

**MAUI PLANNING COMMISSION
REGULAR MEETING
MARCH 12, 2013**

ACCEPTED 04-23-2013

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Kent Hiranaga at approximately 9:02 a.m., Tuesday, March 12, 2013, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Mr. Kent Hiranaga: . . . This is the Maui Planning Commission meeting, March 12th, 2013. At this time I'd like to open the floor to public testimony. Is there anyone here that wish to provide public testimony regarding any agenda item please come forward. We have a list that we'll start with first. First individual is Mark Hyde. Please identify yourself, and limit your testimony to three minutes.

Mr. Mark Hyde: Good morning. My name is Mark Hyde. I'm the vice-president of the Kihei Community Association and I'm here this morning on behalf of the board of directors. I'd like to express our unanimous support for the Kihei Town Center Project which is item D on your agenda. We believe that this is a project that will be a benefit to the Kihei community and it will help to bring a sense, a much needed sense of place to Kihei. And also wish to publically express our gratitude to the Krausz Company and to their leadership for their openness and willingness to work with the community to develop this project in a way not only that would benefit the community but benefit The Krausz Company itself, but be a delight for the community as well. Thank you very much.

Mr. Hiranaga: Questions commissioners? Seeing none, thank you. Anyone else wishes to provide testimony regarding any agenda item please come forward. Seeing none, public testimony is now closed. We'll move on to agenda Item B1. Director?

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

- 1. MR. BRADFORD ING of THE ING CORPORATION, attorney for the WELLS STREET PROFESSIONAL CENTER AOA requesting a Change in Zoning from R-1 Residential District to B-2 Community Business District for property comprised of approximately 7,586 square feet at 0 Konahau Place, TMK: 3-4-008: 038, Wailuku, Island of Maui. (CIZ 2012/0008) (P. Fasi)**

Mr. William Spence: Good morning commissioners. It's a fine morning. The first public hearing item we have is Mr. Bradford Ing of Ing Corporation, attorney for the Wells Street Professional Center AOA, requesting a Change in Zoning from R-1 to B-2. And our staff planner this morning is Mr. Paul Fasi.

Mr. Paul Fasi: Good morning commissioners. Thank you. The item before us is a 24-stall parking lot Change in Zoning. It doesn't get easier than this. If Clayton Yoshida is listening, thank you very much. The applicant is requesting a Change in Zoning so the zoning will conform to the existing

zoning in the Wailuku-Kahului Community Plan, the State Land Use District and the Maui Island Plan, which are all consistent with the exception of the Title 19, County Zoning.

The applicant has filed for a Change in Zoning to make this correction permanent. They have been using a Conditional Permit for a parking lot. The reason for the Conditional Permit is that a parking lot is not allowed in the R-1 Residential District. The Conditional Permit has since expired. The proper avenue to remedy this situation is a Change in Zoning.

The current land use designations are State Land Use is Urban, the Maui Island Plan is Urban, the Wailuku-Kahului Community Plan is Business, and the only non-conforming zoning designation is Title 19, R-1 Residential which the applicant is requesting a change to B-2 Community Business. With the exception – with the exception of Title 19, the applicant's request is consistent. As far as testimony, as of March 1st, as of today, the department has received two letters in favor of the Change in Zoning. I just passed out exhibit 20. The other letter is exhibit 18. The applicant's representation, Mr. Lawrence Ing, is in – is present. And that concludes the department's presentation.

Mr. Hiranaga: Thank you. Does the applicant wish to say anything?

Mr. Lawrence Ing: Good morning Mr. Chairman, members of the commission. I'm Lawrence Ing representing the applicant. With me are officers and directors of the applicant, Tarryn Unemori, engineer; Patrick Ing, CPA. He kind of looks like me. That's because he's my son. My other son there, Bradford Ing; and we have John Sullivan the property manager; and Shelly Kusunoki, real estate broker. Thank you for the opportunity this morning to appear before you and special thanks to planner Paul Fasi. He helped us dot the i's and, you know, cross the t's so that we could be here this morning.

Some of the history, when I use to be more active in real estate development and representing developers I always had a concern about the parking ordinance. I would recommend to the developers that they provide 20% more than what was the minimum required. When I was representing Long's Drugs in Kihei, I asked him to review the parking ordinance, and they did and they compared it with Walnut Creek, their headquarters in San Jose city. And they said, you know, it's really almost the same. However, the difference is those places had large municipal parking lots available, and they had public transportation for workers. So there's a little problem there. So when we did this project, the Wells Street Professional Center, we could fit the minimum on the site. However, if we were gonna provide extra stalls, we were not able to, so we purchased the property next door and that provided extra stalls. Still yet the biggest complaint about our building is the visitors telling us we have inadequate visitor parking. We actually started with 13. Two were loading, one was handicap, and we had 10, and now we have seven. So getting this additional parking lot will provide us the opportunity to move stalls around, maybe provide more for visitors, but also provide more parking for the occupants of the building, as well as taking cars off the street by providing parking for close by business and government offices.

We'll be happy to answer any questions which you may have.

Mr. Hiranaga: Thank you. Actually at this time we're gonna go to public hearing.

Mr. Ing: Okay. Thank you.

Mr. Hiranaga: At this time, I'd like to open the public hearing. Is there anyone here that wishes to provide testimony regarding this agenda item please come forward? Seeing none, public hearing is now closed. I'll open the floor to questions from commissioners. Commissioner Wakida?

Ms. Penny Wakida: Thank you. This question is for the applicant. Thank you Mr. Ing. I'm a Lahaina girl so I'm not really as familiar with the core of Wailuku as some of the other commissioners. Is this lot currently being used for parking?

Mr. Ing: Yes. Some of you may recall Mr. Meyer Ueoka. His building was about across the lane, and right on Wells Street, and he had this Conditional Use Permit to provide parking, and it's about 40 years. And since, you know, we became the owners we cleaned it up and provided fencing.

Ms. Wakida: Okay. Follow up.

Mr. Hiranaga: Excuse me?

Ms. Wakida: Follow up?

Mr. Hiranaga: Yeah.

Ms. Wakida: Is it paid parking?

Mr. Ing: Yes. Yeah.

Mr. Hiranaga: For clarity, that parking lot is assigned parking for tenants of the building?

Mr. Ing: Right now we can provide about 24 stalls, but only 10 stalls are being in use. And couple of the stalls are for occupants of the building. And the other eight for government workers. I think they're either County or State workers.

Mr. Hiranaga: But they're all permitted or assigned parking.

Mr. Ing: Yes. Yes.

Ms. Wakida: Oh, I see.

Mr. Hiranaga: Yes, it's not open to the public for fee. Commissioner Ball?

Mr. Keone Ball: Disclosure, Larry Ing and his band of merry men have been representing our, our firm for 30 years so I just want to make that disclosure, and I will not be recusing myself however. Thank you.

Mr. Hiranaga: Commissioner Lay?

Mr. Ivan Lay: Disclosure, Mr. Ing is also represents our family and our family trust, so that don't

have a effect, and today, I won't be recusing myself.

Mr. Hiranaga: Anybody else?

Ms. Wakida: Questions?

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: I have a question. Is the – let's see, when government workers go home then is the parking lot closed up for the night, or is it open for other people?

Mr. Ing: Generally the access to the parking lot has to go through couple other properties and it makes it almost impractical, impossible, for anybody to use the parking lot after closing hours.

Ms. Wakida: Okay.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: Is there any lighting back there?

Mr. Ing: At the present time, no.

Ms. Wakida: But will you – did I read that you were planning to put in some lighting?

Mr. Ing: I don't think so at this time. When, I guess, if there is safety issue in the future we would be doing it.

Ms. Wakida: Because – I mean employees do work past the sundown and it is dark I know.

Mr. Ing: Yeah, maybe that's a good reason why we have government workers who usually go home at four-thirty, five o'clock.

Mr. Hiranaga: Careful. Careful.

Mr. Ing: Not all, though.

Ms. Wakida: Not your seven.

Mr. Hiranaga: Any other questions commissioners? Actually I have a question for staff. So, Paul, we noted that there's comments from Public Works and the Fire Department which are not included in the recommendation. I'm wondering why.

Mr. Fasi: There weren't significant comments, and so I did not include any of their comments in the recommendation.

Mr. Hiranaga: Does Public Works wish to comment?

Ms. Rowena Dagdag-Andaya: No we –. I talked about this with Paul, and it was something that came up from our Highways Division, something that they noted. It's not something that we regulate with respect to water requirements, but it was something that was just added in. I ran it through my director and we decided to just keep it in. But just for, like, FYI, for staff and for the applicant. But nothing that we, in our department, would regulate.

Mr. Fasi: There was no development planned for this particular project, and the Fire Department's comments reflected that, and so that was another reason I didn't include their, their comments in the recommendations. They only wanted to comment if there was any development proposed for the project, and there's no development proposed for the project. At the time development will be proposed, the Fire Department will have probably have substantive comments.

Mr. Hiranaga: So a question for the Deputy Director of Public Works. So if, if improvements are proposed that would get reviewed under the building permit process as far as fire protection?

Ms. Dagdag-Andaya: Yes. During the building permit process, we'll review it. And then Fire Department will also review it too for water and fire suppression.

Mr. Hiranaga: I guess from a personal perspective, I would've prefer that the Public Works Department amend their – would have amended their letter of December 18th, 2012. Because the way it's stated now it appears like it's a requirement, when in fact now you're saying it's not. As far as the street, the landscaping and the shade trees.

Ms. Dagdag-Andaya: Yeah, and that's something that we don't typically require either. I mean, we don't administer those – that part of the code. But since it was a comment, we, you know, we just sent it over to Planning Department as an FYI. However, what we can do is come back and amend our letter or when and if it goes before Council we can write another letter at that time either rescinding the December letter or modifying it to say that we have no comments to add.

Mr. Hiranaga: Any other questions commissioners? I have one more question. Is there any concerns regarding flooding of Konahau Lane? With run off coming off the parking lot?

Ms. Dagdag-Andaya: At this time we didn't come across any concerns. We did have our Engineering Division take a look at it, as well as DSA. Our Highway staff, sometimes, you know, in their observations and checks of the area, Wailuku district, you know, they sometimes are able to respond to or have comments regarding that. But nobody came up with any concerns.

Mr. Hiranaga: Thank you. If there are no further questions, we're ready for the staff recommendations.

Mr. Fasi: The Maui Planning Department recommends that the Maui Planning Commission recommend to the Maui County Council approval of the Change in Zoning from R-1 Residential to B-2 Community Business District. In consideration of the foregoing, the Maui Planning Department recommends that the Maui Planning Commission adopt the Maui Planning Department's Report and Recommendation prepared for the March 12th, 2013 meeting as its Findings of Fact, Conclusion of Law, Decision and Order, and to authorize the Planning Director to transmit said recommendations to the Maui County Council. Thank you.

Mr. Hiranaga: The floor is open to a motion.

Mr. Max Tsai: So move.

Mr. Ball: Second.

Mr. Hiranaga: So moved – could you be more specific what you're moving?

Mr. Tsai: To accept Planning's recommendation as stated.

Mr. Hiranaga: Thank you. Thank you. Moved by Commissioner Tsai and seconded by Commissioner Ball. Any discussion? Seeing none, I'll have the Director restate the motion.

Mr. Spence: The motion is to recommend approval of the Change in Zoning to County Council as recommended by staff.

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

Mr. Spence: That's five ayes.

Mr. Hiranaga: Motion carries.

Mr. Fasi: Thank you.

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

**VOTED: To Recommend Approval of the Change in Zoning to the County Council as Recommended by the Department.
(Assenting - M. Tsai, K. Ball, D. Domingo, I. Lay, P. Wakida)
(Excused - J. Freitas, W. Hedani, W. Shibuya)**

Mr. Hiranaga: We'll take a five minute recess. Reconvene at 9:25.

(The Maui Planning Commission recessed at 9:20 a.m. and reconvened at 9:25 a.m.)

- 2. AMY WISTHOFF MARTIN and DAN MARTIN requesting a Conditional Permit and amendment to the State Land Use Commission Special Use Permit for the Hooilo House Weddings, to allow for the hosting of weddings at an approved Bed and Breakfast Home located in the State Agricultural District and the County Agricultural Zoning District on approximately two (2) acres of land at 138 Awaiku Street, TMK: 4-7-009: 058, Launiupoko, Lahaina, Island of Maui. (SUP2 2003/0003) (CP 2012/0005) (K. Wollenhaupt)**

Mr. Hiranaga: . . . two, Deputy Director.

Ms. Michele Chouteau McLean: Thank you Chair. Your second public hearing item is a request from Amy Wisthoff Martin and Dan Martin for a Conditional Permit and amendment to a State Land Use Commission Special Use Permit to allow for the hosting of weddings at an approved bed and breakfast home located in the State and County agricultural districts on approximately two acres of land at 138 Awaiku Street, TMK: 4-7-009, parcel 58, in Launiupoko. Kurt Wollenhaupt is your planner.

Mr. Kurt Wollenhaupt: Good morning members of the Maui Planning Commission. The items before you are going to be considered in two parts. This is to obtain, number one, a Conditional Permit, and to modify an existing State Land Use Commission Special Use Permit to allow the hosting of weddings which are located at an approved bed and breakfast in the County Ag District and the State Ag District in Launiupoko at 138 Awaiku Street, Lahaina.

Actually one year ago, tomorrow, this Commission reviewed the Wisthoff's Farm Plan, and in its consideration approved their extension of the State Land Use Commission Special Use Permit after reviewing their implemented and approved farm plan. And the Director was able to approve at the maximum length of time the continuation of their successfully operating bed and breakfast. There have been no reports from the police about noise disturbances or any other problems that have been reported to the Department with regards to this established six-bedroom bed and breakfast home.

Consequently, the applicant has come in to do an amendment to their State Land Use Commission Special Use Permit that specifically prohibits the hosting of weddings. And as weddings in of themselves are not allowed in the ag district, there would be two levels of review. One would put this Commission as the final authority on the State Land Use Commission Special Use Permit as the property is under 15 acres. And should this Commission today find that it can recommend approval of this application the request for the Conditional Permit will be transmitted to the County Council for its review as Conditional Permits have to be reviewed at the Council level.

The property is as indicated located on State and County zoned ag. The West Maui Community Plan indicates ag. But an important happening since a year ago is that this subject parcel is within the newly approved Maui Island Plan rural growth boundary. So there are recognitions of the reality of this area having a mixture of ag and rural, or shall we say, more urbanized activities.

The applicant has a power point presentation that is comprehensive on what's going on with regards to the bed and breakfast, the ag operations and also their request for the hosting of weddings. So Mr. Wisthoff and his family – Amy Wisthoff Martin and Dan Martin – at your permission will do the presentation.

Mr. Jay Wisthoff: Good morning commissioners. My name is Jay Wisthoff. I'm one of the owners of the Hooilo House, the bed and breakfast under review. This is my daughter, Amy Wisthoff Martin and her husband Dan, who are the actual permit holders and operate the bed and breakfast on a daily basis. We're here for the – well, I guess, you've already been through this – we're here for a State Land Use Permit Special Use Permit Amendment and a Conditional Permit to host weddings on our site. We are a six-bedroom, six-bath bed and breakfast on a two acre lot. It includes a two bedroom ohana that Amy and Dan and their family live in on a full time basis. We are – we provide accommodations for visitors, visitors in a B&B setting and a peaceful rural

alternative to resort accommodations. We're a family owned and operated business. Amy and Dan are the full time owners and host. They live onsite, and the permits are in their name. My wife and I live just outside the 500 foot radius and are also involved in the operation of the B&B on a regular basis.

We're dedicated to providing our guests with a unique Maui experience, minimizing our impacts on our neighborhood and our island, growing pesticide free fruits and vegetables, and providing community support to Maui whenever we can. We've been recognized in several travel magazines in national and internationally. In 2012 we were a finalist for the Mayor's Small Business Award for 10 or fewer employees. Voters – we are regularly one of their voter's choice in their book that's published each year. And on an international level, the last one there is plus one living, we had an eight page colored layout in a Japanese language magazine. And so we are recognized throughout the industry as a well run and managed bed and breakfast and a good representation of Maui to visitors.

We also support many local non-profit organizations. The top four on the power point presentation receive a percentage of our room revenue every year. We write checks to those four people, or those four organizations every year, and the others on a semi-regular basis.

Mr. Wollenhaupt has already mentioned the agricultural zoning of our land. What I have here is a map of the 1967 land study bureau of our area overlaid with a Google map that shows exactly where our property is. And the detail is kind of hard to see there, but basically the 1967 map shows no agricultural activity in that area. Farther down the mountain, I think they were growing sugar cane, but up in our area, it's never been farmed. It's basically big rocks and boulders stacked around with a little bit of soil in between. We have the lowest productivity rating for agricultural land, not suitable for farming, and a severe slope with medium and large boulders. And a more detailed description of the soil conditions and everything can be found on page 12 of the staff report. We did a very detailed job of that.

Okay, with that being said about how terrible the land is when we moved in, we did spend in the neighborhood of \$100,000. We put a retaining wall across the entire 200 foot width of our property, about a third of the way down, and brought in 30 plus truck loads of top soil to make it a relatively leveled area where we could plant an orchard. We have that orchard is now mature and producing fruits on a regular basis. We're currently producing bananas, star fruit, grape fruit, maple oranges, mandarin oranges, mangoes, mulberries, lemons and limes. We use the fruit in our continental breakfast each morning. We have a mix fruit bowl, and then we'll have whole bananas, whole grape fruits, whole oranges out for guests to sample, with a sign saying that they were grown on our orchard.

Our implemented farm plan has been inspected and approved several times in recent years. I think they've been out some where in the four or five times in the last five or six years and gone through our property, taking pictures and approved the farm plan as implemented.

Environmental Impact, we really make an effort to limit our footprint on the land and on our island. Two years ago we introduced solar power. We put a 33 kilowatt solar array and it provides approximately 90% of our power today. Recycling, we're conscientiously recyclers. We recycle all the paper, bottles, everything we can. We also provide eco-friendly, bathroom amenities, and

recycle them to clean the world. Reusable water bottles, we had logoed reusable water bottles made and we provide those to guests on check in, to every guest, and then we provide the big water bottles of water at the front door to eliminate all the plastic water bottle use. Three or four years ago we were probably going through 10 cases of water a month and had all those plastics, and now we go through none. Our pest control is non-toxic and organic. And hosting weddings on the site would not impact our green efforts in any way.

So on to our wedding proposal. A couple of facts. One, Hooilo House has guests traveling to Maui to be married. On a regular basis we have guests coming that are here to be married. Our guests have requested the peaceful setting of our home for their ceremony and we had to declined. Our guests currently have to make other arrangements, such as beach permits for their ceremony, and providing this service will allow us to complete and enhance our guest Maui experience.

When we got ready to put this proposal together, the first thing we did was we went out and talked to some of our neighbors, and talked about what concerns they might have about weddings and how we could alleviate that. And so with the proposal we submitted our own list of restrictions. First, it's our intent is to provide a new amenity to our guest and offer an ancillary service to our B&B operations. We do not want to open our property up to public weddings to the general public. We're not gonna have people coming up with a group, a car load of people and saying we want to get married on your property. The first restriction is that weddings will only be allowed for registered guests at Hooilo House. So you have to be staying at the house. If the wedding is larger than 10 people they have to rent the entire house so that no one else is inconvenienced. No more than 25 participants, guests and wedding party, will be permitted at any wedding. No loud or amplified music. We anticipate having like having possibly a string instrument playing or something like that. No additional exterior lighting. So everything gonna have to be done before sun down. House quiet times of 9 p.m. to 8 a.m. will be enforced, and all parking will be onsite.

This next one is our onsite parking plan. Zoning and enforcement came our and walked through the property with us, measured all the parking spaces, and came up with a parking plan using a combination of our pavers and some grass parking. The first picture on the left is a picture of the ohana, and there will be five cars parked on the pavers there, and then that boulder on the left will be rolled away, and there's room for two cars to park on the grass. The garage has two spots inside and there's enough room for two cars to park outside the garage doors. And then this area on the west side of the garage has enough paver area for three cars, for a total of 14 spaces. We would anticipate taking our personal cars and our employee cars and parking them down on our lower lot where they're out of the way. So this would just be for guests of the wedding.

Also our engineer completed a waste water flow analysis which was reviewed and approved by the Department of Health to indicate that our septic system can handle the increase usage from a 25 person wedding.

Neighbor support. I mentioned earlier that we'd gone around and spoken to our neighbor to ask them, you know, what kind issues they might have or concerns they would have. At that time we got letters of support from five of our neighbors that surround our property that have common borders with our property lines. And all five of those neighbors signed letters of support. We also got additional letters of support from a couple of the people in the neighborhood, and some other community people. I think we have a total of nine or ten letters of support for our proposal.

In conclusion, approval of this application will improve the visitor experience for our guests, reduce stress on our park system as ceremonies move the park systems to our property, not negatively impact our ongoing agricultural activities. We have proven ourselves to be good neighbors, and this application has the support of our immediate neighbors. We are thoughtful stewards of our land and continuously trying to limit our impact on this beautiful island. And weddings will allow us to share Maui in a unique way and create even memorable experiences to our guests. Thank you for your time.

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

Ms. Wakida: This question is for Mr. Wisthoff. You say –

Mr. Hiranaga: Could you please pull the microphone closer?

Ms. Wakida: The 25 participants as guests in wedding parties.

Mr. Wisthoff: Right.

Ms. Wakida: Will you be allowing a post wedding celebration on your property?

Mr. Wisthoff: Yes.

Ms. Wakida: And how would that be serviced? Will that be catered?

Mr. Wisthoff: Yes, most likely catered.

Ms. Wakida: So you are anticipating 25 – lets say 25 wedding guests plus staff, caterers.

Mr. Wisthoff: Yeah, I would anticipate probably four caterers/servers and a wedding planner would there. That would be the extent of it.

Ms. Wakida: And this would take, conceivably take place where on your property?

Mr. Wisthoff: In the same area. We would break down the wedding and just have them outside. If it's inclement weather we have a big open room in the middle of the house where our couch is and our breakfast take place. And we would take that furniture out and move it into our garage or behind the garage and set up tables inside if there's inclement weather.

Ms. Wakida: So you're not anticipating putting up any extra lighting though you said.

Mr. Wisthoff: No. No extra lighting and no tents or anything.

Ms. Wakida: So this post wedding celebration would have to take place before sundown obviously.

Mr. Wisthoff: Yes. Yeah, unless it was – unless it moved inside the house, yes.

Ms. Wakida: Okay.

Mr. Wisthoff: That was one of the concerns our neighbors had was, you know, they didn't want us to come in with big spot lights, and we said, absolutely not.

Mr. Hiranaga: Any other questions commissioners? I have a couple of questions or Commissioner Wakida you can continue.

Ms. Wakida: Well, you had a few letters from account from the neighbors, but they're the same letter. Did you go out and –

Mr. Wisthoff: Well, we had a draft letter with us when we went out and spoke to all our neighbors in person and asked them what their concerns were. And then we gave them a copy of the restrictions that we'd already come up with. And if they agreed, then they said, you know –. We were trying inconvenience them as much as possible. And so – yeah, not to inconvenience them – and so we just had a letter, and said if you want to you can just sign this. Or if you want to put one in your own words, that would be great, and they all just signed the letter.

Ms. Wakida: Yeah, yeah. Form letters are not, not – I'm not a big fan of form letters.

Mr. Wisthoff: You know I feel like we go back to our neighbors. We've been there like four times for our B&B Permit, with registered mail and asking letters of support. And you know I really feel bad about even going and asking them for anything, and so I just try to limit that as much as I can. I understand.

Mr. Hiranaga: Any other questions commissioners? So just for clarity, did you make a statement that the wedding celebration would cease prior to sundown? Because I see you have quiet hours.

Mr. Wisthoff: Can we have quiet hours –

Mr. Hiranaga: Can I –? May I finish?

Mr. Wisthoff: Well, if they wanted to move inside for –. Oh, I'm sorry. I'm sorry.

Mr. Hiranaga: May I finish my question? Thank you.

Mr. Wisthoff: I apologize.

Mr. Hiranaga: Because you state quiet hours start at 9 p.m., so Commissioner Wakida just asked you if the commercial weddings would cease at sundown. If you could just clarify that.

Mr. Wisthoff: Okay. All the wedding activity would be done by sundown. If they wanted to have something inside the house they could go inside the house to do that, probably, is what we anticipate. But everything would have to be done by 9 p.m. at the latest.

Mr. Hiranaga: So the celebration could continue till nine?

Mr. Wisthoff: Yes.

Mr. Hiranaga: Okay. Commissioner Wakida?

Ms. Wakida: What specifically do you sell at the farmer's market?

Mr. Wisthoff: Well we sell grape fruit, oranges, lemons limes. In our picture there we had some giant, I think they're called Portuguese squash. Yeah. We're not even sure where they came from. They just started growing on the property one day so we stated watering them. But we've sold star fruit. We usually don't bring bananas down because we can use those in the house pretty easily so.

Ms. Wakida: And on average, how many times a month do you participate in that?

Mr. Wisthoff: It depends on what's coming in and how much we use, but a couple of times a month.

Mr. Hiranaga: Will you be charging a fee for this service?

Mr. Wisthoff: Yes. We don't know what it is yet, but it's common in the industry to charge a site fee for the use of the property for wear and tear on the property.

Mr. Hiranaga: I noticed that there's no limitation on the number of events per year. You know, I think, I think that probably may need to be included. I remember an application up in Kula, the Lavendar Farm, if we had some type of a limit on number of events per year. You don't need to respond, but maybe want to start thinking about it.

Mr. Wisthoff: We did have that discussion with the planner. It came up late in the process. And we hadn't really considered it before. We expect the majority of our wedding to be what we call elopements where it's just the wedding couple, and not a big party of people, that would just go out to the gazebo have an officiant and get married. And then maybe once or twice a month at the most would be a larger party of 12 to 25 people. And so we're not sure whether we should limit the number of large weddings to something like two a month, and not limit the smaller weddings or limit total weddings, but we're open to – that discussion. Would you feel good with limiting it to two a month of anything over 12 or over, or 10 or over?

Mr. Hiranaga: We're kind of jumping ahead, but I just wanted to give staff a heads up that something like that may come up.

Mr. Wollenhaupt: By way of clarification, if we're to look at the Lavendar Farm, and this was approved a little bit different process as it's considered to be part under the agricultural tourism. They were not needing to get a Conditional Permit, but they did get a State Land Use Commission Special Use Permit. And their condition 11 said the number of weddings, catered receptions and special events will be limited to 25 to 75 participants and shall be limited to no more than 26 per year. So that's an example of a condition has been placed on the permit for weddings in ags with regards to the number.

Mr. Hiranaga: How is access provided to your property? For this property?

Mr. Wisthoff: Launiupoko private road system.

Mr. Hiranaga: But it's not a – this probably does not front a street.

Mr. Wisthoff: No.

Mr. Hiranaga: It's a flag lot.

Mr. Wisthoff: Yes.

Mr. Hiranaga: You have a common roadway lot that you share?

Mr. Wisthoff: We have an easement that goes through the two lots below us, and into our property. It's about 500 foot driveway probably.

Mr. Hiranaga: And how wide is that easement?

Mr. Wisthoff: Like 10 to 12 feet. Yeah.

Mr. Hiranaga: Probably.

Mr. Wisthoff: It's sufficient enough for UPS and the Gas Company to get up and down though.

Mr. Hiranaga: So that easement services only your lot?

Mr. Wisthoff: It services ours and our neighbors to the west.

Mr. Hiranga: Oh.

Mr. Wisthoff: It's – half way up the lot it splits into two drives.

Mr. Hiranaga: So it's probably 20 feet. Public Deputy Director, if it services two lots, it's probably 20 feet wide?

Mr. Wisthoff: Yeah, I haven't –

Ms. Dagdag-Andaya: I'm not sure.

Mr. Hiranaga: Because I believe one lot is 12 feet, two lots is 20 feet. Does it look like it's 20 feet wide?

Mr. Wisthoff: It doesn't look it's 20 feet wide. When it splits, it's 20. At our lot, at the bottom of our lot, it splits into two, and there it's definitely 20 feet, over 20 feet wide. But the lower part, the lower half of it, I don't believe is that, is that wide. The easement may be 20 feet.

Mr. Hiranaga: Right, but the actual harden surface is not.

Mr. Wisthoff: The actual hard surface is probably 10, 10 or 12.

Mr. Hiranaga: Yeah. Commissioner Lay?

Mr. Lay: Can we get that photograph that shows the property again with your neighbors that said they okayed the – they sent letters of approval. That's an undeveloped lot on your top left hand side?

Mr. Wisthoff: Correct.

Mr. Lay: Who owns that?

Mr. Wisthoff: I'd have to go through my file. It's somebody that owns a lot up above also.

Mr. Lay: Okay, so looking at that photograph you have there, the easement that they were talking about, how does it flow through there? You just point it out and go there and come back.

Mr. Wisthoff: The driveway goes right up to here.

Mr. Hiranaga: Okay, you cannot speak unless you speak into the microphone.

Mr. Lay: You gotta come back.

Mr. Hiranaga: So if you could maybe repeat what you just said.

Mr. Wisthoff: It starts at the bottom of Awaiku and goes straight up between those two lots, and then it splits at the property line in the middle into two driveways.

Mr. Lay: Follow up. Okay, so with this undeveloped lot that's below you, you have the easement running through you. But, at this point, you don't even know who owns it, and you're going to have your traffic flowing through there?

Mr. Wisthoff: Well, yes. And they did get a – they have been – I think they're in California somewhere, but they did get the letters of, you know, the registered and certified mail. We did get responses that they received them, and they haven't made any comments one way or the other.

Mr. Lay: What I'm worried about is they come in and they move in, and the problem is created after because they not realizing what's actually going on then. They see this all going on, and it interrupts their, I guess, their life style.

Mr. Wisthoff: On the east side of that easement, we put in Oleander Trees that we keep trimmed at about 10 feet. And so the person that has – Todd Theros on this side, doesn't see our traffic coming up. They don't use the same driveway. They have to have their own driveway going into their lot. And with the shrub 10 feet high, he doesn't see any of the traffic coming to and from our property. And if that property on the other side is developed, we would use the remainder of the easement to do the same thing.

Mr. Lay: Okay.

Mr. Wisthoff: Okay, it's Michael and Zoey Matheson are the owners of that lot. And they live in Occidental, California.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: There is a letter here from the Department of Transportation concerning additional traffic at this intersection. I, I think you're – I don't know if you've been hosting weddings already, but I think you're underestimating the amount of traffic that a wedding generates. I mean, there's people delivering flowers, and there's caterers, and people bringing liquor, and people bringing all kinds of things back and forth, wedding planner and so on. So have you given a real count besides the number of participants in the wedding party as 25? The additional other people that are coming and going?

Ms. Amy Wisthoff Martin: My name is Amy Wisthoff Martin. I'm the permit holder. Our wedding planner is also a florist so she – when she comes she takes care of – she holds the spot of maybe three vendors. And then the caterer would come, they typically when catering companies do events like this, their servers and the food and everybody are coming in one, as a unit, to set up and break down and all of that. The other vendors are just, come up, drop it off, and leave, other than the photographer who would be there during the events. But the number of vendors is kept pretty small because it is a small event. We aren't – it's, with only 25 people, the catering is a one trip in. It's not a huge event where they're having to make multiple trips to bring in all of the food and the servers and everything. Because it's such a small event, it will be a smaller group coming in, or smaller number of vendors coming in. So what we're looking at is the wedding coordinator who's also the florist, the photographer and the caterer.

Ms. Wakida: Thank you.

Mr. Hiranaga: Any other questions commissioners? You mentioned that there may be weddings where it's just a couple that wants to get married. I guess my – and this may be a question for staff – a Conditional Permit is required because it's a commercial wedding, which infers that fees are being paid to utilize this site. But if a couple were just getting married in a gazebo and they're not paying a fee, that considered a commercial wedding.

Mr. Wollenhaupt: Well we, we have considered this under a number of circumstances. What about civil unions between the same sex couples? Is that's not defined as a wedding under Hawaii State law, and we weren't necessarily going down that road. However, I guess, the door is sort of open. That's a question that when there's no money that's being, and it's not a commercialized wedding, can you hold a private wedding for your family in ag?

Mr. Hiranaga: Close friends.

Mr. Wollenhaupt: We have to do a little more research with maybe the Assistant Planning Director, Deputy, could enlighten us.

Ms. McLean: There is a line that's crossed at some point. If I had friends who said, oh, we're

coming to visit Maui, can we get married in your back yard? I don't really think I would need a permit for that. If we hired a caterer, musicians, and all of that, but I'm not charging a fee and so forth, that could still be considered part of my, my residential use of the property, or in this case, the agricultural farm dwelling use of the property. I think the difference with this applicant, there are a couple of things. Number one is the Chair asked previously that they would be charging a site fee at least for the larger weddings. And also because they currently hold the B&B Permit. And when they were in front of the Commission, I happened to be staffing that item that day. The question was asked, do you conduct weddings, and they specifically said no, so give some credit to the applicant for coming forward and making the request. But I think partly because they already are conducting that use that requires a permit that they're coming in to add this to that use that requires a permit already. Because it is tied to the B&B, the weddings would be limited to B&B guests. There's – there's that connection there that requires permitting whereas in a residential district if it's friends and family, it wouldn't move to that level.

Mr. Hiranaga: The reason I'm asking that question is if a limit was placed on number of commercial weddings, they could have more weddings that they don't charge fees for. So they would have to decide which wedding they would charge a fee for. If it's just a couple and they're gonna share a bottle of champagne, they might not want to charge them a fee and it doesn't apply to the 26, or whatever, count. Whereas – so they could – I mean because a statement was made, they have a lot of people who just want to get married and may not want a big event. So, that's the differentiation between looking for a commercial wedding and a non-commercial wedding, or, let's say ceremony, not wedding. Let's call in ceremony, commercial ceremony versus a non-commercial ceremony.

Mr. Wollenhaupt: And other questions that were brought up during our debate is what about a re-commitment ceremony between previously married people? Such a ceremony could involve essentially almost exactly the same thing without the use of a minister, priest, rabbi, whatever the case may be. But yet it would still could fall under the rubric of having a commitment wedding ceremony. So I think the intent was always that this was definitely commercialized, that there was a fee being exchanged for this purpose. I think that's probably is the intent of going, of prohibiting weddings in ag, that it's the commercialized part of the ceremony which probably inherently in most people's minds would involve a greater level of ceremony, catering, dance, wedding ceremony, flowers. That probably was the initial thought and intent. But the question is well taken about when does one stop and one begins again?

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: It was my understanding earlier that these weddings or ceremonies would only be done for those people staying there. Does this also follow, including the people eloping?

Mr. Wisthoff: Yes.

Mr. Lay: Okay.

Mr. Wisthoff: Yes. And to respond to the question about smaller weddings, when people come now to get married, we have a wedding planner that we connect them with. And they don't do the ceremonies on our property, but they do use the wedding planner that we use typically and go down

to the beach and get married. If we were to get the wedding permit, even on a small wedding, we would require that they use our wedding planner just to make sure that everything is handled appropriately. And so there would be some fee involved to the wedding planner. And we've aired on the side of safety for the last five or six years, whatever its been, and just said absolutely no weddings. We've even turned down family and friends that want to come because we're concerned that because we run the commercial bed and breakfast, that it could be interpreted as a commercial wedding, and so we just, just aired on the side of safety and not done any weddings at all.

Mr. Hiranaga: Thank you. Commissioner Ball?

Mr. Ball: Well, maybe if we put a turnstile at the gazebo and you only turn it so many times a year.

Mr. Wisthoff: There you go. Lock it down.

Mr. Ball: My, my concern, one, is us putting in the stipulation of that you have to stay there. And maybe it's for legal, is it law? A tie in law? I don't know if this applies here. We can't like tie two things together to make the requirement. Give that to a different attorney to answer. Anyway, that's, that's my concern on that.

As far as the discussion and with the amount of people, I mean, I think we limit it to the amount of people there, and I think it's up to you to decide how many weddings you want. I mean, it's wear and tear on your property, and I think this is gonna be all complaint driven by the neighbors if there's weddings everyday, and, you know, cars going out the driveway, and people can't get into their places. So, I mean, what we're doing is we're creating another business for you, and I don't want to see us stifle that business by saying you can only have five weddings and you're like our business plan, that's not gonna work. So I don't know if you have a number that would be acceptable as far as how many weddings per year to make this thing work for -. I'm for just saying just do it because I think it's on your property, all this stuff is happening on your property. So it differs from the other ones we've done in the past where you kind of have public, you know, a lot more public people going there, and mixing in. Where this is gonna be like everybody here is kind of in the loop with what's going on.

Mr. Wisthoff: Right. And a couple things on that I mentioned in our proposal.

Mr. Hiranaga: Excuse me? Did you asked a question?

Mr. Wisthoff: I'm sorry.

Mr. Ball: It was kind of a question. Do you have a response to that?

Mr. Lay: You've got an answer already?

Mr. Hiranaga: You have an answer to that sort of a question?

Mr. Wisthoff: I have an answer to that. Sort of an answer. Our property is two acres. It's a significant size piece of property and the landscaping is very mature. And so the people on the – even the people immediately surrounding our property would not be able to see a wedding taking

place. They might notice some extra cars coming up, but that would be only way they would know that there was something going on, on the property. And the other thing is that the only physical limitation to the number of weddings would be the waste water system. And in the engineer's report, we basically have a waste water system designed for nine bedrooms. We only have eight. So we have excess capacity of 200 gallons a day. And she estimated a total wedding of 25 participants would generate 170 gallons a day of waste water. So theoretically there is no limit to the number of weddings based on that. But –

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: Getting back to traffic. Are you expecting to rent equipment, say tables and chairs?

Mr. Wisthoff: No we're expecting to buy those and maintain – we're gonna maintain them on the property, and fold them out.

Ms. Wakida: Thanks.

Mr. Hiranaga: Commissioner Ball? Commissioner Ball?

Mr. Ball: Is this –? I'm looking at this aerial photograph and is that a concrete driveway or what's the surface of that?

Mr. Wisthoff: It's concrete.

Mr. Ball: All the way up?

Mr. Wisthoff: Yes.

Mr. Ball: Okay.

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: Just to give us some clarity in case a number does come up, once you involve a wedding planner, doesn't that turn it into commercial?

Mr. Wisthoff: That's what I'm saying. That's why we've not done any – even let people go out on the grass and get married because we don't, you know, we don't to risk our B&B Permit by someone declaring that we had a commercial wedding even though we didn't charge for it.

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: You stated earlier like your two big weddings a year, I mean a month, with possible smaller weddings in between. With two weddings a month, we're looking at 24. With your smaller weddings, you know, you dropped, you know, you gave that number 26 earlier, you've dropped it a lot so I was just wondering, I mean, what, in your eyes, feasibly what do you see in happening as far as weddings occurring so we have at least an idea?

Mr. Wisthoff: If, I guess, you know, at the top end I would say, well, we wouldn't – physically we wouldn't want to do more than two big weddings a month because we're the ones that are doing a lot of the work. And so I would say two big weddings a month and maybe two or three small ones scattered in between there, so looking at four to five total a month. But the smaller ones really require no work and no wear and tear on the property.

Mr. Lay: About 60?

Mr. Wisthoff: Yeah.

Mr. Hiranaga: Commissioner Tsai?

Mr. Tsai: Can you give us an idea as what your current occupancy on your B&B is? You have six –

Mr. Wisthoff: It runs about – yeah, it runs about 85% to 90% year round.

Mr. Hiranaga: You have a minimum stay requirement?

Mr. Wisthoff: Three nights. We do make exceptions when we have odd nights on the calendar.

Mr. Hiranaga: So you're able to turn the unit over like a hotel, check out by noon, and people can check in at three?

Mr. Wisthoff: Yes, we have a full-time housekeeper, and turns over all the rooms every day. And when she's not working we do it.

Mr. Hiranaga: Just a heads up for the staff, I'm not sure if a wedding planner is used but no fee is charged for the site if that's considered a commercial wedding. And I attended a wedding there in Launiupoko a year or so ago, and they had a photographer and they had a caterer, but the owner was friends of the couple so he said his gift to them he wasn't charging for it. So it didn't appear to me to be a commercial wedding. It was just someone who said I have a beautiful location, you can use it, and the couple are the ones that hired the photographer and the caterer. And there was probably 40-50 people there. We were, we were done by sundown because they didn't have exterior lights, so we started like about three o'clock. It was pretty hot, but –

Mr. Wisthoff: Yeah, it does get a little warm.

Ms. Wakida: Is there a question to that?

Mr. Hiranaga: Actually my question was more of a heads up to the staff. I wasn't really talking to the applicant. I was giving – I was giving them a heads up so that there will be a question about that in the future. Any more questions commissioners? Seeing none, we're ready for the staff recommendation.

Mr. Wollenhaupt: As indicated in the introduction there's two permits under review here. The first one is the State Land Use Commission Special Use Permit of which the Maui Planning Commission has authority in this case because the property under review is under 15 acres. Otherwise, if it was

over 15 acres, it would go to the State Land Use Commission. Tradition has that you usually cover each of the different permits separately.

Mr. Hiranaga: Okay, let's do that.

Mr. Wollenhaupt: So the first one under review would be for the State Land Use Commission Special Use Permit. There's five criteria. They're outlined. I wouldn't – I'm not going to read them. The commissioners no doubt have looked at those. And the Department recommends to the Maui Planning Commission approval of the Land Use Commission Special Use Permit subject to eight conditions. The first condition, and I won't read them, but highlighting the important ones, that the Land Use Commission Special Use Permit will be valid until March 31st, 2018, or in accordance with the expiration date of the Conditional Permit whichever is later. Again, this is a modification of the State Land Use Commission Special Use Permit that already is in effect for this property. That being the case, there would then be an additional condition that would be added to this that limitations on wedding events held at Hooilo House Bed and Breakfast would be A through G. Those have been indicated previously on the slide. But some of the main points are that only registered guests would be allowed to have this service. No more than 25 participants for the onsite wedding, no loud or amplified music, no additional exterior lighting, quiet times would be 9 p.m. to 8 a.m. which we be identical to those governing the bed and breakfast, all parking relating to the wedding ceremony would be onsite, and the applicant, to the satisfaction of the Department of Planning would provide a yearly report outlining the wedding activity business, noting the number of weddings held each month, proof the wedding party actually were registered guests, the number of participants at each wedding event, and any complaints received about each wedding activity.

In consideration of the foregoing, the Planning Department would recommend that the Planning Commission adopt the Department's report and recommendations prepared for the March 12th, 2013 meeting as its Findings of Facts, Conclusion of Law, and Decision and Order, and authorize the Director of Planning to transmit the Decision and Order on behalf on the Commission.

Mr. Hiranaga: The floor is open to a motion. Question, do we want to replace the word "weddings" with something else?

Mr. Wollenhaupt: Weddings with what? Civil unions?

Mr. Hiranaga: With a different word.

Mr. Wollenhaupt: That, that, that topic did, did come up. The, the, the applicant and I had a very good discussion and their, their, their intent is to honor whatever ceremony might be appropriate for the individual staying at the, at the guest house. So whether it would be a replacement of weddings, wedding/civil unions, that would be fine with the Department I'm sure. And I think that the applicant was fine with an inclusion of that term if that would be helpful.

Mr. Hiranaga: Deputy Director?

Ms. McLean: In terms of enforcement and interpretation, we would look at, at impacts and we would see civil unions and commitment ceremonies as all falling under the wedding umbrella, so the term is fine with the Department.

Mr. Hiranaga: Well, floor is open to a motion. Commissioner Ball?

Mr. Ball: Move to approve the State Land Use Commission Special Use Permit as recommended by staff.

Mr. Tsai: Second.

Mr. Hiranaga: Discussion? Commissioner Wakida?

Ms. Wakida: I'm gonna vote in favor of the motion, although normally I'm very critical of these uses on ag land, and this letter by Jesse Souki pretty much calls him to task and says that the B&B is suppose to be subordinate to ag uses not the dominant feature. But I agree with the applicant that this area up here is totally unsuitable for ag uses. It's those rocks. And I know that of a number of homeowners up there who had to bring in their top soil just to plant a lawn. So, and, in light of the fact that maybe soon rural. But, as I've said, normally I'm pretty critical of these uses but I'm going to make an exception in this case.

Mr. Hiranaga: Any further discussion? Commissioner Domingo?

Ms. Donna Domingo: I have a question for you under G. So with that statement being made, what does that encounter? I think you gotta tell me because it seems like it's – well, go ahead.

Mr. Wollenhaupt: Thanks for the question. That was an inclusion that the applicant and I spoke with. Obviously the Department asked for a compliance report for Special Use Permits and how they are operating their business. In this instance we wanted to really have essentially it would a monthly log, delivered on a yearly basis. It would indicate how many weddings happened, what dates did they happened, how many people were in attendance, and some kind of receipt or proof that these people actually paid monies for their overnight accommodations so that we would at least have some means of insuring that this did not become a free for all for everyone to come up there and do a wedding. So we're trying to make an attempt to not pry into their business excessively, but to have some kind of proof similar to what we ask with the State of Hawaii's Taxation Department with the A6 Form, have you paid your taxes. We see whether or not . . . (inaudible) . . . tax, so this is an attempt to see how many weddings, were these people actually there, and are you going to self report any complaints. And we'll match those if we go a complaint report from the Police Department or a request for service from the private individual. So that's what we're attempting to do with G.

Mr. Hiranaga: Any other discussion? I guess my concern is there is no limit on the number of events that are allowed because this is still a agricultural district and you're bringing in a commercial use. And neighbors who are not within the 500 foot radius will be impacted because they'll be driving up through that one and only access to Launiupoko Highway. So that's my concern with the motion on the floor. Chair cannot propose amendments. Commissioner Lay?

Mr. Lay: With that being said, . . . (inaudible) . . . came up with a number of 60 per year, and we were wondering if that would be acceptable to you which will be five a month. If we could have that as one of the conditions.

Mr. Hiranaga: Is that a friendly amendment?

Mr. Lay: Yes.

Mr. Ball: Accepted.

Mr. Hiranaga: The seconder? Commissioner Wakida?

Ms. Wakida: Does that meet with the intent of your remark?

Mr. Hiranaga: Well, if you think about it, 60 weddings is more than one a week. That's a lot of commercial activity in an agricultural district. And, again, a lot of the people are not in that 500 foot radius are going to be impacted because there's only one access to this subdivision. But, again, Chair cannot make amendments.

Ms. Wakida: Question.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: Kurt, did I read in the application where the applicant had proposed one to two a month?

Mr. Wollenhaupt: I think that, that was in a letter which was in there.

Mr. Hiranaga: Yeah, there's a question on the floor.

Mr. Wollenhaupt: I think that was in reference to the larger weddings. We're looking for that specific. I thought it was in their description of their proposed use.

Ms. Wakida: Well, meanwhile can I address another question to the applicant to consider a number that he would consider fair.

Mr. Wisthoff: When you, when they discussed the Lavender Farm, it said that weddings of 25 to 75 people. We'd be limited to 26, I believe. And so I'm wondering if that means that under 25 they're not limited. Because that would be our big – you know, we would – our biggest concern is the number of large weddings, and that's the number of one to two per month is what we anticipate. If we could limit the number of large weddings between 10 and 25 people to two per month, and then not limit the number of small, just two people getting married types of things.

Mr. Hiranaga: Seems fair to me.

Mr. Lay: At this time –

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: I'd like to make a correction on my friendly amendment.

Mr. Hiranaga: You'd like to revise your –

Mr. Lay: Revise it, yes, and change that number to, was it, 26? 24?

Mr. Hiranaga: Two per month, not to exceed – I think with more than 10 people, not to exceed two per month.

Mr. Lay: Not to exceed parties of what, 10 or more, not to exceed two per month. And then unlimiting the small ones.

Mr. Hiranaga: Just not addressing. 10 or less.

Mr. Lay: Okay.

Mr. Hiranaga: Okay, so is the maker of the motion receptive to that to that friendly amendment?

Mr. Ball: No.

Mr. Hiranaga: You could make a hostile amendment and put it on the floor for a vote.

Mr. Ball: I think the 60 is fine. We're going back and forth with these numbers at the will of the Chair, we're changing our motion so –

Mr. Hiranaga: It's not the will of the Chair. It's part of discussion.

Mr. Lay: My motion at that time was not to allow it because I'm afraid at like 60 a year of large weddings is a lot. And if we give that number out there, that possibility is a possibility. So at this time I'd like to make a –

Mr. Hiranaga: If you could just propose a regular amendment.

Mr. Lay: A regular amendment where have just two large weddings year – I mean a month. That how I propose.

Mr. Hiranaga: Defined as more than 10 people.

Mr. Lay: Yeah, defined as more than 10 people.

Mr. Hiranaga: So we need a second for that.

Ms. Domingo: Second.

Mr. Hiranaga: Moved by Commissioner Lay, seconded by Commissioner Domingo, any discussion on the amendment? Commissioner Wakida?

Ms. Wakida: Yes, I believe this was the proposal that was recommended by the applicant, so I hope it would get support.

Mr. Hiranaga: And the applicant is receptive to that?

Mr. Wisthoff: Yes.

Mr. Hiranaga: Could you speak in the microphone please?

Mr. Wisthoff: Yes I am.

Mr. Hiranaga: Any further discussion? Commissioner Domingo?

Ms. Domingo: And going back to number G.

Mr. Wisthoff: Yes.

Ms. Domingo: I do want to ask to see that. It's just worded differently as point of "he shall report on a yearly basis to the Department" on the outline of the wedding that's happening there. Because just the way that, you know, you're making it to look like the applicant shall provide, right, a yearly report. Because this is significant because it came in front of us just for the B&B, and now he's turning everything over to a different kind of business. And I think the impact in that area is going to be and I can see some impacts coming. So I would ask if the Department would take a look at, like, he shall report, change that with a G, not that he is gonna give the information to the Planning Department. He should report the activities of the wedding. He shall.

Mr. Wollenhaupt: So the language would be that the applicant, and then cross, delete, to the satisfaction of the Department of Planning, so that the applicant shall provide a yearly report. Is that what you're recommending? Okay. I just want to make sure.

Mr. Hiranaga: To the Department of Planning.

Mr. Wollenhaupt: So instead of that the applicant, to the satisfaction, the Department of Planning shall provide, it will be that the applicant shall provide to the Department of Planning a yearly report.

Mr. Hiranaga: Yeah.

Ms. Domingo: Of all the things that complies to this permit.

Mr. Hiranaga: Corporation Counsel?

Mr. James Giroux: Yeah, I don't think you want to take out the word "to the satisfaction of" because there might be some, some correspondence. You don't just want a report thrown on your desk. You want the report, you want the ability to say, hey, why didn't you put these numbers in or how come these numbers aren't clarifying what we're trying to get to. So I think you, you don't want to take out "to the satisfaction," but you just want the "shall." You want it to be a mandatory reporting with the review from the Department.

Mr. Wollenhaupt: So the language would read that the applicant shall provide to the satisfaction of the Department of Planning a yearly report outlining and then going on to the next. So there's two

amendments I guess. Question. One amendment, one question.

Mr. Hiranaga: Well –. Okay, we have, first we have an amendment on the floor, and then we can address Commissioner Domingo's concern as a friendly amendment. We'll just put the motion on the floor to vote. So if they Deputy Director can restate the amendment.

Ms. McLean: The motion is to add another limitation to no more than two onsite weddings per month with it would be between 11 and 25 participants because there's already a cap of 25. So there shall be no more than two weddings per month with 11 to 25 participants.

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

Ms. McLean: Four ayes.

Mr. Hiranaga: Opposed? Could we see a show of hands again please? No. We had four in favor, and one –. Are you in favor? Okay, so we have four in favor and one abstention.

Mr. Giroux: Abstention is gonna be counted as an affirmative.

Mr. Hiranaga: Okay. We have four in favor and one abstention, motion carries. And now we have a friendly amendment by Commissioner Domingo regarding item 8g. Is the maker of the motion receptive to that friendly amendment? Commissioner Ball?

Mr. Ball: Yes.

Mr. Hiranaga: Is the seconder?

Mr. Tsai: Yes.

Mr. Hiranaga: Any further discussion on the main motion? Seeing none, we'll have the Director restate the motion.

Ms. McLean: To approve the State Land Use Commission Special Use Permit subject to the eight conditions listed in the staff report with the two amendments. The one with the language on the annual report, and the second amendment being the limit of two weddings per month with 11 to 25 participants.

Mr. Hiranaga: All in favor so indicated by raising your hand.

Ms. McLean: Five ayes.

Mr. Hiranaga: Motion carries. Moving on to the Conditional –

Mr. Giroux: Chair, just a clarification?

Mr. Hiranaga: Corporation Counsel?

Mr. Giroux: On the, on the permit, can you make it clear that's an amended permit because you're using the same docket number. So just, you know, some where on the permit, just have it as an amended permit. Because we don't want people to mistake that there's two permits out there and cause, you know, complaints and all that.

Mr. Wollenhaupt: Clarification on that. So as this body is the final authority for the State Land Use Commission Special Use Permit, does that mean that today's action now puts this new SUP2 in action today, or do we wait until the Council either makes their decision? Because the SUP2 Permit is an amended one for today, but does it have any effect on their old one, or does the old one, is it maintained because of that first condition about shall be valid or in accordance with the expiration date of the Conditional Permit. It's assumed that this does not become in effect until the Council acts.

Mr. Giroux: Right, it's – I don't think you're gonna be able to do the weddings until you get your Conditional Permit. I believe that's gonna be required as part of the permitting process.

Mr. Wollenhaupt: So the old one stays in effect until, until the Council makes their decision?

Mr. Giroux: Well, what you're thinking of "in effect" means is can the wedding start.

Mr. Wollenhaupt: No, I understand that.

Mr. Giroux: The answer is no. But this wed – this has been approved by this body, so –

Mr. Wollenhaupt: Right. It's an amended permit. Okay.

Mr. Hiranaga: So it's independent of the Council's action, the SUP?

Mr. Giroux: Well, you're not going to be going further into the field of weddings until the Council reviews the Conditional Permit.

Mr. Hiranaga: But the expiration date has been extended also, right?

Mr. Wollenhaupt: The expiration date – you've approved an expiration date of this one either of 2018 or in accordance with the expiration date of the Conditional Permit, whichever is later.

Mr. Hiranaga: But the current SUP expires when? Or the previous one?

Mr. Wollenhaupt: It would have been 2017.

Mr. Hiranaga: So we've extended it a year.

Mr. Wollenhaupt: Yes, because you approved this one.

Mr. Hiranaga: So the SUP stands alone as far as replace the other B&B issues. So we've effectively extended his B&B SUP a year.

Mr. Wollenhaupt: The SUP2 has been extended for a year. The B&B is approved through another process, administratively.

Mr. Hiranaga: Okay, moving on.

State Land Use Commission Special Use Permit

It was moved by Mr. Ball, seconded by Mr. Tsai,

VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended by the Department with Two Additional Conditions: 1) There shall be no more than two weddings per month and no more than 24 per year with 11 to 25 participants; and 2) Item 6g be amended to “That the applicant shall provide to the satisfaction of the Department of Planning a yearly report outlining the wedding activity business. The report shall note the number of weddings held each month, proof that the wedding party were registered guests at Hoolio House, the number of participants at each wedding activity, and complaints, if any, received about each wedding activity.”
(Assenting - K. Ball, M. Tsai, D. Domingo, I. Lay, P. Wakida)
(Excused - J. Freitas, W. Hedani, W. Shibuya)

Mr. Wollenhaupt: The second part to this review today is the Conditional Permit. As the Commission is aware, the Conditional Permit's final authority is the County Council. The Department recommends that the Maui Planning Commission recommend approval of the Conditional Permit to the County Council subject to the six conditions. Those six conditions however, condition #6 should be modified however to reflect the condition #6 that was modified with regards to the number of weddings per month, and also with regards to the language of 6g, point g. So with that the Planning Department would recommend that the Planning Commission adopt the Department's Recommend – Report and Recommendations prepared for the March 12, 2013 meeting with the amendments to condition #6 paralleling those that were recommended for the State Land Use Commission Special Use Permit as its Findings of Fact, Conclusion of Law, and Decision and Order, and authorize the Director of Planning to transmit the recommendation to the Maui County Council on behalf of the Planning Commission.

Mr. Hiranaga: Floor is open to a motion. Commissioner Wakida?

Ms. Wakida: I move that we approve the Conditional Permit.

Mr. Hiranaga: We're recommending to Council approval. The Council approves Conditional Permits. We're making a recommendation.

Ms. Wakida: Thank you. I move that we recommend approval of the Conditional Permit to County Council subject to the following six conditions as amended.

Ms. Domingo: Second.

Mr. Hiranaga: Did you want to make, add the condition that we added to the SUP regarding the number of times ceremonies can be allowed?

Mr. Wollenhaupt: The intent was that condition #6, point g, would then read that “the applicant shall provide to the satisfaction of the Department of Planning a yearly report outlining the wedding activity business,” and then the further language. And that then there would be the new added condition that was passed that would read similarly, “that the number of weddings with participants between 11 to 25 shall be limited to no more than 24 per year, and no more than two per month.” Those were the two added conditions in the SUP2, so we recommend putting them in to the same. To point g because the Conditional Permit needs to parallel the conditions that are being done in the SUP2. Otherwise we’d have a conflict between the two of them.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: Wasn’t though originally the number of weddings an amendment?

Mr. Hiranaga: Right.

Ms. Wakida: But –

Mr. Hiranaga: But now staff has added that on their –

Mr. Wollenhaupt: Or did you want to have it as a new point, so it would be point seven? It was an amendment. It was an amendment.

Ms. Wakida: Not necessarily no. If it, if it works where it is.

Mr. Hiranaga: It’s still a condition whether it’s part of six or added as seven. I guess my concern is when you say “no more than two per month, but not more than 24 per year.” So if you only have one in a month, you’ve lost the other one.

Mr. Wollenhaupt: That’s right. I thought that was the intent.

Mr. Hiranaga: Okay.

Mr. Wollenhaupt: But maybe I’d been – I’m not sure if . . . (inaudible) . . . Well, my intent, my thought was that the Commission was a total of two per month, or maximum of 24 a year. But that does . . . (inaudible) . . .

Ms. McLean: It would be cleaner to just say two per month, and then we don’t get into this situation of, oh, what if we only have one one month, then can we have a three another to still meet our 24 per year? If the intent is to limit to two per month, then just say two per month.

Ms. Wakida: Okay. That – that particular language is fine with me as the maker of the motion.

Mr. Hiranaga: Is there a second?

Ms. Domingo: Yeah, second.

Mr. Hiranaga: Thank you. Question, discussion? Question, how many Conditional Permits currently are approved for this type of use?

Mr. Wollenhaupt: In looking at the history here, there's a Conditional Permit in North Kihei which is in the Urban District, that would be for Mr. Nelson's wedding, a commercialized wedding pavilion that's under construction right now. There is the OW Ranch has a Conditional Permit up in Kula. That was a Conditional Permit to operate their 12 bedroom transient vacation rental and conduct special events including weddings. That's the Oprah Winfrey property, and that one had no conditions placed on the number of weddings, but there was a condition that the participation, I think, would be limited to 100 or 125 people, but that's a large property. We do have then as indicated the Lavender Farm is on Ag. That one was reviewed under the agricultural tourism rubric and that was the one that was indicated that they would only have – the limited number of weddings of 26 per year. So those are the –. There has been an application that was put in. It's still under review pending in Haiku for a wedding activity. But that one is – they're undergoing some review for building permits and issues like that. So the short answer to your question would be the OW Ranch in Ag, the Lavender Farm in Ag, and Mr. Nelson's Wedding Pavilion in Urban.

Mr. Hiranaga: When I look on page 4 of the staff report under Conditional Permit, the intent of the Conditional Permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related, or compatible to those permitted use which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. And I'm just curious how the Department believes this application meets that test.

Mr. Wollenhaupt: I think that in reviewing this bed and breakfast we looked at, and the wedding business, we look at it from a historical perspective of they're, they're allowing the bed and breakfast in the agricultural operations which pushes this. There was a great debate about, well, is a bed and breakfast a commercial operation and should that be allowed to occur within different zoning districts. And they decided that the bed and breakfast would be an appropriate use. This then is a – I think there was some letters alluding to here – a service that's being offered for the people staying in the bed and breakfast, perhaps not unlike, say the Napa Valley or some place like that where they have a special kind of a location, or special kind of an area that would allow itself to have limited impact celebrations. Such celebrations can be held in the zoning districts. And as we had the discussion when does a non commercialized wedding move to a more commercialized wedding?

So that it was the, the unique nature of their bed and breakfast along with the consideration, it was very important that they had to be staying there. If this was commercialized anybody can come up there, a wedding operation, I would find the Department most likely would have not come down on the side of recommending approval. So those were some of the issues that were involved in trying to come up with that they were compatible with other uses in the district. In addition, the Maui Island Plan, moving to rural, that sort of reflects the reality of what that area is becoming. If it's more of a rural area, as opposed to just ag. So those were some of the reasoning behind recommending approval for this. We've seen before in operation up in Kula that there was recommendation that they can – that the family could take a building that was being used as a

house and turn it into a commercial business with small offices. That it provided a service for that immediate neighborhood. This in some essences provide an additional, compatible use with that of the bed and breakfast. Similar to the short-term rental which is the same is that the commercial use of the property. It's been determined the short-term rentals are not a commercial use, but they're reviewed under the same discussion as residents as being let out. So, those were some of the reasons that we came up with.

Mr. Hiranaga: Was there any concern that this will set a precedent and invite additional B&B operators to come in for similar Conditional Use Permits if it's approved by the Council?

Mr. Wollenhaupt: Well, there's always a concern about precedence, but I think that's why this Conditional Permit process is so long, rigorous, requires multiple notifications, requires the approvals by Corporation Counsel of an ordinance that will have to be reviewed in detail by the Land Use Committee and then also by the Council with two readings. It's, it, it doesn't represent a right of anybody else to do this. That's why it's a Conditional Permit process. That's why there's conditions that are placed that are pretty rigorous from the standpoint that you have to be staying there. There can't be any, more than 25 participants. This was sent out to different agencies. A bed and breakfast is not, is not sent out this agency for this level of review with regards to waste water, sewer, fire, police. So, it – just as the OW Ranch was granted, perhaps in some ways it, it does provide evidence this has happened before, so this is not completely unique. But the OW Ranch is a unique property just as the Wisthoff property is. So I don't think it sets a precedence. It does provide evidence that if somebody else wanted to come in the future, this is, these are special conditions unique to this property so a new applicant has to have very special conditions also. I don't – I certainly wouldn't say, oh, well, I have a B&B and can automatically get my weddings approved, and I can have anybody come in who wants to. So that's what we're always concerned about. But, no, I don't think it sets a precedence except another example of what can be done.

Mr. Hiranaga: Any further discussion? Seeing none, I'll have the Director, Deputy Director restate the motion.

Ms. McLean: The motion is to recommend approval of the Conditional Permit to the County Council with the six conditions listed in the staff report along with the two amendments. One to the language relating to the yearly report, and the other, establishing a limit of two weddings per month, with 11 to 25 participants.

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

Ms. McLean: Five ayes.

Mr. Hiranaga: Motion carries. We'll take a 10 minute recess, reconvene at 10:55 a.m.

Conditional Permit

It was moved by Ms. Wakida, seconded by Ms. Domingo, then

VOTED: To Recommend Approval of the Conditional Permit to the County

Council as Recommended by the Department with Two Additional Conditions: 1) There shall be no more than two weddings per month and no more than 24 per year with 11 to 25 participants; and 2) Item 6g be amended to “That the applicant shall provide to the satisfaction of the Department of Planning a yearly report outlining the wedding activity business. The report shall note the number of weddings held each month, proof that the wedding party were registered guests at Hoolio House, the number of participants at each wedding activity, and complaints, if any, received about each wedding activity.”
(Assenting - P. Wakida, D. Domingo, I. Lay, M. Tsai, K. Ball)
(Excused - J. Freitas, W. Hedani, W. Shibuya)

(The Maui Planning Commission recessed at 10:46 a.m., and reconvened at 10:58 a.m.)

3. **WILLIAM and CANDACE RABOFF requesting a State Land Use Commission Special Use Permit in order to operate the Kulike Short-Term Rental Home in the State Agricultural District on approximately 3.1 acres of land located at 380 Kulike Road, TMK: 2-8-004: 085, Haiku, Island of Maui. (SUP2 2012/0020) (K. Wollenhaupt)**

Mr. Hiranaga: Next agenda item, Director?

Mr. Spence: Commissioners, we're on the item B3. This is William and Candace Raboff. Raboff. Okay, very good. Requesting a Land Use Commission Special Use Permit.

Mr. Hiranaga: Excuse me, may we have order please? Thank you. Continue.

Mr. Spence: Operate the Kulike Short-Term Rental Home in the State Ag District. Our staff planner for this application is Mr. Kurt Wollenhaupt.

Mr. Wollenhaupt: Good morning, members of the Maui Planning Commission. The item before you is another State Land Use Commission Special Use Permit in order to operate a short-term rental home in the County agricultural district on approximately 3.1 acres of land located at 380 Kulike Road, in Haiku, Maui, Hawaii. As the Commission is aware, the process of getting the short-term rentals permitted is a two stage process for those properties located in the agricultural district. The applicants, Mr. and Mrs. Raboff and their consultant, Catherine Clark, are with us today.

Just to give you a brief overview, whenever an applicant wishes to have a short-term rental they have to post a sign on their property and also to send out a notice of application of the permit to all the neighbors within 500 feet. There's a 45 day period in which people can either support or object to the project. For this project located in Haiku, the applicant did mail the notice of application on August 14th, 2012. There were no letters received as a result of the notice of the mailing of the application of the short-term rental. And, as such, the application should it be approved today's Council with regards to the Land Use Commission Special Use Permit would be granted the short-term rental permit. In addition, there's a public hearing process that, of which this meeting is, of

course, the most intricate part, and the applicant mailed a notice on February 1st to the adjacent owners of the notice of hearing today, and there have been no complaints received.

The review today is for the agricultural uses of this property. There was an approved farm plan approved by the Zoning and Enforcement Division, 2011/0085, which outlines the agricultural elements of the property. According to the plot plan, the farm area consists of 67% of the total lot, and Ms. Catherine Clark, their applicant, will be going into a power point presentation to highlight the details of this project. It is notable this project, and you'll be seeing it for the dedication that the applicants have put in to the home, home preservation, and home husbandry. It truly was one of a kind when I went out to inspect it.

In addition, the applicant has met all the requirements for the short-term rental with regards to the inspections, short term inspection, building permits, and has met the requirements for a safe house. There is Ms. Catherine Clark who will be doing a short presentation to show you the project site and the ag operating on it, at your discretion.

Ms. Catherine Clark: Okay, my name is Catherine Clark, and I put together the application for the Raboff Family. Their property is at 380 Kulike out in Haiku. So this property –

Mr. Hiranaga: Could you please pull the microphone closer?

Ms. Clark: Short people. So the economic activity at this property is based upon a nursery operation focusing on palm trees. Seeds are harvested from a wide variety of rare palms that are on the property. The plants grown in a small nursery on the property can be sold to other nurseries or put into gardens. Trees grown from a small size on the property can be dug up and sold to landscaping companies. I actually had no idea how beautiful palm seeds were until we actually put together this presentation. So this just shows a few of the varieties that they collect. Seeds from the rare palms native to Hawaii island were recently exported to a world famous palm grower on the Big Island. Seeds from the rarest plants can sell for more than \$10 a seed. Seeds from the property are also propagated in the nursery with automated irrigation system. And seeds from other sources are brought in to be grown as well.

In 2012, a 20 foot container of plants from the nursery was shipped over to the Big Island, and then the palms at the left that you see were placed at the Merwin Conservancy on Maui. They have quite the amazing palms conservancy going on. Many trees on the property are grown as field stock and have been sold to landscaping companies on Maui. Every palm on the property is labeled. So everywhere that you go, as you walk throughout the property and throughout the little jungle area if you like, those little markers label the actual species of palms. So, didn't expect you to read this, but just wanted to give you a general idea of the species that are actually present on the property.

So co-owner Michael Locke is a member of the International Palm Society as well as the Hawaiian Palm Society. Laura Bunder Palms on the Big Island, the Merwin Conservancy in Haiku and Tree Relocators are the main associates. Guests are also welcome to pick fruit from a variety of fruit trees on the property. The most common being bananas and papayas. Throughout the property there are literally hundreds of plants of different types of flowering plants. There's also three species of bamboo.

And then we also wanted to address fire protection because this property is on catchment. So there is a pool with 35,000 gallons of water. There's a large tank with 30,000 gallons, and a smaller catchment tank with 10,000. So in total, there's 75,000 gallons available for use. I did speak with Vince at the Paia Fire Station and he said that if they responded, they would have a fire truck with 750 gallons of water and drafting capability. They would bring in a mini pumper with 300 gallons of water, and a tender with 5,000 gallons. With that, we definitely have an abundance of water. But I also spoke with Mr. Paul Haake at Fire Preservation, and he indicated that we did have more than adequate water for this size of home. Questions?

Mr. Hiranaga: Thank you. We're gonna reserve questions till later. At this time I'd like to open to public hearing. Is there anyone here that wishes to provide testimony regarding this agenda item please come forward. Seeing none, the public hearing is now closed. I'll open the floor to questions from commissioners. Commissioner Wakida?

Ms. Wakida: Would imagine this would be for the applicant, perhaps Mrs. Raboff? Correct?

Ms. Candace Raboff: Yes.

Ms. Wakida: You show that you harvest and sell seeds from the palm trees. What about the tropicals and the other plants? Do those have any commercial values?

Ms. Raboff: They probably do have.

Mr. Hiranaga: Excuse me? Please identify yourself.

Ms. Raboff: I'm sorry. I'm Candace Raboff, co-owner on the property. They probably do if we wanted to go to a farmer's market which so far we just provided them to our guests and our neighbors, and ask that our neighbor who also we hired to help do some landscape on our property, if there's bananas that are ripe and there's no one that is there to eat them, then we ask him to take them to the – I think it's equivalent our your Food Depot here. But we don't sell the fruit on the property right now. Was that your question?

Ms. Wakida: Yes, it was actually the flowers, but the fruit is fine.

Ms. Raboff: The flowers as well.

Ms. Wakida: So the commercial end of it is the palm seeds, is that correct?

Ms. Raboff: Yes, and from my perspective is, first, as a way to make money. It's more the interest of Michael Locke who's the 25% owner on the property, is – he's real – that's his hobby. He's very, very interested in preserving the native species of the plants in Hawaii. And so we have a few none natives, like firecrackers and that type of thing, more colorful flowering plants. But that is his – that's his obsession sort of speak. And he is a member of the International Palms Society and he believes strongly in maintaining the native Hawaiian plants on this island. So, for instance, compared to our neighbors on our street, there's a lot of invasive flowers and vines, and the winds blows and they don't really like that, but that's the reality of what's going on in Hawaii. But he and William Merwin, our neighbor across the street, work together a lot, and that's William, I think, he

owns collectively about 18 or 19 acres. And that's very much of his goal.

Ms. Wakida: Thank you.

Mr. Hiranaga: Commissioner Ball?

Mr. Ball: Are there any streams that you cross over to access this property?

Ms. Raboff: No, they're not.

Mr. Hiranaga: Bridges?

Ms. Raboff: No bridges. No.

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: Under exhibit 1, are you able to bring that up? I'm seeing a red outline on that, under exhibit 1. Is that your property line?

Ms. Raboff: Yes, it appears to be.

Mr. Lay: And it goes through one house?

Ms. Raboff: Oh, that's a good question. No, it's above that main house.

Mr. Lay: Okay, so the main house is the one we see that, I guess, the windows on the roof, right? Solar panels?

Ms. Raboff: Yes, those are hot water solar panels. So I think the next page.

Mr. Lay: Yeah, that would be your more accurate property -. I mean, I don't see any lines that's why I'm trying to figure out where your property ends and starts and -

Ms. Raboff: Probably about where the bottom of that picture is will be my best guesstimate of the property line. So the, the road down in front of the pool that's the one side of the property line. And I really can't tell to tell you the truth, but it looks like probably around the edge of that second picture.

Mr. Lay: Okay, on the following page, we do have a plot plan drawing which is similar to that first red line we saw earlier, this would be a better, I guess, rendition of it, right?

Ms. Raboff: Yes.

Mr. Lay: Okay, thank you.

Mr. Hiranaga: Commissioner Ball?

Mr. Ball: Is your plan to rent out the main house and the cottage, or –?

Ms. Raboff: Only the main house.

Mr. Ball: And you're going to live part-time in the cottage? Is that –

Ms. Raboff: Well, we live on the mainland right now because we have to work, we have a kid in college and another one coming up. Ultimately that would be nice, but, yes, we stay there. But no, we're not going to rent it out to guests.

Mr. Ball: The cottage.

Ms. Raboff: Right.

Mr. Ball: It's gonna be for when you come into town.

Ms. Raboff: Exactly.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: Actually my question is for Kurt. You included the farm plan, exhibit 3, and then the application. Is this the sum total of what a farm plan consists of? Or are there other elements to it that weren't included, generally?

Mr. Wollenhaupt: Well the farm plan, the process by what goes is that it's submitted to the Zoning and Enforcement Division, and then our Director might probably go through this because it's not our process. But it goes to the Division of the Zoning.

Ms. Wakida: No, no, no. My question is not the process. My question is the paperwork. Is this it?

Mr. Wollenhaupt: The paperwork consists of, of, of a farm plan that similarly looks like this, a letter that, that was approved and signed. And that was signed down here by Rulan Wakiki on page 4, farm plan application, and approved by William Spence.

Ms. Wakida: Maybe I should the Director.

Mr. Wollenhaupt: And that's, that's pretty much the process. And then there's, then there's an onsite review that's done by the Zoning and Enforcement Division to make sure that the farm plan as represented here is actually been implemented. So not only do they get the farm plan application, but they actually – they have to be – they have to get that implemented and field verified. And then there's a unilateral agreement that's also done and recorded by the Bureau of Conveyances indicating their ag operation. And that, that is on exhibit 6, unilateral agreement declaration for the construction of a farm dwelling of land zoned County agricultural. That's on exhibit 6. So the whole process consists of submitting your farm plan application, having a map that diagrams it, getting it approved by Rulan Wakiki or one of the staff up there, having an inspector go out and make sure that it has actually been implemented -- it has to be implemented -- and then getting the Bureau of Conveyances to stamp and sign the unilateral agreement. And

they've got all of that information in our report today.

Ms. Wakida: Thank you.

Mr. Hiranaga: Any other questions commissioners? Commissioner Ball?

Mr. Ball: Is, is the restriction of, of not renting the cottage have to be in the recommendation from the Department?

Mr. Wollenhaupt: No. The permit is to –. It wouldn't –. It's not necessarily. A lot of times we have, we have the wording is for the three bedroom short-term rental, so we don't necessarily put restrictions on what they don't do. It hasn't been practiced to do that. It's specifically outlined. It's usually been a three, a three bedroom home, so –

Mr. Hiranaga: Director?

Mr. Spence: I think when it comes time for the recommendation if we wanted to discuss that with the applicant we could.

Mr. Wollenhaupt: And just this is the State Land Use Commission Special Use Permit. In the bed and breakfast application which will be signed by the Director, should this committee approve this, then it's very much outlined what's, what is permitted. It's the three bedroom main house, the three bedroom main house and cottage, and there it outlines in great detail –

Mr. Ball: Vacation rental you mean, not bed and breakfast.

Mr. Hiranaga: Short-term rental.

Mr. Wollenhaupt: I mean, short-term. Here it outlines in great detail with, I think, 26 conditions, what can be done and what can't be done. Again, today's review is only on the State Land Use Commission Special Use Permit. The short-term rental of Paia-Haiku Permit, that will outline all of how big, how many, quiet hours, fire protection, type of extinguisher and everything like that.

Mr. Spence: Right. And if an applicant –

Mr. Hiranaga: Director?

Mr. Spence: If an applicant applies just to the house, you know, like the main house, that's all they can – that's what the permit is for. So those kind of conditions are sort of goes in to the other permitting process.

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

Mr. Wollenhaupt: The recommendation from the Maui Planning Department is to recommend approval of the State Land Use Commission Special Use Permit subject to the six conditions outlined in the recommendation report. That the first one would be that the Land Use Commission Permit shall be valid until March 31st, 2016. The other conditions are similar to the past State Land

Use Commission Special Use Permits that have been approved by this body in the past. That being the case the Department recommends that the Maui Planning Commission adopts the Department's Report and Recommendations prepared for the March 12th, 2013 meeting as the Findings of Fact, Conclusion of Law, Decision and Order, and authorize the Planning Director to transmit said written decision order on behalf of the Maui Planning Commission.

Mr. Hiranaga: The floor is open to a motion. Commissioner Ball?

Mr. Ball: Move to approve the State Land Use Commission Special Use Permit to operate the short-term rental in the County Ag zoning district and State Ag District as presented by staff.

Mr. Hiranaga: Is there a second? Seconded by Commissioner Lay. Any discussion? Commissioner Wakida?

Ms. Wakida: I will be voting in favor, however, I do want again make the statement that this operation is an accessory to agriculture. Agriculture is always first and foremost on ag property. Ag isn't secondary to the rental operation and I – I'm anticipating that ag will – that will be the case that ag will be first and foremost.

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

Mr. Spence: The motion is to approve the State Land Use Commission Special Use Permit as recommended by staff.

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

Mr. Spence: That's five ayes.

Mr. Hiranaga: Motion carries.

It was moved by Mr. Ball, seconded by Mr. Lay,

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

C. COMMUNICATIONS

- 1. MS. SAMADHI BUTTERFLY requesting a State Land Use Commission Special Use Permit (SUP) Time Extension and Amendment for the Ala Aina Ocean Vista Transient Vacation Rental on approximately 4.0 acres of land off Hana Highway at HC-1 Box 164A, TMK: 1-6-009: 018, Kipahulu, Island of Maui. (SUP2 2001/0016) (J. Prutch)**

Mr. Hiranaga: Moving on to agenda item C1. Director?

Mr. Spence: Thank you Mr. Chairman. Item C1 is a communication item. Ms. Samadhi Butterfly requesting a time extension on their Special – on their Land Use Commission Special Use Permit for Ala Aina Ocean. It's actually a B&B.

Mr. Joseph Prutch: Not yet.

Mr. Spence: Okay. Anyway, by way of disclosure this was – Sam and Mercury were former clients of mine, I don't have a financial interest in this particular application so I got – I was like pro bono helping them. I'm not planning on recusing myself.

Mr. Hiranaga: Thank you for that. Joe?

Mr. Prutch: Good morning commissioners. Thank you. Yes, this is a, officially a TVR right now. I'll explain that as we go along here. The request – the applicant is requesting, Samadhi Butterfly and Mercury Blue, who are in the audience to answer questions should they come up. They're requesting an eight year time extension for their State Land Use Commission Special Use Permit for the continued operation of the Ala Aina Ocean Vista or they call it Hana B&B as well. The original State Land Use Commission SUP was approved in March by the Planning Commission, March 2002. The Conditional Permit for a TVR was approved five years later in December of 2007 by the Council with a two year time period to go through December of 2009. Before December 2009, the applicant came in to request the renewal of the SUP but asked that they convert the TVR over to a B&B permit which we were doing at that time. Well, when the B&B permit started going through the process it got routed to different agencies and it was found, Public Works found that there were some building permit issues that needed to be taken cared of. So the applicants, basically they've been doing the work for the past few years to get –. They had to do building permit on the main house to raise a roof and a loft that became a habitable loft. It used to be a storage loft. They had to raise the roof actually two feet on the building to make it tall enough. This cost lots of money. So they took time, they got all this work done, they had to add a ground Kipahulu. I'm sorry, ground four acres in Kipahulu about two miles west of Oheo gulch. So they're out off the grid, far away from fire access, fire department.

Part of the permit process they also had to put in water storage tank for fire suppression and their own stand pipe. So they do have a stand pipe on their property for fire protection now. They had to do all this work. So they've been doing all this work for the past few years. They finally got everything done. They've got all their building permits finished up, and now they're here to get their renewal. And if they get their renewal for the SUP then the department, Will be able to sign off on the B&B permit tomorrow. Their Conditional Permit will go away for the TVR. So they're still operate a one bedroom rental. It will just be a B&B rather than a TVR.

Their property is developed with a main farm dwelling which has two bedrooms. One bedroom is for the owner, the other bedroom is for the guest. They have a storage shed, tractor building, gravel parking stalls, other ag buildings, and of course the water storage and catchment tanks and various solar and what not for electricity. Their ag consists close to 80% of their property is devoted to ag either in orchard or agricultural preservation. They do have their farm plan from 2009. The maps are included, or the map is included in your staff report. They grow on their farm. They have star fruit, bananas, avocados, mangoes, a whole lot of coconut palms and coconuts, lemon, lime, pomelo, oranges, you name it, they've got quite a bit out there. And what they do with their, their

fruit is they either give it – over the years they've been giving it away to either to the Salvation Army or lately they've been giving it away to other farms, local area, because giving it to the other farms, those farmers will actually come out and pick everything and harvest it so that they don't have to do all that work to get everything down. So they've got an agreement with different people to give it away. I guess they give away the coconuts, forget the name, but somebody out there that make the coconut popsicle. The fruit gets used elsewhere by various farms and organizations out there that, that harvest it for them.

Since this TVR has been operating – it's been 10 years now they've been operating – I couldn't find any Request for Service or complaints on this. There were no negative comments that came from the Police Department. A pretty quiet area out there in Kipahulu, and of course, they're on four acres so it would be hard to hear their one bedroom B&B.

There's a lot of conditions on this SUP that are – well, they're 10 years old. Some of them are either just out dated. We've revised as we've gone along. Or some of them have been taken cared of. I don't know if you want me to go into that now, but there are some conditions I'm going to ask the Commission to – okay – to delete or revise, but when we get into my recommendation part I'll explain all that.

That's what I have for now. Like I said, the applicants are here. they can be able to tell you about anything you need to hear and I can answer questions as well of course.

Mr. Hiranaga: Thank you. 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 closed. I'll open the floor to questions from the commissioners. Commissioner Wakida?

Ms. Wakida: Clarification Joe. We are being asked to approve a TVR or –?

Mr. Prutch: No. You're being asked to approve a Special Use Permit for the ag part of a bed and breakfast. It used to be a TVR because she, in the past, had received a Conditional Permit for a TVR. Back in days, many years ago, there was no B&B Permit for ag, State Ag properties, so you had to go through the TVR route which was the Conditional Permit route. So they did all that, many years ago, they went through Council meetings, they went through Hana Advisory meetings, they did all that stuff. They got it approved. When they came back for renewal, rather than renew the Conditional Permit and continue on with that Conditional Permit process, which used to be more difficult – now, I guess, it's a little more stream line – they decided to transfer over to the B&B Permit when it came available, and that's what we're working towards.

Ms. Wakida: Well, yeah, I, I didn't mean we were approving a TVR. I meant it's listed – it's a Special Use Permit for an existing TVR that will later be a B&B? Is that, is that what you're saying?

Mr. Prutch: I guess it's for both. I mean, it's – when the SUP was originally approved, it was for a transient vacation rental because that's what they were called back then.

Ms. Wakida: Right.

Mr. Prutch: Even today, she doesn't have a B&B Permit. She's applied for it, but it's not approved yet. So the B&B Permit will, I guess, as you will transfer it from a TVR which it is today, to a B&B which it will be if you guys approve the SUP, then we can approve the B&B. So it end up being a B&B tomorrow if all goes well. So the TVR will go away. Essentially it's the same thing. They're renting out to tourist or vacationers, it's the same thing. It just used to be a TVR because that's the route you had to take, which was the Conditional Permit route back when they stated . . . (inaudible) . . . Now they're converting.

Ms. Wakida: Great. I got it. Thank you Joe.

Mr. Prutch: Okay. We were confused too.

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: This is to the applicant. Just wondering how many people do you see – I mean, how many people do you have staying there in a year?

Ms. Mercury Blue: My name is Mercury Blue. I'm Sam Butterfly's daughter. Depending on the season, you know, time of year, we have been pretty consistent. We get a lot of two nighters, and then some times three night people, but we only have a couple of nights open each month. And then every once in a while we'll go like, a week or two, that we don't have anything. But we stay pretty consistent.

Mr. Lay: I only ask that because of your remoteness of your location. Interesting.

Ms. Blue: We get the most daring types that come out there. And my mom handles the – my mom, Samadhi handles the phone and she tells them when people want to stay like five days, she'll say, like, I just want you to know you might reconsider that because there's not much out to do here, you know. There's really no restaurants, or, you know, it's more a nature experience.

Mr. Lay: Thank you.

Mr. Hiranaga: Commissioner Ball?

Mr. Ball: So the directions are to turn left out of the airport and just keep going.

Ms. Blue: Kind of.

Mr. Ball: When you think you've gone, just keep going, right? Any way, my question, I guess, is to staff on this, kind of back to Penny's comment about the transient vacation rental as opposed to the B&B. And it's gonna be converted into a B&B and the main reason is because they're going to be living on the property as opposed to, you know, the transient vacation rental where they kind of just rent it out.

Mr. Prutch: Not necessarily. They've been living on the property 20-something years now, so, they've always lived on the property while they've operated their rental.

Mr. Ball: They just didn't have the –

Mr. Prutch: But at the time, back then, when they wanted to do this, and they wanted to do it right, the only avenue to take was the Conditional Permit for a TVR. There was no B&B for ag property back then. So they had to go down that route. It just so happens they live on the property. You think of the TVR as living on the mainland and renting your house out.

Mr. Ball: Right.

Mr. Prutch: Now they're just transferring to the B&B because the B&B is, is, is little more streamline, and the renewal process is easier, so they're going down the B&B route. Also too I think the taxes could be less for a B&B than they are for TVR, possibly.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: The applicant is requesting an eight year time extension. That's generally more than what we see.

Mr. Prutch: Well, kind of an odd number and my reasoning for that, after discussing with them, if we issue the B&B permit tomorrow we issue it for three years. We don't have any oppositions, so we give them three year permit. Then after the three years they come back in to renew their B&B. At that time I'm thinking, they've been doing this for 10 years we don't have any complaints yet, likely not to have any complaints at that point either, so at that time when they come for renewal of the B&B three years from now we can give them a maximum of five years. So my thinking with the SUP was eight years because they'll probably get – they'll get the three now, they'll most likely get the five then, and then they can renew their SUP. If you guys didn't agree with that, you can shorten it to the three years, and then three years from now they'll come in to renew their B&B and they can renew their SUP at the same time. But I was thinking since they've been operating for 10 years, give them a little leeway and give them a little extra time. And I just wanted to coincide with the B&B.

Mr. Hiranaga: Director?

Mr. Spence: Just a comment on that. This particular bed and breakfast have a track record of honestly just an exemplary. When, when I was a staff planner I was in Joe's place of being a staff for this particular application when there was only a Conditional Permit application that could be asked. We went to, you know, Hana Advisory Committee. People were, like, what's going on in my neighborhood. And it was, like, that's how quiet it was and nobody knew that they were operating. I mean, even their next door neighbor didn't know. And we still don't have any complaints. And they came forward not as a result of a complaint. They came forward and applied for this Conditional Permit that took, I think, it was like six years, five years, something like that to get. They came forward voluntary because it was the right thing to do. So I started out as a staff planner processing their application. And then when I left the County to be a consultant then, you know, helped them continue with their application process. But, now this is, it's a very quiet operation. It's exemplary for how this kind of thing should be run.

Mr. Hiranaga: Any other questions commissioners? If there's no further questions we can have the

staff recommendation.

Mr. Prutch: Okay, thank you. I'd like to discuss the conditions I'm asking to be deleted, removed. Essentially the –. Well, I'll start, I'll just go down one by one. Condition #11 is a condition of the SUP for parking requirements. Essentially I'm just asked that to be removed because the parking is established through the B&B Permit and Chapter 19.36A. Their parking is adequate on their four acre property anyway so we determined that. So I'm just asking to remove condition #11 because it will be associated with the bed and breakfast. It doesn't need to be associated with the SUP.

Condition #12 is for fire protection measures. Essentially those conditions which include smoke detectors and fire extinguishers and the escape plans, all that stuff, all that is also standard conditions of the B&B permit. So once again remove it from the SUP, we'll put it in the B&B where it belongs. Take it out of the SUP.

No. 13 is a hold harmless agreement. Remember these conditions are 10, 11 years old. Since then the applicant has installed all this fire suppression and the stand pipe and the water tank for fire, so they now have fire protection on the property that they didn't have back then. Also I read through the Land Use Committee meetings minutes, the Department of Fire and Public Safety would not enter into a hold harmless agreement for fire protection any way so there was no way for them to satisfy this condition because fire wouldn't do it back then. I don't know why but that's just what it said in the Land Use Committee minutes.

And then some amendments to the condition. Condition #1 obviously is to change the date for an eight year time period, and also to change to allow the Director to extend the permit should there not be any more issues with it by the time the extension comes up.

Condition #4 is a no transfer of the permit. We're requesting the removal of the second sentence pertaining to contested case hearings. Although I did talk to James Giroux before the meeting and it sounds like, from his stand point, that we leave that sentence in there. So strike condition #4 amendment. That one we'll just leave as is.

Condition #7 is a requirement for a compliance report. Essentially we changed it from five reports down to three because that's the standard now is just to have three reports given to us at the time for extension. And remove the last sentence requiring approval a compliance report because, let's see –. Yeah, when it comes to time extension we review the compliance report, and essentially from the compliance report is when we determine that we can extend the permit or that we bring it to you to ask for an extension of the permit. So we don't necessarily approve the compliance report. We review it. And if everything is good in the compliance report, then we ask for an extension, and the extension is kind of a proof that the compliance report was approved. Because otherwise we wouldn't get to the extension point if the compliance report and everything in it wasn't adequate. So that's just a clean up item I'm asking to have removed.

And then condition #9 is obtain a certificate of compliance. This, this must be an old condition from 10, 11 years ago. I've, I've never seen this. We don't use this condition anymore so I'm asking that that one be removed. And Will probably remembers it, but I've never seen it.

Mr. Spence: This is the only one that I recall ever seeing.

Mr. Prutch: Oh, really?

Mr. Spence: Yeah.

Mr. Prutch: Okay. So we're asking that one to be removed. I don't know what it's exactly for. In condition #10, that their current TAT and GET licenses, once again, those, that particular issue gets put in the B&B Permit as a standard condition, so I want that taken out of the SUP because we'll have it in the B&B application for a condition.

So those are the requests, those are the changes. The Department is recommend to the Commission approval of the State Land Use Commission Special Use Permit time extension with the amendments as I've discussed and as laid out in the, in the report, recommendation, subject to the following. There were 13 conditions. With the revisions and the deletions I'm asking for, it would be eight conditions of approval. Conditions #9 through 13 would be deleted. Hopefully that makes sense. I can explain as we go, or you can ask question, but that is staff's recommendation.

Mr. Hiranaga: Thank you. The floor is open to a motion. Commissioner Lay?

Mr. Lay: Motion to approve the staff's recommendation, time extension and the amendments to the Ala Aina Ocean Vista transient vacation rental.

Mr. Hiranaga: Is there a second?

Ms. Domingo: Second.

Mr. Hiranaga: Moved by Commissioner Lay, seconded by Commissioner Domingo. Any discussion? No discussion. We'll have the Director restate the motion.

Mr. Spence: The motion is to approve as recommended by staff.

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

Mr. Spence: That's five ayes.

Mr. Hiranaga: Motion carries.

Mr. Prutch: You guys are approved, finished.

Mr. Lay: Now you get that long drive back.

It was moved by Mr. Ball, seconded by Mr. Lay,

**VOTED: To Approve the State Land Use Commission Special Use Permit Time Extension and Amendment as Recommended by the Department.
(Assenting - K. Ball, I. Lay, D. Domingo, M. Tsai, P. Wakida)
(Excused - J. Freitas, W. Hedani, W. Shibuya)**

E. ACCEPTANCE OF THE ACTION MINUTES OF THE FEBRUARY 26, 2013 MEETING AND REGULAR MINUTES OF THE OCTOBER 23, 2012 MEETING.

Mr. Hiranaga: Boy, look at the time. If there's no objection, I'd like to move agenda item D1 to one o'clock or soon thereafter. We had a request from someone that we do that.

Mr. Ball: No objections.

Mr. Hiranaga: Thank you. So moving on to agenda item E, acceptance of minutes, action minutes of the February 26, 2013 minutes and minutes, and regular minutes of October 23rd, 2012. Is there a motion to accept?

Mr. Ball: Move to approve without changes.

Mr. Hiranaga: Motion to accept by Commissioner Ball, seconded by Commissioner Lay. Any discussion? Seeing none, all in favor say aye. Moving on to Director's Report, F1. Director?

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

**VOTED: To Accept the Action Minutes of the February 26, 2013 meeting and the Regular Minutes of the October 23, 2012 meeting.
(Assenting - K. Ball, I. Lay, D. Domingo, M. Tsai, P. Wakida)
(Excused - J. Freitas, W. Hedani, W. Shibuya)**

Mr. Spence: Mr. Chairman, Director's Report, F1, is Mr. Rodrigo Bumanglag requesting a two year time extension on an SMA Permit. Our staff planner is not here and also Mr. Bumanglag is a former client of mine as well. And this one I do need to recuse myself. This is like, this is like all disclosure day. If you want to hold off on this one until after lunch as well?

Mr. Hiranaga: Is Deputy going to be stepping in?

Mr. Spence: Yes she will.

Mr. Hiranaga: Okay. If there's no objection, we'll defer F1 to shortly thereafter D1. Moving on to Planning Commission Projects and Issues. Director?

F. DIRECTOR'S REPORT

2. Planning Commission Projects/Issues

a. Amending the SMA Boundaries

Mr. Spence: The only item under that one is amending the SMA boundaries. I understand there was some discussion last time. It's still our intent to, to pursue this. It's just we have nothing to report to the Commission at this time.

Mr. Hiranaga: Thank you for that. Moving on to –. Commissioner Wakida?

Ms. Wakida: I have a concern or an issue that I want – I don't know that I want it have it resolved. I just want it addressed. I don't know if now is the time to bring it up. I, I have a concern with the County's farm plan application because I find it a little vague and it seems to me that we're getting an awful lot of – not an awful lot. It's maybe an exaggeration. We're getting some short-term rentals that seemed to be an ag property that are nothing more than glorified landscaping. And yet they've got ag plans. And I – I think this whole farm application needs to be readdressed. Every, every application practically gets a letter from Jesse Souki saying hey you guys, you need to, to pay attention here and be sure that these buildings are accessories to ag and not the other way around because we're trying to preserve our ag so our small farmers can come in and have something to farm some day. So I'm, I'm wondering if, if the farm plan criteria, if anybody's interested in looking at this.

Mr. Hiranaga: We could have a workshop presented by the Department on the process. So we'll put that on the agenda.

Ms. Wakida: A workshop, what does that mean?

Mr. Hiranaga: They would have staff who'd prepare a presentation for the Commission explaining the steps that they go through so you fully understand how they qualify a farm plan.

Ms. Wakida: Yeah. Well, I'm looking at the farm plan application here, and I'm looking at farm plan application that we have come across our desk, and it's, it's not happening for me here.

Mr. Hiranaga: Yeah, so since it's not on the agenda, we should not be discussing it. So we can put it on the agenda.

Ms. Wakida: Yes.

Mr. Hiranaga: Right. That's what I'm suggesting. And they can do a workshop where they do a presentation, then you can ask questions.

Ms. Wakida: And maybe get them to revisit the area.

Mr. Hiranaga: Possibly. Yeah.

Ms. Wakida: Okay. Thank you.

Mr. Hiranaga: Anything else commissioners? Okay, we're moving on to item 6a.

Mr. Spence indicated it is still the Department's intent to pursue the matter, but do not have anything to report to the Commission at this time.

Ms. Wakida indicated that she has a concern with the County's farm plan application being a little vague and wondered if the Commission would be interested in discussing the farm plan criteria.

Chair Hiranaga suggested it be placed on an agenda where the Department can do a presentation and the Commission can ask questions.

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

No comments from the Commission on the above.

- 6. Discussion of Future Maui Planning Commission Agendas**
 - a. March 25, 2013 (Monday) meeting agenda items**

Mr. Spence: Commissioners, what you have in front of you from Clayton Yoshida memorandum to discuss what we're going to do the next time, including resolutions for our outgoing members, Donna Domingo, and our Chairman, Mr. Kent Hiranaga. And Donna's smiling so I don't know if that's . . . (inaudible) . . . Then we're gonna have one public hearing item and SMA time extension request, and none of these people are my clients. Well, I'll sit through the whole meeting.

Mr. Hiranaga: Any discussion? Seeing none, we'll take an early lunch and reconvene at one o'clock.

Mr. Spence went over the memorandum from Clayton Yoshida listing the items scheduled for the March 25, 2013 agenda.

(The Maui Planning Commission recessed at 11:45 a.m. and reconvened at 1:05 p.m.)

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 request administratively:**

MR. RODRIGO BUMANGLAG requesting a two (2)-year time extension request on the Special Management Area Use Permit condition to initiate construction of two (2) additional main single-family dwellings and appurtenant utilities and related improvements in the R-2 Residential District at 357 South Kihei Road, TMK: 3-9-041: 006, Kihei, Island of Maui. (SM1 2008/0026) (A. Benesovska)

Mr. Hiranaga: If there's no objection we can move item – item, item – was it D1 to, till later in the meeting, and we can take up F1. If there's no objection.

Mr. Ball: No objection.

Mr. Hiranaga: So, F1, Director's Report, Anna, why don't you read the notice since the Director is not here.

Ms. Anna Benesovska: Sure. This Anna Benesovska, staff, planner. This item is Mr. Rodrigo Bumanglag requesting a two year time-extension request on the Special Management Area Use Permit condition to initiate construction of two additional main single family dwellings and appurtenant utilities and related improvements in the R-2 Residential District at 357 South Kihei Road, TMK: 3-9-041:006, Kihei, Island of Maui. SM1 2008/0026.

Good afternoon commissioners. I'm the staff planner representing this project. We also have the applicant, Mr. Bumanglag here, present, and ready to answer any potential questions you may have. Upon review, the Department concludes that there were no changes in the Special Management Area, and respectfully request that you waive your review and allow the Director to process the time-extension, the two year time-extension, administratively.

Mr. Hiranaga: Does the applicant have anything to say?

Ms. Benesovska: No.

Mr. Hiranaga: At this time 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. Questions? The floor is open to questions from commissioners. Seeing one. Commissioner Wakida?

Ms. Wakida: Ms. Benesovska, is the app –

Mr. Hiranaga: Could you pull the microphone closer please? The Akaku people are making sad faces.

Ms. Wakida: Is the applicant the owner of the lot?

Ms. Benesovska: Yes, that's correct.

Ms. Wakida: So the tax key map is old, I take it? It says Robert Leong.

Ms. Benesovska: You're referring to exhibit 2, showing a different name?

Ms. Wakida: Right.

Ms. Benesovska: Yeah, I do believe that's out of date.

Mr. Hiranaga: Commissioner Ball?

Mr. Ball: So, how many structures in total then will be on this lot?

Ms. Benesovska: Requesting two additional single family dwellings. There already is one single family home on the lot.

Mr. Hiranaga: Commissioner Ball?

Mr. Ball: Is this garage, this new garage for existing home have any plumbing in it?

Ms. Benesovska: The applicant says yes. It does.

Mr. Hiranaga: Commissioner Tsai?

Mr. Tsai: I'm going to ask this question on behalf of one commissioner who always ask which I think is pertinent in this particular case since you're putting additional two more structures. Where is the nearest fire hydrant?

Mr. Rodrigo Bumanglag: Good afternoon commissioners, my name is Rodrigo Bumanglag, and I'm the applicant. The nearest fire hydrant on my property is on South Kihei Road. I would say about 100, 150 feet away.

Mr. Hiranaga: Thank you. Any other questions commissioners? Commissioner Lay?

Mr. Lay: I just have a question in general. How many houses can we put in a lot area? My kids would like to know that too.

Ms. Benesovska: So this is zoned R-2, and I cannot quote the County Code right off the top of my head, so I may not be able to actually answer your question, but maybe Chairman Hiranaga.

Mr. Hiranaga: Does Public Works or Planning wish to answer?

Ms. Ann Cua: In the R-2 Residential District, the minimum lot size is 7,500 square feet. So for every 7,500 square feet, you could put one dwelling. In addition, the accessory dwelling ordinance allows an accessory dwelling to be permitted, or like we call it an ohana dwelling on lots that are 7,500 square feet or greater. So in this particular case, I believe, because we were talking about this right before the meeting, I think it's like 27,000 square feet, the lot size, so I think they could do three, three main dwellings and then they could do one accessory dwelling. And what I don't have is the size the accessory could be. That's based on the lot size. So I think it's, I think it might be 700 square feet for a 27,000.

Mr. Hiranaga: 600, maybe.

Ms. Cua: For a 27,000 square foot lot?

Mr. Hiranaga: It's based on the zoning.

Ms. Cua: No. Accessory dwelling is based on the lot size. And I know for a half acre lot, which is half of 43,560 square feet, you can have a 700 square foot ohana. So I'm thinking that's what they could have, a 700 square foot ohana, plus a total of three dwellings on the lot. That's just my rough

calculations.

Mr. Lay: Thank you.

Mr. Hiranaga: Commissioner Ball?

Mr. Ball: Did this have a notice go out?

Ms. Benesovska: Yes, the project has been reviewed in accordance with the SM1 Use Permit rules and approved in 2008 and has been following all the rules such as notice to neighbors.

Mr. Ball: We usually, we usually get a radius of what that encompasses.

Mr. Hiranaga: Is there a notice requirement for extensions?

Ms. Benesovska: No, there is no notice requirement for extensions.

Mr. Hiranaga: So now we have two Directors. Two of them. Any other questions commissioners? Commissioner Tsai?

Mr. Tsai: Yeah, as a follow up to my previous question regarding the access, I guess, for, in case of fire because you've got a 400 feet long, I guess, the length of the lot, you've got a house back there, so assuming that you've got the fire hydrant that's 100 yards away.

Mr. Hiranaga: Could you pull the microphone closer please?

Mr. Tsai: I'm sorry about that. The fire hydrant a 100 yards away, if you have a problem with the fire in the back house, you're looking at over 500 feet away. Is that gonna be an issue? You have all that cleared with the Fire Department?

Ms. Benesovska: Yeah, the Fire Department commented back in 2008 on this application and did not require any adjustments to, to emergency service.

Mr. Hiranaga: I, I believe when they apply for a building permit, the Fire Department will look at the distance to the nearest fire hydrant, and if it exceeds the allowed distance, they'll require him to install an additional fire hydrant. But that usually comes up during the building permit process. Commissioner Ball?

Mr. Ball: You know this new existing garage, is that not attached to the structure? It's a free standing structure or –?

Ms. Benesovska: Yes, it is.

Mr. Ball: And why is that.

Ms. Benesovska: I'm gonna let the applicant come up.

Mr. Bumanglag: There's an existing garage.

Mr. Hiranaga: Please, please identify yourself again.

Mr. Bumanglag: My name is Rodrigo Bumanglag, I'm the applicant of this project. There's no existing garage right now. The garage is being built along with the other two additional dwellings.

Mr. Hiranaga: So it's proposed. . . (inaudible) . . .

Mr. Bumanglag: It's proposed. Originally there's no garage on the main house, the first house that was built.

Mr. Ball: My question, though, is why is it a free standing structure and not attached to one of the
–

Mr. Bumanglag: Well because the – if you look at the building itself, it's A frame home, so it, it – and there's a wrap around deck around the house, there's no way to attach the garage to the existing home right now. So it's just built right behind where there is a stairs that comes off from the back of the house to the second floor, and over to the first floor.

Mr. Hiranaga: It's like package pull house?

Mr. Bumanglag: Yes.

Mr. Hiranaga: Any other questions commissioners? Question. Since the issuance of the SMA Permit, what progress has the applicant made towards completing the project?

Ms. Benesovska: I'm going to let the applicant address this.

Mr. Bumanglag: During the process –. My name is Rodrigo Bumanglag, I'm the applicant. When I received the approval on the application on the permit, Stacy Otomo, who's my engineer, we started working on those conditions that was required on the approval. And during that time there was a change on the County's zoning laws for flood elevation that it went up from one foot. So we were like at 10 feet elevation. Now if you have to build it, you have to go one foot above higher than the 10 foot elevation. So I'm building a slab and grade home in the back of this property and he said to do it, we need to do more excavation to meet that guideline. So he gave me two options which is maybe we need to go back and request to do a post and pier or he said wait because FEMA is working on adjusting the flood elevation on South Kihei Road. So I said – so we waited then I said what should I do. He said, well, it's up to you. I think if you wait, it would be cheaper because you don't have to do major excavation. So that's what, that's what I did. So last September, we got the approval from FEMA so now we're moving forward to continue with the project. But according to the approval, I needed to start my building last January which is a few months ago which I cannot because I don't have all the required, requirements approved on my permit. But we are moving forward.

Mr. Hiranaga: Thank you. Commissioner Wakida?

Ms. Wakida: Anna, the, the SMA Permit is for two additional main single family dwellings, so the garage doesn't have to be included in this?

Ms. Benesovska: What I believe is that the garage obtained a separate permit prior to issuance of this SM1. That is my, that is my understanding, and that's why we see on those plans that it calls out a separate permit.

Mr. Hiranaga: Commissioner Ball?

Mr. Ball: So is that correct? Is your assumption correct? Because if we're approving an SMA Permit you would – I would guess that all of these structures would be in the same SMA approval.

Ms. Benesovska: I'm assuming it's a correct assumption partially because the project has been reviewed in front of the Commission back in 2009 and, and I'm assuming the permit is in existence. I haven't personally checked on this garage permit, but I just assumed it to be true from the prior review of the project.

Mr. Hiranaga: It says on exhibit 4 that the new garage for existing home is already permitted. So probably he came in for his primary dwelling and the garage, got a single family homeowners exemption, and this SMA Permit is only for the two additional dwellings. Because now it's considered a development. Commissioner Ball?

Mr. Ball: Is this on a, a County sewer or – what's the –?

Ms. Benesovska: Yes.

Mr. Ball: Yes, what?

Ms. Benesovska: Yes, it is on a County sewer.

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: Follow up on a common question that I usually ask. On the drainage of this, I mean, we're in South Kihei Road, we're looking at rock bottom as far as water flowing in which direction I'm not sure by looking at the picture, we've got the road in front. But from this property where does the water, from this property, go?

Ms. Benesovska: I did include the drainage report and it is stated in there. I, I do want to also state that the applicant is committed to capturing all pre and post project development runoff onsite. This was conditioned by condition #25 of the original permit, and exhibit 11 shows a notarized letter from the applicant committing to capturing all runoff on the site. I believe the drainage report specifies the current flow, and I would have to take a second to look into the details of the drainage report to answer your question.

Mr. Lay: May I ask the applicant how he intends to capture it?

Mr. Bumanglag: My name is Rodrigo Bumanglag, and my engineer, Stacy Otomo, is working on

a drainage. That's the reason why there is a swell on the property because we intend to keep all the water in the property itself. So that will be addressed when we apply for our building permit. And this, that's one of the conditions on the approval. There's a condition in the approval that need to be met prior to us getting the building permit.

Mr. Hiranaga: Yeah, condition #25 looks very familiar. It goes beyond the Code requirement.

Ms. Benesovska: If I may answer your question about the runoff. The, the, the drainage report states that presently a majority of the onsite runoff sheet flows across the project site in an east west direction towards South Kihei Road. A small portion of runoff sheet flows towards the east boundary but does not leave the property due to existing CMU walls along the perimeter of the property.

Mr. Hiranaga: Any other questions commissioners? Seeing none, there's really no recommendation. Are . . . (inaudible) . . .

Ms. Benesovska: To waive review. The Department recommends you, for the commissioners, to waive review and allow the Director to approve this time-extension administratively.

Mr. Hiranaga: Okay, I'll open the floor to a motion. Commissioner Wakida?

Ms. Wakida: I move to waive review of the time extension and to let the Department decide administratively.

Ms. Domingo: Second.

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

Mr. Ball: Just a – and I think they can possibly do this administratively is to re-notice the 500 foot radius of neighbors, again. No? No can?

Ms. McLean: There's no mechanism to do that. It's not a requirement.

Mr. Ball: No, I mean, can we make that a requirement?

Ms. McLean: What's before you today is waiving review, so you don't have the opportunity today to put conditions on it.

Mr. Hiranaga: You could suggest the applicant do that voluntarily. If you wanted to place it as a condition you have to bring it back for review. If you're waiving review you can't place conditions on the application. Any other discussion? Seeing none, we'll have the Director, Deputy Director, restate the motion.

Ms. McLean: The motion is to waive review of the time extension and allow the Department to process it administratively.

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

Ms. McLean: Four ayes.

Mr. Hiranaga: Four ayes. Opposed?

Ms. McLean: One no.

Mr. Hiranaga: Okay, I guess Chairman votes in favor. Motion carries.

Mr. Bumanglag: Thank you.

It was moved by Ms. Wakida, seconded by Ms. Domingo, then

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

D. NEW BUSINESS

- 1. MR. DAVID PYLE, Executive Vice-President of THE KRAUSZ COMPANIES, INC. requesting an Environmental Assessment Determination on the Final Environmental Assessment prepared in support of the Downtown Kihei Commercial Project including drainage, landscaping, utilities, lighting, and roadway improvements including the reconstruction of Piikea Avenue at TMK: 3-9-002: 030, 076, 080, and 158, Kihei, Island of Maui. (EA 2012/0003) (A. Cua)**

The EA triggers are the community plan amendment and work within the County right-of-way. The Maui Planning Commission is the accepting authority of the Environmental Assessment.

The applicant has also applied for a Community Plan Amendment, Change in Zoning, and Special Management Area Use Permit. The public hearing on these applications will be scheduled for a date after the Chapter 343, HRS process has been completed.

Mr. Hiranaga: Moving on to agenda item F, or D1. Director?

Mr. Spence: This is Mr. David Pyle, executive vice-president of the Krausz Companies, Inc, requesting Environmental Assessment Determination on the Final Environmental Assessment for the Downtown Kihei Commercial Project. And our staff planner is Ms. Ann Cua.

Ms. Cua: Good afternoon Chair and members of the Commission. The Final EA in front of you was submitted to the Department on February 19th. It includes the agency comments, and applicant's

responses received during the 30-day public review period. The Final EA was distributed to the Commission at your February 26th meeting. The project's Draft EA was reviewed by you on October 23rd, 2012. You offered eight comments on the Draft EA, and we formatted that in a letter for you. The letter was dated November 5th, 2012, and the applicant's response to the Commission's comments is dated February 15th, 2013. It's included in volume 1, and I've turned – I've opened all your books to those two letters. The letter that we sent on your behalf, and the letter from the applicant responding to your comments. So with that I'd like to call on Colleen Suyama, from Munekiyo & Hiranaga, and Commissioner Tsai I'll be right there to help you. Colleen will take you through the power point.

Ms. Colleen Suyama: Good afternoon Commission members. My name is Colleen Suyama with the firm of Munekiyo & Hiraga. We are the planning consultants for the project. In terms of our project's team, the applicant is the Krausz Companies, Inc., represented by David Pyle from the company. We are the environmental consultants. We have our engineering consultant, Warren S. Unemori, and our project engineer, Clifford Mukai. We also have our traffic consultant which is Austin Tsutsumi and Associates Inc, represented by Keith Niiya.

In terms of the project location, this is a site location map of the project site. To the right is the Liloa Drive which is just below Piilani Highway. To the east of the project is the Piilani Village Shopping Center. And to the west is the Long's Drugs Kihei Center as well as the Azeka Shopping Center. The project site is divided by Piikea Street. On the north side of the property is parcel 30. On the south side of Piikea Avenue is parcel 76, which is represented by #2. Parcel 80 which is the existing wetland. And parcel 4, parcel 158, which is represented by 4. So the project is consisting of four separate properties which will be the Downtown Kihei Project.

This is a site plan of the proposed project. To the north, on parcel 30, is an existing enhanced wetland or manmade wetland. And on the north side, on parcel 30, what they're proposing to do is seven, one and two story buildings located along Piikea Drive, and then the rear portion or the north side of the property, they're also proposing a 150-room select service hotel. And as we have done our presentation earlier, in October, the select service hotel is being geared to, like, local travelers, you know, people coming from the neighbor islands, especially people who are here for things, like, local sporting events. There's very little places where local families can find a hotel room at a reasonable price, especially in Kihei. So part of it is to provide that select service hotel.

On the south side, on parcel 76, they're proposing to provide five, one and two story buildings, including building B which is a future theater building for Kihei. And on parcel 158, which is pad 4, that is, they're proposing on parcel 158, a one story retail building. In terms of parcel 80, it's an existing wetland on the south side, and they have – they're not intending to do anything to the existing wetland.

As an overview, as presented by Ann, the Draft Environmental Assessment was reviewed by the Commission in October. And today what we're asking is now we're presenting the Draft Final Environmental Assessment for consideration by the Commission members. And we're anticipating a determination of a Finding of No Significant Impact.

To recap everything, October 23rd is when the Commission reviewed the application. And as stated by Ann, on November 5th, 2012, the Department transmitted the eight comments that the

Commission had had. And if you look in your Environment, Draft Environmental Assessment, on page 88 is a letter from the Commission by the Department. And on page 90 is our response to the Director. So if you look on page 90, the first comment dealt with the safety of the detention basin. And what we're saying in our response to the Commission is that the rainfall in Kihei is very little, and as that, you know, we do not expect that this basin would be filled with any, you know, water, standing water for any great lengths of time. But in the mean time, they will ensure that the management's security for the shopping center will monitor the basin and make sure that the customers of the Downtown Kihei Project, you know, is safe.

In terms of comment #2 which was basically requesting that the project have a Hawaiian safe sense of place, what we have done, the applicants agreed that the architecture for this project should maintain that Hawaiian sense of place. So what they did is when they developed the guidelines for the project, they looked at the Maui Island architecture vernacular, especially during the time we did our October presentation. There was an architectural vernacular document that was created by the Planning Department that researched the various commercial buildings that were on Maui. And what they did is they came out with a report that showed what was the type of commercial architectural vernacular that was appropriate for the island of Maui. And what the applicants have done is that they've incorporated a lot of that vernacular into the design guidelines which have been reviewed by the Urban Design Review Board.

The third comment from the Commission was that they incorporate as much shading within the project because of the climate of the Kihei area. And as such, the landscape architect of the project is being directed that when they do their landscaping plans, as this project goes through the permitting process, that they ensure as much shade trees are incorporated into the project itself. And just for the Commission's information, when the applicants go before the County to get their building permit, one of the requirements is to submit a landscaping plan to the Department. And at that time, the Department, normally will ensure that this comment that, you know, as much shade trees are placed into the project is fulfilled.

The fourth comment was dealing with private security. And the applicant's response is that they will incorporate private security measures within the shopping center management to ensure that the shopping center is always safe for its patrons.

The fifth comment dealt with the revised Traffic Impact Assessment Report, as well as the six comments which is related is the synchronization of the traffic lights on South Kihei Road. In response to this, the traffic consultant, ATA, has been directed to re-do a revised Traffic Impact Analysis to include, one was Lipoa Street. The Commission wanted Lipoa Street as a school traffic to be considered, as well as taking another look at the synchronization of the street lights, the signal lights, on South Kihei Road. They are in the process of doing that study. And in the mean time, the Department of Public Works, in relationship to their comments on the Draft EA also asked for a revised Traffic Impact Study with new traffic counts. And earlier this year, AT&T went back out, into South Maui, and they've done the traffic count. They are in the process of finalizing the analysis of the traffic impact analysis report, as well as, you know, what is the appropriate mitigation measures for this project. And for your information, on page 64 to 66 of the Draft, the Final Draft EA, we have responded in the Draft EA stating that the ATA, as the traffic consultant, will be going out, doing the traffic study, and doing the synchronization study as well as submitting the revised traffic report back to the Department. We have discussed this measure with the Planning

Department with the understanding that prior to rescheduling this application before the Commission for the Land Use Amendments, as well as the SMA Permit, the traffic analysis will be circulated back to the agency which is the Department of Transportation and the Department of Public Works to review the traffic report and recommendations and come back with revised comments to the Commission. And we understand that this will delay any type of review by the Commission until both agency comments have been adequately addressed by the applicant. So that's on page 64 to 66 of the Draft EA.

In terms of the comment #7 of the Commission, they had asked about, you know, what was their recorded arrangements for the maintenance of the two wetlands, enhanced wetlands. And what we did in our response letter, we've attached exhibit A and exhibit B which was attached to the two properties in which parcel 80, the previous owner which is the Long's Drugs shopping center, in their document, they are responsible for the maintenance of the wetlands on parcel 30. And in terms of parcel 80, that is a joint responsibility. The mitigation plan that was developed by the Corp of Engineers for that wetland on parcel 80 was attached to the property, not only to parcel 70, 76, but also on the nearby Azeka Shopping Center property. So it's a joint requirement that the maintenance of that wetland is basically the responsibility of both property owners.

In terms of your comment #8 about what is required to maintain a healthy wetland for, you know, within a project? And you also questioned about, you know, the Ae'o, or Hawaiian stilt, what was necessary. And what we did was we did research with the Corp of Engineers as to what constitute a healthy wetland as well as with the recovery plan for Hawaiian water birds. What is the preferred habitat for the Hawaiian stilt. And that information is located on page 38 of the Final Draft EA in which we've included the information as to what constitutes a healthy wetland. And basically based upon information we received from the North Carolina State AT&T, State university, a healthy wetland requires the remove – removed sediments and growth solids from the four bays which is within the water areas. Keep the orifice, the draw down hole, free flowing. In other words, if there's an outlet for the wetland water to keep that clean. Clean away any floating trash and debris. Remove vegetation along the dam face. In this case it would be the area around the exterior which contains the waters of the wetlands. Mow the perimeter of wet ponds in terms of if there's grass vegetation around the wetland, then you should mow the wet grass around it as well as control any pets. And in the case of these enhanced wetlands, what they've done is that it's fenced off, and the fencing on the wetlands are to keep other, I guess, invasive animals like cats and dogs. Especially cats that could be attacking the water birds that are in the wetlands. So that is already done as part of their first creation of the enhanced wetlands.

And in terms of the Ae'o, we found out that the ideal, ideal height of water that, you know, you folks had asked about the wetlands is that based upon the information we got from the recovery plan for Hawaiian birds, it's generally a depth of less than nine inches and spars low line vegetation. In other words, the Ae'o likes low line vegetation, not tall grasses. And in response, that's our response to all of the comments that the Commission had made at the October 2012 meeting. And we do have our consultants and we're open to any questions that the Commission may have.

Mr. Hiranaga: Thank you. At this time 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. Ann, did you explain what we are doing here today?

Ms. Cua: No. I did not.

Mr. Hiranaga: Maybe you could.

Ms. Cua: We're basically here to review the Draft Final, the Final EA, in a draft form, and there's alternatives which I've, you know, I was going to be getting to. You can either accept it as it is, and find that there is no significant impact. You can defer if you need any more information. Or you can determine that they need to prepare an EIS. That's basically your options.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: Just a clarification Ms. Suyama. On #7, you referred to exhibit A, where is exhibit A?

Ms. Suyama: It's in the back of the letter. If you look after the letter, there's exhibit A, on page 90. That's our response. And if you look on behind that letter, after that response letter, we have exhibit A is the next, and that is the – that is the maintenance agreement that was attached to parcel 30.

Ms. Wakida: Thank you.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: On #2, your response to the Hawaiian sense of place was architecture vernacular of Maui Island was used to developed architectural guidelines. Can you give a specific example of how this vernacular translates into buildings?

Ms. Suyama: One of the things is that if it was in the EA, when you look at the elevation drawings, it's one of those things that you start breaking up the buildings into smaller segments even if it's a large building that you don't have just one large store front. And you have different store fronts that are represented in the, in the drawings. In other words, it may be a large building, but then you would have small individual store fronts as part of it. You would use things like canopies, cornices, parapets as part of your building design.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: I apologize. I wasn't at the draft meeting and so if you've gone over some of these I want to apologize in advance. Obviously you're not ready to do floor plans and such, but in general your two-story buildings, how are you anticipating people access the second floor? In other words, will they – will there be – will they be going up stairs and down the central corridor? Will the –? Are you anticipating a walkway around the edge of the building?

Ms. Suyama: As the develop the plans, it depends on the tenants that are coming in. Because if a tenant wants a two-story space, then they would build that into where they would have their own internal access. But if they were individual tenants on the upper floor, as well as individual tenants on the lower floor, then they will build like an exterior stair that would connect to the upper floors. So it all depends on the tenant mix and the tenant needs.

Ms. Wakida: Okay because I don't know, except Wailea, a lot of two-story in the mall, shopping areas, I know it hasn't been real successful in Lahaina. And I'm sure your planners are – have looked these things over. Maybe one of your –

Ms. Suyama: Maybe . . . (Inaudible) . . .

Ms. Wakida: Yeah.

Mr. Jay Krigsman: Good afternoon, my name is Jay Krigsman. I work with the Krausz Companies, the applicant. I oversee all our leasing and management of our properties. And to properly to answer your question, the goal is to, in most cases, have the second story spaces access from inside the space of, the space on the ground floor. By way of example, the idea would be – because we're trying to create as Colleen mentioned earlier a sense of place with multi store fronts throughout the building – the goal would be not to have one large tenant like a large restaurant occupy all of the, the frontage of the first floor space because it takes away from that, that village feel. And so you could have, like, sometimes you see, in Honolulu, at the Honolulu beach walk where possibly a restaurant would have a patio area and an entry on the ground floor. And then inside of their space there would circulation that takes them up to the second floor, and then the second floor dining area would look out over the, the village square, and the streets. And so the circulation would be from inside. We agree with your statement that second floor retail where the entrance to the space for the tenant especially if it's a retail tenant that's accessing the second floor usually does not work. It's a problem. And so the goal would be on the second floor to either have internal circulation from – in the case of a restaurant, from the ground floor up. Or, in some cases, the plan is to provide, since we are developing a downtown village type of a concept, to provide some second floor office space for services that would be part of what you see in a downtown, like an insurance agent, or a small lawyer, or medical use of some kind, a doctor, a dentist. And in that case, you would have a small lobby entrance into the building that would come off the first floor, off the, off the village, the sidewalk area, and you'd go into a small lobby with an elevator and a stairway that would take you up to the second floor where you can access the small office space. That would then, the, the insurance agent or the doctor would have his office looking out over the village square, over the village itself. So you will not have any boutiques or anything like that that are accessed, or that are solely on the second floor.

Ms. Wakida: Thank you. Thank you. I appreciate that.

Mr. Hiranaga: Commissioner Tsai?

Mr. Tsai: I've had two businesses in the immediate vicinity where you guys are gonna propose this. I think it's a great idea. I've had, of course, the Maui Powerhouse Gym at the Azeka Shopping Center and also at the Kihei Professional Plaza which is right in the corner of Lipoa and South Kihei Road so I'm very familiar with the whole area, and this is why I'm bringing this forward regarding # – sorry about that – #4 item. My question to you is it says here that you're gonna have private security measures to enhance safety. I don't know if you guys know this, there's a huge homeless population in that area. They get fed at the – they get fed at the church right there next to Star Market and they actually trans – move around quite a bit between Azeka Shopping Center, Long's and then the Safeway Shopping Center, so, I mean, you guys have a nice mall here, or center, I want to make sure you guys are taking precautionary measure to deal with that.

Mr. Krigsman: Yes, thank you. Again, Jay Krigsman with the Krausz Companies. And an entity, a related entity of ours actually owns the Safeway Shopping Center, the Piilani Village Shopping Center, and so we're aware of the issues in the community. We do have a private security currently at Piilani Village on a regular basis that makes their rounds. As part of that security contract currently the security company also patrols the, the current vacant land that's the subject of this hearing. Unfortunately that's where some of these, these people you're talking about, tend to, to camp out, and we try to do it in as a politically correct and compassionate way as possible, but we try to keep them off the property because it does, it does create issues in the community. So we do have a private security contract. We also have a local, on island management, and local onsite maintenance on a regular basis. So in addition to the security guard, or security guards, who make their rounds, we have onsite maintenance personnel, and local property management who are constantly at the property doing their best to discourage any undesirable people from being at the property. And I do appreciate your concern.

Mr. Tsai: And as a follow up to the next item there, I guess, #6 regarding traffic, which I know the area really well, both South Kihei Road, Lipoa, and Wakea. Is that Wakea? Piikea. Sorry. It's horrific when it's, you know, you don't even have to wait till winter time or winter break, it's, you know, traffic trying to get on to –

Mr. Krigsman: We have our traffic consultant here who can address any questions you've got, but we are aware of the, the situation and of your comments in the past, and we are in the process of performing another detailed, another study at your request to solve your concerns.

Mr. Hiranaga: Commissioner Ball?

Mr. Ball: That was my question. If we could hear from the traffic consultant.

Mr. Krigsman: Traffic consultant is here.

Mr. Keith Niiya: Good afternoon. Keith Niiya with Austin Tsutsumi and Associates. Yes, we are aware of the conditions along South Kihei Road, as well as up on Piilani Highway, and also on Piikea and Lipoa. So we know that there are, currently there are congestion on the roadway surrounding the area.

Mr. Ball: Is any plans to mitigate?

Mr. Niiya: Well, as part of our traffic study we have to go in and mitigate, you know, the congestion on those areas. So we'll be coming up with recommended mitigation measures as we go through. We just recently completed, you know, going out and taking all the intersections again, and re-counted it, and so we're going through that process now and trying to analyze and see where we have to put in the improvement, the recommended improvement.

Mr. Hiranaga: Commissioner Ball?

Mr. Ball: Maybe Public Works can give some insight if they have any into that section.

Ms. Rowena Dagdag-Andaya: We did – our Engineering Division did review the Traffic Impact Analysis Report and had a number of comments and questions for the applicant and their consultant. So right now we're kind of working with them on some mitigation measures. We will be – like Keith had mentioned earlier, they just completed their study, so they're going to be revising their counts because we did ask for some updated traffic data. And then they'll be providing with us – providing us with another report or an updated report. At that time, we'll review it again, and I think it will be in time for the SMA application. And, so, it will be a continuous discussion with the applicant and their consultant on some of the mitigation measures that they recommend, based on the traffic data that they updated.

Mr. Hiranaga: Could you put that slide back up, I believe was the, kind of an aerial overview of the project site? Is that round-about, is that proposed, or is that in place?

Ms. Suyama: Colleen Suyama. The round-about is there. It was built, so it's in operation already.

Mr. Hiranaga: Okay. Yeah. Yeah, actually I drove it last week. I'm not a real fan of round-about. It's okay if there aren't a whole lot of cars. But if there's a lot of cars, sometimes you get trapped inside, you can't get out. So I'd like the traffic consultant to take a look at the capacity of that round-about and seeing what type of measures may have to be taken with the additional traffic that your proposed project is going to generate if that round-about will still be operable.

Mr. Niiya: Keith Niiya again with Austin Tsutsumi and Associates. Yes, we – as part of our study one of the intersections that we're studying is this round-about. We, we actually did the counts. The initial counts was before the round-about came in so we have gone back out and we counted it again and completed it, and we're gonna analyze to see what the project, with and without the project, what's gonna happen at the round-about.

Mr. Hiranaga: Good. Deputy Director of Public Works?

Ms. Dagdag-Andaya: No, I just wanted to add that was also a part of our comments as well, is for them to analyze the round-about.

Mr. Hiranaga: Commissioner Tsai?

Mr. Tsai: I remember correctly that the previous version you guys actually had a parking structure, and that looks like its been removed with on grade parking at this solar panels, I guess. Is that your reason for it?

Mr. David Pyle: David Pyle with the Krausz Companies. Can you please state your question?

Mr. Tsai: Yeah, if I remember correctly, the preliminary design EA had a parking structure. That you were going to have a multi-level parking. Currently now it's on the southern portion, I guess the P1 area if I remember correctly, next to the wetlands.

Mr. Pyle: Yes, that's correct, but it's, it's a parking structure, working with the grade of the land, that the top level of the parking structure is, is on grade with the rest of the site, so you just drive right on to the top. And then the lower level is down by the wetlands. And then there's – and you can

see them. There's one, two, three, four shade structures there with, with, we're intending on putting some PV on it.

Mr. Tsai: So you're still retaining the parking structure which is below grade.

Mr. Pyle: Yeah.

Mr. Tsai: Okay.

Mr. Pyle: Yeah. It's, it's difficult to explain, but the top, the top level of the parking structure is on the same grade as the rest of the center.

Mr. Tsai: I got it. Thank you.

Mr. Hiranaga: Any other questions commissioners? Seeing none, I guess we're ready for the question.

Ms. Cua: Would you like the recommendation? The Department is recommending that Commission accepts the Final EA and issue a Finding of No Significant Impact.

Mr. Hiranaga: The floor is open to a motion. Commissioner Tsai?

Mr. Tsai: Move to accept the Final EA as presented.

Mr. Lay: Second.

Mr. Hiranaga: Moved by Commissioner Lay, Commissioner Tsai, seconded by Commissioner Lay. Discussion? Commissioner Wakida?

Ms. Wakida: In my understanding is that there's a traffic report yet to come.

Ms. Cua: An update. There is already one. There is an update, and as Colleen mentioned, and we discussed this well in advance of coming here, when that update to the traffic report is done, we're gonna transmit it out for agency comments before coming back to you with the SMA Permit. And I had to clarify that because when I read that I thought are you sure because, you know, it's gonna take some, some time. And they, they – she told me, yes. They stated it today. And so we will have comments from Public Works, we will have comments from DOT, on the updates that they're gonna make to the study which includes comments that you raised, and also comments raised by Public Works.

Ms. Wakida: But if we approve this Final EA, we're essentially approving. I mean, it comes with a traffic study and we're saying yes this is approved.

Ms. Cua: This is a disclosure document basically. And, you know, what you're saying is that you're finding there's not gonna be significant impacts based on what you've seen thus far. It doesn't say that there can't be impacts that they're gonna further address that can mitigate the project further that you can condition as part of your approval of the SMA Permit. And actually if I could just clarify

further, not only coming to you as the SMA Permit, but as the Land Use entitlements. And what will happen when we get to that point is we're gonna hold one public hearing on the Community Plan Amendment Change in Zoning and SMA Permit, but you'll be making a recommendation to the County Council on the Land Use entitlements which is the Community Plan Amendment and the Change in Zoning, and then you'll be deferring action on the SMA Permit because you're not going to be able to act on that until the property is zoned. So when it's zoned by the Council, then we'll come back, we won't have to redo the whole public hearing, we'll just come back as a communication item or an old business item I believe to take action on the SMA Permit.

Ms. Wakida: Well, I don't want to be the dead horse here, but maybe I'm parsing but we find that – Finding of No Significant Impact and yet there are still traffic impacts. Run that by me one more time.

Ms. Cua: Well, you know, I went through the options, you know, that, that you have. You know, one option, if you feel you don't have enough information, you could always defer. However there is traffic study that's been prepared. As a result of the 30-day comment period – and one of the comments is your comments – you had some comments that you wanted them to address, so did Public Works. And so in the process of addressing that, they're going to be preparing an additional, or an update, to the traffic report. And, you know, that's something we'll be looking at when we come to you at your next meeting. Unless you decide you need to have that as part of this document, then, I mean, that's your choice.

Mr. Hiranaga: Any more discussion? Seeing none, we'll have the Director restate the motion.

Mr. Spence: The motion is to accept this as the Final EA and issue a Finding of No Significant Impact.

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

Mr. Spence: That's five ayes.

Mr. Hiranaga: Motion carries.

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

**VOTED: To Accept the Final Environmental Assessment (FEA) as a Findings of No Significant Impact (FONSI).
(Assenting - M. Tsai, I. Lay, D. Domingo, K. Ball, P. Wakida)
(Excused - J. Freitas, W. Hedani, W. Shibuya)**

Ms. Cua: Thank you commissioners.

Mr. Hiranaga: Moving on to –

Ms. Suyama: Thank you commissioners.

G. NEXT REGULAR MEETING DATE: MARCH 25, 2013 (Monday)

Mr. Hiranaga: You're welcome. Item G, next regular meeting is March 25th, 2013. Please note that that is a Monday. That is a Monday because Tuesday is a holiday for some of us.

Ms. Wakida: What holiday is Tuesday?

Mr. Hiranaga: I think it's Prince Kuhio Day.

Ms. Wakida: Really?

H. ADJOURNMENT

Mr. Hiranaga: It's a holiday for some of us. And if there's no objection, this meeting is adjourned.

The meeting was adjourned at 2:05 p.m.

Respectively submitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions II

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

RECORD OF ATTENDANCE

Present

Keone Ball
Donna Domingo
Kent Hiranaga, Chairperson
Ivan Lay, Vice-Chair
Max Tsai
Penny Wakida

Excused

Jack Freitas
Wayne Hedani
Warren Shibuya

Others

William Spence, Director, Planning Department (9:00 a.m. to 9:20 a.m., 10:46 a.m. to 11:46 a.m., 1:28 p.m. to 2:05 p.m.)
Michele McLean, Deputy Director, Planning Department (9:20 a.m. to 10:46 a.m., 1:10 p.m. to 1:28 p.m.)
Paul Fasi, Staff Planner
Kurt Wollenhaupt, Staff Planner
Joe Prutch, Staff Planner
Anna Benesovska, Staff Planner
Ann Cua, Staff Planner
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Department of Public Works