

**MAUI PLANNING COMMISSION
REGULAR MINUTES
AUGUST 13, 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, August 13, 2013, Planning Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Mr. Ivan Lay: This morning we'll be taking at the start of the meeting on the agenda items except for contested cases under Chapter 91, HRS, in order to accommodate those individuals who cannot be present at the meeting when the agenda items are considered by the Maui Planning Commission. Public testimony will also be taken when the agenda item is taken up by the Maui Planning Commission. Maximum time is three minutes per testifier. A person testifying at this time will be allowed to testify . . . won't be allowed to testify again when the item comes up before the Commission, unless new or additional information will be offered.

Testifiers, please be advised that 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 of future agendas of the Maui County Council, please notify the Office of Council Services.

Commissioners, we have a pretty big agenda today. And what I'd like to do right now is put it up for a vote. One of the agenda items is 2-A. No, no, not 2-A, Pa`ia on E-1. I'm wondering if we should put this item up for first. We can't question testifiers. They'll just be giving testimonies to us. All those in favor? Any opposed? So we'll be taking up that agenda item first.

And at this time, we'll be opening up to public testimony. Does anyone wish to testify at this time? Please step up to the podium, and give us your name, and you have three minutes for your testimony.

Mr. Dick Mayer: Thank you very much. My name is Dick Mayer. I'd like to testify on Item E-2 where A&B is requesting an extension or a waiver from, I guess, the requirements that come before you for review. I would urge you to not allow the waiver in order to review this item. A&B has come up many, many, many times for various extensions. They've gotten entitlements from the Council, from the Planning Commission, over and over again for all kinds of projects which they don't build. And I think it becomes to a limit when you can no longer just keep giving extensions over and over again. So I urge you to review it.

I'll give you some examples. Up in Haliimaile, they have a housing development which was granted back in the mid-'90s, a much needed housing to provide affordables by community people in that community. No building's taken place. They've been given other extensions like the Kahului Town Center which was right near all the infrastructure. Everything was done. Huge demand. They were given the right to go ahead and have that built. Now, they're coming in for another extension. There should become a limit to how many extensions the company can get. A&B is obviously the richest landowner in the island, probably the richest company in the island. They should be held

responsible just as we require smaller developers and individual homeowners to comply with all the rules. One extension after another is not what's wanted.

Let me give you one other example. I was a Planning Commissioner back in the early '70s. Around '71, '72, A&B came before you, before the Planning Commission, I was on the Planning Commission, and said that one-third of the housing in A&B's Wailea Project would be workforce housing. That has never been forced on them. They never even complied with that. That was what they represented to the . . . That's why they got the very large development that was authorized. They continued building rich condos, big hotels, etc. At some point A&B should be held to task for things they haven't been doing. So I ask you to review it with those kinds of considerations in mind.

Mr. Lay: Questions for the testifier? This is Agenda Item E-2, not E-1. Thank you very much.

Mr. Mayer: Thank you.

Mr. Lay: Does anyone else wish to testify at this time? Seeing none, public testimony is closed. Moving on to Agenda Item E-1. Mr. Director?

E. DIRECTOR'S REPORT

- 1. Pursuant to the Special Management Area Rules of the Maui Planning Commission, notification to the Maui Planning Commission of the filing of the following Special Management Area (SMA) Appeal on July 19, 2013:**

ISAAC HALL, attorney for MAUI TOMORROW FOUNDATION, INC., LANCE HOLTER, the LUNA PLACE ROAD ASSOCIATION, TERI LARRONDE, and MICHAEL NEWBRO submitting an appeal dated July 19, 2013 of the SMA Minor Permit and Country Town Business (CTB) approval issued by the Planning Director for renovations and refurbishment to an existing building and the Mercantile building (Rock and Brews) at 120 Hana Highway, TMK: 2-6-005: 033, Paia, Island of Maui. (SM2 2013/0069) (SMX 2012/0414) (CTB 2013/0003) (APPL 2013/0005) (E. Wade)

Mr. William Spence: Thank you, Mr. Chairman and Commissioners. My apologies for being tardy this morning. It is Item E-1. This is pursuant to your rules of the Special Management Area. We have an appeal for the Luna . . . Isaac Hall, attorney, for Maui Tomorrow; Lance Holter; Luna Place Association; Teri Larronde; and Michael Newbro submitting an appeal on an SMA Minor Permit and Country Town Business approval for the Rock and Brews Project on 120 Hana Highway in Pa`ia.

Mr. Lay: We'll be taking testimony again. Like I told you, Commissioners, we won't be able to question our testifiers. Does anyone wish to testify at this time? Seeing none, public testimony is closed.

Mr. Spence: This item is just for notification purposes and you will be seeing this at a later date.

Mr. Lay: OK. Moving back to our original agenda, B-1.

B. PUBLIC HEARING

1. MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 13-66 containing A Bill for an Ordinance Amending Section 19.510.040, Maui County Code relating to Change of Zoning Protests. (J. Alueta)

Mr. Spence: Commissioners, first, B-1 is a transmittal of a Council Resolution 13-66, Bill for an Ordinance to amend the Protest Section of our County Code. And this morning we have Mr. Joseph Alueta.

Mr. Joseph Alueta: Good morning, Commissioners. As you know, I deal with amendments to Title 19. As I explained before, there's two methodologies in which you can amend Title 19. One is through our Director-initiated in which our Director there will propose a bill, and we'll bring it before you, and then it goes up to Council; or one that's initiated by Council by via resolution. In this case, this is the one that's been passed down and sent out to the . . . all three Planning Commissions.

It deals with our application procedures as well as a section of our code in dealing with change in zoning, in particular, the methodology in which you deal with protests at the public hearing for the Planning Commission, how you calculate that, as well as . . . Excuse me. The only reason they do that is to determine whether or not it can be passed by a regular majority or what they call a super majority. In this case, they're actually creating a new one which is gonna be at least six members of Council. That provision only requires if a certain percentage of the surrounding property owners file a protest to it.

And so you'll see that it's being amended, Section Protest Area, is dealing with the total number of lots that are located within a 500-foot distance from the boundaries of the subject parcel shall include parcels that are situated entirely within 500 feet and those with only a portion situated within 500 feet. Each parcel, whether situated entirely or partially within the 500 feet, shall be counted equally toward the percentage calculation. Publicly owned parcels, such as roadways and parks, shall be included in the computation.

Protests less than all owners or lessees of a parcel within the 500 feet of the boundary of the subject parcel shall be treated as having filed a protest. So that means a percentage owner. And then you have the methodology in which to withdraw the protest.

And then it talked about how many members you need. So a change in zoning initiated by the Planning Director or Council unless the Planning Director or Council otherwise specifies in writing at the time of the change in zoning is initiated, the protest provision under this section shall not apply. And that's only with the protest provision.

This is a step in the right direction. Currently, it's come up several times as far as how do you calculate protests. And it's previously been done by area. So if you have a large landowner in the surrounding area, they will always be the majority, and you'll never get a . . . where you may have individual lots. So maybe you have a small subdivision, you could have a hundred people opposed to it, and only one person who supports it, but because that one person controls 36% of the land area, the provision for a super majority doesn't kick in. Again, it only deals with that provision. If the project is that bad, you would think there would be enough . . . it would not be approved in the

first place regardless of how much landowners are around in control. But at least in this, the language being proposed by Council, it does help in clarifying it. It counts . . . it clearly states that County parcels will be taken into account into it.

The things that the department had comments on from the Current Division was a concern of how condominiums are counted. Currently, the way it's written, right, with the term of "parcel," that is a legal tax map with tax purposes. So based on that, we would use . . . we would count an individual unit as being one parcel. So you could have a condominium complex next door say in Kaanapali, and you have a 200-unit condominium complex, they would be 200 on that one lot. It would be 200 votes. It would count as 200 parcels. And, I guess, depending on which side of the fence you're on, the good and bad of that is there's 200 people. And each one of those would have to count. And if you have absentee owners, you may not get responses in a timely manner. And if they don't respond, they would be . . . they would basically not be counted as a protest.

However, for consistency purposes, we would prefer that because it does . . . Our notifications. It's consistent with . . . We notify all . . . When a project comes in for an SMA, they notify the parcels. So they notify everybody. Every individual condominium owner gets notified during the SMA, and the same thing with the change in zoning. So it would be consistent that way.

I guess there was a provision like a portion of a CPR. So in this case again, it would take the whole condominium. And you would have to draw a line. So if a condominium was on the fringe, and you cut . . . bifurcated a 12-story building, you'd have to take . . . you'd only count . . . you'd have to figure out which units were in the 500 feet and which were not. We're not sure how many times that would come into play, but it is something that could come into play.

And that's pretty much it as far as . . . I mean, again, it does resolve some issues. It provides a little more clarity on the current process, I should say. And is there any questions at this time?

Mr. Lay: Commissioner Hedani?

Mr. Wayne Hedani: Joe, why the exemption for the Director and the Council?

Mr. Alueta: I don't know. Again, the department did not propose the bill. It's a Council resolution to make that exemption. And again, the exemption doesn't . . . it's not clear, at least in this portion that they're exempt from the notification on individuals. Sometimes we are, for the most part. So we do it, you know, a comprehensive zoning change to areas. We don't do individual notices. We'll do a general notice in the paper, for the most part. So that's another thing that would be difficult. That's probably why they exempted us because there may not be a list for us to start with to do the calculations on whether or not a protest . . .

Secondly, if the Director or the Council is making a proposal to do a change in zoning, it's . . . normally it's for the betterment of the people, in general. I mean, that's the normal function of government. And the courts have ruled in that function for the most part that we're not trying to either benefit one person or another, and we're not trying to screw anyone over, I guess you could say. We're trying to just . . . for the overall community. And a lot of times our notice . . . Again, our changes are gonna be, one, to correct zoning errors, or to comprehensively implement the

community's desires as indicated by the community plan and general plans.

Mr. Lay: Commissioner Shibuya?

Mr. Warren Shibuya: Joe, can you help me with my simple mind? Let's say the arithmetic is I'm the owner, and I'm surrounded by four individual property owners, and they are within the 500-foot radius of my property. I get one protest that says "Absolutely not." The other one says, "Hmm, maybe, I don't know, but I don't kinda like that thing happening." And the other two are silent. Now what happens? How do you calculate that?

Mr. Alueta: There was only one protest.

Mr. Shibuya: There was only one protest? OK.

Mr. Alueta: In that case, in that scenario.

Mr. Shibuya: So there's a judgement in terms of what is a protest and what is not a protest. If it says, "I object," or "I do not really support this" . . .

Mr. Alueta: That would be considered a protest.

Mr. Shibuya: That would be considered a protest?

Mr. Alueta: Yeah, anywhere it says "We object" or "Do not support." They don't have to use the word "protest" to be counted as a protest for the purposes of calculations. And like I say, I guess there's a provision in which to withdraw their protest if somebody misconstrues. Most of the time, the Planners, if there's letters like that or concerns, we'll ask, "Are you protesting?" Because I've done it. I've called and said, "Hey, I got your letter. Are you opposed to this as a protest or are you just having concerns?" And they'll tell me on the phone, "Oh, no, no, I just have concerns. I'm not really objecting to the . . . I just wanna have more clarity on how this property is doing, but I already talked to the landowner and this is what he's doing, so I have no . . ." "They just had concerns on how the project was gonna be implemented. And when you have larger projects and there is an organized . . . I don't wanna say "mob," but there's an organized group that's trying to create a voice for the community, they will write stock letters, and they will have "I protest this," or "I'm opposed to this project," as opposed to individuals. And normally, like I say, for change in zoning with larger parcels, you'll have . . . there's not that many letters.

Mr. Shibuya: OK. Thank you.

Mr. Lay: Commissioners, any more questions? Commissioner Shibuya?

Mr. Shibuya: Joe, I don't like the word "protest" for some reason. I like the word that they use in the legal courts. And since this is done by lawyers, I don't why we don't have "objection" rather than "protest." Because I think the word "protest" seem to be more action-oriented, demonstrative type of thing where "objection" is really I would like to voice my displeasure or disagreement.

Mr. Alueta: The only thing I will say is I have your e-mail here on that. And the only thing I'll say on

it is that the . . . is that it would be . . . currently for consistency sake, we use the term "protest" through the Planning Commission Rules, SMA, and other notifications, as well as other protest provisions. So if we do change it, I'll let James talk on that more, then it needs to be changed throughout our rules and other areas.

Mr. Shibuya: OK. Well, can we have Counsel expound on it?

Mr. James Giroux: Chair, if I may? When this issue came up, it was during the Hanzawa Zoning. It was the contentious protest where we had to actually look at the rule and actually use it. And we found how precarious the language was within it. I actually had to write a legal opinion on it. So I did a lot of research. And there is a huge body of law that in the United States where we have Euclidian Zoning, a majority of the states use the word "protest" in order to delineate this process. So it is in the common usage for zoning, a protest for this type of action is appropriate.

The reason it is . . . "protest" is an affirmative. You want it to be an affirmative action. You don't want like the situation you were saying where somebody says, "You know, if you guys had taller trees, I would like your project better," oh, that's a protest. No, you have to file something affirmatively saying that "I object. This is not appropriate. I don't want this to happen." Then it is clear that that is a protest and we count it as a protest.

The objection . . . During our SMA process, we get the community. They can come in and they can say, "I object." That's not an intervention. And so we have a whole other language for that so that we don't get confused as to what is public testimony versus public action. And that's why we delineate. We have for our processes that we use administratively, we use the word "intervention." And for what we use as more of because it's an ordinance, we use the word "protest." And that brings in the whole other discussion of when we have contested cases, what is a contested case, and that's because it's an administrative process whereas you don't have that when you're dealing with the Council.

So "protest," as the attorney, I'm more comfortable with the word "protest," because when I do my research and I look into the law in how to interpret this, I would look up that word using Westlaw, or using the precedence, and see how the other states have interpreted their protest rules, and try to conform.

And just as a side note, during the case, the issue of do you count public roads or do you not became a split opinion. And the wise Mr. Nishiki was able to dig up those cases that says we don't. And me, in my research, dug up the cases that says we do. And so it's . . . the clarification coming from this I think from the lawyers' perspective, we appreciate the codification of that so we don't have to make those decisions based on precedence and case law.

Mr. Shibuya: OK. Thank you very much.

Mr. Spence: And because I was intimately involved with that particular project, the Hanzawa Store rezoning, I confirm what James is saying. This is a result of that. We spent hours and hours and hours discussing are the roadways included or are they not. Do you count the number of people who own the lot or do you count the area that they own? Or what about the flag that joins the two lots? Things change. One day there was two-thirds required. One day it was not. It went on and

on and on. And this goes a long way towards clarifying that process for everybody. And I would say under that, even with these changes, there would still be the majority requirement, but it would eliminate three entire meetings' worth of discussion.

Mr. Giroux: And the legal opinion.

Mr. Spence: And the legal opinion and extra work for our attorneys.

Mr. Shibuya: Thank you very much for that clarification.

a. Public Hearing

Mr. Lay: Commissioners, any more questions? Seeing none at this time, we're gonna open up to public testimony. Does anyone wish to testify at this time? Seeing none, public testimony is closed. And now for the action on this.

b. Action

Mr. Alueta: At this time, you can recommend passage to the Maui County Council. You can recommend passage with amendments. You can recommend denial of the changes to the Maui County Code. Or you can defer if you have any reason for it or you need to discuss it more.

Mr. Giroux: Joe, when you reviewed this, as far as the word "lessees of record," is there a definition in Title 19? Or what definition are we using as far as "lessees of record?" I know they're . . . in different areas of the code, there's issues of whether somebody can apply for a zoning or conditional change when they have a five-year lease of record.

Mr. Alueta: I believe in this case, this is just for the protest. Lessees of record, normally, yeah, if you have a five-year lease, you can have that recorded.

Mr. Giroux: And that's per Maui County Code, right?

Mr. Alueta: I don't know if it's per code. I know that that's through oral history of Maui County. How's that?

Mr. Giroux: That's just another thing I would wanna verify whether or not we . . . because I would wanna see a definition of "lessee of record" just to . . . to avoid that discussion.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: Are you looking for a motion?

Mr. Lay: Yes.

Mr. Shibuya: OK, then I'll do it.

Mr. Lay: Motion by Shibuya.

Mr. Shibuya: OK.

Mr. John "Keone" Ball: Second.

Mr. Lay: Second by Commissioner Ball.

Mr. Shibuya: Well, the motion is actually to recommend adoption of the proposed resolution.

Mr. Lay: Thank you for clarifying that. OK. Any discussion on this? Seeing none, all those in favor, raise your hand.

Mr. Spence: Six ayes.

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

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

Mr. Lay: Motion passes.

Mr. Alueta: Thank you very much.

- 2. LAWRENCE N.C. ING, attorney for LOUIS S. WALSH, STEVEN P. WALSH, and LAUREEN T. WALSH requesting a zoning change from R-3 Residential District to B-2 Community Business District in order to continue to operate the Kihana Nursery, a plant nursery and garden store at 1746-A South Kihei Road, TMK: 3-9-011: 017, Kihei, Island of Maui. (CIZ 2008/0006) (J. Prutch)**

Mr. Spence: Commissioners, your second public hearing today is from Mr. Larry Ing representing the Walsh Family in requesting a change in zoning from R-3 to B-2 for Kihana Nursery in Kihei. And our staff planner this morning is Mr. Prutch.

Mr. Joseph Prutch: Good morning, everybody. This is the second Joe here. I'm here today to present the change in zoning for Kihana Nursery for Mr. Scott Walsh to rezone their property from R-3 to B-2 Business District in South Kihei.

The applicant's been operating Kihana Nursery. I'm sure you've seen it if you've driven down South Kihei Road since 1981 at 1708 South Kihei Road, and since 1997 at its current location of 1746 South Kihei Road. So he started on a smaller property a few doors over. In 1997, he was able to obtain a larger lot, moved the business over, and has been there since 1997.

He's been operating with a conditional permit since 1992. So he's been going through the . . . went through the conditional permit process, and he's had multiple renewals since then to keep this going. Of course, he had to redo another conditional permit when he moved the lot to a different

lot, so he went through that process again. And he's extended that.

In 2009, his conditional permit was set to expire, and come in for another extension and go through the process again. And at that point, rather than do that, he went ahead and applied for the change in zoning which seemed to make more sense. Go ahead and make the zoning proper, and then the nursery would be an allowed use, a permitted right, within the business district. So he came in and applied for that rather than apply the renewal of the conditional permit. And that's where we are today in front of you guys to try to get this recommended approval to Council so that he can get a change in zoning for the property, and not have to go through the conditional permit renewal over and over and over again.

The property is just under an acre in size. It's located at 1746 South Kihei Road. It's just adjacent and north to the Boss Frog's and Shaka Pizza building, to give you an idea of where it's located.

Land use designations: the State land use is Urban. The Maui Island Plan, of course, is within the urban growth boundaries. And the Kihei-Makena Community Plan has it as business/commercial. The zoning currently is R-3. So the applicant's asking to rezone it to B-2, which would be consistent with the community plan and the State land use designation.

Surrounding land uses, and I have these as exhibits in your report as well so you can see, to the north are residential lots and also a nursery plant lot that the applicant uses to grow plants before they're brought to the nursery. To the east is residential lots beyond South Kihei Road. To the south below him is Boss Frog's and Shaka Pizza commercial building. And to the west towards the ocean are residential properties.

The lot itself is essentially flat and is developed with a garden store, paved parking area, and paved driveway. It's got a shed structure, a shade building for green plants, and a chainlink fence around the perimeter of property.

The project was reviewed by various agencies. And we had different comments from the Police Department, Department of Water Supply, Department of Environmental Management, and Zoning Administration & Enforcement Division, and then the Office of Hawaiian Affairs. The one letter that did stand out from these was from the Department of Environmental Management. They were asking for a sewer manhole to be constructed on the property. Since that time, the applicant was working with Environmental Management to essentially say that the sewage produced at this property as a business is less or smaller than what it would be if it was a single family home because they have a couple of employees and nobody lives there at night, so they go home when business closes. Essentially, they've been working with Arnold over at Environmental Management, and they've worked towards an agreement to put in a sewer cleanup rather than a sewer manhole. I don't know the exact difference between the two, but a sewer clean-out is a much cheaper endeavor than a sewer manhole. And Environmental Management is OK with that. So the applicant's been working with them. I think he's got the approval to go ahead and do that. And I've been trying to tell him let's get it done before you get to Council so it's all pau and you don't have to worry about it, it's over. So the applicant is working towards that at this time.

Testimony: we did receive two letters supporting the request from neighbors within 500 feet. Those were included in your staff report as Exhibits 14 and 15. And also, Carolyn handed out two new

letters that came in, in the past week. They're still supportive of the project. One is from four neighbors on Halama Street which is behind this property about 500 feet away. And one of them is from one of the four neighbors who submitted a letter on his own. And they're not in opposition or protesting the . . . whichever word you like, to the project itself, the change in zoning. They're more concerned about a lot behind the nursery. I think you do have . . . I hope you have the map. I think you do on the one that was submitted today from Carolyn.

Anyway, the nursery project site is of course, on South Kihei Road. There's an empty lot a few hundred feet back behind the nursery that I guess has been used for dumping of storage, and trucks, and cars, or whatnot from what the . . . I've not had a chance to get out there and see it. I just got these letters a few days ago. I've asked the applicant about it. They'll be willing to respond, but my understanding is that empty lot is actually not used by the nursery. It's used by other folks. So these four owners, I guess, have sent a letter to the owner of that property, and it's the owner's due diligence to get out there and maybe clean that lot up a little bit, but it sounds like it's not the applicant's use of that lot. So those are the testimony letters that came in as well.

That's all I have for now. I do have the applicant, Scott Walsh is back here, and his attorney, Mr. Larry Ing, is back here also. There'll be able to answer any questions you guys might have. That's it for now. Thank you. And I'll be willing to answer any questions, of course.

Mr. Lay: Does the applicant wish to say anything at this time?

Mr. Prutch: Yes, they do.

Mr. Lawrence Ing: Good morning, Mr. Chairman, members of the Commission. I'm Lawrence Ing. With me, Mr. Scott Walsh. He came directly from work, but I'd like to thank Joe for his work and his guidance for getting us to this point. This hearing is a big step in confirming the site for Kihana Nursery for the future. It also solidifies the Walsh Family for their future in getting the zoning as you know it will enhance the value of the property. We'd be happy to answer any questions.

Mr. Lay: Commissioners, we're gonna open the public testimony first and then we'll go back to questions from the Commissioners.

a. Public Hearing

Mr. Lay: Does anyone at this time wish to testify on this agenda item? Seeing none, we're closing public testimony. Commissioners, any questions? Commissioner Wakida?

Ms. Penny Wakida: Joe, perhaps Mr. Ing could answer as well, I'm not sure, what . . . I don't seem to have a map that shows the zoning of the surrounding areas. But I am looking at the location map you gave us, sort of the Google map. Is the surrounding area all zoned R-3 as well?

Mr. Prutch: Sorry, I didn't include a map. I thought I did. My understanding is to the north is residential, across the street is . . . directly across the street and little south is where the Kukui Mall is. Obviously, that's not residential. To the south is commercial or business because of Shaka Pizza and all that stuff down in there. And behind them is residential where the Halama Street residences are located. Exhibit 4?

Ms. Wakida: Yes, it does list businesses and so on, but it doesn't actually show what it's zoned as. It just shows what the uses are. So I'm looking at Exhibit 4. So below the subject property has a different . . . is zoned something else?

Mr. Prutch: I believe it's B-2, if I remember right, but sorry, I didn't put that down on here. I just put down that it's a commercial use.

Ms. Wakida: OK. Thank you.

Mr. Lay: Commissioner Ball?

Mr. Ball: A couple of things. One, disclosure, the Office of Larry Ing represents our company and has for 30 years. So just that disclosure.

The question is, one, on the police report on this, there was some issues with parking, I guess. Is that . . . I understand that it's curb and gutter so they can't park outside, but is there adequate parking onsite?

Mr. Prutch: There is adequate parking onsite. There's an exhibit with the site plan. It shows . . . I wanna see if I remember right, there's eight or nine parking spaces. The day I went out there for a site visit, there was only about three cars parked in there. So there seems to be adequate parking. There used to be parking on the street in the old days. Now the curbs, gutter, and sidewalks prohibit that so there is no parking out front. There used to be an issue with the gate being closed. And cars, I guess in the old days, cars used to be stacked up, or a car would be out front before the gate would open, and that would create a problem for pedestrians and all that. But now I talked to the applicant and essentially they just leave that gate wide open all day long while they're in business and then close it at night. So there's no issues with cars getting in and out of there and being stuck on the road or stuck on the sidewalk.

Mr. Ball: And this parking was added after the curb and gutter? Or was it . . . ? You know what I mean? Was there increased parking after the curb and gutter or is the parking the same as it was?

Mr. Prutch: Hold on. OK. From what the applicant says, it sounds like the curb, gutter, and sidewalks were put in prior. So maybe this was an issue with the old lot before they moved over to this property. That might've been the issue. But nowadays, he has the parking lot. There is a curb, gutter, and sidewalk out there and the fence is left open all day long. So the cars can come in and out without having to be stuck on the street or stuck on the sidewalk.

Mr. Ball: I guess they really can't, not with those curb and gutters there.

Mr. Prutch: Yeah, I don't believe you can park out there. I guess, physically, you probably could but . . .

Mr. Lay: Commissioner Ball?

Mr. Ball: With the B-3 zoning . . .

Mr. Prutch: Two.

Mr. Ball: B-2 zoning, what is the potential growth of this lot? Let's say they wanna get out of the nursery business and put up a commercial building instead.

Mr. Prutch: Yeah, pretty much any type of commercial business type use . . . Let's see, there's B-1 and then B-2. B-2 allows everything in B-1 as well. I'm looking at . . .

Mr. Ball: And the reason why I ask that is because people may think that it's gonna be a nursery forever which it could or it may not, but do they realize that the change in zoning could potentially create a three-story behind them. And I don't know if they were told that, or if they're aware of that, or . . .

Mr. Prutch: Yes, I mean, sure, another Shaka Pizza Building can be put up. It is in SMA, so chances are . . . I mean, it would definitely need an SMA permit of some sort depending on the size of the building. It could be major. It could be minor. I don't know. Depending on what's built. I did talk to the applicant about that before this. I mean, yes, you're right, at some point, he wants to keep it as a nursery. I asked him about the future, and it sounds like it wants to pass it onto his kids and have it continue to be a nursery. So chances are maybe it stays a nursery for a good long time, but, yeah, you're right, at some point, maybe the kids don't wanna do this anymore, it stops being a nursery, and then some kind of commercial building pops up. Sure, that is a possibility, but it does have to go through SMA review for that.

Mr. Ball: Right. I think that that would allow the neighbors to voice their opinion and questions and concerns at that time.

Mr. Spence: And provide protest.

Mr. Lay: Commissioner Tsai?

Mr. Max Tsai: Could you or the applicant respond to the specific recommendation in the police report by replacing the current sliding fence, chainlink gate, with an electric type or remote control type?

Mr. Prutch: I'll let them come up. I don't believe . . . When I went out there, it was open. I don't believe it's electrified. It looked to me like just a sliding . . . I think it goes back to that . . . Well, let me see if I can get the applicant to explain the fence up front.

Mr. Tsai: Please identify yourself for the record.

Mr. Scott Walsh: Good morning, Commissioners. Scott Walsh. So you wanna know on the gate?

Mr. Tsai: Yeah, correct. On the police report, it specifically recommended to replace the sliding chainlink gate with either an electric type, or remote control type, or create a setback.

Mr. Walsh: I'm not sure why. We always keep it open while we're open and we close it when we close. I don't know why they would want an electric gate. I think the main thing was back in the

'80s when we were down in the corner by the fire station, they had a problem with people parking in the front back then. So I don't know about this location where we're at now. Or if it was a location where I lived, where we were before this. I'm not sure which location you're talking about because we've been at three different locations.

Mr. Lay: Commissioner Hedani? Are you finished?

Mr. Tsai: Yeah.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: Just as a matter of disclosure also, Kaanapali Operations uses Kihana Nursery as a supplier for plants for the resort, but I will be voting on this item because I feel that I can make an objective judgement on this particular case and it would not affect my ability to make a fair judgement.

The question that I had for the applicant was the letter that was submitted by Roy Dunn on a lot that's related to this lot. If you could comment on that?

Mr. Walsh: Well, we rent the front portion of that lot, and we also rent a cottage where my son lives, and a cottage behind that parcel, and then there's the parcel on Halama Street. And we have nothing to do with that. So we just lease the front part to grow plant material, and my son lives on the other part in the middle of that lot.

Mr. Hedani: The question of derelict cars and other materials that's stored on the lot.

Mr. Walsh: Yeah, I went back there after I got the letter from Mr. Dunn. And I went back and looked at it. And I see a lot of where people have been dumping some stuff there, and landscape materials, and whatever from Halama Street. So it's not from our nursery. It's from people working on Halama Street is what I saw.

Mr. Hedani: And the property's not owned by you?

Mr. Walsh: No. It's owned by Gregorsons.

Mr. Lay: While everybody's disclosing, Ing does handle our family properties also. Commissioner Tsai?

Mr. Tsai: As a followup to Commissioner Hedani's comment, can you guys point out on Exhibit 16 which lot is Mr. Dunn's referencing to?

Mr. Prutch: Let me grab the exhibits--16?

Mr. Tsai: I guess that's probably the clearest.

Mr. Prutch: OK. I can explain it. The lot in question Mr. Dunn . . . the empty lot they're talking about?

Mr. Tsai: Yeah.

Mr. Prutch: You see Lot No. 2 there? That is the letter from . . . the support letter from Helland. Just to the, I guess, directly north of that adjacent to that lot is the lot in question. So that is an empty lot. I guess it's being used for storage of materials and junk, or cars, or whatever it is, but it's not owned by the applicant, from what he told me this morning and what he just reiterated again. He doesn't actually use that lot for his storage. He uses a lot closer to South Kihei Road that he grows some plants on and uses that for storage.

Mr. Ing: If I may help? Do you have a copy of the map that Mr. Dunn enclosed with his letter? So he actually owns two lots. He owns one on South Kihei Road which is lot . . . using the tax map key number 18. He also owns another lot on Halama Street which that tax map key number is 63. So Mr. Walsh leases Lot No. 18 from him and he grows plants there. There's a house that his son lives. So the Lot 63 is not leased by Mr. Walsh. And as he explained, he went there in response to the letter, and he found out, yeah, people have been dumping things. Looks like landscape people, people that did some construction work along Halama Street. I guess they see an empty lot and easier for the workers to just dump rather than take it to where they should be taking it.

On the gate part when we initially made the application, South Kihei Road was the old road, no curbs and gutters. So people would just pull off the road and just park. And then when they get back on the road, they're backing up into the road and that was a danger. But since they widened the road, they put curbs, there is no parking allowed on South Kihei Road so they can't do that anymore. They have to go into the property if they're gonna do business and park their car there. So that took away the problem.

Mr. Lay: Does Public Works wish to comment?

Ms. Rowena Dagdag-Andaya: I just wanted to make note based off of this letter, we do have an ordinance, Chapter 9.32, relating to community beautification that our department administers. So Development Services Administration does inspect for any violations of the community beautification ordinance. So this is something that our department can take a look into. I don't know offhand if there were any requests for services filed on this particular property but we can take a look at that.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: I have a question, Mr. Walsh. I assume you use fertilizers and some kind of pesticides. Could you maybe tell us a little about that and where the runoff goes?

Mr. Walsh: Well, we spray usually mainly something that's organic. And fertilizer, we just use regular chemical fertilizer. So whatever runs off goes down into the ground where we're at. There's really no runoff on that lot. Yeah, it's completely flat and it's all sand so it just runs into the ground, I guess, yeah.

Mr. Shibuya: . . . ask questions here. I worked with Larry Ing's son, Bradford Ing, in forming the HP Baldwin High School Foundation. And it's operating now. And thank you very much.

I do have questions relating with these pollutants and the runoff. Right now, I believe they had a survey done or a study done, and you would have some concerns in terms of water leaching off if you continue to operate here. Where would this underground system be to capture some of this storm water runoff?

Mr. Walsh: I'm not sure what . . . (inaudible) . . . No, we don't have any leach fields or anything like that, no.

Mr. Shibuya: Do you have a swale or . . . ?

Mr. Walsh: Like I said, it's completely flat. And then our concrete driveway and our parking lot's a little bit higher than where we grow all our plants. So, I mean, I've never seen anything where it puddles, or close anywhere, or does anything.

Mr. Shibuya: Did you have a survey done in terms of the runoff, coefficient?

Mr. Walsh: I can't remember.

Mr. Shibuya: Because if it's residential, it's .4. If it's business, it's .55. And then the net difference here in cubic feet per second, I mean, in terms of how you address this, there is a slight difference. And because it's a business now, you have more care that needs to be done.

Mr. Walsh: OK. I don't know what to do. Did I get a survey done or . . . (inaudible) . . . ?

Mr. Shibuya: OK. Thank you.

Mr. Lay: Rowena?

Ms. Dagdag-Andaya: I just wanted to also mention there is a drainage report—Exhibit 13 in here. So it does mention some improvements that they propose: constructing a dry well that will absorb the runoff generated. So that's .83 cfs. And then one catch basin will convey the runoff to a leaching bed. So I think that is what your question was about, Commissioner Shibuya?

Mr. Shibuya: That's correct.

Ms. Dagdag-Andaya: And you wanted to know where the location of that leaching bed . . . ?

Mr. Shibuya: That's correct.

Ms. Dagdag-Andaya: OK. I don't have a map in here but it is in the report.

Mr. Lay: Are we gonna look into that? Please speak into the mic. If you can point that mic. in that direction? Thank you.

Mr. Ing: We did do a report when we initially filed for the zoning. And I think what happened in-between that time and . . . we had proposed for a family . . . one of the family members to be living there as well as the business. But the family member instead ended up on the lot next door. So

the amount of usage on the property was just the business instead of the business and the family. So the plan that was proposed was not done, but that's something I think we're looking into, and same along the line with the clean-out, with the sewer clean-out that we have employed engineer, Wayne Arakaki. And I think he's the one that made the initial report, yeah.

Mr. Shibuya: OK. Well, my concern is if you are just operating just the business, then you start adding more structure to it, then you have more impermeability, and so therefore at that point in time then you would need to address this drainage.

Mr. Ing: Yes. Thank you.

Mr. Shibuya: Thank you.

Mr. Lay: Commissioners, any more questions? Department's recommendations?

Mr. Prutch: Pursuant to Title 19, Chapter 19.510, for conditional zoning of the Maui County Code, the County Council . . . I'm sorry. The Maui Planning Department is recommending that the Maui Planning Commission recommend to Maui Council, Maui County Council, approval of this Change in Zoning from R-3 Residential District to B-2 Business District.

In consideration of the foregoing, the Maui Planning Department is recommending that the Maui Planning Commission adopt this report and recommendation prepared for the August 13th, today's meeting, as its finding of fact, conclusion of law, and decision and order, and further authorize the Planning Director to transmit said recommendations to the Maui County Council. And we're recommending approval with no conditions of approval.

Mr. Lay: Commissioner Hedani?

b. Action

Mr. Hedani: Move to accept the department's recommendation and recommend approval to the County Council.

Mr. Ball: Second.

Mr. Lay: Moved by Commissioner Hedani, seconded by Commissioner Ball. Any discussion on the matter? If not, we'll call for the vote. All those in favor?

Mr. Spence: It's six ayes.

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

**VOTED: To Recommend Approval of the Zoning Change From R-3 Residential District to B-2 Business Community District to the County Council, as Recommended by the Department.
(Assenting - W. Hedani, K. Ball, M. Tsai, S. Duvauchelle, P. Wakida, W. Shibuya)**

(Excused - J. Medeiros, J. Freitas)

Mr. Lay: Motion passes. We're gonna take a ten-minute break, so if we can reconvene at 10:08.

(A recess was taken at 10:00 a.m. and the meeting reconvened at 10:10 a.m.)

Mr. Lay: Call back to order.

3. MS. CATHERINE CLARK requesting a State Land Use Commission Special Use Permit in order to operate the Pinnacle Short-Term Rental Home, a five (5)-bedroom short-term rental home in the State Agricultural District at 2356 Umi Place, TMK: 2-7-003: 106, Haiku, Island of Maui. (SUP2 2012/0012) (D. Dias)

Mr. Spence: Commissioners, we're on the third public hearing item for your agenda this morning. Number three, Ms. Catherine Clark requesting a Land Use Commission special use permit to operate the Pinnacle Short-Term Rental Home in the State ag district in 2356 Umi Place in Haiku. And the staff planner is Mr. Danny Dias.

Mr. Danny Dias: Thank you, Director Spence. Good morning, members of the Maui Planning Commission. The applicant's representative will do the power point presentation so I'll try to keep my version short although there are a few things I wanna go over.

As a reminder, the Commission is tasked with making a decision on the special use permit while the department will handle the short-term rental home permit. As of today, there are no B&Bs or short-term rentals within 500 feet of this property. The closest B&B is the Haiku Plantation Inn which is about a half mile away. And the closest short-term rental home is called Leilani, and that's about a mile away. With respect to the total amount of short-term rentals in Pa`ia-Haiku Community Plan area, as of today, there are 23 short-term rental homes. Seventeen are located in Pa`ia, and the other six are located in Haiku.

The two things I wanna go over probably kinda jumped out of you as you read the report is first, the lack of ag on the property. And the second to an extent would be the two letters of concern that we received. So let's talk about the ag first. As you folks know, in the County of Maui when you have an ag property, you have to have an approved farm plan. And generally speaking, the two things that you do is one, either grow crops, or two, raise livestock.

Well, the County recognizes that just because a property is zoned ag doesn't necessarily mean that it's suitable for ag. So the code has a provision for what's called ag conservation. And the process for ag conservation is it's actually more difficult to get a farm plan approved for ag conservation than it is for generally any other use. And the reason why is you have to get a cooperative agreement or an approval from the Natural Resources Conservation Service or the NRCS. And that's a branch of the USDA or the United States Department of Agriculture.

And the process for that is there's a trained certified soil conservationist that actually goes on your property. They look at the type of soil that you have, rainfall in the area, the type of vegetation there, wind, erosion rates, all that sort of thing. And they determine whether or not it's feasible for

you to grow crops on your property.

And in the case of this property, because it's on a fairly steep hill, and we did include that agreement in your report, the slopes are like 40 to 70% on the majority of the property. Basically, it's really steep and the existing vegetation there is helping sort of hold up part of that property. And so if you start clearing land to grow stuff or to plant whatever it is, fruit trees and so forth, it's actually sort of a safety issue, in our opinion, because then you take away the stabilization of the hill, and then you increase the chances of erosion to down . . . you know, to properties at the bottom of the hill.

Another thing I wanna point out is the Maui Island Plan Directed Growth Map, because we realize that this particular area isn't that suitable for ag, it is included in the rural growth area. And so the intent is in the next few years that this property and the property surrounding it will be rezoned to rural. So that covers the ag conservation.

And then I wanna go over really briefly there were two letters of . . . I know we were kinda splitting hairs. I probably should call them letters of concern versus protest letters, but one of the neighbors that lives next to the driveway, her concern was the traffic going up and down the driveway might aggravate her dogs and they might start barking, and then some of the neighbors will complain about the dogs and so forth. That was one of the letters that we received.

The other letter that we received was more broad, nothing specific that I could see, but just the gentleman just didn't like the concept of having short-term rentals in what he considered a residential or ag neighborhood.

I wanna point out that the applicant did try to reach out to these people. They did send letters. They did meet with a couple of their neighbors. I think the gentleman, Mr. Kevin Davison, that wrote kind of the broad letter, they did try to meet with him, but I don't think he was available or something, but they can go over that with you.

So with that, I'm just gonna hand it over to the applicant's representative, Cathy Clark. And the property owners, Michael and Cynthia Smith are also available for questioning. Thank you.

Ms. Catherine Clark: Aloha, Commission members. My name is Catherine Clark and I helped the Smith Family with their application for the short-term rental permit and the State special use permit. They submitted their application just over a year ago and it's the seventh application in the Pa`ia-Haiku District.

This gives you an indication of the general area where the property is located. It's in the subdivision of Haiku Hill which is approximately five minutes from Hookipa. It's along the edge of Maliku Gulch. And it's approximately a mile to what we call Downtown Haiku, which is where Colleen's and Fukushima's, Haiku Grocery are.

The subdivision of Haiku Hill is 37 properties. Most of them were previously planted in pineapple although the hill section, the lots where the Pinnacle Property is were never planted because the machines obviously couldn't go up and down the hill.

The Maui Island Plan does recommend a change to rural zoning. The neighborhood itself is a mix of short-term rentals, long-term rentals, and owner/occupied homes. I also live in that neighborhood and I'm pretty familiar with all of the lots within it.

So their property is Lot 12 on the top of the hill and the lot is quite steep. To build, they created a flat spot which is the white area that you can see around the main house. All of the little lines on the map show how the topography changes as you move up the property.

This is the access to the property. Umi is a County road, asphalt surface, and the driveway exits straight from Umi. The driveway passes between two neighboring properties. And as the terrain starts to climb, that's the location where the lot begins.

So as Danny mentioned, there were two options to obtain a farm plan approval. Their first was to grow crops or raise animals. The second was agricultural conservation. For this particular property, agricultural conservation was definitely the best choice. Rulan Waikiki identified the plan as appropriate for the property due to the steepness of the terrain. They recognize that some properties are just not suitable to plant crops on, but they did need to qualify for the U.S. Department of Agriculture, Natural Resource Conservation Service, Conservation Plan.

The reason for the conservation plan is to protect, preserve, or enhance natural resources. It's particularly suited to this property due to the steep topography and the wind that whips up the hill. As soon as you step out of the shelter of the ironwood trees that run from the bottom of the property up towards the back of the main house, it's like stepping into the full force of the wind. When they do the review of the property for the conservation plan, NRCS considers the capability of the land, what can actually be done with it, what would be successful on the property. They also consider both onsite and off-site effects. For example, what the runoff would be if you change what's existing on the property now.

The inspector described the land as having a slope of 40 to 70%. They had areas where vegetation needed to be added. These were areas that would be likely to erode in the event of a storm. And that was done to stabilize the soil and reduce the wind and rain erosion, and any downstream sedimentation. It definitely worked because when we had the downpour with Flossie, if you looked down the driveway, the water was clear. There was no silt in the water at all. And within that report, they did advise the site cannot be tilled due to the steepness of the land.

So this is part of the plan that I know Mr. Dias included in your report. And basically what it shows is that they require the entire property to be covered. So a lot of the vegetation was natural. It was already there: the whole area with the ironwood trees, the area below the cottage has a lot of natural vegetation. The banks up at the top had to be planted with wedelia to stabilize them.

So it's always easier to see it in pictures. And this is the area heading up to the back of the main house where the ironwood trees are basically doing a very good job of holding the soil in place on a steep slope. And then these are the grades to the front and back of the house. So again, it would be very difficult to actually farm that area.

We also wanted to address fire protection. In the event of a fire, the Pa`ia Fire Station would respond and they're 5.4 miles away. There is a standpipe at the bottom of the driveway. But the

house is also equipped with a monitored system so that in the very early stage of a fire, the alert goes out to the security company, and they would immediately call the fire station. The Fire Department would also have use of the water in the swimming pool if they needed it.

So some of the rental policies that would be in place: the minimum stay is seven nights. That way, there isn't turnover that frequently. The main house would be rented only to very select guests to reduce impact on the home and to the neighbor. The house was built to be the Smith Family residence, and they would like to maintain it to a very high standard. The property manager, which is my husband, lives in Haiku Hill, and can definitely get there very quickly. There's a lot of local, economic benefits to the property, and this is something that is of value to the North Shore economy.

But we also took to heart the concerns of one of the neighbors about the driveway and we put two signs up. The first is right as you exit the gate, and it does tell everybody to please exit the driveway slowly. The second is at the bottom of the long drive before you would exit onto Umi. And in that case, it says "Stop. Watch for Children." We don't really have many young children in the neighborhood right now, but who knows if somebody's going to go by on a skateboard or scooter?

And we also wanted to address neighbors' concerns because these were very troubling to us. The Asuncion Property, and this was the neighbor that was concerned about his dogs barking and whatnot, is fully fenced. Visitors could not wander onto that property. This is looking from the keypad for the gate towards their property. And as I said, the driveway is separated by fencing. We did also offer the family more plants if they wanted to further block the view from anybody stopped at the keypad looking toward their property. Mr. Smith called and did meet with Mr. Asuncion and actually had a very good meeting.

We also wanted to take about Mr. Davison's letter. He does have a concern about extra traffic in the neighborhood, but I think whether a home is long-term occupied, owner occupied, or short-term it really doesn't change that use.

Within the police report, Mr. Hill had mentioned several different concerns. The Smiths have met with Mr. Hill. He's fine with the STR application. He's actually a good friend of my husband's and he does have all of our phone numbers. Reaches out to us for other reasons, and knows if in the future if there was ever a concern, he should immediately call, and it would be taken care of right away. Thank you so much.

The Smith Family, Mr. and Mrs. Smith, Michael and Cynthia are here if you have any questions for them also.

Mr. Lay: Commissioners, we're gonna go to public testimony first and then we're gonna open up to questions. At this time, does anyone wish to testify on this agenda item? Please step up to the microphone and identify yourself. You have three minutes.

a. Public Hearing

Mr. Kent Hiranaga: Good morning, Chairman Lay, Commissioners, Director Spence. My name is Kent Hiranaga, and I was born and raised on Maui. And I'm currently a resident of Pa`ia for the

past 20 years. I just want to thank you all for your continued public service. And I'm curiously nervous up here.

I'm here to testify in favor of the Pinnacle State Land Use Commission Special Use Permit. I have known the Smiths for over ten years and their lovely daughter, Zoe, for nine because she's nine years old. I consider them friends. I do not believe there will be any reason for concern regarding this application. I just wanna note that there are two letters of opposition, and I think upon close examination you realize that these are concerns for a potential . . . potential problems versus problems that they've identified. And I feel that the Smiths will continue to work with these people should issues arise. So I also believe that the STR Ordinance is well crafted and provides ample protections for neighbors should issues arise. So at this point, I just humbly request your approval of this State Land Use Commission Special Use Permit. Thank you.

Mr. Lay: Before we ask our testifier any questions, we'd like to thank Kent for his participation, help, and contributions that he's made to the Planning Commission as Chair also and on the Commission itself.

Mr. Hiranaga: Thank you very much.

Mr. Lay: Commissioners, any questions? Seeing none, thank you very much.

Mr. Hiranaga: Thank you.

Mr. Lay: Does anyone else wish to testify at this time? Please step up to the microphone and identify yourself.

Ms. Margit Tolman: Good morning, Commissioners. My name is Margit Tolman and my intent wasn't to testify but I'm here anyway. I want to mention that the Smith Family, they've been my long term tenants in 2005 for a couple of years. And as tenants, they get an A+. They are highly responsible, respectful, and fit very well in our little neighborhood. I have only good things to say. And I know the property management company, they chose one of the best property managers here on the island. Thank you.

Mr. Lay: Commissioners, any questions for our testifier? Seeing none, thank you very much. Does anyone else wish to testify at this time? At this time, we're closing public testimony. Commissioners, any questions for our planners or the applicant? Commissioner Wakida?

Ms. Wakida: Yes, I have a question for the applicant if he or she would like to answer this.

Mr. Lay: Please identify yourself, too.

Mr. Michael Smith: I'm Michael Smith, the applicant. This is my wife Cynthia.

Ms. Cynthia Smith: Cynthia Smith.

Ms. Wakida: Thank you for both coming. I was reading through your conservation report from the National Resources Conservation Service, and I realize that these Google maps are sort of dated.

They recommended that you do a lot of planting of wedelia. Did that occur yet?

Mr. Smith: Yes.

Ms. Wakida: Maybe the . . . your planner could put that map up and show us what you did that complied with this report. In our . . . it said there's a practice location with an "X" but I don't think that map was included. At least I didn't see it.

Mr. Smith: On this map, what I can narrate, then I'll go over, unless there's a pointer here, I can go over and indicate it, but . . .

Ms. Wakida: Excuse me. Before you continue, do you have the conservation plan map in the slide presentation?

Mr. Smith: I don't think we . . .

Ms. Wakida: OK. Go ahead and use that one.

Mr. Smith: What I was going to say, and then I'll go over and point it out is that there were, because of the wind, a number of bald patches of bare earth in and amongst the natural vegetation that was already there. So the NRCS was concerned that those bald spots be covered and that they were a primary risk for soil erosion. I'll go point those out.

The cottage is right here. And there were bald . . . it's particularly steep here and here so the bald spots were kind of right in here. This was well vegetated and all of this was well vegetated. So right in here were the trouble spots. Also, up here, this triangle is a big ironwood grove, but in this strip here, there were bald spots here because this is particularly exposed to the wind, and here, in particular, here because of the prevalence of pine needles that impeded growth. So the plantings were done in these bald areas here, and here, and here.

Also, on the Maliku Gulch side, here's kind of the house. This was all very steep. We had planted once there and it really had not taken hold. We started with golden glory. So it was patchy. So we took that out and redid it in wedelia. And so all of this was done. And then the wedelia is so strong it really, really took hold here. And I think one of the photos you saw did show pretty lush wedelia growth on this side. So those were the areas. And the NRCS representative who was sort of the case officer for our application did come out and inspect the planting. So that had to be in place before they would finalize their conservation agreement with us.

Ms. Wakida: Thank you very much.

Mr. Lay: Commissioners, any more questions? Commissioner Hedani?

Mr. Hedani: Yes, I'd like to compliment the applicant in this particular case for coming forth with a conservation plan which is difficult to achieve. From my perspective, it reflects more integrity of use on the land than putting in a farm that is not really a farm on agricultural land.

That being said, I was little concerned that wedelia was planted only because it's one of the items

that's identified on the Maui Invasive Species Committee list of invasive plants. You probably didn't know that at the time that you did it. I think from my perspective, just your understanding of the fact that it's an invasive specie could be something that you consider if there's an opportunity for replanting or re-landscaping the property in the future. The same goes for ironwood trees although the ironwood trees, I guess, were existing at the time you acquired the property and not something that you would like to re-landscape at any point, yeah?

Mr. Smith: That's right.

Mr. Hedani: But both species are very aggressive and create a problem in the natural environment to which they will grow, if allowed to. So that was the only comment that I had.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: Is your property currently rented?

Mr. Smith: The cottage is, yes.

Ms. Wakida: As a short-term rental?

Mr. Smith: Yes.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: This is mainly for the County. Where are we in terms of the process of converting this zoning area from agriculture to rural? And how long will it take—estimated time?

Mr. Spence: Thank you, Commissioner Shibuya. As you know this was put in the Maui Island Plan as rural because that's more of the character of the area. It's much more residential with some farming going on. The State Land Commission or actually the State Office of Planning is starting their boundary review. We're just at the very initial stages of it. They have other counties to visit as well. So that's sort of to say that it's being considered. How long it's gonna take? I have no idea. The County has had intents to follow up with our own comprehensive zoning after that.

Mr. Shibuya: OK. And in terms of the community plan, it is consistent, right, with the Maui Island Plan?

Mr. Spence: Right now it is not.

Mr. Shibuya: It's not?

Mr. Spence: The Maui Island Plan came first and we'll be following up with the different community plans. This one is pretty far down on the list, but we'll deal with that issue as well.

Mr. Shibuya: OK. Thank you.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: I'd like to ask a followup question for the Director. In a number of our presentations and some more coming up, the planners or the applicants are quoting the new Maui Island Plan and saying it's going to be this, and so that's a vote in our favor of changing it, but none of us have seen any evidence of this. We're just taking somebody's word for it. And I have gone on the website to try to look at this proposed property. It's just impossible to wade through the graphics because they're spot zoned and I can't find where we are in relation to anything else. So I made an effort to educate myself on the proposed plan, and I feel if we're gonna be constantly referring to the plan, we ought to have something in our hand that we can refer back to.

Mr. Spence: Perhaps as a part of . . . in cases like this where it is where it's something new, perhaps we can include that as part of the staff report, and just say . . . just so the Commission can see that that's really the case and find it for you. I know . . . I think everybody knows that I wasn't thrilled with the length and the complexity of the plan. And things are difficult to find. So what we can do is we can include that as part of your report in the future.

Ms. Wakida: Yes, I would like that, just the relevant pages, because it was 500 and some pages on line. Half of them were sideways and very difficult for me to navigate through the index. It was confusing and so on.

Mr. Spence: And I know that the Commission has requested a workshop with Maui . . . for the Maui Island Plan, so we'll go over that as well.

Ms. Wakida: Thank you.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: This is a question . . . it's not for the applicant. It's a question more for the Director or for Danny. When I look at the terminology that's included in the Pa'ia-Haiku Community Plan, there are several conflicts that I see. It's not the applicant's fault in this particular case. The community plan says "Prohibit hotel resort development in the area." That's one thing. The second thing it says is "Limit visitor accommodations to owner-occupied bed and breakfasts." From my perspective, the community plan is very clear in terms of what the community desires: an avoidance of hotel type uses, an implementation of only bed and breakfasts because the owner would be within the facility to control any nuisances within the area. How do we reconcile the idea of short . . . maybe it's because the short-term rental home ordinance came after the community plans were done, but how do we reconcile a short-term rental without an owner-occupant within those community plan criteria?

Mr. Dias: Will, can I have you answer that?

Mr. Spence: There are . . . You look at the community plan. All the policies in there are policies. They're to draw attention to certain issues and how they could or should be treated. In cases like this, that is policy. But we do have ordinances where . . . well, first off, we . . . I don't think we would consider this a hotel. There's . . . it's just a house and just a cottage. There's gonna be other instances where there's a lot more. The second thing is how do you reconcile owner-occupied bed and breakfasts? That's a policy decision that this Commission has the choice to decide on. I mean, there are certain laws that we have where you must find conformity with the community plan.

The Special Management Area is one. There must be consistency with the community plan in those cases. But this is not an SMA question. So the discretion is with this Commission. Another place where we have to find consistency is not this Commission but with the CIP, with the capital improvement projects, and also with subdivisions. Those are by law, we have to find consistency with the community plan. In this case, this is a discretionary decision by this commission.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: My only comment at this point I think is that the staff and the department should take into consideration the short-term rental home ordinances in the next review of the community plan so that can be clarified relative to the Pa`ia-Haiku Community Plan.

Mr. Spence: I would agree.

Mr. Lay: Commissioners, any more questions? Commissioner Shibuya?

Mr. Shibuya: I just wanted to ask the owner what is the intent in terms of lodging—the frequency and the number of guests that they have per month, per year, approximate?

Mr. Smith: The cottage has two bedrooms. And so typically, we seek to have four or less, or sometimes it's four with a child. And no more than four, but in terms of days . . .

Mr. Lay: Please speak into the mic.

Mr. Smith: I think we've had probably as many as 200 days in the cottage. The house has been much less. My wife and I try to be there as much as possible. We're usually there at least three to four months. Some years, five months of the year. So the residual is what's available. And in recent times, it's been on the order of 60 to a hundred days of the residual. And I see that kind of magnitude going forward. On the number of people in the house, there are three bedrooms. Our goal is no children and ideally, four people, maximum of six. Usually we end up with two to four.

Mr. Shibuya: OK. Thank you very much.

Mr. Lay: Commissioners, any more questions? If not, can we get the Planning Department's recommendation?

Mr. Dias: Thank you, Chair. The Maui Planning Department recommends to the Maui Planning Commission approval of the Land Use Commission Special Use Permit subject to six conditions.

Mr. Lay: Commission Hedani?

b. Action

Mr. Hedani: Move to approve as recommended.

Mr. Lay: Motion by Commissioner Hedani. Seconded by Commission Shibuya? Any discussion on the matter? If not, let's call for the vote. Oh, repeat the motion, excuse me.

Mr. Spence: The motion is to approve the special use permit as recommended by staff.

Mr. Lay: All those in favor, raise your hand.

Mr. Spence: That's six ayes.

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

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

Mr. Lay: Motion unanimously carried. Thank you very much. Director?

C. COMMUNICATIONS

- 1. MS. CAROLINE KILLHOUR, Executive Director of HUI NOEAU VISUAL ARTS CENTER requesting an amendment to their State Land Use Commission Special Use Permit for the operation of a Pilot School Program for Waldorf Maui for a period of 2-3 years with a maximum of 50 students at the Hui Noeau Visual Arts Center on approximately 10.86 acres of land at 2841 Baldwin Avenue, TMK: 2-4-002: 011 (por.) and 006, Makawao, Island of Maui. (SUP2 980002) (A. Cua)**

The SUP2 amendment request includes the reconstruction of an existing garage currently used for storage and workspace to be used for classroom/storage for the school and the addition of a 160 square foot patio and 72 square foot entry.

Mr. Spence: Commissioners, we're on agenda C—the first one having to do with Hui Noeau Visual Arts Center. I am a former board member, so I will be recusing myself if not a conflict, then just for the case of appearances. So Deputy Director McLean will take over from here.

Mr. Lay: OK. Deputy Director, welcome aboard.

Ms. Michele McLean: Thank you, Chair. The first communication item on the agenda is a request from the Hui Noeau Visual Arts Center requesting an amendment to their State Land Use Commission Special Use Permit in order to operate a pilot school program for two to three years with a maximum of 50 students at the Hui Noeau Visual Arts Center on approximately 10.86 acres of land at 2841 Baldwin Avenue, TMK: 2-4-002: 011 and 006 in Makawao. Ann Cua is the staff planner.

Ms. Ann Cua: Good morning, Chair, members of the Commission. Just a little bit of brief history on this property. Back in February of 1990, the Planning Commission granted the State Special Use Permit for the Hui. Since then, the permit has been extended four times with the recent or the

most recent extension in 2003 bringing the permit, the special use permit for the overall use to expire April 30, 2015.

What's happened since 2005 is that the Hui purchased the property. And also in June of 2005, the Hui purchased . . . when I say the "property" I meant the overall large property Parcel 11. But also in 2005, they purchased Parcel 6 which our Deputy Director mentioned there's two properties involved here.

With this purchase, the Hui was able to relocate its driveway on Kaluanui Road to a safer location slightly westward on Parcel 6. And so now the Hui uses a 1.11-acre section of Parcel 6 for this driveway access and parking. And the remaining acreage is fallow pineapple lands. They've been beautified and are being maintained as pasture and open space. And no improvements on Parcel 6 are proposed for the subject pilot school program. It's just the use of the existing driveway on that parcel.

The Hui is proposing, as was mentioned, to amend their Land Use Commission Special Use Permit to allow the operation of a pilot high school program for Waldorf School. And when the request initially came in, the applicant asked the Planning Department if they would be able to get either an administrative approval to be able to operate in the confines of the existing permit. And if that was not possible, they requested an amendment to come before the Planning Commission. So we took a look at their request and it was very similar. Some parts of it was very similar to the classes that are taught at the Hui right now, but because it is actually the opening of a brand-new school, we decided to be more conservative. And we thought, you know what? We'll just bring it to the Commission, we'll talk about it, it'll be on the record, the minutes will show basically, the expanded use of the property. Even though we felt it is in keeping with the operations of the Hui as it stands today and has been operating in the past, we just thought we wanted to bring it to you and talk about it, basically get your blessings for the school and for the Hui as they move forward in this temporary pilot program.

So with that, I'd like to turn this over to RobbCole who is representing the Hui. The department . . . I do wanna mention a couple more things. The reason why we're here, first of all, for the whole special use permit is because the property is in agriculture and a Land Use Commission Special Use Permit was necessary for the Hui to operate and also for this expanded use. The Makawao-Pukalani Community Plan designates the property for public/quasi-public use so that use is consistent. The property is in the rural growth boundary of the Maui Island Plan, and we do not have a plan of that specific rural growth boundary, but understanding what Director Spence has indicated, we would probably do something like that moving forward. The zoning of the property is interim. And the use as a school and for the Hui is a permitted use and that's why you see no County permit application associated with this request. So with that, I turn it over to RobbCole and I'll come back on after Rob's done. Thank you.

Mr. RobbCole: Good morning, Chairman Lay, Commissioners. Thank you for volunteering today. My name is RobbCole. I'm a planner representing Hui Noeau Visual Arts Center today. I'll just recognize a few people in the audience, if you don't mind. Executive director of Hui Noeau Visual Arts Center is Caroline Killhour. Just checking for additional board members here. We have the project architect, Donald Bernshouse. And from Waldorf Maui, we have Jocelyn Romero Demirbag. I thank staff and thank you, Ann, for all your assistance for this project in putting together this

presentation.

As Ann mentioned this is a pretty modest update to a permit that expires within a couple years. It came before us for a couple of reasons: one, just to be conservation. Also, there was a condition we located in some previous permits that required any alterations to buildings to go before the Urban Design Review Board. And so we've done that and the logical next step was to take it to the Commission to review their recommendations.

And I'll briefly go through just a few slides of the improvements and the program mentioning both that this is an improvement to a historic garage, as we're calling it, to the Matsumoto Building. The Matsumoto Building is . . . probably a series of renovations, that kind of haphazard garage was erected.

I'll just identify the property here. This is Hui Noeau's main parcel along Baldwin Avenue. Just mauka of that is the Montessori School. And on their other property boundary is Kaluanui Road. I'll just mention that the traditional entry for the residents is along Baldwin Avenue. And that's their formal entrance where they have their signage and where most visitors come in. The second entrance was the service entrance, traditionally. And now it is the entrance to what we call the lower campus where a lot of the modern school buildings are.

To zoom in a little bit here, this is a different view from Kaluanui Road, I'll just kind of point out the main residents, the carriage house, and the original guest house which were built in 1917 are on the uphill side of the property. The guest house in question is located downhill from that, and the garage is located below that. Also, in this lower campus is a children's classroom; and a restroom facility built in 1999; and the old stables; and a ceramics and jewelry-making building constructed in 2008. The relocated driveway that Ann was talking about is this one here.

And just a quick tour of the campus: this is the primary residence, the Baldwin Residence built in the California mission revival style. This is almost a hundred years old. The guest house, and matching in style, the carriage house. The carriage house is now used as a print-making studio, and the laundry facilities that were below it is now used as classrooms. This is the old stable and tack shed. It was converted many years ago to be a ceramics studio. This is the maids' quarters from the mauka side. It was converted to kind of a general work studio. It's also where visiting artists come and stay and then teach students to learn their specific skills. When we get to the modern buildings, this is the 1999 children's classroom, the central restroom facility. And this is the 2008 building that was built to relocate the ceramics facilities and also create a new jewelry-making facility. And we'll look at this building a little bit later because some of the design elements of this building were incorporated into new construction.

I'm just posting a picture here of Board Member John Hoxie and Caroline receiving an award for historic preservation earlier this May. This was given by Historic Hawaii in recognition of the adaptive reuse of the Kaluanui Campus.

The subject building that we're looking at, this is the maids' quarters, and this somewhat derelict looking structure is the garage that is to be replaced. Looking at it here, I'll just kind of explain. It was built in a few sections. This was probably the original section which probably at one time housed a furo. There's a chimney in the back that gives a little evidence to this. It's probably

expanded once. With another slab and then probably a third slab was laid at a different time. And this section here started falling apart and so it was demolished and removed in 2007 or so. The slab remains but the roof has been removed.

This is the scale of the renovation. Some areas are about 875 square feet that will be essentially replaced. There's some storage in there. The storage will remain in the same place. The remainder of it will be converted into a single classroom that's two different levels. So they'll take out some of the differences in grade, try to simplify it, and there'll be a code compliant railing between the two levels. There's an entry to the bottom level here, sliding doors, and a covered entry over here, which will include access to the upper level. I do note, too, that there'll be a covered lanai here. So these two additions are 250 square feet of addition to the 875 that was originally there.

I'll show you just a few pictures of what the garage looks like today. Noted that when the Hui was looking at expanding the campus to accommodate additional demand for classes, this area kind of filled two holes: one, if they renovate this area, they get rid of a pretty big hazard as well in addition to providing new space.

Roof construction definitely not up to code. On the east-facing side of the building, there's an old chimney there, and we'll talk about that a little bit later, too, because the Urban Design Review Board had a recommendation for recycling the brick. Anyhow, the chimney's there. The furo that was probably once there is no longer there. The chimney is leaning at an angle and it's also at this point a bit of a concern that it might fall over.

In terms of design, I'll just point out these aren't the colors of the building. I'm just trying to provide you with some scale here. The intent was to blend it in with the cottage by putting it under a common roof using similar roofing materials, but also to provide an architectural difference between the sides and the windows. There's a federal guideline for rehabilitation of historic buildings, and I'll get into that a little bit later, but it basically says what you want to do is to create an architectural difference when adding a modern addition to a historic building. It's important that they maintain a visual difference so you can tell the two apart. Same drawing just showing the full extent of the cottage on the right here and the rebuilt addition here. The sides and windows, the addition, will emulate this kind of look. This is batten-on-board with large windows. This is, like I said, the 2008 building that was put in for additional classrooms.

And I'm just gonna talk a little bit about the four recommendations that the Urban Design Review Board made to the project. This one is regarding a window on the east elevation. We were very fortunate that there were a lot of opinions expressed on what type of windows to put into a building that's part of a historic campus with both modern and old buildings. So at one point, the Commissioners decided . . . or a Commissioner put to vote that all the windows should be of old style. And after we went through all the rationale, which we'll go through in a second here, that was withdrawn. There was a very politely put soft request that we consider changing the window on the east side which is not the primary side. And what they said was please consider. So we are going . . . we have considered it, and I'll give you the reasons we are looking to continue with the existing drawing.

This is the east elevation here. And what they are proposing are three vertical windows that kind

of match the style of the 2008 building, and underneath them are louvered vents. So we've considered this request, and we've chosen to proceed as we've put forward for various reasons including, we wanna maximize the use of natural light of the building. So the large windows will bring in more light on that side. Because the east side is the windward side and this area can be wet, there is a concern that they control ventilation especially during rainy periods. So instead of using a double-hung window that is really hard to control the moisture coming in, they've chosen to use the fixed windows, and below them use the louvers to control the airflow and prevent the rain from coming in. Third, they want to maximize the view outside of this area partially in due because Waldorf will likely create a garden, and this is an area where a garden historically occurred. And so they'd like to create a connection with the outdoors for this section of the property. Also, they'd like to be consistent between the windows of the addition. There's three sets of windows of the building: two on the west side and one on the east side. And this is the west elevation. And looking at this section here, the lower section, when looking through, you'll actually look through one set of windows to the other. So they wanted those windows to be consistent, large, rectangular windows from one to the other.

And lastly, I'll bring up the federal guidelines again. Part of the Secretary of the Interior's guidelines state that when putting together a modern addition to a historic building, there should be an architectural distinction. And when we explained that to the Urban Design Review Board, they actually understood us a lot better in terms of why the windows were different between the original cottage and the lower building.

Going to their next condition that the old chimney bricks be used on property such as possibly incorporating into the landscape, we have no problem with this condition at all. We do request a little bit of change in the language. We're not sure that when they push over this old chimney, it may fall apart and the bricks may pop out like ice cubes in a plastic tray. On the other hand, it might be made of cement, and the bricks may be soft, and it may be actually infeasible to get the bricks out of them. So rather than be in noncompliance, we're just asking for a little bit flexibility, and we're suggesting some alternative language which reads, "That any bricks that can be feasibly recovered from the chimney be reused on property such as possibly incorporating into the landscape." And the Hui, at the last meeting, there's a lot of ideas how we'll do that. In fact, one of the best ideas is we might let the students of the Waldorf program incorporate them into their garden or some other project.

Another condition they put in which is Condition 13 of the report is that a shed roof be added to the door on the north elevation of the building in order to protect it from the rain. We have no problem with this. We've already drafted some ideas and we'll be submitting them to correct the building permits, amend the building permits.

And lastly, this wasn't really a condition but a position of support. The Urban Design Review Board wrote this:

The UDRB strongly supports the applicant's quest to pursue the continued use of graveled parking instead of paved parking at Hui Noeau as a means of preserving the integrity of the historic campus and to preserve the pastoral atmosphere of rural Upcountry.

And what we'll ask you today is to, if you're willing, to put forward a similar statement. We're looking to preserve the rural atmosphere and the design originally put together in 1917 of these grassy lawns. And we're working through our parking with Planning right now. We have a surplus of parking. However, not much of the parking is paved. Only ten stalls of about 85 are paved. And we'd like to keep it that way to keep the character. What they have is a combination of grass and gravel. Basically, a graveled parking lot that the grasses come up through so it looks beautiful. It works perfectly. They have some gently sloping grades. It works well in the rain. They'd like to keep it that way.

And lastly, I'm open to questions. And I know some of the drawings are hard to read at that scale so if you have any questions or you would like me to bring up a drawing, I'll bring it up for your use.

Mr. Lay: Commissioners, we're gonna go to public testimony first, and then come back to our questions. At this time, I'll open up to public testimony. Does anyone wish to testify at this time? Please step up to the mic. and identify yourself.

Ms. Jocelyn Romero Demirbag: Good morning. My name is Jocelyn Romero Demirbag. I'm the administrative chair of school at Haleakala Waldorf School. I have been the leader in that capacity for . . . this is my 15th year. I've been part of the community for 17 years. The school has been serving Upcountry Maui for 41 years, and is part of an international system of education that focuses on hands-on, practical, artistic, and experiential experiences as well as academic. We've had a really phenomenal response to putting this high school out. There's probably been about two different high schools opened on Maui in the past seven or eight years and they have started with one school, I think, 11 students, and one, I think, seven or eight students. We have 25 students fully enrolled with a wait list. So it appears to us that there's a real strong demand and desire for this school where it is. And you could probably even go beyond the 50 that we are currently planning for in the second year. We find the Hui as an excellent and actually perfect partner for us because of all of their studios for one, because we teach through the arts, then all of the different kinds of artistic experiences we need require those studios. We don't have to build them. They're there already and largely empty during the day. So it makes a good practical use on the island. I'm not sure where else on the island we could actually find access to all the kinds of studios that the Waldorf curriculum needs. It also fosters our agricultural interests as was already mentioned by Robb with the gardening. In addition, we do beekeeping as well as aquaculture. So for us, the rural and historic nature partners with our already rural and historic campus up in Kealahou, Kula. It's a perfect partnership for us. So we hope that you are able to support their amendment and support this educational endeavor that is in line with the 2030 new plan for improving education.

Mr. Lay: Commissioners, any questions for the testifier? Commissioner Wakida?

Ms. Wakida: Good morning. Thank you for coming. The high school, will it be accredited. And if so, what's your path to that accreditation?

Ms. Romero Demirbag: So currently, our school has three different accreditation sources. And we were the first Waldorf School in America to actually have this triple accreditation. So Haleakala Waldorf is an accredited school. This year is our midterm visit. We have to put forth a midterm report this October. And I discussed with the Hawaii Association of Independent Schools, and the Western Association of Schools and Colleges, as well as the Association of Waldorf Schools in

North America accrediting bodies, and this process of putting forth the special midterm report will include the high school and then that will be accredited.

Ms. Wakida: OK, so, well, you wouldn't have your high school accredited till they've actually seen it in operation?

Ms. Romero Demirbag: They come in March. So we'll put the report forward in October, they visit us in March, and then they notify us in April or May.

Ms. Wakida: Right. OK. So your school is starting this fall, is the plan?

Ms. Romero Demirbag: Yes.

Ms. Wakida: Alright. Thank you.

Mr. Lay: Commissioner Ball?

Mr. Ball: Just for clarification, how does this work with Haleakala? Is it just another location?

Ms. Romero Demirbag: Yes, it is our main campus of 264 students this coming fall. It's up in Kula across the post office. And so now this is only the high school going to the Hui campus. The curriculum as was devised in 1919 was an early childhood through high school curriculum. So we're just finally adding on that component.

Mr. Lay: Commissioners, any more questions for our testifier? Thank you very much. Oh, excuse me, one more. Commissioner Shibuya?

Mr. Shibuya: I just have a question and maybe staff can help me on this one. This one, I'm looking . . .

Mr. Lay: We're questioning the testifier at this time.

Mr. Shibuya: None for the testifier.

Mr. Lay: OK. Does anyone else wish to testify at this time? If not, we're closing public testimony. Commissioners, now, we're open for our questions. Commissioner Shibuya?

Mr. Shibuya: OK. On Exhibit 1, I noticed the line drawn cuts through a structure along Kaluanui. Is that a pictorial error or . . . ?

Mr. Cole: Robb Cole addressing your question, Commissioner Shibuya. The software is really just responsible for that. These are aerial photos taken at an oblique angle and the property lines are kind of inserted in there in a general manner. So the subject building is properly within the boundaries of the property.

Mr. Shibuya: Thank you.

Mr. Lay: Commissioner Ball?

Mr. Ball: Question on the new structure that you're gonna build and the ADA compliance issues that may surround that.

Mr. Cole: The new entryway on the upper side will be ADA compliant. And while sliding doors are not ADA compliant, there is a second entry to the lower area on the north entrance that will be ADA compliant.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: Yes, I'd like a question for our planner here. What sort of additional parking requirements are gonna be needed for the staff and students?

Mr. Cole: It looks like eight additional spaces will be required. However, the Hui has a surplus of approximately 38 stalls. So it's more a matter of do we need to pave some of those stalls rather than we need to provide them. They're already provided. A great surplus is provided. It's just a matter of paving, complying with the County Code.

Ms. Wakida: Alright. Thank you.

Mr. Lay: Commissioners, any more questions? Public Works?

Ms. Dagdag-Andaya: I just wanted to add to Commissioner Ball's question regarding ADA access. So when they go in for the building permit, that does get reviewed by DCAP, the Disabilities Access Board. So for projects like theirs, it goes through a special review that involves ADA.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: I just was looking for the fire hydrant or fire standpipe. Where would they be located? Just curious.

Mr. Cole: There is a fire line that I believe comes down this way. I believe the hydrant is located in this general area here. As part of the building permit, fire access and resources are being addressed. And what they're looking to do is two options leaning towards the latter of these two options. One is to bring in a new hydrant closer. And I think it would be brought in kind of mid campus and putting in some sort of access lane. The latter option is to sprinkle the building which they feel they would do. It's expensive, but it clarifies a lot of issues.

Mr. Shibuya: OK. Thank you.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: OK. Since we are in the process of disclosing everything today, I'd like to disclose that the Matsumoto Family that occupied this building is a relative of mine. And as a matter of fact, I remember as a child entering this particular building. I can't quite remember if I actually took a bath in the furo that was in the back, but I remember that there was a lotus pond

that was behind the building, and that the garden that my uncle was the groundskeeper took care of had a very beautiful set of bonsai trees that he grew in the garden right in front of this residence. So I just leave that as food for thought in the event they wanted to add that aspect to the gardening portion of this project. But it brings back for me very fond memories and I'm glad that they actually preserved the historic building. And I compliment the architect on the addition that was added to it.

Mr. Cole: Thank you.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: Also, in the spirit of full disclosures, I would like to mention that Mrs. Demirbag's mother is a fellow cast mate of mine in Les Miserables which is opening this Friday at the MACC.

Mr. Lay: Thank you for disclosing that. As a matter of history, I'd like to add to this too. My family actually had horses at this stable at one time way back when. So it's neat to see the changes that have come about in this area and it's positive. Do we have any more disclosures or is there anything else you'd wish to say?

Mr. Ball: A couple of my best friends went to Haleakala School.

Mr. Lay: If we have no more questions, let's get the department's recommendation.

Ms. Cua: Way too close and personal today, but that's all good. I just wanna mention a couple things in terms of our analysis. If I could turn you to page 11 under Archaeological, Historic, and Cultural Resources. The Department of Land and Natural Resources State Historic Preservation Division by letter dated March 4, 2013, Exhibit 12, commented that the demolition of the portion of the caretaker's residence adversely affects a historic resource. And as such, they recommended enhanced documentation in the form of Historic American Building Survey or HABS photographs as mitigation for this impact. The applicant submitted the HABS documentation to SHPD. And then in a second letter which is attached as Exhibit 13 dated June 18th 2013, they indicated that the documentation that they received . . . SHPD received the documentation and that it was acceptable as adequate mitigation for the loss of the portion of the maids' quarters. So that was an important thing to note.

Another thing I would like to mention is on page 12 under Roadways and Traffic, the applicant initially went in to talk with Public Works, or the applicant's representative went in to talk to Public Works, and specifically, with their Engineering Section. And they had recommended that a site distance report would help them to analyze the impact because again, we decided to bring this to the Commission. You don't need a full traffic impact assessment report. Go talk to Public Works. And they did. And so what was requested was a site distance report. On pages 12 and 13 is the information relative to that. And in the middle of page 13, I mentioned that we do have a letter from Public Works dated July 2nd, I believe it's 2013, Exhibit No. 15, that indicates that they reviewed the project's Traffic Impact Analysis Report, and are in agreement with the findings and conclusions of the report, and therefore they had no further comments to offer. So we just wanted to kinda close the issues that were raised.

And the only other thing I was gonna mention was about the Urban Design Review Board meeting. That's been mentioned already. Their comments are on page 14. And unless you have any more questions . . . Oh, one last thing. Under Testimony, when we prepared this report, and when it was turned in, there were no comment letters. We received two. You heard from Jocelyn who is the administrative chair of the school. She submitted a letter which you have. And then this morning, we distributed to you a letter that we received about 10:30 last night by e-mail from Stefan Schaefer also in support of the school addition to the Hui. So that's the only change to the report. And if you're ready, I can go on to the recommendation.

Mr. Lay: Please do.

Ms. Cua: The Planning Department is recommending approval of the State Land Use Commission Special Use Permit amendment to allow for the Waldorf Pilot High School Program subject to the following conditions. And I do wanna note that what we did was we took the existing permit conditions and we've amended them. And they're in red. And I'll over them quickly.

Condition No. 1 is basically to extend . . . or to have the permit be valid until June 30th 2016.

Condition No. 2 is proposed to be deleted because when you look at on page 17 after Condition No. 13, there's the standard enforcement language whereas before, we used to deal with enforcement . . . the enforcement language in a condition. So we're proposing to delete that.

The next change would be to proposed Condition No. 5. Now, the department requests only two copies of a compliance report, not five. So we're changing that standard condition.

The new Condition No. 6 would say that the proposed Matsumoto Building Improvements shall be constructed in substantial compliance with preliminary plans dated January 7, 2013, as depicted in Exhibits 6-9 of the Planning Department's Report for the August 13, 2013 Planning Commission Meeting.

Under Project Specific Conditions, Condition No. 8, that plans for any proposed new building at the Hui shall be reviewed by the Urban Design Review Board and the Department of Land and Natural Resources State Historic Preservation Division to assure that the historic character of the property is maintained. We're changing this from being a very specific condition that referenced a 2003 plan to now anything that . . . any new building that comes forward at the Hui needs to go to the Urban Design Review Board and the Department of Land and Natural Resources which this building did.

Condition No. 10, the project shall utilize Best Management Practices during project construction. We're deleting condition . . . the former Condition No. 12 because it's been complied with.

And then the last three conditions which is new Conditions 11, 12, and 13 reflect the recommendations of the Urban Design Review Board. We included those as conditions. I know there has been a request from the applicant to amend which is our proposed Condition No. 12 which reads right now, "That the old chimney bricks be reused on the property such as possibly incorporating it into the landscape." And they're asking that it read, "That any bricks that can be feasibly recovered from the chimney be reused on the property such as possibly incorporating it into the landscape." The department has no objection to that amendment.

The conditions of the State Special Use Permit shall be enforced pursuant to §§205-12 and 205-13, Hawaii Revised Statutes. In consideration of the foregoing, the Planning Department recommends that the Planning Commission adopt the Planning Department's Report and Recommendation prepared for the August 13, 2013 meeting as its findings of fact, conclusion of law and decision and order, and authorize the Planning Director to transmit said written decision and order on behalf of this Commission.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: I'd like to make a motion to accept with the proviso that I'd like to add No. 14 Condition. And that condition would be that initiatives for energy conservation and/or energy generating for renewable energy power be included. It's a standard condition that we normally make in other . . .

Ms. Cua: So initiatives for energy conservation and . . . ?

Mr. Shibuya: And renewable energy generation.

Ms. Cua: Be incorporated.

Mr. Shibuya: Incorporated as No. 14.

Ms. Cua: But be incorporated into this project?

Mr. Shibuya: Yes, or at least considered. Yeah, it's not a . . .

Mr. Cole: I think "considered" would be the preferred language.

Mr. Shibuya: OK.

Mr. Cole: Thank you.

Mr. Shibuya: Thank you.

Mr. Lay: OK. I have a motion. Do I have a second?

Mr. Tsai: I would second the motion or second the amendment.

Mr. Lay: Second the motion. OK. Any discussion on it? Commissioner Hedani?

Mr. Hedani: I think the language relative to energy production or conservation should be consideration be given for that if that's acceptable to the maker of the motion.

Mr. Shibuya: Yes, it's considered.

Mr. Lay: Any more discussion? Commissioner Hedani?

Mr. Hedani: I just had a question on the windows that were being changed. If the recommendation of staff is to go with the design that was presented to us with the louvers or if it's to go with the double-hung windows that were originally, I think, the Urban Design Review Committee's suggestion?

Ms. Cua: Well, I think what Robb was explaining was that when we started with the Urban Design meeting, at one point in time, the Board was talking about them changing all of the windows to be more reflective of the historic character. And when Robb had taken them through the whole process, they kinda backed off on that on doing all of the windows. They had still asked about consideration to the window on the east side of the building to be a more traditional style, and so that's why it's . . .

Mr. Hedani: I just needed to understand that the staff . . . whether the staff requirement was . . . whether this condition would agree with the presentation that was made to this group today.

Ms. Cua: It would in the sense that . . . the way the condition is worded is it just says "consideration be given."

Mr. Lay: Any more discussion on this motion? Commissioner Wakida?

Ms. Wakida: Has it been seconded?

Mr. Lay: Yes, by Commissioner Tsai.

Ms. Wakida: Thank you.

Mr. Lay: Seeing no more discussion, let's vote on this motion. All those in favor?

Ms. Wakida: Excuse me, could the motion be repeated?

Mr. Lay: Deputy Director?

Ms. McLean: The motion is to approve the changes to the State Special Use Permit as listed in the staff report with one modification to Condition 12 being that any bricks that can be feasibly recovered from the chimney be reused on the property such as possibly incorporating it into the landscape; and with the addition of an additional Condition No. 14 that initiatives for energy conservation and renewable energy generation be considered.

Mr. Lay: OK. Voting on this, all those in favor? The motion unanimously carries.

Ms. McLean: Six ayes, yes.

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

VOTED: To Approve the Amendment to the State Land Use Commission Special Use Permit as Recommended by the Department with Amended Conditions.

**(Assenting - W. Shibuya, M. Tsai, K. Ball, W. Hedani, S. Duvauchelle,
P. Wakida)
(Excused - J. Medeiros, J. Freitas)**

Mr. Lay: Thank you.

Ms. Cua: Thank you very much.

Mr. Cole: Thank you very much, Commissioners. Thank you for your time today. Thank you, staff.

Mr. Lay: Let's take a five-minute break. Reconvene at 11:30.

(A recess was then taken at 11:25 a.m. and the meeting reconvened at 11:33 p.m.)

- 2. MS. CORINNE ARQUERO, General Manager of WHALERS VILLAGE, GENERAL GROWTH PROPERTIES requesting a use determination to operate a farmers market such as the Kaanapali Fresh "Grown on Maui" Farmers Market in the B-R Business Resort Commercial District at the Whalers Village Shopping Center at TMK: 4-4-008: 001, Kaanapali, Island of Maui. (ACC 2013/0003) (L. Callentine)**

Mr. Spence: Commissioners, we are on your second Communication item from Ms. Corinne Arquero, the general manager of Whalers Village General Growth Properties requesting a use determination for Kaanapali Fresh "Grown on Maui" Farmers Market at the Whalers Village. And staff for this project is Ms. Livit Callentine.

Ms. Livit Callentine: Thank you, Director, and good morning, Commissioners. It seems like it's been a while since I've seen you. So you'll probably remember that last month, you reviewed a use determination to allow for the relocation of the Urgent Care West Maui Offices. The project before you today is a request for a use determination to allow for the operation of a farmers market at the Whalers Village Shopping Center, and it happens to be located in the business commercial district . . . sorry, the resort commercial zoning district.

Whaler's Village contains more than 90 commercial units and over 100,000 square feet of retail, commercial space, and related improvements including, a parking garage, and it contains about 557 parking stalls.

The project location is best depicted in Exhibit 2 of the report which shows the boundaries of the entire parcel. The project area is shown by a dashed line in the lower left quadrant of the parcel. The parking garage is indicated on Exhibit 2 with the letter "P" in the upper right quadrant of the parcel. And then further on in the report, Exhibit 6, shows the shopping center layout and the location of the tents along the beach walk.

The proposed farmers market will be held in six 100 square foot tents, so 10x10, and one 900 square foot tent covering approximately, 1,900 square feet of the eight and a half acre parcel. Exhibit 7 shows a more detailed layout of the tents.

So the Kaanapali Fresh Grown on Maui Farmers Market was born of an initiative by the Maui County Farm Bureau with support by the County of Maui to raise awareness of the direct relationship between tourism and agriculture, and to demonstrate how chefs and farmers work together to keep tourism and agriculture viable on Maui. The market is cosponsored by the Farm Bureau, by General Growth Properties, and by the Kaanapali Beach Resort Association.

The market will provide locally grown fruits, vegetables, and coffees, and flowers along with value-added products made from grown on Maui produce to visitors and residents of the Kaanapali/Lahaina resort area, although I'm sure anyone else would be welcome to visit as well.

The market is also intended to provide education about locally grown produce and its uses. Local chefs, floral designers, and lei-makers will host hands-on demonstrations to highlight ways to prepare and use local products. Restaurants operating within Whalers Village will also participate by providing a to go menu of items utilizing local produce from farms such as Surfing Goat Dairy, Evonik Farm, and Kula County Farm just to name a few. All food items will be prepared in certified kitchens or restaurants in compliance with the State Health Department rules and regulations.

The market is expected to operate four Saturdays per year from 7:30 a.m. to 11:30 a.m. in temporary tents erected the evening prior to each event, and removed by 2:00 p.m. the day of each event. The market will be held this year on August 31st and November 16th, and four times each in 2014 and 2015 in February, June, August, and November.

And the applicant is represented here today by Corinne Arquero from the General Growth Properties; by Tony Rojas, who's been helping with the application; and by Warren Watanabe of the Maui County Farm Bureau. They don't have a presentation prepared, but they are here to answer any of your questions.

Mr. Lay: Commissioner Hedani? Oh, excuse me. At this time, we're gonna take public testimony first. Does anyone wish to come in front and testify? Please do so at this time. Identify yourself.

Mr. Warren Watanabe: Good morning, Chair Lay, members of the Commission. My name is Warren Watanabe. I'm the executive director of the Maui County Farm Bureau. And we represent our commercial farmers and ranchers on the Island of Maui and Lanai. Molokai has their own farm bureau chapter.

I've been farming for . . . well, I was farming for . . . since 1979. I took over my parents' operation. I'm a third generation . . . was a third generation farmer and I kind of ended the farm operation because of other various problems. So after 73 years, it's kinda sad, but anyway, the Farm Bureau represents, like I said, our commercial farmers and ranchers. And we need to look at alternative venues or methods of sales for our farmers and ranchers to be viable. And again, I emphasize commercial, because these are the guys that supply your Safeways that will make a difference in making this County and State sustainable and more self-sufficient. And so we ask for your support. As I mentioned, back in the '80s and '90s when I was doing . . . actively farming, the main market was our retail markets, working through our retail markets. Things have changed dramatically. As you know in this County, across the state, and across the nation, there is a tremendous trend about buying local and supporting your local farmers and ranchers. And so in closing, I ask for your

support. Thank you.

Mr. Lay: Commissioners, any questions for the testifier? Commissioner Shibuya?

Mr. Shibuya: Warren, you got a good name. I just wanna . . .

Mr. Watanabe: Remember when we were on the Advisory?

Mr. Shibuya: Yes, the GPAC.

Mr. Watanabe: GPAC. We had three of us.

Mr. Shibuya: Yes, I know we had three of us and that was a popular name. But I just wanted to ask you because farming is so labor intensive, and we wanna keep the farming industry here in Hawaii and Maui, particularly, how do you see the high schools picking up agriculture as a study?

Mr. Watanabe: Interestingly, we . . . Maui County Farm Bureau, we do have an ag in the classroom. In fact, just last week I did meet with the State Department of Education because during last session, the Hawaii Farm Bureau sponsored a bill which the Governor signed and we just need to get the Governor to release the funds. It wasn't as much as we had hoped for, but it was for \$75,000 to help FFA. And so I did meet with the DOE last week. We're gonna implement a program. And as you all know, Lahainaluna has a very strong . . . a very good FFA program. I just found out that Molokai is starting theirs. There's several high schools on Oahu who have really good programs. With the Governor's support and the legislative support, we feel that we are gonna progress in that direction.

Mr. Shibuya: Yeah, because on Maui, we have Kihei High School coming up and I asked them about the ag program. And they said, no, they're not gonna have it there. So I was kinda disappointed. Where else would this ag studies be for available for high school students?

Mr. Watanabe: Again, I think you have to change the mindset. I mean, when I was in high school, FFA was considered for the students that aren't high achievers. And I think we gotta change that mindset and we still have that problem. My parents didn't want me returning to the farm. They always think farm is hard work, but we try to stress that agriculture has a very diverse range of careers and we support like from field production to the culinary arts which are related. And this kinda ties in with working with the chefs. So I think that the community really needs to get behind it if we expect agriculture to survive in this County and this State because we are facing tough times: various issues from water, land, long term leases, all of those.

Mr. Shibuya: Thank you very much because I am encouraging more of this agriculture sustainability and our Maui folks supporting it too.

Mr. Lay: Commissioners, any more questions for the testifier? Commissioner Hedani?

Mr. Hedani: I'm sorry. It's not a question for the testifier.

Mr. Lay: OK. Let's go through public testimony first, then. Anyone else wish to testify at this time

on this agenda item? Seeing none, I'm gonna close public testimony and open our questions for our Commissioners. Commissioner Hedani?

Mr. Hedani: Disclosure. Whalers Village is a member of Kaanapali Operations Association, but I will be voting on this particular item because I can maintain my objectivity on this particular case.

Mr. Lay: Commissioner Ball?

Mr. Ball: Question on the tents and some of the health issues maybe, possibly, associated with what they're doing under the tents. First, the tent question is, how are you securing these to the ground? Spending summers on the beach there with canoe clubs, we know how these tents can fly around and get airborne. And now times six or seven, those little stakes that they come with do not require the adequate holding power, yeah. And these things can get up there. And with a crowded beach and that sort of thing, you're asking for trouble there. The other thing is, are they preparing any food, was my health side of the question. And if they are, because obviously they aren't kitchens. They're tents so . . .

Ms. Toni Rojas: OK. Got it. Good morning, Commissioners and Chairperson Lay. My name is Toni Rojas. I'm with Sterling Performance Group, and I do event planning, design, and management, and I'm assisting . . . officially authorized to assist KBRA, Kaanapali Beach Resort Association, and Whalers Village with this use determination request.

To answer your questions in reference to the tents, the tents are coming from a commercial tent company, Maui Rents, specifically. Yes, they do use stakes, but in addition they have large barrels that are weighted down. So depending on the winds of that particular day, they will determine whether that will be used or not. And I have used them in multiple areas. And we have not had any issues whatsoever. They also, of course, have liability should anything arise. So they take all precautionary measures.

In reference to the State Department of Health, first of all, there's two categories that are actually under the tents. One is the Grown on Maui farmers themselves that are bringing actual produce to the event. And the second part of it is the existing restaurants that are at Whalers Village with commercial, State of Hawaii, certified kitchens that would actually produce the food and bring it out to the tent for consumption. And there, they would have what the State Department of Health requires them to have in chafing dishes and the certain level of temperature requirements.

Mr. Ball: Thank you.

Ms. Rojas: You're welcome.

Mr. Lay: Commissioner Tsai?

Mr. Tsai: Do you have an estimated number of attendees for each of the events or each day of the event?

Ms. Rojas: We're estimating an additional, other than the standard flow of visitors and kamaaina that come through Whalers Village, an estimate of around 300. And that is based on a similar event

that had taken place at Whalers Village. Out of that 300, we're estimating approximately, 25% to be kamaaina and the balance being visitors because they do walk that beach walkway back and forth in the mornings.

Mr. Lay: Commissioner Tsai?

Mr. Tsai: Do you have any plans to deal with the parking issue?

Ms. Rojas: We sure do. We were working with one of your staff members here in the County, Avelina. And she asked for parking information, and she also did some calculations for us on behalf of the County as well. And she is requiring us to only take one delivery stall and turn it into a public access stall. And I should also mention, too, that the parking will be complimentary that day, all day, and all evening versus a paid parking situation which is the norm at Whalers Village.

Mr. Tsai: OK. Do you think that'll be sufficient at Whalers Village because it gets pretty congested there in that parking structure?

Ms. Rojas: We feel very comfortable that there will be enough parking, yes. And in addition, because of Kaanapali Fresh being a two-day event, it's Friday, August 30, and Saturday, August 31, and because the membership includes the surrounding resorts that we also have the opportunity to use their parking and their valet.

Mr. Tsai: Thank you.

Ms. Rojas: Thank you.

Ms. Callentine: Just to address the parking question, Commissioner Tsai, I didn't include this in the report, but the Zoning Division does a long spread sheet analysis of the entire commercial center. And they do this . . . they keep a log of all of the large projects that require extensive amounts of parking, and have multiple tenants or businesses located on the site. So they actually go through and they calculate the square footage of every single retail unit, commercial unit, everything. And this event was . . . they recently conducted an updated study to see what was available and what was required on the site. So the analysis ended up that what is provided on the site for parking stalls are 557 stalls. And what is actually required including this event requirement is 558 stalls. Furthermore, they are only required to provide three . . . two loading zones on site, but there are actually three loading zones assigned, provided. So provided that the applicant will take one of those loading zones and designate it temporarily during the event as an additional available parking stall for event-goers, it will be deemed sufficient. And that satisfied our requirements.

Mr. Lay: I have a question with that. So we have the beach access parking. Is that separate from our event parking?

Ms. Callentine: The beach access parking . . . you know, that is a really good question, and I believe that it is accounted for as part of the required parking. I'm not sure where it's called out. I know that they have the required and provide the required beach access parking. Looking quickly here to see if there's a . . . OK. The beach access parking required is 20 stalls. And that is

accounted for in the required and provided parking. That is in the total.

Mr. Lay: Commissioner Wakida?

Ms. Wakida: Yes, so what is the height of these tents?

Ms. Callentine: Oh, I'm not sure. Can you answer that, Toni?

Ms. Rojas: At the lowest point on the edges, it would be nine feet.

Ms. Wakida: Nine feet. And they're right in front of Leilani's, I see. So how does that impact the site lines of Leilani's?

Ms. Rojas: Actually, I don't believe it does impact it dramatically. Certainly, there's different spots at Leilani's and different view points, but I would expect only one portion towards Kapalua that there may be site line issues.

Ms. Wakida: According to your map, the tents are all lined up there. They're right in front of Leilani's, if I'm reading this correctly.

Ms. Corinne Arquero: Hi. My name is Corinne Arquero. I'm the general manager at Whalers Village. So the location of the tents and actually, the farmers market is being held from, I believe, at 7:30 to 11:30 in the morning. And Leilani's does not open for their lunch service until 11:30. So the tents will be in the process of being taken down. And we've had these tents put up. Leilani's is one of the participating restaurants alongside with Hula Grill and Maui Fish and Pasta. So they're in support of this and they actually were a part of recommending the locations of these tents.

Mr. Lay: Commissioners? Public Works?

Ms. Dagdag-Andaya: I just had one more thing and it's just a suggestion. I'm not suggesting a condition or anything, but just to consult with DSA regarding the tents. We do have an exemption for tents that are put up on a short-term rental basis for temporary tents, but we have worked with events such as the Fourth Fridays or the Kihei Friday events where they had temporary tents. And we had letters just documenting that the tents were gonna be put up on certain days. So I would suggest just consulting with us before you put up the tents.

Mr. Lay: Commissioners, any more questions? Commissioner Wakida?

Ms. Wakida: Yes. I'm not sure who to ask this question, but it's about the number of restaurants participate . . . well, let me start over. I am totally in favor of agriculture and promoting it wherever we can. I'm a little concerned about this particular activity really ending up doing that and not turning it into a mini Taste of Whalers Village with their restaurant offerings. And I wonder if maybe Corinne could address this—how she sees the visitors purchasing produce as opposed to just having offerings from restaurants.

(Commissioner Jason Medeiros then entered the meeting at 11:54 a.m.)

Ms. Arquero: You know, the Maui Farm Bureau, and the growers, and we . . . I've always felt that the visitors are not educated and not aware of the agriculture that takes place on Maui. And they think that it's just pineapple and sugarcane. And so this takes it to the step of the Maui Growers being out there to explain to them exactly what products are being farmed. And they always use that phrase of "farm-to-table," so this will demonstrate this is from the farms. And then the participation by the restaurants incorporates that to show that it's from the farms, and now it's being brought to the table in front of you. So it is a tasting of what can be done with the products, and the produce, and the agriculture. And it's a great marriage of . . . You know, we have a responsibility of our environment.

And we think that . . . you know, we believe the Kaanapali Fresh, and maybe I can speak a little bit more about it, but Roy Yamaguchi and Alan Wong with the Hawaii Tourism Authority on Oahu, and they have this Hawaii Food & Wine Festival. I believe it occurred for two years on Oahu. And it brought in chefs from all over the world from Chicago, and Hong Kong, and they came from all over to educate, and also be there for the culinary students, and also to support the agriculture on Oahu. And it was through the Hawaii Tourism Authority that they were asked to take it to the neighbor islands. And we're very fortunate that Maui was chosen as the neighbor island for them to come over. So the Kaanapali . . . the farmers market that we have is also tying into that two-day, three-day event at the Kaanapali Resorts that the chefs are coming in, and doing the demonstrations, and it's going to be benefitting the culinary students and the Maui growers. So this being a tasting, you know, I'm not gonna say that it's not a tasting, because it certainly is, but it's really . . . you know, the bigger picture of it is to show where it came from the farm to your table. And then the restaurants are all doing that, and the chefs all live that now. So we're proud at Whalers Village because we're the spine of the Kaanapali Resort that we're able to take it and bring it to the center so we can incorporate all of the resorts there, as well as chefs from the State of Hawaii and all over the world. And one of the chefs that is going to be featured is Sheldon Simeon who was a finalist in Top Chef.

Mr. Lay: Thank you. Any more questions, Commissioners? Commissioner Tsai?

Mr. Tsai: Yeah, Corinne, are you making a hint that there'll be cooking demonstrations.

Ms. Arquero: At the cooking demonstrations at the various resorts. And then, two, even for . . . at the Kaanapali Fresh, you know, yeah, at the festival part of it.

Mr. Tsai: Not particular at the farmers market?

Ms. Arquero: No, no, no.

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

Ms. Callentine: Yes, you can. Thank you. So the business resort district or the resort commercial district, which is known by the initials "B-R," allows for specific uses as provided under Section 19.22.020 of the Maui County Code. And Exhibit 8 in your report lists . . . a complete list of all the permitted uses.

For this project the following uses that are permitted are most relevant: Item D, which is coffee shops and snack bars; Item E, flower shops; Item F, gift and curio shops; Item G, information centers; J, novelty shops; and M, restaurants.

So the code says in Item R of this code, there is an allowance so that the Commission may approve other similar uses. So the uses need to be of similar character providing foods, services or facilities primarily to transient visitors, and they may be approved by the Commission as conforming to the intent of this title, subject to such terms and conditions warranted and required by the Commission.

So the proposed farmers market will feature the sale of locally grown fruits, vegetables, coffees, and products created from local farms; education about the link between tourism and agriculture; and demonstrations by chefs who prepared dishes using locally grown produce.

So the selling of the locally grown produce and products is essentially, similar in character to other permitted uses in the district such as coffee shops and snack bars; and flower, gift, and novelty shops. The educational component of the event is similar in character to the Item G, information centers, while the sale of prepared to go food products most resembles restaurants in Item M. Onsite parking is deemed adequate provided that the applicant designates one loading zone stall for use by market goers during each event. The proposed farmers market is consistent with State land use, urban; community plan, business commercial; County General Plan and the West Maui Community Plan, which is business. Oh, sorry, I said that twice. OK, community plan.

If you approve this use determination, the proposed market will be allowed and consistent with County zoning. The parcel's located also in the Special Management Area and an SMA assessment will be carried out by the department.

Farmers markets have become commonplace across Maui County's islands, and on Maui, are held in most of our communities. Most cater to the local resident population. This is possibly the first farmers market to be held for the benefit of the visitor population, as well as serving local residents, although I'm not certain of that.

The department concurs with the applicant's assessment that a farmers market providing local produce grown on Maui, value-added products made from locally grown produce, and education about these products primarily to visitors and to residents of the West Maui Region is similar in character to other services and facilities that are permitted within the resort commercial district.

So in consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission find the proposed use to be an allowed use in the resort commercial district on the subject property and in conformance with Title 19, Section 19.22.020, of the Maui County Code. The Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the August 13, 2013 meeting as its findings of fact, and conclusion of law, and decision and order, and to authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Mr. Lay: Commissioner Tsai?

Mr. Tsai: So moved to approve as recommended.

Mr. Jason Medeiros: Second.

Mr. Lay: Motion by Commissioner Tsai, second by Commissioner Medeiros. Any discussion on this? Commissioner Wakida?

Ms. Wakida: I am going to reluctantly vote in favor of this. I totally support Mr. Watanabe, his efforts with the Grown on Maui, and the local farmers and all of that, but I hope this does not turn into a showcase for off-island celebrity chefs, and go into that direction, and I hope it truly stays genuine to Maui products.

Mr. Lay: Commissioner Medeiros?

Mr. Medeiros: I'm sorry I'm late. When I first received the packet, I went and I asked people in the Kaanapali area. I represent a lot of the workers there. And when I told them about a farmers market, they were genuinely excited because, "Oh, I can pick up vegetables on my way home. Oh, that's a good idea 'cause it's close by." I also took into consideration the bunch of . . . like KOR, the facilities that they had there with kitchens and things like that. So I'm a huge supporter of agriculture on Maui. And anything that can give them a break and allow them to be successful, I will support. So I will fully support this.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: I'd just like to say I find it a little curious that . . . well, one thing, I support the application. I believe that we need to put . . . where the rubber meets the road is when we talk sustainability and we talk about supporting agriculture on the island, and we need to make the connection with the retail markets and the customers in a way that benefits that industry. But I'm a little bit curious as to why this change would even have to be requested of the Planning Commission. To me, it's an event that happens within a commercial area within a zoned commercial area within the resort. So I'm just kind of wondering why it has to come to the Planning Commission for approval.

Mr. Lay: Director?

Mr. Spence: Mr. Chairman, it's just the way that the code is written. You have a long list of uses that are allowed under B-R resort. And at the end it says, "Oh, we haven't thought of all the potential uses, so anything else let's have the Planning Commission take a look at it and say OK, it's fine or it's not." We're probably . . . at some time in the future, we're talking about making amendments to Title 19 so we can have event type uses on a short-term basis. It's just an administrative approval so it doesn't have to come to the Planning Commissions, take up lunch time . . . (inaudible) . . .

Mr. Lay: Any more discussion? If not, can we repeat the motion?

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

Mr. Lay: All those in favor, raise your hand.

Mr. Spence: That's seven ayes.

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

VOTED: To Approve the Department's Recommendation that the Proposed Use to be an Allowed Use in the B-R Business Resort Commercial District. (Assenting - M. Tsai, J. Medeiros, K. Ball, W. Hedani, S. Duvauchelle, P. Wakida, W. Shibuya) (Excused - J. Freitas)

Mr. Lay: Motion passes. Commissioners, at this time, we're reaching lunch. We have the option of should we go to the lunch or should we try and finish up what's in front of us. OK. Unanimous. Let's reconvene at 1:00, but, alright? Fifty-five minute lunch. OK.

(A lunch recess was then taken at 12:05 p.m., and the meeting reconvened at 1:04 p.m.)

Mr. Lay: Commissioners, now all back in session. Our next agenda item?

3. Approval of proposed Settlement Agreement on the following:

PAUL R. MANCINI, attorney representing HENRY and DIANE SCHWEITZER appealing the Planning Director's Notices of Violation (NOV 2012/0017, 0018, 0019, 0020) dated August 29, 2012 for the construction of concrete stairs and a seawall within the shoreline and special management areas without first obtaining shoreline approvals or special management area determinations for property located at 4865 Lower Honoapiilani Highway, TMK: 4-3-015: 001, Lahaina, Island of Maui. (APPL 2012/0009) (RFS 09-0002157) (T. Kapuaala)

Mr. Spence: Commissioners, we are on Communications Item 3, Mr. Paul Mancini representing Henry and Diane Schweitzer to settle a notice of violation. And I would also like to disclose at this time the fine taste in men's attire that Mr. Mancini, and myself, and Commissioner Tsai have. We also have Thomas Kolbe with Corporation Counsel's Office, and Trisha Kapua`ala also dealing with the settlement. I'm not sure who goes first. OK.

Mr. Paul Mancini: My name is Paul Mancini. I'm representing Mr. and Mrs. Schweitzer. Mrs. Schweitzer is here today. And I'll try to be brief since I'm in official uniform. Just almost seems planned.

I'd like to take a few minutes to tell you the history and the circumstances of this case as they're quite unusual and it's almost a bit like a Greek tragedy in many sense. And when I tell you, you'll understand what I'm saying. It's almost like an unfortunate trilogy.

It starts back in 1979 when the Schweitzers decided to buy a piece of property in Lahaina. And when it was sold to them, there was a warranty. There was a permit to build a wall and steps on it. And they hired a pretty reputable contractor at the time, Taylor Construction. Mr. Taylor had a

wonderful reputation. He was a veteran. Had been a person around for a long time. He was decorated. And he had a very good construction company back here. And they entered into a contract with him to build a house, and to move ahead with the permits, and to build the steps and the wall, which seemed straightforward. Mr. Taylor then engages a number of consultants to help him, and these are people who are very good consultants for those of us who are old enough to remember the '70s. There was Norman Saito, George Newcomer, Steven Pitt was the structural engineer, and Buddy Haake used to work with DLNR way back in those days. And he went ahead and hired him. And obviously, they hired Mr. Newcomer to do a survey of the shoreline because they had to build a wall mauka of the certified shoreline. And the contractor asked the Schweitzers to write a letter to the Planning Director at that time trying to expedite the permits.

So the house is built, 1979, 1980, and the steps and the wall. And then the second part of the trilogy starts in 2011 and 2012 with the County in its records cannot find a permit for building the steps and the wall. And unfortunately, at that time, the Schweitzers had entrusted the matter to their contractor and their consultants. Mr. Taylor had passed away and all of his records were not with him and not on-island. Mr. Newcomer based away. And Mr. Pitt, Steven Pitt, if anyone remembers him, he passed away. And the County could find no records of it. And the Schweitzers were convinced that Mr. Taylor would not build it without the permits.

The third part of the trilogy comes with the Department of Land and Natural Resources in 2012. The Department of Land and Natural Resources concludes that the wall and steps were not built on SMA setback. It's built on conservation property makai of the shoreline, and they filed a complaint. At that time, the Schweitzers had two series of complaints against them: from the County of Maui, a shoreline setback variance, and SMA violation; and from the Department of Land and Natural Resources having built on conservation property.

It went before the Board in the latter part of 2012 on the complaint. And I suggested to the Board, the only way to determine whether this wall and steps were built on conservation property was to do a survey comparing where they are now to the 1980 survey that George Newcomer did. And although it was our expense, the Schweitzers were a hundred percent convinced that the wall had to be mauka of the certified shoreline. Why would they engage Mr. Newcomer to do the certified shoreline?

And so we did that. And the Department of Land and Natural Resources deferred any action and took them a few months, and Mr. Newcomer then submitted . . . well, personally did the survey now. Of course, George is no longer with us. And lo and behold, DLNR was correct. The wall, but for one and a half steps, ends up in conservation property. It's only one a half steps of it that were in the SMA. Trying to figure out why that happened with such professionals involved is a bit of a mystery and bit of a tragedy, too, if you're a homeowner, and 30 years later, you have this in front of you. My only theory is that somebody looked at the property line when they were building it and not the shoreline setback line because the wall pretty much takes . . . the property line and I think all of us know the property line is much different from the conservation district. The shoreline moves mauka constantly and it's always changing.

So that's where we are with this minor tragedy. The Board of Land and Natural Resources instituted a fine of \$5,000 and a thousand-dollar administrative fee for the violation. And they gave the option to the Schweitzers to remove the wall and steps, or file for a conservation district use

permit, and file an environmental assessment which is a long and expensive process to do. The Schweitzers had considered removing everything but it would have an impact on the neighbors because the walls basically tie into the neighbor walls, and it creates a bit of a mess. Consequently, the Schweitzers had filed an environmental assessment, filed for a conservation district use permit. And that'll probably be going before the Board of Land and Natural Resources toward the end of the year.

What we have here today is the second part of the trilogy: the NOV's from the County of Maui. And I have to appreciate the County working with Tom and Will and the staff, the cooperation, because it's an unusual circumstance. And if you ever put yourself in the place of putting your faith into those that are no longer here and have this beset you, especially, for an elderly couple, it's quite traumatic. Here, we've come to a settlement, and I think it's fair to all. And what we'll do is DLNR doesn't grant them the permission to keep the wall, we'll remove everything, including the steps, one and a half steps that are in the County property. If they do grant it, they'll keep the wall where it is, and then we'll look at either removing the step and a half, or come in for a Special Management Area permit, or a . . . which may be a bit traumatic to come and spend that time for one a half steps, but that would still be an option at the time.

So I hope my explanation wasn't too lengthy, but I did think it's interesting especially for us older people that were here in the '70s and knew all these people who were involved and who were very good professionals at the time. It just surprising certain things happened and sometimes not for the best for everybody. Any questions, we'd be happy to answer them.

Mr. Lay: Commissioners, we're gonna hold our questions until after public testimony. Anyone else wish to come up?

Mr. Thomas Kolbe: Just briefly. This is Tom Kolbe and the position of the department I think is that this settlement does make some sense. Obviously, all of these things happened a long, long time ago, and the reality is that the wall is not where it's supposed to be. The County's really comfortable with this particular settlement because the State has taken the initiative and the lion share of correcting this issue probably because their position is that the majority of this wall is actually in their jurisdiction as opposed to the County's jurisdiction. We looked long and hard at the issue about whether or not we both have an interest or concurrent jurisdiction on this wall, which is right there on the ocean. And so I spoke with Sam Lemmo from DLNR, and we really talked about what do we do in circumstances where both the County and the State have an issue. And I think what we're doing here makes some sense primarily because the State is willing to live with what's going on, and I think whether they grant an easement to the Schweitzers is really more in their interest to kinda take the initiative. And so I think this makes . . . kind of satisfies all of the issues that we need to. If the wall stays, then the steps can stay, and they'll apply for their permits. If the wall has to go, then the steps will come out too. And the Schweitzers who have, since I've been on the case, have been very responsive, will pay a substantial fine I think of \$5,000. So I can answer questions also if you have any particular concerns, but mostly this is gonna work out because the State is gonna take care of the majority of what I think is the issue. So thank you.

Mr. Lay: At this time, we're gonna open up to public testimony. If anyone wishes to testify, step up to the podium and identify yourself. Seeing none, we're closing public testimony. Commissioners, you have any questions? Commissioner Wakida?

Ms. Wakida: I have one. Maybe Mr. Mancini can answer it. What is Mr. Kolbe's position?

Mr. Mancini: I didn't quite understand the question.

Ms. Wakida: No, I'm just asking Mr. Mancini what his . . . I got your name, but I didn't get what he was.

Mr. Mancini: Corporation Counsel.

Ms. Wakida: Corporation Counsel. My bad. Sorry. My question is the shoreline erosion factored into this anywhere?

Mr. Mancini: It's a good question. Shoreline erosion basically comes into play when you do your shoreline setback variance because there's an erosion rate that's applied to the setback variance. Shoreline erosion each year may or may not move the certified shoreline mauka so people lose their property year-to-year. That's why the shoreline setback rules have the shoreline erosion factor. Now, the way we did the survey here was to take the survey that was done in 1980 with the Schweitzers. And we did one today where the wall was and then you compared the two, and that's where it shows there was a serious mistake back in 1980. We will have to pay the State of Hawaii a serious sum of the granted easement because when you get an easement from the State, they've got their methodology by which you value the easement and a shoreline property is rather expensive to value, and you have to hire an appraiser to value it. And the Schweitzers will have to pay for the appraiser. So unfortunately, our nightmare is not over. It continues on.

Ms. Wakida: Yeah, but just to follow up about the shoreline, the erosion, I'm sure you're aware that there has been a lot of mapping of that area that shows how the shoreline has shifted. And so whether or not the 1980 survey was correct or incorrect, it would be interesting just to look at those shoreline maps.

Mr. Mancini: Well, the surveys are done on a metes and bounds' basis. There was a metes and bounds done in 1980 and you just compare it to the metes and bounds . . . You lose the beach during one season. The beach comes back and goes back, but like all of our shorelines here over time . . . over time you get serious problems as we're all aware of the shoreline moving mauka. Are there any other questions I can answer?

Mr. Lay: Commissioners, any more questions? Seeing none. So we're acting on an approval of this proposed settlement agreement or take some other action. Commissioner Ball?

Mr. Ball: Move to approve the proposed settlement.

Mr. Tsai: Second.

Mr. Lay: Commissioner Tsai. Commissioner Ball made the motion. Commissioner Tsai second. Any communications on this? Discussion? None? Can you repeat what our actions are?

Mr. Spence: The motion is to approve the settlement as recommended.

Mr. Lay: All those in favor, raise your hand.

Mr. Spence: Six ayes.

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

**VOTED: To Approve the Proposed Settlement Agreement.
(Assenting - K. Ball, M. Tsai, J. Medeiros, W. Hedani, P. Wakida,
W. Shibuya)
(Excused - J. Freitas, S. Duvauchelle)**

Mr. Lay: Motion passes.

Mr. Mancini: Thank you very much for your time.

Mr. Spence: Commissioners, we are on no. 2, the Director's Report, notifying the Commission pursuant to their rules, the intent to grant time extensions for two things. The first one is Mr. Grant Chun of A&B Properties.

Mr. Ball: I think we had some . . . Item D, we had some minutes.

Mr. Spence: I am so sorry.

**D. ACCEPTANCE OF THE ACTION MINUTES OF THE JULY 23, 2013 MEETING AND
REGULAR MINUTES OF THE MAY 28, 2013, JUNE 10, 2013 AND JUNE 25, 2013
MEETINGS**

Mr. Ball: Move to approve the minutes, unless there are any changes.

Mr. Tsai: Second.

Mr. Lay: OK. Everybody got a chance to look at the minutes? OK. I need a motion to approve the minutes. OK. And seconded. All those in favor, a verbal "yes." Those opposed?

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

**VOTED: To Accept the Action Minutes of the July 23, 2013 Meeting and the
Regular Minutes of the May 28, 2013, June 10, 2013, and June 25, 2013
Meetings.
(Assenting - K. Ball, M. Tsai, J. Medeiros, W. Hedani, P. Wakida,
W. Shibuya)
(Excused - J. Freitas, S. Duvauchelle)**

Mr. Lay: Passed. Now, we're moving on.

E. DIRECTOR'S REPORT

2. **MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of his intent to process the following time extension requests administratively:**
 - a. **MR. GRANT Y. M. CHUN, Vice-President of A&B PROPERTIES, INC. requesting a Special Management Area Use Permit two (2)-year time extension on the period to initiate construction of the Kane Street Commercial Mixed-Use Project at TMK: 3-7-005: 003, 011, and 023 (por.), Kahului, Island of Maui. (SM12005/0004) (C. Thackerson)**

Mr. Spence: OK. Thank you, Commissioners. OK, we're on No. 2-a of the Director's Report: Grant Chun requesting a two-year time extension on an SMA permit. The staff planner this afternoon is Ms. Candance Thackerson.

Ms. Candance Thackerson: Hello. The subject SMA permit was granted for the proposed Kane Street Commercial Mixed-Use Project consisting of approximately, 103 multi family residential units and approximately, 23,300 square feet of commercial space on 3.88 acres of land at Kahului, Maui. Condition No. 1 of their current SMA permit currently requires that construction of the proposed project be initiated by June 30, 2013. So the applicant timely filed the request. This is the fourth time extension request for the applicant. And they would like to request a waive review of the time extension; the Director grant them a two-year time extension till June 30th 2015.

In your packet before you, I've outlined the following work that has been undertaken by the applicant over the course of the previous requests. There was a lot of issues with DOT and getting Public Works' approval for quite some time. One of the conditions on the original SMA approval letter required the developer to address Public Works and DOT comments prior to issuance of any building permits. So the applicant has been going back and forth, and they received approval of their final traffic impact assessment report from Public Works on May 31st 2011, and State DOT on June 15th 2011. So they received both of those entitlements just recently back in 2011. So the applicant is here to answer any questions for you regarding reasons for the time extension, or the length of request, and things like that.

Mr. Lay: Does the applicant wish to say anything at this time? OK. We're gonna go to public testimony. Does anyone wish to testify on this agenda item? Seeing none, we're closing public testimony. Commissioners, questions to the planner or applicant? Commissioner Wakida?

Ms. Wakida: Candance, on the back of the first page, there's a reference to . . . well, it's No. 3. And it says "The only proximate project developed since the granting of the subject SMA permit is the Maui Community College Student Housing Project." I believe that student housing project has changed.

Ms. Thackerson: It has. It has.

Ms. Wakida: It's no longer just student housing. It's opened up to . . .

Ms. Thackerson: Yes. I was the planner on that, if you guys remember from just a few meetings

ago. And the date of this letter was submitted by the applicant on March 13th and that permit was still being processed at that time. So it is, yeah, it is no longer the Maui Community College Student Housing Project. It's opened to the public, to the general public.

Mr. Lay: Commissioners, any more questions? Commissioner Wakida?

Ms. Wakida: It's not so much a question. It's a comment. The original permit was in '05 for 103 multi family residential units. And I would assume nobody on this Commission has seen this project. I would . . .

Mr. Lay: Commissioner Hedani.

Ms. Wakida: Except Mr. Hedani. And that I think I would like to take a look at it.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: Candance, this project was commented on by one of the testifiers. And they wanted to have us review this project because it has been coming back so often for extensions. And I just wanted to find out what is the delay, and what else needs to be done, and how far along this timeline do we need. Is a two-year extension adequate enough to get off dead center, or is it something that we're still muddling through?

Ms. Thackerson: I think the applicant can better answer that for you because as far as my knowledge is concerned, I think they've got a lot of the ends wrapped up with the County. I read through the minutes of the last request, and I think at that time, it was still . . . the County had the ball a little bit more with the Department of Public Works and DOT pending the review of the traffic analysis report, but that got accepted in 2011, so I'll let the applicant answer that.

Mr. Shibuya: OK. Thanks.

Mr. Grant Chun: Good afternoon, everyone. Grant Chun here on behalf of the applicant, A&B Properties, Inc. To answer your question, Mr. Shibuya, the . . . our goal is to go ahead and be able to begin this project within the timeframe that's outlined in Ms. Thackerson's report. We are, at this point, committed to the residential component of the project and are kinda taking a second look at the commercial component of the project given the changes that are occurring in the Central Maui area as far as retail space that's becoming available in a number of different areas. We're in the process now of kind of taking a second look at that part of the plan for this property.

Mr. Shibuya: Have all the residential units been sold, or obligated, or reserved at this point?

Mr. Chun: No, sir. This is the project where you may recall actually went to market and just hit the wrong timing. We actually had quite an exciting rollout back in the '07 timeframe, and had a number of reservations ready to pull the trigger on the project, but as you know, what happened in '07, '08, most of the reservations fell out, and we were not able to commence work. And as Candance mentioned, there was a fair amount of interface with both the County and the State on a number of different infrastructure issues which we continue to work through. And so this situates us better as far as our ability to get moving.

Mr. Lay: Commissioners? Commissioner Tsai?

Mr. Tsai: Yeah, Grant, after, I guess, seven, eight years, have you changed . . . with the experience changed kinda the content of the development in terms of you had a 103 units originally planned. Are you trying to stay with the same goal?

Mr. Chun: At this point, yes. Although as Candance mentioned on the bottom floor of one of the buildings, there's about 20,000 square feet of commercial area. And that's the piece of it that I think we need to really understand better in terms of the marketplace and ascertain whether that's really suitable at this point to include in the project. To the extent that we arrive in an analysis which would rise to the level of an amendment to the permit, then we would of course come back to you folks, I mean, to the extent that would create another additional units or what have you. It might wind up being common area, or activities, amenities, but we're still working through that right now.

Mr. Lay: I have a question. OK. So with this project and this development down there, with a two-year extension, are we looking at actually turning soil and things happening then within that two years?

Mr. Chun: We would like to do that, yes. That's our goal, yeah. In the past, up until this point, until very recently, the market has been sort of difficult to gauge as far as whether we're truly on a recovery path, but it seems that hopefully, we are. So we think the timeframe that is allotted would . . . (inaudible) . . .

Mr. Lay: Is there any money allocated towards this yet?

Mr. Chun: Pardon me?

Mr. Lay: Do you have any monies for this yet? Do you have a budget going for this project?

Mr. Chun: We've gotten to the point of construction drawings and cost estimates to the extent that we can get through this process of reassessing the product mix within the permitted buildings. Yeah, we're willing to commit the resources to the project.

Mr. Lay: Commissioner Medeiros?

Mr. Medeiros: Question for the Director: are we allowed to give them like three years instead just to make sure that they have ample time to get this project going?

Mr. Spence: You can ask the Director. I'm gonna ask Corporation Counsel. I don't have a copy of your rules in front of us. He can confirm. I think if it's more than two years, then the Commission has to approve.

Mr. James Giroux: Yeah, this is an SMA, correct?

Mr. Spence: Yes.

Mr. Giroux: So basically, the rules state that if you waive review, the Director can automatically give

the two years, but if you wanna give more, you would have to do the review, and then do a hearing, and then you could add years, or if there's changes in the project, you can add conditions. So the streamlining, which we've tried to incorporate into your rules kind of . . . when it got to the Commission, we . . . it's kind of like fast forward, one step back. If you want to be able to have these projects continue when they're already in process, and to give that quick two-year extension, then it would . . . you would just waive review, and then the Director gives the two years. But if there's gonna be more of a continuance, more than the two years, then you would then do the review at the next hearing, and then you can add that . . . you could add more than two years. You could see what would be more appropriate in the long term.

Mr. Medeiros: I'll just defer to the Director.

Mr. Lay: Commissioner Ball?

Mr. Ball: A disclosure issue: A&B is our landlord for our firm at the Maui Mall, but I will still be able to give my impartial vote.

Mr. Lay: OK. Grant, they say we can give you . . . pass the review over, and then you'll have two years. Or is it in your interest that you come back and we give you a longer time extension where you see it might take longer than that, and then start coming back in two years, and having to get another extension? Or you'd be willing to come back to us, and we go over everything, and try to give you a time extension that's longer than two years. What would be your best interest for that?

Mr. Chun: We would be pleased if the Commission would act upon the Director's request and allow him to go ahead and extend.

Mr. Lay: OK. Commissioners, any more questions? Seeing none, can we get the department's recommendation?

Ms. Thackerson: That the Commission waive review of the subject SMA permit, and thereby authorize the Director to grant the two-year time extension on their behalf.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: For a motion, I make a motion that this Commission acknowledge receipt of this request, and that we waive review.

Mr. Medeiros: I second.

Mr. Lay: Motion by Commissioner Shibuya, second by Commissioner Medeiros. Any discussion on the matter? Commissioner Wakida?

Ms. Wakida: I will be voting against the motion. I would like to review the project.

Mr. Lay: Any more discussion? If you can go over the recommendations again?

Mr. Spence: The recommendation is for the Commission to waive review, and the motion is to

waive review and allow the Director to issue a two-year time extension.

Mr. Lay: All those in favor, show of hands?

Mr. Spence: That's five ayes and one no.

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

**VOTED: To Acknowledge Receipt of the Request and Waive Review of the Time Extension Request.
(Assenting - W. Shibuya, M. Tsai, J. Medeiros, K. Ball, W. Hedani)
(Dissenting - P. Wakida)
(Excused - J. Freitas, S. Duvauchelle)**

Ms. Thackerson: Thank you.

- b. MR. ALFRED FAIRBANKS requesting a Special Management Area two (2)-year time extension on the period to initiate construction on the Special Management Area Use Permit for the Alahele Subdivision, a 48-lot single family residential subdivision at Alahele Street, TMK: 3-9-017: 034, Kihei, Island of Maui. (SM1 2007/0006) (J. Buika)**

Mr. Spencer: The next item, Commissioners, is similar. This is for Mr. Alfred Fairbanks requesting an SMA two-year time extension for the Alahele Subdivision. Our staff planner . . . So you're basically . . . you're voting to either waive the review or you wanna review the time extension request. So staff planner is Mr. James Buika.

Mr. James Buika: Good afternoon, Chair, Commissioners, Director, Public Works. This is a time extension request for a two-year time extension to build a 48-lot subdivision in Kihei with infrastructure improvements. The project was approved by the Commission on November 8th 2008 to be initiated by this coming October, October 31st 2011. I was the planner assigned to the project in 2008. It is a good project. And this project is ready to begin.

Before I go on with the time extension, I would like to provide you with some additional information. And that information is that the department informs the Maui Planning Commission that the department granted a transfer of ownership on this SMA permit just last week on August 7th 2013 from the former Wilshire DMK I, LLC, to Mr. Alfred Fairbanks who is the new owner of the property. Mr. Fairbanks is present today, and he acknowledges all conditions of the SMA permit, and will abide by those 46 conditions as approved by the Maui Planning Commission on October 28th 2008. The SMA permit is an exhibit in your packet there dated November 13th 2008. Both Mr. Fairbanks and his authorized representative, Mr. Brett Davis, are here with . . . Chris Hart & Partners are here in the audience today to answer any questions you may have on the time extension request.

Back to the time extension request, on October 3rd 2011, Mr. Tom Pierce, on behalf of the applicant's . . . esquire on behalf of the applicant requested to extend the permit for two years or to this October 31st 2013. The Director has granted the application exception to the 90-day request rule for a time extension in order to maintain the permit as an active SMA permit during that time.

And then following that, on your cover page there, a second time extension request was filed by Mr. Brett Davis on behalf of the new owner just recently on May 14th 2013 once Mr. Fairbanks did take ownership just to make it official.

The reason for not coming sooner for this time extension request is that the former owner was in bankruptcy proceedings for two years, 2009 to 2011, and foreclosure proceedings which concluded approximately July of this year. So now the ownership transfer is completed and Mr. Fairbanks is ready, willing, and able to begin the project. And it is a good project.

So regarding the department's request for the Maui Planning Commission to waive review and allow the Director to administratively review the time extension, the department has determined that the applicant has met the time extension criteria that is listed in your rules. The department has determined that with existing mitigation incorporated into the project that the proposed project will not have a substantial adverse environmental or ecological effect, and that there are not any existing changes to the Special Management Area that'll cause the permit holder's development to adversely affect the capacity or condition of the infrastructure. Thus, this request for a time extension is until October 31st 2013 under your SMA rules. That concludes my remarks, Mr. Chair.

Mr. Lay: Does the applicant wish to say anything at this time? No?

Mr. Buika: No, but they are available for any questions the Commission may have.

Mr. Lay: We're now open to public testimony. Does anyone wish to testify at this time? Seeing none, public testimony is closed. Commissioners, questions? Commissioner Ball?

Mr. Ball: A couple of questions on the ingress/egress from the site. Is that gonna be on Auhana Road is the main ingress/egress from this site, or is it Alahele Place that might need some extension or something?

Mr. Buika: I'll have the . . . I'll have Jordan Hart from Chris Hart & Partners talk about that. He can also possibly talk about the extension of the County road there that will be developed. Brett Davis, sorry.

Mr. Brett Davis: Good afternoon, Commissioners. My name is Brett Davis. I work at Chris Hart & Partners and I helped prepare the application. To answer your question about access to the site, there . . . the site will be accessed from Auhana Road and Alahele Place. There's . . . I'm looking at a map. It's Figure No. 1 in Jim's booklet there. There's a power point presentation but the subdivision would be accessed by two roads.

Mr. Ball: OK. Followup to that?

Mr. Lay: Commissioner Ball?

Mr. Ball: So my followup question is then, are there any . . . maybe this is for Public Works, too, is there any improvements to Auhana Road, I guess, Intersection, with whatever that road—North-South Collector Road Intersection, or Alahele Place also?

Ms. Dagdag-Andaya: This actually came up for discussion about a year ago when the applicant did write a letter to our department. And I can't recall exactly what the improvements are, but because the proposed North-South Collector portion bifurcates that area, I mean, we would require improvements to be done along there. With respect to Auhana Road, I don't know exactly what they are right now, but that's something I can get back to you guys on.

Mr. Lay: Commissioner Tsai?

Mr. Tsai: Yeah, a followup question for Public Works: since we have no idea when the North-South Collector Road is gonna go in, what is required on behalf of the applicant to take care of that, I guess, that portion that's cutting that lot, going through their lot?

Ms. Dagdag-Andaya: I can't remember exactly what they were. I know . . . I don't know, perhaps the applicant would have . . . Yeah, it's been a while since I took a look at this. Typically, I mean, we have the road-widening to allow for the width of the right-of-way. That, I mean, it's kind of in question until we get our study done for the North-South Collector Road whether or not it's a two-lane versus a four-lane. And then there's some sidewalk improvements that need to be done, bike lanes, and all that.

Mr. Buika: I can maybe shed some light on it. This was a voluntary portion of the original project with the original applicant. And Mr. Fairbanks is willing to continue to improve that road. It'll be a road improvement to County standards. And what it will do . . . the significance of it is it will take a lot of traffic off of the other roads there for this entrance to the project. So it will enter into the project, and go through the project, and be an additional new entrance for the project.

Mr. Lay: Commissioner Ball?

Mr. Ball: What's just north of this project? It just shows like a big lot.

Mr. Buika: It's a vacant lot.

Mr. Ball: OK.

Mr. Buika: What is that--Auhana? Auhana? That has been approved. That has already been approved, going back to the earlier question. Yeah, that's the main road that connects through . . . that will connect into the North-South Collector Road. Had been re-paved, anyway.

Mr. Ball: So then that North-South Collector Road, Mr. Chairman, I'll continue, Chairman, I guess it would just end there right at the subdivision, yeah?

Mr. Buika: Yes.

Mr. Ball: And then the next guy, and then the next guy, and so on and so on and so forth?

Mr. Buika: Yes.

Mr. Lay: Commissioner Ball?

Mr. Ball: When do you propose . . . what is your proposed start date for clearing the property, something to that effect?

Mr. Buika: Well, I can let the applicant potentially talk about that, but from my understanding, the applicant is ready to begin as soon as possible. What we will have to do is come in for another time extension, most likely, since this time extension would only grant them through October 31st. And what Mr. Fairbanks is proposing to do is take this R-2, 48-lot subdivision, and actually make it 48 affordable workforce housing homes also. So we will come in with an amendment for another time extension because this one is so short, it would already terminate October 31st. So we would amend the conditions. The current SMA permit is for the subdivision, and the lots only, and the infrastructure. But he is willing to keep these lots that are 7,500 square feet for affordable homes and actually build the homes. The original permit was for . . . to build the lots, sell them at market value. So now they actually . . . there will be workforce housing going on in these lots.

Mr. Ball: Is it going to go to the fast track? I'm not sure. I forgot what it was called. 201H?

Mr. Buika: Yes, he would. So this is a good . . . it's a good win-win situation for the County, and we're working closely with Mr. Fairbanks to move the project along. He's ready to roll as soon as all the permits are in place.

Mr. Lay: Commissioner Tsai?

Mr. Tsai: Yeah, what's the applicant's estimated time of completion of this project? Or if you say, start this year or whenever?

Mr. Buika: I'll let the applicant's representative, Brett Davis, answer that.

Mr. Davis: Hi. My name's Brett Davis. I think it's depending on how fast the 201H application process can be completed. Once that application process is completed, we could begin construction.

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

Mr. Davis: We're estimating two to three years to complete the project.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: I'm gonna ask Corporation Counsel to give me a summary. It's a procedural question here. Because of the change in ownership, and then there's another extension given with 90 days, where does this time start, the two-year time period start?

Mr. Giroux: Usually we start it up at the . . .

Mr. Shibuya: The change of ownership or is it when the . . . ?

Mr. Giroux: Usually when the original time is coming up. But we have on a few permits changed that, I think, but to keep things standard, we try to just give the extension from the time that it's

gonna expire, not use the time of the transfer.

Mr. Shibuya: OK. And this emergency extension that the Director has provided, does that factor in?

Mr. Giroux: Emergency?

Mr. Shibuya: The extension of 90 days? I thought I heard that.

Mr. Spence: On the agenda, it's a two-year time extension.

Mr. Buika: I can clarify that. The Director made an exception to . . . The standing rule for Condition No. 1, if you read it, the applicant must submit a time extension at least 90 days prior to the extension of the SMA permit. Well, this came in . . . the original time extension request came in within that 90-day window as opposed to beyond the 90-day, more than 90 days. So in your rules, the Director does have the discretion to allow that time extension request to continue within that 90 days. That's all it is. So with good circumstance. And this circumstance being the change of ownership and foreclosure, bankruptcy proceedings.

Mr. Shibuya: And that's where the one-year has already been expired.

Mr. Buika: Yes.

Mr. Shibuya: OK. And that's why you now have . . .

Mr. Buika: Exactly. So we're almost up. It's just been sitting. We haven't been able to take it to Commission.

Mr. Shibuya: Yes. I just wanted to have some accounting as to when does this extension start or has started already, right?

Mr. Buika: And as per Corporation Counsel, we're going back to the end of the SMA permit in front of you which was 2011, October 31st 2011. So we're extending it two more years to October 31st 2013.

Mr. Shibuya: OK.

Mr. Buika: So it's an unusual circumstance.

Mr. Shibuya: Yes. I'm trying to do the math and you get a little twisted around here. Thank you.

Mr. Buika: I think it's the math teacher. That's the problem.

Mr. Lay: Commissioner Ball?

Mr. Ball: So come October you'll be back then?

Mr. Buika: Yes, yes, we wanted to clear this time extension, or get permission from you to grant this time extension, and then we'll be filing another with the design, hopefully the design of the affordable homes as an amendment to the SMA condition and another time extension. So everything else will remain the same.

Mr. Ball: And as the planner for this project, is that the preferred method that you would like to see or . . . ?

Mr. Buika: Yes, I think it's the cleanest. I think it's the cleanest, if that's acceptable to the Commission.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: Jim, can you clarify for me again? Is the project gonna connect to the North-South Collector Road?

Mr. Buika: It will actually build a portion of the North-South Collector Road. So through the neighborhood and then it'll connect it out to an existing mauka to makai road—Auhana.

Mr. Hedani: Auhana. So the primary access for the project is gonna be North-South Collector Road or Auhana?

Mr. Buika: It'll be both, but it would be the North-South Collector Road portion of it.

Mr. Hedani: So the vacant lot portion next door is gonna be completed by others?

Mr. Buika: Yes, it would have to be completed by others. The North-South Collector Road, you're saying, yes.

Mr. Hedani: Right.

Mr. Buika: Yes.

Mr. Hedani: So it's not gonna be done by this applicant, right?

Mr. Buika: No, I do not believe so.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: Yeah, I just want to get it clear in my mind, too. This North-South Collector Road, is that the road that the State is proposing going . . . connecting North Kihei with the Haliimaile Junction? No, this is not?

Mr. Buika: No. Public Works can maybe . . . I'll defer to Public Works on that one, if that's OK with the . . .

Ms. Dagdag-Andaya: Commissioner, that's the proposed . . . It's a County . . . it's gonna be a

County-maintained road. It provides a third North-South Collector access. So now you have South Kihei Road. You currently have Piilani Highway. So North-South Collector Road is the third one that's sandwiched in-between. So there's several portions that are undeveloped yet. The one that's developed right now takes you from Waipuilani and goes south. I can't remember all the way down where it . . . by the park, the South Maui Regional Park. And then there's existing portions to the south, and then there's also existing portions to the north that still need to be completed. But as I mentioned earlier, one of the things that we also need to do for the County portions that we have currently have is get this South Maui Regional Master Plan done or traffic study done. So that's one of the things that we'll probably need in order to move forward for our portions. But we have been working with the applicant on his portion of the North-South Collector Road as well as others near his project. So we don't know when and what the time table is, but that's something that's definitely our priority is trying to get that road done.

Mr. Shibuya: So, Jim, can you add a brief description in terms of how this operates when you come in with a next renewal?

Mr. Buika: Yes, what the applicant will do is file for an additional two-year time extension and we will go through the same process with you. The only . . . right now, the SMA permit, as it exists with the applicant, is lots only with . . . and building up all the infrastructure with it with the North-South Collector Road. Drainage, etc., everything was passed in 2008. So what the applicant will do is come in with a proposal to actually build homes that are small, one story, workforce housing homes on the lots. So that will be an amendment coming forward for you to approve with the time extension.

Mr. Shibuya: OK. Thank you.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: Jim, so basically what you're asking for is an approval of an extension that'll take these guys only up to October? And by October they'll come back to us with hopefully a full-on presentation of what they wanna do in the next two years after that?

Mr. Buika: Correct.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: Personally, my comment is that anybody that's committing to 100 percent affordable housing needs all the help they can get. Whatever we can do to cooperate and expedite the project is what we're looking for.

Mr. Buika: Thank you.

Mr. Lay: Commissioners, any more questions? OK. The department's recommendation?

Mr. Buika: The department recommends that the Commission waive review and allow the Director to administrative review the project for the two-year requested time extension.

Mr. Lay: Commissioner Medeiros?

Mr. Medeiros: Move to approve the department's recommendation.

Mr. Ball: Second.

Mr. Hedani: Second.

Mr. Lay: Close one. Motion by Commissioner Medeiros, and we'll give this one to Commissioner Ball—second. Any discussion on this? I'd like to agree with Commissioner Hedani—any progress that we can do for affordable housing here on Maui is a positive moving forward. Vote on this. Oh, can we . . . ?

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

Mr. Lay: All those in favor? Those opposed?

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

VOTED: To Acknowledge Receipt of the Request and Waive Review of the Time Extension Request.
(Assenting - J. Medeiros, K. Ball, M. Tsai, W. Hedani, P. Wakida, W. Shibuya)
(Excused - J. Freitas, S. Duvauchelle)

Mr. Lay: Motion carries.

Mr. Buika: Thank you very much.

Mr. Lay: Commissioners, do we need to take a break now or move forward? OK. Moving on to our next agenda item.

(Ms. Wakida then left the meeting at approximately, 2:00 p.m.)

3. **Designation of the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing and make recommendations on the subject applications:**
 - a. **ANDREW and ROBIN RAYNER requesting a State Land Use Commission Special Use Permit in order to operate the Kalo Ohana Bed and Breakfast, a two (2) bedroom bed and breakfast located in the State Agricultural District at 120 Kalo Road, TMK: 1-3-009: 021, Hana, Island of Maui. (SUP2 2012/0027) (G. Flammer)**
 - b. **RICHARD and JODY SMITH requesting a State Land Use Commission Special Use Permit in order to operate the Luana Cottage, a two (2)-bedroom short term rental home located in the State Agricultural**

District at 36 Waianapanapa Road, TMK: 1-3-005: 019, Hana, Island of Maui. (SUP2 2013/0012) (G. Flammer)

- c. **PAUL and HELENE ORSULAK requesting a State Land Use Commission Special Use Permit in order to operate the Hale Heavenly Hana, a two(2) -bedroom short term rental home located in the State Agricultural District at 2925 Hana Highway, TMK: 1-3-009: 053, Hana, Island of Maui. (SUP2 2013/0017) (G. Flammer)**
- d. **ROBERT HENRIKSON requesting a State Land Use Commission Special Use Permit and a Short-Term Rental Home Permit in order to operate the Hana Gardenland, a four(4) bedroom short-term rental home located in the State Agricultural District at 65 Kalo Road, TMK: 1-3-009: 027, Hana, Island of Maui. (SUP2 2013/0010) (STHA T2013/0001) (G. Flammer)**

Mr. Spence: Commissioners, No. 3 is to designate four different applications to the Hana Advisory Committee in order for them to hold the public hearing. One is for a State Land Use Commission Special Use Permit for a bed and breakfast, another is a two-bedroom short-term rental home, another two-bedroom short-term rental home, and the last one is a four-bedroom short-term rental. So basically what you would be saying is, Hana Advisory, please hold the public hearing for these items.

Mr. Lay: Commissioner Ball?

Mr. Ball: Motion to direct the Hana Advisory Committee to conduct the public hearing and make its recommendation to the Planning Commission for the following Agenda Items: a, b, c, and d under Director's Report, 3.

Mr. Hedani: Second.

Mr. Lay: Motion by Commissioner Ball, seconded by Commissioner Hedani. Any discussion on this? Could you repeat the motion?

Mr. Spence: The motion is to direct the Hana Advisory Committee to hold the public hearing for these items.

Mr. Lay: All those in favor, raise your hand.

Mr. Spence: That's five ayes.

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

**VOTED: To Direct the Hana Advisory Committee to Conduct the Public Hearing and Make Its Recommendation to the Planning Commission on the Subject Applications.
(Assenting - K. Ball, W. Hedani, J. Medeiros, M. Tsai, W. Shibuya)**

(Excused - J. Freitas, S. Duvauchelle, P. Wakida)

Mr. Lay: Motion carries. OK. Planning Commission Projects?

4. Planning Commission Projects/Issues

Mr. Spence: Nothing to report on No. 4, No. 5, either Planning Commission projects or issues. We will be . . . We will have . . . Everybody knows HCPO is coming up and everybody's put in their travel requests. At the end of September . . . no, we will be holding a workshop on August 27th. We will be holding a workshop for the Commission on form-based zoning. I might be getting ahead of myself. I'm sorry. That's the next agenda item. But we will . . . Other than that, I'm not sure of any Commission issues or projects.

5. EA/EIS Report

Mr. Spence: Nothing to report on EAs or EISes.

6. SMA Minor Permit Report

7. SMA Exemptions Report

Mr. Spence: You have the SMA Minor Permit Report as well as the SMA Exemptions Report.

Mr. Lay: Any questions? A verbal acceptance of that. All in favor? Those opposed?

(The Commission unanimously accepted the SMA Minor and Exemption Reports.)

8. Discussion of Future Maui Planning Commission Agendas

a. August 27, 2013 meeting agenda items

Mr. Spence: OK. Your next agenda for August 27th, there's gonna be two public hearings: one for Bank of Hawaii, an SMA permit for Bank of Hawaii to build a new bank structure. It's on the corner of Kamehameha and Puunene. And the second one would be the Robert and Tamara Horcajo requesting a State Land Use Commission Special Use Permit for a bed and breakfast in Iao Valley.

Item B, I started out saying we're gonna have a workshop on the Maui Island Plan with Long Range Division. And then Item C, at the last meeting we had discussed having a workshop on form-based codes. And so we have scheduled that for August 27th. There is also going to be a workshop for the County Council. And I believe that's confirmed. I'm not 100 percent yes. So there'll be two workshops: one in the morning for Council and members of the public; and of course, one for the Commission and anyone from the public who wants to show up.

Mr. Lay: If no further business . . . Oh, Commissioner Shibuya?

Mr. Shibuya: I believe our Planning Director is a guest speaker at one of the conferences. Do you wanna let us know?

Mr. Spence: Sure. . . . of the County are normally speakers. And we go over the issues that . . . issues and events that have taken place in the County such as from purchasing the Island of Lanai, and all the plans therein, you know, we'll discuss all that, and any significant actions that the Commission's taken or the Council has taken. And then at the Water Conference, I'm forgetting, the Water Director . . . October? The Water Director has asked me to sit on a panel to not just talk about the normal things where you've discussed at water conferences, how much pumpage and drawn down . . . (inaudible) . . . but actually the more meatier discussion of is it the County's responsibility to provide water? Is it the developer? Do you provide for growth or kind of what drives what? So that ought to be an interesting discussion.

Mr. Lay: Commissioner Hedani?

Mr. Hedani: I'm sorry, I missed one of the meetings that we just had, but what is form-based codes in 30 seconds or less?

Mr. Spence: OK. Form-based codes is actually the codifying of an old idea. Everybody loves Makawao, and Paia, and Wailuku Town. And so instead of just adopting design guidelines that say go to Urban Design Review Board and go through all these processes, it just codifies this is how you're gonna build your building. It codifies the relationship, the human relationship, to architecture to the streetscape, the interaction of the . . . the relationship of buildings one to another. So we have old towns. Everybody loves them. And we go, oh, my God, how did we end up with some of the things that we have. Well, a form-based code would help dictate that urban form so we return to an idea of the relationship of architecture in cities to the people who inhabit them.

Mr. Hedani: So it's like codifying . . . putting into our codes concepts like sustainable communities, livable communities?

Mr. Spence: Yes. And in terms of walk-ability, human scale, the . . .

Mr. Hedani: OK. I'm excited.

Mr. Lay: Commissioner Shibuya?

Mr. Shibuya: Yeah, I brought the topic for the Director because I think it's intellectually in the right direction. I think the planning effort, we are addressing the water issue smartly without doing . . . going through water issue being resolved through conflict and court's resolution. I think this is a smart way of discussing it, laying the information on the table, and the public having an opportunity to weigh in on it. I'm just selling your show.

Mr. Lay: No further business. Meeting is adjourned.

F. NEXT REGULAR MEETING DATE: AUGUST 27, 2013

G. ADJOURNMENT

The meeting was adjourned at 2:08 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Keone Ball
Sandy Duvauchelle
Wayne Hedani
Ivan Lay, Chair
Jason Medeiros (in attendance at 11:54 a.m.)
Warren Shibuya, Vice-Chair
Max Tsai
Penny Wakida (excused at 2:00 p.m.)

Excused

Jack Freitas

Others

William Spence, Director, Planning Department
Michele McLean, Deputy Director, Planning Department (10:44 a.m. - 11:25 a.m.)
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works