

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
FEBRUARY 25, 2014**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Ivan Lay at approximately 9:00 a.m., Tuesday, February 25, 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.)

Chairperson Lay: Planning Commission is now called to order it's February 25<sup>th</sup> at 9 o'clock.

**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.

Chairperson Lay: The Commission will now take testimony for those individuals who cannot be present at this meeting when the agenda comes up before the Commission. If you wish to testify now you can do so, but you will not be allowed to testify when the agenda item comes up again before the Commission unless you have some new or additional information to be offered. You'll be allowed a maximum of three minutes to present your testimony. So if you're gonna testify, come up to the mic, identify yourself and you have three minutes. And again, this is if you can't make it for an agenda item that's scheduled later on.

Just to update you guys, I'm gonna be going a little bit off our agenda today. I'm gonna be bringing the Item E, up to the first. That will be our first agenda item 'cause they just a little information to bring forward to us and then we'll go back to our regular agenda if that's all right with all our Commissioners.

So public testimony is now open. Would John Duey, do you wish to testify at this time?

The following individuals testified at the beginning of the meeting:

John Duey - Item C-1, Anthony Wrzosek, SMA, PD2

Bob Hansen - Item C-2, The Shops at Wailea, SMA, PD1, PD2

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

Chairperson Lay: Does anyone else wish to testify at this time? Seeing none, we're closing public testimony and going to our agenda item E-1.

Ms. McLean: Commissioners, this item just for the record is posted as the Adoption of a Written Decision and Order on action taken at the December 10, 2013 Maui Planning Commission meeting relating to several appeals of the Rock and Brews SMA Permits.

**E. ADOPTION OF WRITTEN DECISION AND ORDERS ON ACTIONS TAKEN AT THE DECEMBER 10, 2013 MAUI PLANNING COMMISSION MEETING** (Deferred by requests of the parties at the February 11, 2014 meeting.

1. **Proposed Order submitted on January 9, 2014 by PETER A. HOROVITZ and KRISTINE TSUKIYAMA of MERCHANT HOROVITZ, LLLC, attorneys for Applicant ROCK & BREWS PAIA, LLC granting Applicant ROCK & BREWS PAIA, LLC'S Motion to consolidate the following appeals:**

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

**The Commission and public were notified of this appeal through the August 13, 2013 Maui Planning Commission agenda.**

- b. **ISAAC HALL, attorney for MAUI TOMORROW FOUNDATION, INC., LANCE HOLTER, THE LUNA PLACE ROAD ASSOCIATION, TERI LARRONDE, and MICHAEL NEWBRO submitting an appeal dated October 17, 2013 of the amended SMA Minor Permit and an amended Country Town Business (CTB) Approval issued by the Planning Director for Renovations and refurbishment to an existing building and the Mercantile building at 120 Hana Highway, TMK: 2-6-005: 033, Paia, Island of Maui. (APPL 2013/0010) (SM2 2013/0069) (SMX 2012/0414) (CTB 2013/0003) (APPL 2013/0010) (E. Wade)**

**The Commission and the public were notified of this appeal through the November 12, 2013 Maui Planning Commission agenda.**

2. **Proposed Findings of Fact, Conclusions of Law, Decision and Order submitted by PETER A. HOROVITZ and KRISTINE TSUKIYAMA of MERCHANT HOROVITZ LLLC, attorneys for Applicant ROCK & BREWS PAIA granting ROCK & BREWS PAIA, LLC's Motion to Dismiss or in the Alternative for Summary Judgement regarding the following consolidated appeal:**

- a. **ISAAC HALL, attorney for MAUI TOMORROW FOUNDATION, INC., LANCE HOLTER, the LUNA PLACE ROAD ASSOCIATION, TERI LARRONDE, and MICHAEL NEWBRO submitting an appeal dated July 19, 2013 of the SMA Minor Permit and Country Town Business**

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- b. ISAAC HALL, attorney for MAUI TOMORROW FOUNDATION, INC., LANCE HOLTER, THE LUNA PLACE ROAD ASSOCIATION, TERI LARRONDE, and MICHAEL NEWBRO submitting an appeal dated October 17, 2013 of the amended SMA Minor Permit and an amended Country Town Business (CTB) Approval issued by the Planning Director for Renovations and refurbishment to an existing building and the Mercantile building at 120 Hana Highway, TMK: 2-6-005: 033, Paia, Island of Maui. (APPL 2013/0010) (SM2 2013/0069) (SMX 2012/0414) (CTB 2013/0003) (APPL 2013/0010) (E. Wade)**

**The Commission and the public were notified of this appeal through the November 12, 2013 Maui Planning Commission agenda.**

Mr. Peter Horovitz: Good morning, Mr. Chair, Members of the Commission, my name is Peter Horovitz. I'm the attorney for Rock and Brew.

Mr. Isaac Hall: Isaac Hall for the appellant.

Chairperson Lay: Please speak into the mic.

Mr. Hall: I'm sorry. Isaac Hall for the appellants.

Mr. Horovitz: When we were here the last time we asked for the item be delayed to the next calendar so we could finalize our settlement. We're still working on that. We're pretty close. We'd ask that no action again be taken today and that the item simply be moved to the next calendar in March. Our hope is to finalize the settlement by that time in which case, we'll be dismissing the appeals entirely.

Mr. Hall: I agree with that.

Chairperson Lay: Commissioners, any questions or comments?

Ms. McLean: And Chair, also for the Commissioner's information we also have a letter from Deputy Corporation Counsel who represents the Planning Director in this matter also concurring with the request.

Chairperson Lay: Commissioner Ball?

Mr. Ball: So is...we're gonna meet again in another two weeks. Are you looking at two weeks or you're looking at next month, I mean four weeks from now?

Mr. Horovitz: I just asked to be pushed to the next calendar. It's provides a little of impetus for all of us to get our work done. We have the draft of the settlement done and I don't see any reason why we can't it get done before on the next date.

Mr. Ball: On the next meeting.

Mr. Horovitz: Thank you.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Yes, could we have a copy of the settlement agreement when the settlement is reached, Planning Director?

Mr. Horovitz: Our preference is that the settlement be confidential. It is between our two parties. It doesn't involve the County at all and that's one of the things that Corporation Counsel is ...(inaudible)...

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: This was brought up in past commissions and the settlement I think there was a ruling that the settlement agreement would be presented to the Planning Commission.

Chairperson Lay: Corp. Counsel wish to?

Mr. Giroux: Well, you know we probably can discuss that in Executive Session as far as what the rules are and how we look at these types of settlement agreements.

Mr. Horovitz: We will comply with whatever the Planning Commission's rules are of course. Our preference is that the settlement be confidential between the parties. So if it does need to be something to discuss in executive session perhaps that's the way to take it up and we will work with Corporation Counsel as well, and again, you know, obviously comply with whatever rules of the Commission are applicable.

Chairperson Lay: Okay, any more questions or comments, Commissioners? Commissioner Ball?

Mr. Ball: Move to defer to the next meeting.

Mr. Tsai: Second.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Ball, seconded by Commissioner Tsai. Comments? Commissioner Wakida?

Ms. Wakida: Do we need to check with Clayton about the agenda? How full the agenda is the next meeting before we agree on that?

Ms. McLean: We should be able to accommodate it. Thank you for asking.

Ms. Wakida: All right.

Chairperson Lay: Any more comments? Seeing none, let's vote on that motion. All those in favor?

Ms. McLean: Eight ayes.

Chairperson Lay: Motion carries. Thank you.

Mr. Horovitz: Thank you.

Mr. Hall: Thank you.

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

**VOTED: To Defer the Matters to the March 11, 2014 Meeting.  
(Assenting - K. Ball, M. Tsai, J. Medeiros, J. Freitas, W. Hedani,  
S. Duvauchelle, P. Wakida, W. Hedani)**

Chairperson Lay: Okay now we're going back to our regular agenda item.

Ms. McLean: Chair, Commissioners, you have two public hearing items scheduled for today. The first is a request from Mr. Anthony Wrzosek, Vice-President of R.D. Olson Development for a Planned Development Step I and a Special Management Area Use Permit for the Piilani Suites Hotel, a 200-room hotel with on-site amenities including swimming pool, restaurant, on-site parking and associated on and offsite infrastructure improvements on approximately 6.377 acres on Wailea Ike Drive at TMK: 2-1-008 por of 121 in Wailea. Kurt Wollenhaupt is the Staff Planner.

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

- 1. MR. ANTHONY WRZOSEK, Vice-President of R.D. OLSON DEVELOPMENT requesting a Planned Development Step II Approval and a Special Management Area Use Permit for the Piilani Suites Hotel, a 200-room hotel with on-site amenities including swimming pool, restaurant, on-site parking and associated on and offsite infrastructure improvements on approximately 6.377 acres on Wailea Ike Drive at TMK: 2-1-008: por. of 121, Wailea, Island of Maui. (PD2 2013/0003) (SM1 2013/0012) (K. Wollenhaupt)**

Mr. Kurt Wollenhaupt: Good morning, Members of the Maui Planning Commission. It's nice to be here this morning with something other than a short-term rental. We actually are going to have I guess a lot of short-term rentals on today's agenda, in fact we're gonna have a 200-room hotel in a single structure in Wailea. So the Planning Commission has seen this before as on May 14, 2013

they approved a Planned Development zoning change to the H-M District that would allow a hotel of six-story maximum. This is a four-story proposed hotel in which the project consultant team at Chris Hart & Partners, Jordan Hart and Brett Davis will be showing in detail and today we have the team also of R. D. Olson, Mr. Olson of R.D. Olson Company and Anthony Wrzosek, the representative from the Olson Development Company are here today to answer any of your questions.

As has been indicated, this project is being reviewed today for two permits. One is the Special Management Area Major Permit as this is in the SMA area to be reviewed against impacts for coastal resources. And addition, it's in the Planned Development community of Wailea. Consequently it does require a Planned Development Step II today. The Step 1 was accomplished as previously indicated on May 14 to go to Planned Development Hotel zoning. Step II has to do with seeing the actual site plan. So the Commission will be voting on two items which will be both the SMA and the Step II Planned Development.

While the applicant will go into detail this is a 200-room hotel with on-site amenities including a pool, fitness center, meeting room, bicycle parking, landscaped open space areas, walking paths, onsite parking, handicapped parking and associated on and offsite improvements.

Since May 14<sup>th</sup> when this Commission did look at Planned Development zoning it went to the Maui's Urban Design Review Board on November 5, 2013 and they gave a number of recommendations that have been incorporated into this project. The Hawaiian architecture and design has been incorporated in light pole, lighting fixtures. A two-tone painting scheme for the exterior...(inaudible)...color was recommended and also in a letter of communication from the Wailea Community Association on November 21<sup>st</sup>, the concurred with the two-tone color scheme and the lighter colored green roof. Since that letter from the Wailea Community Association the applicant has realigned the project with Ekolu Drive so that there's no slight offset for safety purposes and Mr...Commissioner Shibuya will be excited because they have incorporated energy efficient measures which are stated on Page 3. So that should make them pleased. That essentially does bring us up to today. We will be looking of course, at any impacts to the Special Management Area. It has been reviewed by multiple agencies as noted in the staff report and the applicant, the consultant, and staff are here to answer any outstanding questions which may have with regards to those issues. But if it's the indulgence of the Chair, we'll have the power point presentation?

Chairperson Lay: Sure.

Mr. Bob Olsen: Good morning, Planning Commissioners, my name is Bob Olson.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Can we open up some more chairs there. Maybe in the center isle here so people standing can sit. I think there's some room here.

Chairperson Lay: Thank you, gentlemen.

Vice-Chair Shibuya: Thank you.

Mr. Olson: Okay, good morning, Planning Commissioners my name is Bob Olson. I am the President of R.D. Olson Companies and I just would like to start by introducing us who we are and give you just a brief overview of what we're proposing to do in Wailea.

First of all, about our company. We are hotel developers and builders and owners of hotels focusing on high quality hotels. We've been in business since 1979. And we've been doing business on Maui since 1987. We built and now own the Marriott Courtyard in Kahului that opened in June of 2012. That hotel has, I think and has proven to have been a great service to our community and a quality hotel for this side of Maui. In fact our customer comments have been very positive. We track with. We're very interested in that both on the independent web sites as well as Marriott operates this hotel for us and as well as our own internal guest satisfaction reports. And probably as important or maybe even more important our associate surveys are also very, very positive. Our employee, our people are very happy working in our hotel which is very meaningful to us which we think is why the hotel has been performing very well. Just spent the night there last night, and actually had a great nights sleep. We are an active group. We have opened six new hotels since 2011. And say that just because the economy we all know that what we've come through and we've been able to open hotels in light of that and we're proud of that, but in any event we are currently underway, under construction with two hotels on the mainland. That's a little bit about us.

Talk about what we would like to do in Wailea, first of all, it's 200 homes. It's really a family-focused hotel and if you look at some of who of our customers will be, we expect many inter-island family travel. We expect, well our...to that end, we have many two-bedroom mix and you'll see the details coming soon in terms of what we have there. The guest amenities, free breakfast, great for families, free Wi-Fi, a resort-style pool, a sports court, a very large fitness center, onsite parking, no parking structures, and easy to park, our van service to the local shopping and the beach facilities. In fact, the hotel will be operated by Marriott who is actually Marriott International and they are operating our hotel now at Kahului. The benefits of Marriott obviously the Marriott reward system considered the best in the travel industry. They as a company have very, very high associate job satisfaction and provide incredible upward mobility for their managers. In fact, our general manager, who opened our hotel in Kahului and now is the number two man at Marriott Resort. So great, great opportunity for the employees. And in addition to the services that we'll provide onsite, the Marriott will have a van service between the beachfront resort and our hotel so that our guests will be able to utilize that van service back and forth. That's it from a sort of 30,000 feet. We'll get into the details, but if we can show the next slide, again, myself from R.D. Olson Development and Companies, Tony Wrzosek is here as well, and the Jordan Hart, Brett Davis and David Serreda from CH&P. They've been working with staff on our application. I would like to add that we have, I think we've had a pretty good relationship with staff and we got some good comments and good feedback and from the community associations as well. In fact we made the presentation in November. We had a very positive...in the Andaz when it brand new it was a beautiful room, but we had a lot of positive comments. People coming back and commenting after. But we did get some good feedback and that feedback has been incorporated into our plan. Again, so to continue on with our team, Rick Myers from WATG Architecture out of Honolulu probably the world's most premiere resort and hotel architectural firm. Damon Smith, DCI Engineering, civil engineering, Mike Packard our traffic engineer, and Mike Dega from Scientific Consultant Services, our archaeologist. So with that, I'm going to turn this over to Brett Davis to give you more of the

details. Thank you. And we're all here for questions and look forward to any discussion.

Mr. Brett Davis: Good morning, Commissioners. My name is Brett Davis. I'm a planner with Chris Hart & Partners. Just like to give you a little background. Here's a location map. You can see the project site. It's accessed from Wailea Ike Drive and you see Piilani Highway, Wailea Alanui down here. Primary access for the site will be from Wailea Ike Drive opposite of Wailea Ekolu Place and a secondary entrance will be provided here to provide access to the Wailea Town Center.

This slide shows some photos that were included in the staff report to show the character and the surrounding neighborhood. Attached here is the project site plan that you have in your staff report and I'd just like to highlight two areas. We had as Mr. Olson represented Marriott is going to be involved in the hotel and one of their requirements is to have a sport court on their facility and this plan that we submitted to you does not have a sport court. So we've added one right here. And we also added a couple trees over here. If you look on the last slide, you'll notice it was kind of like a bare lawn and we thought the trees would be appropriate there. Again, this is the site plan, preliminary site plan that we would like to get approved for Step II Approval.

As you'll notice we do have the main entryway set up in alignment with Wailea Ekolu. That was a recommendation from the Wailea Community Association. We also beefed up the landscaping along the side and provided bike paths. Here's a rendering that was included in your staff report showing the view towards the hotel as you're looking up Wailea Ike Drive. Here's an elevation of the hotel. You'll notice it's two-tone and has a green roof. Those were recommendations from UDRB and WCA. Another elevation showing the front of the hotel and courtyard. This is a drawing of the porte cochere at the entry.

Next I'd like to go over and identify some of the project impacts from the staff report related to infrastructure, natural and cultural resources and socio economic. First I'd like to talk about water. Demand for the project is 163,199 gallons per day and the applicant has been working with the County Department of Water Supply to secure water, water meters for the site and we anticipate getting water for the site. Wastewater. Currently there's no wastewater on the site. It's a vacant, vacant spot and we anticipate connecting to the existing County sewer system that is in close proximity to the site. For drainage we will provide retention, I'm sorry, detention on site in underground detention basins beneath the parking lot.

As far as impact from roadways, we prepared a Traffic Impact Assessment Report for the project. And I'd like to go over with you there is proposed mitigation measures for the future without the project and discusses mainly this intersection here. This intersection here is the project entrance way. And the mitigation for the project itself will be to remove some of this vegetation along this curve to increase sight distance and also install appropriate signage was recommended. Here's an example of that signage.

The proposed project will not anticipate to impact schools or parks. And we believe that Police and Fire adequately provided for this hotel in the Wailea area itself. The natural and cultural resources we've prepared an Archaeological Inventory Survey. It was prepared in 2000 and accepted by SHPD and recently in 2013, our archaeologist prepared an additional Environmental Inventory Survey and Monitoring Plan and we are working with SHPD to get those approval letters and we expect them shortly. And I was just asked to include the results of the 2013 Archaeological



Inventory Survey ... (inaudible)... there was no, no artifacts found.

Project will benefit Maui's economy primarily through construction jobs. We estimate 260, and then permanent hotel employees would be around 50 to 52 people. The applicant has been coordinating with the Department of Housing, Human Concerns on the Affordable Housing Agreement and will comply with the requirements.

Finally as Kurt said, the proposed project is in compliance with the SMA rules and the Planned Development requirements. In addition, the Countywide Policy Plan, Maui Island Plan, Kihei Community Plan, and County Zoning Ordinances. That concludes my overview of the project today and we'd just like to thank you for your time and let you know that we have all of our consultants here available for questions if you have any. Thank you very much.

Chairperson Lay: Commissioners, at this time I'm gonna go to public testimony. Does anyone wish to testify at this time? Please step forward to the mic and identify yourself. If you testified already, you won't be able to testify again unless you have new information.

**a) Public Hearing**

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

Mr. John Duey: Good morning, Chair and Members. My name is John Duey. Over a 50-year resident, half a century on Maui. The last 10 years plus involved in Na Wai Eha water issue. In 12-7, 12-67, before the County Council a bill was passed the availability, long-term availability of water roughly a year, it's called show me the water bill. Concerning this 200-room hotel, my only question is where is the water coming from. Thank you.

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

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

Mr. Bud Pikrone: Good morning. My name is Bud Pikrone. I'm with the Wailea Community Association, General Manager. As you heard this project has been before the Wailea Community Association. We just received the preliminary plans to further review with our committee. We have not had a chance to look at those, but preliminary looking at them briefly, our manager who handles that has stated that the concerns that we had seemed to have been addressed. As you saw with the intersection and taller porte cochere and those things.

And our have...our main concern that we had with some of these issues like the intersection was we hope someday that the County will look at we're not a very pedestrian friendly community and we hope that that changes in the future and one of the things would be that the County look at something on Ike to help with as we build out to help with pedestrian crossing through the area. So that's why we asked them to align that so for the future.

Other than that, we have had some comments. Nothing has been negative about the project as a whole. We've just had concerns with traffic as the typical would be concerned with traffic in and

out of the area. And though as one homeowner put it to me in that area, I'd rather have this than a commercial center there which would generate more traffic. So that's pretty much what we've heard is just concerns over pedestrian traffic and car traffic. Other than that, the hotel has not had any negative comments from the community.

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

Mr. Pikrone: Thank you.

Chairperson Lay: Does anyone else wish to testify at this time? Seeing no one, public testimony is now closed. Commissioners, any questions for the applicant? Commissioner Medeiros?

Mr. Medeiros: Question for the guy from Marriott?

Mr. Olson: I'm not the guy from Marriott, but I think I can answer almost any question.

Mr. Medeiros: Okay, the 52 permanent jobs that you guys described. Define permanent jobs like is it full-time or part-time?

Mr. Olson: Full-time permanent jobs, yes.

Mr. Medeiros: Full-time?

Mr. Olson: Yes.

Mr. Medeiros: And 200 rooms only 52 permanent, I mean, full-time?

Mr. Olson: Fifty-two permanent. There will be some part-time jobs, but mostly the 52 permanent jobs. And that will fluctuate, you know, based on how the hotel does and you know, during the year, but 52 on average is where we estimate right now.

Mr. Medeiros: Okay, I was curious about that.

Mr. Olson: Sure.

Mr. Medeiros: Thank you.

Chairperson Lay: While we're on the employment part, I have a couple of question...question for you also. I know at the Airport Hotel you used local construction workers and we're wondering if you're gonna be using...following through with this again?

Mr. Olson: Oh, yes. It was a very successful project and we will absolutely will use many of the same subs, subcontractors that were there. They did a great job. I don't know if you saw it when it went up, but some creative things that were done. For instance, prefabricating big sections of the floor and putting it...you know, dropping them with the crane. So we were very satisfied with that.

Chairperson Lay: Everyone appreciates that. Any more questions, Commissioners?  
Commissioner Ball?

Mr. Ball: Question about the intersection at Ekolu Place. Was there no recommendation to, to signal that?

Mr. Mike Packard: Mike Packard, traffic engineer. No, there were no plans to signalize the intersection. It doesn't meet traffic signal warrants. The delay was manageable but there was sufficient capacity there so that turns off the road where it works okay.

Mr. Ball: And will there be a acceleration lane heading up the hill?

Mr. Packard: There are no plans for any additional lanes. Currently between the two sides, Ekolu and where the driveway is there's about a 20-foot median space which actually allows for a vehicle to queue into between out of the travel way. So this will help both vehicles turning off of Ekolu making a left as well as vehicles traveling mauka or makai to pull into this area out of through traffic vehicles.

Mr. Ball: From limited time going down that hill I know people speed going down and speed going up right at that section too because they wanna beat the slower car to get to the highway. So...so I heard, right? So I do have concern with that not having a acceleration lane at least going up in that area because people will be not familiar with people coming up that hill and it is kinda on that curve there.

Mr. Packard: To mitigate the concern that this was along a curve that's why we proposed the signage that identifies that there's an intersection coming up along the curve. Future plans for this area are for quite an expansive build out and up at the intersection with Piilani there's plans for that to become a four-way signalized intersection. And so the benefits from speeding up the hill to pass the next best car are gonna be fruitless because ultimate plans are for signalization.

Mr. Ball: Okay.

Chairperson Lay: Public Works, comment?

Ms. Dagdag-Andaya: Can I just also add that I know we have our comments in the...to the SMA and they're pretty standard comments but in looking at this project a little further with staff, we do recognize that the mitigation that they've provided is pretty reasonable. But you know, even after the SMA there's still some review with the Engineering Division and their traffic reports and so, right now we do think that, you know, we should consider some mitigation at that intersection. That's just a preliminary thing that engineers have recognized in looking at the traffic report. So even after the SMA we'll still have that back and forth with the traffic consultant and with developer on any additional mitigation measures. It could be that like a refuge lane may help, maybe it won't. We'll need to look at future conditions, any future developments and so after this we still have another in-depth look into the project.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Yeah, how you're gonna designate the, I guess maybe the Public Works question as well? It's kinda the markings on the road because right above that Wailea...(inaudible)...Shopping Center if you come out Piilani Highway you can actually turn sorta to the right and it has a kinda of a deceleration lane I guess on the right-hand side. I don't know what you call it, technical term. Are you planning to do the similar for this development?

Mr. Packard: Initial plans are for no change in markings because there's no intent to add an additional lane here. There'll need to be a reconfiguration of the intersection because it's gonna cross Ekolu which currently has a left turn lane into it. There needs to...and striping that crosses somewhat into the median area. So the hatch striping will need be reconfigured and even the Ekolu approach it's gonna have to account for potential through trips. So there's gonna be no, no plans following DPW's review for any deceleration, right-turn lane there which is what I believe you're envisioning when you talk of the turn off of Piilani.

Mr. Tsai: Yeah, it's exactly that.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: For the Deputy, for Public Works will you please include merging lane as Commissioner Ball mentioned because it's...I think it's appropriate at this point. There is space for this merging lane at least to have the merging/acceleration lane available.

Ms. Dagdag-Andaya: We'll work with the developer and also with the traffic consultant on appropriate mitigation and review it a lot more in detail.

Chairperson Lay: Thank you.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: One of the testifiers earlier had concerns about traffic safety. Could we get a commitment from the developers on his concerns about safety during the construction would be addressed?

Mr. Packard: I can't address safety during construction.

Mr. Olson: Well, when we, when we...as all projects, when we prepare to mobilize the site we'll look at the traffic and access in and out I believe our construction guys did do some preliminary plans but we'll obviously be very, very concerned with that both from the impact to the community but also the ease to get in and out without creating any traffic. So there'll be, you know, mud...what are they, the mud grates so when they pull in and out, and we'll be cleaning the streets continuously. But we typically will get the paving in just as soon as we can so that we are not tracking anything out on the streets. We think you have pretty good visibility coming out onto Wailea Ike Drive to go left because that's where most of the traffic will exit, but as they enter we'll come in off Piilani Highway, Wailea Ike, make a right into the project and very quickly we'll have paving in there. So we think it'll be a pretty good process and construction parking will be on site. So I think we've got it. We'll have it...it's not totally worked out but it will be worked out and to where it's a smooth operation.

Mr. Medeiros: Thank you. I was there when you know Andaz was being built and yes, you guys did do a good job with traffic safety from where I can...from what I saw 'cause I travel down there almost daily. However, the guy that testified had concerns 'cause he lives there. So here's there a lot more than I am and when he called to complain, you know, he didn't get responses, you know. You know, I'm not trying to tell you how to build out your hotel and everything. I just you know, want you to be good neighbors and if the person has a legitimate traffic safety concern, I think that it should be, you know addressed.

Mr. Olson: No, I agree. And I think one of the beauties of this site is that we have such a large approach from where the actual pad of the building is and from Wailea Ike so that we can have any backup of traffic would be maintained on our site. So I think there's some things that are inherent in this site that will mitigate itself in many ways. And we're happy to talk to anyone. I'm not sure who they'd call, but we're happy to take anyone's call and listen to ideas that may be out there especially from people who live there and their concerns as well. So I think you'll find we'll be very sensitive to our community. We say "our community" because we're gonna be here a long time. And so when we're there we consider ourselves the day that we break ground to be a member of the community.

Chairperson Lay: Oh, you wish to comment further?

Mr. Anthony Wrzosek: Hello, my name is Anthony Wrzosek with RD Olson Development. Thank you for the opportunity to speak. I would just like to add two points to Bob's comment regarding construction traffic safety and we absolutely will submit a traffic control plan that details signaling, markings during the duration of construction and how traffic will be controlled and directed. And if we can give Bud from the Wailea Community Association an opportunity to comment on what happened with construction traffic during the Andaz project?

Chairperson Lay: I think he's answered it. Commissioners, do you wish to Bud to come forward? No, okay thank you. Commissioners, any more...Commissioner Medeiros?

Mr. Medeiros: Just one more question and this is out of curiosity you said that you know you were looking at the local market to build your hotel. What is the price range for rooms there?

Mr. Olson: Well, we have all sorts of different room mixes, anywhere from 199 to 299 and you know, for the two-bedrooms, you know, in high seasons probably gonna be 350. Now look around in Wailea that's...this is significantly...it's family oriented. And we see a lot of inter-island travel. Families coming to visit families who live here or families inter-island families coming to Wailea for family gatherings and this is happening now and we think this is a quality hotel for that sort of travel.

Mr. Medeiros: No, I was just curious about the room rates because when you said local people, you know, I think you know guys like me, yeah, and that's in the ballpark.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Mr. Olson, this is I think being presented as a hotel. Is there any plan in the future to turn this into a timeshare?

Mr. Olson: No, no. It's not permitted. No, no.

Mr. Wrzosek: I believe that Wailea has CC&Rs that prohibit that type of conversion as well.

Ms. Wakida: Thank you.

Chairperson Lay: Commissioner Ball?

Mr. Ball: What is your proposed square footage of the units?

Mr. Olson: They vary from 450 square feet to about 750 square feet.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: On the subject matter of room rates and we know Maui has the room rates in the whole state pretty much. Are you gonna offer since you've mentioned for locals, are you gonna offer pretty substantial kamaaina discounts or let me finish too, what happened is I had clients from Oahu come in last week and they couldn't find a single place on Maui that cost less than \$200 a night. And they had to stay at the Maui Beach Hotel which well, I think I've said enough about that.

Mr. Olson: No, we will offer kamaaina. Marriott has a program and I wish I had Marriott here that could talk more about that, but yes, it's...we see a big piece of the business again being inter-island travel, families coming, we're seeing that in our hotel now. We think there's a bigger opportunity to serve that community within...with the inter-island travel.

Chairperson Lay: I have question. I was just curious. I might be jumping ahead of Mr. Shibuya, but was...one of your items that brought, you know, my curiosity was the use of passive solar cooling. What exactly is that?

Mr. Wrzosek: Examples of passive solar cooling can be large overhangs over a roof that shield summer sunlight, ...(inaudible)... special binds or any systems that would provide shields of the sun or shading over windows. That's part of the architecture of the building and not active mechanical equipment, but fixed passive type of material.

Chairperson Lay: Mr. Shibuya you wish to follow on that?

Vice-Chair Shibuya: No, no, I had something else and I'll go ahead and piggy back on what you're saying here. I think the effort here is to conserve with the amount of design intrusion and to allow for the visitors to have a nice visual effect and appreciation of the landscaping. It's hard to appreciate the landscaping if your l shades are a little long and also if it's...the l shades are too short then you're looking to glaring sun. So it's a natural balance there and so we hope that you'll come up with this nice balance.

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

Mr. Hedani: I'm not sure if this is...I have a series of questions. The first question that I have is that

in the application itself or actuality their staff recommendation there was five-year time frame for the development of the hotel and I'm wondering why does it take five years to construct a 200-unit hotel?

Mr. Jordan Hart: It's my understanding that that's a standard time frame. However, I do know that our client is extremely anxious and is going to go straight into building permit process and there's no time intended to be wasted between SMA permit and complete development.

Mr. Hedani: I guess the question would a three-year time frame be sufficient for construction of the hotel?

Mr. Hart: Well, there's no, there's no intent to delay in any way, however I wouldn't, you know, propose to request that we reduce the normal time frame of a permit. That being said, we were meeting yesterday about setting a time frame for submittal of grading permit applications and so on. So I know that there's a...

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: We had concerns that were expressed by John Duey about water source and the scarcity of the resource. How is that project handling development of water for the future?

Mr. Hart: I'd like to bring up the project civil engineering consultant. He can speak about this.

Mr. Damon Smith: Commissioners, Damon Smith, ECI Engineers, civil engineer for the team. We've been working with the Department of Water Supply and have plans in now with them for service from the water line in Wailea Ike Drive. They've indicated that the project area is served by the Central Maui system and they concur with the applicant's estimated 163 gallons per day of water use.

Mr. Hedani: Okay, I guess my question is you know there's a lotta water on the island. The problem is that the water isn't developed and the sources haven't been developed. So the question is how do you address source development for the project? Is that just through an assessment that the Department makes that you just pay or are you pursuing new wells in new locations?

Mr. Smith: We haven't had that indication from DWS. They are indicating that there's enough supply there for this project. So we're not...we haven't talked about further future development of water –

Mr. Hedani: Then my question would be for the Deputy as to how source development assessments are handled for a new project?

Ms. McLean: That is handled directly with the Water Department. If they feel that they have adequate supply to serve a project then it will just be served from existing supply. They won't require an applicant to develop new source to serve their project. When water meters are issues for the project they pay the water system development fee in addition to the meter fees and the water system development fee is intended to be thereby an ...(inaudible)...system. But in terms of where does the water come from it's up to the Water Department to determine whether an applicant

has to develop source themselves or whether the department has water available to serve the project.

Mr. Hedani: Let me ask the question in a different way.

Ms. McLean: I don't know that I'll answer it in a different way.

Mr. Hedani: There was a show me the water bill that was passed. How does that relate to they'll develop?

Ms. McLean: They will have to comply with the show me the water bill which—

Mr. Hedani: And that's taken care of in the development assessment that you're talking about?

Ms. McLean: That's up to the Water Department to determine their compliance.

Mr. Hedani: Okay.

Chairperson Lay: I have a question on water also. Is there gonna be any use of any reclaimed water, any brackish water for watering your foliage or your plants?

Mr. Smith: We're setting the systems up to be able to use the brackish water and reclaimed water when it comes available to the site or in the area.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I'd like to take a little closer look at the bike path you have in Exhibit 4. Maybe you could give me, give us a little more information about that? I see you have a sidewalk leading into the property.

Mr. Hart: Go ahead.

Ms. Wakida: So...well, I'm not sure what the bike path is. I mean, I see the sidewalk so can you explain what is the bike path?

Mr. Hart: At this time it's a dedicated and striped pathway on the roadway itself. So it's a basically a separate section of the shoulder that's specifically dedicated for bicycles.

Ms. Wakida: Are we looking at Exhibit 4?

Mr. Hart: Well, you're looking at Exhibit 4 which was a correspondence with UDRB at a previous point in time. I think that our current site plan is more accurate to what's currently being proposed. Oh, excuse me, go ahead.

Chairperson Lay: Please identify yourself again for the record.

Mr. Wrzosek: Anthony Wrzosek, RD Olson Development. And Commissioner since the



realignment of the entrance drive and recommendations from the Design Review Board Wailea Community Association highly recommended that we realign the entrance drive and the Design Review Board highly recommended that we add bicycle paths for access to the project. So the new entrance drive will be wider in pavement to include bicycle paths in both directions. And unfortunately because of the slope of the terrain and grade, the sidewalks along the entrance drive weren't possible. And that's because of new ADA laws and the percentage of slope for public sidewalks. So the public sidewalk was moved to have a more direct access from the front porte cochere to Wailea Ike Drive.

Ms. Wakida: So the bike path is really just a striping lane on the side of the entrance is that correct?

Mr. Wrzosek: Yes, on both sides, yes.

Ms. Wakida: I'd like to make one recommendation something that we saw in a presentation from Kauai and that was that the stripe that delineates the bike path be wider than your regular stripe and that gives a greater sense of space and safety to the people...the bikers. It's sort of a new idea that's coming out. In other words, instead of the standard stripe size I don't know it was six inches wider, it's something to consider.

Mr. Wrzosek: We'll absolutely consider it and I believe we do have a wider version. It is eight feet at the moment so it's spacious.

Ms. Wakida: We're talking about the stripe not the-

Mr. Wrzosek: Oh, the stripe itself, sorry. Okay, yes. Okay, absolutely.

Ms. Wakida: All right. Thank you.

Chairperson Lay: Public Works?

Ms. Dagdag-Andaya: I just wanted to add that we'll look at existing guidelines for standard...for the bike lanes and look into that as well. So we'll work with the developer on what the standards are 'cause sometimes the it's not appropriate or according to MUTCB guidelines so we would just wanna, you know, before...I think the recommendation is great but we still need to kinda look at what our guidelines are and how they work with our current bike path plans.

Ms. Wakida: Thank you.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: This relates to the Deputy with the pedestrian walkway. You'll be looking at that for fronting the project area too, right?

Ms. Dagdag-Andaya: That's correct.

Vice-Chair Shibuya: Where does it end up if you do look at it, where would it terminate?

Ms. Dagdag-Andaya: It would go along the frontage of their property and I think he has more to explain.

Mr. Wrzosek: Yes, we will be improving the sidewalk and the public right of way that fronts our property. And a future build out on both the east and the west the properties that are owned presently by A & B Properties will provide a continuation of that sidewalk.

Vice-Chair Shibuya: Okay, thank you.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Yeah, pedestrian access along Wailea Ike Drive is a joke if I may say that because I being a resident of Wailea and I go up and down that road all the time. You have tourists basically walking up from the hotels along the grassway and then cut across Wailea Ike or they're trying to walk on the other side too as well and it's just...it's a serious matter. I think when you look at this as a bigger, you know, scope of courage because we got a lot of people going to the Wailea Gateway Shopping Center now and that's what they're doing. They're walking up from the hotels or going up to Manoli's or the restaurants so there's absolutely very minimum pedestrian access.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: it's a question for our Deputy Director. When does the issue of employee housing kick in with these large projects?

Ms. McLean: The project will have to comply with the Workforce Housing Ordinance and an executed agreement with the Department of Housing and Human Concerns will need to be in place before building permits are issued.

Ms. Wakida: So that relates that would be related to this project?

Ms. McLean: Yes.

Ms. Wakida: And do we have any information on that?

Ms. McLean: That would be up to the developers to work out with the Department of Housing and Human Concerns. I know that they've had preliminary discussions with them on how to meet those requirements, but that's an agreement between the developer and that department. And again, before building permits are issued for the project that agreement needs to be finalized.

Ms. Wakida: Can I ask sorts of options does the Department look at?

Ms. McLean: There... the provision on housing onsite or offsite it needs to be in the same region. Often times there are credits from other projects that can be, that can be purchased. There are a variety of options.

Ms. Wakida: Doesn't that normally come before us when we are looking at these permits? Isn't

that normally included in their packet of requirements?

Ms. McLean: I suppose if the agreement had been executed and there and that it had been finalized then it could be presented to you, but my understanding is that they haven't finalized the agreement at this time. Because what's being applied for...and it could also be in the context of what application's before you because this is an SMA approval we're evaluating this project based on Coastal Zone Management criteria and that the workforce housing isn't part of SMA requirements.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Maybe I can just ask the developer if you can let us know what the housing provisions are at this point?

Mr. Wrzosek: We are pursuing and discussing every option available. Determination has not been finalized yet, but one will be prior to the submittal of a building permit application.

Mr. Hedani: Basically does that...I know generally housing requirements are like 30 percent of the unit count. So in a 200-unit development it would be like 60 units.

Mr. Hart: Let me do a calculation right now, at the moment. We're basically proposing to just comply with the ordinance as it exists when we are ready to, not submit, but receive building permits just because there's a number of other things that are moving at the same time. But have met with, we actually yesterday met with Housing and Human Concerns and so the applicant is cooperating with Housing and Human Concerns and will have an agreement executed to participate with the provisions.

Mr. Hedani: Okay, fine.

Mr. Hart: Okay.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I guess this is just a followup to my comment earlier maybe for DPW? Since this is County road area we...is there a plan to address the pedestrian access issue along that road or area we just relying on all developers pretty much doing their own thing?

Ms. Dagdag-Andaya: At building permit they have certain requirements relating to their frontage. And in terms of a pedestrian plan there is a pedestrian plan in place that was drawn up by the State. So I don't know exactly what is In entailed in this plan for this area here but that's something that we take a look at when developments come in for an application as well.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: Yeah, Commissioner Wakida question about housing concerns and everything. It's just me, you know, I don't like answers like we're pursuing all options available to us. You know which is answering the question without answering the question. Could I get some examples of the

options here ...(inaudible)... pursuing?

Mr. Olson: Well, there's myriad of options and in one of which is trying to build them ourselves and going through, we've actually looked at property. We've been working on this property for probably eight months to a year. It's just very complicated procedure to get through and we have to find an answer. We just don't have one today, but we know that before we can pull our permit we will have to have that agreement done with the housing authorities. It's just that's part of the process and I wish I had an answer today believe me, but we're working on it and we'll have a solution by the time...if we want to build our project we have to have our agreement executed. I'm sorry I don't have an answer that's more concrete.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Thank you very much. I'm just gonna change gears here and go into another phase called energy and sustaining ourselves. Do you know or estimated amount of electrical power that this new unit will be using as well as any other fossil fuels that you'll be using?

Mr. Olson: Well, I'll have... we've done a full energy report for the project. I believe it's included in the application. Tony, you wanna...

Mr. Wrzosek: We've commissioned a initial study by a local energy consultant and they've provided...it's included in your report a list of recommendations of energy efficiency procedures to be incorporated within the project.

Vice-Chair Shibuya: Yeah, no, I was asking what is the peak or the total amount of energy that you would be using, not how much you are conserving.

Mr. Wrzosek: We can have those calculations available in the near future. We usually calculate at the time of building permit application drawings and submission to the local utility company.

Vice-Chair Shibuya: Okay, and are you using other energy sources, resources other than electricity to power your facility?

Mr. Wrzosek: At the moment not.

Vice-Chair Shibuya: Oh, it's all electricity then?

Mr. Wrzosek: Or propane.

Vice-Chair Shibuya: Or propane.

Mr. Wrzosek: Yes.

Vice-Chair Shibuya: Yes, okay. Are you aware of HRS 269-92. This is the renewable energy portfolio standards that the State of Hawaii has mandate across all of the Hawaii. And one-half of it is conserving energy and that's you've done due diligence here and you've identified your efforts in terms of getting more efficient uses of electricity and maybe being more frugal too. However, the

other part of this equation is 40 percent of renewable power that you generate and I've heard nothing and not read anything in terms of that. Can you come up with about 40 percent of your peak amount that you need to sustain this operation?

Mr. Wrzosek: We would have to consult with our electrical engineer.

Vice-Chair Shibuya: So you'll take a look at it?

Mr. Wrzosek: Yes, absolutely.

Vice-Chair Shibuya: Okay, thank you very much. I'll be watching.

Mr. Wrzosek: Okay, absolutely. Thanks.

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

Mr. Hedani: I guess this is for Jordan. On the archaeological survey the letter that I saw come back from the State basically indicated that they received the report but they didn't have a chance to review it.

Mr. Hart: That's correct, and we have Mike Dega who is the archaeologist for the project here if you'd like to speak with him more in detail about his conversations with SHPD, but it's basically the correct understanding of the situation. There was an initial study done in 2000 that didn't include any subsurface testing and just knowing that SHPD's current policy is to require subsurface testing and we went ahead and initiated a new study to update that. The subsurface testing was conducted. Nothing was found. In addition to that a monitoring plan was prepared in anticipation of that standard requirement. Both of those documents were submitted in 2013 with no technical review to date and so there is a proposed condition recommended by the Planning Department that our ultimate issuance of permits, construction level permits be contingent on their final approval of those documents.

Chairperson Lay: Commissioners, let's take a 10-minute break, reconvene at 10:15.

A recess was called at approximately 10:04 a.m., and the meeting was reconvened at approximately 10:16 a.m.

Chairperson Lay: ...is back in session. Commissioners, any more questions? Commissioner Wakida?

Ms. Wakida: Just a last question for Mr. Olson?

Mr. Hart: Mr. Olson stepped out for the moment. I can try and answer anything or go get him or we'll go get him.

Ms. Wakida: Maybe somebody else has a question while we wait?

Vice-Chair Shibuya: Yeah, I have another question.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Okay, I just had a question in terms of drainage. What standards did they use to determine the soil drainage? And is this the standard Deputy that we use normally on Maui?

Mr. Smith: I think I can answer that. Damon Smith ECI Engineering, civil engineer for the team. We did designed the onsite detention system to hold the difference between predevelopment and post development flows for the 50-year recurrence, an hour interval. We used the rules for the design of storm drainage facilities in the County of Maui, 1995 edition for all of our calculations.

Chairperson Lay: If I can follow up on that also. You said your drainage retention basin is underneath your parking area?

Mr. Smith: That's what we're looking at now is, yeah, a vault or a series of pipes to store the stormwater during the peak of the storm and then meter it out at the slower rate which would be the predeveloped rate.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: I just wanna ask for Deputy Rowena to respond to the comment for information provided by the—

Chairperson Lay: Public Works?

Ms. Dagdag-Andaya: Yes, they needed to follow our drainage rules so for this project we're at a less than a 100 acres so they're following that 10-year, one-hour storm which is consistent with our drainage rules.

Vice-Chair Shibuya: Ten years and not 50 years?

Ms. Dagdag-Andaya: No, because it's over a 100...I believe it's over a 100 acres that's when you kick into 50-year.

Vice-Chair Shibuya: Okay. So it is 10 years then?

Ms. Dagdag-Andaya: Yes, that's correct.

Mr. Smith: We've calculated our flow rates at the 10-year, one-hour...10-year recurrence, one-hour interval but we did, at this point we've over...we've conservatively estimated the pre and post development detention requirements at a 50-year, one-hour.

Vice-Chair Shibuya: Okay, thank you. Also, was there sheet runoff from adjoining properties that was actually estimated into this? I know the adjoining property supposed to take care of their own drainage but sometimes it happens too.

Mr. Smith: We'll be working with the neighbors to accommodate that predeveloped flow in its native

pathway.

Vice-Chair Shibuya: Because I think you are in a gulch area?

Mr. Smith: We're downhill of the golf course above.

Vice-Chair Shibuya: That's right. It's a natural area where the water flows.

Mr. Smith: And there are provisions there now for that storm water and we'll make sure we work with the neighboring properties to accommodate what we need to.

Vice-Chair Shibuya: Okay, thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yes, a question for Mr. Olson, please?

Mr. Olson: Yes, thank you.

Ms. Wakida: One of your former projects was the Marriott Courtyard, correct?

Mr. Olson: Yes.

Ms. Wakida: How did you satisfy the housing requirement for that project?

Mr. Olson: Oh great. That was a project that we did in a partnership with A&B Properties and the affordable housing requirement was actually filled before we even became a part of it. Grant Chun is here and I would ask Grant to come and maybe provide some information.

Mr. Grant Chun: Good morning, Commissioners. Grant Chun, A&B Properties. To answer your question Commissioner Wakida, A&B Properties had built the Kahului Town Terrace which is an affordable rental project located near the Safeway in Kahului and so we had credits from that construction, that project that we used for purpose of satisfying the requirements at the Airport Hotel, the Marriott Courtyard Hotel.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: And when was that project that you're referring to built?

Mr. Chun: Oh, my goodness. It was built in the 90's. It was built a while ago, we just never utilized the credits so we had the units constructed in anticipation of the potential for the hotel. As you recall, the hotel took many years to come to fruition.

Ms. Wakida: Okay so, so no new units were built then with the Courtyard? No new housing units were built?

Mr. Chun: Well, they were built before the Courtyard was built.

Ms. Wakida: Thirty years before, yeah? You said in the 90's?

Mr. Chun: In the 90's, yeah.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: I'm concerned. Grant maybe you can...because you're with A&B Properties, I'm concerned in terms of having accessway for pedestrians. The developer here on Piilani Suites Hotel is planning to put in a walkway and it actually ends at the property line and so I was wondering A&B Properties planning to continue that one towards the Wailea Shops?

Mr. Chun: Makai of the property?

Vice-Chair Shibuya: Yes.

Mr. Chun: Yes, when the area as the applicant mentioned, A&B Properties owns the property immediately makai of the hotel site and so yes, in conjunction with the ultimate development of that property the walkway will be required actually by the Department.

Vice-Chair Shibuya: Yes, okay because I'm concerned in terms of having a walkway that ends into nowhere. Thank you.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Hey Grant, what's your time line for that? Is that gonna be consistent with the construction of this development or...for the walkway?

Mr. Chun: The time line will occur in conjunction with the development of the area makai of the properties. It's not gonna occur concurrently with the hotel's development.

Mr. Tsai: Any idea when that will be?

Mr. Chun: Not at this time, no.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I have a question for the developer. Just wanna confirm you will put in a pedestrian sidewalk fronting Wailea lke correct, in front of your property?

Mr. Olson: That's correct, yes.

Mr. Tsai: Okay, thank you.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Could tell I was gonna ask a question. I guess this is for Mr. Olson? First of all, I



wanna say that I like the project. I like the concept. I like the idea that you're addressing local people wanting to take advantage of Wailea and the beaches that are available at Wailea and I think that's a good thing. I have family that have come from Oahu and they've stayed at the Courtyard Marriott and they really liked it. And I think I spent two days in your pool over there with my niece that was there that insisted.

Mr. Olson: Thank you.

Mr. Hedani: So I think it's a great concept. A good family concept. The one question that I had on architectural was, well actually it's two items. The sconces that are on the outside of the building are they in compliance with the Outdoor Lighting Ordinance?

Mr. Olson: Yes, they are. Yes.

Mr. Hedani: Okay. That's the one question I had on architectural. And the second item that I had was something new that's coming up that I don't think a lot of people have tried yet and it kinda relates to Commissioner Shibuya's concern about energy generation. I know that you're going to tiles on the roof. There's a new product that's coming out from Dow I believe that produces tiles that are solar tiles. Have you folks looked into something like that?

Mr. Olson: We've actually been hearing about this as well. It's a very new technology that hasn't been fully developed. We...wherever we can save energy, we will. I mean, power is expensive and there's a big incentive to save at every turn that we can. And as that technology develops we will embrace it certainly to the extent that we can and if we can include it here, again, to the extent that we can, the technology is available and it's within affordability, we certainly will. Again, there's a big economic incentive for us to use every power saving device and power generating device that we can and energy saving or energy producing.

Mr. Hedani: Yeah, the examples I've seen were in blue and I'm not sure it would meet with your Wailea green, so...but I'm glad you heard of it and I'm glad that you're thinking about it.

Mr. Olson: We're tracking it. And we're tracking a number of things out there because energy is a very big part of what we're looking at and important to us.

Mr. Hedani: Thank you.

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

Vice-Chair Shibuya: I should have disclosed that earlier but I'm gonna disclose it now. Not too late now, but anyway, I've been a member of the Marriott Club for over 25 years. I've enjoyed my stays at all of the Marriotts throughout the United States as well as in some foreign countries. So thank you very much and I hope you do it even better here on Maui.

Mr. Olson: Thank you. Well, we will do our very best I can assure you.

Vice-Chair Shibuya: Well, I'm going check it out, you know. Thank you.

Mr. Olson: Thank you.

Chairperson Lay: Commissioners, any more questions? Seeing none, can we get the Department's Recommendation?

**b) Action**

Mr. Wollenhaupt: Good morning, Commissioners once again. As indicated previously the Commission will be looking at two different applications here. The first would be the Planned Development Step II Approval, the second would be for the Special Management Area Use Permit approval remembering that the Special Management Area has to do with impacts to the coastal environment.

The recommendation is that the Planning Department recommends approval of the Step II Planned Development application. In addition, the Planning Department recommends approval of the Special Management Use Permit subject to 12 conditions that are outlined in the staff report on the recommendation Pages 4 through 8. The first six are standard conditions. There was some discussion about the construction of this project. The first standard condition would be that the project shall be initiated by construction by February 28, 2017, and that the project then would be completed within five years after the date of initiation.

Then there are six additional project specific impacts. In light of some concern from the letter from the Department of Land and Natural Resources, State Historic Preservation Division the Department was recommending that acceptance by the DLNR SHPD of the archaeological assessment and the monitoring plan shall be granted prior to the issuance of a grading, a foundation or a building permit required any ground altering activities. Evidence of this fulfillment of this condition shall be submitted as part of the final compliance report.

The other conditions are somewhat standard. Just that the applicant shall be responsible for all required infrastructure improvements required by Title 18. This would include but not be limited to water source and system improvements, drainage improvements, traffic related improvements, wastewater and utility upgrades. Said improvements shall be constructed concurrently with the development and shall be completed prior to issuance of the certificate of occupancy.

That being the case, in consideration of the foregoing, the Department does recommend the Planning Commission adopt the Planning Department Report prepared for today, February 25, 2014 meeting as the Department's recommendation report findings of fact, conclusions 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. So again, we have a Planned Development Step II and we have an SM1 to consider.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: So move.

Chairperson Lay: We gonna take 'em separately.

Mr. Freitas: Special Management to approve the Special Management Permit.

Mr. Tsai: Move to approve the Planned Development Step II.

Chairperson Lay: Let's take one at a time.

Mr. Freitas: We have a—

Mr. Medeiros: Second.

Chairperson Lay: Commissioners any comments or questions on our motion? Commissioner Hedani?

Mr. Hedani: I guess this is for Kurt. Is five years a normal time frame for a permit?

Mr. Wollenhaupt: That has been the normal time frame.

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

Vice-Chair Shibuya: Normally I would be asking for a additional condition here, but I think we have an agreement or at least understanding that they'll be adding in renewable energy generators or systems for generating electricity as well as the continued energy conservation so I will not be making any conditions here.

Chairperson Lay: Commissioners? Can the Deputy repeat the motion?

Ms. McLean: This motion is to approve the Special Management Area Use Permit subject to the 12 conditions noted in the staff recommendation.

Chairperson Lay: Call for the vote. All those in favor?

Ms. McLean: Eight ayes.

Chairperson Lay: Motion carries.

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

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

**VOTED: To Approve the Special Management Area Use Permit as Recommended by the Department.**

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

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Move to approve Step II Planned Development.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Tsai, seconded by Commissioner Medeiros. Commissioner Wakida?

Ms. Wakida: I would like to express a concern. I will be voting for the motion but my concern is not to the applicant but really to the Department about this employee housing issue. In my experience, limited experience, affordable housing is developed with all sorts of concessions and I have never been aware of this sort of banking credits for future projects which in this case are 15 to 20 years down the road and that doesn't seem to address this, the employee housing situation once the development finally as in this case occurs which is considerable time has passed this affordable housing which...and it makes me wonder about current project and what that's doing for some other project 20 years down the road. So I have real concern about this process and what the Department has permitted and I just wanna go on record as being concerned about that.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I can understand Commissioner Wakida's concerns. However, I like the project, you know, I really do. I think it's a good project and I will be voting for it. However, when a Commissioner asks a question, you know, I really think that it should be answered. It shouldn't be danced around with responses we will look into every option we have. You know, I mean, and leave that as an answer. I think that, you know, the developer should be more open, you know and to be honest that bothers, bothered me a lot to the point where I almost changed my mind on the project. But because it is a good project, I'll let it slide this time. Thank you.

Chairperson Lay: Commissioners? Commissioner Hedani?

Mr. Hedani: This is more a comment I think on the concerns that were brought up by John Duey earlier. The concern is perception. You know, the concern is that the Department merrily goes along approving all of these project, you know, routinely without looking at the consequences of that approval. And from his perspective and from perspective and I think for a lotta people on the island as a Department we need to consider the effect of some of these developments on the litigation that's going on on the restoration of the streams, water flow in the streams and restoring that water flow to the ocean so that ecosystems that depend on that get reestablished. When the court decisions comes down our policies are not gonna be in sync with the what court decisions come down with it if it ends up being restore the flow to the ocean. So as a Planning Department we gotta kinda back up to some degree and determine what the effect is gonna be on future projects. I think these guys have dotted the "i's" and crossed the "t's" and they've gone through or they will go through all the hopes that need to go through but as a Department I think we need to study, maybe the Water Department needs to study how much additional development they should be pursuing at this point from alternate sources because I think we're pretty much at sustainable yield for lao aquifer and the source unfortunately for projects like this is the lao system. So that's just a comment.

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

Mr. Tsai: I made the motion to approve and I really commend on the developer making this project possible. I think it's definitely something we need here especially in Wailea with high costs of hotel and you know, we definitely don't need another shopping center in Wailea I don't think. So I wish you guys the best.

Chairperson Lay: Commissioners? Commissioner Hedani?

Mr. Hedani: I just wanted to compliment the developer in this particular case to accept the challenges that come with constructing something like this. On Oahu, you know, the requirements that they attach to projects have actually stopped projects from moving forward and so the end result of that is no housing gets built and no projects get built as a result and everybody suffers when that happens. So I'm just, I'm just thankful that we have people that are willing to take that chance and accept that burden and press forward.

Chairperson Lay: Deputy Director can you repeat the motion?

Ms. McLean: The motion is to grant Planned Development Step II Approval.

Chairperson Lay: Call for the vote. All those in favor?

Ms. McLean: Eight ayes.

Chairperson Lay: Congratulations.

### **Planned Development Approval Step II**

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

**VOTED: To Approve the Planned Development Step II Approval as Recommended by the Department.  
(Assenting - M. Tsai, J. Medeiros, J. Freitas, K. Ball, W. Hedani,  
S. Duvauchelle, P. Wakida, W. Shibuya)**

Mr. Hart: Thank you, Commissioners.

Chairperson Lay: Let's take a five-minute break, reconvene at quarter to 11:00.

A recess was called at approximately 10:37 a.m., and the meeting was reconvened at approximately 10:45 a.m.

Chairperson Lay: Our next agenda item?

Ms. McLean: Chair, Commissioners, this is your second public hearing item. A request by Mr. Edward T. Dewey of The Shops at Wailea, L.P. for a Planned Development Step 1 and Step II Approvals and a Special Management Area Use Permit for construction of the Island Country Market at The Shops at Wailea, an approximately 13,480 square foot free standing grocery store building with a 2,998 square foot mezzanine level for storage, landscaping and related

infrastructure improvements at 3750 Wailea Alanui Drive, TMK: 2-1-008: 074 in Wailea. Danny Dias is the Staff Planner.

2. **MR. EDWARD T. DEWEY of THE SHOPS AT WAILEA, L.P. requesting Planned Development Step I and Step II Approvals and a Special Management Area Use Permit for construction of the Island Country Market at The Shops at Wailea, an approximately 13,480 sq. ft. free-standing grocery store building with a 2,998 sq. ft. mezzanine level for storage, landscaping, and related infrastructure improvements at 3750 Wailea Alanui Drive, TMK: 2-1-008: 074, Wailea, Island of Maui. (PD1 2013/0003) (PD2 2013/0002) (SM1 2013/0009) (D. Dias)**

Mr. Danny Dias: Thanks, Michele. Good morning, Chair Lay and Members of the Maui Planning Commission. We're sticking with Wailea theme for this project also. As stated by the Deputy Director this project involves a Special Management Area Use Permit and Planned Development Step 1 and 2 Approvals in order to construct the Island Country Market at The Shops at Wailea. Just for a point of reference the Island Country Market is sort of like a Whole Foods, you know, comparable to Whole Foods. So the market will be constructed within the existing parking lot and located along Wailea Alanui Drive. So if you're standing on Wailea Alanui facing The Shops at Wailea it will be on your right-hand side.

The property is located within the State Urban District. It's within the Urban Growth Boundary of the Maui Island Plan. It's community planned for Business/Commercial, and zoned B-R, Resort Commercial and H-2 Hotel by the County.

With respect to agency comments we didn't receive anything substantial. I think the most substantial comments we received were from the Urban Design Review Board and some the changes that they recommended were to soften the appearance of the building, add bicycle racks, and using energy and water conservation which the applicant has incorporated into their design.

Regarding the project itself the Department definitely supports it. I think it's arguably a long time coming. From a pure planning perspective it always makes sense to have your basic necessities, you know, right within that community and that way you're having to jump in your car and drive five miles down the road just to grab milk or something. So from what I understand the Wailea community is in support of this also. So with that, I'm gonna hand it over to Mich Hirano from Munekiyo & Hiraga for a brief power point presentation. Thanks.

Mr. Mich Hirano: Thank you, Danny and good morning Commissioner Lay and Commissioners. My name is Mich Hirano with Munekiyo & Hiraga and our firm is assisting The Shops at Wailea with the permitting application before you this morning. We've prepared a power point presentation for the project and I'd like to just direct your attention to the screen and I'll just go over the particulars of the development and application before you.

The project team is here this morning. The applicant/owner is The Shops at Wailea L.P., Ned Dewey is the managing partner and he's available as well as Bob Dye who is the manager, site manager at The Shops at Wailea. The project architects are Architects Hawaii. They were the original architects for The Shops at Wailea when it was constructed in 1999. Fred Hong is the

architect with Architects Hawaii and is also present. Civil Engineer is Warren S. Engineering and Darren Unemori is representing the firm this morning. Traffic engineer is Austin Tsutsumi and we have Matt Nakamoto and Karen Sakai and they're as well available for responding to any questions the Commissioners may have. Archaeologist is Archaeological Services Hawaii, unfortunately we don't have a representative this morning, but the archaeological aspect of the project I think is very minor and it's been covered with an approved monitoring plan, and planning consultants are Munekiyo & Hiraga.

The Island Country Market is of 16,478-square foot building and it's to house a grocery store, there's a small restaurant and deli in the area, in the floor plan as well as site landscaping and related improvements. The permits that are required is a Special Management Area Use Permit and a Planned Development Step I and Step II, and I'll be going over those aspects of the project in the power point presentation.

Just to give the Commissioners sort of a site orientation. Of course, you all are familiar with Wailea. It's a 14.9 acre parcel at the intersection of Wailea Alanui Drive and Wailea Ike Drive. This is a photograph, aerial photograph of The Shops of Wailea. As you can see this is the existing shops. It's 165,000 square feet of commercial and retail. This is the parking area that wraps around The Shops, 970 parking stalls approximately. To the south is the Grand Wailea Resort. To west is the Wailea Beach Villas. This is the Wailea Marriott again to the west of the project site. And to the south...sorry, to the north is the Wailea Elua Village condominium project. This is Wailea Ike Drive and the Old Blue Golf Course is to the east of Wailea Alanui and Wailea Ike Drive.

This is a rendering of the aerial photo. I mean, it looks like The Shops have been built already. But this is the new Island Market extension. It's on the north side of The Shops at Wailea just adjacent to Wailea Alanui Drive. As you can see this is the main sort of commercial store area, the shop area and then there is a mezzanine level that will be used for storage, and this is that piece that is the part of the mezzanine roof.

Access to The Shops of Wailea is off of Wailea Alanui Drive. There is a driveway on the south side of the shopping center and on the north side, the access driveway will be just adjacent to the new Island Country Market. There is a well a driveway entry that is shared that goes to the Wailea Marriott Resort and there is access from the parking lot onto that driveway as well.

This is the floor plan of the Island Country Market. This is the existing Shops at Wailea. There will be a access route, pedestrian walkway, and this is an existing pedestrian walkway and it joins the sidewalk at Wailea Alanui Drive. This is the entrance into the north side of the shopping center. So this Country Market, the floor area is on the main level about 14,480. The deli and restaurant is on, wraps around the, kind of the grocery area. This is back of house and storage. I'd like to point out that this is existing parking lot right now. But the other feature I'd like to point out is the service yard which is on the north side just off the driveway entrance. There was some concern by neighbors at Wailea Elua condominium about noise from service deliveries, and I'd just like to point out that the manager met with the residents and some of the features that are present in the design that will mitigate the noise is that there is a...there will be a concrete wall, eight feet high that would surround the service yard. The deliveries are going to be made generally by smaller vehicles they're called sorta step vans like the UPS van. Everything will be delivered at grade, there will be no ramp loading and unloading in the service yard. So the vehicles will come in, there is a gate that

would be closed. They would unload, turn around and exit.

This is a elevation as you can see from the parking lot looking eastward to The Shops. This is the existing shops. This is the restaurant area. There's a flat roof that kinda transitions into the new restaurant or the new Island Market. And then this is the mezzanine level that kind of anchors the end of the, the north end of the building. This will be the entrance. There'll be landscaping around the restaurant as well tall landscaping in front of the mezzanine to kind of mitigate the height of the building and as you can see there is the proposed fence, wall for the delivery side on the north side.

This is looking at, from the north angle looking right into the delivery gate. This would be the driveway, the north driveway into the Island Market into The Shops at Wailea. You see the mezzanine level and then the...this background is the existing Shops at Wailea level. And this is looking at the project from Wailea Alanui Drive, the east elevation. You'll see the existing shops, the profile of the building sorta follows the original building profile of The Shops at Wailea, the small restaurant area would be kind of a flat roof. Provide the transition to the new Island Market.

Archaeological investigation was carried out when The Shops at Wailea were originally built in 1999. The Shops opened in 2000. Archaeological monitoring was carried out. During that time, nothing was discovered during the original build out of The Shops at Wailea. There was an archaeological monitoring plan that was submitted to SHPD in 2009 in anticipation of future expansion of The Shops and that archeological monitoring plan was approved and will be carried out during ground altering at this particular project.

In terms of water use there will be an increase in water use of approximately 4,000 per day that includes irrigation as well. And there is an existing four-inch water meter on site that services The Shops at Wailea and this water meter has the capacity to meet the increased demand.

In terms of wastewater the project there is an 8-inch sewer line that connects to a County 21-inch gravity sewer line within the Wailea Alanui Drive right of way. And then this is collected to a pump station and then pumped to the Kihei wastewater treatment facility for treatment. The projected wastewater flow from the Island Country Market is estimated to be approximately 3,000 gallons per day and there is capacity at the Kihei wastewater reclamation facility for this increased flow.

A traffic assessment was carried out for the project by Austin Tsutsumi. The grocery stores and markets have, I guess their peak hour is Saturday, midday period. During that time it's anticipated that the traffic generated from the site and from the market would be approximately 80 total vehicle movements. There'll be 42 entry movements and 38 exiting trips. The projected P.M. peak hour is 27 entering and 30 exiting for a total of 57 total vehicle trips. And the proposed project does not adversely affect levels of service on Wailea Alanui Drive and Wailea Ike Drive. I think that we have to keep in mind that this market is 16,000 square feet. That's not a really large market compared to the markets that are, you know, being developed today. Eighty thousand square feet is a large market.

Drainage, the overall site will decrease actually from 4 cubic feet per second to about 3.7 cubic feet per second. This reduction is due to the slight reduction in the impervious surface area. Right now it's a parking lot and there will be more landscaping around the building.



In terms of sustainable design features there will be a roof top PV array installed by the tenant. The skylights in the mezzanine level have been designed into the project after comments from the Urban Design Review Board and this will provide natural lighting into the mezzanine level. They'll be energy efficient light fixtures. Drip irrigation where possible to reduce water usage in the landscaping and two additional bike racks are to be installed. There are three existing bike racks throughout The Shops at Wailea right now and there'll be additional two more bike racks.

Just like to go over the Planned Development Step I and Step II application and the approval process for that. The State Land Use is Urban, the community plan is Business and Zoning is Business Resort and H-2 Hotel. Wailea Resort is also a Planned Development and there are two steps that are being presented in this application before you today. The Planned Development Step I is really the zoning allocation within the site. The total site is 15.9 acres. The H-2 zoned area is 9.6 acres and the Business Resort area is 6.3 acres. So this sort of the lighter shade of green is the H-2 Hotel and there's a portion of it on the north side, as well as portion of it on the south side and on the west side. The Business Resort zoning is in the middle. As you can see this is the zones were probably developed by a planner instead of surveyor because they're kinda curvy.

So in the Step I application it's really realignment to do some housekeeping on the, you know, the western and southern portions of the site. And so the Step I is to realign the zoning and keep into the footprint that is most efficient with the commercial development of the site and then the outside area is the H-2 area and that's the parking area for the project.

There was tremendous community support for the project. Bob Dye presented the project to Wailea community meeting. There were over a 100 members in attendance. There was overwhelming support for the project. I think the residents expressed their excitement to have a local quality grocery store in the Wailea community. And as stated in the WCA letter of support this project is welcomed into the community and the design, character, and location is ideal.

In summary, the proposed Island Market at The Shops at Wailea is an expansion of a existing business resort commercial center. Action is in compliance with Chapter 205, HRS and SMA Rules of the Maui Planning Commission, and the action is in compliance with the Maui County Code, Chapter 19.2 regarding the Planned Development. So thank you.

Chairperson Lay: Commissioners, at this time I'm going to go into public testimony. Does anyone wish to testify at this time? Step up to the mic, identify yourself, and you have three minutes.

**a) Public Hearing**

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

Our next testifier, John Hansen. Do you wish to testify at this time? Oh, Bob, excuse me.

Mr. Bob Hansen: Yeah, Bob. Thank you. I live at 90 Hale Hookipa in the Wailea Fairway Estates and just wanted to testify quickly on the hotel. I think it's a fabulous idea, the 200-suite hotel which is coming up. It's absolutely needed in Wailea. They've got families in there with a all suites hotel and just hope that moves forward smoothly.

And then I have something to say about the grocery store that will be going in. I'm absolutely all for it as is my wife and my wife wrote this out for me because she couldn't be here. So when the –we have kind of a little bit of a bad experience with traffic when Andaz was in and we tried to get–there was three traffic guards out by the entrance where they moved the Andaz but none where we were and there was a lot of close accidents. There was trucks blocking the way, and we just wanted to make sure that you know, that was addressed when you gave your approvals. You know, traffic safety many times...the noise pollution after the store opens we wonder about that. You might wanna, you know, have some kind of a process where there could be some feedback for the noise and the light pollution. And that's from my wife and I. So that's all I needed to say.

Chairperson Lay: Commissioners, any questions for the testifier? Commissioner Ball?

Mr. Ball: I got a question, Bob. So the traffic you're talking about on the old project or on the Andaz I should say, what would be your recommendation then for this market as far as traffic?

Mr. Hansen: We just needed a guard there or a traffic safety person there to kind of direct traffic whenever there's a need for it and it just didn't happen with the Andaz, and we called and complained about it.

Mr. Ball: On Wailea Alanui?

Mr. Hansen: Yes, coming out of the Wailea Fairway Estate.

Mr. Ball: Okay. Thanks.

Mr. Hansen: Thank you.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none, thank you very much.

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

Mr. Lawrence Wilson: Good morning. My name's Lawrence Wilson. I'm the manager or Wailea Elua Village. Our property is located to the north side of the parking lot and the concern amongst some of my homeowners and the board of directors and what I would like to express at this time is with delivery trucks and the impact they may have on our property and the hours of operation in which that will take place. Concerns that if delivery trucks are allowed to operate and don't have controls on them that will have them showing up in the early morning hours and it's really quiet there in the early morning hours and the noise travels a long way. So if we have trucks that are idling and trucks that are backing up with the beepers that will have a direct impact on the north end of our property where we have four buildings along that edge. And that's what I'm here to express that concern. That's it.

Chairperson Lay: Commissioners, any questions for the testifier? Commissioner Ball?

Mr. Ball: Know what the current...I mean, there's delivery trucks that go there now, is there a current restriction on them or...

Mr. Wilson: I don't know. You'd have to...I actually don't know that. The loading zone at this point is on the other side of the shopping center from the what the loading zone will be for the new market. The new market, the loading zone is on the north side and it's pointing towards our property.

Mr. Ball: Okay.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: I was just wondering how...if you had any ideas or suggestions on how to mitigate that beeping sound because that's a safety feature that is on the trucks?

Mr. Wilson: It is, yeah. It's there. It's going to be there. You know, so what our request is that basically trucks not do deliveries until 7:00 in the morning recognizing that--the quiet hours are generally 8:00 in the morning...10:00 in the evening till 8:00 in the morning on our property. And Bud Pikrone could probably enlighten you as to what they are at WCA. So our request basically is that the trucks not come and make deliveries until at least 7:00 in the morning so we don't have 5:30 in the morning people pulling in and then backing out and beeping. Can't get rid of the beepers that's, that's the law. So...we acknowledge that we're stuck with that, we acknowledge that deliveries have to be made. We're looking for times of day in which that can be happen and some control over that.

Vice-Chair Shibuya: Okay, thank you.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Do you support the market and the residents support the market?

Mr. Wilson: Yes, I do. And believe the residents do as far as...yeah.

Mr. Freitas: You do?

Mr. Wilson: The general concept of the market.

Mr. Freitas: Then you have to give up something to accept the market. You know, the produce has to be delivered. The stuff have to be delivered and they can't carry it in by hand. So it's a damn if you or damn if you don't. So you have to...make up your mind whether you want the market or you want to what do you call alleviate the noise?

Mr. Wilson: We want the market but we also want you know, to have some reasonable parameters on when people can deliver and when the noise can happen.

Chairperson Lay: Commissioners, any more questions for testifier? Seeing none, thank you very much.

Mr. Wilson: Thank you.

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

Ms. Karen Dyer: Hi, my name is Karen Dyer. Lawrence is our general manager. My husband and I own a unit at Wailea Elua, 3600 Wailea Alanui Drive. We have for many years and we're speaking for many of the owners especially the ones who are in the buildings that's faced the shopping center. And I just wanted to add that for many, many years since The Shops went in we've had a serious noise issue very single night because they run street sweeper between midnight and 5:00 a.m. and even though the foliage screens us, our view of The Shops there's a sound channel that goes directly into our units. So it's the point where we must close all of our windows on that side of the buildings and because we don't get a cross breeze most of us now have to run our AC at night which as you know uses a lot of energy that we wouldn't otherwise have to use. But even with the windows shut many of us have to wear earplugs at night. It's that loud. So, and we've had a few instances in the last couple of years where big trucks have been given permission to unload on that side of the parking lot. They've come in in the middle of night. They've dropped equipment. They've been yelling to each other. And I've actually security that went over and talked to The Shops security and asked them to please be quiet. And I did complain to The Shops and I was told that they were given permission to unload there, but you know, a week later they moved the container trucks. So that is our concern with the deliveries and if the hours could be restricted to being, you know, after 11:00 p.m. and not before 7:00 a.m., it would be much appreciated. It's not just the sound of the beeping. It's running refrigerated trucks which sometimes park on the Marriott access road and keep us awake also. You know, and if they get there too early or they're allowed to run and stay, you know, even in the loading dock, I don't know. I like the idea that there are walls around it, but I'm not sure that's gonna be enough noise mitigation so that we sleep at night. And the units were built in the late 70's so many of these people have owned here. Since then many of them spend much of the year here. They're not like two-week vacationers so it's a really important issue for us. We do support the market. I'm loving the idea of being able to go next door and you know, 'cause currently I drive all the way to Whole Food. So that's not the issue. It's just the issue of the hours of deliveries and if we can mitigate the noise. Thank you.

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

Mr. Bud Pikrone: Bud Pikrone, general manager of the Wailea Community Association. The community is very much in favor of this. They've been waiting for this for quite a while. Previous project at one time where the hotel is was gonna be a grocery store. So the community we did have a meeting in September where a number of projects were presented to the community and we actually had about 200 people at that meeting that showed up and they were all clapping when this project came up. So it is something the community wants instead of driving 17 miles into town or even 5 miles down the road they'll have something there which is good for all of us to keep the traffic off the road.

As far as some of the questions that have come up previously on construction issues and traffic and that we do play quite a role in working with the developers on coming up with traffic plans for construction traffic. It's always an issue in the community. And we work with community on making sure that it works for them also.

As far as noise, we do have certain restrictions nothing on deliveries. We have noise limits for, for

instance the hotels no music after 10 o'clock. We have a large group there in the resort right now that has some concerts coming up. They're all over at 10: o'clock. No fireworks after 10 o'clock. So we do try to mitigate that. But it is a resort. I live up the road and it is correct sound travels. Sound travels through there and we can very clearly all of the alohas from the different events going at the hotels. It does happen. We also hear the golf course mowers going by at 5:30 in the morning but we live in a golf course. It something that I know is an issue, the beep, beeps you can't stop. I've had people suggest they disconnected. That's illegal. But we can try and work with everybody to try and help and accommodate. I know they have tried here with the wall and that they have tried to help with that. We have the hotels do deliveries in the morning. We have trucks going through fronting a lot of our condos going through even to Makena for the hotel and restaurants down there. So it's very difficult to live in a resort and not have some kind of disruption by what it takes to be a resort and that's commercial and other ventures that are gonna happen. But I'm sure that The Shops will do what they can to help the community and we'll definitely work with them on anything they come up with. Other than that, it's a welcome thing to the community and we hope that they can get started soon. Thank you.

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

Vice-Chair Shibuya: Thank you very much, Bud for your testimony. I just wanted to find out whether you've considered the left-hand turns in and out of the proposed development area in The Shops? To me it seems like they're D-rated type of access there. Whenever you do the left-hand turns you're crossing a pretty much good flow of traffic there. What are your some of thoughts in terms of how we can mitigate this or how we can minimize pilikia?

Mr. Pikrone: Yeah, I don't know if this store is going to increase that issue. I'm in and out of that parking lot almost every day and just being in the area. The north area is where I typically go in and out because when I go in I'm coming off a left-turn in, and then when I leave if I'm going home I'll take a left-turn out. So I'm doing both. The turning you do have a turn lane so that helps. Coming out you've got sight line there so that you can both ways so that you can see when traffic is coming, you can make your turn out. I don't know how that could be changed. The south side I don't use as often. That is a little more difficult to make a left-turn out of. But again, I don't what could be done to make any changes to that or how this store would really negatively affect, effect that in any way.

Vice-Chair Shibuya: Okay, thank you.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none, thank you very much.

Mr. Robert Dye: Good morning, Commissioner Lay, Commissioners. My name is Robert Dye. I'm the general manager of The Shops at Wailea. I have been on site with The Shops for about four and a half years and during that time we have put into place a number of different improvements including installing security 24-hours-a-day, seven-days-a-week where before it was more part-time. Bringing a qualified security director, installing a security office. We have a motorized patrol and we also now have bicycle patrol. The...a lot of their effort is in controlling what happens out in the parking lot from people parking there that shouldn't to trucks that shouldn't be parking there as well. There was when I first came on board there was a little bit of a problem with trucks coming in and

using that as a transfer point. We have shut that down. We control that pretty aggressively. We also had a problem with the, with the big tour buses that would use the parking lot for the staging area. They drop people at the different resorts. They pull into the parking lot and sit there and of course, they run their engines and their air conditioners all the time and we have controlled that as well.

Whalers General Store opens at 7:00 a.m. for example, and deliveries to Whalers General Store start at probably 5:00 in the morning. We have kitchen staff that show up at between 4:00 and 5:00 in the morning to do prep work for the restaurants that open. Longhi's and Cheeseburger's both open at 8:00 a.m. for breakfast and they need to get everything set up before then. I think that restricting deliveries to the market prior to 7:00 a.m. is not realistic. As Mitch pointed out earlier there is a screen wall that will go completely around the delivery court. We have one of those in place. We have a large delivery court on the south side of the property. Most people don't even know it's there. It's a large concrete wall, it's covered with various vegetation but it does a very good job we think in keeping that back of the house activity that is unavoidable out of public view as much as we can. We will...as was indicated earlier I met with the residents that wanted to meet from the Ekolu Villages and there was also some other individuals from the mainland that had contacted my office and I set up a conference call with them. Oh, I'm sorry, the sweeper trucks, we're working on it. We're gonna look at starting it on the south side and working towards the north side and hopefully that addresses that. And any other questions, I'll be available. Thank you.

Chairperson Lay: Commissioners, any questions for the testifier? Commissioner Hedani?

Mr. Hedani: The number of parking stalls that are being removed by the market, how is that being replaced for The Shops at Wailea?

Mr. Dye: I should probably turn that over to our traffic.

Chairperson Lay: Well, let's conclude with the public testimony then we'll go onto that if that's all right? Does anyone else wish to testify at this time? Seeing none, we're closing testimony and Commissioners, go ahead. Mich, if you'd like to address that question as asked earlier?

Mr. Hirano: Yes, regarding the parking, parking stalls will be removed from The Shops, but there is a surplus of parking at The Shop at Wailea. The past several years The Shops had rented out to various resorts parking stalls. They had agreements and leases in place. There were about 70 stalls that were leased to the nearby resorts and those have been canceled. So there is, that allows for additional parking. Even with the market there probably about 28 stalls over the requirement.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: Mitch, can you tell me what's gonna happen with that monkey pod tree and the fire hydrant that is currently I think in the same area that you're planning to put in this Island Country Market?

Mr. Hirano: Fred Hong from Architects Hawaii talk about the landscape and Darren, the civil will talk about fire hydrant.

Vice-Chair Shibuya: Okay, thank you.

Mr. Fred Hong: Hello, Commissioners, my name is Fred Hong. I'm front Architects Hawaii. Which monkey pod in question are you asking about?

Vice-Chair Shibuya: By the entrance.

Mr. Hong: Is it this one or—

Vice-Chair Shibuya: The one on the right, come to your right, yeah right around there. There is a large monkey pod tree with the fire hydrant.

Mr. Hong: I believe the fire hydrant is down, there's another little parking island here and those are being preserved so that is not being touched.

Vice-Chair Shibuya: Okay.

Mr. Hong: So I'm not sure if we have an image of it and it's a little light here but it's right here there before our scope of work for the market.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Commissioner Shibuya, I think you're mentioning, you are talking about Photo No. 5 east view, on the left-hand side there's a fire hydrant if you guys wanna pull up the...is that what you're talking about?

Vice-Chair Shibuya: Yes.

Mr. Tsai: it's just right in the parking lot.

Mr. Hong: Oh, okay. So Photo No. 5, east view. Yeah, I believe then those will be removed and maybe Darren can address the fire hydrant.

Mr. Darren Unemori: Good morning, Commissioners. I'm Darren Unemori with Unemori Engineering, the project's civil engineer. Actually there's a number of utilities in addition to the fire hydrant that sit under the footprint of the market. All of these are basically gonna be relocated around the building and...but we will still provide the necessary fire protection. So we're putting in, adding in additional hydrant not too far away as well as fire suppression apparatus needed by the Fire Department for the building itself. So all those needs will still be accommodated though in different locations.

Vice-Chair Shibuya: Okay, thank you.

Chairperson Lay: If I might follow up on that tree going to be...is that a removal or you're gonna be moving it to somewhere else?

Mr. Hirano: I'll ask Fred.

Chairperson Lay: A relocation or a removal?

Mr. Hong: This is Fred Hong from Architects Hawaii again. We're gonna be removing that tree, but we are planting quite a few new trees on site.

Chairperson Lay: I guess the question would be is it going to be destroyed, right?

Mr. Hong: Yes.

Chairperson Lay: Wow. One straight forward answer there. Commissioner Wakida?

Ms. Wakida: Mr. Hong, I think this is a question for you. It's about skylights. I was happy to see that you're gonna put skylights over the mezzanine area. Is the mezzanine area extend over the whole store?

Mr. Hong: No. The mezzanine area basically is above this square area over here. So on top of that roof we'll be placing a few skylights to provide natural lighting.

Ms. Wakida: But you didn't plan to do skylights for the store area itself, why not?

Mr. Hong: For the main market there's a lot of equipment that's gonna go up there and also we wanted to take advantage of that expansive flat roof for the PV, the photo voltaics that will be going there. So we're maximizing the amount of photo voltaics that we can place on the main large roof.

Ms. Wakida: Okay and just to follow up there, you have an estimate of how many panels you're gonna put up?

Mr. Hong: Not off hand. I do have a layout from the tenant architect and it is a pretty efficient layout as far as all the equipment we need to place up there and then the PV and then the path around it to maintain everything.

Ms. Wakida: Thank you.

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

Vice-Chair Shibuya: Again, I'm gonna be asking total project energy required, total propane, total electricity that be required for this operation?

Mr. Hong: This is Fred Hong again. The tenant is in the process of calculating a lot of their needs for the market so we're in communication as we develop the shell to accommodate their needs. So they are supplying the propane tank. They're supplying the emergency generator and a lot of those needs. So I don't have the numbers off hand but we are working closely with them to make sure everything is working well.

Vice-Chair Shibuya: Yes, I'm looking at energy sustaining as well as being economically operating.

Mr. Hong: Okay,



Vice-Chair Shibuya: Yes.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I have a question for Mich.

Mr. Hirano: Yes, Commissioner Medeiros?

Mr. Medeiros: I guess you going find out how I intend to vote. My question is when can you start?

Mr. Hirano: As soon as possible. I know that the applicant and The Shops at Wailea are very eager to get started. As soon as all the permits in place and the building permit is in place they will be underway. They have the tenant already. It will be an affiliate of A&B Stores, it's Island Markets. They have a very nice gourmet shop in Waikoloa right now. So they're onsite. You know, they have the ABC Store onsite at The Shops at Wailea. So they're very anxious as well to start. Probably it's an eight-month construction period approximately. So you know, as soon as the permits are in the place, the building permit then they'll get started.

Mr. Medeiros: Okay, you know where my vote is at.

Chairperson Lay: I have a question. This Island Country Market is it in conjunction with any other big markets?

Mr. Hirano: No. As I say it's owned by A&B. They have markets. This is kind of a concept market that they have at the Waikoloa Shopping Center or Kings Shopping Center, I think or close to it in Waikoloa.

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

Vice-Chair Shibuya: I'm concerned about the left-hand turns into and out of The Shop area. Can anyone try to tell me how we're gonna try and mitigate some of this left-hand turn problems?

Mr. Hirano: Thank you. Matt Nakamoto with Austin Tsutsumi is the traffic engineer.

Mr. Matt Nakamoto: Good morning, Commissioners. Matt Nakamoto from Austin Tsutsumi & Associates. Yes, when we did the study out there we didn't observe any significant problems going into the market. The level of service that we have actually is not level of service D. Coming out we projected there would be level of service D coming out but that's generally within acceptable limits. We're talking about 25 to 30 seconds on average. So, and they already have a left-turn lane coming in as well as a left-turn lane coming out and it wouldn't warrant a traffic signal so pretty much you know, you have all of the laneage that you can have there.

Vice-Chair Shibuya: Okay, so you have some holding areas that you're gonna provide for so they--

Mr. Nakamoto: Actually the holding area is already there along Wailea Alanui.

Vice-Chair Shibuya: They're adequate then?

Mr. Nakamoto: Yes.

Vice-Chair Shibuya: So how many cars can it hold?

Mr. Nakamoto: Off hand I don't remember the exact storage lengths. Off hand I don't know.

Vice-Chair Shibuya: Yeah, if you can ensure that we have adequate storage?

Mr. Nakamoto: Yes, but you know in actuality too, the grocery store itself as had been mentioned earlier it's a very small footprint relative to, you know, instead of an 80,000 or a 60,000 square foot shopping center, the amount of traffic that is going to increase along Wailea Alanui for instance is very small. I think it's roughly in the range of 5 percent or below. So it's pretty much an ancillary use to the existing surrounding neighborhood. We don't anticipate any significant increase to the amount of queuing going into that driveway.

Vice-Chair Shibuya: Okay. Well, I'm concerned because it's so close to the traffic signal lights and that's where people get impatient and they make the light and then all of sudden they have to slow down or stop because somebody is doing a left-hand turn and that could be a rear end type situation there.

Chairperson Lay: Public Works wish to add comments to this?

Ms. Dagdag-Andaya: So Commissioner Shibuya, when you mention traffic light that reminded me that even after the project has been developed what Department of Public Works does is we continue to monitor that "T" intersection from Wailea lke. So what we would probably need to do is optimize that traffic signal and I guess look at the timing and have our signal techs determine, you know, the best timing for that to improve that level or service there. So that's one of the ways that we work on. But for them that LOS D as the applicant mentioned is still an acceptable level of service.

Vice-Chair Shibuya: Okay, thank you.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Yeah, I really applaud you guys for doing this project. It's a long time coming I guess for us residents in Wailea and we not having to drive to Whole Foods every weekend and buy groceries. Regarding the sound issue I would suggest looking at some of the applications on the mainland specifically in the San Francisco, the Bay area they put in, where I'm from, they put sound barrier walls along the freeways and to keep the residents on the other side, you know, reduce the noise issue. And the critical factor is the height and also the material of the walls. So to help address some of the concerns from the residents I would suggest you guys look at that, and maybe perhaps, you know, I know there's certain probably limitation on height you can build the walls but I would definitely look into that further.

Mr. Hirano: Thank you very much for those suggestions. You know, the height is eight feet and the wall is concrete so maybe there can be some application. We'll check.

Chairperson Lay: Possibly walls and foliage to camouflage the walls?

Mr. Hirano: There will be foliage on this, on both sides of the walls, yes.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: Mich, they will be making the commitment to support the local farmers, yeah? Because I'm a big supporter of the local agriculture industry.

Mr. Hirano: I can't speak...Commissioner Medeiros, I can't speak for the, you know, for the tenant, but the emphasis would be on local, healthy foods and probably a lot of organic selection. So I would hope that they would be supporting the local agriculture production that's offered on Maui. It's very high quality produce that is provided on Maui and I'm sure that they would use it.

Mr. Medeiros: Okay, thank you.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Mich?

Mr. Hirano: Yes.

Mr. Hedani: One of the things that I was always concerned about in Wailea and it doesn't relate to this particular project is when you come down Wailea Ike Drive and you get to the intersection of Wailea Alanui from the perspective of an arriving visitor or guest of Wailea it would be one of the prime view points I would think where you would want to preserve views to the ocean. And I'm not sure if Architects Hawaii designed The Shops of Wailea or not but when you get to that intersection what you see is The Shops at Wailea and I guess it's good for The Shops at Wailea and it's bad for the arriving guest in that one of the best views or vistas within the resort is lost because, because of the blocking of the backside of The Shops at Wailea facing its backside to that particular view point. The market just makes that wall of buildings complete on the right-hand side and I don't know that it blocks any specific view planes to the ocean or whether it's even visible from that side, but that's just a comment for The Shops at Wailea if they're redeveloping the property in the future or if Wailea is considering redevelopment of the property.

Mr. Hirano: You know, the Wailea Ike Drive is quite a steep hill as you come down. So you know, there are beautiful views up in this area but when you start dropping down, you're coming down into the site. There was a comment during the Urban Design Review to, you know, add more green along this east...along the northern wall on the east elevation. And so that was done in response to comments at Urban Design Review Board that the landscaping...although it's existing and quite heavy there will be more landscaping along that east elevation. The monkey pod trees are very mature and well established along Wailea Alanui and the canopy is quite high. So I don't think The Shops block the view at the point, it's really the, you know, the vegetation, the high canopy monkey pods.

Chairperson Lay: Commissioners, any more questions or comments? If not, can we get the Department's recommendation?

**b) Action**

Mr. Dias: Thank you, Mr. Chair. I think it would be appropriate to start with the Step I. So the Department recommends approval of the Planned Development Step I for the Island Country Market.

Mr. Freitas: So move.

Mr. Medeiros: Second.

Chairperson Lay: Moved by Commissioner Freitas, seconded by Commissioner Medeiros. Any discussion on the motion? Seeing none—oh, Commissioner Freitas?

Mr. Freitas: I'd like to make a comment. The noise issue you cannot have it both ways. It's called living. You know, you have noise wherever you live and you cannot alleviate all of the noise.

Chairperson Lay: Commissioners? Commissioner Medeiros?

Mr. Medeiros: I agree with Commissioner Freitas. To make it mandatory for deliveries after 7:00 people work in Wailea, okay. They start their shifts between 7:00 and 9:00 p.m. and you have more traffic from 7:00 to 9:00 p.m. it will hinder people trying to get work. So if delivery trucks need to do their job earlier and it can help people that I represent get to work I would really appreciate that.

Chairperson Lay: Commissioners, discussion on that motion? Seeing none, can we get the Deputy Director to repeat the motion?

Ms. McLean: The motion is to grant Planned Development Step I Approval.

Chairperson Lay: Call for the vote. All those in favor?

Ms. McLean: Eight ayes.

Chairperson Lay: Motion carried.

**Planned Development Approval Step I**

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

**VOTED: To Approve the Planned Development Step I Approval as Recommended by the Department.  
(Assenting - J. Freitas, J. Medeiros, K. Ball, M. Tsai, W. Hedani,  
S. Duvauchelle, P. Wakida, W. Shibuya)**

Mr. Dias: Okay, next up is the Step II and the Department recommends approval of the Planned Development Step II.

Mr. Tsai: So move.

Mr. Freitas: Second.

Chairperson Lay: Commissioner Tsai, the motion, seconded by Commissioner Freitas. Any discussion on the motion? Seeing none, can we get the Deputy Director to repeat the motion?

Ms. McLean: The motion is to grant Planned Development Step II Approval.

Chairperson Lay: Call for the vote. All those in favor? All those in favor?]

Ms. McLean: Eight ayes.

Chairperson Lay: Motion carries. Congratulations.

### **Planned Development Approval Step II**

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

**VOTED: To Approve the Planned Development Step II Approval as Recommended by the Department.  
(Assenting - M. Tsai, J. Freitas, J. Medeiros, K. Ball, W. Hedani,  
S. Duvauchelle, P. Wakida, W. Shibuya)**

Chairperson Lay: Commissioners, do you wanna break for lunch now?

Mr. Dias: Last one, last one, SMA. The Department recommends approval of the Special Management Area Use Permit subject to six standard conditions and four project specific conditions.

Mr. Freitas: So move.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Freitas, seconded by Commissioner Medeiros. Any discussion on the motion? Seeing none, can we get the Deputy Director to repeat the motion?

Ms. McLean: The motion is to approve the Special Management Area Use Permit subject to the 10 conditions listed in the staff recommendation.

Chairperson Lay: Call for the vote. All those in favor?

Ms. McLean: Eight ayes.

Chairperson Lay: Motion carries. Now, congratulations.

**Special Management Area Use Permit**

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

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

Chairperson Lay: Commissioners, do you wanna break for lunch now?

Mr. Hirano: Thank you very much, Commissioners.

Chairperson Lay: Okay, we'll break for lunch and reconvene at let's say 12:45

A recess was called at approximately 11:40 a.m., and the meeting was reconvened at approximately 12:46 p.m.

Chairperson Lay: Planning Commission is now called back into session and we are now on item D-1.

Mr. Yoshida: Thank you, Mr. Chairman. Item D-1 is Mr. Scott Crawford, Chair of the Hana Advisory Committee to the Maui Planning Commission transmitting the Committee's recommendation on the request by Richard and Jody Smith for a State Land Use Commission Special Use Permit in order to operate the Luana Cottage, a two-bedroom short-term rental home located in the State Agricultural District at 36 Wainapanapa Road, TMK; 1-3-005: 019, Hana, Island of Maui. Staff Planner is Gina Flammer.

**D. 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 RICHARD and JODY SMITH for a State Land Use Commission Special Use Permit in order to operate the Luana Cottage, a two (2) bedroom short term rental home located in the State Agricultural District at 36 Wainapanapa Road, TMK: 1-3-005: 019, Hana, Island of Maui. (SUP2 2013/0012) (G. Flammer)**

Ms. Gina Flammer: Good afternoon, Commissioners. I do have a power point. However, I notice that the report was printed in color with all the pictures. So I can either quickly summarize the application for you or if you'd like me to go into much more detail, I'm happy to do that too?

Commission Members: Summarize.

Ms. Flammer: Summarize, okay. As you know, this is a project in the Hana so it went to the Hana Advisory Committee. So briefly, we are looking at a two-bedroom house that was built in 1979. The applicants bought it in 1981. They live in Montana where they farm 5,000 acres of spring

wheat. Each year after the harvest, they spend at least two months at the house in Hana. They've told me they'd like to increase that over the years, but for now their main focus is the farming operation in Montana. The permit that they're applying for is for times when the house is not occupied by either the applicants or their family.

So in terms of agency comments, you have copies in your report. There were no police comments. And we had no comments from the State Office of Planning. They did note however the land has a designation of "D". And there were four letters of support. And then this went to the Hana Advisory Committee, September 26<sup>th</sup> of last year. It was unanimously voted. They voted unanimously for approval of this project. They...the Committee did again express a desire to see enforcement out in the Hana region, and there was some discussion about farming, and that's about it. I have the applicants here if there are any questions.

Chairperson Lay: Does the applicant wish to say anything at this time? Okay, right now we're gonna open to public testimony. Does anyone wish to testify? Seeing none, we're closing public testimony. Commissioners, questions for the applicant? Commissioner Wakida?

Ms. Wakida: I'm encouraged by the effort of farming here. As I was discussing with Gina on the break the need to be more sustainable on Maui is getting more and more serious with this drought in California. That sort of climate problems are not gonna go away quickly. Gina, do you wanna give us a little bit more information on the extent of the farming efforts?

Ms. Flammer: Okay, sure. There is an implemented farm plan. You have pictures of it in your staff report. I will tell you that the applicant did do some planting in order to reach the 50 percent. In your staff report are photos of the areas. I tried to show you all the different areas in the front. So you can see all the papaya, there's a lotta coffee that's around the perimeter of the area. They planted citrus, banana trees. One of the letters of support for this...we have an...one of the letters of support is for something that actually uses some of the products that are on the property so it doesn't go to waste. I think being farmers themselves they understand selling what they have. The farm plan for some of it in the beginning, from a part of the property is planted some time within the past year and a half. So there was some fruit when I went but it will be a few years before some of those trees get to full...their full producing ability.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I'll just follow up with a question on the farming. I see that the owners live much of the time in Montana. So perhaps they can tell us who is gonna help take care of the farming operations?

Chairperson Lay: If you could step up to the mic please and identify yourself?

Ms. Jody Smith: Hi, my name is Jody Smith. And to answer your question, we have Stacy Lynch who does have Maui Best Flowers. She comes in and manages the property. She cuts flowers off of our property and we also hire Pulama Yard Service that comes in and maintains the yard itself and trims and does all the yard work when we're there as well as when we're not. I mean, we also do work on our...(inaudible)...but they come in and take care of all the major mowing and that sort of thing. So we do hire out local people.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Have you generated any revenue off of your farming effort?

Ms. Smith: Yes, in the past. It used to all tropical flowers. I did bring some receipts from years ago that I found if you would like to look at them. We would cut and take it to a guy that was way up in the mountain. A lot of ti leaves he'd ask for and that sort of thing, but they all got old and overgrown and so we ended up cutting down and starting with the citrus because we have real cindery type soil and the citrus really favors that. So...

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I see you've got quite a crop of papaya. I mean, I understand that you have a yard service that comes in, but does anybody, is anybody gonna be responsible for actually harvesting this fruit and ...(inaudible)...with it?

Ms. Smith: Yes. Our neighbors across the street. Well, our gardener unfortunately passed away. He always harvested it and they have a fruit stand that they would sell it right across the street. He passed away a year ago in January and now his son-in-law lives on the property as well and he comes and cuts and does the selling at their fruit stand. He also works Hasegawa's but they come over and harvest the bananas and the papayas and whatever is ready. The citrus right now, a lot of it is probably two years old, and I'd say the oldest citrus is maybe five so it's still, you know, in the process of trying to produce.

Ms. Wakida: So you're not selling yourself, you're giving it to your neighbor to sell?

Ms. Smith: At this time, because there's not the quantity to really make any type of, you know, profit yet. We have 33 citrus trees altogether that we planted. So in time, we will have quite an abundance. It just takes a while.

Ms. Wakida: Thank you.

Ms. Smith: Any other questions?

Chairperson Lay: I have a question. Who oversees the short-term rental as far as letting the people know about your property, safety things, and orientation I guess.

Ms. Smith: Well, I go through the VRBO and then Stacy, of course, is my manager, and she takes care of all the housekeeping and that sort of thing, and the managing of it when we're not there. So when we're there, obviously we're not renting it.

Chairperson Lay: And how far away does Stacy live from your...

Ms. Smith: She lives about one mile or 10 minutes. She's up the road.

Chairperson Lay: Commissioners, any more questions? Go ahead, Commissioner Shibuya?



Vice-Chair Shibuya: I just wanted to know if you have a registered real estate agent handling your affairs?

Ms. Smith: We do not. They're a broker. There is not one available at this time in Hana.

Vice-Chair Shibuya: And how do you do the transaction here? Who pays for the State taxes and how do you get the revenue?

Ms. Smith: It goes through the website. I take all my payments through the website. You know at this point it's collected there and then I pay the taxes overseen by Stacy. It goes into its own account and then Stacy oversees it. I write out the checks for the taxes and she oversees that as well. I know that she is supposed to be handling on funding and we will, you know, accordance, be in accordance with all the laws when we are with our permit.

Chairperson Lay: Any more questions? And will you please speak a little louder, we're having a little—

Ms. Smith: I'm sorry.

Ms. Wakida: This is for Gina. You were very candid here about the fact that there was no...the property manager doesn't hold a real estate license and that there wasn't anybody apparently in Hana, but it does, it's in the business. But it's required for us to have...for us to approve this. So how does this work exactly?

Ms. Flammer: Yeah, yeah, good. I'm glad it got brought up because we've talked about this at the Hana Advisory Committee a few times. And you're going to be having an opportunity to comment on the short-term rental and bed and breakfast bill probably I think May 13<sup>th</sup> is the date that we're going to bring it to you. I've spoken about this before. In Hana, there are currently no brokers, no realtors that can take on this kind of business. Lanai is having a similar problem. So what we are doing in the cases of the applications that we have, we're holding them until either the law is changed or until they can find another way. We have one person who's retiring, probably gonna be coming to Hana as a full-time resident. He would then be able to qualify, but without either of those things, the short-term rental home application can't move forward. We did decide to bring the State Land Use Permit to you today for approval but the short-term rental home cannot be approved until those qualifications are met. So the date on this State Land Use Permit will take effect until that short-term rental home permit is approved by the Department. And we'll have some ideas for you when we come to you in May. We're also going out to Hana to bring them the bill. However, we just went last Thursday and we did talk about this and the Committee expressed support for the current managers out there. They mentioned them by name. They mentioned Stacy by name. They want them there because they've got an excellent track record as caretakers. And then we talked about some ways that we can amend the bill so that it worked for Hana. So I'll bring some of those ideas to you.

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

Ms. Flammer: Okay, so the recommendation, the Department's recommendation of approval is

based upon our standard seven conditions. Again, with the farm plan having to stay implemented during the duration of the permit. As we also just discussed this SUP2 permit will not be approved until the short-term rental home is approved and then those dates will come concurrently. So based upon what we just discussed, the Planning Department recommends that the Planning Department accept the Hana Advisory Committee for the Maui Planning Commission's recommendation of approval and adopt the report from September 26, 2013 as its finding of fact, conclusion of law, and decision and order and authorize the Director of Planning to approve the...write the approval letter.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Just...kinda back up on what you said. So this recommendation is to approve the State Land Use Special Permit but it's not...there's another step to actually approve having a short-term rental which is on hold, is that correct?

Ms. Flammer: Yes, and the date of this will not...will coincide with the short-term rental home approval. So if you take a look at the first condition that's placed on this SUP, the State Land Use Commission SUP shall be valid three years from the date of approval of the Short-Term Rental Home Permit. This is often what we...this is how we do it when we have permits that go to the County Council.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I move to accept the recommendation of the Hana Advisory Committee.

Chairperson Lay: Do I have a second?

Vice-Chair Shibuya: I'll second.

Chairperson Lay: Motion by Commissioner Medeiros, seconded by Commissioner Shibuya. Any discussion on the motion?

Vice-Chair Shibuya: I just want to make it clear that I'm voting for this because it's mainly to the Special Use Permit and not for the short-term rental type home. The short-term rental home will be with us at the next meeting or whenever the next convening clarified ordinance happens. So right now, we can at least get through step one. Unfortunately for the Smiths, I'm sorry you have to travel all the way from Montana just to receive a only partial approval is done.

Chairperson Lay: Any more discussion on the motion?

Mr. Medeiros: I will not apologize for the Smiths coming all the way for Maui out of the snow. All I going say to them is welcome.

Chairperson Lay: Okay, if we can get Clayton to repeat the motion?

Mr. Yoshida: The motion is to approve the Special Use Permit request subject to the conditions as recommended by the Hana Advisory Committee and the Planning Department and to accept the report as findings of fact and conclusions of law.

Chairperson Lay: Call for the vote. All those in favor? All those opposed? Motion carries.

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

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

Chairperson Lay: Our next agenda item?

Mr. Yoshida: The next agenda item is Mr. Scott Crawford, Chair of the Hana Advisory Committee to the Maui Planning Commission transmitting the Committees' recommendation on the request by Paul and Helene Orsulak for State Land Use Commission Special Use Permit in order to operate the Hale Heavenly Hana, two-bedroom short-term rental home located in the State Agricultural District at 2925 Hana Highway, TMK: 1-3-009: 053, Hana, Island of Maui. Our Staff Planner again is Gina Flammer.

**2. MR. SCOTT CRAWFORD, Chair of the HANA ADVISORY COMMITTEE TO THE MAUI PLANNING COMMISSION transmitting the Committee's recommendation on the request by PAUL and HELENE ORSULAK for a State Land Use Commission Special Use Permit in order to operate the Hale Heavenly Hana, a two (2) bedroom short term rental home located in the State Agricultural District at 2925 Hana Highway, TMK: 1-3-009: 053, Hana, Island of Maui. (SUP2 2013/0017) (G. Flammer)**

Ms. Gina Flammer: Okay, hello. So now we're looking, again we're looking at a two-bedroom farm dwelling. The only dwelling on the property. The owners purchased the property as well as the existing mac nut farm 12 years ago and the family uses the property on a part-time basis and the permit again is for when they or their family is not there.

This went to the Hana Advisory Committee on September 26, 2013. Again, it was a unanimous vote for a recommendation of approval to you. The Hana members they stressed the importance of small farms like this for food security. There were also some questions about the mac nut farming operation. Some of the trees are extremely old and they're phasing out so there was discussion about what's the future of the farm. What's viable out in Hana. The owner talked a little bit about what his future plans are. There was some talk about what do you do with the trees? Is it a useful as a wood? We learned it's not. It can crack years later with no notice.

And the applicant discussed their future plans. They also have the same property manager as the last applicant. It's one of the reasons I wanted to bring them together. I also wanted to bring them to you now before we look at the short-term rental bill and we talk about this problem. I wanted you to have two real life cases so that when we're talking about the provisions of Hana you can kind of think back and today you have an opportunity like you just did to ask the applicant. So I have them here if you have any questions or any questions for me.

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

Mr. Paul Orsulak: No.

Chairperson Lay: At this time, we're gonna open up to public testimony. Does anyone wish to testify on this agenda item? Seeing none, public testimony is closed. Commissioners, questions to the applicant or planner? Commissioner Wakida?

Ms. Wakida: Well, I'm gonna ask my standard question of the owners. And it has to do with your farming operation and who...I know you're from Minnesota, is that correct?

Mr. Orsulak: That is correct. Name is Paul Orsulak.

Ms. Wakida: And so who will be handling not just mowing the lawn but who's actually handling the farm operations?

Mr. Orsulak: The farm operations actually have a history as well as what we're doing now. In the past we harvested mac nuts. We actually at our peak six, seven years ago, we shipped 17,000 pounds a year of mac nuts to the mainland. The trees have died off. ...(inaudible)...we're replacing those crops. We have our landscaper who currently harvests the avocados and those are sold across the island. Most of it actually goes to the other side to Lahaina. We will continue to do that as the new trees come on board. We are also as we speak digging the wholes for the first 75 cacao trees which are replacing aged out mac nut trees. That's really why we stopped the mac nut trees aged out, production went down, the price of mac nuts went down by 50 percent about 10 years ago or six years ago. So we dropped out of that and we are replacing that with cacao and we have half a dozen growers already assembled. There is a East Maui Chocolate Association has already been formed so the plan is five years from now to be manufacturing East Maui chocolate.

Ms. Wakida: So five years you figure is when these will bear fruit, the cacao trees then?

Mr. Orsulak: We expect the cacao trees to start having fruit...this is brand new for all of us out there. There are over 3,000 trees ready to go in the ground, getting ready. Nobody's grown it there. We don't know how fast it will grow. We're estimating the first cacao in two to three years.

Ms. Wakida: And so, back up to the beginning of what you said about, somebody...you have somebody that's in charge of all of this?

Mr. Orsulak: Yes, we have our landscaper Sean Lynch who is actually Stacy Lynch's son who lives in Hana, lives about two miles from us. He manages most of the property during the year. He's got a regular slate of duties which includes the harvesting of whatever's available. We leave substantial amounts of it for our guests when they're there. When we are here, we're here a little over three months this time, we distribute that...the avocados for example, which are just ending but we had a good crop, we distribute those across Hana. We take them to the elderly downtown. We have given the neighbors and friends, but we give away almost as much as we harvest throughout the year. It's going in the community. But we do harvest. The citrus will be harvested the same way. They'll be left for the guests. The guests can harvest it and then we'll start selling what else is available.

Ms. Wakida: Thank you.

Ms. Flammer: I just wanna direct to you Exhibit 5 too, because he didn't talk about the flowers but those are sold commercially, and I put a...in your staff report, the web site just so you could see a little bit about how the flower operation works.

Mr.Orsulak: Thank you, Gina for picking up on that. Yes, Stacy Lynch, Maui Best Flowers have been in operation for well over 10 or 15 years and she harvests, maintains and harvests a large chunk of the flowers on our property and they are sold.

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

Mr. Medeiros: I move to accept the recommendation of the Hana Advisory Committee.

Chairperson Lay: Let's get the Department's recommendation first.

Ms. Flammer: Again, we have the same seven conditions that we've talked about. I also wanna remind you of number one that this permit will not be...will have an approval of the Short-Term Rental Home Permit once that is approved. So in consideration of that, the Planning Department recommends that the Maui Planning Commission adopt the Hana Advisory Committee's recommendation of approval and adopt the report and recommendation prepared for the September 26, 2013 meeting as its findings of fact, conclusion of law and decision and order and authorize the Director of Planning to transmit said approval. Thank you.

Mr. Medeiros: So move.

Chairperson Lay: A motion by Commissioner Medeiros. Do I have a second?

Mr. Ball: Second.

Chairperson Lay: Seconded by Commissioner Ball. Any discussion on the motion? Seeing none, can we get Clayton to repeat our motion?

Mr. Yoshida: The motion is to approve the request subject to the conditions as recommended by the Hana Advisory Committee and the Planning Department and to accept the Hana Advisory Committee's report as its findings of fact, the Commission's findings of fact and conclusions of law.

Chairperson Lay: Call for the vote. All those in favor? Any opposed? No. Motion carries. Thank you.

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

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

Mr. Yoshida: Our third matter under Communications is the Proposed SMA Settlement Agreement between the County of Maui and Fredrick R. Honig, Trustee of the Fredrick R. Honig Revocable Living Trust to resolve three Notices of Violation, NOV 2012/0023, 0024, and 0025 on property situated at 800 Haumana Road, TMK: 2-8-004: 012 Haiku, Island of Maui. I guess I'll call on Tom Kolbe from the Corporation Counsel's Office representing the Planning Department.

**3. Proposed SMA Settlement Agreement between the COUNTY OF MAUI and FREDRICK R. HONIG, Trustee of the FREDRICK R. HONIG REVOCABLE LIVING TRUST to resolve three (3) Notices of Violation (NOV 2012/0023, NOV 2012/0024, & NOV 2012/0025) on property situated at 800 Haumana Road, TMK: 2-8-004: 012, Haiku, Island of Maui. (T. Kapuaala)**

Mr. Tom Kolbe: Thank you, good afternoon. I am Tom Kolbe from the Corporation Counsel's Office. This Settlement Agreement involves one of three current appeals that Mr. Honig has with the Department. One is before the Board of Variances and Appeals which predated all of these and well, actually two of them...the third one is before the Planning Commission.

The basic terms of this agreement are that Mr. Honig has to cease and desist basically running TVRs or any commercial weddings until has Special Use Permits in place for the commercial weddings. It's my understanding that he will be coming before the Maui Planning Commission I believe in about a month regarding the SUP. And so we are trying to resolve this issue of the outstanding violations.

Basically the three violations are that he didn't have a permit for one of the structures that was within the SMA and then he was running the TVRs and the commercial weddings. So what this agreement does is it fines him, but it holds most of the fine in abeyance so that we can continue to monitor him for a period of two years. If he has to pay the fine of \$1,000 up front, the balance of \$4,000 held in abeyance between now and the time he complies by not doing any further violations. The County is very comfortable with this particular arrangement because we believe that this will ensure that there aren't any further violations of the SMA.

If anyone has any questions about any of these particular terms, I'd be happy to answer them.

Chairperson Lay: Well, at this time, I'm gonna open up to public testimony. If anyone wishes to testify at this time, please step forward and identify yourself. Seeing none, public testimony is closed. Commissioners, questions? Commissioner Freitas?

Mr. Freitas: So basically what you said that is the gist of the Settlement Agreement? There's nothing else that is in the Settlement Agreement that we have not seen?

Mr. Kolbe: All of the terms and conditions of the Settlement Agreement are here. There is going to be another Settlement Agreement which is resolving the Board and Variances Appeals cases and that is kind of involved the same information it's the commercial weddings which were a zoning violation and the TVRs and he's gonna be paying a fine and we're gonna be addressing and monitoring that with the second settlement agreement also. But otherwise, he has to allow our inspectors to go in up to four times, you know, per year for a two-year period between certain hours

and with some reasonable notice so that we can go in and check to see that there aren't any vacation rentals if he doesn't have the appropriate....

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Have these violations been collected or they're still pending?

Mr. Kolbe: Well, the one...well, the one that we're asking him to actually pay and admit was the violation for not having the permit. That has been corrected and I believe the permits for the they call it the potting shed has been received and so that issue has been resolved and at this point it appears that there aren't any vacation rentals and weddings happening. So I guess he has abated the violations at this point.

Chairperson Lay: Commissioner Ball?

Mr. Ball: Maybe you can answer this or maybe you can't, but you know, we've seen people that have operated before and have come in and so what's the difference with this one? Is it just complaint driven so that's why we're here at this point and...seems to be the first one that I've seen that we're dealing with somebody operating illegally and they're trying to come in to get their permits them and...

Mr. Kolbe: Well, basically it is complaint driven generally. And I think there was a complaint at some point, there was investigation by the Department. One of the things we can do is we can get on the internet and we can look for people who are advertising their property. So in this case, that's how it all began and then there were a series of inspections and to be fair to Mr. Honig he's been working with the Department in terms of trying to get everything up to snuff and to try to deal with these issues once and for all. And the Special Use Permit which is going to be heard by this Commission I think may address some of those issues for you.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: I am very curious in terms of why the settlement for a lesser amount of less land when the violation still exists or you know, this individual has been here before and was denied the TVR and yet he persists. This to me is very troublesome and why is it that we're now looking some place else and ignoring this?

Mr. Kolbe: I'm not certain that we're ignoring it. My feeling on this and I believe that his SUP he's not asking you to do the vacation rentals any longer. He has slimmed down what I guess he was originally applying to the Commission for in the past. We're comfortable that he's not doing it right now. And so we don't believe that there continuing violation, but of course it takes a lot of energy and expense and time for this Commission to sit through the various appeals processing that, that's what the County gets out it is that we're resolving these matters and he's paying a fine. So I don't know if it's being ignored.

Vice-Chair Shibuya: Yeah, I beg to differ in a sense that I'd like to see him pay the full fine and not have a lesser deal here. What he has done is purposely committed these errors and it's not like it's accidental because he did come in and he did make a presentation for it and was denied and

yet he still persists. I say, that you're vulnerable to pay for the full fine.

Chairperson Lay: Commissioners, any more questions or comments? Commissioner Medeiros?

Mr. Medeiros: Okay, now this question. He's getting...we reached a settlement so he's paying less than the full fine. What is the full fine, maximum?

Mr. Kolbe: The maximum, well, the maximum fine is \$20,000 with a certain, I can tell you, it kinda depends. There's a number of violations. One was \$20,000 with \$5,000 per day, the second violation was \$20,000 with \$2,000 per day, and the third violation was \$20,000 with \$2,000 per day. That represents a discount of what he obviously was initially charged with. Having said that, however, that's what the fines can be as a maximum 20,000 for that type of a violation I believe.

Mr. Medeiros: And who sets the fine? Who decides on what the fine is?

Mr. Kolbe: In this case it was the Department through settlement negotiations which I helped.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: I'd like to ask legal counsel what are, what are the alternatives for this Commission? We can roll over and accept or we can say, no way I wanna see \$20,000?

Mr. Giroux: Well, really I mean at this juncture if the Commission doesn't accept this agreement it forces the Department to go back and basically start from ground zero which would be preparing for trial because there would be no negotiations on, you know, on the table right now. And that means that this Commission would have to sit through probably about six months of hearing testimony and dealing with, you know, scheduling and having to basically trod a contested case hearing to hear all of the fine details of when permits were applied for and when inspections were made and such and such. So right now, you're getting the Department's best you know, analysis of what they feel as far as getting this one applicant to appoint where he's complying and also getting hit with a monetary fine.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Responding to our Corporation Counsel, given the fact that we already went through this whole process so all the findings and conclusions are already in place do we have to, is it really absolutely necessary to go through the whole hearing process that you stated or can we have a more simplified version of this?

Mr. Giroux: No, that's one of the, that's one of the issues of having, you know, whenever Notices of Violations are appealed that basically you have to have a due process. It's almost like having a criminal process where the applicant who has basically the right to have a full hearing on the evidence. So if he wants to, you know, have a lawyer and he wasn't to depose people in the Department, if he wants...you know, I mean, basically all of those rights that a person has before it comes to the point of actually getting to pay a fine are exercised, it really incumbent upon the government to basically protect those rights. So if he has 40 witnesses that need to testify, those witnesses have to be allowed to testify. And if each one of those witnesses takes a day or two days



to get their story out then that's what, that's what the government is going to allow in order to make sure that if that, if that whole series of investigation is reviewed that, that all of that information was included as part of the hearing. So it's basically, you know, you're weighing your burden as being the government as far as proving all of these violations as far as what do you wanna get out of it? You wanna get compliance and you wanna get a fine. So the Settlement Agreement is that truncated version of okay, let's, let's just get to the point where we're just talking about the money and don't be violating these laws that's we've set up that we know people do violate and to prove that they're violating takes a lot of effort on the part of the government to prove.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Quick question for Corp. Counsel. So this would be a trial, what do you call, by a judge or this would come before us?

Mr. Giroux: By this Commission.

Mr. Freitas: By this Commission. Thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Mr. Kolbe, I think we're all a little bit surprised at the maximum amount for each of these in comparison to what is been the settlement. Can you reveal to us a little bit more about how the Department decided on such a minimal fine?

Mr. Kolbe: Sure. If I could just ask Mr. Giroux though are there any issues of perhaps going into executive session to discuss any of the issues in terms of the decision making behind the department's?

Mr. Giroux: Yeah, we could.

Mr. Kolbe: Or I can talk—

Mr. Giroux: ...(inaudible)...thing is that Mr. Honig is not here, but we can go to, into executive session if you wanna discuss with the board you know, the thinking behind getting to that number?

Vice-Chair Shibuya: I would be very interested in knowing that.

Chairperson Lay: Are you making a motion for executive session then?

Vice-Chair Shibuya: Move...make a motion to go into executive session.

Mr. Medeiros: Second.

Chairperson Lay: All those in favor? Carries. We're going to executive session.

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

**VOTED: To Go into Executive Session.**  
**(Assenting - W. Shibuya, J. Medeiros, J. Freitas, M. Tsai, S. Duvauchelle,**  
**P. Wakida)**  
**(Dissenting - K. Ball)**  
**(Excused - W. Hedani)**

The Commission went into executive session from approximately 1:27 p.m. to 1:48 pm., and the regular meeting was then reconvened at 1:50 p.m.

Chairperson Lay: ...back into order. And where are we at now?

Ms. Wakida: You need a motion?

Chairperson Lay: Yes.

Ms. Wakida: I will make a motion to approve the Settlement Agreement.

Mr. Freitas: Second.

Chairperson Lay: Motion to approve by Commissioner Wakida, seconded by Commissioner Freitas. Any discussion on the motion? Commissioner Shibuya?

Vice-Chair Shibuya: I'm not gonna be voting for it, but I know that my not voting for it is actually an affirmative. The reason why I'm not voting for it is because I really truly feel that this individual has repeatedly violated various aspects of the SMA provisions and just don't want it to be continuing any more.

Chairperson Lay: Any more discussion on the motion? Seeing none, can we get the Deputy Director to repeat the motion?

Ms. McLean: The motion is to approve the Settlement Agreement.

Chairperson Lay: Call for the vote. All those in favor?

Ms. McLean: There are four ayes.

Chairperson Lay: Those no.

Ms. McLean: Two noes

Vice-Chair Shibuya: Yeah, I'm not voting. So it carries.

Chairperson Lay: Motion carries.

Mr. Giroux: Abstain Warren? Was that abstain?

Chairperson Lay: One abstain. Well noted.

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

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

Chairperson Lay: Okay, next is our minutes. Everybody get a chance to look at our minutes from the--

**F. ACCEPTANCE OF ACTION MINUTES OF THE FEBRUARY 11, 2014 MEETING.**

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

Mr. Freitas: Second.

Chairperson Lay: Approval of the Action minutes okay, a verbal. All those in favor?

Commission Members: Aye.

Chairperson Lay: Those opposed? Verbal, passed.

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

**VOTED: To Accept the Action Minutes of the February 11, 2104 Meeting.**  
**(Assenting - K. Ball, J. Freitas, J. Medeiros, M. Tsai, S. Duvauchelle,**  
**P. Wakida, W. Shibuya)**  
**(Excused - W. Hedani)**

Chairperson Lay: Okay, Director's Report?

**G. DIRECTOR'S REPORT**

- 1. SMA Minor Permit Report (Appendix A)**
- 2. SMA Exemptions Report (Appendix B)**

Ms. McLean: Chair, in your packet you have the SMA Minor Report and Exemptions Report. Were there any questions?

- 3. Discussion of Future Maui Planning Commission Agendas**
  - a. March 11, 2014 meeting agenda items**

Ms. McLean: And we also have a memorandum from Clayton Yoshida on future agenda items for the March 11<sup>th</sup> meeting. If you'll look at that memo there are two public hearing items listed. That second public hearing item, the Peterson South Beach Villa item that needs to be renoticed. So that will not be on the next agenda. And in addition to the items listed in the memo, the Rock and Brews, we're assuming that the Rock and Brews matter will be posted as you heard earlier today.

Mr. Ball: So if we don't then we only have one item?

Ms. McLean: There's also the New Business item, EA Determination.

Chairperson Lay: Commissioner Shibuya?

Vice-Chair Shibuya: I'm just gonna have to advise everyone that I'm not going to be here at the next meeting. I gotta go play in the snow.

Ms. McLean: And Commissioners, you were provided with the Final EA along with the memo.

Chairperson Lay: Anything else Commissioners?

Mr. Freitas: Adjourn.

Chairperson Lay: Okay, meeting's adjourned.

**H. NEXT REGULAR MEETING DATE: MARCH 11, 2014**

**I. ADJOURNMENT**

The meeting was adjourned at 1:54 p.m.

Submitted by,

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

**RECORD OF ATTENDANCE**

**Present**

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

**Others**

Michele McLean, Deputy Director, Planning Department  
Clayton Yoshida, Planning Program Administrator, Planning Department  
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel  
Rowena Dagdag-Andaya, Director, Department of Public Works