

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
JULY 23, 2013**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Ivan Lay at approximately 9:01 a.m., Tuesday, July 23, 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.)

Chairperson Lay: Public testimony will be taken at this time for those of you who won't be able to testify when the agenda item comes up. If you do testify, you won't be able to testify when the agenda item comes up unless you have something new to tell us. There will be three minutes on all testifiers. When you come up to the stand identify yourself. Please be advised that all applications for the community plan amendments, state district boundary reclassification, change in zoning and conditional permit require the approval of the Maui County Council. In order to be notified on future agendas of the Maui County Council, please notify the Office of Council Services or my mail. Meeting is now called to order. Our first agenda item, oh, public, excuse me. Does anyone wish to testify at this time? We have a number of testifiers, does anyone wish to? Okay, come up to the mic and testify and identify yourself. Let us know what agenda item you'll be speaking on.

The following individuals testified at the beginning of the meeting:

James Andrew Beerer - Item B-1, Council Resolution No. 13-34, CPA and CIZ  
Fatima Cameron - Item B-3, Sarah Lloyd, SUP2  
Richard Cameron - Item B-3, Sarah Lloyd, SUP2  
Eve Harrison - Item B-3, Sarah Lloyd, SUP 2  
Mark Hyde - Item B-1, Council Resolution No. 13-34, CPA and CIZ  
Laura Marzke - Item B-1, Council Resolution No. 13-34, CPA and CIZ

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

Chairperson Lay: Does anyone else wish to testify at this time? Seeing none, we're closing the public testimony and moving onto our first agenda item.

Mr. Spence: Good morning, Commissioners. Item B-1 on your agenda is the resolution from the County Council to amend the Kihei-Makena Community Plan and change of zoning for the Kihei High School. It's been the subject of testimony already this morning and many meetings with the Land Use Commission. Now it's the County's turn. So this has a public hearing before this Commission and our Staff Planner this morning is Mr. Jeffrey Dack.

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

1. **MR. WILLIAM SPENCE, Planning Director referring to the Maui Planning Commission Council Resolution No. 13-34 containing proposed Bills Amending the Community Plan designation and enacting a Change in Zoning to facilitate the building of the proposed Kihei High School for the STATE DEPARTMENT OF EDUCATION (J. Dack). The bills referred in the resolution are:**
  - a. **A Bill for an Ordinance to Amend the Kihei-Makena Community Plan land use designation of approximately 29.175 acres from Agriculture to Public/Quasi-Public for property situated at TMK: 2-2-002: 081, Kihei, Island of Maui. (CPA 2013/0002)**
  - b. **A Bill for an Ordinance to Change Zoning of approximately 77.2 acres for Agricultural District to P-1 Public/Quasi-Public District for property situated at TMK: 2-2-002: 081 and 083, Kihei, Island of Maui. (CIZ 2013/0004)**

Mr. Jeffrey Dack: Yes, good morning. As indicated in your agenda item, the proposal by the resolution of the County Council is to amend the Community Plan to change approximately 29.175 acres, TMK: 2-2-002: 081 from Agricultural land use to Public/Quasi-Public and to the change the zoning for the entire site, entire 72.2-acre site, from the Agricultural District to the P-1, Public/Quasi-Public District.

The State of Hawaii, Department of Education proposes to develop a high school, of course, as we've heard on 77.2-acre area of undeveloped land mauka of Piilani Highway in Kihei between Kulanihakoi and Waipuilani Gulches. Representatives and consultants for the Department of Education will present the project in a few minutes. Their land use designations for the site currently are Agricultural from State Land Use, Maui Island Plan it is within the Urban Growth Boundary, and the Kihei-Makena Community Plan, there actually is a portion of it that is currently Quasi-Public for about 48 acres and the rest is Agricultural which needs the zoning, and as we mentioned County zoning is Agriculture.

To the north of the site is Kulanihakoi Gulch and vacant land proposed for development, to the east is vacant grazing land, to the south is Waipuilani Gulch, a golf course, and vacant grazing land, and then to the west, is Piilani Highway and single-family residences makai of the highway. Topography over the majority of the site is composed of gently sloping smooth terrain, and with occasional weathered basalt outcrops. It generally slopes downward to the west and southwest with an average slope of approximately 11 percent. Onsite ground elevations range from approximately 40 feet Average Mean Sea Level and the southwest to elevation of approximately 110 feet at the northwest boundary. Soils of the site are classified as Waikoa extremely stony, silty loam and Alae sandy loam by the US Department of Agriculture Natural Resources Conservation Service.

This project has had an important history before it has come to the Commission. As indicated in your report, in December of 2011, Department of Education submitted a petition to the State Land Use Commission to amend the boundaries of the state land use district from the State Ag to Urban. Since the property is over 15 acres that falls within the purview of the State Land Use Commission and outside of the purview of the County of Maui.

In February of 2012, your commissioners, your Commission reviewed and commented on a Draft Environmental Impact Statement prepared by consultants for the Department of Education. In September of 2012, a Final Environmental Impact Statement was made available including a letter in response to your particular comments that are found in an exhibit to the report.

Relative to the State Land Use Commission process in March of this year, the Planning Director sent a written Position Statement to the department, I'm sorry, to the Land Use Commission supporting the petition for the Land Use District Boundary Amendment with conditions.

On May 16<sup>th</sup>, we followed up with a long written testimony from the Planning Department to the Commission.

On June 13<sup>th</sup> and 14<sup>th</sup>, there were hearings held before the Land Use Commission in Maui. And at that time, the Commission took testimony from a number of expert witnesses for the Petitioner, Office of Planning and County. Then they came back on June 27<sup>th</sup> a couple weeks later and they voted to approve the Petitioner's request for amendment to the district boundaries.

Based upon a series of findings of fact, conclusion of law, decision and order and a series of conditions which had been negotiated between the State, the County, and the Petitioner, principal negotiation between the State and the Department of Education. I should say the State Office of Planning and the Department of Education because they're both entities of the State but they serve one in this case, obviously Department of Education is the project proponent and so, kinda acting as the planning arm, so to speak for the State, is the Office of Planning. So the negotiations were principally between those two parties with the State Office of Planning representing the entire State, all the other departments including particularly Department of Transportation where the most significant negotiations were held, and a long document was arrived at, and then the Commission when they adopt...they approve the Petition, they made one very significant amendment and that was to require that above or below ground pedestrian access crossing Piilani Highway be constructed prior to opening of the school's Phase 1.

So April 12<sup>th</sup>, the Planning Director received from the County Council their resolution which is attached to your report initiating the subject community plan amendment and change in zoning. The report lists applicable reference, applicable regulations to the project, and references agency review comments. As you know, the report is very long. I don't plan to go through...(inaudible)...detail, just very briefly summarizing as I'm doing here now and after a presentation by the Department of Education, I'll need to get back up and again, briefly go through the Department's analysis. But first, I'd like to introduce Christine Ruotola, who is a Planner for the Department of Education team. There's a whole series of consultants and/or and also I guess, representatives from the Department of Education here today. So I'd like to ask them to be able to make their presentation and then I'll return with as briefly as I can, the Department's analysis so you can get onto your hearing. Thank you.

Ms. Christine Ruotola: Thank you. I'm Christine Ruotola. I'm a Planner with Group 70, and with me here today are Nick Nichols, and Nick and I will do the presentation together with Department of Education, Facilities Development Branch. Bob Purdie also with that branch of the DOE. Our Traffic Engineer, Kathy Leong from Wilson Okamoto Corporation, and the Civil Engineer for the project Sheryl Nojima from Gray Hong Nojima. Also, here from DOE is Kevin Drake the Central6

Maui Business. So I will go through our presentation. I'll skip some of the things where Jeff and I overlap. Our purpose today is to give you an overview and status, but also to request your support and recommendation to the County Council for the approval of the change in zoning and the community plan amendment.

As you know, this is the location of the project that we're talking about. Many...about 700 students regularly go to Central Maui from Kihei for high school, mostly at Maui High School. Site selection, choosing this site was completed in 2008, as it's been mentioned and as you all know this has been going on for years and years. This is the project location and in this you can see the gulches, Waipuilani to the south and Kulanihako'i to the north, and that little bit of land between the project site and the gulch to the north. The site was acquired by the State in 2012. It was subdivided and actually we just got approval last week for the consolidation into one parcel of that site. I'm gonna let, ask Nick to walk through the concept for the site and the delivery of it and then I'll come back with further on the land use permitting.

Mr. Nick Nichols: Yes, my name is Nick Nichols. I'm with the Department of Education, Facilities Development Branch and I'll walk you through the next few slides. Here you see...well, originally when we started this project it was at that time gonna be a design bid build so we did actually do some charrettes with the community, the stakeholders. They came up with this conceptual plan and now we are gonna do it per design build procurement. So this might now be the exact plan that ultimately is built but many of the features and the relationships would be here. So anyway, let me just walk you through this particular one. Up on the upper portion of the campus is basically the say, academic mall kind of thing.

Chairperson Lay: Please take the mic with you.

Mr. Nichols: Basically in the first phase we hope to accommodate 800 students and we are doing that per what we call houses or neighborhoods and so we would have four of those ultimately to meet our 1,650 ultimate design enrollment. So the houses, basically they're...they could be like two-story. They have both some general classroom settings and instructional settings and also they have "x" amount of the speciality rooms and then we also have an elective wing that would have some of the larger specialty rooms, for example, media tech and whatever. In this upper portion would also be the administration, the cafeteria, the library and media center and then ultimately on this particular scheme there were four, four houses to be built out. Then in sort of the mid portion of the campus are the P.E. and the athletic components, gymnasium, the music buildings, P.E. buildings, ROTC components, and as you see a stadium and then below that are the additional baseball, softball practice fields, the athletic locker showers, and P.E. locker showers either side of this and then a grassed play field and future pool site. Like I said, this is just a conceptual. This is not what might be built by the winning team. This had some concerns if we were to develop this particular one our consultants estimated that about...there would be about 65 million in site costs. So one of the advantages of going to design build is hopefully the winning team will maybe be able to come up with a design that would minimize that cost so we could put more of that money into the actual buildings and facilities themselves.

So in terms of layout you can see the site plan, the academic facilities, athletic and supporting. The project would also include infrastructure, roadways and circulation. In terms of the potable water we would be using obviously that only for the drinking water kinds of things. We would be

implementing low volume fixtures throughout. We have a real commitment to being sustainable so we're gonna try to minimize that. In terms of the nonpotable, right now we're planning to drill two, onsite irrigation wells. We would be, you know, we'll continue to discuss if the R-1 water from the County is accessible to our site at the time of actual construction and hopefully, we would be, you know, open to discussions of utilizing that. The drainage runoff will be diverted from the school property and onsite drainage will probably be a lower detention basin to the left of that and we will try to obviously meet all the Code requirements for handling our drainage.

In terms of Phase 1, the target opening is 2018, that's pending the release of the funding. This past session we were able to get funding of a 130 million. And that is scheduled to come out the second year of biennium. So it would be available to us in July of 2014, and then the DOE will request the release of that funding probably early in 2015, January or February of that. Once the funding is secure, we can start the design build process in terms of the RFQ and a good portion of the RFP development and let's see, okay, what it will include though in the Phase 1 would be 800 students and we estimate about a 120 staff. Like I said, the first phase would include two houses which accommodate the 800 students. It will also have the administration and the student center included the library media center, the cafeteria, and elective buildings and selected athletic facilities. It will also include onsite and offsite infrastructure improvements including Piilani Highway improvements, intersection signalization, grading, drainage, and utilities.

And then the Phase 2, we would develop that as the enrollment warrants. The ultimate capacity of the school would be 1,650 and at that time the staff needs would increase to about 180 staff. Phase 2 would include the two remaining buildings, the houses or neighborhoods, some additional elective buildings and the balance of the athletic facilities.

Like I said earlier, the Legislature approved a 130 million in the Fiscal Year 2014-15. Anticipated schedule subject to the release, funding release and the conditions of approvals. So in 2013, the EIS and the land use permits were completed. 2013 and 14, we are now starting to prep the design build draft which would include the RFQ and RFP. July of 2014, assuming it goes well, next session the funding will be available and DOE will request its release in early 2015. From 2014 to 2015 the DOE will be issuing the RFQ, from that will short list design build teams, we would issue then...we would narrow that down typically we just, we just did Kapolei II which is a new elementary that we're building on Oahu through the design build method. We initially got ...(inaudible)... response, we narrowed it to five, we interviewed those five teams, we narrowed it down to the three final teams that go into the RFP, we're now in the process, they're moving through, there are a few processed, and then ultimately you select one of those and that's who is awarded. So from then, August 2015 to 2018, the winning team would finish. In the RFP process we would choose them based on their conceptual plans and then they'll take those conceptual plans and they'll actually complete the design, do all the building permitting and then start the construction of the school. And so the school would be ready to open in this case, in 2018, in the fall. And at this point, Christine will take over.

Ms. Ruotola: So as has been mentioned, these are the steps that are required from land use and environmental permitting. We've gone through the EIS process, the State Land Use District Boundary Amendment that was mentioned. The Land Use Commission approved the District Boundary Amendment in June. I believe they'll be meeting on this Friday to approve the final wording so when we see that, we know what the final wording will be, and so now we're here with the Change in Zoning and Community Plan Amendment request.

To go to the Land Use District Boundary Amendment and has been mentioned here before, but what I'd like to do is just go through some of the conditions that were placed on that District Boundary Amendment at that level. There were 26 conditions overall including conditions that were inputted by the County. So I'll go through kinda the highlights and these are my language so I'll give that caveat. As Jeff had mentioned, the requirement for a pedestrian overpass or underpass across Piilani Highway to be constructed prior to opening of Phase 1 was added by the Land Use Commission.

The conditions that had been agreed by OP and DOE and the County included several highway and road improvements. The County or the DOT has asked us to revise our TIAR. There's some discussion about rates that were used. They've also asked, within that is a traffic signal warrant study and so Andrew alluded to it. The plan has always been to have a signalized intersection at Piilani Highway and the school. Within the TIAR there's a traffic signal warrant study that also concluded that that was warranted. The DOT is asking us to relook at that, so I think they have some question of whether or not there should be a signalized intersection there. We strongly would like one for safety of cars and convenience and of pedestrians as well, but with that, we are required to go revise pedestrian route studies and the future updates are there...there's requirements after one-year of operation and prior to Phase 2 and that sort of thing. And then DOE is to complete the improvements that are in the approved, DOT approved TIAR.

Drainage improvements to prevent increased storm water runoff. And then there's a number of ones, you know, allowing space for a Civil Defense siren, doing the archaeological monitoring plan with SHPD, down shielding lights, air quality monitoring, and some of them are kinda more standard conditions that typically come with approvals. So that's the snapshot of the conditions that are...were placed on the boundary amendment.

These were the County conditions that were part of the Land Use Commission ruling and I think you'll see them again here today. So pedestrian and bicycle access to and from the school to the community, pedestrian and bicycle networks. Bicycle improvements on the campus. And then an area for public transit. Overflow parking and lighting and that's been mentioned here to accommodate special events. And the crime prevention through environmental design. So this is security, your visual access that sort of thing that we'll be working with the County to do. And then as well, a landscape buffer. So we're gonna have to balance some of those, work with the County to balance, you know, visual access to things and landscape buffers, and so we look forward to going ahead and doing that.

So we are asking for your support as we've heard today. It's a long-standing community goal. The Land Use Commission has supported it as being the...the classification is being consistent with the Urban District so they voted for the reclassification. It's consistent with the County's plans, the Policy Plan, the Island Plan, and the Kihei-Makena Community Plan, and it, of course, supported by the Planning Department. Go quickly through these. This is the Island Plan as you know, approved last year, late last year and the project site well within the Directed Growth Map in Kihei. On the Public Facilities Map, there's the actual proposed high school is designated. In the long standing Kihei-Makena Community Plan, you know, the Objectives and Policies and the Implementing Actions, you know, support the provision of a high school when warranted and I think we all agree that it's warranted. Zoning is Ag right now, so we're looking for the Public/Quasi-Public

designation. This is the Community Plan Map where as you see two-thirds parcel is Public/Quasi-Public and then the other about a third is Ag. So it's that portion that we're looking for the amendment. This is our request. Nick and I and the appropriate folks will answer whatever questions you may have. Thank you.

Chairperson Lay: Planning Director?

Mr. Spence: Yes, Commissioners, I would just like to recognize, Senator Roz Baker in the audience this morning. She's been a big advocate, a major support for this project in funding and just the whole legislative process for this.

Chairperson Lay: Commissioners, before we go to questions for our applicant, we're gonna open up to public testimony in case any concerns are brought up and we're better able to ask questions about it.

**a) Public Hearing**

Chairperson Lay: Does anyone wish to testify at this time? Step to the mic and let us know who you are and you have three minutes for your testimony.

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

Mr. James Andrew Beerer: My name is James Andrew Beerer. I will be testifying--

Chairperson Lay: One second. You can do it either now or when the agenda item comes up, it's up to you.

Mr. Beerer: I would prefer to do it now because of the scheduling purposes. Thank you.

Chairperson Lay: Okay, go ahead. Excuse me.

Mr. Beerer: My name is James Andrew Beerer. I will be testifying on the Kihei High School. I would like to thank you for allowing public testimony today and would like to thank the Department of Education who has brought their representatives to present this project. I will be testifying as an individual today, and as Chair of the Kihei High School Action Team. I also serve as a board member for the Kihei Community Association, but as mentioned, I will be testifying as an individual and as Chair of the Kihei High School Action Team.

This is a project that has long been in the best wishes of the South Maui community, and literally a project that our community and myself and all the parents of students in our community are crying out for. And we have worked diligently over the last decade or more to make this happen. And that couldn't have happened without a huge amount of cooperation and kokua from the Department of Education, the Board of Education, specifically Wesley Lo, our State Senator, Rosalyn Baker and our Representatives as well as the community. And so we're just so fortunate to be here today and this is actually a dream come true and you may think that's kinda silly at one these meetings but it literally is a dream to be here. I got some time lines from Nick Nichols probably seven years ago, and this is one of the milestone marker meetings we have to go through. One of many, many

milestone marker meetings we have to go through. So just to be here and know that we are making great progress is huge for us. And the fact that we were able to get \$130 million in funding from Governor Abercrombie this year is amazing and it is our responsibility to see that money through to the construction and fruition of this high school so we can see students in South Maui graduating from this high school. That is our ultimate mission and goal. So we certainly endorse the rezoning and endorse a amendment to the community plan.

I think one issue you'll hear brought up is the access to the high school, and we certainly support the best possible pedestrian and bicycle access to the high school on the mauka side of the road and the State is making amends to get the students there otherwise from the makai side of the road. So I think on a County level it's really how do we keep them moving on the mauka side of the road and I think that a separated pedestrian bike path separated from the high school but just mauka of the Piilani Highway is the best possible suggestion and it needs to be continuous, most importantly continuous with the other properties in that area which is the ...(inaudible)...Eclipse retail property to the north and the Maui Research and Technology property to the south. So likewise when you're meeting with them if you could keep that in mind to have one continuous pedestrian corridor along the highway.

Chairperson Lay: Please conclude your testimony.

Mr. Beerer: Thank you very much. That is, that will conclude my testimony.

Chairperson Lay: Commissioners, you have any questions for our testifier?

Mr. Ball: I have a question.

Chairperson Lay: Commissioner Ball?

Mr. Ball: Thanks for coming James. In your discussions with your groups that you represent today, the crossing over Piilani was a concern of mine too where they either had to go a bridge over or a tunnel under because dumping all those students onto the highway, they're all gonna be there at one time. Later on there'll be football games there and they're not gonna have the capacity to store everybody's car on site. There's gonna have to be people parking in the neighborhood across the street, and they're gonna be crossing the street and now it's gonna be dark. So was there any further discussion in your groups on solutions other than a tunnel or stop light like they're gonna propose in this?

Mr. Beerer: Yes, there's been lots of discussion and lots of meetings regarding that and also meetings with the other developers in the area. I've actually coordinated meetings with all of those major players that were fore mentioned. In discussion, we certainly, I think that, you know, if nothing else absolutely a stop light is mandatory and that was originally kind of the view of the, of the Department of Education if I'm not mistaken. And there would be, there's certain, you know things that can be done to that intersection to make it as safe as possible. And then when we looked at what the alternatives were whether you have a catwalk over or an underpass, meeting with experts and consultants, from what we found and from Dan Burden of his, you know, walkable communities group they really suggested an underpass and we were working with Calthorpe and Associates with...that is doing the design plan for the Maui Research and Technology Park and they

were actually were able to come up with a plan and do some schematics for an underpass under Waipuilani Gulch. There's two major gulches. You have the Kulanihakoi Gulch and the Waipuilani. The Waipuilani was favored because it has a wider access and it doesn't carry the volumes of water during those major floods that Kulanihakoi does. So they thought that Waipuilani was the best possible alternative and that it does have a enough room to do a nice underpass and Calthorpe and Associates, major urban planners were able to present some schematics through Pacific Rim Land who's developing the R&T Park to show us how to incorporate a nice underpass there, incorporated into bike paths on the mauka side that with would go up not only to the R&T Park but also over to the high school, and then it would continue on south of the or the makai of the highway and connect to the north-south collector road and what the County can do to really help move this forward and make a great walkable community is start to, you know, kinda finish the north/south collector, just a path in that area. I know the road is dependent on Federal funds and other things, but to finish a walkable path, that would connect that whole community there on a pedestrian level and really cut down on the amount of traffic to the high school.

Mr. Ball: Did they have a cost estimate on that?

Mr. Beerer: I have not see cost estimates on that.

Mr. Ball: Thanks.

Chairperson Lay: Do any other commissioners wish to ask questions to our testifier? Seeing none, thank you very much.

Mr. Beerer: You're welcome.

Mr. Mark Hyde: Good morning. My name is Mark Hyde. I'm testifying on Item B-1, the high school. Those of you who have gray hair or remember Phyllis Diller, and she had a joke about obnoxious kids, she'd say, why don't you go play on the freeway? And that occurred to me this morning in relationship to the high school because although there has been thought and planning given to providing access for youth living makai of the highway by virtue of a condition attached by the State Land Use Commission where they ordered that the boundary line amendment be approved conditioned upon the construction of either an overpass or an underpass and although the Research & Technology Park located to the south and mauka of the campus has proposed that they would construct a pedestrian bridge over the gulch so the kids don't have to get out on the highway, there is no plan, similar plan for children who are currently living north of the campus on the mauka side of the highway in those neighborhoods behind the Gas and Go Station and that will be exacerbated by the construction of 250 workforce housing units proposed by Honua`ula in conjunction with the Wailea 670 project which is also located just north, and the developers of the Piilani Promenade property has suggested that they want to build 200 apartments on their property. And in discussions with the developers, their plan is that they would provide a bike and pedestrian access along Piilani Highway, but it would stop at the bridge and the kids will then spill off their property right at a pinch point in the highway. I've provided pictures for you of that pinch point in the highway. I've provide pictures for you of that pinch point. What's interesting is not only does the alleged bike path narrow to three feet at that spot, but to accommodate that narrowing they have to also narrow the roadway and as stood on that location to take those pictures for you, honest to goodness my life was in jeopardy. A big truck came by and there were just inches

between me and that truck.

So absolutely, the people of South Maui support the high school, but at the same time we wanna do it right. And right is defined in so many documents and policies both nationally, statewide, and countywide in terms of the Countywide Policy Plan that talks to bikeable, walkable communities and the Kihei Community Plan that talks about creating walkable, bikeable opportunities particularly for our youth. There's also an issue of liability here. If this campus is approved or the changes that are being recommended by the County are approved without mitigating the inherent danger that exists, I believe the County and the State are putting themselves in a tremendous position of legal jeopardy not to mention the possibility of loss of life and limb of our youth which can be mitigated and avoided by taking appropriate steps to create adequate—

Ms. Takayama-Corden: Three minutes.

Mr. Hyde: —pedestrian and bicycle access to the campus. Thank you.

Chairperson Lay: Commissioners, do you have any questions for our testifier?  
Commissioner Tsai?

Mr. Tsai: Thanks for your testimony, Mark. How do you feel about James' feedback regarding the Waipuilani Gulch widening underpath?

Mr. Hyde: I completely agree with what he said. Now that will provide access for youth living makai of the highway to go under the road to get to the campus. I think that's totally appropriate, but it doesn't speak to the neighborhoods to the north. They have no way of getting to the campus by walking or biking. They only safe way they'll have to get to campus is to get into an automobile and that really needs to be addressed. As he pointed out, you know, it's a tough situation because you have...there's a narrow strip of land as I understand it between the campus and the gulch to the north and that's owned by Kaonoulu Ranch, and it's an access point I believe that they have reserved to serve their property further up the mountain, then you have the gulch and then you have the Piilani Promenade property.

The Land Use Commission in 1995, ordered the Kaonoulu Ranch in conjunction with the development of that property to build a frontage road. That condition was ignored by the developer and they were found by decision of the Land Use Commission to be in violation of that. And at the trial on that issue, Mr. Jencks testifying on behalf of the property owners indicated that they would absolutely not build that frontage road. So you have a bunch of ownerships there, and it was a reluctance to, you know, commit to the project and the expense. I don't know how you get that done, but for the safety of children, I think it's important that the Planning Commission ensure that they do have that safe access then we have a complete win for the community.

Chairperson Lay: Any more questions, Commissioners? Commissioner Shibuya?

Mr. Shibuya: Thank you very much for your inputs. I believe you had about two or three of them and one dealt with water. Kamaole aquifer and what's your take in terms of mixing that type of water that is a brackish water from the Kamaole weir aquifer with R-1 recycled, reused type sewage treatment water?

Mr. Hyde: For purposes of irrigation I assume?

Mr. Shibuya: That's correct.

Mr. Hyde: Yeah, I think that would be an appropriate use.

Mr. Shibuya: Okay, thank you.

Chairperson Lay: Commissioners, any more questions? If not, thank you, Mr. Hyde.

Mr. Hyde: Thank you.

Chairperson Lay: Does anyone else wish to testify at this time?

Ms. Laura Marzke: Good morning. My name is Laura Marzke, 121 Kulipu`u Street in Kihei. I am a member of the Kihei Community Association and also a parent. I do support the bill for an ordinance to amend th Kihei-Makena Community Plan land use designation of approximately 29 acres from Ag to Public/Quasi-Public for the property known as the Kihei High School. I also support a bill for an ordinance to change zoning of approximately 77 acres for Agricultural District to P-1, Public/Quasi-Public District for the property known as the Kihei High School. And we've come far on this project and the Planning Commission on the County side can further the project by helping out with our water concerns and our sewer. The traffic problems that have been cited by Mr. Hyde and Mr. Beerer are obviously not the problem of the Planning Commission. We don't want to delay the opening of the high school in August of 2016 because of the big wild card issue of access. I believe that's between the Department of Transportation and the Department of Education. I'm confident that the Waipuilani Gulch access will be sufficient and the less costly of the two alternatives being the overpass and the underpass. I, again, I'm hoping that water issues and the County issues including the bikeways and being able to connect to the high school from Kulanihakoi is gonna be appropriate to help extend the bikeways and the pathways that the Kihei Community Plan and the citizens want so desperately to incorporate into our community. Thank you.

Chairperson Lay: Commissioners, any questions? Commissioner Medeiros?

Mr. Medeiros: How old are your kids?

Ms. Marzke: Pardon?

Mr. Medeiros: How old are your kids?

Ms. Marzke: My children are 11 and 9.

Mr. Medeiros: Just in time to go to school. I wish you the best.

Ms. Marzke: I figure if children coming out of fifth grade have that chance right now, coming out fifth grade going into sixth grade right now have that chance to participate in the opening of the

August 2016 high school. And we do definitely wanna keep this project on track to accommodate this long need that's been needed for our community.

Mr. Medeiros: Okay, I commend you for coming because it's been a long time since I seen somebody with a dog in the pipe, with actual kids going to the school. Thank you for showing up.

Ms. Marzke: Thank you very much, Mr. Medeiros.

Chairperson Lay: Commissioners, any more questions? If not, Laura, please sign in our sign in sheet over there before you leave. Thank you.

Ms. Marzke: Thank you, Commissioners.

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

Mr. Mike Moran: Good morning, my name is Mike Moran. I'm speaking for the Kihei Community Association this morning. I'll try not to repeat or maybe just emphasize a few points that have already been made. I waited to this point so we didn't bore you to death with...we call him Andrew even though his first name is James Andrew and Mark and Laura all speaking pretty much on the same issues, concerns of the community. What we certainly want on the record is that the KCA is fully in support of the high school. We've advocated for this for decades I guess, and we do want to give thanks. Excuse me, Director Spence stole my thunder with Senator Baker, who showed up here. She has been a strong advocate for years and years and she did get some support from the House. We have a new Rep. for South Maui so we wanna give credit to them. And I also always want to thank you Commissioners who do spend all this diligent time on as volunteers for the community.

Just the, I guess, bullet points we wanna make is we hope that you will follow the lead of the State Land Use Commission for the safety which required over or underpass from makai to mauka for safe pedestrian, bicycling to reach the school from makai. Director Spence and I were at that Land Use Commission meeting and when that condition was proposed, I certainly felt very comfortable that it's a needed thing.

As most of you know, some of you are from South Maui and many of you are very long-term island residents so you're probably aware, but Kihei has basically two north-south roads. You're either on South Kihei Road or you're on the highway. We're hearing this morning that a portion of South Kihei Road is going to have to be turned into a one-way road for a number of months due to a failing bridge which kinda reemphasises how critical anything is for north-south transportation. That highway, our community clamored to get it made four lanes several years ago for the benefit of vehicular traffic but it was certainly a detriment to the pedestrian, bicycling traffic. There is no sane way for people to move by bicycle or walking on that highway. Mark Hyde made his point and he gave you some great pictures. I'm a recreation bicyclist. I used to use that road all the time until it went to four lanes. I, too, had that experience. I'd like to think as I'm older and wiser, I just will not bicycle on that road. I think most of us will agree. High school kids may not think that that's prudent. That they're not gonna be afraid to get out there and it's literally dangerous. We know the speed limit is reduced because of the nature of the road but it's not adhered to. We're hoping the Maui Police campaign will put some emphasis on that.

Chairperson Lay: Please conclude your testimony.

Mr. Moran: Certainly. So I just ask that you listen to the prior supporters of the...we want high school, but we sure want safety for our bicyclists and our pedestrians, our children and the staff that will be getting to school. Thank you very much.

Chairperson Lay: Commissioners, any questions for our testifier? Seeing none, thank you very much. Does anyone else wish to testify at this time? Seeing none, we're now closing public testimony. Commissioners, do you have any questions for the applicant? Commissioner Ball?

Mr. Ball: A couple questions maybe for facilities. It's a bit early, but I know that schools are used for evacuation zones and things like that. So is there any thought in the construction of let's say the gymnasium or something like that and to weatherproofing that structure or whatever, is there a plan for that?

Mr. Nichols: Yes, typically we harden the cafeteria. Often we're told by the consultants to harden the gym is not appropriate just because of the sheer volume and such. Also, you know, if...depending on the actual winning design, we're closely working with State Civil Defense and typically the cafeteria like I said is the main, also we usually use band rooms, choir rooms because they are typically have no windows or very few windows. They also have restroom components. In some cases, we may even go into, you know, classrooms or whatever, working with State Civil Defense, but mainly it's usually the cafeteria, band room that, and yes, we would harden it from day one. We work during the design closely with them and adhere to their standards. Most of the time it's just standard Code requirements, but however, usually the Code requirements have gotten more stringent so that's a benefit for hardening of facilities, yes.

Chairperson Lay: Commissioners? Commissioner Freitas?

Mr. Freitas: Yes, I know it's a conceptual drawing, my question is what is the anticipated finishing cost for the project right now?

Mr. Nichols: Well, right now it's estimated a 130 million for Phase 1, and an additional 30 for Phase 2, so for total of a 160 million.

Chairperson Lay: Okay. Commissioner Shibuya?

Mr. Shibuya: Mr. Nichols, you mentioned that there's facilities for athletics as well as for P.E. You also have 29 acres of ag land that is Ag right now zoned. Do you have any plans for an agricultural type of offering here at this school?

Mr. Nichols: Right now, no. In coming up with the actual curriculum when we did the charrettes and stuff, we worked with the neighboring principals. We worked with Susan Scofield from King K, and at that time we worked with Mr. Yamanuha, I believe, who was the Maui principal and then some teachers and stuff. They did... and we had worked with the former...(inaudible)...at that time. They felt for example since we're near the Maui Research Park, we stressed curriculum areas more in the media and such and some of the area let's say science research kind of things. So right now

it's not planned to have a, say an ag program there. I think that there is a ag program I know in the initial design at King K. That was a very strong component, so we have that there. And not aware, I don't know the curriculum of Maui High School whether they have an ag program there.

Mr. Shibuya: Okay, you may not know but I'm a strong proponent of sustainability.

Mr. Nichols: We are too, yeah.

Mr. Shibuya: Sustainment in terms of food sustainment and reducing our risk and vulnerability not only in food, but in energy too. Okay, so these are my concerns and I hope you will consider adding in some kind of a component in training or teaching agriculture.

Mr. Nichols: Okay, duly noted, yes.

Mr. Shibuya: Thank you.

Mr. Nichols: I do wanna stress, you know, that we are gonna be looking at all the sustainable aspects. We will be design it to either LEED or also we've adopted, you know, the Hawaii ...(inaudible)... which follows the same format but is even more localized. So it definitely will be a very sustainable school in all features.

Chairperson Lay: Commissioner Freitas?

Mr. Shibuya: Okay then ag will be there then.

Mr. Freitas: On your estimated cost of the building have you taken in change orders, the cost of change orders because I, throughout the years, I've done work for State, County and helped everybody. This is where the contractor really-

Mr. Nichols: Gouges us.

Mr. Freitas: -makes gouges, exactly on your change orders.

Mr. Nichols: That's one of the key reasons...well, a very important reason why the State, why we switched to the design build format because with design build as you're probably aware, you know, it brings the contractor and his architectural team and all of the subs together and so they present, you know, in this case we narrowed down to three, they'll present and we'll select one of those, but then the building is on that team, you know, to work out all the things that in the ...(inaudible)... design did build approach. Often a contractor will, you know, he's not involved in the design so he will find many sources of change orders, and often that depends also maybe on the quality of the architect in the construction drawings. But on the design build, you bring all those people together. We're confident that based on the magnitude of this cost and based on for example the quality of teams that we are working with now on Kapolei II which is the new elementary of about 40 million, we think we really have some good quality teams of contractors and architects working together and that...so to answer your question is, that's one of the key things of design build may bring to you. We also think that maybe in this case, they will come together with a design that will be, say more cost effective in terms of the site preparation and so more of that estimated money could go

in the actual buildings and amenities actually usable by the students. And so, yes, we hope to really minimize that and that burden would be on the teams to work out among themselves rather than come crying to us and saying, oh I think I need a change order, you know, lots of bucks.

Chairperson Lay: Commissioner Ball?

Mr. Ball: I don't know who wants to answer this, but there is some mention about the Piilani Highway possibly not being signalized and who was, who was mentioning that? I mean, this doesn't...

Mr. Nichols: I'd like to state that the DOE feels that we definitely need it be signalized. That it would be ludicrous to try to have a school and have the pedestrians and also all the parents and all the buses and all the activities and all the service deliveries try to enter and leave that school without it signalized. In the LUC hearings, DOT made it very clear that you need to meet what they call warrants and they do a calculation and they would come up with whether it's appropriate to have a signalized crossing on grade there. So that's one of the reasons they asked us to revise the TIAR that Christine mentioned because the initial one we did from...that was done by our consultant said that yes, there should be a signalized crossing there. DOT felt that because...well this is my understanding the way they presented it, they felt that already that's a heavy traffic, you know, highway, there are already "x" amount of signalized crossings and they would rather see fewer of those in the future. And they said, okay...our consultant said, well, adding one more for the school might actually help it because it would, I think he used the term, pontoon, each time you have a signalization then I guess when it turns greens, you know, the cars an "X" amount move down the highway. If you have long stances where there is no signal then some of the faster cars it really begins to spread it out and so I guess you'd have sort of traffic, really expanded a long distance. If we don't the signal at the school as people try to enter, you know, they're really gonna have to...it's gonna be very hard to make a safe crossing. It's also gonna be very hard for example, when a bus full of students comes out of the campus and especially wants to go south, they're gonna have cross two lanes of northbound traffic and then they're gonna have merge with two lanes of south bound. So we could not see the rational of not having a signal, but that's not our call, that's a DOT decision. We're hoping that with the revised TIAR it will still warrant the signalization and so that's where we're coming from. If you have some detailed questions though we do have our traffic consultant here that could answer in more detail.

Mr. Ball: I guess, I'm more...I'm thinking more on the lines of how many studies do they want until it says that it doesn't need it? I mean, I don't get the logic there.

Mr. Nichols: We don't get the logic either from the DOE's perspective. I wanna make that very clear. We could not believe what we were hearing.

Mr. Ball: Right, and I understand the signalization, you know, you have so many lights on that highway, but you know, you already have 'em there and you're talking about a major intersection there that's gonna have ingress, egress problems daily, twice daily really and to have a bus crossing four lanes of traffic and they can't see that. We see that a lot with the DOT believe it or not here with other projects too where they say, no you don't need one, but everybody that lives here on Maui knows you need one there because we travel those roads all the time.

Mr. Nichols: You would know it better than I.

Mr. Ball: I just don't understand why they are asking for another study when the study already shows that you need one.

Ms. Ruotola: We'll work with them on the methodology and we'll work to try to keep that conclusion the same.

Chairperson Lay: Commissioner Shibuya?

Mr. Shibuya: I know this is a conceptual type of plan, but on the athletic facilities can you describe just generally what type of features will it have? Now athletics normally has audiences, so will you have some accommodations for that? Also lights, where do you have the lights proposed for? You have tennis, softball, practice fields, baseball, grassed field, where?

Mr. Nichols: The football stadium, you know, hopefully it will have bleachers on both sides. In Phase 1 we were thinking about just having bleachers on one side and that would probably accommodate anywhere from say 1,200 to 2,000. The stadium would have lights, but we realized that they have to have the down shielded lights and all of that. Our other fields typically do not have lights. Ultimately the softball, the baseball, we try to typically play those during the day. You know, soccer and track, they could benefit from the stadium lights, but again, most of those events are during the day. Typically yes, we would not put lighting at least lighting for play, we would have campus lighting, you know for security and safe walking in the evenings, but I think the only stadium type lights would be truly the stadium. We have the gymnasium and obviously there would be lighting to, you know, go safely in and out of that, but those sports are all indoors. We would have parking lighting, you know, as required again, for safe passage to your car.

Mr. Shibuya: Follow up.

Chairperson Lay: Commissioner Shibuya?

Mr. Shibuya: For tennis courts, accommodations for a audience or is it just playing tennis courts?

Mr. Nichols: Okay, the tennis courts, there would be room for some, you know, bleachers and stuff, just...and then also for audience of these, this conceptual plan there is a sloped berm so there would be lots of opportunity for parents, and visitors, and friends to sit and view this. Right now, that's...we probably don't plan on to bring in, you know, bleachers, but certainly we would have the space for bleachers for these if...in the future. Yeah, we do always want to accommodate, you know, visitors and parents to watch their students play, that's very important to us. We're doing an athletic master plan which I'm heavily involved in and what we're trying to do on that is we want basically all schools to have the ability to practice all their sports, but we, we just can't afford to make like every high school have a full-blown stadium. We're looking at the idea of all schools should be able to practice those sports, you know, track and field and soccer, but maybe some would have, you know, more the stadium approach, others would have minimal on that especially on some of the support, other sports like that. As you know for example, Maui High School, we recently did championship level softball field so it has the bleachers and everything. We're making some improvements I think at Lahainaluna so that they can accommodate more audience kind of

thing.

Mr. Shibuya: I was thinking in terms of Kihei, South Maui having the same type of facilities and features.

Mr. Nichols: Yes.

Mr. Shibuya: Thank you.

Mr. Nichols: Okay.

Chairperson Lay: Commissioner Ball.

Mr. Ball: I don't know who wants to answer this one either, but on Mr. Hyde's picture of Piilani Highway where does the ADA compliance come into effect? Is it access to the facility or is just in the facility itself or...'cause it doesn't look like somebody could, you know...

Mr. Nichols: Normally we're responsible for access from our perimeter borders within the facility. We typically don't go outside of our perimeter borders that's someone...(inaudible)...responsibility to bring access to us. For example, like if there is a public bus stop right on our border, we make sure that we have an accessible route all the way to the bus stop kind of thing.

Mr. Ball: So it probably be DOT then on the highway to have access that sort of thing? I just don't know where that...

Mr. Nichols: If you're talking about like pedestrian walkways and stuff?

Mr. Ball: Right. The concern about the north kids coming down to the school.

Mr. Nichols: Yeah, we would take our accessibility right up to our boundaries, but we typically try not to spend our money on offsite improvements because we're trying to focus on the onsite improvements for the schools. Certainly if there was a bike path that came up to us like for example, I know that the Tech Park is considering you know, possibly some kind of bridge over the gulch. Early on the charrettes they asked if they had a bridge and a pedestrian or bikeway to our campus would we be willing to accept it? And we said, yes of course, we would make the appropriate gate accommodations so that they then could, our students could successfully just get on that and go up to the Tech Park ...(inaudible)...

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Good morning, is the Department of Education required to put sidewalks along its portion of the property on the highway side?

Mr. Nichols: I think we would...well, normally yes, we would have...once we're on our site, yeah, we would have the appropriate sidewalks and in this case car access and all of that. We would also make sure that there's a safe accommodation for if it becomes a bikeway that our students can ride to then once they're on our campus we would have, you know, bikeways and bike racks and such

for utilization of that.

Ms. Wakida: Yeah, but my question is—

Mr. Nichols: I guess I would have to...I'll defer that to our civil. They can tell us exactly where our property butts say the highway.

Ms. Wakida: All right.

Ms. Ruotola: Actually that came into discussion during a Land Use Commission process and originally there was some discussion of providing sidewalks on the highway and then the agreement was not to necessarily do that. I think DOT doesn't necessarily want people walking along the highway. So there is a—one of the conditions is for a, I forget the right term, but a shoulder, the shoulder to the highway on the mauka side that DOE will improve but not a sidewalk.

Ms. Wakida: You said that the DOE doesn't want students walking along the highway?

Ms. Ruotola: The DOT.

Ms. Wakida: The DOT.

Ms. Ruotola: Correct.

Ms. Wakida: We've heard testimony say from Mr. Hyde who is concerned about access to the northern community so apparently there students will be walking along the highway if there's a sidewalk or not. So I don't understand the logic here about not having a sidewalk. Why the DOE wouldn't put a sidewalk at least in front of its portion of the property of the highway.

Mr. Nichols: Certainly our stance would be if the DOT or the County or whoever develops, you know, bikeways and pathways along the highway when it comes to in front of our schools we would try to tie into those appropriately. So that we've always said that we would wanna do. But for us to extend out beyond our boundaries and begin to create those paths, you know, at this point we wouldn't feel that that's, you know, what we wanna do. We do recognize that we want our students there safely, but I think, ...(inaudible)... highway, I agree with the people that have testified before us unless there really is, you know, safe accommodation a distance from the highway, right now that situation with the trucks and the cars roar by and the existing bike lane that's on one side right now, I would agree I wouldn't want to ride my bike there. It's very narrow, it's right next to the...so.

Chairperson Lay: Follow up?

Ms. Wakida: Yes, please. Well...but I think the point I'm trying to make is that the DOE if it chose to could put a sidewalk on its property fronting the Piilani.

Mr. Nichols: Yeah, that's right. Yeah, certainly. If the design, when it comes out and like for example, we normally have a perimeter access road for our maintenance and fire lanes and stuff around the interior. So once the design of the design build team is actually begins to finalize if we wanna have a pedestrian circulation all along that bottom or maybe to...we'd certainly have

pedestrian circulation to the main entry to the school. Normally as a school, we don't want students just to be able to walk any place on from the bottom. We'd like to have that controlled for security reasons and such, and so I guess if the design warrants it, yes, we would certainly put it within our, inside our property. I think we need to see the pedestrian flow per the design so that it makes sense and it's safe for everyone.

Chairperson Lay: Commissioner Ball?

Mr. Ball: Are there any special accommodations for those kids north in the future for riding the bus because I think that if you live a mile from the school, you're not allowed to ride the bus or there's no bus service or something like that, but...and I think that neighborhood that we're kinda talking about some of it anyway is within that mile radius so they would not be having bus service there or...because then their only option would be to walk or get a ride or whatever.

Mr. Nichols: Yeah, whatever our latest bus guidelines are we would certainly honor that. I know for the longest I think it was mile and then it might have been increased to a mile and a half or something. I don't know the particulars of that but certainly we would, I would think that we'll be offering bus service, you know, just like any other place in the State or any other place in Maui but within the guidelines.

Mr. Ball: Well, I was just saying that that neighborhood might be too close.

Mr. Nichols: Right, too close and so they wouldn't be eligible for the bus.

Mr. Ball: They would have to walk or get a ride.

Mr. Nichols: Yeah.

Mr. Ball: It might be something to think about.

Mr. Nichols: Right, definitely.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Going back to the traffic lights. I'm definitely in agreement that we need one on Piilani Highway, however, I wanna stress that we definitely need to keep the flow of Piilani Highway going smoothly. And you have two traffic lights very close to each other just south of there Piikea and also Lipoa which cause all the problems. It's not synchronized correctly.

Chairperson Lay: You wish to address that?

Mr. Tsai: Also too, I ask based on your site plan it shows that the most appropriate place is Kulanihakoi, right? Kulanihakoi right there? Yeah, I would definitely think not go any further south having the traffic light would make sense.

Ms. Wakida: Right.

Mr. Nichols: ...(inaudible)...

Chairperson Lay: Please speak into the mic, thank you.

Mr. Nichols: Yes, we would agree. We would like to have aligned with that. That's basically...that would be a given in our design build criteria that it should align with that.

Chairperson Lay: Commissioner Shibuya?

Mr. Shibuya: Okay, coming back to pedestrian ways, I agree and maybe you may wanna consider fencing to ensure that the kolohe minds won't be too creative and try to chance 'em across the four lanes. Another one would be encourage them in a positive way to have shade trees along the route so that it encourages and incentive for them to walk along that pathway and make it simple, make it very obvious, fence on one side, shade tree on the other side, why not use the walkway? All right, thanks. Also, Piilani Highway is a highway, so is Kaahumanu Avenue, yet those two schools I haven't heard anything about the school zone speed limits, how come? Maybe the traffic person can answer that. How come you have other schools having school zone speed limits and over here no more?

Ms. Ruotola: That's a good point. DOT determines that.

Chairperson Lay: Please speak into that mic.

Ms. Ruotola: That's a good point, and DOT determines the speed limits.

Mr. Shibuya: Try ask 'em.

Ms. Ruotola: Okay.

Mr. Shibuya: Thanks.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess this is a question for Group 70. I actually have two questions. The first question that I have is that the design as I see it lays out four buildings for classrooms and my concern is that \$160 million what we're delivering is four, two-story buildings that would actually engage in teaching not administration, not library, not cafeteria, not athletic facilities, and the concern that I have is do those four buildings are they able to accommodate 1,650 students which might be the demand today, and is there room for expansion in the event the community grows to the point where additional classroom space is necessary?

Ms. Ruotola: And I'm actually gonna defer to...(inaudible)...

Mr. Nichols: Yeah, well per this conceptual design it was, you know, roughly each house would hold 400 or a little over 400, maybe 425. Also there's you know, for this particular design there was that elective building and then for example by the P.E. locker shower we typically put some general classrooms for P.E. and health ...(inaudible)...classes. But as you can see, yes there's

probably...well, normally in the RFP document we would probably ask that there be some open space where even say a fifth house...we don't know that the winning design will take, embrace that concept but we think there's a pretty good chance because of the way we will write the RFP because high schools tend to like this neighborhood or this house concept of about 400 students it seems to work well, it seems to work with the curriculum in terms of project-based learning, problem-based learning and the teaming of teachers. So we could definitely ask as we did for example in Kapolei II, the elementary that the winning...the teams to locate an additional...(inaudible)... classroom for the additional say accommodation of future 200 above the given design enrollment. So that could a future that we could easy write in the RFP.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Yeah, my concern, my concern would be flexibility in the design so that expansion can be accommodated and we don't end up with the situation that we have with a lot of the schools where you have portable classrooms and all of the problems that come attendant to that.

Mr. Nichols: Okay.

Mr. Hedani: And the second question that I had was, why is it being phased in two phases instead of being built all at once?

Mr. Nichols: Because when we started the design and I think it's still warranted, we don't anticipate needing the full 1,650 capacity at the opening of the school, and so we would like to definitely meet comfortably in Phase 1 what we'll open the school with and also accommodate "x" amount of growth expansion before we'd have to add say the third house or the fourth house. And right now, we believe that 800 would accommodate the needs, but we will always continue to look at that, yeah.

Chairperson Lay: Commissioner Ball?

Mr. Ball: Just some clarification on that, on the road that goes up. That's also going to be a driveway if you will for the affordable housing component above it, correct? Are they gonna use that as their ingress, egress or are they gonna use their own road or?

Mr. Nichols: The road that...right now this is just a school road that goes up on the left. Once that is developed above that, that will be widened another like I think two lanes or so and hopefully that will become a County road. Initially since there is no development above there, what we build will just meet the school's needs but we're setting aside the appropriate right of way and easement and all that and hopefully when it is developed then the County would take it over and they would add lanes. I guess similar to what maybe you have at the Maui Tech Park something like that I guess.

Mr. Ball: But the idea is to use that as the access for the--

Mr. Nichols: That will be one of the accesses for whatever's developed above us, yes.

Mr. Ball: To the north of you is the Promenade and the affordable housing, right?

Mr. Nichols: Isn't that on the other side of the gulch though?

Mr. Ball: Oh, okay, there's a gulch and then...

Mr. Nichols: Right.

Mr. Ball: Okay.

Mr. Nichols: Yeah, we're surrounded by gulches.

Chairperson Lay: Commissioners, any more questions? Commissioner Wakida?

Ms. Wakida: Just a clarification. On your classroom houses that you're conceptualizing. How many classrooms per building are you anticipating?

Mr. Nichols: I think it was in the range of about 12ish, 12 to 14. It's something like that. In our document we would have the exact, but it's basically about like that. So it's "x" amount of general kinds of instructional spaces for example those might not...like what we did at Kapolei, we actually made large studios that are equivalent to about say nine general classrooms but they have no walls and then the specialized rooms like your chemistry rooms, your media arts, those are on the front of the house and those are again with four walls somewhat. We also have accommodation in each house for the special ed population so we have self-contained settings and then also, the kids that aren't as challenged they would just be actually inclusion or mainstreamed right with the general ed population. We also, probably I think we made some accommodations for perhaps have either some of the administrative functions like counseling or administrators out in each house. It gives the school some flexibility.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: What is the DOE's number of optimum students in a high school?

Mr. Nichols: Well we have a ...(inaudible)...range and I think depending on the research it varies. I think what seems to be consistent in the research is that you have a community of about 400 or so then you're able to know the students well, you know, the attending of the teachers they can track their students well. So that's why you have like small learning communities, the academies and in this case, usually a house if you look nationwide they're usually in the range of right around 400, 425.

Ms. Wakida: I'm talking about the entire school.

Mr. Nichols: The entire school? Well, in this case, we're within that range of 1,650.

Chairperson Lay: Commissioner Shibuya?

Mr. Shibuya: Just curious how you derived your planning numbers for school enrollment? How did you derive your numbers?

Mr. Nichols: Within the DOE we have some people that track growth and development statewide. There's a gentleman named, Tom Saka, that monitors that and then also within our own Planning Office, within the Facilities Development Branch, we have additional people that monitor that. And so it's out of our Planning Office they track the developments, work with developers and then looking at future projects and current projects and they help us come with the desired numbers.

Mr. Shibuya: In this particular case you have the number of 800, so you could possibly easily use zip codes, right of the residences of these students. Because when they enroll, they have to sign in and where's your home address.

Mr. Nichols: Right, right, right.

Mr. Shibuya: Okay, thanks. Or is that invasion of privacy again?

Chairperson Lay: Okay, Commissioners, any more questions? Commissioner Wakida?

Ms. Wakida: Just one last comment. If I understood correctly and this sort of piggybacks on Commissioner Hedani. You've got four classroom houses, I know this is conceptual, but just your concept, you're considering 400 students per building is that correct?

Mr. Nichols: Yes.

Ms. Wakida: So my math says you'd need about 16 classes per building if you have 25 students in a class.

Mr. Nichols: Yeah, that's...yeah, you use 25 for the general ed population. There's a rough calculator, the actual exact one is 26.15 per the union. Also, special ed we don't use as high numbers. You know, we typically ...(inaudible)... and so anyway, but that's a good estimation, yes.

Ms. Wakida: So 16 classrooms are a lot of classrooms and I'm a little concerned that you've allowed enough space enough here for this four classroom buildings that more space needs to be allotted for actual classroom houses.

Mr. Nichols: Okay, that duly noted, yes. Okay.

Chairperson Lay: Commissioner Shibuya?

Mr. Shibuya: I'd like a brief rundown on the multimedia features of the library as well as the digital type of capabilities of the classrooms? And you can include surveillance too.

Mr. Nichols: Okay, we typically...we don't include typically surveillance per our project. We include accommodation for it in terms of ...(inaudible)... most schools the actual...if they're gonna choose surveillance they do that on their own, you know, thing. In terms of high tech, we try to have to accommodation, and probably by the time this is, most of the classrooms will probably operate on the wireless. In the past we've had, they've been by hardwiring and such, but there would be accommodation for computers and printers and all the technology throughout. All the instructional settings, typically all counselor...conference schedules, ...(inaudible)...you know, the components

of the gymnasium that is appropriate, whatever.

Mr. Shibuya: Teleconference?

Mr. Nichols: We'd have accommodations for that, yeah.

Chairperson Lay: Commissioners, we are talking about a change of zoning so let's not get too specific on everything going on.

Mr. Shibuya: Thank you.

Chairperson Lay: Any more questions, Commissioners? Seeing none, can we get the Departments' recommendation?

**b) Action**

Mr. Dack: I'm gonna briefly run through Analysis to just put some things, principally put some things on the record and then be able to move directly into the recommendation since you've already held your hearing. The Department concluded that the project is in conformance with the goals and objectives of the Hawaii State Plan, and it's now has that State Urban District. A high school is consistent with that kind of district designation. The project is, the Department considers the project in keeping with the Countywide Policy Plan. And the...also in keeping with the Maui Island Plan, the property lies within the Urban Growth Boundary. We concluded it was in keeping with the community plan goals, objectives and policies. Relative to zoning, the high school would be a permitted use within the proposed P-1, Public/Quasi-Public District.

The EIS addressed parking requirements of the Zoning Code and that's still a remaining issue so I'll briefly mention something on that. The EIS reports that the parking requirements for the high school are determined by several regulations, DOT has standards have standards which led to about 226 spaces for faculty and visitors. However, Maui County Code, Zoning Code, parking requirements would require about 560 stalls for student parking then there's also the consideration of the public assembly facilities, the soccer/football stadium which under our County Code would require 832 parking spaces. So under the Zoning Code, the total number of parking spaces would be required for the campus approximately 1,941. So that's significantly less than DOE has been proposing. So I wanted to point that out that is an issue that will still need to be continued to be addressed during the design build phase. I can't say what that'll lead to. It might ultimately involve some variances, et cetera, but that's something still in the DOE will need and the County Planning Department particularly will need to be working with.

The site is designated Agriculture. The State Department of Agriculture concluded that they supported the request that the 100 percent of the property is rated E. It would not have an impact. E as far as soils classifications, 98 percent is not within any kind of prime agricultural land. Only 2 percent's prime. So they considered that modifying this to an urban use would not have an impact on agriculture. The Land Use Commission had two, had three conditions relative to protection of agriculture nearby. And then the...one of the considerations that the Planning Commission, Council needs to make when you are rezoning property from Agricultural land to another kind of lands use is there a criteria in Section 19.38.020 of the Zoning Ordinance, and

relative to those criteria, at least two of the or if not, all three of the criteria are not met and then to be able to place this in a high priority for retention agriculture is kind of the bottom line there for in that case is under the current zoning ordinance the would not consider the property should...would not consider the property should be given the highest priority for retention to Ag District. In other words, under the Zoning Ordinance it would seem to be okay for the rezoning to occur.

Regarding archaeological considerations, there was only description, only site was a poor condition mound complex located in, created by ranching activities is the only archaeological feature. Land Use Commission had two conditions relative to archaeology. For water, domestic water and fire supply would be supplied through...connecting to an existing 18-inch water main on Liloa Drive and upgrade an existing an 8-inch main in Piilani Village. As indicated you heard that DOE would be relative to irrigation water, actually DOE would prefer to implement brackish water through their own wells. Another alternative is R-1 which the County had originally hoped would be the case, although the County R-1 water is considerably more expensive than brackish but as you also heard DOE will continue to work with the County and be able to possibly have some brackish...some R-1 component still needs to be determined. The Land Use Commission had two conditions relative to water. Sewers, they're not currently served by sewers but they would connect to County sewers.

Relative to drainage, the property is vacant so there's no drainage facilities on it right now. The majority of the existing runoff to the site now drains toward a 72-inch culvert under Piilani Highway with the remainder draining to Kulanihako'i Gulch, Waipuilani Gulch. An offsite drainage concept, the storm water will sheetflow and be directed to grassy swales and drainage inlet pipes on primarily, principally on the site. The underground drainage facilities there would be some there sized for 50-year runoff, but then the...one of the ...the Land Use Commission applied a condition which I'll read. It was important to ...(inaudible)... particularly. The petitioner shall fund the design, construction, and maintenance of a storm water drain system improvements for net increased storm water runoff resulting from the development of the petition area from entering Waipuilani Gulch adversely affecting State highway facilities based on 24-hour runoff from a 100-year storm event.

Relative to curbs, sidewalks, gutters, there's obviously been a lot of discussion about that. Your report has also considerable discussion included within it. There also was commissioned, and partially in response to comments on the Draft EIS, a bicycle and pedestrian plan which lead to some of the recommendations that have been adopted by conditions and others which would be included on the project itself.

The primary focus of discussions on transportation was, of course, the access for pedestrians and bicycles. The report contains extensive recommended Land Use Commission conditions. You heard about traffic impact assessments reports, TIARs, that has been addressed in considerable detail in the State's conditions. The consultant...excuse me, in the power point presentation by DOE and their consultants they also ...(inaudible)...some County conditions which had been recommended by the Department to the Land Use Commission some of which relate to public transportation and ultimately which by far most of which got adopted.

Fire protection will be from the Kihei Fire Station. Relative to environmental impacts, there'll be short-term impacts of air quality and noise. But on a long-term basis particularly those, particularly air quality should improve as well because the project will reduce current commuting for students and parents between Kihei and Maui High School where Kihei students currently go. Regarding

flora and fauna, no species of concern were found on the site, but the Land Use Commission had one condition relative to flora and fauna.

The Planning Department received considerable testimony both e-mailed and presentation. Actually when you heard the Draft EIS for your comments back in February of last year there's 18 letters that were received at the time, six folks testified. Beyond that the Department hasn't received any other testimony prior to what you heard today.

You have alternatives where you could defer this project, recommend Council approval with or without conditions, and since you've already held the hearing move very quickly to the recommendation.

The Department recommends that the bills, you have conclusions of law, that the bills recommended or initiated by the Council Resolution comply with applicable standards for a Community Plan Amendment and Zoning ordinance. So the Department recommends the Planning Commission recommend the County Council approve the bill entitled, A Bill for an Ordinance to Amend the Kihei Community Plan Land Use Map from Agriculture to Public/Quasi District for Properties Situated et cetera, et cetera. And then also the companion bill, for the rezoning from Agricultural District from P-1 to ....excuse me, from Agricultural District to P-1 with two conditions. And the conditions really are just, they piggyback off of the Land Use Commission's conditions which were already adopted to a large degree as the Department had suggested. They mainly just involve around timing. The Department of Education was happy to coordinate with the Department of Planning and other County agencies during the design build process to make sure that things like bike and ped access, bicycle...(inaudible)..improvements, overflow parking, lighting, best practices through crime prevention...(inaudible)...design, were all addressed, but there was not an ability given the time frame of this conclusions to state when that would occur and these two conditions would just simply indicate, provide a timing requirement that that consideration begin to occur fairly early on in the design build process. So that concludes the Department's analysis and recommendation. Thank you for your patience.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: So move to approve as recommended.

Mr. Hedani: Second.

Chairperson Lay: Seconded by Commissioner Hedani. Commissioner Wakida?

Ms. Wakida: I believe that there were two parts to this. Do you wanna take them one at a time?

Mr. Spence: The Community Plan first and then Change in Zoning.

Chairperson Lay: Okay.

Mr. Tsai: Yeah, so Community Plan first.

Mr. Medeiros: Second.

Mr. Spence: There's a motion to amend the community plan.

Chairperson Lay: Any comments or recommendations on that? Commissioner Shibuya?

Mr. Shibuya: I'd like to consider five conditions here. One of them would be for this –

Chairperson Lay: There's no conditions on—you can't put conditions.

Mr. Shibuya: No conditions, okay.

Mr. Spence: I'll just clarify. Not on the Community Plan Amendment.

Mr. Shibuya: But for the zoning, I can?

Mr. Spence: I'll leave that to—

Mr. Shibuya: I can propose it?

Mr. Spence: The Commission can discuss at the recommendation for Zoning.

Mr. Shibuya: Okay, thank you.

Mr. Spence: It was Commissioner Tsai to make a motion for the Community Plan Amendment and Commissioner Medeiros seconded it.

Chairperson Lay: Discussion? Commissioner Shibuya?

Mr. Shibuya: Again, I just wanna make sure that if we support this Agriculture conversion to Public/Quasi Public and addressing this community plan that the land that is already 29 acres of agriculture quality land that they be retained and at least they can be used for agricultural use by the school. That's my biggest concern now. If we do have it rezoned maybe the Staff can verify with me that the school still can use that type of land, classified land for agriculture use?

Mr. Spence: Commissioner Shibuya, certainly the school as a part of their educational mission and function can use that land for agriculture if they wish to pursue that as a program.

Mr. Shibuya: Okay, thank you.

Chairperson Lay: Call for the vote. Commissioner Hedani?

Mr. Hedani: I just wanted to commend the people that have been instrumental in supporting this project up to this point. You know, diligently working on the project for 10 years to get it to this particular point and I think it's a testament to their fortitude and determination that they've supported it for so long in order to see something like this come to fruition.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I also like to make a comment. We had one group that is looking for the school to open in 2016, and then the Department of Education said 2018. So I hope the community group can stay on top of this and not let it get bogged down in bureaucratic concerns and help expedite this so that that 2016 deadline at least is a little more of a possibility. And I commend them for their efforts.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I'd like to, as a resident of Kihei, like to thank Senator Baker for all the work that she's done to make this happen. And...when I was a little kid my dad told me they were gonna build a high school in Kihei, okay, and that was a long, long time ago, okay. Thank you, Roz.

Chairperson Lay: Any more discussion? If not, we'll call for the vote. All those in favor?

Mr. Spence: That's seven ayes. It's unanimous.

Chairperson Lay: Motion passes.

### **Community Plan Amendment**

**It was moved by Mr. Tsai, seconded by Mr. Hedani, then**

**VOTED: To Recommend Approval of the Community Plan Amendment to the County Council as Recommended by the Department.  
(Assenting - M. Tsai, W. Hedani, J. Medeiros, J. Freitas, K. Ball,  
P. Wakida, W. Shibuya)  
(Excused - S. Duvauchelle)**

Chairperson Lay: And now, Commissioner Tsai?

Mr. Tsai: All right, make motion to approve the Change in Zoning as recommended.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Tsai, seconded by Commissioner Medeiros. Any comments on this? Commissioner Wakida?

Ms. Wakida: Not to be too much of a stickler, but aren't we recommending to the County Council?

Mr. Tsai: Yes.

Ms. Wakida: That this be a zoning change. We're not making the change.

Mr. Tsai: Yes, that is correct.

Chairperson Lay: That is correct. Commissioner Shibuya?

Mr. Shibuya: Yes, on this recommendation, I'd like to have at least a airing of some conditions here and the four that I have right now, now that we've taken care of the agriculture option, I'd like to have some audience accommodated features at the athletic fields, pedestrian walkways, you have fencing to control the access or students deviating from the access, and shade trees to motivate them or provide them incentives to using that walkways. The third would be that DOT relook at the school speed zones not only for Piilani but for Kaahumanu Avenue too. And then the fourth, is parking accommodations consistent with the County Code. I'd like these four points to be included.

Chairperson Lay: Are you looking to amend the main motion?

Mr. Shibuya: No, just a friendly amendment to include these conditions or points of concern that the Council can do whatever they want at that point, but it's just airing it.

Mr. Spence: My comment, sorry I'm not having a private conversation here. I think those would be pretty major conditions. I think those would have to go, you know, we would have to amend the main motion if Commissioner Shibuya wants those included in the recommendation to the County Council.

Mr. Shibuya: Do I make a motion or at least a friendly amendment motion for the board to at least consider?

Chairperson Lay: It's a motion.

Mr. Shibuya: It is a motion?

Mr. Spence: Yes.

Mr. Shibuya: Okay.

Chairperson Lay: Now we're waiting for a second.

Mr. Medeiros: You made a motion?

Mr. Shibuya: I made a motion.

Mr. Freitas: Repeat the motion.

Mr. Shibuya: Motion would be to consider in addition to recommending approval for the change in zoning to include at least concerns of the audience accommodating features at the athletic fields. Number two, would be pedestrian walkways, having fences to control the access and shade trees to encourage use of these pathways or walkways. Third would be, DOT reviewing this school speed zones not only for Piilani Highway but also Kaahumanu Avenue. The fourth would be the parking accommodations right now that the County Code has a disconnect with the State plans.

Chairperson Lay: At this point, we're waiting for a second on the motion.

Mr. Freitas: I have a question.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Question for Corp. Counsel, we are addressing Kihei School, can we include Kaahumanu in there, in this, in a motion, Kaahumanu roadway?

Mr. Giroux: You mean Piilani or Kaahumanu?

Mr. Freitas: No, in the motion he made to look at the traffic speed on Piilani and on Kaahumanu Avenue.

Mr. Giroux: Oh yeah, that's, yeah that's gonna be a problem.

Mr. Freitas: We're not addressing Kaahumanu Avenue, right?

Mr. Giroux: That's correct.

Mr. Shibuya: Okay, I strike the Kaahumanu portion.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I think Mr...Commissioner Shibuya has valid concerns. I believe I saw the DOE officials writing these down, and it seems that if those have been duly noted by the DOE officials that may be sufficient without getting into a problem of making a motion and so on with this.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I concur with Commissioner Wakida. I think because it's a design build process and this is a conceptual plan, it's not really dotting the i's, crossing the t's, and placing a sidewalk here or drinking fountain there. I think it's just a question of do we support, you know, the measure as a whole, yeah. And I think the comments that Commissioner Shibuya has brought up, has been duly noted by both the designers as well as the design professionals with the Department of Education.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: Well, I can see that Commissioner Shibuya, Commissioner Shibuya has, you know, valid concerns, but I don't think this is the place for it that would be at the County Council level. You know, for us to set conditions would be another delay. You know, I mean, things like bikeways and everything and all this, it's all nice, it's great for the community, but what has this got to do with high school students. I mean, look at it.

Chairperson Lay: Commissioners, we're gonna need a second on this motion before we go any further in discussion. Seeing no second, the motion dies. Now back to the vote. Would you like to repeat the motion?

Mr. Spence: The motion is to recommend to the County Council approval with the Staff's

recommended conditions.

Chairperson Lay: All those in favor.

Ms. Wakida: Question.

Chairperson Lay: Can it be...(inaudible)...

Mr. Giroux: You're in the middle of a vote.

Chairperson Lay: Yeah, we're in the middle of a vote right now. If anything, that comes after the voting.

Chairperson Lay: Okay, all those in favor?

Mr. Spence: That's seven ayes. It's unanimous.

Chairperson Lay: Motion carries.

### **Change in Zoning**

**It was moved by Mr. Tsai, seconded by Mr. Medeiros, then**

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

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Well, I wanted to ask Director Spence does this project comes back to us in any form?

Mr. Spence: No, it will not.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Just as a comment, personally as a Commissioner, I support the position of both the Department of Education and as well as the proponents of the project that the intersection, that the intersection to the entry of the high school should be given serious consideration for signalization. The Department of Transportation adds a signal for a 25-lot agricultural subdivisions on Honoapiilani Highway and I think they should accommodate a signalization for 1,600 students eventually for this project.

Chairperson Lay: Thank you. Now we're gonna take a long awaited break to probably 11:05. It's been a while.

A recess was called at 10:50 a.m., and the meeting was reconvened at 11:05 a.m.

Mr. Spence: Thank you, Commissioners. Item B-2 on the agenda this morning is Mr. Walter Hester requesting an SMA Permit and a Shoreline Setback Variance to construct a structurally engineered sloped retaining wall system in the shoreline setback area. Staff Planner this morning is Mr. James Buika.

**2. MR. WALTER HESTER requesting a Special Management Area Use Permit and a Shoreline Setback Variance in order to construct a structurally engineered slope retaining wall system within the shoreline setback area mauka of the certified shoreline in the R-3 Residential District at 4855 Lower Honoapiilani Road, TMK: 4-3-015: 003, Kahana, Lahaina, Island of Maui. (SM1 2009/0017) (SSV 2009/0004) (J. Buika)**

Mr. James Buika: Good morning, Director. Good morning, Chairman Lay and Commissioners. My name is Jim Buika, Planner with the Planning Department and on behalf of the Planning Department and the people of Maui, thank you very much for your expertise and all the time you take to serve on this Commission. We appreciate your contributions.

The Maui Planning Commission's purpose today is to conclude with the public hearing process on the SMA Use Permit application and the Shoreline Setback Variance application before you today. The Final Environmental Assessment has been accepted as a FONSI by the Maui Planning Commission earlier this year.

The scope of the project is to construct a structurally engineered sloped retaining wall at the shoreline of this parcel in the setback area in order to stabilize the shoreline bluff from future collapse. The applicant's authorized representative, Ms. Jennifer Mayden of Chris Hart & Partners will describe the project to the Commission following my brief introductory remarks. Again, this is a variance request to the shoreline rules of the Maui Planning Commission.

By way of project background and history, this matter arises from an application for a final and revised Special Management Area Use Permit and Shoreline Setback Variance filed on January 29, 2013. The original SMA Use Permit was filed on November 18, 2009 to complete the retaining wall and at the same time to construct a single-family residence on the parcel. The single-family residence has been permitted and completed outside of the setback area under a separate SMA application and Assessment No. SM5 2011/0280 and that was authorized by the Department on August 17, 2011, and that is in your packet as Exhibit 1B. So the single-family residence is under construction and is separated from this project. The engineer on the project for the single-family residence construction, Ms. Linda Taylor is present here today to answer any questions regarding that portion of the single-family residence construction and the associated engineering work for the project.

An Environmental Assessment was required and completed as part of the Shoreline Setback Variance process and application. On February 26, 2013, the Commission voted a Finding of No Significant Impact at the Commission's regularly scheduled meeting. This FONSI determination was published in the Office of Environmental Quality, Environmental Notice on March 23, 2013.

No legal challenges were filed on the FONSI determination during the 30-day challenge period.

Earlier based on the comments from the Planning Commission when we brought forward the Draft Environmental Assessment, the applicant has revised this project from...originally from the preferred alternative which was a 25-foot wall spanning the height of the bank at the shoreline and it has been revised just to a 10-foot retaining wall at the very top of the wall, and it's constructed on the existing rock shelf approximately 15 feet above sea level. So it does not go all the way down to the shoreline. And the purpose again of that bluff structure before you today is to stabilize the top of the bluff and to provide safety for those who are on the beach down below. So rather than this, this being classified by the Department as a seawall, this is really a retaining wall and it is not a seawall structure at the shoreline.

About two and a half years ago, on February 3, 2011, the Maui Planning Commission did conduct a site visit to the bay, Keonenui Bay, to view the site as it was being planned. That was part of a larger comprehensive site survey that we did at the time. So this concludes my introductory remarks. Following any questions you may have on my remarks about the history that I just presented, I will ask the Chair for permission to allow the applicant's representative to do a short slide set on the project, describe the project, describe the SMA criteria that is required to review the project against, and also to describe the variance criteria that this project must meet. So I'll turn it over to Jen Maiden if that's okay with the Commission?

Chairperson Lay: That's fine.

Mr. Buika: Thanks.

Chairperson Lay: We can go right to Jen then.

Mr. Buika: Okay. All right, thank you. Present Jennifer Maiden, the consultant on the project with Chris Hart & Partners.

Ms. Jennifer Maiden: Good morning, Chair Lay and Commissioners and Director. I'm Jen Maiden with Chris Hart & Partners. Also here today is the applicant, Mr. Walter Hester. The engineer for the retaining wall, Paul Weber, the engineer for the drainage system, Linda Taylor, and as well the general contractor, John Crinion.

I have about a 20-minute presentation today. First, I'll provide an overview of the proposed project and then I'll discuss two alternative wall designs providing lateral access that were analyzed by the project team, and finally, I will demonstrate how the proposed action adheres to the objectives and policies of the SMA and the Shoreline Rules for the Maui Planning Commission and meet the criteria for approval of a variance.

The subject parcel is in Napili approximately seven miles north of Lahaina and one and a half south of Kapalua. The access to the parcel is via Lower Honoapiilani Road. The subject parcel is adjacent to the shoreline along Keonenui Bay right here in between two headlands, two protruding points. The subject parcel is about .44 acres and is located at the far southwest end of the bay on a high bluff.

The subject property is along the northern half of the bay, are occupied by the Kahana Sunset and the southern half of the bay are single-family residences. The subject property is the last house at the southern end of the bay. The beach in the project vicinity is a pocket beach nestled between two headlands which protrude about 400 to 500 feet seaward. Vertical walls protect all of the properties along the entire bay with the exception of the subject property.

The picture on the top left shows the length of the bay. This second picture is the beach fronting the Kahana Sunset and then as you move south along the bay, the beach narrows and this fourth picture in front of the subject property, the beach becomes a regular rough, rocky shoreline.

The original single-family residence was constructed on the property in 1976. However, due to erosion of the clay and cinder substrate and the creation of undermining caves, by 2003, it was situated roughly 18 feet from the edge of the shoreline cliff.

These pictures depict the collapse of the shoreline bluff in 2003. Over the years, each parcel fronting the bank, fronting Keonenui has been susceptible to seasonal erosion and creation of dangerous caves which eventually collapse and endanger the health and safety of the beach goers as well as property owners.

It has been determined by the project's coastal engineer that the seasonal erosion of the bank and de stabilization in the bay is caused by a continuous bedrock layer of volcanic clay and cinder that are very susceptible to erosion and the bank is not made up of a stable rock formation resistant to erosion.

The existing condition, the bluff along with prior documentation of erosion of the subject site indicates that if left unchecked, the erosion will continue further threatening the subject property and eventually threatening the property to the north.

Since the catastrophic collapse of the bank in 2003, the applicant has taken proactive measures to strategically retreat from the shoreline. On August 18, 2011, the Department granted an SMA Assessment and Shoreline Setback Approval which Jim mentioned for the demolition of the original residence and construction of the new residence outside of the shoreline setback. In November 2011, the residence was demolished and it is currently under construction. In this site plan you can see the outline of the original residence and the drawing of the new residence about 50 feet mauka.

Along with strategically retreating from the shoreline, the applicant has installed an onsite drainage system to capture and filter storm runoff. Based on preliminary drainage calculations, the new residence is anticipated to increase the 50-year storm runoff volume from 951 cubic feet, to 1,041 cubic feet, an increase of 90 cubic feet. The drainage system consists of an above ground grassed retention area and below ground graveled retention area to impound the runoff. The retention basin is sized to retain runoff in amounts in excess of the 50-year, one-hour runoff volume increase. The above ground retention area is sized to hold 627 cubic feet as well as the subsurface is 1,290 cubic feet.

So now this brings us to the current proposed action. The applicant proposes to construct a 10-foot high structurally engineered terraced retaining wall, sited on the rock bluff at a base elevation of

about 15 feet. The purpose of the project is to enhance public safety, create a long-term solution that will stabilize the bank and prevent future erosion and undermining. The proposed retaining wall will require a negligible amount of backfill and excavation and will be confined to the area above the beach and mauka of the certified shoreline. The proposed retaining wall will be sited on the rock formation in the bluff. The wall will start at about 15 feet of elevation and it will be about...and it will be 10 feet high. The length of the wall is about a 150 feet. The retaining wall will have two tiers and a four-foot wide planting bench. The top of the retaining wall and the bench will be planted in overhanging vegetation which will soften the visual impact of the wall. Construction of the wall will involve concrete filled durablock supported by micropiles drilled to the lava rock for vertical support and grout injected ground anchors for lateral support. The mud rock is not being supported by this design. A program of monitoring is proposed so that any distress or defects in the mud rock can be detected any collapse takes place. All construction activity will be...will take place at the top of the bank rather than at the beach level and mauka of the certified shoreline. Best management practices will be used during construction to protect the marine environment including a continuous silt fence at the beach level, a floating silt fence at the toe of the bank and the use of low impact equipment.

Jim covered the dates of the EA. An Environmental Assessment was prepared in compliance with the provisions of HRS Chapter 343 since the retaining wall was within the shoreline setback area. Your Commission did issue...accepted the Final EA and issued a FONSI in February 26 of this year, and the FONSI cleared the 30-day challenge period with no challenges.

Okay, now I will give you an overview of the two alternative wall designs providing lateral access that the applicant has explored based on comments from a few of the Commissioners during the Draft EA and the Final EA process. The first is a walkway alternative that would involve constructing a walkway along the terrace of the wall the full length of the wall as shown with the yellow arrow. The public would walk from F Hui Road to the coastline as shown with the green arrow to the south end of the Hester property. The walkway would provide access from the south end of the Hester property to the north end of the Hester property. Some important considerations for this alternative: This alternative would not provide access to the beach. The walkway would end at the north end of the Hester property where there is no access to the beach. And as an important note, there is currently no access to the beach from the Hester property. To provide access to the beach the adjacent landowners would also need to provide a walkway along their existing walls to an existing stairway to the beach as identified with the red arrow. The second important consideration is the potential environmental impact caused by construction of the walkway. There's a large sea grape tree in the corner of the bay the Hester property right there that would need to be removed to accommodate pedestrian movement along the walkway, along the terrace and removing this tree would allow for erosion of the upper cliff and would impact near shore waters. And finally, construction of this wall would approximately double the cost of the wall.

A second access alternative that was looked at is a stairway alternative which would involve constructing a walkway along the wall terrace to the south end of the Hester property at the corner and then constructing a stairway down to the beach. The beach access stairs would have a concrete landing of an elevation of 20 feet and an angled bench would be carved out of the soil and rock at an angle of...or at a slope of 11 x 7 and a concrete landing would be constructed at the beach level. As with the...as with the walkway alternative there are a number of important considerations for this stairway access alternative. First, safety and liability. The bottom portion

of the stairway would frequently be under water and subject to dangerous wave action as identified in the picture on the left. This is the Hester property. Encouraging the public to access the shoreline at this location would be a public safety hazard. The stairway would create an attractive nuisance and cause a serious safety issue, a liability issue for the property owner. Secondly, environmental impact during construction of the stairway to the beach, erosion of the cliff and subsequent impacts to the shoreline water would be unavoidable, and finally again, cost. This design would essentially double the cost of the wall.

The applicant has taken the Commission's recommendation to provide lateral public access into serious consideration, but the project team has concluded that there is no feasible safe access to the beach from the subject property, and the Planning Department does concur with our, with our assessment of the alternatives and the conditions in the bay and agrees that providing lateral access, lateral beach access via the Hester property is not realistic.

Now moving onto conformance with regulatory requirements. As I and Jim noted, the Final EA has been accepted and a Finding of No Significant Impact was issued. Therefore, your task today is to determine whether the action adheres to the objectives and significance criteria of the SMA and the Shoreline Rules and meet the criteria for approval of a variance.

The SMA Permit application supports the following conclusions: The proposed action will not result in an irrevocable commitment to loss or destruction of natural, cultural resources. The proposed action will not curtail the range of beneficial uses of the environment. In fact, the proposed wall will enhance safety in the shoreline area and will protect shoreline waters. The proposed action will not conflict with State or County plans or environmental policies. The proposed action will not substantially effect the economic or social welfare and activities of the community, County or State. The proposed action will not have secondary impacts. The proposed action will not produce cumulative impacts or require commitment for larger actions. As I noted, the subject property is the last property within the bay to not be...to not have a retaining wall or shoreline wall. The proposed action will not effect rare or threatened or endangered species of habitat. The proposed action is not contrary to State Plan, the County Plan or the West Maui Community Plan. The proposed action will not adversely effect air or water quality. The proposed action will not effect an environmentally sensitive area. Best management practices will be implemented during the construction phase. The proposed action will not alter natural land forms or impact public views. And finally, the proposed action is not contrary to the objectives and policies of Chapter 205A.

Rather the project is consistent with these objectives and policies of the SMA. Regarding recreational resources, as I mentioned, the project will enhance public safety in the shoreline area. It will not narrow the beach, it will not inhibit public access that is already experienced. The archaeological assessment and cultural impact assessment concluded that there will be no impacts of historical cultural resources. The proposed project is not anticipated to impact public view corridors or the visual character of the area. The wall will only be 10 feet. The rock facing will be consistent with the wall to the north, and overhanging vegetation will mitigate the visual impact of the wall. The proposed retaining wall help to protect the quality of the near shore environment by preventing siltation and erosion of the upper cliff face. The proposed action will protect the subject property and structures from erosion due to storm waves and provide greater safety for neighboring properties. The proposed action is being conducted in accordance with all applicable State and County regulations. Early consultation, application notice and public hearing notice have been

provided to neighbors within 500 feet during the Draft EA and SMA application process. The retaining wall will be mauka of the shoreline and will result in an improved aesthetic and engineering solution for the erosion problems that have been experienced. And finally, the proposed retaining wall will aid in the protection of the near shore waters and marine environment from erosion born sediment.

Moving onto the Shoreline Setback Variance. The shoreline was certified by the Department of Land and Natural Resources on May 18, 2009, and it is still valid. The map indicates that the shoreline follows the rocky...the base of the rocky cliff. Using the average lot depth method, the shoreline setback for the parcel is 44.3 feet. The proposed retaining wall is consistent with the following shoreline rules for the Maui Planning Commission. No. 1. The use and enjoyment of the shoreline will be ensured for the public to the fullest extent possible. The proposed action will not prevent the public from full use and enjoyment of the shoreline. No. 2. That the natural shoreline environment be preserved. No. 3. The manmade features in the shoreline to be limited to features compatible with the shoreline area. The subject property is the last remaining property along the bay that is not armored. Therefore, the retaining wall will be compatible with the shoreline as it currently appears. No. 4. That the natural movement of the shoreline be protected from development. The steep sea cliff acts as a natural wall to reflect wave impact. The proposed retaining wall is therefore, not expected to affect coastal processes in a manner different from what the existing conditions are. No. 5. That the quality of the scenic open space resources are protected and preserved. The retaining wall will not impact scenic resources, and finally, No. 6. That adequate public access to and along the shoreline be provided. The proposed project does not restrict public access to or along the shoreline.

The proposed retaining wall also meets the following criteria for approval of a variance: No. 1. That the applicant be deprived of reasonable use of the land if required to fully comply with the shoreline rules. The existing condition of the bluff along with prior documentation of erosion of the site indicate that if left unchecked, erosion will continue and eventually threaten structures on the property as well as neighboring properties and structures. No. 2. That the applicant's proposal is due to unique circumstances and does not draw into the question the reasonableness of the Shoreline Setback Rules. The purpose of the wall is to prevent future erosion and potential undermining of the neighboring wall and to provide eroded...and to prevent eroded soils from entering the ocean and to remove an existing public hazard. And finally, 3. The proposal is the most practical alternative which best conforms to the purpose of the Shoreline Rules.

So to wrap it up, the proposed retaining wall adheres to the objectives and policies of the SMA and the Shoreline Rules for the Maui Planning Commission and meet the criteria for a variance. Therefore, we respectfully ask for your approval of the SMA Use Permit and a Shoreline Setback Variance. Thank you.

Chairperson Lay: Commissioners before we ask any questions, we're gonna go into public testimony.

**a) Public Hearing**

Chairperson Lay: If anybody wishes to testify at this time, please come up to the mic, identify yourself and you have three minutes.

Ms. Ruth Belden: Good morning, Commissioners. My name is Ruth Belden and I'm an employee of Mr. Walter Hester. My family lived, owned the property right next door to Mr. Hester from 1943 to 1965, and we never were able to use that area where his home now sits due to the safety issues. It's a rocky cliff and it's just rocks all the way on the bottom. Back then, there were only a few homes on the lower road. The lower road has not changed since I've been born and it has remained the same. The buildings have come up, but we, living there all of our lives knew where to access the ocean, and that property was never used. We used the Hauko Point at the very end for fishing because it was available. My father would go crabbing and we'd set lines out there, but in that bay, it was...there was no use for fish because it was too shallow and rocky. And I ask you, you know, kokua to grant Mr. Hester the variance that he's asking for. Thank you.

Chairperson Lay: Commissioners, any questions? Thank you. Does anyone else wish to testify at this time?

Mr. Glen Kamaka: Aloha, good morning, Planning Director, Chairperson Ivan Lay, Commission Members, my name is Glen Kamaka. I am a Kahu at Kahana Door of Faith that sits above Keonenui Bay that's right above Kahana Sunset. Our families have always fished in this area, Keonenui Bay. It's always been our way of life. With Mr. Hester's project coming in and allowing access to get to the ocean this way, 'cause right now we have no access to get to Keonenui Bay unless we go through Kahana Sunset which I can't...which I feel that it jeopardizes their liability if we use that, utilizes that access. So with Mr. Hester proposing this pathway, I would very greatly appreciate if you take into consideration and approve this project. Mahalo.

Chairperson Lay: Questions, Commissioners? Seeing none, thank you. And if you haven't signed in to testify, please do so also. Does anyone else have any...wish to testify? Seeing none, we're closing public testimony. Commissioners, you have any questions for the applicant?

Mr. Ball: I have a couple questions.

Chairperson Lay: Commissioner Ball?

Mr. Ball: Jen, on Exhibit B, I don't know if you had a slide for that or not, but there's a couple of wall that kind of jut towards the...

Ms. Mayden: Is that?

Mr. Ball: No, it's kind of a...

Mr. Buika: The exhibits are numbered not B, so there should be a number earlier on that page or in that section.

Mr. Ball: Well, this doesn't have a number, it has an Exhibit B on the bottom.

Ms. Mayden: Commissioner Ball is this what you're looking for?

Mr. Ball: Yes, thank you. So those walls that kind of head on the bottom there towards the left,

right, are those, is that proposed walkway thing or is that...

Ms. Mayden: First, I wanna make a clarification, we are not proposing a walkway.

Mr. Ball: Right, right.

Ms. Mayden: So what we have here this is an existing wall along the property boundary. This portion along the property boundary. That's an existing wall. That's not what we're talking about but that is shown on the site plan. This is the wall, and this is shown with the two terraces. So that is the wall, but it's showing the elevation of each...the top and the terrace.

Mr. Ball: So those are proposed walls that are going to be--

Ms. Mayden: That is "the wall", singular. It's one wall, but it looks...

Mr. Ball: Well, I see two walls. There's one that's there now.

Ms. Mayden: 'Cause it's identifying the--sorry, okay, yes.

Mr. Ball: It juts out, right?

Ms. Mayden: Yes. So that's existing.

Mr. Ball: Isn't the end of that gonna be removed?

Ms. Mayden: The applicant is willing to do that.

Mr. Ball: Wasn't that not his though? I thought it was another--

Ms. Mayden: He did not construct it, but it is on his property. It was from a previous landowner.

Mr. Ball: Okay. There's that one that juts out. And so this other one, the one above that it's gonna be constructed. Is that on the rocks or looks like it kinda goes into the ocean too? I don't know it's just that, it's just a drawing but...

Ms. Mayden: Yeah, I know I see the confusion there. Mr. Paul Weber, the structural engineer for the retaining wall.

Chairperson Lay: Please identify yourself?

Mr. Paul Weber: My name is Paul Weber and I'm the engineer for the retaining wall that's under consideration. It's a beautiful graphic but it's just a little bit incorrect. The continuation of the wall to the left out into the ocean doesn't happen. In fact, if you go back to my plans you'll see that the wall ends before it gets to the end of the Hester property.

Mr. Ball: There's like a ...(inaudible)...picture that kinda shows the area and in real life, I don't know if you can find that, mine says, "Exhibit F", but no number on the bottom. Yeah, so the top right

picture–

Mr. Weber: Yes, sir.

Mr. Ball: –if you can kinda draw a line where that wall would sit on there? Is it back to the green area?

Mr. Weber: That is correct. It's back of the...it's back in the green. However, it's not out there on the rocks.

Mr. Ball: Okay. While you're up there–

Mr. Weber: Yes, sir.

Mr. Ball: –you know, the vertical supports, how far back...how far back is that in the rock, whatever that...from the exposed rock into the vertical support? What's the distance there between those? Yeah.

Mr. Weber: A few feet. It depends on where you are. Of course, the rock face is not even, so–

Mr. Ball: Right.

Mr. Weber: –it's wondering around and a few feet back–

Mr. Ball: So the drilling of that won't compromise the face of that?

Mr. Weber: No, the kind of technology that we're using is quite new. It's a very small diameter rods that are injected with grout as they go in, and so the rod is only a couple of inches in diameter that goes into the ground, but it's hollow and it allows grout to be injected in as the rod goes in. So no, the drilling is not...it's insignificant really.

Chairperson Lay: Commissioner Ball?

Mr. Ball: Okay, in the act of full disclosure I know this area well. My sister owns a condo at Kahana Sunset, vacation rental. I have no financial interest in it, but we do go out there a couple times a year. So I am in total agreement that that area is not conducive to lateral access. It's just, we always jump in and swim in if we wanted to go that route.

Mr. Weber: Me too.

Mr. Ball: Or we go down Hui F Road and fish in that area so I'm in agreement with the wall and that walking on the wall and ending at the end is just not...it's a waste of time to build that, so...

Mr. Weber: I agree.

Mr. Ball: That's my input on this.

Mr. Weber: I produced, I produced designs because I was asked to and don't support them at all.

Mr. Ball: Thank you for doing, thank you for doing the exercise.

Chairperson Lay: I have an additional question for you while you're there, and while the photo is up. This photo that we see here, this cut photo, you have your, where you have that grouted rod in the ground...well first, what is the rod made out of? I mean, is it something that will break down in time or is it...

Mr. Weber: It's high strength steel. We do all kinds of measures. All kinds of measures are taken to protect it from corrosion 'cause a marine environment is the most corrosive environment you could put steel in. It's high strength steel. It's completely surrounded in high strength grout, and it's purposely sized to allow 50 to 100 years of corrosion to take place and still retain that structure.

Chairperson Lay: Second, on that detail that you're showing come upwards from the bottom you have a little block, is that the footing gonna be running parallel across that bottom of the rockwall line, I mean, of your wall? That very, that first step, you have your first bar coming straight up 90 degree, yeah, above but on the top where you have that...right there, is that...more inward is that that block attachment, is that a footing block that will be running parallel across the crossways?

Mr. Weber: That is correct. That's a grade beam and the dura block sits on top of the grade beam. Yes, sir.

Chairperson Lay: All right, thank you.

Mr. Weber: And that block is supported of course, on the micropiles that go down.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Paul, I'm the Commissioner that asked for that analysis to be done so I'm glad you went through the exercise.

Mr. Weber: It was great fun. It was great fun.

Mr. Hedani: I concur after, you know, viewing the photographs that you presented and the analysis that you provided that lateral access along that area is difficult if not impossible to create safely for the public.

Mr. Weber: Yes, sir.

Mr. Hedani: That being said, I have a question. I don't have any problem with the design as presented in Section AA. If you go to Section BB, I'm just wondering if you designed it because you were asked and that you don't support it or if you would actually support something like that because—

Mr. Weber: That's an excellent question.

Mr. Hedani: –I cannot for the life of me conceive of anybody designing something that would be supported by thin air like that?

Mr. Weber: And I appreciate that, sir. And it was not just an exercise. The structure looks peculiar, but it is structurally stable, and that's all, that's all that's required. Even though the vertical...what is a vertical component in other, am I too close to that thing? The vertical component in the other section is canted at an angle in this section. It still has a vertical component, and a huge vertical component in order to support the weight of the wall above it and the stability of the wall above it. So it looks strange, but it is structurally stable.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: At Section BB, Paul, why wouldn't you pull the wall back five feet?

Mr. Weber: Well, you could, but that's, it's not necessary.

Mr. Hedani: I guess my question actually is, I'm kinda confused 'cause the presentation said that nothing is being done to the sea caves beneath it. You know, there's no reinforcement that's going into the area beneath this. It's gonna be subject to future erosion in the future. So if you look at Section BB, you're gonna get undermining into the future. With the weight of watering and the weight of the water for the irrigation system for your planting weighing on top of the wall on top of that, isn't that going to be compromised at some point?

Mr. Weber: Actually I'm glad that you brought that up. In fact, the canted micropiles on the exterior are specifically to stabilize the roof of the caves, to stabilize the structure of the caves. That's why they're there. In fact, there's more of them being placed in the ground right over the caves than there are any other parts of the project. So what we're doing is, we're, we're inserting, reinforcing into the cavity of the cave as if we were improving the arch of the cave. Grout injection is a marvelous technology because if there's cracks in the rocks, if there's pukas, the ground squirts out into the cracks, into the pukas and actually improves the rock from the condition that it is now. Therefore, the erosion, possible erosion of the caves is greatly improved by the insertion of the rods.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: I think we had this problem when this came to us in the Environmental Assessment. Section BB, where it's cutback there in the illustration, that's not a picture of the coastline, correct? I mean, the actual coastline does not go in like that in that illustration am I correct?

Mr. Weber: No, but the cave does. As the illustration, it will cut just through the cave.

Ms. Wakida: Just to the cave?

Mr. Weber: Just through the cave. It's not meant to represent any general coastline portion.

Ms. Wakida: Right. Thank you.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: I just have a question relating to surface water drainage. Maybe Public Works can comment on this? The Lower Honoapiilani Highway or the road I guess you call it, Lower Honoapiilani Road does it have curbing and guttering and if not, when are we planning to direct the water or control the water from not going through the Hester property?

Ms. Dagdag-Andaya: Rowena Dagdag, Public Works. And thank you for that question, Commissioner Shibuya. The lower road project or Lower Honoapiilani Road, several sections of it are now have curb, gutter. However, there's that one portion that's fronting the Hester residence and then I believe also near the Kahana Sunset that we reviewed a couple months ago that do not have curb, gutter, sidewalk. And so that section there is what we call the Lower Road Phase 4, and eventually...I mean, what we're looking towards is doing an improvement project there that includes road reconstruction and installing all those drainage improvements. We don't have a time line unfortunately for that project right now, but that's something that we're looking forward to doing. We're kinda working out a plan that the residents would be happy with. But again at this time, there's no...we don't have a project but that's something that we're looking forward in the future.

Mr. Shibuya: Okay, thank you. Maybe can you show this picture 'cause I wanna make that point? Okay, and this photo you will notice that on our handout there's an arrow coming down to show where the Hester's property is. Right above there is actually open field and the water that comes down sheets over the surface, hits the Lower Honoapiilani Road, comes right over and into the Hester's property and then I feel that it does contribute to the erosion in that area. Putting this retaining wall is a measure for the owner to protect his property and I applaud his efforts there, but until we resolve this storm water sheeting over the surface and somehow redirecting it or controlling it, we're gonna have this problem continue, and that's my opinion. Thanks.

Mr. Lay: I'd like to pose a question toward Public Works. Is it draining into their yard right now from the street onto their property, onto the Hester property?

Ms. Dagdag-Andaya: That I don't know. I would wanna defer that to maybe the project engineer for additional information.

Ms. Mayden: Chair, may we bring up Linda Taylor, who designed the drainage system?

Mr. Lay: Okay.

Ms. Linda Taylor: My name is Linda Taylor with Linda Taylor Engineering. Good morning, Commissioners. The question was is the off site drainage coming through the property? If you look at the northwest corner there, there is a natural drainage pattern for the road runoff and the off site runoff to come through the property. And then, before it enters into the ocean, there was an existing concrete GRP structure there that kind of held the water and prevented it from eroding further. So what we've done with our plan is we've placed an inlet at the road there which can handle this off site runoff and allows it to move through that northwest side of the property and then it—

Mr. Shibuya: Please point it out.

Ms. Taylor: -so we've added a inlet right here which is sized to handle the off site runoff and the runoff from the road, pass through the site, and then it discharges here into this above ground retention area. So that is designed to handle that off site runoff in this design. And how this underground retention area here it's gravel wrapped with filter fabric and that has a capacity of about 1,207 cubic feet, so 190 cubic feet. And then also above the grass here we have retention also, an additional 627 cubic feet. So the total retention provided here is 1,917 cubic feet which Jen mentioned earlier in the preliminary engineering report the increase in runoff was 90 cubic feet.

Mr. Shibuya: Okay, thank you very much.

Ms. Taylor: You're welcome.

Mr. Lay: Thank you. Commissioners, any more questions? Seeing none, can we get the Department's recommendation?

**b) Action**

Mr. Buika: Thank you, Chairman Lay. As far as the conclusions of law regarding the Shoreline Setback Variance and the Special Management Area Use Permit, I did as you saw in the presentation I had Jen Mayden, the applicant's representative run through each of the criteria there. So if you go to the recommendation section for the Shoreline Setback Variance there are six criteria that were met in terms of the purpose of the Shoreline Rules, that the use and enjoyment of the shoreline area be ensured for public use to the fullest extent, that the natural shoreline environment be preserved, that manmade features in the shoreline area be limited to features compatible with the shoreline area, that the natural movement of the shoreline be protected from development, that the quality of scenic and open space resources be protected, preserved, and where desirable, restored, and that adequate public access to and along the shoreline be provided. So those criteria, the purpose of the shoreline setback area remain from this project by limiting it to the bluff.

The application also complies with the applicable six criteria for approval of the variance to the...for a variance in the shoreline setback area as set forth in Chapter 203 of your Shoreline Rules for the Maui Planning Commission. These are in Section 15, Criteria for Approval of a Variance, specifically, "a, No. 8, b, c, d, and f". They are listed. I won't repeat those there. And then as far as hardships, the applicant requires demonstrating hardship and the applicant did explain that the applicant would be deprived of reasonable use of land if required to fully comply with the Shoreline Setback Rules. The applicant's proposal is due to unique circumstances and does not draw into question the reasonableness of the Shoreline Setback Rules and that the proposal is practicable alternative which best conforms to the purpose of the Shoreline Setback Rules. As far as the variance is concerned there are five conditions that are placed in the conditions of the report. They're listed there. I won't read through them, but they are listed as conditions.

As far as the Special Management Area Use Permit application, it does comply with the applicable standards for the Special Management Area as listed in the accompanying Department report for this project and as presented by the applicant's representative here this morning. So the Department based on the facts presented in the Department report finds that the proposed action does not have a significant adverse environmental or ecological effect since mitigation measures

are incorporated into the project and that the said action essentially meets the objectives, policies and guidelines of the SMA Rules and that the said action is consistent with County Zoning and the West Maui Community Plan.

Before I do read the recommendation just one observation is that this is, unfortunately this is a bay where we have put in retaining walls on virtually every property here and this is the last one. As far as the recommendation, the Maui Planning Department recommends approval of the Shoreline Setback Variance application request subject to five conditions as required by Chapter 12-203-15, Criteria for Approval of a Variance. These required conditions are listed there before you under, Required Conditions. That the applicant maintain and require safe lateral access to and along the shoreline for public use. This project virtually is doing that. The applicant minimize risk of adverse impacts on beach processes. This project, again, is doing that. That the applicant minimize risk of structures failing and becoming loose rocks and rubble on public property. No. 4, that the applicant minimize adverse impacts on public views to, from, and along the shoreline. And 5, that the project shall comply with Chapter 19.62 which is our Flood Development Permit, and 20.08 which relates to erosion and sediment control respectively. So those are required conditions that will be placed in the approval.

As far as the Special Management Area Use Permit, the Planning Department again recommends approval subject to the following conditions that are listed in front of you. The first five, the first two relate to timing of the project. Third, is the insurance on the project. The fourth permit, these are standard conditions, that plans will be followed as presented in the application, and that No. 5, that compliance reports will be required to the Department. And then No. 6, is related to, and it does say, to the satisfaction of the Department, that appropriate filtration measures to separate petroleum products and other potential contaminants shall be incorporated into the project's final drainage plan and shall be regularly maintained per manufacturer specifications or other best management practices with the contaminant residuals from storm water treatment to be disposed of properly, et cetera. I spoke with the Director, and the Department recommends that we strike this Condition No. 6, so I would recommend approval, striking Condition No. 6 on the filtration. As you saw, and the reason, the departmental reason being that as you saw from Linda Taylor, the engineer's explanation of the retaining the drainage from both the road and the property. The property really doesn't have any petroleum product of significance. It is only a single-family residence. This is just a retaining wall and it...we recommend that we strike that condition from the approval. Going on, No. 7, 8, 9, 10, 11, and 12 are the remaining ones. No. 7 relates to that in the event of a historic resource that or human skeletal remains are identified during routine construction that the State Historic Preservation Office be contacted. That the project shall conform with the Maui County Code, 19.62, pertaining to Flood Hazard Districts. No. 9, that no artificial light from flood lights, up lights or spot lights be used for decorative or aesthetic purposes, et cetera along the shoreline. No. 10, addresses best management practices protecting, ensuring water quality and marine resources during the construction phase. No. 11 that appropriate approvals shall be obtained from the Department of Public Works prior to commencement of work. And No. 12, the final condition for the SMA Use Permit is that the proposed development will utilize drought tolerant plants and native trees in its landscaping scheme where possible.

In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report minus that No. 6, the SMA Condition No. 6, prepared for the July 23<sup>rd</sup>, 2013 meeting and the Department's recommendation report prepared

for the same meeting as its finding of fact, conclusion of law, and decision of order and to authorize the Director of Planning to transmit said written Decision and Order on behalf of the Planning Commission. That concludes my recommendation.

Mr. Lay: Commissioner Ball, there are two motions on this, okay.

Mr. Ball: Okay. First motion, grant a Special Management Area Use Permit.

Mr. Lay: Rowena?

Ms. Dagdag-Andaya: I just wanted to also add that the project because there's a new single-family residence being constructed there it might also be subject to our Storm Water Quality Rules, the new ones that we just passed about a couple months ago. So in terms of storm water quality, that also might be reviewed at the building permit process.

Mr. Lay: Commissioner Ball?

Mr. Ball: I think I've said it.

Mr. Lay: Okay.

Mr. Medeiros: Second.

Mr. Lay: Motion by Commissioner Ball, seconded by Commissioner—

Mr. Spence: This is for the Shoreline?

Mr. Ball: SMA.

Mr. Spence: The motion was for the SMA, as recommended by Staff.

Mr. Lay: Any discussion? Mr. Hedani, Commissioner Hedani?

Mr. Hedani: I guess this is a question for Jim, since you're the expert, Jim. Are you comfortable with building a wall over a sea cave?

Mr. Buika: Yes, as proposed. I mean, I'm not a structural engineer. And I am a geologist by profession and the...even though there are sea caves there, that...in my opinion as a geologist, it is a, it is a consolidated rock formation. There have been sea caves formed over time. The waves do not constantly pound on that shoreline. There is some beach there. The pictures that they showed were some, obviously, some storm events. So it is not like that on a continual basis. To prevent building a seawall in the location, I think the...the Department feels that this is the best recommendation. Grouting it will stabilize it, and I think they'll stabilize the sea caves and I think it'll, it'll be a lasting structure. So I do feel comfortable.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: Just for the record, I'll be voting against the motion in this particular case only because from the testimony that we've gotten today, what we've been told is that there's no stabilizing...there's no mediation action that's being undertaken for the sea caves themselves other than the piling that they're proposing. I'm concerned that with rising sea levels over the next 20 or 30 years, you gonna get more and erosion within the sea caves and the liability of a wall collapsing or the cave collapsing like as has been displayed in the exhibits that they presented to us, it's happened in the past, and it probably will happen in the future, pilings or no pilings given sea level rise. The only condition under which I could support something like this is if they were willing to pull back and I'm told that it's possible to do that that section of the wall that's suspended right now over the sea caves by whatever distance is required in order to be able to set the pilings on bedrock. Failing that, you know, I can't support the motion as it's proposed.

Mr. Lay: Any more discussion? Let's vote on the motion. All those in favor? Those opposed?

Mr. Spence: That's five ayes and two noes. Motion passes.

### **Special Management Area Use Permit**

**It was moved by Mr. Ball, seconded by Mr. Medeiros, then**

**VOTED: To Approve the Special Management Area Use Permit as Recommended by the Department with Recommended Conditions.  
(Assenting - K. Ball, J. Medeiros, J. Freitas, M. Tsai, P. Wakida)  
(Dissenting - W. Hedani, W. Shibuya)  
(Excused - S. Duvauchelle)**

Mr. Lay: Moving on. Shoreline Setback. Commissioner Ball?

Mr. Ball: Motion to approve Shoreline Setback Variance for construction of a retaining wall at the subject property.

Mr. Tsai: Second.

Mr. Lay: Motion by Commissioner Ball, seconded by Commissioner Tsai. Discussion? Commissioner Shibuya?

Mr. Shibuya: No, I just wanted to second it. That's all. Thank you. No problem.

Mr. Lay: Any more discussion on the matter? Commissioner Wakida?

Ms. Wakida: Yeah, I'll be voting in favor of this again. I...you know, we've been through this. It's been a long process for Mr. Hester, and he's slogged through a lot of options and presented them to us. And I think the tiered setback that they've come...wall, that they've come up with is a good solution. I mean, originally, he wanted to put up a 25-foot wall, and we said, no, I don't think that's a good idea, and he said okay, we'll come up with something and did. And think this is the best that can be done in this situation. I don't think...I think the foundation...I've been convinced that the foundation is stable enough and that the sea caves don't pose that great of a risk.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: In this particular case, I had earlier supported the contention that perhaps the piles are not on firm ground, and I agree that if you don't have 'em on firm bedrock then it presents a risk. This SMA approval I will support hoping that the owner and Mr. Weber would probably consider some more firm type of structure that can be accommodated. At least it gives you that opportunity to work it.

Mr. Lay: I just have a comment on it. I think if it's...the engineering behind this if it all goes all, it's very appealing to the eye better than having a hard rock wall, you know, on a shoreline and...with the action, wave action on the shoreline when it's a hardened shoreline is a more, I guess, more erosive than something that's set like this. Any more comments? If not, call for the vote. All those in favor?

Mr. Spence: That's six ayes.

Mr. Lay: Those opposed?

Mr. Spence: And one nay.

Mr. Buika: That's seven. I think it was Jack, Jack voted.

Mr. Ball: Six ayes, one no.

Mr. Buika: Oh, okay, you're right.

Mr. Lay: Congratulations.

### **Shoreline Setback Variance**

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

**VOTED: To Approve the Shoreline Setback Variance as Recommended by the Department with Recommended Conditions.  
(Assenting - K. Ball, M. Tsai, J. Medeiros, J. Freitas, P. Wakida, W. Shibuya)  
(Dissenting - W. Hedani)  
(Excused - S. Duvauchelle)**

Mr. Lay: And we're gonna break for lunch to 1:10.

Mr. Buika: Thank you.

A recess was called at 12:10 p.m., and the meeting was reconvened at 1:15 p.m.

Mr. Lay: Meeting is now called back to order. Our next agenda item is Item 3-B. Ms. Sarah Lloyd

requesting a State Land Use Commission Special Use Permit in order to operate the Kiloohana of Makawao, a four-bedroom short-term rental home on a property situated in the State Agricultural District at 450 Meha Road, TMK: 2-4-010:016, Makawao, Island of Maui. And Gina Flammer is our Planner for today.

**3. MS. SARAH LLOYD requesting a State Land Use Commission Special Use Permit in order to operate the Kiloohana of Makawao, a four (4)-bedroom short-term rental home on property situated in the State Agricultural District at 450 Meha Road, TMK: 2-4-010: 016, Makawao, Island of Maui. (SUP2 2013/0005) (G. Flammer)**

Ms. Gina Flammer: Okay, thank you. Good afternoon, Commissioners. Okay, we're gonna have a presentation in just a minute. Our applicant is doing the presentation this time. I've asked them to go into some detail on the history as well as the history of the ag, as well as the current ag on the property and I figured they can probably do that much better than I could. I did, before we go into it, that I wanted to make sure you guys all understood exactly where we're talking about. So if you go to Exhibit 2, I've got a map that shows you and then if you look at Exhibit 3, it shows you the Google Earth picture. So we're talking kind of up behind where Seabury Hall is. Everyone knows where the rodeo is held. It's kind of back in that general area. When you look at Exhibit 3, you can see where the two testifiers from this morning, directly to the right was the second woman, Eve Harris, I think was the last name.

Mr. Bill Lloyd: Harrison.

Ms. Flammer: Harrison. She's right there. And then the Camerons, Dick and Fatima, are the property that's just behind down in the lower right-hand side. The only other thing I wanted to point out about this property that you probably missed in the report, it's buried pretty deep, is when you look at the soil classification and these were done in the 60's, little bit after the time we did our State Land Use Classification it's one of the few properties that you see that actually has a "U" designation and that "U" means Urban. They were much more detailed when they did the soil classifications. When they did the zoning classifications they didn't have GIS, they didn't go out and look, they kinda just did broad strokes. They're called districts because they're, they're broad areas. The only other place I've ever seen a "U" on Maui is down in Paia when you look near the old mill where the school is, Holy Rosary Church, and that reflects what was going on at the time they were doing these classifications. You had kind of a town center there. Same with up in this area. This is kinda where the center of Haleakala Ranch was. It's still real near where the ranch operation management office, it's kind of similar to where the dairy is. So my guess would be when they did the soil classification, that's what was going on at the time. It was at that time used as a residence. So with that, to describe better, I'd like to introduce the property manager, Cathy Clark and then she can introduce Bill Lloyd who's here representing the family.

Ms. Catherine Clark: Aloha, Director Spence, Chair Lay, and Commissioners. I assisted the Lloyd Family with preparing their application. So we'll just go through the little power point that we prepared to run through the property. So this property has a very long history in the agricultural community. The house on the property was built as the retirement home for the first manager of Haleakala Ranch, Louis von Tempsky. It has a paniolo shed, outdoor cooking area, a tack house, and of course, horses. There was a series of books written Armine von Tempski that chronicles

the early days at Kilohana. And one of these was *Born in Paradise*, another was, *Aloha*, and there were several that followed that. When Louis passed away, two of his daughters turned Kilohana into a dude ranch and took tourists on rides up to Haleakala Crater.

Kilohana passed from Gay Baldwin Lloyd to Russell Lloyd, Jr., and now onto his five children. Russell Lloyd established the LLC, Russell Lloyd, Jr., LLC to keep Kilohana in the family as he had promised to Gay Baldwin Lloyd. Their family ties are definitely to Maui with Russell's mother, father, stepmother buried at Maui's Veteran Cemetery, and other family members buried on the civilian side of the same cemetery.

Russell promised his stepmother to do everything possible to keep Kilohana in the family and retain its historical and cultural heritage as part of Maui's Hawaiianna. To accomplish this, the family finds that they need to turn to the tourism industry just as the von Tempsky sisters did many years ago.

Gay Baldwin Lloyd dedicated Kilohana as agricultural. Russell planted a variety of 48 fruit trees and coffee starts by hand. Kilohana actually has three types of agricultural activity, the fruit trees, pasture for horses or goats, and of course, there's tropical flowers and bamboo on the property as well.

When Russell was able to spend time in Maui, the fruit was sold to Good Earth Market and Polli's. The excess fruit went to St. John's Church. The coffee beans when to Grandma's Coffee House. When health prevented him from being here so frequently, the fruit went to charity and he had the group from Waste Not Want Not come to collect it. At this point in time, the caretakers are using the fruit from the property to make jam and jelly, and I think Bill brought a sample of that for you today.

We also wanted to give you the visual image, so there's a variety of fruit trees on the property. There's coffee, papayas, bananas, lemons, limes, tangerines, tangelos, grapefruit, avocados, and oranges. And of course, the strawberry guavas that made the jelly. The trees have been bearing for a good number of years. Whenever a new tree is planted as we've tried to do recently, they're irrigated and protected by wire cages. And irrigation is drip style which uses less water than sprayers. They definitely try not to use it, but every now and then there is a situation which warrants irrigation.

A section of Kilohana adjoins sister, Eve's property and Eve was here to testify this morning, and it's used to pasture animals usually horses or goats. This is one particular spot that the goats love to hang out. And then the horses are right along that fence as well.

But something else we noticed that was really interesting is that along the border of the property there are some 100-year-old trees. They're beautiful, they're very large, but Haleakala Ranch is right below, and the only place that those animals have any shade is under the large trees that are on the Kilohana side of the fence. So this is what happens. The only brown spots in those pastures are right under the trees. There's also quite a large amount of bamboo, and tropical flowers.

A plot plan of the property to give you an idea of how everything is situated. Below the property is Haleakala Ranch land and off to the side. And a aerial overview to give you the same thing. The access to Kilohana is from Meha Road. This is a County maintained road. And fire protection, the

Makawao Fire Station would respond and they are only 2.02 miles away. There is a County water standpipe No. 1, right at the end of the driveway.

There are only two homes that are close to Kilohana and Gina pointed those out to you earlier. Russell's sister, Eve, and then Dick and Fatima Cameron. Both have endorsed the vacation rental use. The undeveloped section of Seabury Hall land is across from the end of the driveway, and the other land is pretty much all pasture land. And that concludes the power point. I'd like to take the opportunity to introduce Bill Lloyd, who is one of Russell's children here to represent the five children in the family.

Mr. Bill Lloyd: Good afternoon. I'm Bill Lloyd and it's a pleasure to be here with you all today. Kilohana has been part of my heritage having been born over on Oahu in 1958, my father was a Colonel in the Marine Corps stationed at Kaneohe at the time, and since my youth, I've been coming over to Kilohana to visit my grandparents at the time before my grandfather's death. Upcountry is where my cousin Shannon, Eric and I, and eventually my sisters learned to ride in those same pastures that you just saw in the diagram.

This morning as I went out on a walk there were horses occupying the chapter. The bald spot that you saw in the diagram was occupied by five cows who were giving me the business, and the goats were on patrol. So it was ever bit as vibrant and filled with wildlife as it was back in the day when my parents, my grandparents, excuse me, bought that property from the ranch. It was my grandmother's father who with the von Tempskys had actually developed and built the property back in the day.

As you know, the von Tempskys lived there. It was a gift to Louis von Tempsky, and then it was taken in a life estate was preserved by his daughters Armine and Gwen von Tempsky. And it was there that they lived or where Armine lived when she wrote her famous masterpieces including this book. And if you get a chance, I would urge you to browse it. This is *Aloha* because this is very, very much a history of what was going on from all the way through her youth and when this house was built, 1916-17 all the way up through 1959 when Gwen had to move elsewhere due to health reasons. It was at that time that my grandparents took over and the house keep running really as part of the ranch. Even though they owned it independently.

My parents upon their, my dad's acquisition of the property, upon my grandmother's passing, as he promised to her has tried to retain the integrity of the property and its historic value as well as make it more valuable to the community and planting more agriculture there and when they came on island and had a chance to worship at the St. John's Church even including members of the church to come down and harvest when they could. To this day, we have some workers that come on to do some of the agricultural work on there that are in their third generation. So it's very, very much been a family operation and I think the heritage of the ranch and of the von Tempsky girls is retained as much as it possibly can. And I think it's a special place and hopefully it can be kept that way. Thank you very much.

Mr. Lay: Going into public testimony right now.

**b) Public Hearing**

Mr. Lay: If anyone wishes to testify at this time, please step forward?

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

Chairperson Lay: Does anyone else wish to testify at this time? Step up to the microphone and identify yourself, you have three minutes.

Ms. Fatima Cameron: Good morning, my name is Fatima Cameron and I'm here to testify on the Kilohana property on the application for short-term rental home. We are neighbors. Our properties adjoin. They are wonderful people. The property is beautiful. I hope it stays that way. It's a big property, and I hope it stays that way to benefit us and benefit the neighborhood. I hope you consider it.

Mr. Richard Cameron: I'm Richard Cameron and I'm Mrs. Cameron's husband and I just want to support this land use permit for the property. We know the Lloyd family for many, many years. They're good people and it would really benefit the neighborhood and our home adjoins the property.

Chairperson Lay: Commissioners, do you have any questions for the Camerons? Seeing none, thank you very much.

Ms. Eve Harrison: I'm Eve Harrison. I'm a neighbor of the Lloyds. The Lloyd family, they're my step relatives and the...it's a way to keep the home in the family. It's very agricultural and relaxed and I hope you'll approve of it.

Chairperson Lay: Commissioners, do you have any questions for the testifier? If not, thank you very much.

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

Mr. Lay: Seeing no one, we're closing the public testimony. Commissioners, do you have any questions for the applicant or the planner?

Mr. Freitas: I have no questions, but I have a comment. What do you call, I was born and raised up in Makawao. I'm third generation. I know this property very well. This property is truly a vacation rental property. It has the trees, it has the ambiance, it's just...it's the type of property it should be going into vacation rentals. I have a vacation rentals, but not at all with this property. It's...I've been on the property. I have been on it once about three years ago, two years ago, harvesting for Waste Not, Want Not, and everything that the man says is right on.

Mr. Lay: Commissioner Ball?

Mr. Ball: My only concern would be ingress/egress of that driveway as it hits Meha there kinda on the blind curve and the visibility is very minimal to exit the property would be my...would be my only concern. And I don't know if the topography would blend itself to moving the driveway or not.

Mr. Lloyd: The driveway is a shared driveway with Eve Harrison, and it has always been that way

since Eve's home was constructed. This morning as I was on my walk and went right by, and you're absolutely correct, it's right after you come over, but there's a huge sign on the down country side that says, hidden driveway, so it's marked. The other thing is, that we have pushed way back any vegetation up to Eve's fence. So there is nothing. It's just red dirt right there along the roadside. So it's about the best that we can possibly make it. If you're coming from the mauka side, it's clear, no problem. So I think we've done about as much as we can do.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: Good afternoon. What is the minimum length of stay of visitors that you anticipate coming?

Mr. Lloyd: Generally speaking seven days.

Ms. Wakida: And you've mentioned in your application that the property is also used by family. About how much of the year is it used by family members?

Mr. Lloyd: Right now, the family members are getting out here only for probably a month to two months of the year. That will increase due to quite frankly, we're getting older. Myself and my siblings and we're now starting to come out more frequently. I was out last year, year before. My sister, Molly came out two weeks ago for the first time in many years. My sister, Sarah's been coming out every year for a couple of years, and frankly my mom's health unfortunately is in decline, my dad refuses to leave her side. So the upkeep and responsibilities have transferred primarily to my sister, Sarah, and to I, and I'm, I'm one of five so we'll be rotating through.

Mr. Lay: Commissioner Medeiros?

Mr. Medeiros: I, too, have problems with these kinds of operations. However, yeah, you seem to be doing things with your fruit trees and your farming operations minimal as it is, but more importantly for me is that you guys made a promise to your kupuna to keep it in the family and if I have a say in it, I will help you keep that promise.

Mr. Lloyd: I can't thank you enough, sir. Thank you.

Mr. Lay: If there's no more questions, the Department's recommendation.

Mr. Ball: I have one comment maybe. That the pictures that you shared with us are—I figured Carolyn can recognize my voice--the pictures that you shared were great because it showed like, you know, old-style Hawaii, you know, which you'd expect from an old estate-type property and I don't know if there's anything like maybe leaving the *Aloha* book there and, you know, just kinda letting people know that, like okay, this is a historical place kind of, you know, I mean, I don't think it's on any register or anything, but there's a lot of Upcountry history that goes along with the property that you know, tourist from the mainland will have no clue of unless somebody's there to tell 'em or if there's some literature there to kinda educate them and I think they would appreciate it. And you know, they have a lot of questions when they go into a house like that, like oh, who used to live here, where they'd come from and, you know, what it used to be or functionality and things like that. So I think that be an nice integral part of the project also.

Ms. Flammer: Thank you for that comment. The family is very humble. It was ten-years before I knew this was the house from the book.

Mr. Lay: I'd like to comment too on that. Okay, for me with this vacation rental, your family that's been here for a long time. It's not somebody just come here from mainland and saying we bought this property and we're going to rent it out, we need help to pay for it. You guys have been here a long time. You established the place very beautifully and we appreciate that kind of rentals here. Thank you.

Mr. Lloyd: Yes, sir.

Ms. Flammer: Okay, I'll go ahead with the Department's recommendation. Okay, the Department finds that application meets all the standards for an unusual and reasonable use within the State Agricultural District as reason stated in our report dated July 23<sup>rd</sup>. We have proposed seven conditions. These are the same conditions that we've proposed for all of our State Land Use Permit for this type of use. Keeping in mind that our last condition says that the farm plan needs to remain implemented during the duration of the permit and that evidence of implementation has to be submitted as part of the renewal application and that includes also a site visit. So in consideration of foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Department's report and recommendation prepared for today's hearing July 23, 2013 as its findings of fact, conclusion of law, decision and order and authorize the Director of Planning to transmit the written decision and order on behalf of the Planning Commission. Thank you.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: Time for a motion?

Mr. Lay: Yes.

Ms. Wakida: Okay. I move that the Maui Planning Commission adopt the Planning Department's Report and Recommendation.

Mr. Freitas: Second.

Mr. Lay: Motion by Commissioner Wakida, seconded by Commissioner Freitas. Any discussion? If not, let's call for the vote. All those in favor?

Mr. Spence: That's seven ayes.

Mr. Lay: Congratulations.

**It was moved by Ms. Wakida, seconded by Mr. Freitas, then**

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

**(Excused - S. Duvauchelle)**

Mr. Lay: Next we have Acceptance of our Action Minutes of the July 9, 2013.

**C. ACCEPTANCE OF THE ACTION MINUTES OF THE JULY 9, 2013 MEETING**

Mr. Ball: Move to approve with no changes.

Mr. Medeiros: Second.

Mr. Lay: Motion. All those in favor?

Commission Members: Aye.

**It was moved by Mr. Ball, seconded by Mr. Medeiros, then**

**VOTED: To Accept the Action Minutes of the July 9, 2013 Meeting.  
(Assenting - K. Ball, J. Medeiros, J. Freitas, M. Tsai, W. Hedani,  
P. Wakida, W. Shibuya)  
(Excused - S. Duvauchelle)**

Mr. Lay: Director's Report?

**D. DIRECTOR'S REPORT**

**1. Planning Commission Projects/Issues**

Mr. Spence: Commissioners, you have the Memorandum from Clayton Yoshida regarding the next you're gonna be hearing a resolution from the County Council regarding the Change in Zoning, how we figure protests. Change in Zoning from R-3 to B-2 for Kihana Nursery, and we're gonna see, be seeing Ms. Cathy Clark again for a Special Use Permit for Pinnacle short-term rental home. And a communication from the Hui No`eau to start a pilot program to accommodate some additional schools on property.

**2. EA/EIS Report**

**3. SMA Minor Permit Report**

**4. SMA Exemptions Report**

Mr. Spence: And you have your SMA Minor and Exemption. I will say that we did receive an appeal from Mr. Isaac Hall on the Rock and Brews SMA Minor, so we'll be having to schedule that. We'll go through the procedure and put it on your agenda.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: I'll...after Mr. Shibuya?

Chairperson Lay: Commissioner Shibuya?

Mr. Shibuya: My only comment here is that last time we had 27 pool projects, we are down to 19 pool projects. I don't know, I hope my comment didn't discourage people from making pools.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: I would like to ask the Director if...I understand there's been a workshop on the General Plan?

Mr. Spence: Yes, that was for Public Works Department.

Ms. Wakida: Well, what about the Planning Commission getting a workshop on this? It's been approved and....

Mr. Spence: We can certainly talk about that. Okay, let me pass that along.

Ms. Wakida: Okay. Thank you.

Mr. Lay: Motion to accept the SMA Minor Report and SMA Exemptions?

Mr. Freitas: So move.

Mr. Ball: Second.

Mr. Lay: All those in favor?

Commission Members: Aye.

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

**VOTED: To Approve the SMA Minor and Exemption Reports.  
(Assenting - J. Freitas, K. Ball, J. Medeiros, M. Tsai, W. Hedani,  
P. Wakida, W. Shibuya)  
(Excused - S. Duvauchelle)**

Mr. Lay: Discussion on Future Maui Planning Commission Agenda.

**5. Discussion of Future Maui Planning Commission Agendas**

**a. August 13, 2013 meeting agenda items**

Ms. Wakida: I guess I was out of order there that I probably should have brought it up at this point.

Mr. Lay: Other than that, any more agenda items or anything anyone else would like to bring up at this time? Everyone have a great day.

**E. NEXT REGULAR MEETING DATE: AUGUST 13, 2013**

**F. ADJOURNMENT**

The meeting was adjourned at 1:37 p.m.

Submitted by,

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

**RECORD OF ATTENDANCE**

**Present**

Keone Ball  
Jack Freitas  
Wayne Hedani  
Ivan Lay, Chair  
Jason Medeiros  
Warren Shibuya, Vice-Chair  
Max Tsai  
Penny Wakida

**Excused**

Sandy Duvauchelle

**Others**

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