can Corp. Counsel address what Planner Fasi just told us?

Mr. Giroux: I think I'm gonna have to disagree with Francis Cerizo's analysis as far as, I mean, if you look at the definition of hotel, and the definition of a hotel has within it two products, a lodging unit and a dwelling unit and the only difference between those two is the issue of a kitchen. If you look at transient -- hotel is a transient vacation --

Mr. Ball: But my question is, is what Planner Fasi was saying about the substantive change --

Mr. Giroux: Oh, about the site plan?

Mr. Ball: Right. Site plan versus floor plan is that -- are we correct to proceed because it sounds like you were saying that we need to take this to the public but how does the, how do you view what his statements were about that it, it's not because it's a change of the floor plan not the site plan?

Mr. Giroux: Well, I would have to defer to the Planning as far as how they see it, but from a standpoint of what is the Commission looking at and what is it approving, because you're looking at a hotel that is the site plan. The hotel is your site plan. So if you wanted to have a six-story hotel versus a two-story hotel, if you wanted to make that change would you say there's no change in your site plan?

Mr. Ball: That's different. ...(inaudible)... not interior. That's like saying maybe there's two bathrooms instead of one bathroom, is we're talking about kitchen or non-kitchen not four-stories versus six-stories.

Mr. Giroux: Right, but --

Mr. Ball: Which I would agree with you in that case, but we're talking about interior elements of the project and are we correct on saying, okay look let's table this, we'll go have the public hearing and then we'll come back and do this or is Planner Fasi analysis of no we don't have to do that because it's a floor plan not a site plan that we're, that we're addressing so in that case, we don't have to. That's, that's a legal question for the legal guy which is you.

Mr. Giroux: Yeah, for me I wouldn't feel comfortable with that argument at all. I wouldn't feel comfortable that saying what you are looking at is not a site plan. You know, if you submit plans to the County, the Building Department Section and you don't include a kitchen or you include a kitchen and they tell you can only have one kitchen and you have two kitchens, did they revise your plans? You know, it's... the site plan if you look at it, the only thing you're given is the schematics of what that hotel looks like. You're looking at, at that, that's your site plan, right?

Mr. Ball: Do we have a definition of site plan then? And do we have a definition of floor plan or are they one and the same?

Mr. Spence: Well, let me, because this is --

Chair Hiranaga: Director.

Mr. Spence: Sorry. Okay, okay, again this is out of 2.45, the Phase 2 approval shall be processed as follows: Unless otherwise -- after Phase 1 Approval, the applicant shall submit to the Planning Director a preliminary site plan for the project district development. The preliminary site plan shall conform to the Project District Ordinance and shall include the following: Proposal for drainage which we're not talking about. Streets, parking, utilities, grading, landscaping which we're not talking about. Architectural design concepts still not I don't think and guidelines, building elevations which the floor plan is not, building sections, construction phasing which doesn't seem like there would be, open spaces, land uses and signage, but I think at-- it doesn't specifically say a floor plan. I would say that a section, I mean, I guess if you're slicing the building down the center that's the one kind of section. I think that's subject to interpretation a little bit.

Chair Hiranaga: This is my take on this I don't believe a revision to the floor plan is a significant change to the site plan, but I am a little troubled with the level of notification that was provided to the public. I don't necessarily agree that we need to have another public hearing in the project district but I would feel more comfortable if this matter was deferred and actual certified registered notice was sent to the landowners within the 500-foot radius, but I don't believe that we need to have a public hearing in the project district area myself. I'm uncomfortable with the informality of the notice that was given. It was sent registered. It was sent via mail. So I don't know if there's a list that shows all individuals in the 500-foot radius was sent a letter or not, so that's kind of my take on it. The arguments are basically the same that we heard previously for and against kitchens so I don't -- it's just to me the notification process wasn't adequate for my comfort level. Commissioner Mardfin.

Mr. Mardfin: To me, it goes beyond just a notification process. We heard our Corp. Counsel advise us that and it's supported by the Director that this is a substantive change. The fact that they didn't come back with plans without a kitchen, they keep trying to push this is...James said that basically we had put a condition in. They're trying to change--get the condition changed back or taken away. I think that is a substantive change. It calls for--Corp. Counsel said, calls for a community meeting in the community, in the community plan area.

Mr. Giroux: And, you know, I mean, listening to Ward, something else comes up in mind is that you're trying to amend or you're trying to change something that was already committed to by the body and that in and of itself has a procedural issue that, you know, Roberts Rules of Order requires that there be notice from the body that they are going to have a motion that's going to change something that was previously adopted or you're going to, you know, amend something that you have already committed to and that requires notice not only to the public but to the board itself that there's a member who is actually inclined to make that motion and that would be done at a subsequent meeting also. So I mean, at a minimum if, if it's not seen as substantive there's still an issue of the board changing something that it previously adopted.

Chair Hiranaga: Okay, Commissioner Ball.

Mr. Ball: So would this not, this subject not be served better at the variance appeals level then since we've already -- this body in a sense has already made their decision. What the applicant's doing is trying to get a variance around that decision or appeal that decision, maybe not appeal but more of a variance around look we put this condition on, they're trying to say, well we wanna get rid of that condition. I'm agreeing with you saying it's kind of weird to come back to the same group that just said no, we said no kitchens and then you just keep trying to come to same group until it's old mommy, daddy thing going on -- keeps hounding you until you say yes. It just seems like it should go to a different body than us since we've already made the determination at a previous meeting. I don't know.

Mr. Spence: Mr. Chairman?

Chair Hiranaga: Director.

Mr. Spence: No, I think this is the proper body to go to for, I mean, if you have an SMA permit and somebody needs to get a time extension or to change a condition on a SMA permit or something

like that they come back to this body to do it. To go to the BVA, one I would, I don't that's a proper procedure, I mean to go, to bypass this body.

Mr. Ball: Well, it's not bypassing, we've already made a decision.

Mr. Spence: But see, you are the -- that would be -- to go to the BVA you have to prove a hardship. How would you show a hardship of a condition that was --

Mr. Ball: Not our problem.

Chair Hiranaga: So at this time, I think since we're not really asking of the applicant or Staff for clarification purposes and we're kind of entering a discussion mode, I'd prefer if a Commissioner would make a motion as to how to dispose of this agenda item, then we can open the floor to discussion. So we have a -- Commissioner Mardfin.

Mr. Mardfin: I move we defer this item to a meeting within the community plan, for a public hearing within the community plan area with the proper notice.

Mr. Shibuya: Second.

Chair Hiranaga: Moved by Commissioner Mardfin, seconded by Commissioner Shibuya that this matter be deferred. Discussion? Commissioner Shibuya.

Mr. Shibuya: I feel that this issue should be remanded because it's not complete, the public notice was not complete in compliance with the regular noticing ...(inaudible)... and I think procedurally we need to correct this and also this issue started with the Makawao-Pukalani-Kula Project District 1 and it was held at the Kula community area and so I would like to have this continued at that with proper notice of course in the same community in which this action impacts.

Chair Hiranaga: Any other discussion? Commissioner Sablas.

Ms. Sablas: I guess I'm kind of confused because we, I was part of the group that deliberated this issue at length and we made a decision and all factors were here, we had Planning, we had counsel, and we made a decision. So why is it coming back to us again. Has this been done before, is this setting, is this going to happen again did we make a decision and comes back and if I question the decisions that we've made and we've deliberated with all due process so, I'm confused if this is the way we move forward. I mean, we made a decision, why are we bringing it back to the table again?

Chair Hiranaga: Director, since you put it on the agenda, perhaps you can answer Commissioner Sablas's question.

Mr. Spence: It's kind of like what we talking about with, with Commissioner Ball, you know, when this Commission puts a condition on something it's ...(inaudible)..., this Commission would change or renew that condition. So, I mean, in fully in legal proceedings you've seen motions for reconsideration that's essentially what this is. They're asking you to reconsider the condition and remove it.

Chair Hiranaga: Commissioner Sablas.

Ms. Sablas: A follow up question to that. I think you said, if the Commission desires. It's not us who desired, it's the applicant.

Mr. Spence: Yes.

Ms. Sablas: We made a decision and now the applicant is coming in so my question stands, what about our decision that we made? And if had come as a Commission and say we needed to for whatever reason and you put it on, I can understand. But this is not what's happening. We made a decision and we spent a lot of time on this.

Mr. Spence: Oh, I'm sure you did. And it's --the applicant and maybe the I wasn't clear, the applicant is asking that you reconsider.

Chair Hiranaga: Commissioner Ball.

Mr. Ball: And I agree with Lori and that's why I was saying the hearings and appeals board because the applicant then has to show why they want it changed. What's the hardship and all that? They're making that case here now for us...wouldn't it be proper like Lori said, it's kind of weird you make the decision, the decision's there now we're coming back. I think if it goes to variance and appeals and they make the hardship case there, variance appeals says yea or nay or whatever. But for it to come back to us after all the deliberation and investigation is done and then have to do it all over again, it's weird for a lack of a better word and it may be that it has to go to--'cause variance and appeals has their criteria. So if you want it, you want something changed you gotta show us that ..(inaudible)... criteria or whatever it is that that will allow us to change this and that was the body that was put in place maybe for this very reason, I don't know.

Chair Hiranaga: Commissioner Freitas.

Mr. Freitas: My understanding is that they are appealing the decision to this body and I believe that they're right to appeal a decision am I, am I correct? To the Director.

Mr. Spence: Yes. Maybe I'm not explaining it correctly. When you have a SMA or even like a special use that has a condition on it to do certain things, you know, get building permits for all your buildings. They go and they get those building permits, the use wants to continue but, you know, at the time they get a renewal or something they -- can we remove this condition? We got our building permits, we've fulfilled it. So they would be coming back to this body regarding conditions you had placed on a permit or some approval. So this is the proper body to modify your condition. So if, if the Commission does not wanna entertain changing the decision that we made, that's the Commission's purview.

Mr. Ball: Question? Another question?

Chair Hiranaga: Commissioner Ball.

Mr. Ball: The conditions were made prior to us seeing it let's say. I would assume that the

applicant saw the conditions prior to us kinda getting it and they said okay, well, they're not going to allow the kitchens in it, do you still wanna proceed with this hearing to --

Chair Hiranaga: That's incorrect. Those conditions were at the --

Mr. Ball: At the meeting.

Chair Hiranaga: --at the meeting. It was not part of the staff recommendation.

Mr. Ball: And then at that time could the applicant say, well, they can't do it without that, so forget it or?

Chair Hiranaga: They made that argument but I believe the motion, whoever made the motion added those conditions and it was voted, it was approved five to four. It was a very close vote. So, the applicant sure has opportunity to comment but the maker of the motion added these conditions and it passed.

Mr. Ball: It just seems like a difficult decision to make if it was added on at a meeting and then how do you, I mean, how do you make that decision without any--going back and researching, how much is this gonna cost me to, to do this or not do this depending on the what the item is that is put on the applicant.

Chair Hiranaga: Commissioner Shibuya.

Mr. Ball: Just trying to learn.

Mr. Shibuya: I know I seconded the motion to remand it back to the community, but I'm now, after hearing Commissioner Sablas' question, I'm willing to withdraw my second and consider even reviewing the merits of this request and if it is denied then we could go back and remand the issue back to the community, but if it is approved here to deny then, then it's over.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I'm not going to address Commissioner Shibuya's comment right now, but I invite you to look at the minutes on Page 39. This is the minutes of the March 30, 2010 meeting. About a third of the way down the page, Mr. Hedani recognized Jeff Hunt, the then Director. Mr. Hunt, the department agrees with the analysis that kitchens would not be allowed based on the definition of a lodging unit. We believe rather than leaving it to the Phase 2, or pardon me, the Phase 3 implementation where he was saying that at Phase 3, the Department would have put the thumbs down on it, we think it be better to get it out in the open today. You can listen to our interpretation of the Code, give the applicant their opportunity to respond and let's make it clear to everyone, the applicant, the Department and the citizens in the community. Mr. Hedani, the Chairman at the time, is the staff recommendation going to be remove the kitchens? Mr. Hunt, our interpretation of the law is that they would not be allowed, so during the Phase 3, we would not approve Phase 3 construction plans. But given the ambiguity and sensitive nature of this and the concern from the citizens, my request would be that we debate this and make it clear and even put in a condition explicitly stating that kitchens are not allowed if that's the will of this body. Mr. Hedani, what is the

staff recommendation at this point? Mr. Fasi, the staff recommendations currently is to disallow kitchens. It wasn't explicitly in the motion to -- there's wasn't an amendment to disallow kitchens. The recommendation, the motion was to approve the staff recommendations as adjusted that day. I looked carefully to see if there had been a motion to add the condition, but the Staff added the condition, the Commission approved the motion in its entirety with the added condition.

Chair Hiranaga: Did the staff have that in their original recommendation or was that recommendation added during the meeting?

Mr. Mardfin: I don't know, I believe it was added between the meetings but I could be wrong on that.

Chair Hiranaga: So Commissioner Mardfin brought up a key point I believe is that at the original hearing staff recommended that kitchens not be allowed. Now, this is coming back before us because staff is saying they may have erred and kitchens should be allowed. And I think for myself as a Commissioner, I am guided by recommendations from staff and basically the feeling I get is they're trying to correct something they may have done in error and that's why they are supporting, they're not opposing the applicant's request to ...(inaudible)..., they're supporting it, and to me, that's a big difference.

Mr. Spence: And Mr. Chairman?

Chair Hiranaga: Director.

Mr. Spence: I don't think Staff made an error, okay. That's, you know, he acts under the authority of the Planning Director. I think we wanna bring this -- the applicant wanted this condition removed. We agreed that, you know, we could bring this back to the Commission and we recommended approval of it. The --you know, that's subject to the, to the Commission, approval or whatever. That's not, you know, that's not within my authority to say yea or nay to that. So, you know, that's under the purview of this Commission.

Chair Hiranaga: And my preference is, if you remove Condition 26, it does not mean that we are allowing kitchens. That's still up to determination by the Planning Department. But by having Condition 26, you are prohibiting kitchens which is an action. By removing it, you're not saying kitchens are allowed, we're just silent on that matter and both sides of the fence can go to the Planning Department and argue their, their merits as to whether it should be allowed or not. I think that's a fine point also because we're not endorsing kitchens, we're just removing the prohibition of kitchens. Commissioner Wakida.

Ms. Wakida: I'm -- I wasn't here in March. So I'm just trying to play catch up with all that's going on, but I listened carefully to what Commissioner Sablas says and I, too, am a little troubled that this Commission can make a decision and it has to come back and be forced to revisit it. I have two questions. Can the Commission refuse to entertain a particular request?

Mr. Spence: Yes, the Commissioners can make a motion to deny and approve that denial to, you know, for this request.

Ms. Wakida: Okay, that would be the --

Mr. Spence: It's just procedurally I think we have a motion on the floor. I don't think it's been withdrawn.

Chair Hiranaga: I think the question was more does the Commission have a right to include this on the agenda or not is that the question?

Ms. Wakida: I don't know. I don't know if -- because the Commission isn't involved in drawing up the agenda.

Chair Hiranaga: Well, the Chair reviews the agenda. The Department recommends an agenda to the Chair, and if the Chair feels strongly about something he could have that item taken off the agenda and rescheduled ...(inaudible)... from now, whatever, but you know, but the Chair has some discretion over what appears on the agenda.

Ms. Wakida: All right. I have a second question for Mr. Spence. If supposing this -- we follow some sort of procedure and this is denied again, can this applicant come back a third time and ask us and a fourth time?

Mr. Spence: I'm not aware of anything either your rules or within the Zoning Code that says you, you know, you can't make another request. I think there's -- you know, one of the reasons why you stagger terms on this Commission is so there's some kind of institutional memory that goes along so, you know, there's going to be experienced Commissioners if they ask too soon, you know, you have Members piping up about, you know, what we did and why we did it. I think that that's -- I mean, there's going to be a memory and so when somebody comes back, you know, too soon, you know, Commissioners are gonna remember what we did and why we did it and all that's gonna come out as it should be.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: As the Commissioners well know I tend to be kind of a stickler for following due process into the future and giving the applicant every chance to make their case which is why I made my motion to follow the Director's lead and our Corp. Counsel's lead on having a public hearing in the community plan area. So we're, we're not prejudicing them because of the way notice was or was not given. If the motion to defer to that kind of a, to that procedure fails, we may be open to some other motions such as an outright denial. But I think they deserve a full hearing and this full hearing should occur in the community plan area where this project will be affect.

Chair Hiranaga: Any other discussion? Commissioner Shibuya.

Mr. Shibuya: I think even though I seconded the motion, I think it comes down to a more basic question and at this point the Commission has not come to a standoff where we cannot make a decision. I think we are gonna be making a decision and so for this particular motion, I will vote against it so that another motion can be made to simply deny this request by the applicant.

Chair Hiranaga: Any other discussion? Seeing none, I'll call for the vote. All in favor of the motion

to defer --

Mr. Shibuya: To the community plan area.

Unidentified Speaker: ...(inaudible)... discussion.

Chair Hiranaga: You need a new motion.

Mr. Mardfin: No, you don't.

Mr. Shibuya: I withdraw.

Chair Hiranaga: Okay, we allow Commissioner Shibuya to withdraw second. Is there anyone else that wishes to second the motion to defer? Motion fails. Open to a motion. Commissioner Shibuya.

Mr. Shibuya: I make a motion to deny the request of the applicant.

Mr. Mardfin: Second.

Chair Hiranaga: Motion to deny the application -- request from the applicant. Motion by Commissioner Shibuya, second by Commissioner Mardfin. Any discussion? Commissioner Mardfin.

Mr. Mardfin: I agree with the logic that Commissioner Sablas made about overturning previous Commission decisions and I fundamentally agree with it. The reason I wanted to defer was because I am a believer in excess of due process, but seeing as how the motion to defer to a community plan meeting failed, I will, I was happy to second the motion to deny because I think they're trying to run an end run around the previous Commission.

Chair Hiranaga: Director, could you repeat what you said about the Staff not erring on their recommendation on the first time. What, what did they do?

Mr. Spence: I'm just saying that -- It's my recommendation, my signature is on the recommendation to this Commission, it's not staff. So if I'm recommending approval of something even though Staff writes it, you know, the buck stops with me. Staff did not make an error. I may have made some kind of a --

Chair Hiranaga: But you weren't Director at that time.

Mr. Spence: No, it doesn't matter.

Chair Hiranaga: Are you saying the --

Mr. Spence: This current staff report.

Chair Hiranaga: The prohibition of the -- so your recommendation is to allow kitchens?

Mr. Spence: That's what the-- yes.

Chair Hiranaga: So the --

Mr. Spence: And the Commission is free to disagree with me.

Chair Hiranaga: But the previous Director's recommendation was to deny kitchens?

Mr. Spence: That's correct.

Chair Hiranaga: Just for clarity. Commissioner Shibuya.

Mr. Shibuya: I just want to make it clear that I know what I voted earlier for and in this particular case I'm gonna vote based on this fact here that in 19.04.040, lodging unit definition, lodging unit means a room or group of rooms connected together constituting an independent living unit which does not contain any kitchen. On the community plan, the Makawao-Kula Community Plan, Page 47, the -- it says uses, it says hotel, 15 lodging units and 1 caretaker's unit. It says that. So, lodging units that's the definition and I realize that that's what I voted before and that's what I'm gonna vote this time.

Chair Hiranaga: I guess the conflict we have here is where hotel and lodge are used can mean the same thing when in fact they're not because it does say hotel, so then you look at the definition of hotel. Commissioner Mardfin.

Mr. Mardfin: I would agree with you if there were a definition of lodge in the definitions. There is no definition of lodge. So following the law they would have had to say hotel 'cause they couldn't have said lodge because there's no definition for lodge. There's lodging houses but that's totally different. So they couldn't say lodge because it didn't exist as a definitional thing. So they put hotel where hotel can be composed of either dwelling units or lodging units. They specifically chose one, they chose lodging units. Lodging units, no kitchens. It can be--it certainly would be short-term because it's a hotel, but it's a lodging unit. I don't that was chosen by chance. I think that was chosen intentionally and therefore, the intent was no kitchens. They wanted a rural resort retreat. That's what they got with the definitions they used. With a kitchen it wouldn't be a resort retreat ...(inaudible)... an experience I believe.

Chair Hiranaga: You're saying the Council when they adopted the --

Mr. Mardfin: Yes.

Chair Hiranaga: --General Plan and community plan?

Mr. Mardfin: Yes.

Chair Hiranaga: That was their intent?

Mr. Mardfin: Yes, and the Planning Commission adhered to that when we voted the last time on this.

Chair Hiranaga: Commissioner Freitas.

Mr. Freitas: Yeah, could we have Mr. Fasi clarify his intent was whether it was a lodge or --

Chair Hiranaga: Well, actually he did do that already and we have Staff Planner Cerizo's comments. I think it's pretty clear. I don't know if Planner Fasi can add to it.

Mr. Freitas: But by the same token, Corporation Counsel said that he disagreed with Cerizo's finding.

Mr. Spence: And I at this point, again because it's my recommendation to this Commission that's where everything ends up, so I think the issue is whether what Staff believes or not is -- it was my recommendation to the Commission.

Chair Hiranaga: And your current recommendation is to reschedule it for a public hearing in the project district.

Mr. Spence: Right, and that motion failed.

Chair Hiranaga: Right. But that's your recommendation?

Mr. Spence: Yes.

Chair Hiranaga: Well, the motion was to defer. So the now the motion on the floor is to deny. Is there any more discussion?

Mr. Freitas: I'm gonna vote against motion because I would, I believe it should be deferred. Not deferred, should do a public hearing.

Chair Hiranaga: From a procedural standpoint when the motion on the floor is contrary to staff recommendation aren't they supposed to provide justification? If the Department is recommending deferring this matter to a public hearing in the project district and the motion on the floor is to not -- to deny that recommendation?

Mr. Giroux: Normally when I advise you when you're dealing with permits is that if you're doing an analysis of the permit and you're going against the Director's decision is that you create a record that would allow that decision to stand so that at least a rational basis. Right now we're kind of dealing, we're splitting hairs. If we go one way, we're making a substantive decision. If you go another way you're making a procedural decision. So it can get a little confusing for you because the recommendation is that you put it for public hearing. If you fail to do that, the consequences is that they could later on and refile and do the procedure that we've been talking about. It's not stopping them from doing that. So I mean, I would like to have discussion on that just so there is something on the record, but again, that would be more of a procedural decision. A decision to allow the kitchens or a decision to disallow the kitchens again, would be more of a substantive decision that I would, you know, and I think we've had a lot of discussion on both side. So as long as it's clear that during that decision making that that's the opinions of the, the makers of the motion and that could be seen as incorporated into the decision making.

Chair Hiranaga: Yeah, so for clarity I would like the maker of the motion to state the justifications for opposing the Department's recommendation to reschedule to a public hearing.

Mr. Shibuya: Since I'm the maker of the motion, I am basing the argument here substantively on 19.04.040, and the hotel definition would hotel or motel means a transient vacation rental other than a bed and breakfast home containing lodging or dwelling units. And the definition of lodging units is a room or group of rooms connected together constituting an independent living room which does not contain any kitchen. On the community plan, Page 47, specifically it does note that there are 15 lodging units and this was done purposely in the Makawao-Pukalani Community Plan. It's already been through the community, it's already been gone through County Council and here it is. It's part of the ordinances and I'm merely stating that these are facts of law and our Code and ordinances are reflected and we're merely are following whatever is written.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I'd like to add that on its face this request is improper because it's going against the definitions that are in the laws Commissioner Shibuya correctly pointed out. I was willing prior to this to go along with the Director's recommendation that procedurally it's kind of goey and was willing to give it a shot if we went back to the original community plan area for a public hearing. That motion got defeated. It didn't get voted on because the seconded took back the second so there was not a motion and nobody would second it so there wasn't a motion to directly act on. Given that, my only position is we have -- my only remaining position is we have to deny this because on its face it's improper and I would hope the Director at some point would concur with this, but he may or may not.

Chair Hiranaga: Any other discussion? Seeing none, I'll call for the vote. All in favor of the motion to deny the request by the applicant, please so indicate by raising your hand.

Mr. Spence: Three, four, four ayes.

Chair Hiranaga: Opposed?

Mr. Spence: Two, three, four naves.

Chair Hiranaga: Motion fails. I guess I need to vote. Opposed, sorry. No, I like it. Okay I take my vote back.

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

**The Motion to Deny the Request by the Applicant, FAILED.
(Assenting - W. Shibuya, L. Sablas, I. Lay, P.Wakida)
(Dissenting - D. Domingo, J. Freitas, K. Ball, W. Mardfin)**

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: If the Corp. Counsel thinks it's not improper, I'd like to remake the motion to defer this

to a meeting within -- a public hearing within the community plan area where the public is properly noticed and they can weigh in on this whole issue.

Chair Hiranaga: We allow you that motion again if you can get a second.

Mr. Freitas: I second it.

Chair Hiranaga: Motion to defer by Commissioner Mardfin, second by Commissioner Freitas. Discussion? Commissioner Shibuya.

Mr. Shibuya: I'm gonna vote against it. The reason why is that it's very clear to me that we're gonna be reiterating the law and the definitions and I just don't wanna spend any more time on it and we've already made a decision and as far as I'm concerned the decision stands.

Chair Hiranaga: Any other discussion? Commissioner Sablas.

Ms. Sablas: I, too, would have to vote against because I see this as a community--splits the community and I'd like to think of me sitting here speaking for the voice of the community. The community has come out loud and clear about the opposition and from all testimonies I think there were a lot of issues that were brought up and it doesn't seem like the applicant addressed the community concerns and he's been there 24 years. Now had this issue come up and had the applicant come up and say that I've been a good neighbor, I've addressed all of these concerns, I certainly would consider it. My thought is that if you're going to bring it up in the community plan again, you're gonna see a lot more community members coming out against this. This is just my peg on it. Just listening to the community and the voice and that's what Commissioner Shibuya said, it's in the community plan, that's why we have community plans to get the voice of the community on what happens in the neighborhood so I cannot conscientiously vote for this motion.

Chair Hiranaga: Any other discussion? Hearing -- Commissioner Ball.

Mr. Ball: I guess, I, I feel the same way as Lori, but I do see that, I think it's more the applicant not being a good member of his community and not meeting with his community members because I really don't see that kitchens are gonna make that big of a difference here. The building is still gonna be there. It's going to be the same footprint of a building. So there's any underlying something going on with, with the community and the applicant is what I'm hearing because you know, about noise and stuff like that. They're still gonna have the noise. It's still gonna be -- the buildings still gonna, you know, there's gonna be new buildings there. So my thing is that the Commission already made their decision. If it can go to a different body like the variance and appeals board, I'm fine with that. They can go look at and the applicant can make their case to them. But I think that that the community has spoken and they need to work something out with the applicant because the building's still gonna be there, still gonna be a big building with a weird humming noise and that sort of thing, so I don't know. I would vote in favor of the kitchens personally because I don't see a difference on the footprint. I think people in the Upcountry area go there and they stay home and that would fit in with the community plan of going there and you eat dinner, you hang out at the home instead of having all these cars running up and down to Pukalani or downtown or wherever they're going. That's what I ...

Chair Hiranaga: Any other discussion? My comment is, if the Director was not supporting this

request I would be taking it under consideration, but because the Director is supporting this request I think it merits additional consideration. And whether that's right or wrong, that's the recommendation we're getting from the current Director which is may have not been the same as the previous Director. So having said that, if there's no further discussion, I will -- Commissioner Wakida.

Ms. Wakida: I have been sitting on the fence all the time about this issue because I certainly see the merits of both sides and I hear the community messages from the information we've gotten for this meeting a pretty decisive and yet I also, I, I really agree with Commissioner Mardfin about going above and beyond with community access and the procedures and so on. And so in that case, I'm going to support the Director's decision.

Chair Hiranaga: Any further discussion? Commissioner Mardfin.

Mr. Mardfin: Before we vote, can there be a clarification on what the motion is?

Chair Hiranaga: Motion is to defer.

Mr. Mardfin: No, it's more than that I believe.

Mr. Spence: The motion is to hold -- defer and hold a public hearing in the community plan area.

Mr. Mardfin: Thank you.

Chair Hiranaga: Any further discussion, I'll call -- Commissioner Lay.

Mr. Lay: Not wanting to be left out here. I would have to agree with what's going on, well, my point of view is I'm going with the no kitchen calling what everybody's been -- what I've been hearing out there, but that's going back up into the community, we're probably hear more outcry about that. I might have different reasons on why I don't think there should be a kitchen, you know, quieter is one, less water is another, them being able to use the facility of that lodge as far as dinners and other attraction for the people staying there. And I do like that where we're getting money put back into that area. And that's why I'm all in favor of going back up there to hear what the public has to say about it.

Chair Hiranaga: Any further discussion? Last chance. Okay, I'm going to call for the vote. All in favor of the motion, please so indicate by raising your hand.

Mr. Spence: That's five ayes.

Chair Hiranaga: Opposed?

Mr. Spence: That's three naves.

Chair Hiranaga: Motion carries.

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

**VOTED: To Defer the Matter and Hold the Public Hearing in the Community Plan Region.
(Assenting - W. Mardfin, J. Freitas, D. Domingo, I. Lay, P. Wakida)
(Dissenting - L. Sablas, K. Ball, W. Shibuya)**

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

A recess was called at 2:15 p.m., and the meeting was reconvened at 2:25 p.m.

Due to the poor quality of the recording, parts of the following matter are inaudible.

Mr. Hiranaga: Okay, Communication 2-C, Director. Staff, Paul, you wanna read the notice in the agenda since the Director is not here?

Mr. Fasi: We are on --

Chair Hiranaga: C-2.

Mr. Fasi: --Communication Item --

Chair Hiranaga: C-2.

Mr. Fasi: --C-2. Ms. Lehua Cosma, Chairperson of the Hana Advisory Committee transmitting the Committee's recommendations on the requests by Mark and Haunani Collins for a Change in Zoning from Urban Reserve District to SBR Service Business Residential District for the Palemo project and a County Special Use Permit to operate a transient vacation rental at TMK: 1-4-013:039, Hana, Island of Maui, and your Planner is Paul Fasi.

- 2. MS. LEHUA COSMA, Chairperson of the HANA ADVISORY COMMITTEE transmitting the Committee's recommendations on the requests by MARK and HAUNANI COLLINS for a Change in Zoning from the Urban Reserve District to the SBR Service Business Residential District for the Palemo project and a County Special Use Permit to operate a transient vacation rental at TMK: 1-4-013: 039, Hana, Island of Maui. (CIZ 2007/0010) (CUP 2010/0005) (P. Fasi)**

Mr. Paul Fasi: This item was before the Hana Advisory Committee on June 7, 2011. They had a public hearing and the applicant went before the Hana Advisory Committee to request two changes. A change in zoning from Urban Reserve to Service Business Residential and a County Special Use Permit to continue the TVR, three-room in Service Business Residential District. The applicant change in zoning from Urban Reserve to the recently designated SBR will make the property and use which they propose a fish processing and retail sales business will conform and be consistent with the Service Business Residential Single Family Residential designation of the Hana Community Plan. So in other words, they wanna conform to the Hana Community Plan which is designated as SBR.

Second, the applicant's requesting a Special Use Permit to allow the use of the three-bedroom transient vacation rental operation as a special permitted use. In the SBR you're allowed to have not TVRs, but short-term rentals ...(inaudible)... However, in the SBR District you are required to have a County Special Use Permit. So the first thing you need to get past is the SBR. So you're going to make a recommendation to the County Council on the SBR Change in Zoning. We're going to put the County Special Use Permit on hold right now because they need to get their SBR zoning approved first in order to consider the County Special Use Permit short-term rental.

At the Hana community meeting there was change to the use and the zoning. The applicant has decided that the commercial large scale fish processing operation shall not be allowed. In other words, they're not going to do it on a commercial scale, they'll do it more on the neighborhood residential scale if they do it at all. Secondly, they plan not to build the facility for it at this time due to financing and Mark Collins is having some health issues right now and it's just real bad timing for the Collins family right now. Haunani is here today and she can answer some questions. She came all the way from Hana, probably woke up at four this morning.

So, I know it's been a long day on that first item, so just let me be very brief on the analysis of this particular application and just say that the land use designation, State Land Use is Urban. The Hana Community Plan is Service Business Residential Single Family. County Zoning is Urban Reserve which is the zoning that is reserved for the SBR Bill which recently passed back in 2009. And it is in the SMA. So it's not only gonna conform to the community plan but it's also going to take care of the zoning on the County level as well, okay.

Very briefly, Chapter 19.510, Change in Zoning, the applicant's proposed request is consistent with the Change in Zoning criteria. As far as the Special Use Permit was concerned, Maui County Code 19.510.070 the applicant's proposed request is consistent also with the County Special Use ...(inaudible)...As far as, their establishing what they have proposed to do as far as a use in the SBR District they are consistent with the use proposed. Small scale neighborhood fish processing operation is, is entirely consistent with the SBR ...(inaudible)... and in fact that type of small home-based commercial enterprise is ...(inaudible)... So therefore, the above ordinance ...(inaudible)... are consistent. They are in harmony with the intent and purpose of the newly created Service Business Residential Zoning Ordinance and change in zoning and the County Special Use Permit and therefore, the Department supports the applicant's request for changes on both ...(inaudible)... if there's any questions, I'll take them. Haunani is here as well.

Chair Hiranaga: Well, before we allow questions from the Commission, does the applicant wish to make a statement?

Mr. Fasi: The applicant defers.

Chair Hiranaga: Is there anyone here that wishes to provide public testimony, please come forward. Seeing none, public testimony is closed. I'll open the floor to Commissioners for questions. Commissioner Wakida.

Ms. Wakida: I believe my question might be--are you Mrs. Collins? I believe it might be for Mrs. Collins. Thank you. I just need a little education. Could you please tell me what's involved in a fish processing operation?

Ms. Haunani Collins: Well, actually, but somewhere along the line somebody I think got confused of saying we wanted to do a, a large scale commercial fishing operation. My husband been in ...(inaudible)... probably 40 years, but my son is also a licensed ...(inaudible)... But my son works for the State, United States Government...(inaudible)...State of Hawaii. That includes from Hawaii down to South Point for the State of Hawaii. He's worked with the Western Regional Fishery Management Council. And all we really wanted to do was to encourage the small fishery that we had out there in Hana which is about eight boats. Is that about right, Ward, would you say? And have a place that would be legal for them to--where we could cut the fish legally. I am ...(inaudible)...compliant which is hazard analysis for -- on Federal -- Federally say that we could have a place that we could cut the fish, filet it legally. because there is no place right now except the hotel or the ...(inaudible)...

Ms. Wakida: Okay, so basically a place to ...(inaudible - changing of tape)...discrepancies between a large scale and a small scale.

Ms. Collins: Well, the large scale I think they were thinking of a like a big warehouse and you know, forklifts and trucks and trailers and that kind of thing, and we're not. We're thinking of just the small little, you know, I don't know maybe a 10 by 20 processing, refrigerated processing room to cut fish.

Ms. Wakida: I see.

Ms. Collins: So nothing large. Maybe a pick up truck.

Ms. Wakida: Thank you.

Ms. Collins: Thank you.

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

Mr. Fasi: Thank you. The Maui Planning Department recommends that the Maui Planning Commission recommend approval to the Maui County Council with the Change in Zoning from Urban Reserve to Service Business Residential as Recommended and the Maui Planning Department also recommends approval of the County Special Use Permit subject to SBR approval and the conditions as recommended by the Department. In consideration of the foregoing the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendation prepared for this meeting as its Findings of Fact, Conclusions of Law and Decision and Order and authorize the Director of Planning to transmit the recommendations to the Maui County Council.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: Does the recommendations include the one inserted by the Hana Advisory Committee that large scale commercial fish processing operation --

Mr. Fasi: That is correct.

Mr. Mardfin: Are you ready for a motion?

Chair Hiranaga: But that language was not in your recommendation.

Mr. Fasi: It was in my wording when I said as recommended by the Planning Department and that recommendation is in the September 12, 2011-letter. I can clarify that. That the Planning Department recommend to the Maui Planning Commission that the Change in Zoning be approved subject to the project specific condition: 1. That a large scale commercial fish processing operation shall be prohibited.

Chair Hiranaga: Commissioner Mardfin?

Mr. Mardfin: Also, you're deleting what was -- go ahead.

Mr. Fasi: And in addition, the Planning Department also recommends approval of the County Special Use Permit subject to the following conditions as recommended in the June 7, 2011 Recommendation to the Hana Advisory Committee with the project specific Condition No. 7 being deleted. As that is no longer applicable.

Mr. Mardfin: Project specific condition that's deleted has to do with construction and construction isn't being contemplated at this time?

Mr. Fasi: Correct.

Chair Hiranaga: Commissioner Wakida.

Ms. Wakida: I'm sorry, where were you reading from for your recommendations?

Mr. Fasi: This is the Recommendation to the Hana Advisory Committee, June 7, 2011.

Ms. Wakida: In our packet that would be page?

Mr. Fasi: It's in the recommendation report. You can't find it?

Ms. Wakida: Is it Page 5 here?

Mr. Fasi: I'm also referring to the September 12th letter to the Chair and Members of the Maui Planning Commission which you should also have.

Ms. Wakida: Okay, we usually get a green sheet so ...

Mr. Fasi: I just had a discussion about that green sheet with Carolyn.

Ms. Wakida: Yeah, it makes it easier.

Mr. Fasi: There's only, there's one -- there's only two minor changes. The Change in Zoning, that a large scale commercial fish operation be prohibited; and deletion of Condition No. 7.

Ms. Wakida: Okay, I like the green sheet though.

Chair Hiranaga: Commissioner Ball.

Mr. Ball: Are there specifics on the large scale? I mean, 'cause someone's interpretation of large scale is another person's so I don't know how you would, I mean...

Mr. Fasi: Well, we didn't, the -- the community had a concern that it could turn and, you know, morph into a large scale commercial fishing operation which is not the intent of the applicant. It's not going to be a refrigerated warehouse with forklifts and big ice machines. It's probably gonna be a table in their yard under a blue tarp.

Mr. Ball: Right, I understand that, but --

Mr. Fasi: If it even happens.

Mr. Ball: --but somebody comes up and goes, whoa that's large scale. You know, just 'cause it's a refrigerated room or something. I mean, there's no -- is there any guidelines to say like, okay, over 30 x 30 then it becomes large or if cut ten fish instead of five. I mean, I don't know. I'm just saying that somebody may come along and, and question that without any guidelines attached.

Mr. Fasi: Well, they need to...I understand your concern and it's a valid concern. They still, if that was proposed and they do come in for that particular use, they still need to come in for building permits. They still have to come before the Planning Department and show floor plans and everything, and at time it will be reviewed again.

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: First I'd like to say that I know the Collins, their son was one of my students and I've brought good, fresh fish from them but I'm not recusing myself because I have no financial interest in it. Second thing I'd like to say is that I normally go to the Hana Advisory Committee so I know what the sense of the community is. I was not able to get to that one but I've done a careful reading of the minutes and I think I have a good sense for what the community wanted. The limitation in answer to the concern by Commissioner Ball is that there's a square footage limitation of I believe it's 2,000 square feet for selling, storing and everything else. So that keeps it small. Their property isn't huge. We visited the -- I don't know if you were with us when the visited their property but some of you that traveled to Hana we made a site visit, we saw their existing rental operation and they, according to the minutes, they wanna put a house up there and if they do that there's gonna be--there not gonna be -- they wouldn't be able to put a cannery row type operation there even if they wanted to. And it's in an SMA area so it would have to come back and go to the Hana Advisory Committee anyway for any major change.

Chair Hiranaga: Commissioner Wakida.

Ms. Wakida: I, I don't have any concerns overall with this project. It's, it's just the process. We're asked--we're discussing a change in zoning and later on the County Special Use Permit and then special Condition No. 7 talks about construction of the project, but when I first read through this,

I didn't see anything, any construction being proposed so I, I can you just clarify for me what that means?

Mr. Fasi: Yeah, they didn't come forth with any development plans. So there is, there is no development so we took that condition out.

Ms. Wakida: Yeah.

Mr. Fasi: They come forth with any drawings of anything. So there's no intention of doing that. So we deleted it.

Ms. Wakida: Okay.

Chair Hiranaga: Any other questions, Commissioners? Just to follow up on Commissioner Ball's statement, I think when you say large scale fishing operation it's rather vague. I would prefer that you say, address something to the point where the commercial building shall not exceed 2,000 square feet, more finite, so that we don't have someone saying, I mean, I hate to have a discussion over what is large scale like what is a hotel or what is a lodge.

Mr. Fasi: I believe the square footage is -- I believe that the square footage is limited in the SBR Ordinance itself, but if you feel more comfortable putting in a square footage figure we can also do that as well.

Chair Hiranaga: I think it's the more finite measurement, but the maker of the motion can do that unless the Department has no objection, the applicant has no objection, I'd prefer it to have some type of a ...

Mr. Fasi: The applicant has objections and the square footage you want it to limit it to is 2,000 square feet?

Chair Hiranaga: Yeah, that's the proposed structure, sorry.

Mr. Fasi: That a large scale commercial fish operation shall be prohibited --

Chair Hiranaga: Or shall not exceed. Actually you could just say, the commercial building for -- the commercial fishing processing operation shall not exceed 2,000 square feet. So you don't need to say large scale.

Mr. Fasi: Okay. Or commercial fishing --

Chair Hiranaga: That a commercial fish processing operation building shall not exceed 2,000 square feet.

Mr. Fasi: Got it. Thank you

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I'd like to move approval of the recommendations of the Department as revised with the exception of this last one. The Hana community, I know it's vague. The law limits them to the 2,000 so it's redundant to put that part in there and they felt more comfortable saying they wanted to avoid large scale commercial fish processing. That's not what the -- and that's acceptable I believe to the applicant because that's their intent anyway. And the Director at that the meeting made the point that they would understand what large scale meant in the context of Hana. So I don't think it's necessary to make that change you just recommended.

Chair Hiranaga: The Director's position is not a lifetime appointment.

Mr. Mardfin: That's true.

Mr. Spence: This is true.

Mr. Ball: And not everybody lives in Hana is there now.

Mr. Mardfin: Anyway, my motion is to approve originally recommended by the Department.

Chair Hiranaga: Is there a second?

Mr. Shibuya: Second.

Chair Hiranaga: A motion to approve as originally recommended by Staff by Commissioner Mardfin, seconded by Commissioner Shibuya. Any discussion? No discussion. Would you care to repeat the motion, Director?

Mr. Spence: No, I wasn't here for the ... it was to approve...

Mr. Mardfin: To approve the Change in Zoning from Urban Reserve to Service Business Residential as with the condition that a large scale commercial fish processing operation should be prohibited as was is the staff recommendation. And I'll do that and then I'll do the, the other one about the second motion.

Mr. Spence: Okay, so the motion is to approve the --

Mr. Mardfin: The Change in Zoning request from Urban Reserve District to Service Business Residential as recommended by the Department with the inclusion of the Hana Advisory Committee Recommendation project specific condition.

Mr. Spence: Okay.

Chair Hiranaga: Are we clear? All in favor of the motion so indicate by raising your hand.

Mr. Spence: Six ayes.

Chair Hiranaga: Opposed?

Mr. Spence: I didn't see hands go up.

Chair Hiranaga: All in favor please? Okay, eight, eight ayes. Opposed? Motion carries.

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

**VOTED: To Approve the Change in Zoning as Recommended by the Department with the Inclusion of the Hana Advisory Committee's Recommended Project Specific Condition.
(Assenting - W. Mardfin, W. Shibuya, D. Domingo, L. Sablas, J. Freitas, I. Lay, K. Ball, P. Wakida)**

Mr. Mardfin: Mr. Chairman?

Chair Hiranaga: Commissioner Mardfin.

Mr. Mardfin: I move the adoption of the, the granting of a County Special Use Permit for a transient vacation rental as recommended by the Department with the --

Chair Hiranaga: I thought we were deferring that?

Mr. Fasi: That is correct.

Chair Hiranaga: We have to wait for Council action.

Mr. Fasi: We have to wait before the Council to approve the SBR because the County Special Use Permit is dependent upon approval of the SBR.

Mr. Mardfin: May I ask Corporation Counsel a question?

Chair Hiranaga: Sure.

Mr. Mardfin: Corporation Counsel, would it be possible to avoid time delays to pass this Special Use -- a recommendation for the County Special Use Permit for transient vacation rentals subject-- conditioned upon them receiving the Change in Zoning?

Mr. Giroux: I guess the, the question is right now that the zoning as it is now wouldn't allow the transient vacation.

Mr. Fasi: They would be required to have a Conditional Permit. But I understand where Commissioner Mardfin is going with this and I appreciate it ...(inaudible)... going that route. You're trying to save it from having to come back here.

Mr. Mardfin: Right. If it's legal. If it's not legal, it's not legal.

Mr. Giroux: I would have to discuss that with the Department, but I don't think it would be a good route to go right now.

Chair Hiranaga: Yeah, I would caution against setting a precedent for whatever reasons you may have wanting to do this, it whatever --

Mr. Mardfin: I withdraw the motion.

Chair Hiranaga: So if there's no objection, I believe this item has been handled and we're moving onto the next agenda item which is C-3. Director.

Mr. Spence: It's Mr. Roger Yamagata of Maui Disposal Company requesting a Special Accessory Use Approval for recycling redemption center at Kanoa Street in Wailuku and our Staff Planner is Ms. Gina Flammer.

3. MR. ROGER YAMAGATA of MAUI DISPOSAL COMPANY, INC. requesting a Special Accessory Use Approval to operate the Maui Disposal Wailuku HI-5 Bottle Redemption Center and Dropbox Recycling Site in the B-2 Community Business District at 60 Kanoa Street, TMK: 3-4-010: 034, Wailuku, Island of Maui. (ACC 2011/0003) (G. Flammer)

Ms. Flammer: Good afternoon, Commissioner. Gonna give you just a real short PowerPoint mostly just so you can see the photos. It's a pretty clear cut legal issue. Okay, so you may be wondering why are we here? We've talked about recycling centers before. The last time the B-2 Business Community District, and that's the district that this is proposed for was updated was 1997. So we didn't have recycling centers in 1997 so it wasn't included in the permitted uses even though we did manage to get 65 different uses. Okay, so we are updating, we actually updating all of Title 19. You guys have heard little bits about it as it's come through here. You did hear the B-2 update and it has gone to the Council Planning Committee right now and they are reviewing it. In that recycling centers are included. There is a provision that they need a visual screen around them. So we did work with that, but until then it hasn't been passed yet, we have to deal with -- we have these accessory use clauses that are in our different codes for reason like this and it's Item 66, and it talks about any other retail business or commercial enterprise which is similar. So these are the material that will be accepted at the site. My applicant did want me to point out that they're not going to be accepting steel but they will be accepting some of these other nonferrous metals.

So the location it's in your staff report. It's located across from the Bale sandwiches and across from the Water Department, the Hokama Building. So when you're coming down this direction you can't see it and I'll show you in a minute. I don't have an assistant today. So here's the front of the center. So these are pictures of the inside of it. You can see where they're gonna have the people working. There'll be that there's an awning there which comes out and it will keep the employees shaded. You can see the scale that's to the left. The storage unit behind them is just to store the scale overnight. They're not using it as an office. So I wanted you to see the inside, but I also from here I didn't want you to think that oh, boy you can see this. So this is we, they, we propose, the applicant has proposed screening through here and we've talked about putting some tall oleander so that when you're looking coming down this way, you don't see right into the facility.

So I'm going to give you a little tour of the neighborhood. Here's the other exit I wanted you to see that. Here's the building across the street, the Hokama Building which now houses the Water Department as well as the photography studio over here. Here's right next to the Hokama Building.

It's a vacant lot that's being used for parking and we have another office building. If you go right adjacent here's the center right here, here's an office building that's right next door. We have the NAPA Auto Parts. We have right behind that as you're going towards Waiale Street we have a commercial building that part of that lot is being used for container storage. We have along the corner, there's another right here that's basically vacant. We're on Waiale here, here's Ohina, we have where the car wash is and the radiator place. You can see where they come out of the car wash. Here's the entrance to the recycling facility. Here's the radiator shop that's directly across. Here's the restaurant. So it was really nice to work with this applicant because they understood the visual screening. They've done it with some of their other ones. So it wasn't a lot of arm twisting. It was nice to have him volunteer the way it would make it look good. So what we came up with is we're gonna be putting landscaping in the front to make it look nice, but then to do the visual screening they're gonna be inserting green slats in all the existing fencing. So how we came about that is I drove around for two days and took pictures of different recycling centers. Well, we kinda came up with is we look of this the best and it happens to be another Maui Disposal Center. So you've got the green slats and then you've got the oleander behind it which does grow tall and will block from when you're coming down I think that's Main Street where you come down, you can look right into it. So this is the commercial building, there's green slats and I think they're being put in yesterday right here. They're gonna be along the back even though you're dealing with an area that's industrial right now, we don't know what the future is gonna be. He did go ahead and agree to put that in there voluntarily. And then when you look from the other direction where the radiator store is there'll also be green slats. And even though there are trees, he did agree to go ahead and put the slats in. So that's for the project there.

For the analysis, I'll just tell you real briefly. It fits in with the intent of the B-2 District and it's also similar with other, some of the other permitted that were in their warehouse, automotive facilities, so I can move right to the recommendation if you'd like or...

Unidentified Speaker: Yes.

Ms. Flammer: Yeah, let me go ahead and do that. So the Department, we find that the small scale redemption recycling -- redemption center business, it provides a service to the community and it's small enough in size not to be associated with an Industrial District. It also meets the intended uses under the B-2 Community Business District so therefore, the Department recommends approval for the County Special Accessory Use Permit subject to the following conditions. And we have our four standard conditions and then we put in two project specific conditions. One is that we worked out the landscaping. We wanted to give ourselves some flexibility, but we have come up with a plan which I showed you. So if you have any comment now would be the time. And then also, Department of Public Works had had some concern about the gravel and just asked them, the applicant to make sure that they prevent gravel from coming out. And he does have a plan with his workers where he's going to be sweeping any gravel that could come onto that concrete apron that's coming out of there. So in consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for this meeting as its finding of fact, conclusion of law, decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of Planning Commission. Thank you.

Chair Hiranaga: Does the applicant wish to say anything?

Mr. Roger Yamagata: No.

Chair Hiranaga: Okay, I'll open the floor to public testimony. Is there anyone here that wishes to provide testimony at this time, please come forward. Seeing none, public testimony is closed. Open the floor to questions from Commissioners?

Mr. Freitas: I have a question.

Chair Hiranaga: Commissioner Freitas.

Mr. Freitas: Yeah, I'd like to disclose that I'm in the same business as them and I have no problem.

Chair Hiranaga: So you're not recusing yourself?

Mr. Freitas: No.

Chair Hiranaga: Oh, thank you. Commissioner Wakida.

Ms. Wakida: Yes, couple questions. I'm all for recycling centers. But just a few details. Do you have any figures on the amount of traffic on the other sites or how much they expect to generate in a day, in and out traffic?

Mr. Yamagata: The busiest site that we currently run is the County site in Kihei and approximately 100 customers a day go to that site. The least traveled one is in Haiku and we get about 30 people a day.

Ms. Wakida: So you would anticipate site to be like?

Mr. Yamagata: Some place in between. Not as busy as Kihei, but maybe about the same size or little busier than Haiku. Okay, and my, and my follow up, Gina do you have in your PowerPoint the site plan like Exhibit 4 for example, something?

Ms. Flammer: I didn't put it in there, but what I have is what's in the report is the site plan.

Ms. Wakida: I was just interested in the traffic pattern in and out once you get in. How do cars back up in there?

Ms. Flammer: Okay, let me let Roger talk about that. I did drive into the site too, just to kinda test out how it felt with a car. It was pretty easy for me to maneuver.

Ms. Wakida: But if there were three or four at once, yeah.

Mr. Yamagata: I think I have one copy of our site plan.

Ms. Flammer: They have it in their report.

Ms. Wakida: We have them in our packet.

Mr. Yamagata: Customers will be coming in from Kanoa Street and there's a 20-foot driveway and we paved it and they'll be exiting on Ohihana Street and there's again, a 20-foot driveway that is paved. We felt that paving the driveways would prevent the gravel from escaping and it was not paved before. So we paved both driveways.

Ms. Wakida: Thank you.

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

Ms. Wakida: One more. I commend the applicant on the efforts to landscape and I know from my personal experience that good landscaping is a much, much better noise deterrent than any other kind of thing, walls, any of that sort of thing. And so not only for sight barriers but I, I commend them on like the idea for oleander, anything that's thick and bushy will be a great noise deterrent for any outside businesses. So I encourage that continued use.

Chair Hiranaga: Any other questions? Commissioner Mardfin.

Mr. Mardfin: I have basically two. After the materials are brought in, how do you dispose of them?

Mr. Yamagata: I'm Roger Yamagata, General Manager of Maui Disposal. All of our redemption sites are merely collection points. We store the various types of containers in segregated sealed, locked containers. When they're full, we transport them to our recycling facility on Alamaha. It's about a four-acre site that we have our baling and sorting line and that's where we process items. We do not process, bale or do anything on any of the sites.

Mr. Mardfin: You don't crush or...

Mr. Yamagata: No, we don't. We don't have any machinery. We also don't accept batteries, tires, cars, engine blocks, paint, hazardous waste. We're not in that business.

Mr. Mardfin: What is...in case there are some spills, you know, if you're taking soda cans, you know, it's half full of soda and they're putting it in and spills out. How are you gonna handle spills and that sort of thing?

Mr. Yamagata: Well, we educate our customers. And we educate them to wash out the containers before they bring it in. And I'd say 90 percent of the people are doing that. People that repeatedly don't do it, we don't accept their containers and the Bottle Bill does allow us to deny accepting if they don't follow the rules. So we have very little minimum liquid in the containers. Plus, we don't wanna pay more nickels than we have to because we won't be able to get our money back when the liquids evaporate.

Mr. Mardfin: Thank you.

Chair Hiranaga: Any more questions, Commissioners? Seeing none, we already got the staff recommendation. I'll open the floor to a motion.

Mr. Freitas: I move that we accept the Planning recommendation to accept.

Chair Hiranaga: Moved to approve by Commissioner Freitas. Is there a second?

Mr. Ball: Yes, I second.

Chair Hiranaga: Second by Commissioner Ball. Any discussion? No discussion. Call for the -- Director, please repeat the motion

Mr. Spence: To approve as recommended by Staff.

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

Mr. Spence: That's eight ayes.

Chair Hiranaga: Opposed? Motion carries.

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

**VOTED: To Approve the Special Accessory Use Permit as Recommended.
(Assenting - J. Freitas, K. Ball, D. Domingo, L. Sablas, I. Lay, P. Wakida,
W. Shibuya, W. Mardfin)**

Chair Hiranaga: Next agenda Item D.

Mr. Spence: Item D, Acceptance of the Action Minutes of the September 27, 2011 Meeting and the Regular Minutes of June 28 and July 12, 2011 Meetings.

**D. ACCEPTANCE OF THE ACTION MINUTES OF THE SEPTEMBER 27, 2011 MEETING
AND REGULAR MINUTES OF THE JUNE 28, 2011 AND JULY 12, 2011 MEETINGS**

Chair Hiranaga: Motion to accept.

Mr. Shibuya: So move.

Chair Hiranaga: Commissioner Shibuya. Seconded by?

Mr. Freitas: Second.

Chair Hiranaga: Commissioner Freitas. Any discussion? Seeing none, all in favor say, aye.

Commission Members: Aye.

Chair Hiranaga: Motion carries.

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

**VOTED: To Accept the Action Minutes of September 27, 2011 and the Regular Minutes of June 28, 2011 and July 12, 2011 Meetings.
(Assenting - W. Shibuya, J. Freitas, D. Domingo, L. Sablas, I. Lay,
K. Ball, P. Wakida, W. Mardfin)**

Chair Hiranaga: Next agenda item, Director's Report.

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: Okay, Commissioners. You have the SMA Minor Permit Report. I don't know if there was any questions? We have nothing with regard to SMA Boundaries or Clayton might have something for the Commissioner, but ...

Mr. Yoshida: Now with that item. I guess on the EA's, No. 2, EA/EIS Report. The Commission will be considering a Draft EA for the Goodfellow Brothers rock crushing facility in Kihei up by the Kihei Wastewater Treatment Plant on the November 8th meeting. They're asking for a Community Plan Amendment to Industrial.

Chair Hiranaga: What agenda item are you on?

Mr. Yoshida: Item No. E-2.

Chair Hiranaga: E-2. No further discussion, we can move onto E-5.

- 5. Discussion of Future Maui Planning Commission Agendas**
 - a. October 25, 2011 meeting agenda items**

Mr. Spence: Discussion of -- Clayton, we have anything for future Commission agendas?

Mr. Yoshida: For the next meeting on October 25th, we have three public hearing items, two of them are Council Resolutions. If the Commission may remember about three years ago, we dealt with the applications for a two-lot subdivision and a four-lot subdivision that were presented by Greg Kaufman out in Makena from Ag to Urban that went to the Council and they have sent a resolution to go from Ag to Rural for those two projects, the Ke Kani Kai two-lot subdivision and the Iwa Iki

four-lot subdivision in Makena. And also we have Land Use Commission Special Use Permit request for the Alii Kula Lavender Farm for some of their commercial activities that are related to the lavender farm.

Chair Hiranaga: Okay, thank you. So next regular meeting is scheduled for October 25th. If there's no objection, this meeting is adjourned. Thank you.

F. NEXT REGULAR MEETING DATE: OCTOBER 25, 2011

G. ADJOURNMENT

The meeting was adjourned at 3:05 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

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

Others

William Spence, Planning Department
James Giroux, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Department of Public Works