

**MAUI PLANNING COMMISSION
REGULAR MINUTES
JANUARY 14, 2014**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice-Chairperson Warren Shibuya at approximately 9:02 a.m., Tuesday, January 14, 2014, 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. Spence: I just wanted to comment first on you have two public hearing items coming up. Both of them are vacation rentals. Both of them had quite a bit of controversy surrounding them. A lot of people have written and said they don't like it. A lot of people said this is okay, et cetera. So I wanna... I want the Commission to know that we struggled with the recommendation for these applications. When I look at the letters written in, some of them I went okay, this sounds like a genuine issue, and others, and I'm not dismissing the concerns of other neighbors, but some of them seemed like it wasn't quite understood what the application process is about and what kind of restrictions are naturally put on vacation rentals as a part of conditions or what, you know, even what things this Commission could put on as conditions.

So the Department was then left with a choice of what do we recommend to you? Do we wanna recommend denial just simply based on neighbor objections that are...you know, some of them may just be neighbor misunderstandings or misunderstandings about the process. I didn't think that was quite fair. Do we come to you with no recommendation? I don't think that's quite fair to you as Commissioners for the Department to just go, hey it's just up to you. So then we...we thought of another way and say, more or less let's try it out. Let's come to the Commission let's recommend approval for one year, but that approval is subject to another...I'm getting, I apologize I'm getting ahead, but I wanna explain because I know there's members of the public hearing ready to testify and you know, I don't want the public to think that the Planning Department does not take their concerns seriously nor did we take the rights of the applicants seriously. I mean, we have to look at both sides. So, I'm saying why don't we try these out for a year and then come back to the Commission for renewals rather than just, you know, most of the time we recommend the extensions are administrative, but saying okay, let's if there are concerns in the next year let's talk about those things.

My thought on this in bringing this kind of recommendation to you is both sides really need to be heard. You need to hear from the applicant. You also need to hear from the neighbors. This is our attempt to be fair and then the, you know, then the Commission can choose from there. But there have been a couple other letters come in after we made the recommendation to Commission. You know, the Commission certainly can and should take those things into consideration as well. So I am, of course, available during the deliberations to answering questions about how the Department felt, the positions that we took. So I just wanted to sorta set a stage before we...(inaudible)...this permit.

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.

Vice-Chair Shibuya: Okay, thank you very much Mr. Spence, our Planning Director. We do know as Planning Commissioners we have received and experienced much of the planning due diligence done by both the Director as well as his Staff Members and Planners. We appreciate them providing this in-depth type of review and I just want to be very candid about it. They have been supportive and they have presented both sides of the issues and in many cases they presented many issues on a simple topic and made it even more complex for us, but we somehow went through it and fretted it out.

With that said, I'd like to start off first with having a public testimony on any item on the agenda and if you do present your testimony for three minutes, you will not be able to make that testimony or presentation when the topic comes up. Any of you in here would like to make presentation at this time on any topic? Seeing none, then public here is closed. Planning Director will you please identify or introduce the first item?

Mr. Spence: Thank you, Mr. Chairman. Commissioners, agenda item C-1 is a public hearing for Mr. Robert P. Holland requesting a Short-Term Rental Permit to operate the Tropical Gardens Vacation Short-Term Rental Home and this is in Lahaina at 355 Kamano Place, and our Staff Planner this morning is Mr. Kurt Wollenhaupt.

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

- 1. MR. ROBERT P. HOLLAND requesting a Short-Term Rental Home (STRH) Permit in order to operate the Tropical Gardens Vacation Short-Term Rental Home, a three (3)-bedroom short-term rental home located on approximately 9,680 sq. ft. of land in the R-2 Residential District at 355 Kamano Place, TMK: 4-6-005: 034, Lahaina, Island of Maui. (STWM T2013/0012) (K. Wollenhaupt)**

Planning Commission review is required because two or more written protests were received from owners or lessees or record of two or more lots adjacent to or directly across the street from the proposed short-term rental home within the 45-day timeframe.

Mr. Kurt Wollenhaupt: Good morning, Members of the Maui Planning Commission. Our first public hearing today is for Mr. Robert Holland in order to review his application for short-term rental home composed of three bedrooms known as the Tropical Garden Vacation Short-Term Rental Home. The applicant Mikal Torgerson will do a power point presentation. It's going to go into depth as to the application, the maps, the location, the objections, comments by the applicant, Mr. Holland. So I'll just do a brief overview of the application as it is and why we are here today.

As indicated before this is for a short-term rental home of three bedrooms located in Lahaina. The reason that we're here today is because of Chapter 19.65.060 that states, "the STRH application must be submitted to the Planning Commission as the Planning Director has received two or more written protests from the owners or lessees of record of two or more lots adjacent to or directly across the street from a proposed short-term rental home". That being the case, we did receive such protests and if the Members could turn to Page 30 of their application packet, they're numbered on the bottom. On Page 30 it indicates seven different TMK lots that have been sent in

letters of protest. That being from five different property owners as two of the property owners own two TMKs. Consequently in looking at the Code, Property No. 1, Property No. 2, that would be 32 and 38 Kua Place are adjacent to the short-term rental home applicant therefore triggering today's review. In addition, No. 3 at 341 Kamano Place is adjacent to, and No. 4 at 352 Kamano Place is across the street. So those are the letters that triggered today's review.

In looking at the application, it's then important to go to Chapter 19.65.060, Part 3, and there are five criteria by which the Planning Commission today should review this application. The first one being the number and the distance from the subject parcel to other permitted short-term rental homes. There are no other permitted short-term rental homes within 500 feet of this applicant. Mr. Bob Longhi does have a pending application for a short-term rental home on Front Street, but that one's not been approved. Mr. Holden Smith does have Maui Sandy Beach approved at 409 Front Street which is just outside of the 500-foot boundary. In addition, Sherry Boonstra Barbier has her Old Lahaina House Bed and Breakfast which is approved within the 500 feet. So that gives the Commissioners some idea of the density of other short-term rental homes and B&Bs in the area.

Part B, the number and substance of the protests for the short-term rental home application and protests related to the cumulative short-term homes in larger neighborhood or area. As indicated before there have been seven protest communications from owners of separate parcels within 500 feet. This represents five distinct property owners which I just mentioned. Four of these letters were submitted by property owners adjacent to or directly across the street from the subject property. The letters as you've noted focus on traffic, noise, and neighborhood character. The applicants and their consultant have addressed these with rebuttal statements that will be explained in more detail by the applicant. However, it also must be balanced that the petitioner did present in a petition letter form 17 support signatures, 16 of which were verified as owners. Nine of these 16 are within 500 feet. That being the case, if the Commissioners might turn the last page of the report, Page 86, that's a diagram that shows in red the protests, shows in blue the letters signed the petition form supporting this petition.

The third point to look at. Existing or past complaints about rental operations. The Police Department was requested to comment and the Police Department did not have any...no requests for coming out and reviewing this property.

Existing or past noncompliance with government regulations and the degree of cooperation by which the application has required to come into compliance. The applicant did submit their application in order to come into compliance with the new ordinance for short-term rentals. They have been cooperative in allowing the Planning Department Staff to inspect the property and they followed the requirements of the application.

And finally, the Planning Commission can look at correspondence received by the Department pursuant to Section 19.65.030(n)(1) that being Conditions and Covenants, it does not...the Department believes there's no private CC&Rs for this area.

Then it gives an overview of where we are today. And just to let you know as to the date of this report there's 24 permitted short-term rental operations in the West Maui Community Plan out of a total of 88. And I believe that that gives an overview of this subject. Just to give you a little more

the subject parcel is at the middle of the cul de sac, Kamano Place in a traditional residential community of relatively small lots. This lot being 9,680 square feet. Residential properties are located on each side of the property and across the street. The applicant and the consultant would like to do a presentation to allow the Members of the Commission to see his property.

Vice-Chair Shibuya: Please do. Commissioner Wakida?

Ms. Wakida: Yes, before we continue I would like to disclose that I live not far from the applicant's property. I am familiar with people on both sides of the issue from people who have objected and people who have supported and I'm not going to recuse myself.

Vice-Chair Shibuya: Thank you. So Planner can we have the presentation? Please introduce yourself.

Mr. David Cain: Thank you very much. I'd like to thank the Commission. My name is David Cain. I am the attorney for the applicant here. We also today have our consultant which is Torgerson, Mr. Torgerson, the architect. And I'd like to just start briefly by addressing just a couple issues then we'll get into the power point presentation. Again, thank you for allowing us to present this.

We've narrowed down the issues that the neighbors have to essentially three that we believe which are traffic, noise, and the neighborhood, the character of the neighborhood itself. And as far as these are concerned, Mr. Torgerson is going to present more about traffic and how that will be affected as well as the parking requirements that are in the Code.

As far as the noise is concerned, we do have, and I believe it's part of the package that is being submitted the Maui Police Department, Mollie Klingman letter which states essentially that there has been no complaints or noise complaints or disturbances. So we'd like to rest and rely on that.

As far as the neighborhood character, we believe the Planning Director has done a very extensive study which we have reviewed and we'd like to thank the Planning Director for doing such an extensive study and we do agree with the recommendations in that study and essentially ladies and gentlemen is to have sort of a trial period. We think that's very fair to all concerned in this particular case. The trial period will be valid until January 31, 2015, and at that time essentially if any issues or problems come up certainly they can be addressed to the board at that time. Again, I'd like to thank the Board. I'm here just essentially to introduce our architect at this point and certainly to answer any questions that may come up. I have had the opportunity to review the Code as well ladies and gentlemen, and I believe that we are in compliance as far as that is concerned. So if you have any questions for me, I can certainly field those or I can introduce my architect for his power point.

Vice-Chair Shibuya: No, at this time, if don't have any more to present then I'll have the testimony being presented at this time.

Mr. Cain: Thank you.

Vice-Chair Shibuya: General public if you do...are there gonna be other presentations?

Mr. Mikal Torgerson: No just I'll conclude our presentation.

Vice-Chair Shibuya: Okay, thank you.

Mr. Torgerson: Thank you, Chair Shibuya and fellow Planning Board Members for the opportunity to present the project to you today. The residence as he mentioned is in the Lahaina area. It's just mauka of Front Street as located on that map with the blue dot. This map is a little difficult to read. The property boundaries are shown in very dark black. Yes, sir?

Vice-Chair Shibuya: Excuse me, can you introduce yourself. I forgot to do that.

Mr. Torgerson: I apologize. My name is Mikal Torgerson. I'm an architect and the consultant.

Vice-Chair Shibuya: Thank you.

Mr. Torgerson: The property, subject property is noted with bold black boundary around it and I've labeled some of the surrounding property owners that were the subject of some of the objection letters as well just for future reference if they're needed to discuss. And here's a blow up of the property. Kurt is there a laser pointer of any kind or anything?

Mr. Wollenhaupt: No.

Mr. Torgerson: Okay, that's fine. What I wanted to illustrate in the...what I wanted to illustrate in this instance is that Kurt is pointing to the subject residence, the owner and applicant lives in the ohana which is immediately adjacent on site and that is his primary and only residence. So he'll be managing the property from right there on site.

Kamano Place as Kurt mentioned is a dead end cul de sac. This is a view facing southeast. You can see the drive apron on the right that is the beginning of the driveway that leads down to the subject property. Also looking southeast and the cul de sac at the end. This is a view looking the opposite direction to the northwest. You can see the drive apron again on the left-hand side this time. Again, this leads into the subject property. This is a view looking down the driveway to the property. It's a flag lot as you saw from the previous diagram and so the driveway leading into the parking spaces for the property is just over a 100 feet long. And this is...there's a carport with two parking stalls and a third parking stall on the surface here as well. The gate to the right leads into the property. And this is a view looking from the front of the house. You can see the pool on the right-hand side there and overview of the short-term rental house. Again, the ohana where the applicant lives is immediately adjacent is on the left.

The applicant has a long history of being an innkeeper in the San Francisco area, and I mention this primarily because I know there are concerns about how the property might be managed whether noise would be a concern and those sorts of things. Robert Holland is, has been an innkeeper since 1978. He's had this house for a very long time. He lives on site. He's certainly not gonna tolerate any nonsense noises, parties, those sorts of things. In addition, of course we have the house rules which are dictated by the STRH Code and those would be posted and heavily enforced by the applicant as well. This is a photo, a painting of his facility that he had in San Francisco. It was a 32-room bed and breakfast facility with mixed use with bakeries and cafes and whatnot on

the lower level before retiring to this house which is the subject of the application.

Chapter 16 or 19.65.060 was cited by Kurt and I won't read them all right here but as he mentioned there are five criteria by which the Code says that the decision should be made today and so I thought it would be best to just address those individually as a part of our presentation. The first one is the number and distance of other short-term rental house facilities from the subject application. As Kurt mentioned, in the immediate vicinity within 500 feet there are none. There is one pending application on Front Street and that's indicated by the pink triangle down in the lower side there and there's a bed and breakfast facility about 500 feet away. So there's not a predominance of these types of types operations in the neighborhood by any stretch.

The second criteria was that, I'm having trouble reading that on the screen. A majority of approved STRH permits...oh, this is the comment from the staff report that the majority of the approved STRH permits are located in the north of Lahaina downtown area in Napili and then also in Launiupoko so it illustrates the fact that there really isn't the predominance of these in the neighborhood.

The second criteria was related to existing or past complaints about the rental operation. As Kurt mentioned, there was a response from the Maui County Police Department and Sergeant Joaquin suggested approval and the comments that Sergeant Joaquin gave was that research indicated that there will be no additional impacts to police services. He went on to say that there's adequate parking on site and as well as street parking and use of the dwelling as a short-term rental would not appear to increase the vehicular or pedestrian traffic in any perceivable manner and that's coming directly from the Police Department. So we think that that pretty well addresses that.

As far as other complaints there was an RFS made on the property and it related to a plastic storage shed that you might purchase from Lowe's being within the setbacks. That's come up recently. And the applicant has worked with the Zoning Department on that and he's going to relocate it outside the setbacks to comply. So the only other potential...oh, I'm sorry this is the letter from the Police services, I believe in your application or your staff packet as well for you to refer back to. Another criteria that the Code cites is existing or noncompliance or past noncompliance with government regulations and I mentioned the STRH. My client has already met with the contractor to have the small plastic shed relocated so that it's outside of the setback. That's being dealt with. And we're here before you to seek a Short-Term Rental House Permit to make the short-term rental house operation legal. So in all respects, my client is being...attempting to be compliant and ...(inaudible)...with local officials to seek approval for those things.

Another criteria that Kurt mentioned was the correspondence received by the Department. As he mentioned, there were six letters received representing seven properties in the vicinity. We've also received 17 signatures from the surrounding property residents recommending approval. So we certainly respect and understand why people would be concerned about bringing new uses into their neighborhoods. We appreciate that they wanna keep the character of their neighborhood. It's our belief that with good management with the steps that are put in place by the STRH Code and the compromise that Director has suggested that it strikes a good balance between ensuring that the character and the neighborhood is kept as well as offering the opportunity for people to bring in guests into the neighborhood.

And you have a map in your application, staff report that shows the locations of each of those

17 signatures suggesting approval. Many of them are within the 500-foot distance and some of them are outside as you can see. There were multiple objections made and I wanted to address them not to pick on anybody that wrote objection letters as I mentioned. We fully understand people's desire to maintain the quality of life in their neighborhoods but more to simply address each one of the items raised and suggest how we think that they're being dealt with responsibly by our application.

There's a gentleman that lives across Kamano Place at 352 that suggested that he has concerned about the fact that the property was operating as a short-term rental before it was approved and there was some counsel that was given to my client, the applicant by his previous consultant that he was allowed to operate as a short-term rental as long as his application was into the County and that's obviously erroneous. He wasn't aware of that and he has been operating prior to getting this application. It's his intent to obviously we're here to get approved and bring that into compliance.

Another issue that was raised by the neighbor was that the application as proposed would dramatically increase on-street parking demand. And Kamano Place is a cul de sac and cul de sacs by their very nature sometimes have parking challenges just because of how you have so many driveways around limited street access frontage. It's compounded by the fact that this person's house across the street had converted any off-street parking into living space and so there is no off-street parking provided by that residence.

In contrast, our project is providing the required three parking spaces on site that are labeled there. They're at the end of a very long driveway as I mentioned. It's over 100-feet long and it's our contention that it's contrary to what we know about human nature for people to park over a 100 feet away out on the street when convenient and adequate parking is being provided on the site and Mr. Holland, the applicant has made it very clear to his guests in the past and says that he'll continue to make it clear to them that they are to park onsite in the spaces provided and that's one of his strict management policies and so we feel like that's really being dealt with. And here are some views of parking down the street.

There were also objections made by an adjacent property owner at 341 Kamano Place. This author was concerned about it operating during the application process and also about noise and parking. One of the things I mentioned before is that the applicant does live in on site. In fact, he lives in the ohana that's intervening between the person that raised this concern about noise. So he lives between that person's house and the short-term rental operation. So certainly if there was a noise concern, my client who's retired and is on site most of the time would be there to deal with it and wouldn't tolerate it. In addition as we mentioned before, the quiet hours dictated by the Code would be strictly enforced as a part of the short-term rental project. And this is another diagram illustrating where the ohana is relative to the short-term rental house.

There were objections raised from the owner of two properties on Kua Place and Kua Place for reference is an adjacent cul de sac. So that's the one, the short cul de sac that you see there, the concerns raised primarily were about vehicles parking on the street again and about noise causing their dog to bark. As I mentioned, I think we're doing everything possible to make certain that the...anybody in this operation would be parking onsite. And as far as noise goes, the owner lives on site and he would be properly keeping track of those kinds of things and we think that through proper management and given the tools that are being proposed both by the Director and this

unique situation as well as the Code, the neighbors would be properly protected through those things. And these are views of those properties.

And I believe Leslie Smith at 344 Kamano Place also wrote a letter of objection raising concerns about it operating as a short-term rental during the process. She also mentioned that there were late night feel good sounds from people returning to the house. And parking concerns. And because the houses are so tightly oriented in this neighborhood. It's our contention that it might be difficult to properly determine where some of those noises might have been coming from. The author lives in this house here and the short-term rental is here and there, there are multiple...there's an intervening house here and the ohana is here and there's multiple noise sources in the neighborhood. As I mentioned the applicant is gonna diligently control the noise and continues to do that and hopefully those concerns would be properly addressed that way.

There was also a...last letter that was written and it was really more general in nature. This wasn't addressing this application per se but they're down on the Front Street which because of the orientation of the roads is a little bit removed from the subject property, but the concerns raised were more general in nature about impacts on the reef, people using the beach, and those kinds of things. And so with that, I guess I would like to conclude our presentation, make ourselves available for any questions that the board might have and respond to any issues that may be raised by others in the public.

Vice-Chair Shibuya: Thank you very much, Mr. Torgerson.

Mr. Torgerson: Thank you.

Vice-Chair Shibuya: Commissioners, do you have any questions for the presenters? Go ahead, Commissioner Wakida?

Ms. Wakida: Do we take testimony first?

Vice-Chair Shibuya: Well, I was gonna just clear up some of your questions first and then I'll have that. Any other questions, Commissioners? If not, then I'll have the public provide some testimony on this issue. Okay, thank you very much.

Mr. Torgerson: Thank you very much.

a) Public Hearing

Vice-Chair Shibuya: The public is welcome to present their three-minute presentation. Please speak into the mic and identify yourselves. First one is Sandra Carr.

Mr. Spence: That's for the next one.

Ms. Carr: I'm on the second issue.

Vice-Chair Shibuya: Oh. William Soares?

Mr. William Soares: Okay?

Vice-Chair Shibuya: Yes, please identify yourself, Mr. Soares.

Mr. Soares: My name is Willam Soares. I live at 32 Kua Place which is very, very close to the property in question. My guess is my patio to his garage is maybe less than 20 feet, but give or take a little more. I didn't measure it. However, let me start by giving you my written testimony.

We are the attached property owners and we, I'm meaning my wife and I, attached property owners are strongly opposed to the Short-Term Rental Home application filed on TMK: (2)-4-6-005: 034, whose property address is 355 Kamano Place. This property is already being rented by vacationers on a short-term basis and has been for some time.

The lifestyle of the visitor is quite different from the resident and the effects on our small neighborhood have been and are already being felt in terms of noise, parking, loud talking and traffic. Aholo Subdivision and the adjacent area is a quiet working family neighborhood. I've been the owner of my property since 1977. We are considerate of each other and we do not want the ambience of our neighborhood changed. Some of us are retired, some of us work 8 to 5, five days a week, and most of us have owned or lived in this neighborhood in our homes for many years. We go to bed early and live a very different lifestyle from the average visitor. They are, after all, on vacation. We are all homeowners within the 500-foot radius clause. We strongly opposed to the permit requested and we ask that the permit application be denied. Thank you.

Now this letter that I read from is something that we drafted late last month, and this letter is actually part of the petition where you see 15 owners that have signed and voicing their objection. Now when you look at the map that we've circulated, hopefully, you know, you're not as color blind as I am, but the property within the application is highlighted with the yellow and the properties with the pick "x" on it are the people that have signed the petition in opposition. So as you can see, we went and talked to the people that are within the radius. Nobody is outside of that 500 feet.

Ms. Takayama-Corden: Three minutes.

Mr. Soares: We do know, we do know that one of the persons that signed our permit did, I mean, our petition did sign on different permit, but in speaking to the gentleman, he indicated that he was under the impression he was signing for a bed and breakfast and not a short-term rental. So when he told me that I said well, you can decide whether you wanna sign ours or not and he said, I understand it better so I will sign yours.

Vice-Chair Shibuya: Okay. Well, thank you very much.

Mr. Soares: And therefore you will be able to see that there's gonna be the same person on two different...

Vice-Chair Shibuya: Thank you very much, Mr. Soares. Commissioners, do you have any questions for the testifier?

Mr. Ball: I have a question.

Vice-Chair Shibuya: Commissioner Ball?

Mr. Ball: Butch, you know, knowing a little bit about Lahaina I know it can be transient in certain neighborhoods. So tell me, you know, are a lot of these rented to multiple people or is it, you know, what's the make up of that surrounding bunch and I guess I'll ask the applicant the other question.

Mr. Soares: Let me try and answer your question with a little--I'll try to be short--in the neighborhood there are many rental properties. Our concern is the fact that we know there are many rental properties and I rent a three-bedroom home myself which is adjoining this particular property. When you look at it on the map and you see Soares and Soares, well, that's me and me, okay. The point I guess that concerns me is when we renting long-term and we providing housing for working people...my home has been rented for three or four years now and before that it was rented for about eight or nine years. So I'm providing housing for working people in Lahaina. The issue with this particular rental is I live next door and I'm not gonna question anybody else's comments relative to noise. There is noise. I live there. The Police Department doesn't live there. So I'm telling you that yes. Now the whole neighborhood is very...I'm trying to choose the right word, but we're very amenable to each other. We've lived there a long enough time. Now for the police to say that there's been noise complaints, probably not because when we realize we have issues with the neighbors either we're gonna talk to them tonight or we're gonna talk to 'em tomorrow, but we're not gonna spend the time to call the police. I know that the police was called on one of the people that did sign our petition because of noise. And after finding out what the police report basically covered, the noise issue was done between noon and 6:00 p.m., okay. So you know, we wanna be fair, we wanna be fair to everybody. And parking is an issue, we're not gonna question that. It's only gonna get worse before it gets better that simple.

Vice-Chair Shibuya: Commissioner Wakida?

Ms. Wakida: Thank you for coming to testify, Butch. The response letter came from the...Mr. Torgerson to your letter. Has, have you had any contact with the Hollands, Robert Holland, the applicant? What I'm getting at is has Mr. Holland come over and tried to work out their, your differences with you?

Mr. Soares: To my recollection the answer is no, okay. But we do know that, you know, we walk the neighborhood. I walk my dog. I walk myself. Couple years ago we saw this nice sign at their driveway suggesting vacation rental and they've had this property posted for vacation rental on their website for quite a few years now. We were aware of what they were doing and initially the property wasn't rented very often so there really wasn't an issue. In the last two or three months it's been rented a lot more. I'm guessing because of winter maybe. And I don't...I'm not gonna challenge anybody back there, okay, that's not what I'm here for. I'm telling you what I know. I'm the next door neighbor. They had a tenant or renter with two cars, one was a van. There was probably six or seven kids. We hear the noise at four in the morning when these people are going to the crater and you hear seven doors slamming and people yelling get the towels, don't forget your shorts, don't forget this...four in the morning. Doesn't happen everyday but nonetheless it happens. We also hear people coming back at 10 and 11 o'clock at night from dinner, whatever. That's not what the neighborhood was all about.

Vice-Chair Shibuya: Okay, Commissioner Wakida?

Ms. Wakida: What I'm asking specifically though is in response to the letter that you submitted in our packet on your concern about this property has Mr. Holland come to see you about that and tried to talk to you...(inaudible)...

Mr. Soares: Not to my knowledge. Not me, I can't speak for my wife.

Ms. Wakida: Okay, thank you.

Vice-Chair Shibuya: Commissioner Hedani?

Mr. Hedani: Butch, the neighborhood is a working class neighborhood. I think the neighborhood and the subdivision was built at the time when the County of Maui required affordable housing subdivisions to be built for other hotel properties to be built in Kaanapali and elsewhere. This is one of the subdivisions I think that was as a result of that. So it is intended for working class people. One of the suggestions from the Department has been for a trial period for a year. You being the neighbor that's most directly affected, you know, with your home 20 feet from the residence that's proposed, what is your feeling about a one-year trial period on trying to determine if there's noise impact or not?

Mr. Soares: Gotta choose my words carefully because I always speak very candid and this is a time not to be candid. As far as I...and I listened to the gentlemen explaining the one-year trial period. No. 1, who's gonna police the one-year trial period? Is it me or is it you guys 'cause you're giving him the permission to do that. Are you gonna be there at seven or four in the morning and listen to this or at 11 o'clock at night? I can hear the people jumping in the pool at 11 o'clock at night and I can see all the lights in the trees. Is that gonna continue and guess what, who is gonna police it? A year from now this permit is gonna expire and he's gonna come before you and because we didn't call the police every other week, you're gonna get a report from the police that said, hey no police trouble there, it's beautiful. Well, we try to be good neighbors. We're not going spend time calling the police every time, you know, and I get concerned because I hear my dog barking too, but I know why my dog is barking 'cause I can just look outside my patio and I see the lights on in the garage next door and car doors slamming. He's not used to having noise at 10 or 11 o'clock at night so he barks. Other than that, well in answer to your question, I don't know if I answered your question Wayne--

Mr. Hedani: I think you answered by question.

Mr. Soares: --but I don't know what to tell you about the one-year trial period.

Mr. Hedani: I think you probably already had a one-year trial period.

Mr. Soares: We had more than a one-year trial period. We've had this for about three years. The question that I guess I have being a former hotel manager is are you and the County Tax Office and the State Tax Office gonna verify that these people have a GET license and are they gonna have a TAT license?

Vice-Chair Shibuya: We do that. The process--

Mr. Soares: Then if you do that, I'm fine.

Vice-Chair Shibuya: Commissioners, any other questions for the testifier? Thank you very much, Mr. Soares.

Mr. Soares: You're welcome.

Vice-Chair Shibuya: The other person that signed up is Leslie Smith. Would you like to make a presentation? Please identify yourself. You have three minutes on your presentation.

Ms. Leslie Smith: Thank you very much. Thank you for letting us have this time. I'm Leslie Smith. I live at 344 Kamano, Lahaina, Hawaii 96761. Tax key, 4-6-005: 068 000. I have been an owner of this property since the Aholo Subdivision was built nearly 40 years ago. I realize times are changing and residential neighborhoods don't seem to go well with a tourist destination. Families with school children and working parents live a different schedule than people on vacation with no time responsibilities, and it just doesn't mix.

The Holland property is a flag lot with very limited onsite parking. As a vacation rental has been operating for several months now, we the neighbors can't help but notice the extra traffic and street parking. Now you saw on the map there were three places to park. The Hollands themselves have two cars. So you bring in two or three more for six people coming in to be in that house and you're out on the street. Our cul de sac is not...has no parking. We cannot park on it. You have 10 residences with a short space that's at the corner. So we do have a parking problem.

The Hollands have been advertising and renting for several months now without a permit or even applying for one. The Department have several calls from me. The Ordinance 19.65.030 (Q)(1) is for the quiet hours and the way the sound works I can tell when the people are in the pool after 9 o'clock in the evening. It just carries right over into my bedroom.

Aholo Subdivision was built a family residential area not a short-term vacation rental development and I'm saying I'm totally against changing this character of this division. Thank you.

Vice-Chair Shibuya: Commissioners, any questions? Commissioner Wakida?

Ms. Wakida: Thank you. Thank you for testifying. I'm gonna ask you the same question I asked Mr. Soares.

Ms. Smith: Okay.

Ms. Wakida: Since your response letter also came from Mr. Torgerson, have the Hollands attempted since you've written your letter to be in contact and resolved this matter?

Ms. Smith: No, they never came to say that they were even going to do something like this prior to engaging in this.

Ms. Wakida: Thank you.

Vice-Chair Shibuya: Any other questions, Commissioners? Commissioner Ball?

Mr. Ball: Can you point out where your house is on that map?

Ms. Smith: This one here.

Mr. Ball: There's actually a better slide, but...

Ms. Smith: Okay, I'm over here.

Vice-Chair Shibuya: Sixty-eight.

Mr. Ball: Okay.

Ms. Smith: Yeah, uh huh, and then the pool is right here...(inaudible)...but it just comes right through.

Mr. Ball: Thank you.

Vice-Chair Shibuya: Any other questions, Commissioners? If none, thank you very much, Ms. Smith. Are there other testifiers that did not have a chance to sign in to make his presentation on this item? Seeing none, hearing none, public testimony on this issue is closed. Commissioners, any other questions, discussion, my items? Commissioner Wakida?

Ms. Wakida: Yes, I have a question for the applicant. Why...you wanna identify yourself please?

Mr. David Cain: Yes, David Cain on behalf of the applicant.

Ms. Wakida: Thank you. Why did the applicant decide not to rent long-term since this is a working class neighborhood and it seems to be a lot of need for rentals?

Mr. Cain: Yeah, and thank you, Commissioner Wakida, that's a good question. Basically long-term rentals of course, there's a lot in this neighborhood already. What we were looking for is under the Mayor's essentially new proposal regarding short-term rentals and it appears to us and perhaps we're wrong about this but it appears to us that there should be a mix between these short-term rentals and long-term rentals as long as it complies with the Code.

But one thing I did wanna address that you had brought up as well, Commissioner. Oh, I'm sorry, is that...

Ms. Wakida: But first, yeah I don't think you quite answered my question.

Mr. Cain: Okay.

Ms. Wakida: Mr. Holland had the opportunity, has the opportunity to rent this long-term. So but he's chosen to go short-term what is his motivation?

Mr. Cain: Well, you know certainly short-term rentals, I mean one thing is for long-term rentals we wouldn't even have to be here as the Commission knows. As far as the transient taxes et cetera, you know, it's much more comprehensive as the board knows. However, as a former innkeeper and remember we're talking about a gentleman who has been an innkeeper, you saw his building in San Francisco, sold the building, moved out here. He loves being an innkeeper guys, I mean, ladies and gentlemen, I'm sorry. Don't wanna be too informal here, but he loves being an innkeeper and this is what he does. He loves having guests. Seriously, I'm not blowing smoke here. In fact, Mr. Holland actually take photographs, I know we didn't include this in the package but this is one of his short-term rentals and he's trying to maintain or would like to maintain kind of on a yearly basis the same clientele who are good clientele, and I wanted to show you this is the same individual who has been the White House four times under a previous Administration, hopefully you all liked that Administration, but previous Administration, and you know, one thing we have to remember ladies and gentlemen is Mr. Holland lives there as well. He lives there and he's retired and he's a former innkeeper. So if things happen, if noise happens, if there are rule violations, he is going to be there to stop it. As far as parking is concerned, we certainly have showed that, you know, there is parking there and available.

Regarding the Commissioners concern that Mr. Holland or the Hollands had not contacted the individuals that was...Mr. Holland actually wanted to do that. It was our recommendation that he not do that until we come forward to the board and listen to kinda the applications and what the complaints were. We, we didn't wanna start any kind of neighborhood issues between the neighbors.

Vice-Chair Shibuya: Commissioner Wakida again.

Ms. Wakida: Is Mr. Holland here today?

Mr. Cain: He is here today. Would you like to hear from him, Commissioner?

Ms. Wakida: Yes, I would.

Mr. Cain: Sure.

Ms. Wakida: Thank you.

Mr. Robert Holland: Aloha Commissioners. First thing I'd wanna say is to...

Vice-Chair Shibuya: Please identify yourself?

Mr. Holland: Oh, I'm Robert P. Holland.

Vice-Chair Shibuya: Thank you.

Mr. Holland: I began my career as a teacher and I work with senior highschool students as a Sociology teacher and I brought...my goal was to bring wonderful people to see my students. Actors, writers, I even had a longshoreman who was Japanese and he was put in Manzanar and there's so much in the press these days about Nisei Japanese in Maui I was, I did programs on that

in the '70s in the Bay area. And what I have attempted to do was bring wonderful people into my home and that hasn't been discussed in the press. What we see here is neighbors need to be protected, but I think neighbors would love to meet our guests. We had a German couple that are the most world traveled people I have ever seen. And I had Mr. Torgerson come and meet them personally. They've been Stonehenge, they've been to the pyramids, they've been to the Taj Mahal, they've been on safari. I'd even thought the neighbors could be invited to talk story with some of these people. Barbara Mashburn, who was a friend of Bill and Hilary Clinton from Arkansas is one of the most amazing people I've ever met and I had questions for her. What's it like to go to the White House four times? What's Mr. And Mrs. Clinton like? And she was just a reservoir of information. And the kinds of guests that we are having, our neighbors would enjoy them and do not need to be protected from them.

And I'm saddened that the Commission was disturbed by some of the letters and everybody needs to be put at ease, the neighbors, the Commission, we're trying to do a wonderful job, a meaningful job. I have to say the way the noise currents work in the neighborhood none of our guests have made noise. None of our guests have parked on the street. As Mr. Torgerson said, why would they carry groceries a 100 feet when they can park right on site?

And so it...I was actually stunned with some of the protests that were made. And I think it began with this mind set in the press that said people that come to Maui...well, in fact I did speak to Butch and Donna Soares. I can't recall whether it was 45 minutes or an hour. It was very lengthy. And Mr. Soares comment to me was, and it was a very disturbing comment, a sad comment that the visitors that come to Maui, and the exact words he used were, are party-hardy people, and I don't think Barbara Mashburn who has appeared at the White House four times would fall under that category. Barbara drove out to Hana. She's 69. She came home and went to bed. Many of my guests don't even turn on the television. So there has been no noise, no late night swimming, no parking on the street. And I wish I had had the opportunity to come earlier and kinda put the council at ease about who I am.

When I ran a hotel which was a family business, again, we tried to get the nicest people, and I think bed and breakfasts do that. They create kind of a screening process. If somebody goes to a bed and breakfast, they're the kind of person that wants to meet other people. They've done a lot of traveling. They're wonderful people.

Vice-Chair Shibuya: Thank you, Mr. Holland.

Mr. Holland: Okay.

Vice-Chair Shibuya: Commissioners, you have any other questions? Commissioner Hedani first and then we'll have Commissioner Wakida.

Mr. Hedani: Mr. Holland, how long have you been operating this unit as a short-term rental?

Mr. Holland: Well, we bought the home in 1999, and for the first decade as Mr. Soares confirmed, we were hardly ever there. And we've only moved to Maui, it will be three years in March and decided because our retirement funds are so lacking...the big issue in San Francisco became homeless.

Mr. Hedani: So the, the answer is three years?

Mr. Holland: Okay, and that question was asked by one of the Commissioners, we've done this to supplement our retirement which we're very concerned about and on the internet...

Mr. Hedani: Mr. Holland?

Mr. Holland: Okay.

Mr. Hedani: You've been operating as a short-term rental for three years?

Mr. Holland: Yes.

Mr. Hedani: Okay, during that time were you advised that—

Mr. Holland: Well, actually, no...not until I think it was November 2012, it's hasn't been three years. I said we've been permanent residents of Maui for three years as of March.

Mr. Hedani: Right. During that time were you advised that it was inappropriate or illegal to operate a short-term rental before you get an application approved?

Mr. Holland: No, I wasn't. My first expert...

Mr. Hedani: So your attorney didn't advise you of that?

Mr. Cain: I'm sorry. With all due respect to the Commission any communications I have with my client are not open to discussion with the Commission.

Mr. Hedani: Can I ask you that question then?

Mr. Cain: No, you cannot. I'm sorry.

Mr. Hedani: I'm sorry, you just lost my vote.

Mr. Cain: No, with all due respect—

Vice-Chair Shibuya: Thank you very much. Commissioner Medeiros?

Mr. Holland: I'd like to answer the question, Commissioner?

Vice-Chair Shibuya: Excuse me. Commissioner Medeiros?

Mr. Holland: May I answer the question?

Vice-Chair Shibuya: No. Commissioner Medeiros?

Mr. Holland: Okay.

Mr. Medeiros: Mine is real short. Could I ask you a question? Okay, I'm a straight up guy--

Vice-Chair Shibuya: Mr. Cain, would get to the podium?

Mr. Medeiros: You said you were here not to blow smoke. Commissioner Wakida asked you why he chose short-term rental over long-term rental.

Mr. Cain: Yes, sir.

Mr. Medeiros: And you danced around the answer. As far as I can see you danced around the answer. So my question to you is more direct, okay. How much more money is he gonna make with short-term over long-term rental?

Mr. Cain: I would say more, absolutely. I don't have the exact figure but it would be more.

Mr. Medeiros: Okay, so it would be right for me to think that he went short-term because of the money?

Mr. Cain: That is definitely in reason absolutely.

Mr. Medeiros: Thank you.

Vice-Chair Shibuya: Okay, Commissioner Wakida, please?

Ms. Wakida: Yes, Mr. Holland I have a question for you please? As you know, you've received a number of letters from neighbors that objected to the short-term rental.

Mr. Holland: Right.

Ms. Wakida: Have you paid a visit to these neighbors since you've received those letters to discuss their concerns?

Mr. Holland: Well, I was advised by my first expert who had...who...we kinda got the analogy it was like a driver's learning permit, if you started all your inspections while you didn't have a permit, you had the prospect of getting a permit and it was okay to begin, begin working and I did...what was your question again? Oh, I did call the Soares. We spoke for about an hour.

Ms. Wakida: This was after you received their letter?

Mr. Holland: That was before.

Ms. Wakida: No, I'm interested to know if after you received the letters that are in here and have been responded to by your architect, did you personally as a neighbor go to visit these complaining neighbors to try to resolve your differences?

Mr. Holland: Well...there is kind of a contentious...these are long-term residents and it's kind of

contentious. I did go to a next door neighbor and tried to talk to him and he basically didn't encourage my talking to him. I will say, since ownership in 1999, we've never exchanged one angry word with any neighbor.

Ms. Wakida: Okay, thank you.

Mr. Holland: Okay.

Vice-Chair Shibuya: Commissioners, any other questions? If not, then I'll just open it up for our own discussions. Thank you. Members, your discussion? Oh, staff recommendation. Yeah, we can have...Kurt, thank you.

b) Action

Mr. Wollenhaupt: Good morning again, Members of the Maui Planning Commission. The staff recommendation is noted on the green pages of your report. That being said, the staff as was noted by Director Spence in light of the balance of the issues on this and in light of extensive review that the Staff has done, Department inspections of the property, looking at the objections, looking at the support letters, balancing everything in the Code, and the five criteria, the Maui Planning Department does recommend approval subject to, and it's important this first condition which is different than any others, that the STRH Permit shall be valid until January 31, 2015 subject to further time extension by the Planning Commission in a noticed public hearing subject to the requirements of Section 19.510.020 of the Maui County Code. Those sections being that all the neighbors a year from now within 500 feet would receive return receipt, certified mailing of another public hearing that the applicant would have to publish for three consecutive weeks in a newspaper of circulation and notice of that public hearing and that the applicant would go through a similar process within one-year, certainly 90 days before the expiration being January 31, 2015.

The other 21 conditions are standard conditions of all of the short-term rentals requiring insurance, maximum of three guest rooms within the one permitted STRH dwelling that would be a maximum occupancy of six people. And then it addresses things like fire extinguishers, biannual fire inspections, compliance with government regulations. That being the case, in consideration of the foregoing, the Maui Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the January 14, 2014 meeting as its findings of fact, conclusion of law, and decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission. Thank you.

Vice-Chair Shibuya: Thank you, Kurt? Commissioners, discussion? Commissioner Wakida?

Ms. Wakida: I'm going to vote against the recommendation. We have a number of short-term rentals that come before us that are in residential areas and often there are no objections by the neighbors and it seems to be a comfortable fit. In this case, there seems to be from the immediate neighbors objections, strong objections. I'm very concerned that the applicant has not made an effort to try to resolve these before coming before us. And therefore, I don't feel that this particular application is a good fit for this neighborhood.

Vice-Chair Shibuya: Commissioner Hedani?

Mr. Hedani: I move to deny.

Vice-Chair Shibuya: Okay, it's been moved by Commissioner Hedani to deny. I'm looking for a second.

Mr. Medeiros: Second.

Vice-Chair Shibuya: Second, Commissioner Medeiros. It's been moved and seconded. Members, Discussion? Commissioner Hedani?

Mr. Hedani: Yeah, the reason, the reason for my motion for denial is I have seven different items that I've listed based on what I've heard today. I came to the meeting with an open mind and in the course of the discussions, I decided that it was probably inappropriate for this particular...with this particular application. It's a working class neighborhood. The lots are very small. It's a flag lot which means he has 100 feet of exposure to this neighbors before he even reaches the residence. There's objections from six surrounding neighbors surrounding his residence. He has not made an...he has not made an effort to communicate with those residents to identify and resolve their concerns. He's been operating illegally up to this point. And I cannot get an answer from his attorney as to when he ceased that illegal operation. And the other concern that I have is that this particular neighborhood was built as an affordable housing subdivision for the purpose of providing affordable housing for the west side. What a short-term rental does in this particular area is it increases the value of the home, it increases...it can increase the value of surrounding homes within a neighborhood once it's sold. And I feel because of those reasons, and there are other applications that are pending within 500 feet of this particular applications that that application then may be more appropriate with better amenities and less, less surrounding neighbors that would be impacted. And that's why I'm opposed to this application.

Vice-Chair Shibuya: Okay, thank you. Members, any other comments? Commissioner Medeiros?

Mr. Medeiros: I seconded the motion mostly because as Wayne had said that this was a...this neighborhood was put together to provide affordable housing. While I can respect the owner's experience and his intent to, you know, have you know, a nice mini hotel and he's probably good at it, but it just does not fit. I'm from Lahaina. It does not fit. You know, so I'm voting no.

Vice-Chair Shibuya: Okay, thank you. Members, any other discussions? If not, then we'll take a vote at this point. I'm calling for the question in terms of all those in favor of the denial request—

Ms. Wakida: I'm sorry, Chairman, Vice-Chair, could we repeat the motion please?

Vice-Chair Shibuya: Okay, thank you. Thank you for reminding me.

Mr. Spence: The motion is to deny the permit.

Vice-Chair Shibuya: Okay, Members, the motion is on the floor for your vote is to deny the application for a short-term rental. All in favor, raise your hand.

Mr. Spence: That's six ayes.

Vice-Chair Shibuya: Thank you very much. It's been denied.

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

**VOTED: To Deny the Short-Term Rental Home (STRH) Permit.
(Assenting - W. Hedani, J. Medeiros, K. Ball, M. Tsai, S. Duvauchelle,
P. Wakida)
(Excused - I. Lay, J. Freitas)**

Vice-Chair Shibuya: Members at this time, I'd like to take a 10-minute recess and we'll get back here at 10:25. Thank you.

A recess was called at 10:28 a.m., and the meeting was reconvened at 10:28 a.m.

Vice-Chair Shibuya: ...back into session at this time. Planning Director will you introduce the next item on the agenda?

Mr. Spence: Yes Commissioners, the next one is an application by Mr. Alan Zimmerman, also for a short-term rental on Hui Road E in Napili and the Staff Planner is Mr. Kurt Wollenhaupt. I would just say before, again this is one that we've discussed quite a bit and there's been letters come in et cetera so all that should be taken into consideration by the Commission.

Vice-Chair Shibuya: Okay, thank you. Kurt would you like to introduce the item and then we'll open it up for public testimony.

- 2. MR. ALAN P. ZIMMERMAN of 33 Vallejo Hui, LLC requesting a Short-Term Rental Home (STRH) Permit to operate the Napili Kai Hale Short-Term Rental Home, a three (3)-bedroom short-term rental home located on approximately 10,000 sq. ft. of land in the R-3 Residential District at 33 Hui Road E, TMK: 4-3-015: 044, Napili, Island of Maui. (STWM T2013/0014) (K. Wollenhaupt)**

Planning Commission review is required because an existing short-term rental home is operating within five hundred feet of the proposed short-term rental home lot and two or more written protests were received from owners or lessees or record of two or more lots adjacent to or directly across the street from the proposed short-term rental home within the 45-day timeframe.

Mr. Kurt Wollenhaupt: Good morning again, Members of the Maui Planning Commission. Our second item for today is another Short-Term Rental Home application. This one is from Alan Zimmerman and it's to obtain a Short-Term Home Permit to operate a three-bedroom home on approximately a 10,000 square-foot lot located 33 Hui Road E in Lahaina. The application's consultant is Ms. Debbie Mitchell who is in the audience today who would request a power point presentation to ...(inaudible)...in order to explain the application.

As with the last one, I wanted to mention that the reason that we're here today is according to Chapter 19.65.060. This review, this application is to be reviewed by the Maui Planning Commission because number as quoted, an existing short-term rental home is operating within 500-foot radius of the proposed short-term rental home lot. There is indeed another short-term rental home within 500 feet that's located at 20 Hui Road E that has been approved that triggers the public hearing.

In addition, as similar to the last hearing there have been two or more written protests from the owners or lessees of record of two more lots adjacent to or directly across the street from the proposed short-term rental home. That being the case that is why we are reviewing this with the Maui Planning Commission.

Yesterday there were quite a number of additional comments and letters that I was sending to you on email and I believe each of you should have also received a hard copy. That being the case, I did prepare an updated map that's noted as Updated 1/13/2014 at 5:00 p.m. This new map shows the location of the applicant's property at 33 Hui Road E by Mr. Zimmerman. It also shows the current objections triggering the application review today with the objections by those property owners immediately adjacent to the property. One of these property owners is at 25 Hui Road E that's by Sandy Carr indicated on the map. The other objection would be Ursula Gebert, G-e-b-e-r-t. She owns a number of lots also adjacent. That would be step one and why we're having a public hearing. Step two would be that there's also an approved short-term rental as STWM 2013/0019. That being the case, I'm going to go through the five criteria once again.

The Planning Commission does review these applications based upon the following factors but is not limited to in their review. The first one being the number and the distance of other short-term rental homes in the area. Within 500 as indicated now twice there is one approved short-term rental home within the 500-foot radius. The second, the number and the substance of the protests for the short-term rental home related to the cumulative short-term homes in the larger neighborhood or area. Again, the updated map at 5:00 p.m. does show the protests. Ms. Ursula Gebert does own three lots one of which she lives on two of which are vacant. Those are in the vicinity. We have an objection from Ms. Sandy Carr at 25 Hui Road E. We did receive an objection from the residents at 15 Hui Road E, the Johnsons and that's one that came in yesterday. Also we received an objection at 10 Hui Road E of Christopher Salem and we received an objection from Ms. Agell of Anka Inc. She's actually the owner of part of the roadway at Hui Road E. It's a rather complicated roadway issue. Part of the roadway is owned by the Second Circuit Road from a 1931 decision. Part of the roadway is owned by Anka Inc., and the Ms. Ursula Gebert has a driveway or another parcel in there. So it's a complicated private road situation. Those letters have been filed for your review and also are noted in the report.

Importantly there have been no police records on this property regarding short-term rental operations and we do look at this critically in evaluating the operation. The fourth criteria existing or past noncompliance with government requirements and the degree of cooperation. The applicant through Debbie Mitchell has been very cooperative in allowing the Department to go out and review the situation. I've been out there a couple of times in looking at the short-term rental home. Also, the applicant has followed the noticing requirements for today's public hearing and then other correspondence received again, we're not privy to any sort of unusual conditions or covenants on this property. That being the case, as required while the applicants do not live in

Hawaii all the time they do have retained Debbie Mitchell as their approved real estate representative. She does meet all of the qualifications and I've meet with her on a number of other operations and that has proven to be a good working relationship on that. That being the case, I believe Ms. Mitchell has a detailed operation that power point presentation that will explain this property and without any other questions, I'd have Ms. Mitchell give her presentation.

Vice-Chair Shibuya: Please do.

Ms. Debbie Mitchell: Thank you, Kurt. Good morning, Commissioners. My name is Debbie Mitchell and I am the consultant and real estate property manager for Alan and Monica Zimmerman, the owners of 32 Hui Road E. They are in attendance today and I also would like to speak to you as well. We have given, put together a packet for you that it contains a lot of information. Basically an introduction, please note that the pages are mostly double-sided and then we have addressed each concern of each neighbor that has written in specifically the two from Ms. Gebert and Ms. Carr and the three that we received yesterday. So we have included in your packet copies of those letters and our response to them. So I'll just go through there with them. We'll start...this, we felt it was important to address each individual item that was brought up to us. Obviously the Zimmermans are very anxious to continue the good relationship they have had with their neighbors. Some of the items that were brought up have greater weight than others but we have addressed everything and hopefully can provide a good solution for anyone that has concerns.

As Kurt mentioned, the facts regarding the case I will just go over them briefly as you've heard them all several times. Napili Kai Hale s a gated three-bedroom, two-bathroom, 1,980 square foot home located at 33 Hui E Road in Napili, Maui, Hawaii. It was purchased in June 2004 by the current owners, Alan and Monica Zimmerman. Short-Term Rental Home Permit application was filed with the County on July 5, 2013 by myself. It does meet the criteria for the STRH Permit as set forth in the "does my property quality" publication put out by the Planning Department. Again, as Kurt mentioned the public hearing was triggered after we received two letters from adjacent neighbors protesting the application. One from Ms. Carr and one from Ms. Gebert. And additionally we have testimony that was provided by Ms. Carr for presentation today along with Christopher Salem, Marina Agell and Kevin Johnson which we will address as well. Also, there is the other licensed STRH within 500 feet located at 20 Hui Road E. So that is why I am here today.

The first letter was received by Ms. Gebert who owns the three lots at the tip of the peninsula. She included a copy of the letter for you for reference. Her main concerns were that it would create substantial congestion along--here we go--substantial congestion along Hui Road E and a dangerous amount of traffic at the intersection of Hui Road and Lower Honoapiilani Road. It would create an inordinate amounts of noise as short-term renters have vacation parties and it would create parking issues as short-term renters tend to ignore property lines when parking their vehicles.

Now we wrote back to Ms. Gebert on August 31st and provided clarification that...on her concerns that this home has been operating as a taxpaying vacation rental paying both GE and TA taxes. We had originally noted in our materials that it was 15 years and due to an item that was brought up by one of the protesters we're revising it to the nine and half years that the owners operated it themselves. We had prior information that the previous occupants had also operated it but we will

limit our statements to the amount of time that the Zimmermans have owned it which is nine and a half years.

There are no recorded traffic violations or violations of any kind at this location by anyone associated with the house per the Maui Police Department. They had no objection to issuance of this permit. The house basically stands vacant more than 50 percent of the time. So if there were a permanent resident living here and the traffic, noise, parking, all those issues would certainly be significantly more than is currently experienced.

On her second issue regarding noise concerns we have taken these very seriously as this is probably one of the most frustrating portions of any short-term rental is you have folks coming in on vacation, they're having a good time, but we have taken those very seriously. Per the County regulations we have posted in the house on the backs of the doors, bedroom doors where the fire escape plans are posted, we have posted the house rules which included the quiet hours and they state, "quiet hours shall be observed from 9:00 a.m. to 8:00 a.m. during which time the noise from this home shall not unreasonably disturb adjacent neighbors. Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be associated with a residential area". This is straight from the, from the County Code. So we also, not only are they posted on the back of the door and in the information book for the property, but each guest upon check-in is required to sign that they have read the house rules and that they are aware that if they do not abide by them it may result in eviction from the property and/or forfeiture of their security deposit. So we take this very seriously with the guests. So that is how we have dealt with that issue.

Additionally, should this permit be granted the adjacent neighbors will have my telephone number posted on the sign and mailed to them as part of the process so they will be have instant contact with the assigned property manager. I live five minutes away in Kahana Ridge so we are able to respond right a way.

The third issue Ms. Gebert had was parking. She felt that they...the parking situation would become unreasonable because it is a very short road and it is rather narrow. And the permit requirements for a three-bedroom house require that they must have two parking places for that, that dwelling. We, actually it is a gated home and it provides as you can see the photograph of the gate is from the street. So there are six parking places inside that gate. So there would never be any reason for the guests to park on the street. And in fact, in those house rules again, we remind them that there is no off-street parking. That they must park within the gate of the home. So we again take that very seriously.

Finally, this is again a map of where my location is in adjacent to the property. This is actually a little bit more ...(inaudible)...route than it actually it is, but it shows that it is...I'm just six minutes away. Can respond is only 30 miles away is required and be able to respond in 60 minutes. I can obviously respond much quicker than that.

The next letter came from Ms. Sandra Carr. She sent originally a letter back on August 9th and stated that she had several concerns. The four that were the most prominent again were noise, parking, the addition of the other permitted STRH home within the 500-foot radius and that it would only provide income for out-of-state owner. And responded to Ms. Carr, we also wrote to Ms. Carr

and responded that the same noise, traffic, parking, as were the issues that were presented by Ms. Gebert also were...our response was the same to Ms. Carr about those items. So again, we do have strong steps, robust steps to ensure that compliance with the quiet parking issues is understood by the guests and are enforced.

Ms. Carr's third item was that there was another STRH located at 20 Hui E Road which she had no issues and this was curious to us because it is twice the size of our home. It is literally twice the bedrooms, twice the parking, but she did not apparently feel that that was as impactful as our small two-bedroom with gated parking.

And then the last item was that this will only provide income for out-of-state owners. And responded this is absolutely...it provides much income for local people, businesses, individuals, gardeners, housekeepers, property managers, maintenance, repair people, activity companies, car rental companies, many, many more. In addition, the Zimmermans have paid both GE and TA taxes the entire time they have had this operation. And a matter of fact a combination of both of those cost them \$15,000. So they are contributing to the local economy in that fashion as well.

And then I just gave you some photographs here of the area so you can see the parking situation. There is at the end of the cul de sac. It is a private road. We are fully aware of that but there is a public shoreline access at the end of the road and so you see that there. There's additionally a lot of construction noise. All of these vehicles that you see here are unrelated to the short-term rental permit. So again, the only usage our renters would have is merely to drive into the gated area and close the gate behind them. So we just submit that it is...we agree that it's a heavily used area but not in the sense that the rentals are causing it.

Okay and then just wanted to go further with some communications that we had with Ms. Carr. She submitted several bullet points in her testimony that was provided to us and we wanted to address them and hopefully allay some of her fears on that point. This is a email that was received from Ms. Carr back on November 21st. We took over management of the whole house at the beginning of 2012. And we introduced ourselves to Ms. Carr, took our business card over and made it clear that if she were to have any issues she could contact us immediately. And I just include a couple pieces from her showing that this is in effect. She had an issue on some noise that was going on. She contacted us. We responded and her statement was that she thanked us for our quick response and then we reiterated at the top that please call us if anything else occurs and we will respond right away, again, provide her with our phone number and ways to contact us. So we are very concerned that the channel of communication with us as managers is open to any resident in that area should they have any issues.

Again, a second issue occurred on July 20, 2013. We responded. Again, we said no matter...that if this should happen no matter how late it is, that she should contact and we will deal with immediately, again, providing her with our phone number. So that is the way we do our business as the property managers that we are we will respond immediately. And I just include those so you can see the channel have already been open.

There was one particular item in Ms. Carr'S list of testimony that I really wanted to address because it was a serious incident. She mentioned that there was a serious disturbance that took place. She actually said many but this is the one that I'm aware of about a fight that occurred at the property

with people yelling and throwing things. This was a family that included a mother, a son, and his fiancé, another brother and another sister. The one son, they made reservation months out, the one son was in the interim was killed in the war in Afghanistan and the family decided to come anyway as part of the healing process. They unfortunately had some alcohol, highly emotions, both brother and sister totally disagreed with his being in the military. It escalated to the point where it became as Ms. Carr described it. We feel this is an isolated incident. The former property manager dealt with immediately. The one brother that was the most aggressive was evicted and they were told that he's not allowed to return to the property. So again, we take these incidences very seriously. It's very important to...they maintain the peaceful nature of the neighborhood.

There have been a number of issues with...that Ms. Carr brought up regarding viewing onto her property, people looking through her property, and back at the shower area. There were some issues that she brought up and we just provide pictures from the Zimmermans. These were taken two days ago of the dense foliage that is in place between the two residences. We could not recreate the incidences that Ms. Carr mentioned, but certainly we would ask that if anything...(inaudible)...is felt to be happening to any of the neighbors, we want to know, we will deal with them immediately. And we do feel that the foliage that is in place is sufficient to create a barrier between the properties.

One other incident that Ms. Carr mentioned was that a light had been left on over the barbeque and it had been left on overnight. We are going to remove that light and create a different area for the barbeque so we will...that will not be an issue any further. We will absolutely do that.

There were other incidences as well. They're in your packet but they're...rather than go through each individual one, we just offer the fact that we are available 24 hours a day as property managers. We have...our contact information is out there. Anyone can call us and we will respond.

We did receive a few other letters just all came in yesterday afternoon, so we put together a response to them briefly. There was a letter from Kevin and Marlene Johnson who are neighbors in the area. Again, they had concerns about the safety of traffic and things. The one issue that they brought up which was unusual was that they could search on the internet for Hawaii sex offenders and identify potential risks in our area but the search wouldn't identify any sexual predators that might be in the short-term visitors and we just responded to that this is an open street with public access at the end at its terminus. There are workers in the area, unidentified people may walk through at any time. This could be true of anyone that walk through the area that are not known. What we do say is that the renters are known individuals, we know who they are, we know how to get a hold of them, if anyone has any concerns about that they can contact us. Where it is an area that is not remote or not gated off from anybody else so anyone using that shoreline access could also fall under that same security risk. So we just offer that fact that it is a controlled situation with known individuals and again we are property managers there to deal with that.

Ms. Agell also wrote...she's the one that owns this small portion of the cul de sac, her complaint just seem to be that we had said it was 15 years and she felt that it was seven years. Her facts were wrong as well, but we just wanted to point out again as we noted that the Zimmermans have owned this property for nine and a half years. We do have paperwork that speaks to others before that but we will just stipulate and say it is not 15 years, it's nine and a half years.

Finally, Mr. Christopher Salem, in his letter he apparently is, is objecting to the current STRH Permit that's in place at 20 Hui Road E. And he just, he didn't have any specific complaint with ours. He just felt that until his questions regarding 20, when he seemed to attack the Planning Department over this, that until that was resolved to his satisfaction he did not...he wanted any other application to be deferred. So that was the extent of his, his questions.

So in conclusion, we followed all the regulatory requirements set forth by the County of Maui in preparing this application, and the Zimmermans have spent many, many dollars upgrading the home to meet all the Code requirements, all the fees have been paid, we as managers are nearby. We've implemented effective communication system and have demonstrated that we will respond quickly to any issue raised, and then the proximity of course, of our house and office, lets us respond quickly. So we do believe that this regulations that are in place will be successful and that his short-term home will be a successful permitted operation. Thank you.

Vice-Chair Shibuya: Thank you very much. Commissioners, any questions for the applicant? None?

Ms. Mitchell: The owners also would like to speak if that's allowed?

Vice-Chair Shibuya: Okay, please.

Ms. Mitchell: Okay, great.

Mr. Alan Zimmerman: Good morning. I'm Alan Zimmerman. My wife and I are the actual applicants for this permit. We want to thank you for your time and consideration today. In fact, I even want to thank the County for making some regulations clear because I think for a number of years it has not been clear as to what we could do and couldn't do. By way of introduction I'll be happy to answer any questions you have, but by way of introduction I want to tell you that my wife and I came to Hawaii for the first time on our honeymoon in 1972, we loved the islands. Since 1979, we owned two condos. One was the Hale Kai, the other was Lahaina Shores. We have been faithfully filing Hawaii tax returns every year since 1979. We have been taking care of the general excise tax and the transit accommodations tax since 1979, and we have been trying to be good neighbors ever since we moved in next to Mrs. Carr in 2004. In the nine and a half years that we have been there I'm aware of I would guess on average one problem of any kind per year and I am not aware of any problem that didn't get resolved by either Debbie Mitchell or our former manager, Alan Shaw who also lives in Kahana Ridge within a very, very short period of time. We certainly want to continue to be good neighbors, but we are doing our best to comply with the requirements that are now, now finally in place with the ordinance.

As an aside, several times the issue...I don't think it's relevant, but number 20 Hui Road has been granted a permit and to my knowledge there's been a for sale on that property. There is a for sale sign there now. So even that issue may go away shortly if they sell. I don't know, but we are isolated enough so that the only one that should be of any concern is Sandy, and I think as I said, that we have tried very hard to meet her requirements all along.

I'd like to anticipate one question that you asked Mr. Holland, and that was why we didn't go for a long-term rental, and the reason is because we love this place. We come here ourselves. In fact,

I almost wanna thank Mrs. Carr for making it necessary for me to here in January of this year. I had no intention of being here at this time. Lost my train of thought. Sorry, I forgot what I was saying...oh, short-term rental versus long-term rental. We come here as often as we can. We have since 1972 as I said. Both of our daughters, one of which got married two years ago, both of our daughters are now married, they love to come here. If we had a long-term rental we would not be able to enjoy the property ourselves. It is vacant over 50 percent of the time, but we like the opportunity to come whenever we can and of course, a long-term rental which would be far easier to manage just doesn't work out for us because we like coming. I consider myself kamaaina. I proudly carry the card with me when I go into restaurants and do different things. I'm a member of the Lahaina Yacht Club. I'm not going to be so bold as to say, I'm a Hawaiian or I'm one of you, but we're as close as we can be and still spend a lot of our time also on the mainland. So I'll answer any questions that you have.

Vice-Chair Shibuya: Commissioner Tsai?

Mr. Tsai: Mr. Holland, I'm sorry...got the wrong...Zimmerman, wrong person. I apologize. Where do you reside on the mainland?

Mr. Holland: San Francisco.

Vice-Chair Shibuya: Any other questions, Commissioners? None? Thank you very much.

Mr. Zimmerman: Thank you.

Vice-Chair Shibuya: Thank you. Okay, I'd like to open it up for testimony from the public and the first one I have here signed up is Sandra Carr and following Sandra Carr will be Kelly Carr, and if you will keep your...introduce yourself and keep your testimony to three minutes please, thank you.

a) Public Hearing

Ms. Sandra Carr: I shall. Aloha. I'm Sandra Carr, owner of 25 Hui Road E which is adjacent to the Zimmerman property. I've lived in this home for 21 years, and I'm home 99 percent of the time. As you can see on the photos that I've provided, several color photos, my two-story home is all glass facing the ocean and facing the Zimmerman house. Both of our homes are only set back 10 feet from the property. Our backyards are practically conjoined so I have to see and hear everything that goes on there.

My written testimony detailed some of the disturbances. I've been put them in written...they're difficult to talk about and they're lengthy. I hope you've read them. But the illegal renting at the Zimmerman house has caused disturbances including noise and violent fights, nudity exposed to children, bright lights on all night, people looking in my windows, people coming and going all day, slamming their car doors, setting off the security alarm.

In this neighborhood of just eight homes, there are five full-time families raising kids. Family living is the character of the neighborhood here, and we all have safety concerns for our children due to the increase of strangers and extra traffic. Hui E is a unique, private, substandard road with no sidewalks, ends in a cul de sac and it provides parking for the shoreline access. It's also a popular

walking area for all the neighbors.

Multiple rental cars going in and out all day long for visitor activities definitely impacts my traffic. Because it's a private road, the police has limited jurisdiction to deal with problems here. There is, as you know, another short-term rental permit for six bedrooms, 12 guests in place only 50 feet from the Zimmerman home. It's directly across the street from me and literally sandwiches me in between visitors. There's also a B&B just at the edge of the 500-foot radius. Allowing two vacation rentals out of our eight homes would definitely change the character of my neighborhood.

The Zimmermans have provided some false and misleading information on their application in the attempt to convince you that this vacation rental is... wouldn't affect the neighborhood. Their original statement was that this home had been operated as a vacation rental for 15 years which is a gross exaggeration. They've only owned it for nine. And it was owner-occupied previous to that.

They also included a like comparison to Papaua Place, and that is inaccurate. That is a gated street with only one Hawaii resident living there full-time and evidently six out of the other out of state owners either have or are seeking a permit. That's not at all like my little neighborhood.

Ms. Takayama-Corden: Three minutes.

Ms. Carr: The Zimmermans have disregarded the law in operating a vacation rental there and despite posting house rules all this time and having managers nearby they haven't done it without disturbance to the neighborhood. That has been their trial period and there's no reason to believe that they're gonna do anything different in the future.

Vice-Chair Shibuya: Okay, can summarize please?

Ms. Carr: I'm two breaths. We know that vacationers behave differently. Ironically their visitors aren't that happy there either. They're spending a \$1,000 a day and they're not happy about the construction, the dogs barking, kids playing in the street. Those are all things that are legal in our street. Bottom line is Hui E is not good fit for vacation renters and it should not be allowed at the expense of the residents. Majority of my neighbors have opposed this and I personally have suffered. The Mayor and Council promised to uphold the character of the neighborhoods and I certainly hope you will keep that promise today too, and deny this permit. Thank you for your time.

Vice-Chair Shibuya: Thank you.

Ms. Carr: Any questions?

Vice-Chair Shibuya: Commissioners, any questions? Commissioner Wakida?

Ms. Wakida: Thank you for testifying. Has Mr. or Mrs. Zimmerman come and talk to you personally since you've written your complaint letter to try and resolve your differences?

Ms. Carr: They have not. My original complaint was in August. However, I did receive a letter in the mail just a couple weeks ago right around Christmas where they address the complaints in my protest. And honestly I've had a good relationship I feel based my trying to be a good neighbor.

When they do visit Maui two weeks out of every year, I invite 'em over for wine and pupus and they do the same for me, and we watch sunsets and turtles together, but...and I have discussed with them through all of this the different problems that have occurred. And I had hopes that they would work it out. I have emails, I've had multiple contacts with their former manager, Alan Shaw. And you know what, they work 'em out one thing at a time and I feel like I'm a training ground for new visitors because one goes away, somebody moves in and it starts all over again, the noise, the doors, the lights, all of it. Not all visitors are that disrespectful but there's been some. Let me tell you they do things that my neighbors never do. That's the difference between vacationers and residents.

Vice-Chair Shibuya: Okay, any others? Thank you very much, Ms. Carr. Next person would be Kelly Carr, and following her would be Steven West.

Ms. Kelly Carr: Hi, thank you. Can you hear me? I'm Kelly Carr, and I protest the Zimmerman's application for a short-term rental next door. 25 Hui Road E has been my family home for 20 years. It's where we go to celebrate every Christmas, every birthday, every weekend, all the moments that make up a life for me and my family are at 25 Hui Road E.

Hui Road E in general has eight houses. Five of them have families raising kids. It's fantastic. It's my dream. This is our dream to live on Maui and raise our kids in the grace and spirit of aloha. For the last six years the illegal rentals at the Zimmermans have been an escalating nuisance and a source of heated family discussions.

My mom takes the idea of being a good neighbor to heart. She wants to keep the peace. She wants to not complain, and I'm concerned that she's gonna suffer personal retaliation from the visitors that she needs to report against. It's a very tense situation. I completely disagree that it's vacant 50 percent of the time. That not my experience. Living next door to a house full of visitors is obnoxious. I wouldn't wish it upon any of you. There's a rotating gallery of multiple couples drinking and partying, smoking that comes into our living rooms and bedrooms, excessive lighting not just some barbeque light. The palm trees are lit up. You can't see the moon. It's awful. It goes on late in the night. And we have to complain about it and wait for someone to come in. It's, it's horrible. The extra comings and goings on this short, private, narrow road, and it really is...it's a short, little road with the eight houses on it. It's the extra comings and goings of the multiple rental cars that the Zimmerman's unit generates that really exacerbates the problem. We are busy. I bet you, I bet you they can't park on the street. There's no street parking. The kids are playing basketball in the street. The landscape guys, the pool guys, the construction guys with these gigantic, huge dumpsters ripping roofs off, that's what our neighbor's like. We don't need to add more people coming and going. It's enough.

As a mom to a 10-year-old daughter I have real concerns about the constant stream of strangers rolling through our neighborhood, through our family neighborhood. I can't let my daughter play in the front yard without me. We had to put up blackout drapes in the bedroom to block out their nudity and to deter them from looking in at us in our bedroom. When we're having family time in the pool they peek over the wall. Forget about privacy. The problem is our houses are too close to each other.

Ms. Takayama-Corden: Three minutes.

Ms. Kelly Carr: This is the real problem. The houses are too close to each other and our pictures tell the story of what it's like to have houses built on 10-foot setbacks, and I'm almost done, I promise. The closeness of our houses is not something that a few more Areca palm trees are gonna fix. It's a serious problem. It's not, it's not...these houses weren't built for this. This means, now when we're sitting on the couch, watching Disney, playing with the dogs, there's strangers 10-feet away doing what they do. That's like being photo bombed in your own living room on your own couch and it's awful and it's been ongoing. I'm troubled by the outright mischaracterizations in Mr. Zimmerman's application. And it's crazy making when statements in the application are submitted that are provably false and misleading. It's just is crazy making. The facts are the facts nonetheless. It's really important to me that you understand the impact of this rental on our family neighborhood. It's unique and my family is the one thing I truly care about, it really is. It's number one for me. And you have the power and the responsibility to protect them and to deny this application. When you look at the facts, it's the right thing to do and we're counting on you

Vice-Chair Shibuya: Thank you very much, Ms. Carr.

Ms. Kelly Carr: Thank you, sir.

Vice-Chair Shibuya: Any other questions, Members? None. Thank you very much.

Ms. Kelly Carr: Thank you.

Vice-Chair Shibuya: Next person providing testimony would be Steven West. Will you identify yourself and limit yourself to three minutes, please?

Mr. Steven West: Steven West. Aloha, Chair, Members of the Committee. My name is Steven West. I've lived on Maui for over 30 years. I have been to this real special place close to Napili with my kids quite a few times. I won't go back for one reason. There was an altercation between me and a member of this gentleman's home, a renter, what it be, I don't know if it was a family member but we had a beer bottle, we were out collecting shells a beer bottle flew over his property line onto the beach and I was upset. You know, it was like somebody just threw a beer bottle and no one came down, you know, no one picked it up. So you know, who am I supposed to call? How do I know who to call? I mean, seriously. You know, I enjoy that beach and as far as the parking is concerned, I've been to that area and I've seen cars that were parked in front of that property, people coming out that gate and driving away. So when they say that there's no impact on the parking that's incorrect. I challenge you to go down there and for you to investigate it because the way I see it what they're representing is not true. Thank you.

Vice-Chair Shibuya: Okay, thank you very much.

Mr. West: Just for the record I'm against and I would ask you all to vote against it. Thank you.

Vice-Chair Shibuya: Yes, Commissioners any questions? Thank you very much. Members, in the public area any testimonies? None? Public testimony is closed on this item. Members, do you have questions that you'd like to provide or if there's none, would you like to have...Commissioner Wakida?

Ms. Wakida: Yes, I guess my question is for Mr. Zimmerman? In our packet there were rebuttal letters to the people who had written complaints. Who wrote the letters?

Mr. Zimmerman: Me.

Ms. Wakida: Okay. In our packet there's no signatures on them.

Mr. Zimmerman: Really? Oh, okay. No, no, I wrote the letters.

Ms. Wakida: Okay. And did you, I mean, it seems that everybody on street, nearly everybody is objecting to this. Have you made an effort to go around all your neighbors and talk to particularly the ones that--

Mr. Zimmerman: No, we haven't. We got here two days ago. I wrote letters to the people that provide or we were provided with opposition to our permit, but I don't know the neighbors. I've heard over the years Mrs. Carr complain about various other neighbors but I don't know anybody else on the block other than Mrs. Carr.

Ms. Wakida: Okay. Thank you.

Vice-Chair Shibuya: Will you come to the microphone and introduce yourself, please?

Ms. Monica Zimmerman: Monica Zimmerman, Alan's wife.

Vice-Chair Shibuya: Move the microphone down so we can hear you. Thank you.

Ms. Zimmerman: I just wanted to say Mrs. Gebert who lives next door has two lots between us and her house. Her house faces completely to a different direction. So we're here and she's way on the point over here. So there's two gardens between us number one. Number two, she doesn't live on the island. She vacations very occasionally and is almost never there. Her housekeeper...she has a couple there that maintain the house and live on the property. The other was, the other name of somebody who objected was a part owner of a piece of the drive...of the street, but we don't know who they are and they don't live there either. And I think this other gentleman, I don't recognize him. I don't think he lives on the street either.

Mr. Steven West: ...(speaking from the audience)...I live on Maui.

Ms. Zimmerman: On Maui but not on, not on Hui Road E.

Vice-Chair Shibuya: Okay. Any other questions from the Commissioners? You're out of order at this point. Thank you. Commissioners?

Ms. Wakida: I'll ask another question if nobody else has one. You've been renting this out since you've owned it? Is that correct? As a short-term rental?

Mr. Zimmerman: Correct.

Ms. Wakida: You did know that it was illegal to rent short-term rentals without a permit?

Mr. Zimmerman: Well, I didn't know what it was. I mean, it's probably foolish of me to stand up here and blame the County, but it wasn't clear what you could do and what you couldn't do. I never hid the fact that was I doing it. I was paying taxes and filing tax returns the whole time. I figured if there was any kind of a breach of a regulation that we would hear from the County. I was told years ago if there was something that the County didn't like we would get a notice with 30 days to correct it or cease and desist or something. As I say, I'm actually...we probably in my estimation, we have complied with 95 percent of the ordinance that's before us today prior to you writing the ordinance. The fact that you have given us guidance, we've made the house safer, done things that we hadn't thought of, but we've always tried to be quiet, and there...it's...there's been no...there is no parking problem whatsoever aside from driving the street our house will accommodate if necessary seven or eight cars. We're not saying that we allow them to have it, we emphasize as Debbie Mitchell said when she gave her presentation. On the back of every bedroom door, on the piece of paper they sign when they check in, in the rental contract that they sign, we emphasize the fact that there are quiet hours, what they can do and what they can't do. Mrs. Carr said that we deal with the problems one on one is because it's only when somebody, a guest does something wrong that we have to deal with it. But we're now trying to make sure that we read them the riot act so to speak before they ever, before they ever step foot in the place.

Vice-Chair Shibuya: I have a question for you--

Mr. Zimmerman: Yes.

Vice-Chair Shibuya: --if there's no other questions from the Commissioners. What...to your knowledge how is this arrangement of the driveway on Hui Road E? What is the arrangement there? It's a private road but yet it appears like you...can you explain that relationship?

Mr. Zimmerman: I can't.

Vice-Chair Shibuya: Normally, when you have subdivisions you turn it over to the County and the County accepts it and then it becomes a public through fare.

Mr. Zimmerman: I have...you know, I have no idea what the history is. I was aware of it when escrow closed in 2004. Frankly I expected to get some sort of an assessment notice each year from a neighborhood association. I thought we maintained it privately. I've never heard from anyone. I have no idea. I know that the garbage trucks come down and certainly it's a public road for purpose of access to the beach, but I can't answer your question. I just don't know what the...

Vice-Chair Shibuya: Okay, do you have a...normally subdivisions have a CC&R.

Ms. Zimmerman: We're not a...I don't think we're officially a subdivision.

Ms. Wakida: Talk into the mic.

Ms. Zimmerman: I don't think we're a--

Vice-Chair Shibuya: Okay, please talk into the mic, identify yourself again, please?

Ms. Zimmerman: Monica Zimmerman. I don't think we're officially a subdivision, but I'm not, I'm not clear. I think Marina Agell used to own the whole peninsula and she's the one who then cut up some of the land at the end of the peninsula and then this road came into play because now the access was needed to all the lots. But I don't know any more than that, sorry.

Vice-Chair Shibuya: Okay, thank you. Maybe Public...maybe Staff or Public Works can address some of this issue here in terms of the roadway? Director? We're lucky, we got Director Goode here.

Mr. David Goode: Well, thank you, Vice-Chairman, Members of the Commission, good morning. David Goode here on behalf of Public Works. Rowena who's normally here is out sick today. To the best of my knowledge there's a number of Hui Roads. They were all part of what was called the Mailepai Partition. It was a partition action and I think 1930 was mentioned and like other partitions in Maui that's, a lot of them around 1910 through 1930's, the court basically took a large piece of land that was then held by many owners probably descendents of the original owners and partitioned the land amongst them. And in that partition they dealt with some of the road ownership, and how they dealt with in various petitions varies. Only the Mailepai Partition kept most of the roads with the Second Circuit Court. So across the street, our court house, they own a lot of these roads. Some of the Hui Roads, Hui Road A was actually given to the County in that partition. So we've had to deal with the Hui Roads over the years. They're privately owned as mentioned. We've been working with the Council on ways to eventually get them to the County. And as the peninsula was subdivided there was requirements to make road widening lots, so when they mentioned that there's a private road widening lot or road lot adjacent to the Hui Road when they subdivided they had to keep ownership of that lot, we couldn't accept that little strip because it was along somebody else's road. One day hopefully we'll get that road widening lot, road widening lot as well. So that's a little history lesson I guess if you will, but Hui Roads in Napili are frequently owned by the Second Circuit Court.

Vice-Chair Shibuya: Okay, well thank you very much. That's thoroughly confusing.

Mr. Goode: I tried to make it simple.

Vice-Chair Shibuya: I understand what you're saying, but we certainly made it complex for the residents. My sympathies.

Ms. Zimmerman: I'm sorry?

Vice-Chair Shibuya: My sympathies.

Ms. Zimmerman: Yeah, thank you. Thank you.

Vice-Chair Shibuya: For making this very complex.

Ms. Zimmerman: It's fine. I mean, we don't know the difference basically. It's a road that is very usable and we pass by it no problem. But I did wanna say that the police do come down there

because we've had our own experience where we set our alarm off incorrectly and couldn't get it off and they were there in a matter of a little bit. So I know they do, they do come down that road. The only other thing I wanted to add was both the Geberts and the Carrs have stayed in our house. The Geberts have rented from us and we allowed the Carrs to stay in our house for a few days when they were tenting theirs. So they've had use of our property as well. Thank you.

Vice-Chair Shibuya: Okay, thank you. Commissioner Hedani?

Mr. Hedani: Yeah, I have a question for the Zimmermans. Is the gate to your property automated?

Mr. Zimmerman: Yes.

Mr. Hedani: So you have a clicker and it will open?

Mr. Zimmerman: Yes, yes.

Vice-Chair Shibuya: Any other...

Mr. Hedani: Mr. Chairman, just a comment, yeah to add to the confusion. I've always referred to that particular road as Hui Road F. If you look at Exhibit 2 that we have in our, in our packet. It says Hui Road and I think that's an F but there's a little smudge at the bottom everybody has interpreted to read Hui Road E.

Vice-Chair Shibuya: Thanks for confusing it even more Commissioner Hedani. Members, any more questions? If not, then we'll have the staff member come up with the staff recommendation.

b) Action

Mr. Wollenhaupt: Good morning once again Members of the Maui Planning Commission. The recommendation is in the green colored sheets of the staff report. Again, we looked at the criteria under 19.65.030, and in the time of the writing of the report and in reviewing all of the evidence we believe that the application did comply with the applicable standards for the short-term rental home. That being the case, the Maui Planning Department does recommend the approval subject to the 23 conditions that are outlined in the report. The first one being that the short-term rental home permit shall be valid until January 31, 2015 subject to further time extensions by the Director pursuant to the provisions of Section 19.65.070, Maui County Code. This would be for a three-bedroom home that would be limited to up to six total guests. The other conditions are standard conditions. That being the case, in consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the January 14, 2014 meeting as its findings of fact, conclusion of law and decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Vice-Chair Shibuya: Okay. Commissioner...I mean, Director Spence?

Mr. Spence: I'm sorry Commissioners, when I signed this I thought there was the condition that we again...and I started out the meeting saying that there should be perhaps a trial period for this so

I see it's not on here and I would like to make that recommendation to the Commission that there be a trial period of a year and that you can...that the renewal would come back before you...(inaudible)...okay, so it would, it would essentially mirror the same proposed condition for the last one that the short-term rental home permit shall be valid until January 31, 2015 subject to further time extensions by the Maui Planning Commission in a noticed public hearing subject to the requirements in 19.510 of the Maui County Code.

Vice-Chair Shibuya: And for a comment here since the Director has made a comment, I'm gonna go ahead and make a comment at this point. I'm not revealing how I'm favoring on this or disapproving of this by my comments but I just wanna mention that in this short-term rental housing type of situation where the owner is not present and you have an agent who is earning their earning by having more of these visitors into the house, there is an incentive to go ahead and get the first applicant possible and have the greatest number of visitors in that facility. Behavior is not one of the criteria in which we select and unfortunately this is a problem that impacts neighbors who expect and have purchased the property for their residences, the safety, as well as for their absence of annoyances. And this has been very troubling for me in a sense that I'm sensitive to both sides. The opportunity to have an income if possible as well as being neighborly and caring and considerate of others that are in the close proximity. And so this is where I'm kinda debating on. Thank you. Commissioner Ball would you...do you have a comment?

Mr. Ball: I do.

Vice-Chair Shibuya: Please, Commissioner Ball?

Mr. Ball: You read my mind.

Vice-Chair Shibuya: Please move the microphone closer to you.

Mr. Ball: My comment is and it kind of comes from the other applicant, application prior to this one also is kamaaina doesn't make you...you don't make a kamaaina because you carry a plastic card. Kamaaina is made from working with your neighbors to work out differences. And I was concerned with your statement and statement of the previous application that you didn't do that. You don't know your neighbors is what you said, and that sort of thing. And I'm concerned about that because you have families, five families in the neighborhood. That's what it's all about. I mean, we've had applications where the people came in, they've had families next door but they worked with those neighbors to reassure them that things were not gonna go awry and we've approved those. That wasn't the case earlier this morning, and it's not the case now for me. It's unsatisfactory answers for all those questions that we had as it pertained to reassuring your neighbors that they're gonna have a peaceful family existence in their neighborhood. And for me, if you're living in the home and especially if you're a homeowner, you got a priority over vacationers as far as peace and quiet and that. So I guess you know where I'm gonna vote.

Vice-Chair Shibuya: Any other comments, Commissioners? Commissioner Medeiros?

Mr. Medeiros: I'd like to move to deny.

Vice-Chair Shibuya: There's a motion by--

Mr. Ball: Second.

Mr. Tsai: Second.

Vice-Chair Shibuya: --Commissioner Medeiros to deny. Seconded by Commissioner Tsai

Mr. Tsai: You got two.

Vice-Chair Shibuya: Oh, Commissioner Ball. Seconded by Commissioner Ball. Members, discussion? Commissioner Wakida?

Ms. Wakida: I have...I echo Mr. Ball's comments. It concerns me that there seems to be almost universal objection to this in their area and no support letters. Our Director has told us, I mean, has suggested a trial period. They've had nine and a half years of rental, so they've certainly had a trial period with the neighbors and their neighbors have responded how they feel it's gone. So I listened to the neighborhood. Some short-term rentals seem to be a comfortable fit, others don't.

Vice-Chair Shibuya: Okay, thank you. Commissioner Medeiros?

Mr. Medeiros: I must be a deep echo because I echo both of them. Bottom line for me is there are five families there. And the Zimmermans have not...he's like carrying a card does not make you kamaaina. You know, I know my neighbors and before I would do anything like this I would check with my neighbors first because if you come from Maui, neighbors matter. I mean, they just do. My vote is to deny.

Vice-Chair Shibuya: Thank you, Commissioner Medeiros. Commissioner Hedani?

Mr. Hedani: I concur with the comments that I've heard today. The problem that I have here is that any time there's another short-term rental operation within very close proximity to the application it troubles me. We have one that's across the street in this particular case. It's up for sale. If they're interested in getting into the hotel business maybe they can purchase that property and reapply for the renewal of the short-term rental permit on that, on that operation.

The other thing that bothers me is that when you have a complaint and you have a fight that occurs on the property and you get involved with trying to stop it, I could understand I think what was happening if a family is grieving over their son that died in Afghanistan. I came to within a few seconds probably of losing my son in Afghanistan and to evict the person, the brother that was having the argument over that issue under those circumstances to me is just bizarre that you would actually compound the entire problem when they're trying to heal by kicking the son out. It's true they might have gotten into an argument, but if you understand what's happening you need to make some accommodations in that particular case. I know that doesn't relate to the owners or to the applicant, but to me it's a question of management style, how you manage the property and they also have a violation of the outdoor lighting ordinance if their coconut trees are up lit and it blocks the night skies. So on those bases I will be supporting the motion.

Vice-Chair Shibuya: Okay, thank you. Can we...yes, Director?

Mr. Spence: Okay, Commissioners just, just a comment on Mr. Hedani's concerns. One of the things...the short-term rental permit if they're granted are not transferrable from... I mean, they must be renewed but also if...and I haven't see a for sale sign. If this property is for sale and it's sold, the new owners must come in for a...for their own application. It's going to die if it's sold. The permit just goes away.

Vice-Chair Shibuya: Okay. There's no other comments, Director will you repeat the motion please?

Mr. Spence: The motion is for denial.

Vice-Chair Shibuya: Members, all in favor raise your hand?

Mr. Spence: That's six ayes.

Vice-Chair Shibuya: Thank you very much.

Mr. Spence: The permit is denied.

Vice-Chair Shibuya: Thank you.

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

**VOTED: To Deny the Short-Term Rental Home (STRH) Permit.
(Assenting - J. Medeiros, K. Ball, M. Tsai, W. Hedani, S. Duvauchelle,
P. Wakida)
(Excused - I. Lay, J. Freitas)**

Vice-Chair Shibuya: At this time, we'll just take a recess and we'll be back at 12:40.

A recess was called at 11:40 a.m., and the meeting was reconvened at 12:50 p.m.

Vice-Chair Shibuya: We have the Planning Commission is back in order. And the first item that we have next, Mr. Giroux will you please introduce this item?

Mr. Giroux: Okay, on the agenda we have Mike White of KBHL, LLC requesting comments on the Draft Environmental Assessment prepared in support of the Special Management Area Use Permit for the Plantation Inn Redevelopment Project. Candace Thackerson is the Planner.

Vice-Chair Shibuya: Hello Candace, will you make your presentation please?

D. NEW BUSINESS

- 1. MR. MIKE WHITE of KBHL, LLC requesting comments on the Draft Environmental Assessment (DEA) prepared in support of the Special Management Area Use Permit for the Plantation Inn Redevelopment Project to demolish the existing structures on parcels 36 and 44; consolidate Parcels 36, 38, and 44; construct a two (2)-story guest building with 14 rooms; create**

separate 9-stall and 14-stall parking lots with driveways; construct accessory hotel improvements, install landscape plantings, required infrastructure and utility systems at 174 Lahainaluna Street, TMK: 4-6-009: 036, 038, and 044, Lahaina, Island of Maui. (EA 2013/0002) (SM1 2013/0008) (C. Thackerson)

The entity who will decide on the acceptance of the Final Environmental Assessment is the Maui Planning Commission.

The EA trigger is the location of the subject property in the Lahaina National Historic Landmark District.

The public hearing on the Special Management Area (SMA) Use Permit will be conducted by the Maui Planning Commission after the Chapter 343 process has been completed.

The Commission may provide its comments on the Draft Environmental Assessment.

Ms. Candace Thackerson: For the record, I just wanted to note that I passed around a paper for the applicant, on the behalf of the applicant, Ms. Dee Coyle, the Project Manager will be named as the representative in place of Councilmember Mike White.

Vice-Chair Shibuya: Okay, thank you.

Ms. Thackerson: This is for the Draft Environmental Assessment so we will be gathering your comments.

Vice-Chair Shibuya: Okay, Commissioner Hedani?

Mr. Hedani: Yes, Mr. Chair, I just wanted to disclose that Kaanapali Beach Hotel is a member of Kaanapali Operations Association and while I would like to participate in discussions, I will not be voting on this particular item.

Vice-Chair Shibuya: Okay, thank you. Candace are you ready?

Ms. Thackerson: I don't know if we're...be any voting, I think it's just gathering the Draft Environmental Assessment comments. So any comments are definitely appreciated to be put into revising this. This will come before you at a later time for the SMA Approval. And the applicant is here, it's Chris Hart and Partners and they'll be doing a short, a short power point presentation and then I'll be gathering your feedback. Thank you.

Mr. Giroux: Yeah, and what we can do is individual members can make comments and then at the end, we'll summarize those comments and then as a board accept all of them or make a motion if there's not agreement on all of the comments.

Mr. Jordan Hart: Hello Mr. Vice-Chair and Planning Commissioners. My name is Jordan Hart from Chris Hart and Partners. I'll be going through a presentation on the project. This is for collecting

comments on a Draft EA as it has been said. So I'm gonna try and go quickly because there's a lot of information to cover. So let me know if I need to slow down, but I'd rather go quickly than to take your time.

So as stated by Candace the project is the Plantation Inn. It's a redevelopment project including TMKs: 2-4-006: 009, 036, 038, 044. This is to collect comments for a Draft Environmental Assessment and is being prepared in support of a Special Management Area Use Permit for the redevelopment project.

The project team, the project manager for the Dee Coyle as was referenced earlier. Chris Hart and Partners is the planning consultant. Myself and Glenn Tadaki are here representing the project. The architect is Steven Heller, who is also present. And the civil engineer is Mr. Kirk Tanaka, also present.

Some information on the property. The parcels, Parcel 036 is .67 acres in size. This is the location of the current Plantation Inn. Parcel 038 is the former Trilogy lot. It's .15 acres. Parcel 044 is a residence behind the current Plantation Inn was an Agena parcel is .2 acres. The total land area is 1.02 acres. The project is bordered by Lahainaluna Road on the north side, Wainee Street on the east, Panaewa Street on the south, and Luakini on the west. The State Land Use Designation for all three parcels is Urban. Parcels 036 and 044 are Hotel Community Plan designated. Parcel 038 is Commercial. The zoning for Parcel 036 and 044 which is the current Plantation Inn and the Agena parcel in the back is H-M, Hotel. The Trilogy parcel is B-2, Community Business District. The property is located within the Lahaina National Historic Landmark District but outside of any of the County Historic District. It's flood zone X.

This is a map of the Lahaina Historic Districts 1 and 2. This is the project. Here is the boundary of District 2. Here's aerial of the project. This the Trilogy parcel, No. 044. This is the Plantation Inn, Parcel 036, and this is...oh, I'm sorry, this is Parcel 044 is the Agena parcel, 038 is the Trilogy parcel here. The Plantation Inn also maintains an offsite parking lot here. This is Panaewa Street, Luakini Street, Lahainaluna Road, and Wainee.

Let's see, existing site conditions. Parcel 036 is the location of the current Gerard's Restaurant in the Plantation Inn which is a two-story building with 19 guest rooms, landscaped courtyard, pool, spa as well as a paved and graveled parking areas as well as the 11-stall parking lot that's at the corner of the Luakini and Panaewa I just mentioned. Parcel 038 is a former office building used by Trilogy. It's now used a security and monitoring station and plant nursery for the Inn. Parcel 044 is the Agena parcel in the back is a single-family dwelling. There was also a barbershop constructed on that site in the 70's. It's now being used as storage for the Plantation Inn.

This is a topo map, again, just kinda indicating the parcels. Here's some photographs of the site. Here's a photo from Lahainaluna Road, a close up of Gerard's, some interior of the reception area. This is an interior of Gerard's looking towards Lahainaluna Road. Courtyard interior view looking at Building 2. This is from Panaewa Street looking at the back of Building 2 towards Lahainaluna Road. This is standing near the pool looking at Building No. 2. This is looking towards Panaewa. This is a unit looking towards Panaewa. Facing east, so this would be toward...with your back to Panaewa looking across the pool at Building 1. Some courtyard, typical photos. This is the, this is overflow parking here, unpaved. This is onsite paved parking. This is the Trilogy lot Parcel 038.

This is the Akena Parcel 044. This is the residence. This is the former barbershop. Lahainaluna Road, Panaewa, Luakini Street looking north. Also, this is the location of the offsite parking.

So some history on the project, Phase 1 was built in 1987. That's the existing Building 1 with seven rooms and Gerard's, a lobby, reception area, a pavilion and parking and landscaping improvements. Phase 2 was built in 1990. That's the existing Building No. 2 with 12 units, courtyard, pool, and spa, some additional parking and landscaping improvements. This is the third time that this Phase 2 it has been proposed. It's been approved two separate times in the past. This includes a new Building No. 3 which includes 13 guest rooms, alterations to Building No. 1, alterations to the courtyard, parking, landscape, infrastructure and utility systems. So in '89 and 2005 the Planning Commission approved Phase 2 for an SMA Major Permit. Basically over time the Plantation Inn wanted to try and explain and so they had been trying to purchase the Trilogy parcel and in that time frame the permit lapsed and so the new revised Phase 3 incorporates the now purchased Trilogy parcel. Previously approved 2005, Phase 2 SMA site plan is somewhat similar with the exception of the increased land area. So this is the 1998, Phase 3 as it was proposed. This was the Trilogy parcel that was not owned at the time. In 2005, the Akena parcel had been acquired so the Phase 3 incorporated that. And then on our current project, they've acquired the Trilogy parcel and it's being incorporated.

Design considerations. All buildings and structures, signs and lighting will continue to maintain the architectural theme and historical character of the Plantation Inn. The project site is not located in Lahaina Historic District 1 or 2, but the architectural elements will be consistent with the Architectural Style Book for Lahaina and the Lahaina Historic District Design Guidelines. Appropriate energy and water conservation measures have been examined for the project and will be implemented to the extent practicable. New exterior building and landscape lighting will be shielded downward to minimize impact on sea birds.

Some of the work that needs to occur for this project. There's the demolition of existing structures on Parcel 038 and 044. Parcel 036, 038, and 044 will be consolidated. Parcel 036 and 044, the construction of the new two-story guestroom...two-story guest building with 14 units will occur on that location. Parcel 038 there will be expansion of an 11-stall parking lot with one-way entry only driveway from Lahainaluna Road. Parcel 044 there will be construction of a nine-stall parking lot with a two-way driveway onto Panaewa. Some other things that will include landscape renovation planting, utility line modifications, road widening, demolition and realignment of existing pool and spa, interior improvements to the existing units, construction of a new covered lanai on Building 1.

With regard to phases and time frame, project cost is estimated to be \$4.6 million and take approximately 20 months. Phase 1 will be the demolition of structures, the existing residential structures on Parcel 041 and 038, and the construction of offsite improvements for Parcel 038 as well as interior improvements to the existing Plantation Inn and the construction of the 11-stall parking lot on Parcel 044, sorry 038. Phase 2 will be the construction of the lanai on the west side of the existing Building No. 1. The demolition and the reconstruction of the existing pool and spa. Phase 3 will be the construction of the proposed two-story building and the additional construction of nine more parking stalls including the realignment of utility lines and a perimeter fence.

So just briefly, the phases break out like this. This is roughly Phase 1 which includes some renovations to the existing structure and the construction of the lot here. This will be roughly Phase

2 which includes the realignment of the pool and spa area and some renovations to Building 1. And then Phase 3 is the upper parking area and the construction of the new Building 3.

At this time...well, we have the architect, Steven Heller here who would be able to answer any questions regarding architecture if necessary. Here's some exterior elevations. I should add that the project was reviewed by the Urban Design Review Board last week and the comments were quite favorable and we will be incorporating the few comments that we did receive in the Final EA. Here's some more exterior elevations. These are for the existing Building 1. Here is the proposed lanai. This is the existing Phase 2 building. These are...this is a civil site plan, and so Kirk Tanaka is also available to answer any questions. It's basically outlining some of the infrastructure improvements that are gonna need be included in the project scope. The increase in drainage will be retained on site as required. As stated earlier we're gonna have to come at the end of the EA process, we're gonna have to come back before the Planning Commission for an SMA Major Permit. So basically these issues are being addressed.

In the context of the environmental assessment, the trigger for the EA is the property's location within the Lahaina National Historic Landmark District. The EA is anticipated to receive a finding of no significant impact. It was published December 8, 2013 in the Environmental Notice operated by the OEQC. For the current EA and SMA review process the Draft EA was distributed to various government agencies and the Maui Planning Commission. This is our Planning Commission meeting to review and receive comments on the Draft EA.

Vice-Chair Shibuya: Can you speak up louder?

Mr. Hart: I'm sorry. Okay, all substantive comments received on the Draft EA must be included and addressed in the Final EA. The Proposed project is an infill development and involves an expansion of the preexisting and entitled land uses. The project is compatible with surrounding development within the area and will not alter existing land use patterns.

Vice-Chair Shibuya: Cannot hear?

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

Vice-Chair Shibuya: Oh, I see. Maybe you can talk little louder?

Mr. Ball: It's the audience. Gina, can you guys...yeah, you can't hear 'cause Jordan is quiet and you guys are talking.

Vice-Chair Shibuya: Thank you.

Mr. Hart: Sorry. Is this better?

Vice-Chair Shibuya: Yes.

Mr. Hart: Okay, I'm sorry. Let's see, there are no rare or threatened or endangered species of flora and fauna on the subject property nor does it contain any critical wildlife habitat. Best management practices and compliance with applicable regulatory requirements will help ensure

that the natural and manmade environment will not be adversely impacted by the construction activities. The subject property does not lie within any scenic view corridors nor does it possess any significant natural features.

And archaeological inventory survey level investigation for the subject property was conducted in the late 2012, and has been classified as an archaeological assessment since field work did not identify any significant surface or subsurface cultural deposits. A monitoring plan was prepared by the project. The archaeological monitoring will be conducted during all construction related ground altering activities including on Parcels 038 and 044 since they were not accessible for subsurface tests during the AIS level investigation. The reason for this is that they are currently developed parcels and so what actually happens is that you can dig in your exposed areas, but there is a monitoring plan. There will be an onsite archaeologist to supervise the demolition and excavation activities. The archaeological assessment and monitoring plans were submitted to SHPD for review in early 2013, and we're currently in the agency comment period now.

A cultural impact assessment report was prepared for the subject property and notes that the construction of the project is not expected to have any adverse effect on cultural beliefs, practices, resources or gathering rights in the project area. The projects being discussed are all previously developed parcels. Former residents of the Akena parcel which is part of this project were interviewed as part of the cultural impact assessment report. One of those people were Brigadier Clarence Merton Akena, retired, and his Aunt Nancy Akena. Neither General Akena nor Nancy Akena recall any Hawaiian cultural practices taking place on the property and did not feel that the project would have a negative cultural impact. All construction related ground disturbing activities will be monitored in accordance with the archaeological monitoring plan. If human remains are uncovered, the onsite archaeologist will contact SHPD and halt work immediately.

The proposed project is anticipated to benefit the local economy by providing direct and indirect construction related employment. In the long-term the project will support the economy through various visitor spending, tax payments and operational costs. The project does not include a housing component and is not expected to have adverse effects on the population nor generate population growth or to generate impacts for demands on public schools, fire, police, parks, and health care.

The applicant was subject to a change in zoning that occurred in 2005, and an SMA Use Permit for the previously proposed Phase 3. There was a workforce housing agreement established...I'm sorry, affordable housing agreement established at that time and the project did contribute to a West Maui affordable housing project that was...has been constructed.

The subject property is located in a built up urban area with sufficient infrastructure and service capacity to accommodate the proposed project. Estimated average daily domestic irrigation demand for the project is 39.53 gallons per minute while fire flow requirements are 1,500 gallons per minute.

There's no adverse long-term traffic impacts anticipated from the proposed project. The project will only generate an additional 6 trips during the A.M. peak hour and 12 trips during the P.M. peak. Traffic management plan will be implemented to minimize traffic disruptions due to project related construction. Existing overhead lines and/or utility connections will be tapped to provide power,

phone, and CATV service. Exterior lighting will be shielded and downward facing.

Proposed project is consistent with the goals, objectives and policies of the special management area and is not expected to result in any adverse impacts to the environment. That's pretty much the conclusion at this point.

Vice-Chair Shibuya: Okay, thank you. Commissioners, any questions?

Mr. Ball: Question? What were the comments from the Design Review?

Mr. Hart: To summarize they wanted us to...the comments were largely negative of...I'm sorry, no, I didn't mean to say largely negative...largely positive.

Ms. Thackerson: I remember. There were three comments and their comments were please install bike racks, please use energy efficient, you know, mitigation where possible, and please narrow the windows on one of the building rear elevations. The windows were kind of fat and they wanted to see them with a narrower profile. And the architect explained that that drawing was not...you know, that was just...they intend to have windows on them. They can easily narrow the size. Everything is going to match the existing Plantation Inn. Those were the three comments. Other than that, they were unanimously favorable of the design.

Vice-Chair Shibuya: Okay, Candace, during this discussion with the Commissioners will you summarize for us, take notes and summarize for us?

Ms. Thackerson: Yeah, yeah.

Vice-Chair Shibuya: Okay, thank you. Commissioners, any other questions? Commissioner Wakida?

Ms. Wakida: thank you. I have a question about the zoning. Maybe you can clear this up because one of the new parcels is on B-2.

Mr. Hart: That's correct.

Ms. Wakida: So, which is not Hotel.

Mr. Hart: That's correct.

Ms. Wakida: So can you please explain how this is gonna work?

Mr. Hart: Sure. Okay, so parcels are permitted to have split zoning. And so what will occur on the B-2 segment of the property which is this location here will only be parking and that's a permitted use in the B-2 District.

Ms. Wakida: Okay.

Mr. Ball: I have a question.

Vice-Chair Shibuya: Commissioner Ball?

Mr. Ball: You're having...

Vice-Chair Shibuya: Can you get the mic, please?

Mr. Ball: You're able to accommodate all the parking for the complex with the parking that you have there, yes?

Mr. Hart: That's correct. Well, the parking that we have as part of the final design, that's correct.

Mr. Ball: Final plan, right.

Mr. Hart: Correct.

Mr. Ball: Now with that parking are those stalls gonna be resold to accommodate others? I know in Lahaina there's a lot of parking stalls that are multiple, multiple...not multiple-

Vice-Chair Shibuya: Phantom parking.

Mr. Ball: They're counted a lot.

Mr. Hart: Sure...

Mr. Ball: One stall's counted for three different restaurants or whatever, right?

Mr. Hart: So required parking is not permitted to, you know, joint use without some sort of special agreement which we're not going for as part of this application.

Vice-Chair Shibuya: Okay, thank you. Commissioner Wakida?

Ms. Wakida: On the parking issue, on the off-street parking that, is that permit only?

Mr. Hart: Do you mean do the guests have to register with the front desk for their parking stalls?

Ms. Wakida: Uh hmmm.

Mr. Hart: I believe, yes that's correct.

Ms. Wakida: So it can't be...it's not open to the public, public parking, public vehicles can't go in there and take up those stalls?

Mr. Hart: No, not...no, no.

Ms. Wakida: You're sure. I mean, is there a sign that says you will be towed if you don't have a...if you're not a hotel permit, you don't have a hotel permit sign on your car?

Mr. Hart: Are we talking about the gravel parking lot that abuts or are we talking about parcels that are existing?

Ms. Wakida: It's the existing one you showed us in your slide.

Mr. Hart: Okay.

Ms. Wakida: I think it's the one on...is on Luakini.

Mr. Hart: Oh okay, on Luakini and Panaewa, right, right, okay, right.

Ms. Wakida: Off-site parking.

Mr. Hart: So that's...currently that's not required by any of the existing uses that are occurring. That will be, that will need to be used in the future with the expansion, but it's currently owned by the same entity, the hotel.

Ms. Wakida: Okay, so my question is for that off-street parking—

Mr. Hart: Yes.

Ms. Wakida: —is you have to have a permit to park there?

Mr. Hart: When it is future required parking for the expansion project, yes. You will need to, you know, check-in with the hotel and be given, you know, a temporary license to be parking there.

Ms. Wakida: And so anybody that comes off the street and parks there is gonna be subject to towing?

Mr. Hart: Right, I believe that this is similar to the previous question about joint use of parking. No, if they're required parking that are assigned for a use then it'll have be solely for that use.

Ms. Wakida: Okay, okay, thank you.

Vice-Chair Shibuya: Okay. Any other questions? Commissioner Hedani?

Mr. Hedani: Jordan I wanted to compliment the applicant on the architecture of the building even if it's outside of the Historic District, I think it's in keeping with the spirit of Lahaina and it's reflective of the history of Lahaina is very well executed.

Mr. Hart: Thank you.

Mr. Hedani: I also had a question on whether or not the second floor is ADA compliant?

Mr. Hart: I believe it is not. I believe that the ADA units will be on the ground level of the expansion building. So no, there's no elevator proposed for instance.

Mr. Hedani: So the project is ADA compliant by having units on the ground?

Mr. Hart: By the ground level units, yes.

Vice-Chair Shibuya: Commissioner Wakida?

Ms. Wakida: I have a question on the two structures that are gonna get torn down. Do you have those demolition permits already?

Mr. Hart: As it happens I did pull demo permits for the Agena parcel, you know, at the time that the original SMA Permit was issued. But basically they decided not to proceed with the project as it was configured then so they never demolished the building. So we would need to get new demolition permits for those two structures as far as I understand.

Ms. Wakida: I have a follow up question I believe for the Planning Director?

Vice-Chair Shibuya: Okay, continue.

Ms. Wakida: As you know, there is a lot of concern in the National Historic Landmark District of Lahaina to maintain as many old structures as possible in order to maintain the National Historic Landmark integrity I guess. So I'm a little concerned about the permission to tear down these two buildings particularly the one on Panaewa which as it says in our EA is one of the Six Camp house which would have significant historic interest as for maintaining that plantation era architecture. So I know that other people have gone and who had old houses and want to remodel them or tear them down and rebuild them have had a great deal of resistance from the Cultural Resource Commission. So I'm a little surprised that these two, it seems to be a given that these two plantation houses are gonna be torn down. Could you comment on that please?

Mr. Spence: Okay. And I apologize, I was trying to multitask. Jordan, how old are these homes? And I would say regardless...I mean, if they're over 50 years old whether they're in the landmark or they're not, whether they're in the Historic District or not, they still need to go through review by SHPD. And that's where I was headed with that comment.

Mr. Hart: Yeah, if I could say something on behalf of, you know, the project. I didn't mean to imply that it's a foregone conclusion that are approved to be demolished, but the proposed expansion does require that they be demolished. So we will need to come before this body for an SMA Major Permit. We are headed to the CRC for comments on the Draft EA. We will be required to obtain State Historic Preservation approval of any plans to demolish. So we're really setting out on the project and I was trying to explain what the applicant's plan is in that context I guess.

Vice-Chair Shibuya: I was just gonna make a comment here, Jordan, is there a possibility for moving the homes into another area where they actually have historical preserved things such as the mill, the smokestack in that vicinity, I don't know. Maybe you can have an offer for that.

Mr. Hart: I definitely think that these are the kinds of things that we're looking for comments on for this Final EA that we'll be preparing. So we'd be open to investigating something like that.

Vice-Chair Shibuya: I would say that would you try and investigate that possibility rather than demolish and then if there's no takers then yes, okay, demolish.

Mr. Glenn Tadaki: Hi, my name is Glenn Tadaki with Chris Hart and Partners. If it pleases the Maui Planning Commission I'd like to present some photos of the existing structures on Parcels 038 and 044 so you can see for yourselves what these structures look like both on the outside as well as on the inside. I'm sure you'll agree after seeing the photos that there are...these structures are not only historic from an age standpoint which is as Director mentioned is anything over 50 years old, but their physical condition, structural integrity and deterioration can only lead one to feel that these structures are not really good examples of, you know, old plantation architecture and that there are other existing examples that are truly good representatives of that era and period architecture including those other homes that are a part of this six-lot, I mean, six-home plantation camp. Those homes are, you know, across the street from where Agena home is located and they're, you know, as far as I know still being used for single-family residential purposes and are in better physical condition than the Agena single-family dwelling. So at this point, if you just give me a few minutes I'll go ahead and get to that power point for the PDF slide show of those structures.

We're scheduled to appear before the CRC at their meeting on February 6, so in anticipation of that meeting we had already gone ahead and prepared a power point presentation for the CRC. And we recently prepared this supplemental power point presentation which includes these photos of the structures on Parcels 038 and 044. This is the Trilogy office building as viewed from Lahainaluna Road. It formerly was used by Trilogy Excursions for their commercial site seeing operation. The house was built in 1940. These photos were taken by the Project Manager, Dee Coyle over the past several days. The photos are pretty much self-explanatory. The one on the upper left is the photo of the interior of the garage. The one on upper right is an exterior view of the garage, I should say, yeah, of the garage although it's with the door down so you can't really see that's clearly a garage. Lower left photo shows the deterioration of the roof at the corner of the building. The photo on the lower right is a photo of the interior. Perhaps I should get Dee up here to explain these photos since she was the one that went ahead and took the photos and I certainly do not wanna misspeak or misrepresent anything that these photos represent.

Ms. Dee Coyle: Aloha, my name is Dee Coyle and I am the project manager for this event here. If I can briefly describe some of these. Right you're seeing right now is the main building and this is the mauka side. The fence behind that gentleman is the property line and what's he's doing is he's looking at the plumbing structures. So the top right picture shows...can't really see it, but he's looking at exposed galvanized pipes, an indication that the house is very aged. Bottom left, again you can see more exposed pipes. I think in another picture you will see that there are lots of holes that are being patched. Just a minute. And the bottom right here is an indication of rust and deterioration of the galvanized pipes. This is...this shows...let's advance to the next one. You can see deterioration on the roof. The only reason why I don't have pictures of the whole roof on the top which I understand is pretty dilapidated is because I wasn't equipped to go on the roof, so I couldn't take the pictures. But the maintenance person for the Inn has looked at the roof and has indicated that there is major deterioration on the roof.

Building 1, bottom left is exposed pipes and wiring. Oh, and this bottom right picture is what I was showing you where there's lots of holes that are being patched by foam and it's because the rats used to go inside. ...(inaudible)...with age. The top left here, I brought our chief engineer from

Kaanapali Beach Hotel and he was with me when we took these pictures and he says that this kind of material in the top left here is a possible asbestos material because it's very, very old. It's that brown material that kind of deteriorates when you touch it. So top right shows again, patching with that same kind of substrate material as well as the bottom left where these are steps that were covered with a little bit more contemporary tile so to speak. But underneath as it peels off you can see that there's a very old-style tile that was used back then. Again, I'm told is a possible asbestos material. What you see on the top left picture is the add-on that was used as a kitchen by Trilogy of which they had prepared all of their, I guess the food that they would take onto their trips. So this is an add-on with the ceiling very, very low. As you can see from the next pictures on the top right and the bottom right, as well as the next one over is not a very good job of...the condition right now, but certainly signs of deterioration and exposed wires and such. This as well, is another indication of the condition of the building. These are outside pictures where you'll see exposed wires and pipes as well as in the back where you can see I think they call that insulation material. So you can see it's pretty dilapidated.

Now in the back of the main building there are two other structures so this top left picture shows as you are looking facing southwest, to the left I'm just going to call it Dwelling 1 for sake of reference and in the rear of the picture you can see the steps going up. That is the...I'm gonna call it, Dwelling No. 2. And then to the right is the end of Building 1. Top right picture, we do use this area to revive orchids that are used in our lobby for both properties and we use it to restore and bring it back to life. Bottom left picture you can see a better picture of the Dwelling No. 1, as well as No. 2. No. 2 is in the foreground. And to the right of that bottom right, you can see that big silver doors over there are one of two reefers that Trilogy also used while they were...while they occupied the property.

So this Parcel No. 4 what we refer to as the Agena property and it was built in 1932. The barber shop to the right of the picture was built in 1975. The top left picture...well, the top two pictures are what you would probably see from the curb side view. This area was loaned out to the magician that we have at our show, the Kupanaha Show. And so he primarily occupied this area and using it for a lot of storage right now as well as the bottom pictures there. So it's in quite disarray right now, and basically they store much of their equipment there.

This is the rear of the house. Top left picture is the rear of the house and this picture shows us facing west. As you can see it's not in good condition where a lot of overgrown plants. The bottom left is the west side of the house facing south and this. The bottom right picture is the old barbershop on the west side exterior. We're looking at it facing north. I was not able to get any pictures on the interior of this particular building. So anyway, we can proceed.

So I am showing some pictures here of deterioration on the roof conditions as well as there are galvanized pipes on the property as well. And you can go forward. Here's some shots of the interior of the house. The top left it shows that this was the original steps from the back of the house and if you look on the bottom left right now those steps lead to this add-on kitchen here. The bottom right picture shows a picture of the livingroom and the one above it is a bedroom. The one in the middle on the top is the bathroom and what's that arrow is pointing to is another galvanized pipe that is going into the house. And that's all.

Vice-Chair Shibuya: Thank you.

Ms. Coyle: Any questions?

Vice-Chair Shibuya: Commissioner Hedani?

Mr. Hedani: Yeah, I was wondering if we could get comments from your architect on the salvageability of buildings like that?

Ms. Coyle: Sure.

Mr. Steven Heller: Members of the Planning Commission, my name is Steven Heller. I am the architect. I was the architect for the first and second phases as well so this project's been with me for a good part of my career. To answer your questions about those existing buildings. If someone can find architectural integrity in the plantation style in those photographs or when viewing those buildings I'd be amazed because they've been added onto so many times and modified so many times. It really disturbed intrinsic value, the actual design elements that might make these salvageable buildings.

The second aspect is they are in terrible shape, really, really bad shape. So I think that this company, you know, has a conscious and you know, has an upward look in general cultural aspects as well and I think if these buildings were in decent shape, I think they'd be the first ones to say, we're gonna try to save these buildings and utilize them. But I personally don't see the value in trying to preserve them. They're just, they're not intact enough, and they're not, you know, clean enough basically to...it's not worth the effort quite frankly.

Vice-Chair Shibuya: Okay, Members I know before we heard and saw some of the pictures, I made a recommendation that we try to preserve this. I think I'm gonna strike that recommendation. I don't think we can. I think it's too far gone. Commissioner Wakida?

Ms. Wakida: Well, just as a final comment, and I, you know I do think that you have done a wonderful job in designing this Plantation Inn, but you're, you're familiar with the houses that are on the same side of the street between highway and Wainee, the ones...those plantation houses and those were restored and are now housing businesses. I'm not saying these two structures are in the same condition as those were when they were taken over but I know a lot of work was done to save those and to put them into service. I just wanted to make that comment.

Vice-Chair Shibuya: Commissioner Medeiros?

Mr. Medeiros: I just wanted to say that...I grew up in Lahaina so you used to play at the Akena's house when I was at Kam III. And it was old back then, was in good shape. It was in good shape and it was old back then, so you know how old it is now?

Vice-Chair Shibuya: Okay, thank you. Any other comments? Commissioner Ball?

Mr. Ball: Question on the affordable housing agreement looks like it was a cash agreement?

Mr. Hart: That's correct.

Mr. Ball: And do we want any more explanation on that than that?

Mr. Hart: Well, so basically when they went for the change in zoning back in 2005, they had a proposed expansion and they were subject to affordable housing requirements at the time and so you know they were moving full speed ahead. So they established the agreement, selected a project, provided their money, and executed the agreement. Those houses have been constructed and so now, you know, as is normal policy when you are proceeding with the same project that you went through this process with before and you've accommodated your requirements those carry over. So the houses are occupied now and have been for some time. So now the applicant would like to proceed with their project.

Mr. Ball: Thank you.

Vice-Chair Shibuya: I have a question for our Director for Public Works. This deals with Page 51 you're talking about the right-of-way, Panaewa Street is 44 feet with I believe that's...and Lahainaluna Road is 56 feet, does this include street, on-street parking, pedestrian walkways, bicycle lanes, things of this nature? Maybe you can give us a comment or feedback on this?

Mr. Goode: Okay. Thank you, Mr. Chair. I can give some general comments and maybe Mr. Hart could be more specific for this particular area. But in general our requirements for roadway widths are dependent on the zoning, and whether the road's classified really as a residential road or collector road. Lahainaluna is a collector road so 56 feet would be its ultimate right-of-way which we give enough room for sidewalks on both sides, I think parking on both sides, and two through lanes. Forty-four feet is more of a standard residential road and really Panaewa is more a residential road I think. It's also one-way in this area. So usually you can get maybe sidewalks one side, possibly two, and two lanes of travel in that configuration.

Vice-Chair Shibuya: Okay. Would there be some roadway parking if you gave up one sidewalk let's say?

Mr. Goode: Yeah, possibly.

Vice-Chair Shibuya: Possibly?

Mr. Goode: Yeah.

Vice-Chair Shibuya: Yeah, okay. Well we're just talking generally. Yes, thank you. Comment?

Mr. Hart: For the project, it will be curb, gutter and sidewalk on all street frontages. I don't believe that there's currently a sidewalk on the south side of Panaewa as it is. So the project would provide the one side sidewalk. There is on-street parking or there will be on Lahainaluna Road, but I don't think that Panaewa has the space for it with the neighboring structures existing and residences across the street.

Vice-Chair Shibuya: Okay, well thank you. I just wanted to have a general idea. Thank you. Commissioner Wakida?

Ms. Wakida: Did you say on-street parking on Lahainaluna Road? You didn't say that, right?

Mr. Hart: I believe that Lahainaluna Road will provide—

Ms. Wakida: No.

Mr. Hart: No?

Ms. Wakida: I don't think...in front?

Mr. Hart: I believe when they...I believe that they'll have to dedicate some road widening lot through the completion of this project.

Ms. Wakida: On Lahainaluna, really?

Mr. Hart: Yeah...sorry.

Ms. Wakida: Okay.

Mr. Ball: Got another question.

Vice-Chair Shibuya: Did the engineer gonna make a comment?

Mr. Kirk Tanaka: Good afternoon, Members of the Maui Planning Commission. My name is Kirk Tanaka, Tanaka Engineers and we're the civil consultants. When the master plan is implemented there be some roadway, right-of-way widening dedication as required and we're working on the consolidation/resubdivision right now. But I believe there will be opportunity for parallel parking along the project's frontage on Lahainaluna Road.

Vice-Chair Shibuya: And no parking on Panaewa?

Mr. Tanaka: With the curb, gutter, and sidewalk improvements I don't believe there's...with the proposed curb, gutter, and sidewalk improvements I don't believe there'll be room for parallel parking opportunities on Panaewa.

Vice-Chair Shibuya: Yes, thank you for clarifying.

Mr. Tanaka: Thank you.

Vice-Chair Shibuya: Thank you. Commissioner Wakida?

Ms. Wakida: As long as you're up. Are you, I'm sorry, you're traffic, right?

Mr. Tanaka: We're the civil engineers.

Ms. Wakida: Can you answer questions on traffic or is the traffic person here?

Mr. Hart: No. No, they're not at the moment, but we can address any questions or comments that you have in our Final EA.

Ms. Wakida: Okay, I am concerned about two things. One is, in the traffic study it says things were done at peak hour the traffic study. Could you tell me, do you happen to know what they meant by peak hour?

Mr. Hart: I believe it's in their report, but there's an A.M. and a P.M. peak each day and that's basically the highest traffic period of that portion of the day and that's when they do their traffic counts.

Ms. Wakida: I didn't see it in the...I might have missed it but I did not see it. It just says morning and afternoon. It didn't give a time that I found.

Mr. Tadaki: Glenn Tadaki again with Chris Hart and Partners. Commissioner Wakida, in response to your question the morning peak hour is from 8:30 to 9:30 and the afternoon peak hour is from 3:30 to 4:30.

Ms. Wakida: Okay, I would like that to be relooked at because as far as that area of Lahaina that is not a peak hour for traffic in that area. That peak hour may be on the highway but not on Lahainaluna Road and in that Lahaina District itself in my experience 'cause I live in Lahaina and the same with the afternoon in my experience. There's more traffic around dinnertime, later in the evening and so I would like that those...that addressed at a different time.

Vice-Chair Shibuya: What better time are you recommending, Commissioner Wakida?

Ms. Wakida: I would suggest later in the morning.

Vice-Chair Shibuya: About?

Ms. Wakida: That's when visitors...between 9:30 and closer to noon and in the early evening hours for that area for traffic.

Mr. Hart: So, okay.

Ms. Wakida: Anyway, I'd like if your traffic engineer could just relook at that and re...

Mr. Hart: Okay, so do new counts between 9:30 and 12:00?

Ms. Wakida: Yeah. More late morning.

Mr. Hart: And then when is the evening time?

Ms. Wakida: Yeah. Yes, please.

Mr. Hart: When is the evening time for the counts to be done?

Ms. Wakida: Well, when people are going out to dinner and moving around and usually around dusk I would say.

Mr. Hart: Okay. The way the traffic counts are always done is basically there is established standards for when they're supposed to take their counts and that's supposed to be the established peak—

Ms. Wakida: Right.

Mr. Hart: —flows of traffic when most people have to go to school or go to work, return from school, return from work.

Ms. Wakida: Right.

Mr. Hart: So that was the way that this and all the traffic impact assessment reports are prepared.

Ms. Wakida: Sure.

Mr. Hart: So I guess, you know, if that's a request from the Planning Commission for the Final EA that we do additional counts in these time frames that's certainly something that we can't deny.

Ms. Wakida: Well, I'm very sensitive to that because I traverse that intersection of Wainee and Lahainaluna Road a lot. I mean, nearly daily and traffic is often backed up from the highway through that intersection and down later in the morning. It's just gets to be a very busy time. So I think that would a good time to look at that.

Mr. Hart: Okay.

Ms. Wakida: And--

Vice-Chair Shibuya: Go ahead. Continue.

Ms. Wakida: I have another concern, but I didn't want to--okay, my second concern is how your...the ingress and egress from Lahainaluna Road, that parking entrance is about 90 feet from the intersection it appears. I think that lot next door is about 90...okay, I couldn't quite read the map very well, it's so little. So the intersection is about 90 feet away and on your parcel location map it...anyway, the point I wanna make is you said that was a one-way entrance into the parking lot?

Mr. Hart: I believe that that's correct, yes. I believe that's correct, yes.

Ms. Wakida: One-way in?

Mr. Hart: Yeah, one-way in and then it's two-way on Panaewa and...Panaewa, I'm sorry.

Ms. Wakida: In and out, yeah, but it's a one-way street.

Mr. Hart: Yeah.

Ms. Wakida: Okay, because that entrance to that parking lot is so close to the intersection I think there's a concern there about traffic getting back up. They can make a left-hand turn off of Lahainaluna Road into...is that gonna be allowed, a left-hand turn into Lahainaluna Road?

Mr. Hart: A left-hand turn out of the project?

Ms. Wakida: Off, off Lahainaluna Road into the project?

Mr. Hart: Yes, I believe that that would be permitted under current proposal.

Ms. Wakida: Yeah. I'm a little concerned about that entrance being so close to the intersection and that's where the traffic gets backed up and I don't know how you mitigate that but...

Mr. Hart: Okay, well we can look into that further and then we'll also be receiving comment from the Department of Public Works as well as I expect the State Department of Transportation so we can consolidate all of the comments on traffic as well as your concerns and provide further information in the Final EA.

Ms. Wakida: Thank you.

Vice-Chair Shibuya: Commissioners, any other comments, questions? If not, then I have a question related with the renewable energy. We're talking in terms of conserving where possible the use of energy and I think the other aspect of this equation of sustainability is generating renewable power. Will you consider possible ways of generating renewable power in your development such as photo voltaic, collecting it from the rooftops and things of this nature?

Mr. Hart: We can address that in the Final EA definitely.

Vice-Chair Shibuya: Okay. I'm concerned in terms of the total demand for electricity by this project. And that if we can take a look at possibly getting the minimum of 40 percent of this demand being accommodated by this renewable energy.

Mr. Hart: We can certainly look at it.

Vice-Chair Shibuya: Yes, yes. The reason why I'm saying that is because the Hawaii Revised Statutes, HRS 269-91 requires the utilities to come up with at least 40 percent renewable generated power by 2030 and if we don't start working now, we're never gonna make it. And we're all in together because I just hate for us to be penalized by the Legislature for not doing our due diligence too. Thank you. Any other comments, Members? None? Candace would you summarize for us?

Ms. Thackerson: And also I'd like to know what is a formal comment and what was just something kind of briefly discussed.

Vice-Chair Shibuya: Okay.

Ms. Thackerson: So in the beginning there was some discussion about the offsite parking as well as the required parking and whether or not that would be permitted or have any signage did the

Commissioner: Commission wanna make that a formal comment or were the or were your concerns answered by the applicant?

Ms. Wakida: I guess it was my concern. I would like it addressed by the applicant. I would like it so we would know specifically we're not having two layers of parking and—

Ms. Thackerson: Yeah, and whether or not they're gonna have signage, but you just wanna make sure it's included in the Final EA, okay, in the Draft EA. That the ADA units, that the building will be ADA compliant because they do have some ADA units located on the ground level that I can incorporate that into the Final EA just as a statement. I have in here a note about the demolition of the buildings on Parcels 38 and 44 are a concern as they are located within the National Historic Landmark District and that will be looked into during the SMA process in order for them to get a demo permit. The Department will have to route it to SHPD and get their clearance on that. But we can make sure that in the Draft EA they talk a little bit about that permit process. The affordable housing condition has been satisfied. Do you need to go into that? Okay. That curb, gutter, and sidewalks on all streets will be incorporated. Do we need to put that in the Final EA?

Vice-Chair Shibuya: Just add it in.

Ms. Thackerson: Add it. Okay. Make sure that they call it out clearly.

Vice-Chair Shibuya: Yes.

Ms. Thackerson: There were some concerns about the Lahainaluna Road parallel street parking and Commissioner Wakida asked about specifically concerns about traffic. Now, just to be a little bit more specific if I could get some better hours so we can at least tell the traffic engineer because I think right now they were saying they did 8:30 to 9:00 and you would like 9:30 to noon for the A.M. hours. The P.M. hours dusk can be different depending on what season it is. So if I can just get a bit more clarity on the hours?

Vice-Chair Shibuya: Director?

Mr. Spence: Commissioners, I might suggest...I don't know when the traffic engineer took his counts. A lot of times they do take counts from very, very early in the morning up till you know, through out the afternoon, et cetera, et cetera so they can actually determine when the peak is. So if they did that perhaps just a better explanation of, you know, how the counts were taken or something.

Mr. Hart: That would be ideal for us to be able to look into that rather than having him go out there again.

Ms. Thackerson: Okay. Then I can just change the comment to be that the peak hours are to be relooked at and an explanation provided as to why.

Ms. Wakida: Well, not just looked at but to be reevaluated according to what as the Director suggested where they actually monitor and figure out when the peak hours are.

Ms. Thackerson: Yeah, we're gonna ask if that was already done or not.

Ms. Wakida: Okay.

Ms. Thackerson: And if not, then we would like that to be examined.

Mr. Hart: I don't mean to be disruptive but I'd like to reiterate that we'll present your Final EA for your review and acceptance and then we'll also come back before you just for the first discussion of the SMA Major Permit and so we'll be here a few times to see you.

Ms. Thackerson: Further about the Lahainaluna Road parallel on street parking. Another concern was the entrance into the hotel property. Is it an entrance only, first of all we wanted to clarify that, and then also to have the traffic engineer and also the comments from Public Works and DOT about how that's gonna affect the nearby intersection. And that nearby intersection is?

Ms. Wakida: Corner of Wainee and Lahainaluna Road.

Ms. Thackerson: Okay, yeah. And then also that the applicant should look into renewable energy sources. The applicant should look into a minimum of 40 percent of energy use to come from renewable energy sources.

Vice-Chair Shibuya: Yes.

Ms. Thackerson: And that's all the comments.

Vice-Chair Shibuya: Okay, well I do have another question that maybe Kirk Tanaka can clarify. It's more clarification than it is question. It's on Page 14, I'm looking at the hydrograph of hydrograph No. 12, and I'm looking at the profile for that versus the hydrograph No. 6, and I'm looking at the variance in terms of the shape. One is truncated because there's a level where and then the other one is peaks. Maybe you can give a brief...because they're talking about the peak discharge and one that peaks at 2.6 cubic feet per second and the other one the peak discharge at 1.93 cubic feet per second. Just a general description of how come?

Mr. Kirk Tanaka: I think I can explain that because the hydrographs are based on the different drainage areas. So there are different hydrographs generated for each drainage area and they don't all peak at the same time. So there is contributory amounts. Where it's broken down to is, it's broken down to various watersheds so what we do is compartmentalize the areas of drainage into...into what we call drainage areas and we do a hydrograph for each. I think that's the best way I can explain it.

Vice-Chair Shibuya: And then it varies with the composition and type of soil, right?

Mr. Tanaka: The amount of perviousness, the slope, there's just a lot of different factors.

Vice-Chair Shibuya: Okay, I just wanted so that the Commissioners understand that.

Mr. Tanaka: Okay, thank you.

Vice-Chair Shibuya: Okay, so there's a difference in the permeability or impermeability by looking at the graphs you can probably see that.

Mr. Tanaka: It does take into account the amount of permeable surface, the slope and the time of concentration. In other words, the amount of time it takes for the raindrop to collect and—

Vice-Chair Shibuya: Be absorbed.

Mr. Tanaka: Partially be absorbed but concentrate that where it would be at its, at its peak discharge.

Vice-Chair Shibuya: Okay, any questions?

Ms. Thackerson: I'm not gonna summarize that in the comments, right?

Vice-Chair Shibuya: No, no, no. I just wanted to point out so that the Commissioners understand that he is designing the drainage, the subsurface drainage system based on the differences and the soil types. I accept what he's saying. Yes, thanks. Okay.

Ms. Thackerson: Comments are complete that I read back.

Vice-Chair Shibuya: Sure. Members? You wanna accept it? You wanna vote acceptance,. Members? Any objections? Maybe I do it the other way, any objections to whatever Candace has mentioned?

Ms. Wakida: Do you need a motion to accept it?

Mr. Medeiros: I move to accept.

Vice-Chair Shibuya: Okay, there's a motion to accept.

Ms. Wakida: Second.

Vice-Chair Shibuya: There's a second. Moved and second. All in favor...this is in terms of accepting our comments, okay. Raise your hand. Okay, thank you.

Mr. Spence: Five ayes.

Mr. Hart: Thank you very much.

Vice-Chair Shibuya: Thank you.

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

VOTED: To Accept the Comments of the Members to be Further Addressed by the Applicant.

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

Vice-Chair Shibuya: The next item?

Mr. Spence: Okay, Commissioners we're in Item E, Communications. This is from Mr. Scott Crawford, the Chair of the Hana Advisory Committee transmitting their recommendation on the request by Andrew and Robin Rayner regarding a Special Use Permit for a Bed and Breakfast Permit in Hana. So, Ms. Gina Flammer is the Staff Planner.

E. COMMUNICATIONS

- 1. MR. SCOTT CRAWFORD, Chair of the HANA ADVISORY COMMITTEE TO THE MAUI PLANNING COMMISSION transmitting the Committee's recommendation on the request by ANDREW and ROBIN RAYNER for 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)**

Ms. Gina Flammer: Good afternoon, Commissioners. We're getting our power point up here. So what we have up next a State Land Use Special Use Permit for a bed and breakfast application. As you guys know whenever somebody applies for a bed and breakfast or a short-term rental on ag land they're also required to do the State Land Use Special Use Permit. The B&B Permit is being handled by the Department because there no triggers for the Planning Commission. However, you always see the land use, Special Use Permit.

So this is for a two-bedroom bed and breakfast home in the Hana region. It's for the ohana unit. The owners live in the main house. They're coming in because they mostly or they often use the ohana for friends and family. One of the owners lives from abroad. And then the other times they like to rent it out when it's being used by friends and family. They do have an implemented farm plan which was implemented prior to coming in for the application and I'll show you a little bit more about that since that's the subject of our permit today. And also it went to the Hana Advisory Committee in September and it had unanimous approval. In your package you have a copy of the minutes and then I also wrote a summary of the discussion.

So I wanted to show you where it is. This is also in your packet. It's a little bit before Hana. It's Kalo Road if any of you are familiar with that. Give you a little better description of where it is. You can see where the airport is up there. This is the site plan. The part in yellow is where the ohana unit is. It's a separate entrance off. It's a smaller area than the full parcel and then I kinda just showed you in green where all the planting is and I'll show you some photos of that. I also included in your packet a copy of the floor plan and then I have some pictures just so you have an idea of

what the property and also the unit looks like. So that's the view from the deck and then we have the backyard, part of the backyard. And then you can see what the inside looks like. It's kinda your standard two-bedroom ohana unit. You've got the master bedroom and then they have another bedroom with two twin beds in there.

This is getting back to the agriculture. As you know, we require farm plans for an entire parcel even when the project area is smaller. So this is what it looks like. When they first submitted they were contemplating what to do with some of their other areas. They have since gone ahead and planted and I'll talk about that as I show you the pictures. So what they did in the beginning when they bought the property is they... it's old, I think it's old pineapple land so they really had to play around with what parts of the property could they plant on, what did have to nourish for the soil and what would grow well. So they planted kinda diversified agriculture just a variety of trees before they decided to do their main planting which they decided to grow the peach palms. But I'm going to show you pictures of what the diversified agriculture looks like. So they tried cashew trees which are all still there. They have quite a bit of banana on the property. And then they just tried a variety of trees. I won't go through and explain each one of them, but you can see from the pictures.

So at the same time of to see what grows on the property, the owners were also looking at viability and you know, what can they market and sell? So as they produced some of this they tried to see what the market is. I know that, she just told me today they planted much more coffee 'cause that, it sells well. They've also planted cacao which I'm not... I think it's back in this area but I don't know if I have any pictures of that.

Okay, and then we get to really what they're gonna try to grow for their commercial crop and they decided on peach palms. So they started with the keikis growing them and they've installed them over the past few months. So you can see what that looks like. Up in the left it shows the area where that is. There's 2,500 of them. There was a discussion at the Hana Advisory Committee, it's always real interesting to be with that group because a lot of them are farmers. So there was a discussion about viability, what is this type of plant, do once you cut 'em down... do you have to... they continually refruit. It's actually heart of palm is what it is, so it's an edible palm. It's not for landscaping.

And then I just wanted you to see what the comments were. They're in your application, but there was a no comment letter from the Police as well as the State Office of Planning. And then just to summarize the meeting that we had out in Hana. There was a unanimous approval. It was the first item on the agenda so there was a lot of questions about the B&B process. You can see that if you look through the minutes. The applicant, as I mentioned they discussed a little bit about why peach palms. I'll let you know that the applicant is also the head of the Hana Business Council. So there were questions about viable farming and things like that.

And then they also... Ward Mardfin typically asks why don't you rent long-term? So that was asked and then there was a little bit of discussion about that. So that summarizes the power point for now and I have the applicant here, Robin Rayner if you have any questions for her. Thank you.

Vice-Chair Shibuya: Commissioners, any questions, comments? None? Okay, Commissioner Ball?

Mr. Ball: Motion to approve.

Mr. Medeiros: Seconded.

Vice-Chair Shibuya: There's been a motion to approve by Commissioner Ball, seconded by--

Ms. Flammer: Do you need a recommendation from the Department first?

Vice-Chair Shibuya: We read it.

Ms. Flammer: Okay.

Vice-Chair Shibuya: Okay, thank you very much, we read the comments and recommendations. Members, you wanna repeat the motion or do you wanna make comment?

Ms. Wakida: Well, I just wanna say this is sort of my dream application on B&Bs because on ag land, because it is ag, it's obviously ag. I mean it is on a big scale so I'm really pleased to see this.

Vice-Chair Shibuya: Okay. Director, will you repeat the motion please?

Mr. Spence: The motion is to approve as recommended by the Hana Advisory Committee.

Vice-Chair Shibuya: Okay, Members all in favor raise your hand.

Mr. Spence: That's six ayes.

Vice-Chair Shibuya: All opposed? Six ayes, no opposed.

Mr. Flammer: Great. Thank you very much.

Vice-Chair Shibuya: Thank you very much.

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

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

Mr. Spence: So Commissioners the next one is also a recommendation by Mr. Scott Crawford, the Chair of the Hana Advisory Committee for a Special Use Permit for a Mr. Robert Henrikson. This is for a Short-Term Rental Home Permit in the Ag District. This is for Hana Gardenland. So also is our Staff Planner is Ms. Gina Flammer.

2. **MR. SCOTT CRAWFORD, Chair of the HANA ADVISORY COMMITTEE TO THE MAUI PLANNING COMMISSION transmitting the Committee's recommendations on the requests by ROBERT HENRIKSON for a State Land Use Commission Special Use Permit and a Short-Term Rental Home Permit in order to operate the Hana Gardenland Short-Term Rental Home, a five (5) 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)**

The short-term rental home permit application is being brought to the Maui Planning Commission for review and decisionmaking because the subject property is located in the Hana Community Plan region and the number of bedrooms proposed for short-term rental use is greater than three bedrooms.

Ms. Gina Flammer: Hello again. Okay, this is a little bit different. This time we're seeing actually the Short-Term Rental Home Permit as well as the Ag Permit, I call it the State Land Use Permit. This was the first Short-Term Rental Home Permit that the Hana Advisory Committee saw so I went into quite a bit of detail. I know we have kind of a busy agenda today so I'll go through some of the criteria quickly, and we had two this morning so you know these criteria for the rental home permits pretty well. But I wanted to show you the kind of analysis that goes into the recommendation that the Department makes.

So first I just wanna show you what the project is. And I first did this power point for the Hana Advisory Committee so out there everybody knows it's the Hana Gardenland. It's the old café and botanical garden property. Its claim to fame was I think Hilary Clinton ate there when she came out to Hana. This was years ago. The owner bought it a number of years ago, didn't pursue new permits for it. The law had changed, it became much more cumbersome. He doesn't operate the café anymore. There still is a botanical garden which is an allowed use in the Ag District. We're here today reviewing both permits because the trigger in Hana, only in the Hana District is that if there's more than three bedrooms, the Committee reviews it then.

So again, we're on the same road only this time we're much further down towards Hana Highway. Just so you can see it's right on the corner of Hana Highway and Kalo Road. And then just for those of you that go out to Hana you might recognize the photograph of where it is. There's actually there's kind of a fruit stand that's right there at the intersection but he's on the other side.

And then here's a site plan, the farm plan that's in your application so you can take a look at the ag that's going on there. It's quite a bit. It was a pleasure to walk around the property. I wanted to show you the floor plan of what the building looks like. So there's two...this is the bottom floor and then the upper floor. And then of course, I always like to give you guys a lot of pictures so you can kind of visualize what it looks like. I think this was the downstairs. That was the upstairs. The kitchen area. You've got the fifth bedroom that's on the upstairs. Some of the other bedrooms. They're geared for families as you can see.

And then I wanted to show you the road where it's at. Actually Hana Highway is on the furthest side of it there. There is a fire pipe stand across the street. There's actually two. There's a further one

right at where Hana Highway is. And then the entrance into it. It's pretty easy to get into, and easy to find also. So that's the driveway where you come in. It's very wide, easy to park.

Back in its heyday this is from those days when it was open to the public botanical garden. It's still open but it's mostly for guest use. I know the owner will schedule private tours if requested. Usually that's done by somebody that has a lot of knowledge. It's not just the general public. And then just to kinda walk you through the botanical garden area. You can see the different plants and trees. Because it's a botanical garden there's quite a variety of different plants. I didn't label each one but what I did put in your report is a list of what they all are so you could see. It's really quite a lot. You wouldn't quite know just standing in the middle of the variety that you're looking at when you're there. And then I just kinda let you see what the different plants are flowering as well as the fruits.

And then I wanted to give you a little background on the applicant. He is a farmer, a farmer of a different type. These are some of the books that he's written, bamboo, and you also have some on aquaculture. The aquaculture is done at a family farm that's not on that particular parcel. And then what I wanted to do and I won't spend too much time, is I just wanted to let you know what are the applicable regulations. They're always in your report. The first ones that are listed which are standards and restrictions right there you will not see the permit unless they meet those criteria. So those right there need to be satisfied before they even come to you. I did wanna point out there is one bit of guidance in this particular section, it's under "N" and that's where they...oh, is that hard to see...that's probably the most important one and that's why it has to conform to the existing neighborhood...talk about the character of the neighborhood. And then they let you, the Council put in there if there's a homeowner's association they want comments from them. We don't have that in this case, but you will see that from time to time. They didn't want us interpreting those homeowner's associations. They wanted the board doing that. And then there's also another four different things that you can look at, that were also look at. What's the community plan policies. We always look at those, community input and what are potential adverse impacts and are we seeing comment letters with those things in there. So in this particular case, like we do in all our reports, we go through and we analyze each of the areas. So looking at the character of the neighborhood and this is why we go out to Hana 'cause they really know their neighborhood well. This street is large parcels of ag lots and with active agriculture. It's a mixed neighborhood where there's already existing vacation rentals and there's a lot of part-time residents that both do farming and they also do renting out. There were no protests for this application. And then again, it went to Hana and I let the Hana Advisory Committee know that you really do listen to their comments and that you appreciate it. I know you've said that in the past and they did like knowing that all their work actually gets heard.

There's also later on, in the law there is more specific criteria that they talk about. In this particular or actually we're gonna go back to "N" here. In this particular one there was no homeowner's association. If we look at the existing land use, it's zoned ag. There's no other entitlements at this time. We're not looking at cumulative effects. There's not a café and now we're adding a short-term rental. We only have the botanical garden. The applicable community plan that's listed, always in your report and we discussed that quite a bit in Hana. Community input there were no letters received. I didn't get any phone calls. I do get phone calls periodically. I did get letters, a letter right before the hearing from a neighbor that was positive and then we did have a neighbor testify positive also at the hearing, a lot of times in Hana people just show up. That's when you get

your input. And also we took a look at the adverse impacts. You're talking about large acreage lots 5 to 19 acres with a lot of foliage. It's not the greatest noise barrier but it does give some protection. There are quiet hours that are mandated as you know for every bed and breakfast and short-term rental home. Parking has to be in designated spaces, plenty of parking on the property. And we always tell people or it's in the rules there's no parties or gatherings of other... anybody other than the registered guests. I find the owners typically really like this provision. We did talk about this at the Hana Advisory Committee because five bedrooms does lend itself to larger groups and families. And if you read in the minutes there were talks about the Hana Relay and here the applicant explained that he really screens his guests. It's for his own protection more than anything.

Okay, I'm not gonna go too much. But there is additional guidance in the law. It's under the permit processing section and it's for the Department as well as you guys when you see the different STRH permits that come to you, and I'll just let you see those five right there. The number and distance from other ones, the number of protests and what's in those protests. Also, are there existing past complaints about the rental operations. Did they have other problems on the property where maybe they didn't clear it up and then again correspondence and that's the homeowner's association correspondence reference right there. So in terms of this particular one, there is not another one within 500 feet and that's in your report there. I did take a larger look though at the two-mile radius. I know we're not required to but I was kinda curious about the larger neighborhood in Hana and there are a couple right in that area. They're kinda concentrated. They're either right before Hana or you get out to Kipahulu you get some of 'em and also Uakea Road, kinda downtown Hana is where you see the concentrations.

I did include this map. I tried to pull up. We just got our software to do the map. We talked about that a couple times ago, but I was having problems with some of the Hana ones. I need to take a look at that. So what I did was I just updated the map that provided them. This was provided in September and you've seen a number of permits since that time. So, there are more STRHs that have been approved, nothing within 500 feet however.

And then I kinda listed them all out and I also gave you in your report is a full listing of not only the approved ones but pending ones. I wanted the committee to see what's coming down the pipe. I will go back to this and let you know that just because something's pending doesn't mean it always makes it through the process and you can kinda see the listing. There's two of the six that are still going to through the process that may or may not come to fruition at the end.

Okay again taking a look at the number and the substance of the protest there were no protests for this application so that made it a little bit easier. And then you can kinda see why. Wanted you to see just how large the parcels are. This is the neighbor that came and spoke positively she's just to the...if you're facing to the right of it. And then you can see the property across the street. It's a large property. And then existing or past complaints. There were no complaints for the property. There was an RFS that was filed in 2007, but it was not followed up on at the time. There was a disorderly conduct report for the police and that was as you can see a party with young kids. And that's one of the problems with the vacant properties, sometimes it's another reason why owners wanna keep it used so that you don't local youth that can come on and use it without your knowledge. And there were no requests by the County to come into compliance. The applicant is coming into compliance now by with both permits. And then the CC&Rs, this is not a neighborhood with CC&Rs.

Okay, I'm not gonna bore you with the land use. I know how many of these you do. You have 'em in your report what the different criteria are and what we look at. And then again agency comments with this one we had the police they did notice the one comment, and then the State Office of Planning, there you go, noted that you're dealing with a soil rating of D which I thought was interesting that even with D he was able to plant so much. Again, the State Office of Planning takes a look at the viability of agriculture and when they see that they now, they typically do a no comment letter.

Okay so the final considerations is we didn't have any protests or complaints and there's no other approved one within 500 feet and this is what went into our recommendation of approval for both permits. And then at the Committee meeting in September there was unanimous approval. There was a letter of support provided at the hearing which is in your information. There were two testifiers, both neighbors that spoke in support of it. There was again, like I mentioned Committee discussion about the five bedrooms, and then there was some discussion about the importance of the gardens and keeping them intact and propagating, and the owner said that he understands that and he's open to people coming on as long as he knows.

So I have the applicant with me here, Robert Henrikson if you have any questions. Thank you.

Vice-Chair Shibuya: Okay, thank you. Members, any questions? Commissioner Hedani?

Mr. Hedani: Move to approve as recommended.

Mr. Medeiros: Second.

Vice-Chair Shibuya: It was moved for approval by Commissioner Hedani and seconded by Commissioner Medeiros. Members, before I even go through this vote here, I wanna commend you Gina for outstanding examples here, the exhibits that you put together and Exhibit No. 3, 4, 5, 6. These are outstanding. I mean you must have spent all night and weekend putting these charts together.

Ms. Flammer: I enjoy my job, thank you.

Vice-Chair Shibuya: Just this, I mean is tremendous.

Ms. Flammer: Well, I have to say it's nice when you have a lot of agriculture to work on a project like that.

Vice-Chair Shibuya: Yeah, but you had to take the picture and then you had to not only take the picture, you had to squish 'em all in together and make it a nice composition and the listing too, just an elaborate type of reporting. Thank you very much.

Ms. Flammer: Thank you.

Vice-Chair Shibuya: Thank you. I have to say that because your boss is here. So you got a couple atta girls now.

Mr. Spence: Atta girl.

Vice-Chair Shibuya: Okay, Members...you wanna repeat the motion please?

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

Vice-Chair Shibuya: Okay, all in favor raise your hand.

Mr. Spence: That's six ayes.

Vice-Chair Shibuya: Okay, there's no noes. Thank you very much.

Ms. Flammer: You're welcome. Thank you.

Vice-Chair Shibuya: Congratulations.

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

**VOTED: To Approve the State Land Use Commission Special Use Permit and Short-Term Rental Home Permit as Recommended by the Hana Advisory Committee and the Department.
(Assenting - W. Hedani, J. Medeiros, K. Ball, M. Tsai, S. Duvauchelle, P. Wakida)
(Excused - I Lay, J. Freitas)**

Ms. Wakida: Can we take a break?

Vice-Chair Shibuya: You wanna take a break?

Ms. Wakida: A short one.

Vice-Chair Shibuya: Okay, we'll be back at 2:30.

A recess was called at 2:19 p.m., and the meeting was reconvened at 2:30 p.m.

Vice-Chair Shibuya: Director, please introduce...

Mr. Spence: Commissioners, No. 3 in Communications is Mr. Scott Meidel of Haleakala Ranch requesting a time extension on the Land Use Commission Special Use Permit to construct and operate the Haleakala Ranch Visitors Center in the State Ag District. Mr. Danny Dias is the Staff Planner.

- 3. MR. J. SCOTT MEIDEL of HALEAKALA RANCH requesting a time extension on the State Land Use Commission Special Use Permit in order to construct and operate the Haleakala Ranch Visitors Center in the State Agricultural District on approximately 11.85 acres of land along Crater Road, TMK: 2-3-005: 004 (por.), Kula, Island of Maui. (SUP2 2004/0002) (D. Dias)**

Mr. Danny Dias: Thank you, Will. Good afternoon Chair Shibuya and Members of the Planning Commission. As stated this item is to obtain a time extension to a State Land Use Commission Special Use Permit in order to construct and operate the Haleakala Ranch Visitors Center. Haleakala Ranch has been on island since 1888 and celebrated their 125-year anniversary last year. So after the meeting they're gonna apply for a kamaaina card. Had to throw that in.

Speaking about the project it's real simple. It's all contained in the report. As you can see this project was originally approved in around 2008, and you know, as you know 2008 is sort of when the economy dipped. So they couldn't do everything that they wanted to. They've implemented some of things, but not everything. So this is a request for a five-year time extension and if you folks have any questions, Rory Frampton and Scott Meidel of Haleakala Ranch are here for any questions. Thank you.

Vice-Chair Shibuya: Thank you very much. Commissioners? Commissioner Wakida?

Ms. Wakida: Danny, I'm looking at Exhibit 1. I have two questions. One is that this says this permit expired in January of 2013 that was a year ago.

Mr. Dias: Correct.

Ms. Wakida: So it's been expired for a year?

Mr. Dias: Correct. With most time extensions, you know, as long as you come in when you're supposed to, you know, you sort of have a period where it doesn't expire unless you don't get a time extension. Another thing about this permit too is that it does have a Conditional Permit. The Council about couple years ago allowed the Department to administratively approve Conditional Permits but there's a list of things that they have to do and one of them is they have to send out a notice to everybody within 500 feet of their property and you know, you're talking almost a 10,000-acre property so that was another process that they had to do and so to answer your question, technically it's not expired because it's not expired unless this Commission doesn't approve the time extension.

Ms. Wakida: Okay.

Vice-Chair Shibuya: Anyone else? Commissioner Wakida again.

Ms. Wakida: On the same remark that you just made about neighbor notification. Maybe you could just explain this in that same letter it says that they were going to notify the neighbors later, but I'm a little confused 'cause aren't neighbors usually notified before it comes to us so that we know if there's any concerns or is there something else going on?

Mr. Dias: Okay, well with the process with a time extension like this, you know, the neighbors were notified initially in, you know, 2006ish around when they first came in for an application. The process for this renewal is when they come in with the Conditional Permit they have to notify their neighbors again that they're trying to renew the permit. And that was something that they did, but I believe they did that after this letter was written. That's something that we advised them, told them

to do. And we got no response from neighbors, no complaints.

Ms. Wakida: Oh, okay. So it's...okay, so it's a done deal. Thank you.

Vice-Chair Shibuya: Anything else, Members? I do have a question related with the catchment. Where is it located and what size?

Mr. Dias: I'm gonna have either Scott or Rory come up to answer that.

Mr. Scott Meidel: Commissioners--

Vice-Chair Shibuya: Please identify yourself?

Mr. Meidel: Scott Meidel.

Vice-Chair Shibuya: Thank you.

Mr. Meidel: Vice-President and General Manager of Haleakala Ranch. The question again, sir?

Vice-Chair Shibuya: I just wanted to know the water catchment system that you have where is it located, what size?

Mr. Meidel: Currently the three tenants of the property are utilizing a ranch water system that is...it's sourced at the headwaters of Honomanu Stream about six miles into the forest. It's a ranch stock water system that produces about 12 gallons a minute and has been in place for about a 100 years. The water use at the facility currently is very light and basically is in place for static fire protection and some light irrigation. We have an agricultural tenant who actually hauls water in to water her ornamentals and lavender and so forth.

Vice-Chair Shibuya: Oh, okay. I thought it was from you. It's not?

Mr. Meidel: No, most of Maui Lavender's usage is derived from trucked in water.

Vice-Chair Shibuya: Oh, okay.

Mr. Meidel: 'Cause we need to keep most of our water for the stock.

Vice-Chair Shibuya: I see, okay. Thank you very much. Anybody else? Commissioner Wakida?

Mr. Dias: Danny, on the compliance report, December 17th, on the last page, Page 10, the comments, the last two comments said that the applicant had yet to initiate development of the improvements. And I'm wondering if there was any update on that on certain improvements from the Conditional Permit?

Mr. Rory Frampton: Good afternoon, Commissioners. Rory Frampton, I'm a planning consultant for Haleakala Ranch and that's right, the none of the uses that were contemplated in the SUP have actually been initiated. There are uses on the property right now that are permitted in the

Agricultural District that they're doing, horseback riding and the zipline tours as well as the lavender farm and a farmer's market. But if you've took a look at the plans it was quite a extensive operation that they were contemplating back then when the economy was going a lot better and based on the drop in the economy as well as the nature of the permit being, you know, just a five-year permit I think those kind of factors weighed in and they have not initiated any of the improvements that were contemplated in the SUP. So this is really just a time extension. The ranch wants to keep their permit alive. It's very likely if something does come forward it might be substantially different than what was approved. If that's the case, then we'll have to be back before the Commission with amended plans.

Ms. Wakida: Thank you.

Vice-Chair Shibuya: Commissioner Tsai?

Mr. Tsai: Yeah, I fully understand your point and what's going forward and simply as an extension. Now as part of this improvement is the roadway system up Crater Road gonna be improved like in front of zipline because I assume the zipline, the ATV operation, and Pony Express that's all there, so is that part of their responsibility or...

Mr. Frampton: Well, in terms of what's there now, it was previously gravel and dirt, but in the last several months or within the last year it has been paved. So there is a paved driveway leading from the Crater Road up to the facility and there are several parking stalls that are paved and then the rest of the...the overflow parking is gravel. But it has made for substantial improvement to the property to have the pavement there especially from coming up to Crater Road, coming up that slight incline and then some of the major turnaround areas. So they have nice paved surface there. In the future or the plans that were contemplated had a lot of onsite paving and circulation plans. There was a lot of thought given into, given to bus circulation and that type of stuff and that would all be done, but that was all pretty much on site. And the only, I don't think there were any improvements to the Crater Road per se just the driveway connection.

Mr. Tsai: Thank you.

Vice-Chair Shibuya: Any other questions, Commissioners? None? I do have a question related with the energy amounts. Do you know about the peak amount that is required or will be required?

Mr. Frampton: I don't have that information, Commissioner. And if we do undertake the revised plans we would certainly consider that and have that information for the Commission.

Vice-Chair Shibuya: Okay. And I'm looking in terms of renewable energy type generation to supplement some of that, I believe it's MECO power that you're using.

Mr. Frampton: Yes.

Vice-Chair Shibuya: Okay, thank you. Commissioner Wakida? No? Recommendation, go ahead.

Mr. Dias: Okay, I need to make a quick change to the recommendation. If you turn to these green pages, No. 6, we refer to both the Planning Department and the Land Use Commission so I just

wanna cross out Land Use Commission and that Condition No. 6 would read, that the applicant shall submit to the Maui Planning Department copies of a detailed report addressing its compliance with the conditions established with the subject Land Use Commission Special Use Permit. The compliance report shall be reviewed and approved by the Maui Planning Department prior to the establishment of the special use. So with that, the Maui Planning Department recommends approval of a five-year time extension to this State Land Use Commission Special Use Permit.

Mr. Tsai: So move.

Mr. Medeiros: Second.

Vice-Chair Shibuya: It was moved by Commissioner Tsai, and seconded by Commissioner Medeiros. Any other questions, comments? None? Director, will you repeat that motion?

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

Vice-Chair Shibuya: Thank you. All in favor, raise your hand.

Mr. Spence: That's six ayes.

Vice-Chair Shibuya: Thank you. Thank you very much.

Mr. Dias: Thank you.

Vice-Chair Shibuya: Thank you very much for your proposal. Congratulations.

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

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

Mr. Spence: Acceptance of Action Minutes, Item F, December 10, 2013.

F. ACCEPTANCE OF THE ACTION MINUTES OF DECEMBER 10, 2013 MEETING

Vice-Chair Shibuya: Any objections? I'm gonna just say any objections or corrections?

Commission Members voiced no objections.

Vice-Chair Shibuya: If not, then it stands as accepted.

Mr. Spence: Item G, we're into Director's Report. The first item is notifying the Maui Planning Commission of the intent to grant a two-year time extension to Elleair for the SMA Permit for the

construction of the Maui Palms Hotel. Gina Flammer is the Staff.

G. DIRECTOR'S REPORT

1. **MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of his intent to process the following time extension requests administratively:**
 - a. **MR. HIROSHI JOKE of ELLEAIR HAWAII, INC. requesting a two (2)-year time extension on the Special Management Area Use Permit condition to complete construction of the Maui Palms Hotel Redevelopment Project at TMK: 3-7-003: 007, Kahului, Island of Maui. (SM1 2001/0012) (G. Flammer)**

Ms. Gina Flammer: Good afternoon, Commissioners. I asked the applicant to provide a time line so that we could, I could kinda just briefly walk you through it. I've often thought this would be a really interesting project for a public administration class to study. There's a lot to it. Sometimes we have SMAs that are approved, entitlements granted and they just...nothing happens, the company is working on other projects. This is not the case with this project. There's been a lot going on and I'll just really briefly just let you know what's been going on with it.

This was first approved in 2002. They kinda started,...(inaudible)...couple steps behind because the first step was to demolish a building. That required a Shoreline Variance and a Demolition Permit. We've since kinda streamlined that process which is nice to see government respond. So that took several years before they could even start. They did kinda scale back the plans a little bit. They initiated construction in 2005 by working on one of the other areas of the project. 2007 that EA and Shoreline Variance was approved, then the demolition of the building was approved and then that was done. 2008, we all know the economic crisis hit. Project was scaled back again. Part of this project also involves a Coastguard easement that's on the property. So it was kind of interesting to read. The Department didn't have anything to do with this, but just the negotiations that took place with that, it took till 2008, many years for that to happen. Actually 2010 that finally happened. It was an eight-year process to get that done. I put some pictures in the report. When I get to that part, I'll show you what that easement is. They scaled back again from four floors down to three. They're currently at a 101 rooms. Finally, in 2011, they did apply for the building permit. 2012, that access road was completed and then they needed a new electrical room so they did that.

I wanna kinda just walk you through. I gave you a lot of information on this project partly just because it's so...so much has been going on and I wanted you to kinda see some of the milestones and I just wanted you to see the picture. So I'm sure you all know this is the Maui Beach Hotel. This is the empty greenway that's to the right of what. That's where the building was many years ago and that was demolished. So in your report that I gave you, it's not actually a report, in your collection of information that was passed onto you I gave you their request letter so those are the first couple pages, and then I wanted to you to see the area with pictures. So some of these are mine. I went out and did a site visit, and some of these are from the applicant. If you look at the second page, you can see what that accessway is, it's just a green road basically and then you can see the new electrical room that was constructed. I wanted you to see what the building permit look like. It's got

a valuation of \$30 million. It came in 2011. I gave you the plans so you could see the site plan as well as the elevation of it that came in with the building permit. I also gave you a building permit summary 'cause I wanted you to see what happens after an SMA is granted. Government review certainly doesn't end there. So you can see on the second page, all the different agencies that that building permit is routed to. On Page 3 of 3 what's up in the right you can see Planning Department so even though they have the SMA, they still have to come in for a flood permit, a parking analysis. We need copies of the plans, we need a landscape plan approval, and then they do another check of the SMA to make sure everything is still current. Then I also gave you just some of the Department letters showing those different milestones and I'm not gonna go through those because we went through those with the time line. I will point out that I did include a traffic impact assessment, the updated report. This was reviewed by the Commission in 2012 when the last time extension was granted, but I wanted to put it in there just so you could see it also. I also included a copy of the updated drainage plans that were done last time just so you could see what that information is and then there's just some other Department approvals. There's the preliminary compliance report that's in here as well as the time extension from once they initiated...to initiate construction way back when and then the original approval is in there. I have today, Mark Roy is here from Munekiyo & Hiraga, the consultant. He's gonna introduce who's here representing the company and just make some real brief statement.

Mr. Mark Roy: Thank you, Gina. Good afternoon, Chair Shibuya and Members of the Maui Planning Commission. My name is Mark Roy with Munekiyo & Hiraga and during today by Mr. Bill Yuen to my right and together we're representing the owner of the Maui Beach Hotel property in Kahului and we're here today as Gina mentioned to humbly request an additional couple of years on the SMA Permit for this project. If approved, the request would essentially extend the deadline to complete construction from January 31st of this year to January 31st 2016.

Commissioners, this project has most certainly been around for a while as Gina mentioned since 2002. I can certainly say from experience from working on this for a number years it has been a particularly challenging one to get on the road for a variety of reasons some economic driven and others dealing with the regulatory hurdles that had to be overcome to clear the way for the new hotel wing to be constructed. While the new hotel wing has really not yet started coming up or going vertical there has been quite considerable progress achieved on the background or site preparation aspects of the project over the last 10 years and these are the aspects that Gina was referencing in her earlier comments. The execution of an agreement with the federal government has been one of the more significant developments achieved. This agreement was required to relocate an easement that provides the U.S. Coastguard uninterrupted access to a navigational light aid parcel that exists right in the middle of the property. The consultation process with the U.S. government started around the same time that the SMA Permit was issued back in 2002 and was completed eight years later in 2010 with the execution of the U.S. Coastguard access relocation agreement. And essentially it relocates the old easement to a new location that runs around the actual site of the new hotel wing. And we're happy to report to you today that the relocated access road was constructed by the applicant at no cost to the federal government in 2012 so fairly recently. Quite simply the foundation for the new hotel wing could not have been constructed ahead of this access easement and access road being completed.

Concurrent with U.S. Coastguard process the applicant was however, able to proceed on other aspects of the site preparation process for the project. Milestones achieved in this regard include

the demolition of the former housekeeping building, the Building K that Gina reference back in 2010 as well as the construction of the new electrical room, actually just this last year 2013. The demolition of Building K was quite a time consuming process as it involves having to prepare an EA and a Shoreline Setback Variance as a portion of the building was located within the shoreline setback area. This process occurred before the Commission amended its rules to allow demo work within the shoreline. It's now a lot easier to take those kind of encroachments out of the shoreline as Gina mentioned. In a nutshell, the permitting for the Building K demo process took a couple of years to go through and resulted in the issuance of the variance by the Commission in 2007.

While the site preparation work was being undertaken, the applicant was also going through a fairly involved in-house value engineering process to bring down the cost of the project due to rising prices in labor and materials. And also as Gina mentioned to respond to the challenging financial conditions that resulted from the economic recession that occurred from 2008 onwards. This value engineering process involved adjustments to the footprints of the hotel wing, removal of lanais from the highway facing side of the building, also the reduction in the number of floors down from four stories to three stories. These design changes were approved over a number of years 2004, 2008 and 2010 as you'll see in your time line and were wrapped into a new building permit application for the project in 2011. I think it's fair to say substantial progress has been achieved on the processing of the building permit application for the hotel wing to date. The issuance of which would allow actual construction on the new hotel wing to hopefully move forward. With that I'd like to close by sincerely thanking the Commission Members for your time today and the consideration given to the review of this two-year time extension request. We're certainly available to answer any questions. Thank you very much.

Vice-Chair Shibuya: Members, any questions, comments? Commissioner Medeiros?

Mr. Medeiros: Yeah, I like the project from the beginning. It's long overdue and I wanna see it happen so I'm move to accept the request for an extension.

Vice-Chair Shibuya: Okay.

Mr. Ball: I'll second.

Vice-Chair Shibuya: It's moved and second, but normally we have public testimony. Anyone wants to provide public testimony? None? Public testimony is closed, but there was a motion made by Commissioner Medeiros and seconded by Commissioner Ball. Commissioner Wakida?

Ms. Wakida: Yeah, I have a question.

Vice-Chair Shibuya: Okay, go ahead.

Ms. Wakida: Let's see Mark please. This time extension is for completion is two years. Does the applicant...why did you choose...why did the applicant choose for two years and say not three or four? It doesn't seem like very much time to complete construction.

Mr. Roy: Yeah, I certainly appreciate that comment. You know I'll defer to staff but the two years is pretty much set forth in the rules of the Maui Planning Commission. And so when you come in

to request a SMA time extension for I guess administrative approval you can request up to two years. And I believe there's a process in place if you wanted to request a longer extension, but I think it's fairly typical to actually request the two years and to go from there.

Vice-Chair Shibuya: We'll have Director Spence comment.

Mr. Spence: Thank you, Mr. Chairman. This isn't an item for the Commission to approve or deny. This is a notification that I intend to administratively approve a two-year time extension. That's what your rules allow the Planning Director to do that upon notification of the Commission. If they wanted to do two...more than two years, at that time that's a Commission's decision to do. So they're asking for two as they begin construction and everything they hopefully will be in the middle of construction when they come back and say, can we go ahead and complete it and so at that time we'll deal with that at that time. But for the purposes of this agenda item, it says, Commission shall acknowledge receipt of the request, the Commission may decide whether to waive review or review the time extension request at a future meeting.

Ms. Wakida: So the motion on the floor is to waive review?

Mr. Medeiros: Yeah, I'd like to amend my motion to that effect to waive the review so that it can be done administratively.

Vice-Chair Shibuya: Okay, it's acceptable by the seconder too?

Mr. Ball: Yes.

Vice-Chair Shibuya: Okay, any you wanna repeat the motion here?

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

Vice-Chair Shibuya: Okay. All Members, all in favor raise your hand?

Mr. Spence: That's six ayes.

Vice-Chair Shibuya: Okay, thank you very much. We're waiving the review and hopefully Director Spence will approve it faster.

Mr. Roy: Thank you for your time.

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

VOTED: To Waive Review of Time Extension.
(Assenting - J. Medeiros, K. Ball, M. Tsai, W. Hedani, S. Duvauchelle,
P. Wakida)
(Excused - I Lay, J. Freitas)

Vice-Chair Shibuya: Okay, introduce the next item, please?

Mr. Spence: Number 2, under Director Report is similar. Mrs. Linda Paul AOA Secretary of Kauhale Makai Association of Apartment Owners is requesting a non-substantive amendment to their permit, their Conditional Permit for the expansion of the lobby where the concierge services are provided and Gina Flammer is certainly –

2. **MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning Commission pursuant to Maui County Code Section 10.40.040D of his intent to process the following conditional permit amendment request administratively:**
 - a. **MS. LINDA PAUL, AOA Secretary of the KAUAHALE MAKAI ASSOCIATION OF APARTMENT OWNERS requesting a non-substantive amendment to their permit to allow for expansion of lobby area where concierge services are provided for property situated at 938 South Kihei Road, TMK: 3-9-001: 075, Kihei, Island of Maui. (CP 2008/0001) (G. Flammer)**

Ms. Gina Flammer: Not sure what happened to my schedule, but clearing it off. This is a project that it just lends itself to pictures so I did a power point not because it's a big project but just because it's so small and easier just to show you with that. So what we're dealing with is a amendment to a Conditional Permit. It's non-substantive. First I wanna show you what we're talking about. It's a condominium, Kauhale Makai. It's about the center of Kihei. Here's what it looks like from South Kihei Road and across the street I thought this might trigger your memory if you saw, this the new subdivision that went in a couple years ago. So now that we know where we're...what we're talking about, where we're talking about, this is what we're talking about.

So here's the Maui County Code that relates to amendments to Conditional Permits. Little different than the time extension waiver you just but very similar same idea. So the Planning Director can do non-substantive amendments. However, we need to notify the Commission of that. It's a little different than the SMA time extension and you can actually take action if you want to or you can waive the review.

And in here included in packet of information is the actual Conditional Permit itself. We're not amending any of the actual conditions itself, but because they're expanding their lobby they acquired another unit that's right next to the lobby. It was used as a store years and years ago. It has a separate Conditional Permit, but then it was used for something else. They wanna just expand their lobby, but the current permit says existing lobby, so because of that we wanted to bring it to you and let you know that we're gonna include the existing lobby now is the new area if you guys are okay with that.

So this is where the pictures come in. So when you're facing the building you can see the existing lobby, the expansion is to the right. They're actually not gonna open those doors. The doors will continue to be those middle doors. I wanted to show you and this is included in there, the yellow is what will be the full lobby. The pink area is what's the proposed area that they wanna expand. Here's the existing lobby, kinda dark but you got photos also in your report. They do have a concierge booth that's part of what the permit was for. It's Apartment zoned so you can't automatically have concierge services like you will in the Hotel District. They're not sure in they're gonna move that area or not. So that's the existing desk location. It's kind of in the corner. It is

across from the check-in area which you see here. That will all stay the same. This is the new area that they acquired. So all the doors are still there. They're gonna keep that and just open them up for people to be able to come through. They wanna put computers in there so people can print out their boarding pass, come down take a look. They sell some sundry items behind the desk, the check-in desk which is where they store the items now. I think they wanna pull some of those items out of there and put them in the other area, but they'll continue just to sell those minor items only to guests on the property. I think they're talking about maybe putting vending machines in there. Again, nothing is outside the scope of the permit. And again, I just wanted you to see what it looks like. These will be the doors where it opens onto the center atrium part that's where the guests will access this particular part. And then I do have with me, Linda Paul who is the secretary to the AOA Board and also the General Manager, Kalani Rodrigues who can answer any questions. Thank you.

Vice-Chair Shibuya: Commissioner Hedani?

Mr. Hedani: Move to waive review.

Vice-Chair Shibuya: Okay.

Mr. Ball: Second.

Vice-Chair Shibuya: It's Commissioner Hedani made a motion to waive review. Seconded by Commissioner Ball. Question, Commissioner Wakida?

Ms. Wakida: Really a short one. Gina, it says expanding 600 feet. I assume that's 600 square feet.

Ms. Flammer: Oh I'm sorry. Yes, not linear. Thank you. Well, it is linear also but it's also square feet.

Vice-Chair Shibuya: I just wanna make a comment, you're asking little problems with the vending machines. You have vending machines and then that's fine. People walk out with the stuff, they drink and then they toss it other than in the trash can. Some high schools had the same issue, they had water, bottled water and soda pop and things of this nature and they had a vending machine for the conveniences of the students and all of a sudden the workload became the custodial workload. So you may wanna swat the guys who...put names who bought that stuff so that you can go 'em.

Ms. Flammer: We're dealing with a different clientele but I understand what you're saying about the trash. I can hear him in the back there.

Vice-Chair Shibuya: Okay. Members, all in favor...well, I'll let the Director repeat the motion first.

Mr. Spence: The motion is to waive review.

Vice-Chair Shibuya: Okay, Members all in favor to waive review?

Mr. Spence: Six ayes.

Vice-Chair Shibuya: Six ayes. Thank you very much, Members. Thank you. Congratulations. Press on, do well. Much aloha.

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

VOTED: To Waive Review of the Conditional Permit Non-Substantive Amendment.
(Assenting - W. Hedani, K. Ball, J. Medeiros, M. Tsai, S. Duvauchelle, P. Wakida)
(Excused - I Lay, J. Freitas)

Vice-Chair Shibuya: Next item?

Mr. Spence: Next item is 3, Director's Report. I'm not...I kinda think Mr. Paul Fasi is not here today, but this is notice to you that Isaac Hall, attorney for James Bendon, Robert and Margaret Kaplan, Cyrus Monroe and April Nims has submitted a Notice of Withdrawal of their appeal of an SMA Exemption for the milling and resurfacing of Runway 2-20 at Kahului Airport.

- 3. ISAAC HALL, attorney for JAMES BENDON, ROBERT and MARGARET KAPLAN; CYRUS MONROE; APRIL NIMS submitting a Notice of Withdrawal dated December 10, 2013 of APRIL NIMS on the following appeal:**

ISAAC HALL, attorney for JAMES BENDON, ROBERT and MARGARET KAPLAN, CYRUS MONROE, APRIL NIMS and PETER SIRACUSA submitting an appeal dated September 20, 2013 of the issuance of an SMA Exemption for the milling and resurfacing of Runway 2-20 at the Kahului Airport at 1 Kahului Airport Road, TMK: 3-8-001: 019, Kahului, Island of Maui (APPL 2013/0008) (SM5 2013/0189) (SMX 2013/0324) (P. Fasi)

Mr. Spence: Okay, let me finish, it says submitting a Notice of Withdrawal dated December 12, 2013, oh of April Nims on the following appeal. So there still is an appeal pending.

Mr. Ball: He's taking one name off.

Ms. Wakida: Right.

Mr. Spence: Okay, that's just for your notification.

Mr. Ball: Notified.

Mr. Spence: Thank you. Item 4, pursuant to the SMA Rules of the Maui Planning Commission notification to the Planning Commission of the filing of the following SMA Appeal:

- 4. 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:**

ISAAC HALL, attorney for JAMES BENDON, ROBERT and MARGARET KAPLAN, CYRUS MONROE, and PETER SIRACUSA submitting an appeal dated December 19, 2013 of the issuance of an SMA Exemption for the milling and resurfacing of Runway 2-20 at the Kahului Airport at 1 Kahului Airport Road, TMK: 3-8-001: 019, Kahului, Island of Maui (APPL 2013/0012) (SM5 2013/0350) (SMX 2013/0324) (P. Fasi)

Mr. Spence: So they're filing an appeal. This is just notification to you. Parties have similar names filed an appeal of our SMA.

Ms. Wakida: Right, it's just the same one we got before, it's just that they had to take one name off and then refile it, right, to correct.

Mr. Spence: I believe so. I didn't look at them and actually side by side and compare them. The exemption is being appealed. Any questions on that, Commissioners? It will come before at another time. Item 5, designation of the Hana Advisory Committee to the Maui Planning Commission to conduct a public hearing and recommendation for Gale and Michele Notestone requesting a B&B Permit for the Hana by the Bay Bed and Breakfast.

- 5. Designation of the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing and make recommendations on the subject application:**
 - a. GALE and MICHELE NOTESTONE requesting a Bed and Breakfast Permit in order to operate the Hana by the Bay Bed and Breakfast, a three (3) bedroom bed and breakfast home (B&B) located at 4888 Uakea Road, TMK: 1-4-014: 005, Hana, Island of Maui. (BBHA T2013/0002) (G.Flammer)**

Mr. Spence: The Planning Commission's review is required because there's another B&B within 500 feet of the subject property. So I guess the action to be taken is the Commission to designate the Hana Advisory Committee.

Mr. Hedani: So move.

Vice-Chair Shibuya: It's been moved to designate this issue.

Mr. Tsai: Second.

Vice-Chair Shibuya: And been seconded by Commissioner Tsai. I didn't say it correctly, right? I said, it was moved by Commissioner Hedani, seconded by Commissioner Tsai so that we refer this action to the Hana Advisory Committee.

Mr. Spence: The Hana Advisory Committee will hold the public hearing.

Vice-Chair Shibuya: That's right, thank you. All in favor?

Mr. Spence: Six ayes.

Vice-Chair Shibuya: Six. Thank you.

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

**VOTED: To Designate the Hana Advisory Committee to Conduct the Public Hearing and Make Recommendations on the Application.
(Assenting - W. Hedani, M. Tsai, J. Medeiros, K. Ball, S. Duvauchelle, P. Wakida)
(Excused - I. Lay, J. Freitas)**

Mr. Spence: Item 6, review and comments on Draft Environmental Assessment that's the document, the colorful document that's been handed out to you.

6. EA/EIS Report

- a. **Review and comments on the Draft Environmental Assessment (DEA) prepared in support of the following applications scheduled for the January 28, 2014 meeting:**

MR. JAMES P. ARGYROPOULOS requesting a Special Management Area Use Permit, and a Shoreline Setback Variance for the Argyropoulos Shoreline Setback Mitigation to remove the existing remnant seawall/ debris along the shoreline and construction of a hybrid revetment/seawall to mitigate the severe erosion fronting the project site at 475 Hana Highway, TMK: 2-6-009: 005, Kuau, Island of Maui.(J. Buika)

Mr. Spence: So we're scheduling this for hearing. So, I guess Commissioners take a look at it and come back with...

Vice-Chair Shibuya: Your thoughts.

Mr. Spence: It's for your review. There's the SMA Minor Permit Report, Exemptions Report that have been handed out to the Commission.

7. SMA Minor Permit Report (Appendix A)

8. SMA Exemptions Report (Appendix B)

Mr. Spence: That's for your acknowledge, you know, acceptance of that, receipt of that.

9. Discussion of Future Maui Planning Commission Agendas

- a. **January 28, 2014 meeting agenda items**

Mr. Spence: And then further Planning Commission, okay so on the January 28th, you have Steve and Janna Schlag requesting an STRH Permit. This is in the Residential District also in Lahaina. Wallace Macaskill and Kenneth Stoddart requesting a Bed and Breakfast Permit also in Lahaina. And then the New Business you're gonna be requested comments on the Draft EA, this colorful document for an SMA and Shoreline Setback Variance that one's in Kuau.

Vice-Chair Shibuya: Okay, well thank you very much Director.

Mr. Spence: And there'll be a couple Communication items.

Vice-Chair Shibuya: Okay, any other comments or inputs or any questions on the...(inaudible)...approvals? None, okay. Meeting adjourned.

H. NEXT REGULAR MEETING DATE: JANUARY 28, 2014

I. ADJOURNMENT

The meeting was adjourned at 3:07 p.m.

Submitted by,

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

RECORD OF ATTENDANCE

Present

Keone Ball
Sandy Duvauchelle
Wayne Hedani
Jason Medeiros
Warren Shibuya, Vice-Chair
Max Tsai
Penny Wakida

Excused

Ivan Lay, Chair
Jack Freitas

Others

William Spence, Director, Planning Department
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel
David Goode, Director, Department of Public Works