

**MAUI PLANNING COMMISSION
REGULAR MINUTES
MAY 8, 2012**

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, May 8, 2012, 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.)

Chair Hiranaga: Good morning. This is the Maui Planning Commission. Today is May 8, 2012. I'd like to call the meeting to order. At this time, all Commissioners are present except Commissioner Tsai, who I believe is, is there some type of a ku?

Mr. Ball: We've promoted Max to the Chair.

Chair Hiranaga: Commissioner Tsai, is I believe a little late. Moving on. I'll open the floor to public testimony for any agenda item. Is there anyone here that wishes to provide testimony on any agenda item at this time, please come forward? Seeing none, we'll continue to Item B, Communications. Director?

Mr. Spence: Thank you, Mr. Chairman. Number 1 under Communications is Ms. Linda Berry, AIA on behalf of At Home Animal Hospital requesting a County Special Accessory Use Permit for a vet clinic in the B-2 District, and our Staff Planner is Gina Flammer.

B. COMMUNICATIONS

1. **MS. LINDA BERRY, AIA on behalf of the AT HOME ANIMAL HOSPITAL requesting a County Special Accessory Use Approval to operate a veterinary clinic in the B-2 Community Business District at 48 Lono Avenue (former Community Clinic of Maui site), TMK: 3-4-004: 007, Kahului, Island of Maui. (ACC 2012/0001) (G. Flammer)**

Ms. Flammer: Good morning, Commission. I'm just gonna real quickly remind you what an Accessory Use Permit is. I know you've see a number of these especially for recycling centers. But they are for Zoning Code, for when in our Zoning Code the use is not expressly written in the permitted uses. When we do our Zoning Code, we write out all the uses but we understand that over time things may change and also sometimes it's hard to really get all of these. So we have a clause in there it's Item 66, which gives us a way to look at other uses and this body is the one that does that specifically for the Business District which is what we're looking at today. That clause does say that any other retail busy or commercial enterprise which are similar in character of rendering sales of commodities or performance of services to the community and not detrimental to the welfare of the surrounding area provided however, that such uses shall be approved by the Commission as conforming to the intent of this article. So that's you.

So what we have today is an animal hospital in the B-2. The Code doesn't specifically allow that. However, it does allow medical clinics. The building that the vet clinic is proposed for is actually

in the old Community Clinic building. I do have some pictures of the area. There is a map in your report, but just to remind you where it is. It's Lono just down off of Hana Highway, a Kaahumanu Avenue.

So here is the building itself. If you start over at Kaahumanu Avenue there's the Chevron station and as you go a little closer, so as you go a little closer on that block inland you'll see that there's a car dealership and then you have a mini mart that also serves as a catering service, a restaurant. You have our building here that's currently vacant. You have youth ministry that's next door. From what I understand mostly operates at night. Again, you can see across the street the relationship of the buildings. You can see behind it there's dormitories for UH, Maui College. There's Tasty or Treats and Sweets. And then if you look across the street it's the Kahului Town Center area that you saw at your last meeting and then there's the Lono Building. And then there's the dormitories that's right behind it. So I do have the project consultant with me as well as the property owner, representative from the property owner if you have any specific questions. So if there are no questions, I could move right onto the recommendation?

Chair Hiranaga: Chotto matte. I have to open the floor to--sorry, at this time, I'll open the floor to public testimony for this particular item. Is there anyone here that wishes to provide testimony regarding this agenda item, please come forward? Seeing none, public testimony is now closed. I'll open the floor to questions from Commissioners? Commissioner Wakida?

Ms. Wakida: I had a little trouble, the map's pretty small in here.

Ms. Flammer: Oh, okay.

Ms. Wakida: Are there kennels for keeping dogs overnight and/or cats?

Ms. Flammer: That was one of the questions I asked especially given the dormitory is right behind. No, though I do understand in some emergency situations they might bring the animal to the clinic for overnight. They do have an interior ventilation system also so the windows are shut.

Ms. Wakida: So they have--I mean, I real animal lover so I'm interested in some of these--I mean, concerns. Because quite often sick animals need to be kept overnight and how many facilities do they have for this?

Ms. Flammer: Yeah, let me have the property owner come on up. I'm gonna have Linda Berry, the project architect.

Ms. Linda Berry: Good morning. There's cages for three dogs and that would be animals that have had surgery and need to, need to have extended care and for about six cats.

Ms. Wakida: Thank you so much.

Ms. Berry: You're welcome.

Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: Gina, is this outside of the development area that A&B has proposed for that super block redevelopment project?

Ms. Flammer: It's directly across the street from it, so it's not a part of that project.

Mr. Hedani: Okay.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Can you tell us a little bit about the drainage for animal waste and the kennels and in the back and so on?

Ms. Berry: There's what we call a trench drain. It's a drain that extends across the whole floor in the room that the animals would be boarded in and that goes to the sewer and that has been approved by --pardon me? Linda Berry for the record. And that does--has been approved. We've already submitted the permit and Wastewater Department has approved that.

Ms. Wakida: Thank you.

Ms. Flammer: This project is coming in for four building permits. So as a part of the building permit review process it does go to the other agencies including Department of Health and Department of Environmental Management. We did also send it as well and didn't receive any comments.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: In line with the sewage use. I'm more concerned about the containment and disposing methods used for hazardous material such as pharmaceuticals, blood, cleaning, disinfecting agents how are these being addressed?

Ms. Berry: Linda Berry again. I haven't discussed that with the vet, but I know that the vet is currently operating on Puunene Avenue several blocks away and I'm sure that they have that worked out for that area and it would be the same situation here on Lono.

Mr. Shibuya: I'm interested in finding out that's why.

Ms. Berry: Sorry, I can't answer that.

Mr. Shibuya: Yeah, no problem.

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

Ms. Wakida: Yes, Gina, you mentioned about barking because the dorms are right behind, I mean, noise coming from the building. Could you elaborate a little bit on that please?

Ms. Flammer: Well, one of our criteria is that it can't be detrimental to the surrounding neighborhood. So when I took a look, I went out to the property, I took a look to see how close it was. I did ask about the business? How often, you know, is it a kennel? Are you storing dogs

overnight permanently pretty much on there, and that they're not. It's not a part of their service. I did ask about whether are the windows shut? The dorm also, I did notice they must have an interior system. So that's about all the research that I could do on that.

Ms. Wakida: Thank you.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: With this animal clinic is there a preliminary walk through where Health Department goes through to make sure that there are these precautions taking care of as far as getting rid of these substances that are hazardous or dangerous?

Ms. Flammer: I'm being told by the applicant that during the building permit, building inspection process is when all of that would happen. This is a business. It's gonna be required to have a Certificate of Occupancy and that does require sign off by all the various departments.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I just wanna change the direction here a little bit. I notice that you wanted to propose some parking stalls and arrange for them and at the same time, I'm looking at the amount of pavement that you have and landscaping because I'm looking at drainage and I'm looking at how we're accommodating some of these things and softening the view and that type of appearance things. How are you addressing the parking stalls? Is it the way that you have it portrayed here in the photos here or are you planning to realign it in such a way that you can possibly increase the landscaping, minimize the pavement, that sort of thing?

Ms. Flammer: This project did have to go through a landscape planting plan review because of parking. So I know that ZAED, it's a difficult property in terms of--you see the space in the pictures. So our Zoning Division worked with the applicant on getting parking that meets the Code. They do have a landscape planting plan that's just been submitted. They will have to--there is actually, I put a copy of the parking plan in your report. It's Exhibit 3 on the backside. Oh no, actually--I'm gonna let the architect pass around a much larger picture that's gonna show--oh, actually if you look further it is in Exhibit 3, on the third or fourth page it says, "proposed vet clinic," and it lists it all out. The one that's going around is a larger version of that. So they do have six stalls. They will be required to put--they're required to have a tree on the property because of the stalls. And then they do have to have fencing and landscaping. And they're required to have the loading zone as well.

Mr. Shibuya: I notice the entry is on the backside of the structure, not on the side facing the roadway, and that causes a problem too.

Ms. Flammer: In terms of drainage questions also, because they are in the SMA area they were required to file an SMA Assessment. This permit looks at the use and whether or not the use fits in. That's why there is no drainage plan. It's an existing building. And they're not proposing to change any of the impermeable surface or to add to it.

Mr. Shibuya: But you are adding more asphalt, right, according to this?

Ms. Berry: We are adding--Linda Berry--we are adding asphalt on the north side of the building. And we're adding landscaping on the west between the dormitory and the vet clinic and on the east between the parking lot and the street. And we'll be adding one additional tree. There's one quite mature tree on the south side. We'll be adding one on the north side as well.

Mr. Shibuya: Thank you.

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

Mr. Shibuya: ...(inaudible)... I have the other aspect here in terms of how much energy is expected to be used by this facility? And if you're--the developer or is planning to have some kind of a generation from the renewable power? I'm sure they're gonna do some energy conserving, but I'm just looking at energy generating.

Ms. Flammer: I'm not saying that the applicants are aware of anything right now.

Mr. Shibuya: Okay, would they consider something like that?

Ms. Flammer: I'm seeing the property owner shake his head, and yes, they would consider something. I would think given the energy cost, that's probably also something the business operator themselves would want to do for economic reasons.

Mr. Shibuya: Yeah, the reason why not only for economic reasons, but HRS 269 does come out with a portfolio standard that mandates a 40 percent renewable power generated by 2030. And if we're not looking ahead, then we'll be stuck and everybody will be penalized and paying a fee for that.

Ms. Flammer: You have any specific suggestions that you'd like them to consider?

Mr. Shibuya: Maybe photo voltaic on the roof? They might consider that.

Ms. Flammer: Okay, we can pass that along.

Mr. Shibuya: It also cools the structure too, but...Thank you.

Chair Hiranaga: Any other questions, Commissioners? I have a question. Since you're increasing the hardened surface on the property, at what point does the Department require a drainage report?

Mr. Spence: Mr. Chairman?

Chair Hiranaga: Director?

Mr. Spence: I can't speak for--perhaps the Director of Public Works could answer that, but I would note that when the building permits are pulled for this, that would be one of the things it would be routed to Public Works. They would make the determination of whether a drainage report is required or not. But perhaps...

Mr. Dave Goode: Good morning, Members of the Commission. Dave Goode here, Public Works. Director Spence is correct, yeah, the building permit comes though that will be one of the things that we would review. But it's probably something we'll cover in our presentation later today. But my understanding is that we're talking about such a small area that it wouldn't be any additional requirements.

Chair Hiranaga: Is there a threshold?

Mr. Goode: There is, and I just don't know at the top of my head.

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

Mr. Hedani: Gina, this is a very small business operator that just wants to open a veterinary clinic. In this particular case, the zoning already provides for medical facilities. It doesn't say human medical facilities or animal medical facilities. Isn't it a case where it could have already qualified under the zoning under an administrative interpretation?

Ms. Flammer: It's possible. Our Zoning Division is pretty strict in their interpretation of the Code. I will note that in our new--you know, you've reviewed a lot of updates to Title 19 including the B-2, Business District and we have added animal hospitals as a permitted use into that. So when that is adopted it will be--they will not need to come for an Accessory Use Permit.

Mr. Hedani: Thank you.

Chair Hiranaga: Any other questions, Commissioners? One last question for me. Do you or the applicant know what the original use was for that building? I'm trying to think back.

Ms. Flammer: You mean, before Community Clinic of Maui?

Chair Hiranaga: Yeah, the original.

Ms. Flammer: It's an old building. I'm being told it was a Kaiser Permanente Clinic.

Chair Hiranaga: Commissioner Hedani had his hand raised.

Mr. Hedani: My brother-in-law used to have his office in that building and it was a Beneficial Finance Office before it came the Community Hospital or Community Clinic of Maui.

Chair Hiranaga: No, I was talking way back, you know, like in the '60s.

Mr. Hedani: Yeah, but he's really old, my brother-in-law.

Chair Hiranaga: Well, maybe someone watching can send a --we'll kind of divert back. I thought Nerlands were on the corner, not this building, it was the corner building. Anyway, sorry I brought it up. If no further questions, we'll have the Staff recommendation.

Ms. Flammer: And I did mention the fact that we had already considered animal hospitals when

we looked at updating our B-2. That did play into our decision. For this permit we did find that the animal hospital does provide a service the community needs. It's small enough in size not to be associated with an Industrial District and it does meet the intended uses under the B-2, Community Business District, and thus the Department recommends approval for this permit subject to the conditions that are in your report. 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 the May 8, 2012 meeting as findings of fact, conclusion of law and decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Chair Hiranaga: Thank you. Open the floor to a motion.

Mr. Freitas: So move.

Mr. Hedani: Second.

Chair Hiranaga: So move to approve?

Mr. Freitas: Approve.

Chair Hiranaga: As recommended?

Mr. Freitas: As recommended by Staff.

Chair Hiranaga: By the Staff. Seconded by Commissioner Hedani. Any discussion? Seeing none, I'll call for the vote all in favor--oh, I'm sorry, I'll have the Director restate the motion.

Mr. Spence: The motion is 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: The motion carries. Thank you.

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

**VOTED: To Approve the County Special Accessory Use Approval as Recommended by the Department.
(Assenting - J. Freitas, W. Hedani, D. Domingo, I. Lay, M. Tsai, K. Ball, P. Wakida, W. Shibuya)**

Ms. Flammer: Thank you.

Chair Hiranaga: The next agenda item, C-1, Director?

Mr. Spence: This is Unfinished Business with Towne Development of Hawaii requesting a five-year time extension on the SMA condition to complete their section of the North-South Collector Road. Mr. Paul Fasi is the Planner for this project.

C. UNFINISHED BUSINESS

- 1. TOWNE DEVELOPMENT OF HAWAII, INC. requesting a five(5)-year time extension on the Special Management Area Use Permit condition to complete construction of the North-South Collector Road Extension from Walua Place to Keonekai Road at TMK: 3-9-004: 005 & 145, 3-9-019: 004, 3-9-020: 004, 007, 012, 016, 020, & 027, Kihei, Island of Maui. (SM1 2005/0007) (P. Fasi) (deferred at the January 10, 2012 meeting.)**

Mr. Paul Fasi: Good morning, Commissioners. The applicant, Towne Development is requesting a Special Management Area Use Permit five-year time extension in order to allow the County of Maui to complete its land acquisition efforts to complete construction of the extension of the north-south collector road in Kihei.

Let me bring you up to, up to date. September 27, 2005, the Planning Commission approved the SMA Permit. 2006, construction is initiated. The initiation should be started by September 30 which happened, September 30, '08. October 1, 2011, is the completion deadline date. That date was not met due to the land acquisition issues. This matter came before this Commission on January 10, 2012. I'm sorry, yeah, that is correct. January 10, 2012, it was deferred. There was some questions due to the bond and the issues surrounding the bond and the amount. We are very fortunate today to have the Director of Public Works here. And he will bring you up to date on the new bond amount and what's transpired since then. Also, we have the applicant's consultant here to also help explain the events since the matter was deferred on January 10, 2012, and that brings us up to date. If there are no further questions, either--you may have questions for the Director of Public Works or I can call up the consultant.

Chair Hiranaga: Thank you. At this time, I'll open public testimony. We have two people signed up for this. Greg Stratton?

Mr. Greg Stratton: Good morning. I am Greg Stratton and I'm representing the Kihei Community Association here today. And I'm here to provide testimony on the time extension for the Towne Development. And I wanna thank the Commission at your last meeting for suggesting that Towne contact the KCA and we did have a discussion with them and we got brought up to date on the history and what's going on. We were able to go through all the details of this issue. And certainly from going through that we understand what a tough job that you have. You have to balance the needs of the development with the mitigations that are needed to reduce the impact on the community. And for this project back in 2005, you required the development--that the developer mitigate his traffic impact with the construction of a part of a road. That was years ago. This is now years ago, the development is almost completed and yet the road is not built. You must be disappointed, maybe even angry.

This is a very important segment of our north-south collector road. This is a road that residents of

South Maui, of Kihei use so we don't have to go out on South Kihei Road, we don't have to go up to the Piilani. We can get back and forth to places in that area. And this project closes a very important gap. And it really isn't like they didn't have enough time. Yes, we recognize that we've heard that there's been some issues in this property acquisition and there's some legal stuff going on. But as we understand it, the key parcel to this, to this road was actually condemned by the County. The condemnation went through, but the developer did not go ahead and take the parcel and complete the road. That was over three years ago. They had the opportunity to get it and to build it and yet they didn't. We do believe that the developer needs to work faster in getting this done. The legal issues that are over the price of the property should not slow down the construction on this project.

Of course, from your position what are your options? Obviously you could let the builder default, but that would end up in some real messy litigation. And who knows when the road would ever get built. So our recommendation is that you need to extend the condition, but not for five years. We need to get the developer moving. We need to request the County to revive the condemnation procedure again, and it has to go back to Council and get new blessings and all that stuff. I know what that is, maybe they can just dust it off, but they need to restart that condemnation procedure again and you need to get the developer to put up something so that when the possession is given, the court will allow them to go ahead and start building the property. They can haggle over the price of what the property's worth, while the road is being built. You need to get the developer to get his plans in and get 'em into Public Works and get the plans all approved so that the minute they get that possession they can start the project and start to build this road. And that should be able to be done. We think that all can be done in less than two years. I don't think that's an unreasonable. I heard the estimate was a year to do the construction. It shouldn't take more than a year to get this process moving and get it going. It just requires somebody watching and somebody taking care of it. We also would request that the developer require, be required during this period to submit quarterly reports to the County and to the KCA on what they're doing and where they're on so that this thing doesn't get lost again. Our basic concern is that without a shorter deadline, we're gonna be back here five years again asking why isn't the road built? And I don't think any of us wants to see that. Any questions?

Chair Hiranaga: Questions, Commissioners? Seeing none, thank you. Next testifier, Andrew Beerer.

Mr. Andrew Beerer: Aloha, my name is Andrew Beerer. I am a Director of Kihei Community Association along with Greg Stratton. I will reiterate a lot of what Greg said. I would like to recognize the Planning Commission for all of your work and for--thank you for hearing us out. I would like to also recognize Chris Lau from Towne Real Estate from contacting us and being open to communicating with us. With that being said, we definitely feel that a conditional extension of two years is sufficient time to move the parties to resolution on this matter. Again, we'd like to see a new condemnation action by the County and the updates on a quarterly basis from the developer. What had happened here was that they had the land. They had possession and, or the County did at least and it was allowed to lapse and that was for two years they had the ability to move forward with this and they didn't. The community is being penalized while the parties want to haggle over the price of this property. Meanwhile Ke Alii Ocean Villas has put 144 multi-family units on the market. Moana Estates, 90 single-family lots and another 14 single-family at Ke Alii Ocean Villas. That's over 250 units and probably, you know, by my estimates at least a 150 million in revenue

extracted from the community further putting a burden on the community and its infrastructure and roads and the two conditions that would really provide some service to the community of the north-south collector road and a park at this facility neither of which have been fulfilled and so the community is surely being short changed here and we need your support to help the delinquent developer come forward and fulfill this commitment and we appreciate that. Thank you.

Chair Hiranaga: Questions, Commissioners? Seeing none, thank you. Anyone else here wishes to provide testimony regarding this agenda item, please come forward? Seeing none, public testimony is now closed. Open the floor to questions from Commissioners to Staff or the applicant? Commissioner Ball?

Mr. Ball: Okay so, where's the truth in all these statements that are being brought out? What's the time frame? Are we looking at two years, are we looking at five years? Is the litigation wrapping up? ...(inaudible)... information on this?

Mr. Fasi: I'm going to ask Karlynn to answer that from Munekiyo and Hiraga.

Ms. Fukuda: Morning Commissioners. Good morning, Chair, Members, my name is Karlynn Fukuda of Munekiyo and Hiraga, Inc. We are here today on behalf of Towne Development of Hawaii to request a time extension for the completion of the roadway. The portion of the north-south collector road also known as Liloa Drive from Walua Place to Keonekai Road. Briefly, I'd like to just give, to answer Commissioner Ball's question and give you an update of the status on the project since we met in January of this year. I believe you all have a copy of the parcel map that I see you taking a look at so two of those--two of the parcels that were pending land acquisition in January have or are nearing completion of agreements for acquisition. That first red parcel that you see on the map that's labeled as Area 1 on the north end, the condemnation proceedings have been completed on that parcel. Completion of agreements are anticipated in the near future and I understand it's the real near future. The two parcels in red indicated as Area 2 and Area 3.

Mr. Ball: What does that mean?

Ms. Fukuda: Thank you, Commissioner Ball. To respond to your question that I believe the landowner is signing an agreement with Towne Development to dedicate that portion of the roadway so that it can be improved.

Chair Hiranaga: Commissioner Ball?

Mr. Ball: What about a time frame for that? What is it technically a year to have that done?

Ms. Fukuda: The agreement?

Mr. Ball: Yeah.

Ms. Fukuda: No, I think the agreement is eminent you know within the next I would say 60 days? Oh, the agreements are being signed this afternoon. So the agreement would be completed between Towne and the landowners on those two parcels.

Mr. Spence: That's pretty soon.

Ms. Fukuda: It's eminent. The parcel that is labeled in red as Area 4 that is the parcel that is in litigation and that the public testifiers had referred to that there is condemnation proceedings that are needing to move forward on that. At the January meeting I believe Mr. Lau had provided the Commission with a brief summary of the issue that had come up and it is a legal proceeding that has occurred on that parcel. There is a dispute on the valuation of the amount of the roadway parcel. So that is proceeding. And Towne is in progress of requesting a updated appraisal of that property to move this process further along. So that is eminent within the next month.

Chair Hiranaga: Commissioner Ball?

Mr. Ball: The appraisal is ...(inaudible)...

Ms. Fukuda: Yes.

Mr. Ball: And the litigation is there a trial date or how is that being handled?

Ms. Fukuda: This may be better answered by Corporation Counsel as I'm not an attorney on the whole condemnation process, so...

Mr. Ball: You're smarter than him though.

Chair Hiranaga: Corporation Counsel, you wish to comment?

Mr. Giroux: Yeah, I don't have any information as far as the exact timing. I know that these, basically there's gaps in the middle of filing of complaints and all of that that take time and then there's discovery and part of the discovery process would be getting an appraisal in order for the parties to exchange that information, go into further mediation that type of process. So that's where it's at.

Chair Hiranaga: Commissioner Freitas?

Mr. Freitas: My understanding is the only portion of this road that is not completed is the portions that is shaded in red, am I correct?

Ms. Fukuda: No.

Mr. Freitas: The whole road is not completed?

Ms. Fukuda: A portion of the road is completed. So if you're looking at the map, you see Ke Alii Alanui on the left, yeah?

Mr. Freitas: Yes.

Ms. Fukuda: Okay, so the portion that is shown in green and yellow, that first portion, that portion of the road is completed. Additionally, on the mauka side, you see that yellow portion under where

it's labeled north-south collector? That half of the roadway has been completed up to I would say about maybe a third of a way, basically to the south--you see that how the Ke Alii Moana Estates Subdivision utilizes that as a roadway access, so that portion of the roadway is completed.

Mr. Freitas: And the portion below that yellow and green is that complete or no?

Ms. Fukuda: No, it's not complete.

Mr. Freitas: So all of the rest is not completed?

Ms. Fukuda: Correct.

Mr. Freitas: Okay.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: How long has this been ongoing so far to get through this process from when first decided that we're gonna do this collector road till now?

Ms. Fukuda: The SMA was granted, let's see, in 2005. So they have been actively moving forward to try and complete the land acquisition process but they did complete the portions of the roadway that they had control over. Which is those portions that I had mentioned.

Mr. Lay: Okay.

Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: Karlynn, the section of the road that's in green that abuts Keonekai Road is wider than the rest of the roadway is there a reason for that or did the developer just get dinged more than he should have gotten dinged in terms of condemnation or acquisition? Was there a plan for the roadway to be that size all the way through or not?

Ms. Fukuda: That I'm not certain of. I know that there was a dedicate on demand agreement I believe with the County when this parcel had been developed years ago. So, but I'm not sure, if yeah, there had been a larger acquisition from the County or requirement from the County at that point.

Mr. Hedani: One more follow up?

Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: Karlynn, five years seems like a long time to ask for an extension. In your opinion can, do you think that the parties that need to be brought together for this particular project can accomplish what needs to be accomplished within say three years?

Ms. Fukuda: Unfortunately and I don't mean to hedge but the difficulty is the legal proceedings and I am not the best one to tell you how long that will take. You know, it took, you know, some time

already to acquire what they have right now and hopefully, and certainly Towne's intent to try and get it completed, you know, before the five years is done so that they can actually start, you know, mobilizing and get the roadway constructed. And I would like to also note that, you know, plans have been submitted to Public Works for review of the roadway. So again, Towne is proceeding with trying to complete the roadway.

Chair Hiranaga: Commissioner Ball?

Mr. Ball: Okay, so this Sawyer Trust?

Ms. Fukuda: That's not actually the current owner. That's the old name, but yeah--

Mr. Ball: Area 4 then.

Ms. Fukuda: Yes, okay.

Mr. Ball: So the only thing then is that they're haggling over is about the value of that property?

Ms. Fukuda: To, I guess, simplify it, that's a concern that's, you know, they haven't agreed on a price.

Mr. Ball: And so if they get an appraisal, which is going to happen in the next 30 days, right, and they say yeah okay, we like the price, then it's done, right? Then you can start going.

Ms. Fukuda: I'm not certain that that's the entire process and I don't know if, you know, Public Works Director or you know, again, Corporation Counsel on the, you know, condemnation proceedings wanna weigh in here, but I guess based on the previous action there was a difference in the amounts that had been proposed and that's why it had gone through arbitration as I understand it. So if they could agree with the price, I'm guessing that that's something that they could do, but given again, the nature of the past experience, it may not turn out that way where both sides will automatically agree with the appraisal price.

Chair Hiranaga: Karlynn, clarification. You used the word "mediation" and then you used the word, "arbitration." Is it mediation or arbitration that you're involved in?

Ms. Fukuda: I believe in the first instance it was arbitration that the parties had agreed to.

Chair Hiranaga: Binding arbitration?

Ms. Fukuda: I would like to defer to Chris Lau to respond to that.

Mr. Christopher Lau: Mr. Chair, Members of the Commission, my name is Christopher Lau. I'm an executive vice-president with Towne Development and to answer your question it was binding arbitration.

Chair Hiranaga: My understanding of binding arbitration, you can correct me, is typically one party retains an appraiser, the other party retains an appraiser and they come with appraisals. If the

parties can't agree then you select that third appraiser who makes the binding determination of value, am I incorrect? So I'm wondering why it's taking so long?

Mr. Lau: Mr. Chair, there was an arbitration panel. They did come up with a valuation. There was a court confirmation of that value and so there was a judgement that was entered. We have determined or we're alleging that the owners of the property did not comply with discovery requests that they did not disclose what they should have disclosed to the arbitrators and that's why the judgement has lapsed. We have intervened into the condemnation action. Excuse me, we have intervened into the original condemnation action and what we're gonna pursue is a second condemnation action and that's why we requested an appraisal.

Chair Hiranaga: Thank you. Commissioner Freitas?

Mr. Freitas: My understanding this is less than a half a mile, this whole road?

Ms. Fukuda: The entire --

Mr. Freitas: Yes. The portion that is unpaved, it's supposed to be--according to your --

Ms. Fukuda: Just Area 4?

Mr. Freitas: No, from--the unfinished portion is 2,330 feet, am I right? According to your measurements here. That would be A4, D1, 3, D4 ...(inaudible)... Area 2, Area 1?

Ms. Fukuda: Yes, those are the portions that are unfinished.

Mr. Freitas: That's unfinished.

Ms. Fukuda: Yes.

Mr. Freitas: And that is approximately--well, according to your measurements 2,330, so it's less than a half a mile.

Ms. Fukuda: Okay, yes.

Mr. Freitas: Follow up question. Has any what do you call, grading been done on these portions where there's some base down and any portion of this unfinished portion have they done any work on it? That's starting like from Area D, to A4 all the way through.

Ms. Fukuda: Based on information provided by the applicant, Area D the portion that comes out from that Keonekai Heights Subdivision mauka, there is a gravel road in that area.

Mr. Freitas: Okay so in Area A-4, Area 4 is business. Nothing has been done there? It's just a vacant land?

Ms. Fukuda: That's correct, it's vacant land.

Mr. Freitas: Thank you.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, guess there's no real staff recommendation is there?

Mr. Fasi: I don't know if we overlooked it, but there was some question when we deferred at the last meeting as to what the new bond amount is for?

Chair Hiranaga: Oh, so we would have to I guess, we got the letter from Director Goode.

Mr. Fasi: ...(inaudible)... questions on that. And the only change in the recommendation would be the date and that date would be from October 1, 2011 and the Department is recommending that we grant the five-year time extension and so that date will be October 1, 2016.

Chair Hiranaga: I guess you'd want to include the new bond amount as recommended by Public Works?

Mr. Fasi: I'm sorry, could you repeat that?

Chair Hiranaga: You'd want to include the new bond amount as recommended by Public Works?

Mr. Fasi: I don't think that's part of the conditions, but yes, for the record.

Chair Hiranaga: Which is 4.6 million. Commissioner Shibuya?

Mr. Shibuya: Planner Fasi, could you--because you've been involved with this and the community is asking for some kind of a shorter time extension and they're also asking for some milestone actions. Have you thought of areas or milestones that we could use and latch on and say these are a good indicative points on how fast we are moving along?

Mr. Fasi: I understand the concerns of the KCA and in a perfect world you know, that's a legitimate request, but you know, we're dealing with litigation here in an imperfect world so it's very hard to determine when these events and timelines will be triggered and if they're not met then what? But litigation just throws it into a whole other category where a timeline's not going to really mean too much. As far as a request for quarterly updates, you know, as a Planner, I've got so much work and we are flooded with just a lot of other things to do and we can't possibly police these things, every project on a quarterly basis. I understand their concern requesting that because it's taking so long, but the fact again that we got litigation involved just throws it into an unknown. If there was any kind of milestones, I would hope that the Department of Public Works would notify the Department that hey, this is what's happening and I would leave it at that.

Mr. Shibuya: So would there be a probably a stipulation that perhaps after a year we can have Public Works reinvestigate and see where we stand and report back to us?

Mr. Fasi: I would direct that question to the Director of Public Works if that's even feasible.

Mr. Shibuya: Is that possible, Director of Public Works to have after a year some assessment as

to what type of progress is being made and just refer that to the Commission? It doesn't have to be a full-blown study just maybe a couple paragraphs.

Mr. Goode: Mr. Chair, Members of the Commission, Commissioner Shibuya, we certainly don't have a problem with that. I think the permit that you're looking at today is that with Towne or with us?

Mr. Spence: Towne.

Mr. Goode: Towne. Okay. Yeah, so how that gets folded into this is fine and, you know, if need be, I mean we can do it annually because like it's been mentioned here we just don't know what's gonna happen with this litigation if it continues on or if it, you know, if a fair resolution is made on the price of this remaining parcel. But I will let the Commission know that, you know, it is our intent to get this road done as quickly as possible. I think we're aligned with the KCA in that we want this done as quickly as possible too. We have to recognize that we can't just go start building a road without total control of the land and so we won't be doing that until we have all the pieces of the puzzle. But we want to get it done quickly as well.

Mr. Shibuya: Thank you.

Chair Hiranaga: Commissioner Shibuya, my comment to your comment is a annual report really does not have any teeth in it. I would prefer to see a shorter extension where they actually have to come in and explain what and what has not happened and why they need another extension because a five-year extension, at most two of these Commissioners currently sitting here will be here, the other nine, unless they get reappointed won't be sitting here. Commissioner Ball?

Mr. Ball: How long will it take once you get--once you start construction? What's the time frame for that?

Ms. Fukuda: I believe the, Karlynn Fukuda, I believe the estimate is 18 months for construction.

Chair Hiranaga: If there's no further questions, I'll open the floor...well, maybe--you're questions about the recommendation because we can have a motion and you can still have questions. So if you don't have questions about the staff recommendation, I would prefer to have a motion on the floor and then open it for discussion. Any questions on the recommendation? Commissioner Hedani?

Mr. Hedani: If work expands to fill the time that's allowed for to get it accomplished a five-year time frame seems rather lengthy to me, litigation or not. Do you think it will be reasonable to amend the recommendation to say three years and then have them come back if it's not done?

Mr. Fasi: That would be up to this body. I think three years is reasonable. We prefer five, but if you're comfortable with three, we would be amenable to that, but definitely longer than two. I mean, two years is nothing. It goes by so fast.

Chair Hiranaga: Any other questions regarding the recommendation? Seeing none, I'll open the floor to a motion? Commissioner Tsai?

Mr. Tsai: I'd like to make a motion to approve and with the reduced extension of three years.

Chair Hiranaga: I'm sorry, is that three?

Mr. Tsai: Yeah.

Chair Hiranaga: Three years. Is there a second?

Ms. Wakida: Second.

Chair Hiranaga: Seconded by Commissioner Wakida. Discussion? Commissioner Lay?

Mr. Lay: One of the milestones that was mentioned is about this signing where the agreement of this land being passed on, I'm wondering if we could get a brief update when it does happen 'cause they were saying this afternoon and then they were saying the end of next month. Just to let the community know that this is moving forward. You know, it's one of the big things for them.

Chair Hiranaga: So some type of a confirmation, communication?

Mr. Lay: Yes.

Chair Hiranaga: That the transactions did occur.

Mr. Fasi: Certainly. We can put that in the communications, Mr. Director?

Mr. Spence: Yeah, I'm not--

Mr. Lay: End of next month probably.

Mr. Spence: Okay, so--

Chair Hiranaga: When it occurs.

Mr. Lay: Yeah.

Mr. Spence: We can just, just as a Communication item if Mr. Lau would just email Director Goode or myself, we'll just report it to the Commission.

Mr. Lau: This would be on Areas 2 and 3?

Mr. Lay: Okay, that's fine.

Chair Hiranaga: Any other discussion on the motion? My comment is actually I would have preferred a two-year term because if they are already in construction then it will just be basically a easy decision if they need two more years. But if they come back in two years and there's not even under construction then those of you that will still be here may wanna get a stronger handle on it, but that's just the Chair's comment. Commissioner Freitas?

Mr. Freitas: Yeah, from a business standpoint I would think Towne Development would try and get the project done as fast as possible because they're working with today's dollars. The longer they stretch this thing out, the longer, the more expense will be created. So I think three years is a reasonable amount of time given that they, she just stated that it will take 18 months to do the construction. I would have went with the five years because from a business standpoint they would, what you call, try to expedite it because the longer they wait, the more it cost them to produce the-- finish the project.

Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: Yeah, I agree with Jack. I think, you know, the price has gone from 2 million to 4 million basically just based on the estimates and the bond amounts that have been required, but you know, it's incumbent on the developer to get it done as soon as possible. Right now it's the best construction time because everybody's out of work and they're looking for work, so it would be the best time to proceed, but the legal issues need to be resolved and I don't think we can force that from the standpoint of forcing them to acquire property on a basis of facts that weren't really presented to them properly in the beginning. So I would support the motion basically on the basis of a three-year extension. I think from the standpoint of getting the project done, creating one more hurdle for the project in terms of permits and extensions and whatnot is not going to help, it's just gonna make it worse.

Chair Hiranaga: Mr. Tsai?

Mr. Tsai: Yeah, Chair for the record, I'd like to say that I do agree with the two-year term, however, given the circumstances, we're trying to be more lenient with, you know, litigation and so forth, so that's why the motion is for three. But with the situation I think that eminent solution is on arise and I think we should shoot for two.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I was gonna make the motion for two years because I had asked for a one-year type of reporting and apparently that wasn't the type of milestone type of reporting that we need to keep track on. And so, I will... I'm really torn between supporting a three-year extension versus a two-year type. I won't be quibbling about that one-year difference, but I am, I do want some communication from the applicant as to what type of legal process, progress is being made and that will suffice.

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

Mr. Spence: Thank you, Mr. Chairman. The motion is to approve the time extension for a period of three years.

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

Mr. Spence: That's eight ayes.

Chair Hiranaga: Motion carries. Thank you.

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

**VOTED: To Approve the Time Extension of the Special Management Area Use Permit for a Time Period of Three (3) Years.
(Assenting - M. Tsai, P. Wakida, D. Domingo, J. Freitas, I. Lay,
W. Hedani, K. Ball, W. Shibuya)**

Mr. Fasi: Thank you.

Ms. Fukuda: Thank you.

Chair Hiranaga: I'll call for a ten-minute recess and by the Chairman's call, we're not having a lunch today if there's no objection.

A recess was called at 10:00 a.m., and the meeting was reconvened at 10:11 a.m.

D. Workshop conducted by the Department of Public Works on their review of project preliminary drainage reports

Mr. David Goode: ... And we are in the process of adopting rules for this post construction of storm water quality. And then finally, probably the most important one, at least the one that we've had the longest run with is the Soil and Erosion Control Ordinance, Chapter 20.08. This is generally for construction projects, work that's under construction and having the best management practices for mitigation of various nuisances or potential damage caused during storm events. But also back to what I think what you folks look at a lot is well, what is the impacts on runoff on a particular project long-term? And finally, Title 18 has other provisions related to grading. So all that is the framework under which we operate on the ordinance side. And then we also have the rules that we've already adopted. In addition to the rules that we're coming up for the post construction stuff, we have rules that state well, exactly how do you determine how much runoff there is. How do you determine how it's going to be retained or released? What are the calculations? What are the assumptions? How is it to be dealt with? This is where the nitty gritty happens. And then finally, we have standard construction specifications on how to build certain things which isn't nearly as interesting at least I think to you folks than the first three. But anyway, that's the framework. So that's the framework that's been set up. And then, of course, if there's additional conditions that come out of an SMA permit or Conditional Use Permit, et cetera, or a Council condition, we have to review that as well. So at this point, I'd like to turn it over to Lance, and he can give you a good idea what he does on a daily basis in this regard.

Mr. Lance Nakamura: Okay thanks, Dave. Thanks, Commissioners. Just gonna try and go over with you a little bit in, little more detail what Dave just went over. I'm gonna start out by--with this slide here, and you know, ask why do we review drainage what exactly is it that we look at when we think about drainage? You know, in the past it was primarily flood control. You know, as engineers we would simply look at how much runoff is there. Try to get rid of that runoff from a site as quickly and as efficiently and safely as we can. You know, these days, I think we all know that that's not the only thing we look at. You know, we now need to consider water quality, you know,

because that runoff will collect pollutants and we cannot simply dump that straight into the ocean. We also need to take a look at water quality. So you know, if there's one thing that you take away from this presentation today I think it's that, you know, if you are reviewing a project and you contemplate putting a condition or adding things to that project, you know, think about, you know, are you looking at it from a flood control standpoint or are you looking at it from a water quality standpoint because the potential solutions will be very different and I'll go over that a little more as we go through this.

So let's start off with flood control. Okay, that's regulated. Dave went into this a little bit. Regulated by Title MC-15, Rules for the Design of Storm Drainage Facilities in the County of Maui. Now these are the, you know, detailed calculations and regulations that we, as reviewers and the engineers will use to prepare their drainage reports for us and these have calculations and formulas, but it also has some very general concepts. Okay, so I'd like to just quickly go over that for you. The first is, you know, fairly obvious to all of us, you know, that runoff must be disposed of in a way that does not adversely impact adjoining and downstream properties. Okay, that's just the general overall concept that we follow. Okay. The second is that additional runoff can be discharged into existing systems if capacity is adequate. I think that kinda goes against what most of us assume is a requirement. Most of us think that you need to retain any additional runoff onsite. That's historically the way things have been done but that's necessarily what is required. You know, if the existing drainage system is adequate, the existing channels and piping, it can handle the additional runoff, you can just go ahead and discharge that additional runoff into that drainage system. You do not have to store it onsite. Okay, the next part, additional runoff must be stored onsite if existing systems are inadequate. Okay, that's probably what most of us are used to hearing. The reason being most of the systems are inadequate. You know, most of the channels around the shoreline areas are existing drainage systems. They weren't designed to current standards so you cannot add to those systems. So most developments will end up storing most of their runoff onsite, additional runoff onsite. Okay, the next one. Offsite flows may be passed safely through a project site. And this kinda goes to, you know, the idea that a developer is only responsible for his additional impacts. You know, it's existing runoff flowing through his project, he doesn't have to capture that runoff and treat that runoff or solve an existing flooding problem downstream from him. Okay, he simply cannot add to that problem. So if he is creating additional runoff on his property, you know, treat that runoff or store that runoff. But if the runoff is flowing through he can go ahead and allow that to safely pass through his site and that's kinda a big idea, a big concept that you should be aware of. And the last idea, drainage report with calculations must be prepared by a licensed engineer. And that licensed engineer will use our drainage rules and calculations and submit that to us and we'll review that for compliance.

Okay, here's a picture of a very typical flood control basin. It was designed as part of this new subdivision. Designed to take the additional runoff generated by the subdivision. Normally these basins will store the additional runoff and it probably has a discharge line somewhere. I'm guessing that those two manholes there might be a subsurface system. It probably has a discharge line from there. That discharge line would allow the existing runoff that was generated predevelopment to flow out of the site. You know, there may have been 5, 10 cfs existing and post development may be 20. So you store the additional and you're allowed to discharge existing.

Another very typical application here. This is a subsurface drainage system. You have ...(inaudible)... pipes, probably perforated pipes surrounded by a gravel bed. This is typically used

in a more commercial application where the land area not as large, you cannot provide basins. Something like this would normally go under a parking lot. But again, same concept, additional runoff is stored within this facility.

Okay, as we mentioned before our rules do include many calculations and formulas. I'm not gonna really go, you know, get into that with you. I don't think you really need to know too much about that, but just to give you an idea, I wanted to just kinda show you one of the calculations that we do and it's a calculation to determine runoff. You know, in order to size anything, we need to know how much runoff we're talking about. So one of the standard methods we use for under--you know, an area under a 100 acres is called the "Rational Method." You know, universally accepted engineering calculation. It simply says $Q = CIA$, the amount of runoff equals the runoff coefficient times the rainfall intensity times the drainage area. So all you need to know is what this is saying is if you know the type of ground cover, you know how hard it's raining and you know the drainage area, you can get a reasonable estimate of the amount of runoff that you're dealing with on any project. That's called a Rational Method. That's for small areas under a 100 acres.

Now you get to an area over a 100 acres, you know, then the methodology changes. It's called the "Natural Resources Conservation Service Hydrograph Analysis." Okay, a very typical hydrograph here, a normal bell curve and off this hydrograph, as engineers we're able to get a couple of important, you know, couple things, you know, the top of the curve gives us the peak runoff. The peak flow would help us size the piping and the channels. The other thing we get out of this hydrograph is the total volume. If you look at this hydrograph, if you calculate the area under that curve, that gives you the total volume of runoff that is generated by any given storm. Okay, and using that volume, that is what we use to determine sizing of basins. Okay, so peak runoff, sizing of pipes, the volume more used to size basins.

Okay, and our standards, also like we said, pipe size and calculations, channel design calculations, basin design calculations, tables and charts, and rainfall data. Okay, so everything is consistent. All the engineers are gonna use the same data, same formulas, same charts to size their systems.

Okay, I'm gonna move away from flood control calculations and move a little bit towards or move into water quality so this is the second aspect of what we look at when we review drainage. And water quality also broken up into two categories. Okay, during construction and post construction. So during construction. This is, you know, when the bulldozers still going, site is graded, utilities is being installed. You know, all the work is ongoing. When it rains, you wanna make sure that that dirt doesn't flow off the site, okay. So that is regulated by Chapter 20.08, Soil Erosion and Sediment Control of the Maui County Code. That's our Grading Ordinance. Okay, so our Grading Ordinance has provisions that it says you must take care of your erosion or dust and things like that. Some of the standard requirements, silt fences, sedimentation basins, revegetation and hydro-mulching. If you look at this picture here, on the bottom you see hydro-mulching put on the slope. They're also replanting the slope. Up top they have a silt fence to keep runoff up there. In the back, you can see a dust fence. A very typical application. First picture is of a site that's been recently graded. They have irrigation running to get the site regraded as soon as they can. Lower picture, dust fence, silt fence along the bottom. This is recently graded slope and that they've put on slope protective matting. You know jute matting. A very good way to quickly stabilize the slope before the permanent vegetation can grow in. It also helps stabilize the new vegetation as it grows in. Stabilize the root system. The lower picture is hydro-mulching, again, another very quick way

to temporarily stabilize a graded site. Again, it's very temporary. If it rains or takes a couple of weeks, couple of months, you know, they'd have to reapply that. You'd like to get the permanent grassing established fairly quickly. Those are some of the typical during construction applications.

Talk to you a little bit about post construction water quality, and this is the new one for I think all of us. You know, we've started hearing about this over the past few years. I know that the Commission has been adding requirements to projects I've seen over time. But this is something new for Public Works as a standard requirement and this has become, I guess, pushed on us from EPA and the State and they're saying that we must now adopt ordinances to not only address flood control but water quality. So earlier this year we passed a new ordinance in our Building Code that says, that new building developments must address water quality and also in our Subdivision Ordinance that says, you know, when you do a new subdivision, new roadway, that type of thing, same thing, you need to address post construction water quality. And the reason for that is obvious. You know, when you have new roofs or roadways or parking, you know, it's easy for dirt or debris, oils and other contaminants to get collected on those surfaces and when it rains, that all gets quickly washed away into the ocean. So that needs to be treated.

As part of our ordinances, it says that we need to adopt new rules and those rules are very similar to our flood control rules. Those rules actually have not been adopted yet. We're currently working to get those adopted. It's just administrative rules so we need to go to public hearing. We're working with Corp. Counsel. Those rules have been reviewed by EPA, and they just need to get adopted by Public Works, and we're working to do that hopefully in the next month or two.

Those standards will be triggered for disturbed areas over one acre. Okay, that's when the detailed compliance with these new rules will be triggered. Okay, some of these water quality rules also have some very general concepts similar to our flood controls rules and let's go through that real quickly.

The first is, is that you must reduce post construction total suspended solids by 80 percent or to a level no greater than pre development. Very similar to flood control again, just don't, you know, your existing conditions can be retained just don't make it worse than before. All site flows again can be passed through the site and do not need to be treated and a drainage report prepared by a licensed engineer would have to be prepared.

Okay, so how do you comply with these water quality standards? There are two different ways. The first is through detention. Again, those ponds look very similar to a flood control basin. I'll talk to you a little bit later but they can be a little different. But you put the runoff into that basin, it will sit in there for a given amount of time and it allows the pollutants to settle out of the runoff, then it can be discharged. Detention facility can be a dry or wet pond, wetlands, tanks or vaults.

Second way to comply is called a flow-through treatment. Okay, and this will remove pollutants through filtration. If you look at this picture here. This I got off the internet. Again, this is new so I didn't have anything here on Maui that I could take a picture of, but this will be a very typical application I think, you know, where runoff will enter this swale, flow through those rocks, I guess to slow down the velocity, flow through the grass and filter out any pollutants before entering the discharge at the end. So it can be vegetated swales, infiltration into soils or bioretention filters. So for both flood control and water quality calculations, you know, we've mentioned that a drainage

report has to be prepared by a licensed engineer. Those reports will get to Public Works and we will review them up in our Engineering Division. And those reports, you know, we'll review the calculations, the assumptions, compare them with projects in the area and review the overall project impact.

Again, this part I want to talk to you, and if I can go back to the beginning of my presentation, I mentioned that you really need to decide, are you looking at it from a water quality standpoint or a flood control standpoint. So I wanted to talk to you a little bit about some of the differences in the facilities.

First, let's look at flood control and how do you size a flood control system? You want to design for a higher recurrence interval as the potential impacts rise. Recurrence interval represents the probability that a storm event will be equaled or exceeded in a given year. So simply what that means is that let's say--well, you hear people say that was a 10-year storm, that was a 100-year storm, okay, what does that mean? If you have a 10-year, that's actually a 10-year recurrence interval, right? That means that you have a 1 in 10 chance of a storm of a certain size being exceeded in a given year, 1 in 10 chance. That's a 10 percent chance. If I design a system out here for a 10-year recurrence interval, in any given year that system has a 10 percent chance of failing. You know, those aren't--they don't sound like great odds okay. And the reason you would still use a 10 percent recurrence interval is based on impact. You know, if I'm designing a system to take runoff from something the size of this room or the size of the parking lot out back, you know, if it rains more than I think, what are the impacts, okay? You know, you're not gonna cause property damage or loss of life or anything like that. You know, you may get a little landscaping damage. The runoff may just bypass one of the inlets. I mean, there's not significant consequences. So it's completely acceptable to use a 10-year recurrence interval in designing a very small system. If you were using, if you're designing say a roadway crossing or a roadway culvert that took runoff from half of West Maui Mountains, okay, if that rained harder than you expected then you could get a significant amount of runoff that could wash away a roadway, cause a lot of flooding, cause loss of life, that type of thing. You wanna bump it way up to a 100-year recurrence interval. There will be a 1 in a 100 chance that that would be exceeded in a given year. So that's a 1 percent chance. Much better odds. Most people would accept that. And those recurrence intervals are dictated by our drainage rules and the biggest factor obviously is the drainage area. The size of the area that you're talking about--if you're talking about a drainage system for a parking lot or even a, you know, maybe a hotel site that's maybe 10 acres, you know, what are the impacts from a 10-acre site? You know, how much runoff can really be generated from 10 acres, you know? It's not that much. So you know, you really need to look at the size that you're talking about when you determine what the appropriate recurrence interval.

And if you go to water quality, it's completely different. While the flood control you wanna use the biggest storm that is appropriate based on the potential impacts. When you look at water quality...I'm just going to read you something from, this is from City and County of Honolulu. They in place a water quality standards that they've been using for many years now. And it says, "Water quality in the ocean and other receiving waters is impacted more by runoff from smaller frequent storms rather than large infrequent storms. Consequently water quality measures should be designed to mitigate impacts from small frequent storms." Okay, now what's the reason for that? You know, you hear the term, "first flush" and I've heard that term used in different ways, but I think in this case what that means is, you know, you get pollutants built up on pavements and roofs and

things like that and then it starts raining. Okay, the first half-inch or so of runoff is gonna wash away all of those pollutants, okay, the beginning of the storm. Even a very small storm if it stopped it would wash away everything and it would create the same impacts as a very large storm because the very small storm is still going to wash away those same pollutants. You wanna be able to treat the runoff from those very small frequent storms and that's much more of a concern than that, you know, once, you know, on average once every 100-year type storm. You know, the storms that maybe happening several times a year that is more, you know, much more of a concern.

Couple other things that you need to realize that are different. When you look at the type of facility that you would use, okay, flood control and water quality. You can use basins for both but they wouldn't be designed the same way. You know, in flood control basin, as engineers, you know, like I said, we would try to get rid of the water as quickly and efficiently as possible. So we would make the outlet as big as we can by Code and we just get the water out of that basin as soon as we can.

In a water quality basin, the water has to sit in that basin for a given amount of time and that time is dictated by our rules in order for those pollutants to settle out of the water. So if you take a flood control basin and you just makes a condition, you know, go ahead and double the size of that basin and your intent was for water quality, you probably, you know, you may not be solving the problem.

The other difference is infiltration into the ground. You know, for a flood control basin, we love the water to infiltrate very quickly. For a water quality basin, you know, it has to be the proper type of soils that will filter out the pollutants. If it simply goes into fractured rock straight out into the ocean, it's not solving your problem. So again, you cannot take a flood control facility, simply bump up the size and think you're addressing a water quality problem. So again, realize what it is you're trying to solve and make sure you apply the correct solution to that.

So in general, that's all I have. I'm gonna turn it back over to Dave for now. He can go over some recommendations that we have and then after that, we'll take some of your questions.

Mr. Goode: Thank you, Lance. So we think the Planning Commission ought to take a harder look as possible at water quality. Flood control is something obviously we're dealing with already and actually so is the Planning Department with its Flood Hazard Ordinance where it looks at house structures are placed in any flood ways. You can look at the sizing requirements, and you do that already. And you know, be careful about too large retention basins. You know, --do have negative consequences and we list some of them here. But, you know, no sooner than the rain hits, about a week later we get mosquito complaints. I guarantee it every time. Not that we're gonna eliminate that and there's not much we can do about it, but I think what Lance has, you know, helped to illustrate here is that we've got some, we have a new ordinance in effect. They have new rules coming down which I think are gonna strengthen water quality. I think with a partnership with the Planning Commission we can strengthen that, those requirements for the betterment of our community. And we thank you for giving us the opportunity to make this presentation today, and we'll be happy to take any questions you may have. Thank you.

Chair Hiranaga: Thank you. Questions, Commissioners? Commissioner Wakida?

Ms. Wakida: Thank you. You mentioned that in a retention basin you had some kind of a time frame that how long the water--you expect water to sit to filter out pollution. What is that

approximately?

Mr. Nakamura: I don't think there's a specific time and these are new rules that I haven't really started enforcing yet, but I can you tell you that there are processes and formulas and, you know, in our drainage rules that will determine how long, you know, they need to sit in the basin. I couldn't tell you if that's an hour or a day or three days, but that would be dictated by rule and those rules have been reviewed and approved by EPA.

Ms. Wakida: Okay. Follow up.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Is typically a retention basin, is the water typically supposed to filter down in rather than just evaporate off the top?

Mr. Nakamura: From a flood control standpoint when we review a basin, when we talk about retention normally we're talking about a basin that just holds water. When we say detention usually there's an outlet that there's a slow release that controls the ...(inaudible)... Let's say you're talking about retention, our flood control rules do not allow us to take into consideration infiltration into the ground when sizing that basin. That doesn't mean that it doesn't happen or it doesn't evaporate, but in determining the appropriate size for a flood control basin, you don't take into consideration infiltration into the ground. Does that happen? It will be great if it does, but we don't take that into consideration because you cannot rely on it from a flood control standpoint. From a water quality standpoint, again, the basin--it depends on what type of basin or what kind of system you're designing. If you're designing it for infiltration purposes then yes, you want it to filter down into the ground. It has to be the correct type of soil. If it's for a detention for settling of the particles, then again, you want it to stay in that basin for a given amount of time so you allow it to settle out of the runoff. And normally it'll have a very slow discharge at a certain point. You want the basin to be designed so it takes a long time to get from the inflow to the outflow and that's how you design a water quality basin.

Ms. Wakida: Thank you.

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

Mr. Shibuya: It's more, Lance, problematic when you start looking at the damage that South Kihei and North Kihei received in the last flood or storm. Do we know, have we identified some streams, gulches that the Upcountry guys are contributing to that water volume and how can we mitigate some of that? Perhaps maybe retention or infiltration type systems? Because it goes through private property does it not?

Mr. Nakamura: Yeah, sure it does. You know, and that's a difficult problem to solve. Kihei, you know, has been subject to regional flooding, I think, you know, even before development. But you know, how you deal with that now, through our drainage rules that we would try and make sure that they are not adding to the runoff. Someone up in Kula we would say you do not have an adequate discharge point. You would need to retain on site. You know, but the question of how do you solve the existing drainage problem is very difficult and maybe Dave can speak a little bit to that, but you

know, that is a--that goes beyond, you know, an individual developing up on their own site. You wanna make sure that they don't contribute to it or make it worse, but we're not gonna say that you developing in Kula need to now stop the flooding down in Kihei. You know, that wouldn't be one of our normal requirements.

Mr. Shibuya: That's right. I'm just more concerned in terms of us trying to fix up the damage that we actually endure after the storm rather than trying to take some preventive measures of slowing down or having these basins built before hand. And I'm not saying overbuild, I'm just saying slow it down and reduce the volume.

Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: Lance, that was a very good presentation. Thank you. I learned a lot. Following up on Commissioner Shibuya's question. In the case of the Kihei flooding situation, you know, when I look from this side across to Haleakala at night I see this huge subdivision that was built. I think it's the Hawaiian Homes subdivision that was added and it's probably 200 or 400 acres or whatever. And I'm under the impression that they're exempt from a lot of rules and regulations that everybody else is subjected to. Did that particular subdivision get exempted from the exact kind of rules and regulations that you're talking about?

Mr. Nakamura: I couldn't tell you exactly what their drainage plan was. You know, I would have to go back and look into the file to see exactly what they did. They are, you're correct, you know, able to write some of their own exemptions as it pertains to the Subdivision Ordinance. They have tried to work with us, you know, when it comes to safety types of things in trying to design their roadways and drainage facilities to standard. You know, like their roadway culverts and things like that. I would be fairly confident in saying that they were designed to standard. Did they have an overall, you know, concept of trying not to impact Kihei, did they provide basins and other things? I'm not sure exactly how they handled that, but you are right that they are able too exempt themselves from certain County ordinances.

Chair Hiranaga: Commissioner Lay?

Mr. Lay: We've seen these new developments happen and we're hearing a lot of stuff where these developments cause more problems. But with these changes in the retention system and our drainage system is it actually improving the water quality that's flowing into the ocean?

Mr. Nakamura: The intent is not to improve it. Again, the intent is to try and keep it at the existing level. Whatever it was generated by an existing site, the rules are intended to keep it at that level.

Mr. Goode: If I could add something?

Chair Hiranaga: The Director has a question. Oh, go ahead, Director?

Mr. Goode: As far as the amount of runoff goes, and because you're required to generally, I mean, generally like Lance mentioned there's no adequate outlets so you gotta retain all of the additional runoff that the project did generates, but the engineer is gonna over design that. And so typically if you had 10 cfs coming off originally and after 20 after development, in all likelihood you're gonna

see 8 cfs coming off in the end because the engineer is gonna over design because they have to take into consideration the long term maintenance of the thing and to be on the safe side, they're not gonna design it exactly at 10.0. You know, they'll make it 20 percent more and take 12 cfs. So in general, I think from the flood control side, you should see less water. But on the water quality side, the way the rules are written and the way the ordinance is written will be, you know, maintain at least what you have currently.

Mr. Lay: Follow up.

Chair Hiranaga: Commissioner Lay.

Mr. Lay: So what you're saying is what usually before this development started what flowed through is now being retained or trying to, I guess retention and I guess trying to control the water that goes through, right?

Mr. Goode: Well, make sure we got our words the same, it says goes through, if you've got a stream running through or a floodway there's no way you can stop that. That continues. But what comes off that land that's being developed will be more water so you have to take care of the water that, the additional that that project generates. But there's another distinction here about water that's coming through and some projects obviously got water coming through.

Mr. Lay: Thank you.

Chair Hiranaga: Director has a question.

Mr. Spence: I was thinking maybe Dave if you could comment. I don't know the status of the Kihei Drainage Master Plan and the point I was getting at was just what you said, water coming through, you know, about just over a year ago we experienced flooding conditions in Kihei that came off of the mountain. It didn't actually rain in Kihei whatsoever. The projects that this Commission approved had no bearing on those flooding conditions. So I don't know if we--if we're updating that master plan to take care of some of the stuff that's coming off the mountain or what the story is.

Mr. Goode: Correct. We do have a new drainage master plan in the works for Kihei. The consultant on board they've done maybe 25 percent of the work so far. It's very complex because you're looking from, you know, from the Suda Store side all the way down to Wailea. We have a number of major drainageways. Almost all of them originate on the southwest ridge of Haleakala. So any rain that can fall at the very top of that ridge, you know, can come all the way down. So those drainage basins are large in excess, some of them I think if I recall correctly are in excess of 10,000 acres. So I mean, if rains a lot on 10,000 acres it's just--it still goes downhill. So the stuff that's at the bottom of the hill like Lance said, I mean, that was an existing condition before anybody built anything. And a lot of it has to do with just the natural erosion of the mountain. So there's a number of ongoing efforts besides our Drainage Master Plan. There's--I actually just got some additional matching funds from the Council this last budget session to look at you know what can be done on some of these private lands you know to help mitigate the type of runoff that comes with an amount of sediment. You know, part of our Drainage Master Plan will eventually identify well, what types of...what can we do, you know, what to slow it down? 'Cause to stop it is unrealistic and I will mention that this last storm we had first week in March was mostly on this side and I have

some video on my phone of lao Stream flowing at about 3,000 cfs. And I know it's 3,000 cfs because there's a monitor and I looked at the time I was there and I looked at the gauge. And if you wanna see what 3,000 cfs looks like out of lao Stream it'll knock your socks off. But the flood--the water that goes down in Kihei by Suda Store and the next, so Kulanihakoi, Waipuilani, Waiakoa Gulch are close to 10,000 cfs. So a little video, I've got on my phone which I keep showing folks it's just shows you how much water that is at 3,000 and I mean, I didn't wanna get close to that thing. I didn't wanna drive over Market Street bridge. So it--'cause it's huge amount of water. It's not something one development can say, okay, well you're building nearby so fix this. It's just absolutely unrealistic. So it is a very difficult problem to solve as Lance mentioned and I know the Commissioners recognize it, we certainly recognize it, I don't think we're ever going to solve it, but to the degree we can mitigate it better, you know, over time, is what we're trying to do.

Chair Hiranaga: Any other questions? Commission Hedani?

Mr. Hedani: You mentioned that there are regulations that are coming down or that are about to be adopted that was initiated to some degree by the EPA and others. The Commission has always been concerned about the quality of water going into the ocean and protecting the quality of that water from the standpoint of coral reefs and all of that kind of stuff. And your job is difficult because you have two things, flood control and water quality. What you do to one, you know, offsets what you do in the other to some degree. The codes and regulations that you're coming up with that presumably would be adopted would that, would that code be required of all future projects coming to us so that we don't have to reinvent our own rules all the time and make the applicants crazy each time they come in?

Mr. Goode: It would be under the Building Code. So assuming whatever you guys pass, a SMA Permit, a Special Use, what have you, are going to come in for a building permit and they'd be dealt with at that time. But maybe an opportunity because we have--the way the Building Code was written we had six months to adopt the rules. So you know what date that is? It's coming in a few months so we have to go under HRS Chapter 91, we have a rule making procedure, we have to go out to public hearings, but it may make sense if the Director agrees and Chairman agrees maybe we ought to come to the Planning Commission and say, look here's the rules, what do you guys think? Because I think our closest partnership with anybody or certainly any regulatory board within the County is with this group right here on these particular rules. So if it might make sense, we'd be happy to present the rule package to the Commission and get your comments as well as the public hearing that we'll have to go out, we gather comments and finalize the rules.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I really appreciate the briefing that was given to us. Thank you very much. I'd like to add a couple more aspects to it too. You talked about flood control, water quality, and then the other aspect is water is a very valuable resource for all of us, and if we take too much then we cause an imbalance to the stream, and the next aspect of it is, that's the resourcefulness in terms of supporting this population needs for water. And then the fourth item that I'd like to introduce would be, and you already know this, that we need to somehow maintain some of our natural streams. We have three types of unique species the hihiwai, opai, o'opu in our streams. They're just like the salmon in the northwest and we're not taking care of 'em. And so we hardened lao Stream because we are concerned about flooding and public safety, but at the same time we

wanna move the water quickly and we wanna extract the water so that we can support the population, but we somehow need to have the water flowing slowly in a permeable way so that the people in Waiehu and Waihee, the natural streams on that percolates and the stream waters actually run and have fountains of water coming out. Today no more because you hardened the sides and so you don't have that permeability, so these are some concerns, I guess. It's a balancing act and I think you've done a fantastic job in terms of protecting the public in many of our streams and water controls. And I'd like to take a look at that master plan to protect the people in Kihei side. Thank you.

Chair Hiranaga: Any other questions, Commissioners? I have a couple questions. On your slide No. 6, you stated, "additional runoff must be stored onsite if existing systems are inadequate." One of the concerns I have is when you have very large adequate storm runoff infrastructure facilities existing say in the Kahului Airport/Kanaha area there's these large channelized streams that flow into the ocean. So a developer comes and says well, there's adequate capacity here, we'll just dump the excess water here. And so the applicant's consultant says well, we're diverting this water into this channel. Well, the ocean is only a half a mile downstream and it's a, you know, gunited channelized stream so you know it's gonna go straight into the ocean. Well, that's not solving the problem and that's what concern I have. And just a follow up, you know, you have a development that's started in the '50s and 80 percent of the property, a large land area is hardened. Now they're going to do a redevelopment and harden 10 percent more, so 90 percent of the surface is hard, they're only required to retain that 10 percent increase when 80 percent was flowing directly into the ocean which happens to be across the street that's the concern I have. When you say pre development, post development. Pre development to me is when the thing was grass and kiawe not when they hardened it in the late '50s when there was no drainage concerns and everything just happen to flow into the ocean. So that's kinda where I come from is you know, and I know you have your rules and regulations, but...

Mr. Nakamura: As it relates to the first point that you had, you know, as far as when an existing system is adequate and we say that it can be discharged into that system, again, what is your concern? Okay, is your concern flood control or is it water quality?

Chair Hiranaga: Water quality.

Mr. Nakamura: That's what I'm saying. You need to differentiate between the two. And our flood control slide says, yes, you can discharge it in there. From a flood control standpoint if the system is adequate why not discharge it into the ocean, you're not gonna flood out the ocean. I'm not saying that that should be done, okay, because you also need to now take into consider water quality and the water quality standards are not going to allow you to simply discharge it into there and dump it out there. You're gonna have to comply with both standards. Okay, the flood control standard may say that you can do that. It doesn't mean that it's gonna be allowed if you cannot also comply with our water quality standards. So again, realize what the concern is.

Chair Hiranaga: So what would the water quality standard be?

Mr. Nakamura: The water quality standard --

Chair Hiranaga: In that scenario where you have a, you know, ...

Mr. Nakamura: If you have an adequate channel that can discharge the flood water to the ocean, you may still need to create basins. You may still need to create vegetated swales, and you're gonna have to treat that water. And if the water is fully treated and you're still discharging a bigger quantity, but the water is treated and clean then you can go ahead and discharge it into that flood control channel at a higher rate as long as the water is clean because then you're complying with the flood control standards and you're complying with the water quality standards. But if you have to retain water onsite in order to comply with the water quality standards then you won't be able to just discharge into that channel. You know, so you're gonna have to comply with both, and that's why again it's important to realize what is your concern and what are you trying to address. And as far as predevelopment, you know, EPA has, you know, come to us with that and you know, it depends on the level of redevelopment and at a certain level then it will trigger compliance with the rules. So that is, again, dictated by Code, the level of redevelopment before you have to have full compliance with the new water quality standards.

Chair Hiranaga: If there's a project that's gonna basically do a 90 percent redevelopment, but it would take a 10-year period to do it, but basically they're gonna remove 90 percent of all existing structures and replace it because it's dated, you know, it's 50 years old.

Mr. Nakamura: Yeah, our rules have language to that effect of, you know, what type of redevelopment is going to trigger the water quality standards, and I couldn't tell you what that is right off the top of my head. Again, that's probably the reason Dave's saying, you know, we can present that to you and you can see what our rules are gonna say, and then based on that let's say that someone comes up and let's say our rules say something like 50 percent redevelopment before you trigger. You know, someone in the SMA may only be doing 10 percent. Then at that point, you may say, you know, I have concern with this 10 percent then you can go above and beyond our rules. You can add to your SMA conditions. Okay, but I would say that if ours is already saying, you know, you're gonna have to require it, then you may consider not adding those types of conditions. But you add conditions when you see that our rules you think are inadequate. They you have the ability to, you know, add conditions above and beyond that. So it is good that you have an understanding of what our rules will require.

Chair Hiranaga: All right, thank you. Any other questions, Commissioners? Seeing none, thank you very much.

Mr. Goode: Thank you.

Mr. Nakamura: Thank you.

Chair Hiranaga: Okay, moving on we have Item E, Acceptance of Action Minutes of April 24, 2012. We have a motion to accept those minutes?

E. ACCEPTANCE OF THE ACTION MINUTES OF THE APRIL 24, 2012 MEETING.

Mr. Ball: So move.

Mr. Freitas: Second.

Chair Hiranaga: Moved by Keone Ball, seconded by Commissioner Freitas. Any discussion? Seeing none all in favor say, aye.

Commission Members: Aye.

Chair Hiranaga: --oh, momentarily hold it. There is a typo on Page 1, am I the only one that found that? Okay, Item D, on voted, assenting, there's M. Tsai and then there's an excused I. Tsai. So if you could correct that typo. If there's no objection and vote stands.

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

**VOTED: To Accept the Action Minutes of the April 24, 2012 Meeting, as Corrected.
(Assenting - K. Ball, J. Freitas, D. Domingo, I. Lay, M. Tsai, W. Hedani, P. Wakida, W. Shibuya)**

Chair Hiranaga: Moving onto Director's Report. Director?

Mr. Spence: Commissioners, Item 1A is Hawaii Fueling Facilities Corporation requesting a two-year time extension on an SMA permit to initiate construction for the fueling facility. Mr. Paul Fasi is our Staff Planner.

F. DIRECTOR'S REPORT

- 1. MR. WILLIAM SPENCE, Planning Director notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of his intent to process the following time extension requests administratively on the following:**
 - a. HAWAII FUELING FACILITIES CORPORATION requesting a two(2)-year time extension on the Special Management Area Use Permit condition to initiate construction of the proposed Fueling Facility and Load Rack Installation at Kahului Airport at TMK: 3-8-001: 019 (por.) and 109, Kahului, Island of Maui. (SM1 2008/0018) (P. Fasi)**

Mr. Paul Fasi: Good morning again. I just want to remind the Commission that the purpose that we're here to review this two-year time extension request is the Commission may decide whether to waive its review or review the project at a later date. So I'm not quite sure how far the Director wants me to go into the specifics of the project because actually we're supposed to--you're supposed to be deciding on whether or not you want to waive the review or review it at a later date. But I will give you a brief update.

At its meeting on June 9, 2009, the Planning Commission voted to approve this SMA Permit for its fueling facility and load rack. Basically the project is this, right now when a jet comes in to get refueled, the refueling trucks have to go to Kahului Harbor get filled up and drive directly to the aircraft and fill up. What this project will do is put the fueling, the refueling tanks, four of them, at

the airport where the trucks will still travel back and forth, but the trucks will only travel to the airport to refuel the fueling tanks and from the refueling tanks is a pipeline that goes to the load rack. The load rack is where the trucks get filled up, and then the truck will deliver the fuel to the aircraft. So what's different in this scenario is that rather than the trucks going back and forth all day refueling aircraft, they'll basically just be going to refuel the four fuel tanks. And pretty much stay onsite on the tarmac at the airport because they will now have their fueling resource onsite. So the HFFC, Hawaii Fueling Facility Corporation is requesting a two-year time extension request in order to get this thing built. We anticipate it taking one year at a cost of about 14 million to get this project completed. There are representatives from the Department of Transportation, Airports Division, the consultant for the applicant is here, and if there are no further questions I will turn it over to the Director.

Mr. Spence: Mr. Chairman, any questions?

Chair Hiranaga: I'll open the floor to public testimony. Is there anyone here that wishes to provide public testimony regarding this agenda item, please come forward? Seeing none, public testimony is now closed. I'll open the floor to questions from Commissioners. Commissioner Hedani?

Mr. Hedani: Paul, we have a potential \$14 million project. We got a lot of guys that are out of work looking for work. What's the hang up?

Mr. Fasi: I'm gonna have Karlynn answer that question for me, please.

Ms. Karlynn Fukuda: Good morning again, Chair and Members of the Maui Planning Commission. Karlynn Fukuda of Munekiyo and Hiraga, Inc. To answer Commissioner Hedani's question, the applicant, HFFC, Hawaii Fueling Facilities Corporation has been moving forward to actually initiate the project. As mentioned in the time extension request, they have completed their coordination with the Federal Aviation Administration. They have submitted their building permit applications. We submitted and received on the approval on the preliminary time--I'm sorry, on the Preliminary Compliance Report for the SMA for the project. And they are nearing completion of the building permit approvals. The question was we were in a quandary as to whether or not they could actually start construction by June of this year. They actually have until June of this year to start construction and rather...because of the way the time extension requests are required to be filed 90 days prior to the expiration of the permit, we had to file the time extension request to give them the cushion that they could start and not be worried about if they couldn't start by June 9th of this year. So to answer your question, they are moving forward and, you know, anticipate at the latest at this point, initiating construction by second quarter of next year.

Mr. Hedani: Follow up?

Chair Hiranaga: Commissioner Hedani?

Mr. Hedani: Karlynn, the short answer is is it stuck in the bowels of the elephant?

Ms. Fukuda: Not quite sure what that means, but to--

Mr. Hedani: Are they hung up in the building permit application process? Is it being reviewed by

1,700 people?

Ms. Fukuda: It has been going through the building permit review process and there are a couple of comments that they are addressing at this point. One of the other items that has been in progress is the securing of a lease with State Department of Transportation which the applicant at this point anticipates the securing of the lease within the next two months. So an actual final lease agreement.

Mr. Hedani: Okay, so it's a State elephant. It's not a County elephant.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: In addition, is another hang up, it says here that you're revising your fuel line alignment. Is that a recent change?

Ms. Fukuda: That is a--thank you, Commissioner Wakida, that is a recent comment that the project had received from the State Department of Transportation. So there is that redesign that is going on as well for the underground fuel line.

Chair Hiranaga: Commissioner Shibuya?

Mr. Shibuya: It's more of a comment. I just appreciate the Department of Transportation and Airports Division to put this pipeline in. Also, I'm kinda disappointed that we still have the trucks. I would like to have a hydrant system. For those of you, the hydrant is actually a pipeline, a huge fuel line along the apron area where the aircraft docks and they can just hook up very quickly to these aircraft. And if you want a quick turnaround, you don't want tankers facilitating the movement of aircraft. You just want to hook up quickly and disconnect and get that plane turned around.

Chair Hiranaga: Any other questions, Commissioners? Seeing none, I'll open the floor to a motion. You have the staff recommendation for a two-year extension so--

Mr. Hedani: So move.

Ms. Domingo: Second.

Chair Hiranaga: Move to what, to waive or to review, please be more specific.

Mr. Hedani: Move to waive.

Chair Hiranaga: Thank you. Seconded by Commissioner Domingo. Any discussion? Commissioner Shibuya?

Mr. Shibuya: I do support the project, but I would like to have the Commission review it, and so I'm gonna be voting against waiving the review.

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

Mr. Spence: The motion is for the Commission to waive the review of the time extension.

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

Mr. Spence: That's six ayes.

Chair Hiranaga: Opposed?

Mr. Spence: That's two nays.

Chair Hiranaga: Motion carries.

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

**VOTED: To Waive Review of the Time Extension Request.
(Assenting - W. Hedani, D. Domingo, J. Freitas, I. Lay, M. Tsai, K. Ball)
(Dissenting - P. Wakida, W. Shibuya)**

Ms. Fukuda: Thank you very much.

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

Mr. Spence: Commissioners, this is again a request for the Commission to waive review of a time extension for a Special Use Permit, excuse me, SMA Permit to initiate construction by Maui Land and Pineapple, Mr. Ryan Churchill is here and Staff Planner is Kathleen Aoki.

- b. MR. RYAN CHURCHILL of MAUI LAND & PINEAPPLE COMPANY, INC. requesting a two(2)-year time extension on the Special Management Area Use Permit condition to initiate construction of the Kapalua Central Resort Project and related improvements at TMK: 4-2-004: 049, Kapalua, Lahaina, Island of Maui. (SM 1 2006/0029) (K. Aoki)**

Ms. Kathleen Aoki: Good morning, Commissioners. My name is Kathleen Ross-Aoki. I'm a Planner with the Current Division here this morning before you representing Maui Land and Pine, who is asking for a two-year time extension on their SMA approval for their Kapalua Central Resort Project. There was an email request from the Chair to see the original approval which I did pass out to you during the break. Essentially the applicant is requesting a time extension primarily for several reasons. Some have to do with financing the project. They are in the process of getting building permits. There's 72 building permits that have been on file with Public Works. They have also gone through one Subdivision Approval to get the 40-acre parcel lot out of the original lot, and in addition to that they will be going forward with additional subdivisions once the project starts to get built. I do have Ryan Churchill here today with me if there are any questions.

Chair Hiranaga: I'll open the floor to public testimony first. Is there anyone here that wishes to testify regarding this agenda item, please come forward? Seeing none, public testimony is now closed. Questions from Commissioners? Commissioner Wakida?

Ms. Wakida: Hi, Kathleen. On this map that you've included here on this, the foldout one...

Ms. Aoki: Yes.

Ms. Wakida: Is everything on here...well, I was having trouble figuring out what is new construction and what is existing buildings on this.

Ms. Aoki: This is an entirely new project that you have here. There are buildings that currently exist on the property.

Ms. Wakida: Right.

Ms. Aoki: That are kind of close I would say to Areas No. 6 there, but the proposal is to demo a lot of those buildings. And some of them have been actually demo'd already.

Ms. Wakida: Yeah--

Ms. Aoki: So it will be all new, all new construction, everything that you see on here.

Ms. Wakida: Well, Honolua Store isn't new.

Ms. Aoki: Right, but that's not part of the proposed project. It's shown on this map, but it's not part of the SMA Approval.

Ms. Wakida: Okay, that's what I was having a little trouble figuring out is where exactly are the outlines of the project and how much of that is the new...

Chair Hiranaga: Maybe the applicant could quickly list the existing buildings that will be retained because it's probably a fairly short list?

Mr. Ryan Churchill: Thank you, Chair. Thanks for the question. Basically if you go in the handout from the map you're looking at, two more pages, you'll see the project site or actually the next page since, I think you're double-sided I guess, go back a page. And you'll see project site area, the gray shaded-in area. So when you come into Kapalua down Office Road it's basically everything on your left side or the Lahaina side is the project area until you get down to what is Kapalua Drive before the Honolua Store. So everything on the right side of Office Road is not part of the project or the application area. Maybe take a look at this one here and give you a more a little more regional context. And you could see Office Road coming down.

Chair Hiranaga: So the Honolua Store stays, the church stays, Ritz-Carlton stays.

Mr. Churchill: Yeah, all that's not part of the project area. It's an approximately 40-acre site that we've subdivided last year as part of the project. So now it's its own site and as Kathleen mentioned, we're currently processing a subdivision to create a few additional lots and the roadway lots that are dividing up the property as shown.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: So you're aligning Office Road instead of going straight down to Honolua Store, it now curves over and that's the boundary of that project, correct?

Mr. Churchill: Correct. So it will blend into Kapalua Drive and Kapalua Drive which is now one-way, one-lane going makai or south become a two-lane road going both ways adding circulation to the area.

Ms. Aoki: If I add though, Commissioner Wakida, if you look on the site plan, Building No. 4, that's new. So it's not necessarily everything that's mauka of the realigned road. It might be difficult for you to figure out because it will be realigned and new, but anything...what Ryan is saying is if you were to head down Office Road now anything that's on the right-hand side like Honolua Store or the Village Golf Course, the clubhouse, that's gonna stay, but everything on the left, all those old buildings, there's about--there was about 15 or so that were put in as part of the project to be demo'd, those are gonna be gone. So Buildings 4, 6, 9 those are gonna be new. That's part of the entire project. I don't know if that helps you.

Ms. Wakida: Thank you.

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

Mr. Hedani: Ryan, it's a big project. Financing is the primary problem that you folks were up against at this point?

Mr. Churchill: Also, it's the real estate market, it two kinda go together, real estate and capital market. The market's just not there. You know, we hope we'd be underway. This project has been on the books in the master plan since the beginning of the planning for Kapalua, but the real estate market is just not there. Starting a project today would not be feasible. After five years of seeing decline in pricing, I think this past, the first quarter of this year, we've seen the market finally start to return and we saw the release yesterday that condo prices ...(inaudible)... for April also increased. So we are seeing signs of optimism in the market and that we kinda hit bottom. So we are--have kept the project active. We have been processing our building permits. We have, as Kathleen mentioned over 70 permits in some form of process at the County. A good portion of it is fully designed. Construction drawings are completed and that's what we've been working on with the County. So we hope to get going here next year and get this going with signs of a market recovery.

Mr. Hedani: I know we approved--I'm sorry--I know we approved this particular project on my prior term on the Planning Commission back in 2007. Part of that was tied to affordable housing requirements which I think were tied to Pulelehua. What is the status of that project?

Mr. Churchill: And so part of this project will be back in front of you, I think in about two months with a project we call Pailolo Views or our Site 6-0 site which was less than a mile away from here which is 42 affordable, 100 percent affordable unit project. And so those two projects when we came to you before are kinda tied together, and so that will be back for an extension on that one also that runs with this. In addition, we have a project called West Maui Village which is mauka of Napili Shopping Center which has about 80 affordable units there. And so, meeting the affordability requirement for this project will primarily come from those two projects not necessarily Pulelehua.

Pulelehua is kind of on its own path and going through its own process. It did receive its final zoning, but that project's probably three years away from breaking ground there.

Mr. Hedani: Thank you.

Chair Hiranaga: Commissioner Wakida?

Ms. Wakida: Clarification. In your report it says that you have a total of 196 units, does that 196 encompass condos, homes, commercial space?

Mr. Churchill: It's all condominium-type units, and so there's different sites within it and further clarification that unit count was reduced to 188, so it's 188 from the original approval of 196, and it's all condominium. So it's in four-plex buildings in the main part of this site. There's some flats down lower and the upper portion of the site called Makaoioi is there's some three-story building up there.

Ms. Wakida: And the 89,000 square feet of commercial space then is separate?

Mr. Churchill: That's separate. So that's the village you see here on the plan.

Ms. Wakida: Thank you.

Chair Hiranaga: Questions, Commissioners?

Mr. Freitas: I'd like to make a motion.

Chair Hiranaga: I have a question. Kind of timely since we had Public Works presentation on drainage, but just clarification. I'm looking at Page 25, of the applicant's report I guess, drainage on the bottom. And my recollection is that whatever excess or so-called predevelop surface runoff is that gonna be captured by the golf course so that in reality no storm water enters the ocean?

Mr. Churchill: Correct. There's two components. There's a onsite retainage that will have...it's designed into the project that will actually capture 105 percent of it. And in addition, the overflow goes into the golf course there. At the bottom there's quite a large basin that collects the existing runoff from the area. That basin is a retention basin, so it retains. And if it does overtop which it hasn't in a very long time, you know, then if it overtops then it goes out, but based on our design there's currently significant ample capacity there, reserve capacity of 15-acre feet today, and after the project there'll still be an ample capacity over 8-acre feet in that basin. I don't know if you recall that one, it's hole --

Chair Hiranaga: Sixteen?

Mr. Churchill: No, when you're coming back on hole 7. So this is more at the bottom of Office Road and Lower Honoapiilani Highway. So you're coming back, back up towards the Honolua Store is where that big basin is. So it's blocked by Lower Honoapiilani Road there. And you'll see after a big rain it's a lake for, you know, a week or so as it percolates into the ground there.

Chair Hiranaga: Oh, the one with the restrooms at the bottom?

Mr. Churchill: Yeah, at the bottom there. It's on the front nine side. There's other basins on the back nine side.

Chair Hiranaga: Yeah.

Mr. Churchill: But this project won't tie into those basins.

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

Mr. Tsai: I'm not sure if it's a question you can answer. I'm reading the *Pacific Business News*, and I don't know if some of you guys have seen, it came out a couple of days ago, Maui Land and Pineapple doubts the ability to continue with its current real estate holdings. Can you comment on that?

Mr. Churchill: That's a statement from our auditors, you know, companies that go through an audit. The auditors make a statement on your ability to continue if there is a concern and they've made that statement for about four years now. And so *Maui News* and *PBN* decided to rerun the story because of our quarterly filings. Our quarterly filing was last week, so *Maui News* picked it up again, and then it got picked up *PBN* who repeated the story there. But the company, the worst is behind us and we've made significant headway the last few years in reducing our debt of over \$100 million and better position of the company, but our auditors still have that statement in our financials because of some obligations we're working out.

Chair Hiranaga: Any other questions, Commissioners? Commissioner Freitas, you have a question?

Mr. Freitas: No. I'd like to move that we waive review.

Chair Hiranaga: Okay, open the floor to motions? Commissioner Freitas, you have a motion?

Mr. Freitas: Yes, I'd like to make a motion that we waive review.

Mr. Lay: Second.

Chair Hiranaga: Motion to waive review by Commissioner Freitas, seconded by Commissioner Lay. Any discussion? Commissioner Shibuya?

Mr. Shibuya: I'm gonna again object to that waiving review. I think this is our kuleana. This is the Commission's kuleana, and we should first take a whack at it, and we should review this particular time extension request, and I am quite disappointed that we would be passing it over to the Director. The Director has enough work to do. I'd like to exercise our prerogative of review and decide. Thank you.

Chair Hiranaga: Any other discussion? If not, Director, if you could repeat the motion?

Mr. Spence: The motion is for the Commission to waive the review of the time extension.

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

Mr. Spence: That's four ayes.

Chair Hiranaga: Opposed?

Mr. Spence: That's four nays.

Chair Hiranaga: The Chair votes in favor of the motion. The motion carries.

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

VOTED: To Waive Review of the Time Extension Request.
(Assenting - J. Freitas, I. Lay, D. Domingo, W. Hedani, K. Hiranaga)
(Dissenting - M. Tsai, K. Ball, P. Wakida, W. Shibuya)

Ms. Fukuda: Thank you, Commissioners.

Chair Hiranaga: Next agenda item is F-2. We have Staff Planner, Clayton Yoshida.

2. Planning Commission Projects/Issues

Mr. Clayton Yoshida: I don't know if there are any projects or issues the Commission wants to discuss. If not, we have on your June 26th meeting, be considering a draft environmental document for the Puunene Heavy Industrial Project. This is back behind the Puunene Airport area and the document will be circulated at your June 12th meeting.

Mr. Hiranaga: Thank you.

3. EA/EIS Report

4. SMA Minor Permit Report

5. SMA Exemptions Report

Mr. Yoshida: We circulated our SMA Minor Permit/Exemption Report, if there are any questions on that?

6. Discussion of Future Maui Planning Commission Agendas

a. May 22, 2012 meeting agenda items

Mr. Yoshida: If not, on May 22nd, we have one public hearing item which is for the Kihei Rock Crushing Plant. There are four entitlement applications associated with it, a Community Plan

Amendment, a State Land Use District Boundary Amendment, a Change in Zoning, and County Special Use Permit. This is by the Kihei Wastewater Reclamation Facility. It currently exists via a State Special Permit and Conditional Permit, and they'll be going in for Heavy Industrial zoning, M-2 Heavy Industrial zoning. And then we have our continuation of Orientation Workshop. This time it's the Coastal Zone Management side of it. We have people coming from Oahu from the State Office of Planning as well as our Coastal Resources Planner, Jim Buika and Tara Miller, our Sea Grant Agent as well as our Flood Hazard District presentation by our Zoning Division, and some more comments from our esteemed Deputy Corporation Counsel, some other matters which we couldn't get to during Orientation Workshop No. 1, and that's what we have planned for the May 22nd.

Chair Hiranaga: Commissioners, any discussion on Items F-2, 3, 4, 5 or 6? Seeing none, thank you. Next regular meeting is May 22nd. If there is no objection, this meeting is adjourned.

F. NEXT REGULAR MEETING DATE: MAY 22, 2012

G. ADJOURNMENT

The meeting was adjourned at 11:26 a.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Keone Ball
Donna Domingo,
Jack Freitas
Wayne Hedani
Kent Hiranaga, Chairperson
Ivan Lay, Vice-Chair
Warren Shibuya
Max Tsai
Penny Wakida

Others

Will Spence, Planning Department
James Giroux, Department of the Corporation Counsel
David Goode, Department of Public Works