

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
APRIL 8, 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, April 8, 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: April 8, 2014 and it's 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: We're gonna open up for public testimony right now for anyone who wishes to testify on any of our agenda items and will be unable to testify at the time when your agenda comes forward you can step up to the mic. You have three minutes to testify, identify yourself. Do we have a list?

Mr. Ball: There is a list.

The following individuals testified at the beginning of the meeting:

William Knowlton	Item E-1, Notice of Motion to Rescind or Motion to Amend SUP2 Denial Action by the Maui Planning Commission on March 25, 2014, Spirit of Aloha Temple
Fredrick Honig	Item E-1, Notice of Motion to Rescind or Motion to Amend SUP2 Denial Action by the Maui Planning Commission on March 25, 2014, Spirit of Aloha Temple
Charlotte McLaughlin	Item E-1, Notice of Motion to Rescind or Motion to Amend SUP2 Denial Action by the Maui Planning Commission on March 25, 2014, Spirit of Aloha Temple
Lani Star	Item E-1, Notice of Motion to Rescind or Motion to Amend SUP2 Denial Action by the Maui Planning Commission on March 25, 2014, Spirit of Aloha Temple
Aerie Waters	Item E-1, Notice of Motion to Rescind or Motion to Amend SUP2 Denial Action by the Maui Planning Commission on March 25, 2014, Spirit of Aloha Temple
Sean Clancy	Item E-1, Notice of Motion to Rescind or Motion to Amend SUP2 Denial Action by the Maui Planning Commission on March 25, 2014, Spirit of Aloha Temple
Kevin Hoeke	Item E-1, Notice of Motion to Rescind or Motion to Amend SUP2 Denial Action by the Maui Planning Commission on March 25, 2014, Spirit of Aloha Temple

Chaz Paul                   Item E-1, Notice of Motion to Rescind or Motion to Amend SUP2 Denial  
Action by the Maui Planning Commission on March 25, 2014, Spirit of Aloha  
Temple

Arjuna Nour                Item E-1, Notice of Motion to Rescind or Motion to Amend SUP2 Denial  
Action by the Maui Planning Commission on March 25, 2014, Spirit of Aloha  
Temple

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

Chairperson Lay: Does anyone else wish to testify at this time? Seeing none, we're now closing public testimony and proceeding with our agenda.

**C. INTRODUCTION OF NEW MEMBER - Richard Higashi**

Chairperson Lay: And our agenda next we have the introduction of Richard Higashi, our newest Commissioner. Richard if you would take this opportunity and tell us a little bit about you?

Mr. Higashi: Well, thank you Mr. Chairman. First of all, I'm totally impressed with all the documents that I've gone through. Must of been about a foot high and it reminds me of...I'm an ex high school principal and I've been in the department for over 45 years and I've been on Maui for over 40 years. In fact, Keone Ball here was one of the students when I was principal at Maui High.

Chairperson Lay: You tried your best.

Mr. Higashi: But you know, I'm totally, I'm totally impressed the Commission, prior Commissioner Members as well as the amount of work that it takes to listen to public testimony and make decisions based upon the general public interest because that's what I am. I'm not a employee of the County of Maui. I'm basically here as a resident trying to do what's best for the majority of the citizens of Maui. And it gives me a great honor to be part of this Commission and I hope I can make some kind of a contribution. Thank you.

Chairperson Lay: For myself, I'm very glad to have you aboard and we welcome you. And Commissioners, any comments, anyone would like to say anything to Richard at this time?

Ms. Wakida: Welcome aboard.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Richard, was he a good student?

Mr. Ball: Let's move on.

Chairperson Lay: Moving onto our next agenda item. Mr. Director?

**D. ELECTION OF OFFICERS FOR 2014-2015 COMMISSION YEAR**

Mr. Spence: Commissioners, we're on Item D of your agenda this morning, Election of Officers for the 2014-2015 Commission Year. I'm not quite sure how...

Mr. Freitas: Nominations. Open for nominations.

Chairperson Lay: I'd like to open up for nominations.

Mr. Ball: Nominate Chairman Lay as Chairman.

Mr. Freitas: Second.

Chairperson Lay: Any more nominations for Chair?

Mr. Freitas: None. Move that nominations be closed.

Mr. Ball: Second.

Chairperson Lay: Nominations closed.

Mr. Ball: Going to vote on it?

Chairperson Lay: All those in favor? Just like to see the numbers.

Mr. Spence: Unanimous.

Mr. Freitas: I nominate Keone Ball for Vice-Chair.

Mr. Tsai: Second.

Chairperson Lay: Motion by Commissioner Freitas, and seconded by Commissioner Tsai for Commissioner Ball to be our Vice-Chair. All those in favor?

Mr. Spence: That's unanimous.

Chairperson Lay: Okay, Congratulations.

Mr. Spence: Commissioners, we're on Item E-1, under Communications. This is a Notice of Motion to Rescind or Motion to Amend the State Land Use Commission Special Use Permit denial by the Maui Planning Commission on March 25, 2014 to operate a classroom and hold Spirit of Aloha Temple church services with church related events such as weddings in the State and County Agricultural Zoning Districts on approximately 11 acres of land at 800 Haumana Road.

An Executive Session may be called in order for the Commission to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

Chairperson Lay: Commissioners at this time, it's been about an hour and I'm wondering if we can take a quick 10-minute break and come right back?

A recess was called at approximately 9:57 a.m., and the meeting was reconvened at approximately 10:07 a.m.

## **E. COMMUNICATIONS**

- 1. Notice of Motion to Rescind or Motion to Amend the State Land Use Commission Special Use Permit denial action by the Maui Planning Commission on March 25, 2014, to operate a classroom and hold Spirit of Aloha Temple church services with church related events such as weddings in the State and County Agricultural Zoning Districts on approximately 11 acres of land located at 800 Haumana Road, TMK: 2-8-004: 032, Haiku, Island of Maui. (SUP2 2012/0032) (K. Wollenhaupt)**

An Executive Session may be called in order for the Commission to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities.

Chairperson Lay: At this time Corp. Counsel would like to run through a couple of procedures for us at this point.

Ms. Thomson: Okay so just so everyone understands what we're doing. The notice on the agenda is that there may be a motion made by one of the Commissioners here either a Motion to Rescind to the denial of the decision on the SUP or a Motion to Amend to Denial. So those are the...that's the notice that's before you. There isn't an active motion on the floor. But these are...it's an agenda item so that you might bring those subjects up today if you wish. So if you have any, any questions on procedure let me know we can, can go through it.

Chairperson Lay: Commissioner Ball?

Mr. Ball: I notice that there was a...that we possibly would go into Executive Session. Is that recommended by counsel?

Ms. Thomson: You have questions on the application of the...it's the Religious...as I always mess it up, it's RLUIPA, it's the Religious Institution...Religious Land Use and Institutional Persons Act. Thank you, Kurt, from the year 2000. So it's the matter that is the SUP application is both subject to 205A, so the normal analysis of unusual and reasonable uses on ag land. And then secondarily it's also subject to RLUIPA which it's another layer of analysis that you would go through in your decision making process. So just briefly with RLUIPA, I think that you all understand 205A analysis quite well, so with RLUIPA is a land use restriction substantially burdens religious practice, then you need to show that there's...that the substantial burden is related to a compelling government interest such as health, safety, welfare, those kinds of very critical government interest and also that the burden that you're placing on a religious exercise is the least restrictive means. So you...those are, you go through the 205A analysis, unusual and reasonable uses and the criteria, the guidance

criteria in 205A and then move onto a RLUIPA analysis, you know, identifying the government interest such as traffic that was brought up, pedestrian safety, et cetera, and then you also look at whether there are conditions that can be placed on that use. So there may or may not be a scenario where you can grant the use, but it's based on that analysis.

Chairperson Lay: Commissioner Ball, oh Commissioner Freitas?

Mr. Freitas: And we can sustain the denial, right?

Ms. Thomson: Right, so today you could choose to rescind the prior denial and reanalyze, you know, which would open back up the process. The applicant could present additional information if he had additional information or you know, he's proposing some changes in his application, things like that and then you could reanalyze it and what your decision would be, would be you know, approval, denial or approval with conditions.

Chairperson Lay: Commissioner Ball?

Mr. Ball: I guess my question is are we having a presentation then of you or...

Chairperson Lay: Director?

Mr. Spence: That depends on what the Commission desires. If you the Commission decides to rescind the denial or if the Commission decides to amend the denial, if you wanna hear additional information, you could do that.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: I move we go in Executive Session.

Mr. Medeiros: I second.

Chairperson Lay: Motion by Commissioner Freitas, seconded by Commissioner Medeiros for Executive Session. All those in favor? Okay, we will go into Executive Session. If everyone could proceed, in the gallery proceed out the door?

The Commission went into Executive Session at approximately 10:11 a.m. and Executive Session was adjourned and the regular session was reconvened at approximately 10:57 a.m.

Vice-Chair Ball: ...in regular session. Thank you all for your patience while we went into Executive Session. Will, Director Spence can you restate the Communication, E-1?

Mr. Spence: Thank you, Mr. Chairman. Commissioner's we're in...we've already started E-1, Notice of Motion to Rescind or Motion to Amend State Land Use Commission Special Use Permit denial action by the Maui Planning Commission on March 25, 2014 to operate a classroom and hold Spirit of Aloha Temple Church services with church related events such as weddings in the State and County Agricultural Zoning Districts and that's at 800 Haumana Road.

Vice-Chair Ball: Okay, thank you very much. At this time we're gonna open up public testimony. If you've already testified, do not come back up.

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

Mr. William Knowlton: Good morning, Mr. Chair, Commissioners. My name is William Knowlton. I would like to thank all of you for denying Mr. Honig's application to become a church in the Special Management Area. That is on the agenda this morning. What I would specifically like to address the settlement agreement which the Chair signed, Will Spence signed, the Mayor signed, and Mr. Honig signed about a month ago. Mr. Honig was cited for transient vacation rentals and weddings. In No. 4 of the settlement agreement he agreed not to do that himself and also not to allow anyone else to do TVRs and weddings. What the Planner Kurt is trying to pull up now you guys were emailed last night. Yeah, so you can scroll down to...oh, right there. So on this page this is his sister and if I can refer to the screen over here.

Mr. Spence: You need the microphone.

Mr. Knowlton: Testing, oh too loud, okay. So this is what I downloaded yesterday and provided. It is current. It is relevant. This is his sister which it says she currently teaches yoga at the Spirit of Aloha Oceanfront Botanical Gardens in Haiku. Down here this is before he signed the settlement agreement February 3 to 28-yoga teacher certification. This is current, April 4 to 30, she's currently teaching yoga certification and personalized retreats. If you go pass this a little bit more there's a few more, I guess it...oh, right there, there's another one coming up August 4 to 30 and Fall retreat, August 6 to 31. If you go to the next screen, I believe it says, the next one, no past that...so then, so yeah he's currently in violation on the settlement agreement. Going onto other pages which I provided all of you his sister is also advertising beautiful accommodations available daily and weekly rates. And then on the last page that I provided the Commissioners, his sister offering weddings and what I'd just like to point out is that it says honeymoon cottages available at our oceanfront wall nature sanctuary. So I thank all of you for, you know, once again--

Chairperson Lay: Please conclude.

Mr. Knowlton: --taking Mr. Honig's wedding advertisements and TVR advertisements into consideration. Thank you for denying his application.

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

Mr. Freitas: I'd like to make a clarification. You said that it was denied a church. It was not. We denied the application upon a safety issue, the road was not safe. We did not deny a church. Thank you.

Mr. Knowlton: Okay, thank you. I just wanted to clarify to your point that back in March 23, 2010 his church application I believe was denied or it was also for helicopters and bed and breakfast, but thank you very much. I appreciate your time.

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

Mr. Wollenhaupt: I just want to make sure, the blue cord here is the internet cord. Be very careful not to trip on the cord. I just don't want anyone to fall.

Chairperson Lay: Does anyone else wish to testify at this time? Seeing none, we're closing public testimony. Oh, excuse me.

Mr. Wollenhaupt: I think there was...are you gonna have testimony when the item comes up?

Chairperson Lay: Yes. Do you wish to testify now or afterwards?

Mr. Fredrick: Yeah, I think I would because...(inaudible)...the question--

Chairperson Lay: You have three minutes.

Mr. Kevin Hoeke: What was the question?

Chairperson Lay: Does he wish to testify now or when his agenda item comes before us?

Mr. Hoeke: ...(inaudible-not speaking into a microphone)...you're guaranteeing us.

Chairperson Lay: He can talk now or he can talk when the agenda item comes up.

Mr. Hoeke: I just need to...(inaudible-not speaking into a microphone)...we don't wanna take up the public time.

Mr. Hedani: Point of order.

Unidentified Speaker: Can you get to the mic?

Mr. Hoeke: Good morning. My name is Kevin Hoeke. You met me at the last hearing--

Mr. Hedani: Point of order, Mr. Chairman?

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: No one should be talking on the microphone until they're recognized by the Chair and have the floor.

Chairperson Lay: That's correct. Who is going to testify at this time and you got three minutes if you're gonna testify? This is for public testimony.

Mr. Hoeke: When you asked the question, am I able to ask a process question because you presented a question to Mr. Honig...(inaudible)...Planning Department.

Chairperson Lay: You're gonna testify either on behalf of an agenda item for three minutes and at that point after that if the Commissioners have questions toward we'll ask you questions where you can relate with the questions.

Mr. Hoeke: Can I lay the cards on the table? Can I lay my cards on the table with...in order to--

Chairperson Lay: Not at this time, right now we're open to public testimony.

Ms. Thomson: You can either testify now for three minutes or when the agenda item comes up for three minutes.

Mr. Hoeke: And when is the agenda item coming up?

Chairperson Lay: At the discretion of the Chair.

Mr. Hoeke: Then we have to do it now.

Chairperson Lay: Okay, you got three minutes to testify.

Mr. Hoeke: As a process question either Madam Corporation Counsel or yourself may I ask one process question to try to make it go more smoothly, we have five--

Chairperson Lay: This is just testimony at this time.

Mr. Hoeke: Would you like a process question or--

Ms. Wakida: Excuse me?

Chairperson Lay: Yes, Commissioner Wakida?

Ms. Wakida: Could please have for our transcript the person at the mic identify himself?

Chairperson Lay: Oh, yes excuse me.

Mr. Hoeke: I did do so. I'll do that again. My name is Kevin Hoeke. You met me at the last hearing, H-O-E-K-E.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Mr. Chairman, both people that are at the microphone represent the applicant. The testimony at this time is intended to allow the public to testify on the item. It's not intended to have the applicant rebut any testimony that comes up on every particular case. So I think they need to identify themselves and clarify whether they're speaking as the applicant or as a member of the public providing testimony.

Chairperson Lay: Corp. Counsel?



Ms. Thomson: Thank you. Thank you, Commissioner Hedani for the question. So process wise just some clarification about what's going on for this agenda item. Currently we're in general public testimony. So any person can testify on any agenda item including the agenda item that's to deal with a potential motion for rescission or motion to amend the denial of the SUP for the Spirit of Aloha Temple. So the...as far as being the applicant, currently he is just another public testifier on, on the matter. If one of the motions to rescind or the motion to amend is granted then you might bring him back as the applicant and afford him more time to go through his additional information if has any, but at this time he's simply a member of the public presenting information for three minutes per person.

Mr. Hoeke: I really very much appreciate the time you're spending I believe to cover this process, you will save you time in the long run. So I'm just trying to be clear.

Chairperson Lay: It's the process that we have to follow. It's not one that you can make up.

Mr. Hoeke: No, but I'm trying to address whether to do it now or--

Chairperson Lay: Are you going to testify at this time? Right now we're open for public testimony. If you wish to testify, you have three minutes. Commissioner Hedani?

Mr. Hoeke: In order to--

Chairperson Lay: One--

Mr. Hedani: Mr. Chairman, I believe the Chair recognized Mr. Honig who has the floor.

Chairperson Lay: Okay, we'll follow the order that we went in. Mr. Honig you're up at that mic first. Are you going to testify at this time, if not--

Mr. Fredrick Honig: You know, I'm not a attorney. I have to apologize.

Chairperson Lay: Please identify--let's start all over again. Identify yourself.

Mr. Honig: My name is Fredrick Honig. I believe in ua mau ke ea o ka aina i ka pono. I live by that. I chant that every day for about a half an hour. I sing that. I teach that and really believe in that. I believe someday that will be the mantra. It will open up the United Nations conferences. And what I have right now is I have spent days whittling down everything that I have to share with you which is in just five pages. I'd be so grateful if you would give me the time to date. You gave Mr. Knowlton a lot more than three minutes. Please, just let me offer this and if you hear this it will help so much in our ability to work with each other. So I beg you to please me the right. I have spent five years to come before you, and I would love the right to give you exactly the points that I have spent so much time in preparing. Thank you so much for your consideration.

Aloha Members of the Planning Commission. My name is Fredrick Honig and I'm honored to be with here with you today. We are grateful for the opportunity to share our quest for your reconsideration of our Special Use Permit for a limited number of church programs at the Spirit of

Aloha Botanical Gardens. We ask for your consideration of the following.

The Gardens, we are downsizing what we are asking before because we want to be in harmony with you and what we are proposing is that we would have, we would have six programs per month that are four hours and with up to 24 participants including staff held sometime between 10:00 a.m. and 4:00 p.m. with just 10 vehicles. And if any meals are served they are done in accordance with the Health Department with bag lunches or certified catered. Then just twice a month we would have a program that could last up to six hours with up to 40 participants including staff that's held sometime between 10:00 a.m. and 4:00, once a month and 10:00 and 8:00 a.m., another time. So it's only one time per month that we have an evening event that goes up to 80 people.

Unidentified Speaker: Forty.

Mr. Honig: I mean, up to 40 people, excuse me.

Chairperson Lay: Please no noise in the gallery. Continue.

Mr. Honig: He corrected me, thank you.

Chairperson Lay: It's your testimony.

Mr. Honig: We have completed all of our requirements for safety and permitting at The Gardens. This includes our approved wastewater systems which have been used significantly...which are being used significantly under their capacity. The aloha multipurpose tent structure has a wastewater approval for programs with up to 90 persons and we will be using less than 50 percent of our approved capacity. And this could be proven by looking and Linda Taylor Engineering wastewater calculations prepared on June 6 which is within your staff report.

No. 2, The Gardens had for more than a decade its own approved well and an approved private water system and are using it within its approved limits. We have the right to use the system and we claim this right--

Ms. Takayama-Corden: Three minutes.

Chairperson Lay: Please conclude.

Mr. Honig: --is it okay if I have someone else just continue reading?

Chairperson Lay: We have your written testimony before us.

Mr. Honig: No, I'd like it to be read to everyone. It's important.

Chairperson Lay: Please conclude. Thank you.

Mr. Honig: Okay, then I'm gonna pass it...(inaudible-not speaking into the microphone)...

Chairperson Lay: Does anyone else wish to testify at this time, please step forward, identify yourself and you have three minutes.

Ms. Charlotte McLaughlin: Aloha, my name is Charlotte McLaughlin and I'm a marriage and family therapist. I'm a trauma therapist at I Pono Maui and I am a homeowner and Maui taxpayer and I've known Mr. Honig for over 15 years. I know him to be a kind, compassionate man who cares very deeply and honors and respects the land.

All required roads with The Gardens are 20 feet wide and have been certified or acceptable in both width and height clearance by the Maui County Fire Department whose recommendation is also inclusive of The Gardens confirmed accessibility for all emergency, rescue and ambulance vehicles. This driveway approval was required in order to attain The Gardens building permits and certificates of occupancy. Both the Maui County Fire Department and our civil engineer, Linda Taylor Engineering certified the garden's gravel road surfaces as acceptable. The garden roads are safe and passable for all emergency vehicles.

Important points to consider concerning Haumana Road. The Gardens were the primary private facilitator and funder of the paving of the last half mile of Haumana Road as well as the installation of the electric poles and lines and its underground phone lines including underground phone boxes installed at the garden's expense for each neighbor within 1,700 feet. The Gardens also funded the surveying cost for this project. Haumana Road is a paved county-maintained road with a recorded 20-foot width easement that runs 1.025 miles to its end which is at the entry gate to The Gardens. On the beginning first approximately 1,400 feet of Haumana Road until it branches at Kulike Road, the paved surface of Haumana Road is 18 to 20 feet wide and it's a comfortable width. The entire Haumana Road all the way until its end has the legal right to have the same 20-foot width. The only reason that some parts are narrower than other parts is that certain property owners along Haumana Road are encroaching on the County's lawful 20-foot wide clear easement. Encroachment is the reason Haumana Road is narrow in certain points. If the Haumana Road residents or the Maui County Planning Commissioners are concerned that Haumana Road is too narrow for The Gardens to have 10 cars pass safely, they may want to consider having those property owners with encroachment move the encroachment. Okay, that makes sense.

Haumana Road drains quickly and even in severe rain storms runs off the road and the road is passable. Both the Maui Fire Department as well as the public Police Department have given their written approval for our Special Use Permit and they gave this to our original proposal at a much higher intensity.

Ms. Takayama-Corden: Three minutes.

Chairperson Lay: Please conclude.

Ms. McLaughlin: Okay, thank you.

Chairperson Lay: Commissioners, any questions for the testifier? I have one. Are you a member of the church, his church or the Aloha Temple?

Ms. McLaughlin: No, I'm not a member of the church.

Chairperson Lay: Okay, thank you. Anyone else, any questions? Thank you. I have Lani. Is Lani there? Do you wish to testify at this time? If anyone wishes to testify...

Ms. Lani Star: Aloha, good morning. My name is Lani Star. I am on the advisory board of Mr. Honig's organization and I have known him for 15 years. Know him to be somebody of very high integrity that not only cares about the aina, but he actually cares about our people as well.

So I just like to pick up here. If the Haumana Road residents or the County Planning Commissions are concerned that Haumana Road is too narrow for The Gardens to have 10 cars pass safely then they may wanna consider having those property owners with encroachments onto Haumana Road, remove those encroachments so that the lawful clear 20-foot width of the Haumana Road easement may be used for its intended purpose which is for the safety of all neighbors.

Haumana Road drains quickly and even in severe rainstorms the water runs off the road and the road is passable. Both the Maui Fire Department as well as the Maui Police Department have given their written approval for our Special Use Permit and they gave this approval to our original proposal as much higher intensity. They carefully inspected Haumana Road. The Fire Department has approved Haumana Road and The Gardens road for its largest fire trucks that are significantly larger than shuttles employed.

Our right to use Haumana Road for these limited programs cannot be denied to us on the basis of safety for Haumana Road has been evaluated and approved by the Police and Fire Department who are the agencies that professionally authorize and quality to make that decision. But see both the Police and the Fire Department reports which are included and as well as Captain Haake and Chief Yamamoto's evaluation in staff reports. The following is a direct quote from the conclusion submitted by the Chief of Police, Gary Yabuta on 2/12/13 - there is no objection to the progression of this project at this time from the police standpoint in regards to pedestrian and vehicular movement.

All of the information and clarification listed in the points above would have been able to offer our hearing at March 25, 2014 had we been allowed to speak. R-L-U-I-P-A, RLUIPA requires that government provide the least restrictive possible means of attaining the government's interest. We question how the government can ascertain these quick restricted possibilities being without our ability to speak on our own hearing. The Gardens have 25 safe records with no serious accidents or injuries. We maintain insurance policies for the structures and church activities and have issued no claims or injuries or damages in over 20 years. We consider the entire 11 acres of The Gardens to be our church and all of the activities we perform and all of the programs that we offer at The Gardens to be a part of the church's religious services. We are a nature garden and we see God reflected in nature and our services in nature as our worship to God.

For some reason you can't approve, you cannot always defer, but before you can deny you must establish a verifiable government compelling interest and its resolution must be at least--

Ms. Takayama-Corden: Three minutes.

Ms. Star: --possible.

Chairperson Lay: Please conclude.

Ms. Star: Thank you. I would hope that we would be able to unanimously affirm a vote to move forward together through establishment of this Special Use Permit. Please give us a chance to show you what we can do and offer to our community of Maui for our aloha, for our ohana. Thank you. Mahalo.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you very much. Does anyone else wish to testify? If so, please identify yourself and you have three minutes.

Ms. Aerie Waters: Thank you. Aloha, my name is Aerie Waters. I'm a 36-year resident of our island and I'm here because I would like to see the future generations have a place that have had so much cultivation of the natural beauty that exists. Fredrick has put untold work into this land with the vision of future generations and that's something that means a lot to me and that's why I'm here today.

We will offer programs, we being the Spirit of Aloha--one other thing I wanted to say is the teachings of Angel Honig are not happening at the gardening. They're happening right now in Wailea. And so while she advertising through this means, she's not teaching her classes necessarily there and for sure this class right now is not being taught there. It's being taught in Wailea, Maui. I've been to her classes at that facility and so that needs for the record that was said that she was doing this now is incorrect and I just wanted to say that while there are many venues advertised there, they would have to be looked into as to whether they're actually happening at that location. Thank you. I wanted to throw that in.

We will offer programs that will harmoniously share the inspiration of The Gardens with community groups. After two years, you can evaluate again and will have the choice whether or not to renew our SUP. So what do you have to lose? Instead of us fighting in court, let us work together to achieve common sustainability goals for Maui.

We are now one of Maui's rare intact organic eco niches. We have much we could share with the island such as eliminating mosquitoes with water urns containing mosquito eating fish. We seek a harmonious way of securing our rights to fulfill the garden's mission without infringing on the rights of others. We ask for your guidance in achieving this balance and in considering the following.

We are the Spirit of Aloha Temple, an approved 501(c)(3) church and are protected by civil rights in the State of Hawaii Constitution and in the United States Constitution to practice our religion and are protected by State and Federal Laws including, I don't know how you say, RLUIPA. We claim these rights as shown in the letter give to you on March 25, 2014 by our attorney Andrea Low of Bervar & Jones. This is enclosed in the report. You are commissions of the County of Maui, as commissions are responsible for following these State and Federal Laws including RLUIPA and if you are in violation of this law you may be held accountable not only as a commissioner but also an individual citizen. If we were forced to take this to court the case would be held in Honolulu. We believe this direction would be a needless waste of the energy that we both could otherwise use

in our service to the people of Maui.

In addition to the RLUIPA concerns we are--

Ms. Takayama-Corden: Three minutes.

Ms. Waters: --also troubled that there appears to be several due process concerns--

Chairperson Lay: Please conclude.

Ms. Waters: --pardon?

Chairperson Lay: Please conclude.

Ms. Waters: --at the last hearing. My representative, Kevin Hoeke will be discussing the facts that indicate due process concerns. Thank you very much for your kind consideration.

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

Mr. Medeiros: Yeah, in the latter part of your testimony you said that we are gonna be held liability and everything like that, is that a threat?

Ms. Waters: No, it's the law. It's just stating what is... that, that... that we're trying to very hard here to operate within the law. We've gotten permits upon permits and that that within... that the fact that the Police and the Fire Department have issued safety as to the width of the road and that that was the reason given at the hearing for not approving it, that that we are within law here and we just want to exercise our rights. It's no threat to exercise the rights within the law. It's just the law. And as citizens we all exercise those rights if need be that's all.

Mr. Medeiros: Well straight up I'm gonna tell you that I personally am trying to be fair and I make my decision based on what's in front of me, okay. And you, you know, make a decision to sue me, I ain't got jack, do what you gotta do.

Ms. Waters: Nobody's talking about suing. We're talking about exercising our right within the law respectfully, really, we're working, trying to be against anyone. We're working for a common good.

Chairperson Lay: Commissioners, any more questions? If not, thank you very much. Anyone else wish to testify at this time? If so, please step up to the mic, identify yourself and you have three minutes. And everyone does realize that we do have chance to testify before the agenda item when it does come before us, right? Just to let the gallery know that, okay, when the agenda item comes before us you will have a chance to testify you haven't testified already. Thank you. Kurt?

Mr. Wollenhaupt: We're just trying to make sure everyone signs in so we have a complete record.

Mr. Sean Clancy: My name is Sean Clancy and I'm just gonna continue to read from Mr. Honig.

In all of the Special Use Permit is the most restrictive of the means and is not... (inaudible)... in other words we could restrict it in other ways. We could have a method where we can look into this over a period of time. I think some of the matters that have been brought up here are under some heated contests. I mean, there's obviously some angst in the room. I feel that. I can see that. I can hear it in the voices on both sides. I've been to this property. I'm very new to it. I met Mr. Honig four or five months ago. I'm not really involved in the implications of the law suit. And I'll finish continue reading this, but from everything that I've seen, everything that I've heard, all the people that I've talked to, these guys have really gone overboard to try to stay within the confines of and the restrictions that have already been placed on them and further restrictions is really just taking it to the point of trying to break Mr. Honig. He doesn't have the money to further this and it's continually a financial hassle for him. In the past you may have had concerns that there may have been held up in court and reasons for denial. Based on our current proposal you do not. There are compelling reasons for you deny the basis of safety including those accesses through Haumana Road for 20 cars per week. Unsubstantiated doubts of safety and concerns who have self interest concerning their property's encroachment on Haumana Road easements do not comprise a valid reason to totally deny the rights of RLUIPA. We have experienced extreme hardship and restrictions in the exercise of our religious rights in the past five years in which time we have been struggling with the Planning Department to secure the RLUIPA rights and our SUP. This is our prayers on behalf of nature's garden volunteers for our services and organizations. The powers of the volunteers can be moved mountains in The Gardens has proof of that. We have created for the opportunity for helping us to share with the generations and preserve for the next generation these historic botanical gardens. Thank you for your support, your services. Let us have a unanimous approval for a new chapter and cooperation in our mutual sustainability goal. Thank you.

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

Mr. Freitas: You know this 20 cars a week. I wanna know how, how are you gonna monitor 20 cars a week. You know, that statement at the last hearing that this thing came before us, it basically said that there's numerous cars coming down the road figuring out, looking for Jaws. It was some ridiculous number which I didn't concur with. But what do you call, how are you gonna monitor 20 cars? Number one, I'm not against churches. I think you folks should all be in church. What do you call, you have a religious organization, I hope that it grows and not stay stagnant. If it stays stagnant it's just a club, it's not a church. You must what do you call grow. So my question is how are you gonna monitor those 20 cars?

Mr. Clancy: You know I think that there's probably a lotta different ways that we can do that and certainly we would work and compose different methodologies that could take place to do just that. I mean, certainly you're right. I mean, I've been up and down that road where there's nothing but surfboards on the top of cars going back and forth. I think a lotta of those roads have those problems. I don't think that the church are the people that you want to move off the road. These are considerate individuals and mindful individuals where you know, there's a real traffic problem out there. It's on the main highway. People pull over in the middle of the road trying to find Jaws. Maybe that's something that we should identify more clearly. I agree.

Chairperson Lay: Are you a member of the church of the Spirit of Aloha?

Mr. Clancy: No, I'm not.

Chairperson Lay: Commissioners, any other questions? Seeing none...oh, Commissioner Medeiros?

Mr. Medeiros: I have a question for the Director?

Mr. Spence: Yes, sir.

Mr. Medeiros: According to...(inaudible)...they're accusing other property owners for an encroachment. What's the procedure for them to get this fixed? It's not our kuleana to go out there and try to cite people. Shouldn't they be the ones to make the complaint to get this resolved if they are thinking about safety for their members?

Mr. Spence: Thank you, Commissioner Medeiros. If there are enforcement issues along Haumana Road it would follow pretty much normal enforcement procedures. Somebody would file an RFS and say at the request for service and say I believe there is a, you know, a building encroaching on the County right of way within this area and give us an address and all that and we would go out and do an investigation and if we found that there was an encroachment, you know, we would issue notice of warning either, you know for them to somehow rectify it and then if that wasn't possible, we would issue notices of violation and go on from there.

Mr. Medeiros: So from the pictures that was provided, you know, it is hazardous because parts of that road is very, very narrow. So if it's due to as stated in here encroachment, shouldn't they follow protocol and file the complaints to get the road up to par, you know, to provide safety for the members of their church?

Mr. Spence: Well, said--

Mr. Medeiros: Whose kuleana is it? Is it ours or theirs?

Mr. Spence: No, it's not the Commission's responsibility to enforce. Like I said, the normal procedure, somebody files a request for service, we believe this building here or something is encroaching County right of way and then we do the investigation and we follow through on that request for service.

Mr. Medeiros: Okay, 'cause I care about the safety of people, right. And if it was members my church I'd be stomping all over the place. I'd do what I would need to do to protect my friends, my family, my members.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none, thank you very much. Does anyone else wish to testify? If so, step up to the mic, identify yourself, and you have three minutes.

Mr. Kevin Hoeke: Before I start my three minutes, I'd like to sign this. I don't want that to be part of the three minutes or I can sign it after if you'd like?



Chairperson Lay: Go ahead and sign it.

Mr. Hoeke: Good morning. My name is Kevin Hoeke. I've been a member of the church for many years. I want to address the Angel advertisement issue. I'm gonna defer to Will. I'm gonna ask you to ask Will about our conversation regarding that. She has never had the types of things that she's advertising there it's only been one or two students. These are intensives that she has had on that property. It's like if somebody used their property for a piano lesson or something like that. I described that situation to Will and the conclusion that we came to was if this SUP was gonna be granted that that would be worked into it as an understanding. He'll cover me on that I'm quite sure. Everything else about Angel's advertisement is true as other people would say. She's not doing large scale things there. She's doing it on the other side of the island where she lives.

Okay, I believe that the system is potentially working because we're coming here today with a very scaled down project and I know that's what you people wanna see because of the road concerns. So that's what we've done. We've made our move here and we have a very low impact proposal for you. Mr. Honig has worked 20 years to build a church there. It's the real deal and he wants to allow some people to enter the land to do religious services there. It's a legitimate concern that we're able to do that 'cause we've addressed the safety concerns.

Granting reconsideration of this low impact proposal is appropriate because we have very focused information we need to provide to you regarding road safety and the water issues that came up. We really weren't given a chance to talk about those last time when the issues arose and we have extremely vital information regarding those issues that clarifies things very quickly. You were given some pictures of the road. We could talk about those by flashing them on the thing. The pictures that this gentleman saw, I agree with you sir, those picture looked incredibly narrow but there was no context. There was no car. There was no way of really understanding how wide. It looked more narrow than it is. Those pictures speak a thousand words. We've entered small graphics of them here, but we could blow them up so that you could really see, it would show you exactly how wide that road is and how much visibility there is and it's much less dangerous than it's been portrayed by some neighbors who understandably don't want any increased traffic. We're talking about very small amount under this proposal.

The hearing two weeks ago was presented at day's end. I recognize and respect that it's overwhelming to hear so much testimony in one day. I really see you're more rested today and I appreciate that. But the project proponent was not given a fair opportunity to present his project or address the important issues that arose. And the Commission has some fault in that occurring, not ask a single question when basically abbreviated our presentation was very...I would say, not pono, not fair. The Commission appeared generally disinterested and was sometimes outright hostile to our presentation perhaps this is because we were initially speaking about the legitimacy of the church.

Ms. Takayama-Corden: Three minutes.

Mr. Hoeke: Would you...(inaudible)...to be here.

Chairperson Lay: No, please conclude, public testimony. Commissioners, any questions for the

testifier? Seeing none, thank you very much. Does anyone else wish to testify at this time? If so, please step forward, identify yourself, and you have three minutes.

Mr. Chaz Paul: Aloha, my name is Chaz Paul and I am a member of the church, hey. So what I've come to say is two things to begin with. First, it is true that Angel is living in Wailea and is teaching her classes, the larger classes, the teacher training and so forth, and beyond that of course, she's a very well-known teacher with 20 years of teaching, has taught in Santa Barbara, Virginia, who cares, and she is the sister of Fredrick and contributed greatly to the sacredness of the site. The site is held sacredness, it is beautiful and I will speed up.

So I was appraised of the last meeting and there was a lack of due process at the hearing that one would have thought was the Commission would afford some level of reasonable due process in an SUP hearing with an RLUIPA indication but that was not the case. Instead you made your decision based on road safety, water safety, and water waste concerns without even asking us to address any of these key issues. Based on this the other facts that occurred at the SUP meeting or I or others will discuss in this public comment period it is obviously based on facts that we will describe in due process rights that were violated. Due process must at the very least include not being hostile to our presentation or being allowed to comment on the key issues that you based your decision on. The fact that this was not afforded strengthens our RLUIPA case and vice versa. This due process and RLUIPA concerns responsibilities that are intertwined. The lack of due process was especially problematic because we have vital substantial information regarding the key issues too, other three issues are simply zero safety concerns according to your own County experts. And the third issue is very doubtful important safety concern again based on your experts and we can explain and prove that that is so.

Anyway, sometimes addressing the legitimacy of a church but we did so because the public comment and the common sense gave us reason to believe this needed to be addressed. The sentiment of some of the Commission was a clear one that our presenters was essentially forced to stop talking early as you angrily snapped, we have heard enough about spiritual enlightenment, fact if we ever hear enough about that kids. Okay, when a break was called we spoke with the staff and strongly encouraged to conclude the presentation immediately instead wait for questions and the Commission to address the issues that were important to you. Based on that advice I informed the Commission that we were abbreviating our presentation in the interest of your time and stated that we would prepare and address any issue you would like—

Ms. Takayama-Corden: Three minutes.

Mr. Paul: —even though two issues—

Chairperson Lay: Please conclude.

Mr. Paul: to conclude. To conclude, this man has held a place of sacredness of cleanness, it's not a condominium, it's a ruination of the land, it is kept sacred. It honors the County, the city, the State  
—

Chairperson Lay: Okay, thank you.

Mr. Paul: ...(inaudible)... Thank you very much. Bless you all.

Chairperson Lay: Does anyone else wish to testify at this time, please step up to the mic, identify yourself and you have three minutes.

Mr. Arjuna Nour: Hello, aloha

Chairperson Lay: Please pull the mic a little closer to you, please?

Mr. Nour: I'm a new comer in this Maui and I reside in Haiku right now and really don't know Mr. Fredrick too well, but I've been to his property several times and I'm here because I feel passionately about what he's doing.

Chairperson Lay: Please identify yourself.

Mr. Nour: Yes, sorry. Arjuna Nour. I just moved recently from California and I'm here on his behalf because I love what he's done. I totally, totally respect what he's done. So I'm gonna continue where we left off.

So even though two issues clearly did become to important to decision, road safety and water, there was no opportunity given to the project proponent to address them. Worse yet, when I twice tried to simply and politely ask the Commission a process question I was interrupted and told we could not even ask a process question. In contrast, it was troubling that long after public commentator concluded his presentation, he walked to the podium, asked if he could present some different ideas. The Commission warmly attended to his question and gave him a new opportunity to present. Bottom line, the process failed in many respects to give a fair opportunity to present the project and address the key issues that arose.

We request that the Commission reconsider the project for the following five reasons: One, project proponent has now dramatically scaled down the project to approximately one-third of what proposed two weeks ago and one-fifth of the original proposal. Second, the Department recommended you approve a project much larger than our current proposal. Number three, since a church is requesting this very low impact project this clearly triggers special rights and considerations regarding your process and decision making at both the last hearing and this moment. Forth, the project proponent has extremely substantial, relevant information regarding the road safety and water issues. As you know, the value of comments can vary greatly. It is not just that we were now afforded a fair opportunity to present info regarding the key issues that arose last time or that was...or that we want t comment for the sake of commenting. We actually have extremely important and instructive information regarding these issues. The final reason is basic fairness. It is beyond doubt that we did not have a fair opportunity to address the issues which you based your decision on and the only reason that occurred was that we were trying to respect your obvious wishes that we abbreviate our full presentation. Basic fairness and your responsibilities require that we are given an opportunity to present information on the road safety and water issues. The presentation will be short and focused.

In addition to downscaling the project, we propose adding the following condition to assure safety.

Number one, no alcohol or drugs at any program. Number two, all outreach and instruction at programs will strongly emphasize driving slowly and carefully. Number three...okay, so we move on.

At the hearing two weeks ago, the road was portrayed as being much more narrow than it actually is. I agree. The road looked very narrow as pictured but the pictures did not have reference points such as a car in the shot. The truth is cars easily pass by each other, and that's my case, I've there several times, I've seen the cars, I've had no problems with going across the place. Across the great majority of the Haumana

Basically, I'm here as a outsider so to speak and I just gonna give my heartfelt testimony about the gentleman and his intentions. So that's all I have to say. Thank you.

Chairperson Lay: One second. Commissioner Freitas, you have a question?

Mr. Freitas: Yeah, not a question. I have a comment.

Mr. Nour: Sure.

Mr. Freitas: We go through a lot of these hearings. Everybody is awarded the same, what do you call, three minutes. Everybody is awarded the same procedure. We didn't treat you any different than any other applicant. We have rules. We follow the rules. We do...you probably want us to amend the rules so that you folks can talk forever and ever. We'd be here till midnight. There is rules, we follow 'em, we did not treat you any other. Sorry you folks took offense to not letting you continue.

Chairperson Lay: Oh, one more question. Are you a member of the church or the--

Mr. Nour: No, I'm not a member of the church. Like I said, I'm a recent implant and I visited him because what I heard from other community members in the area that about what he's doing. So I asked him to come and take a look at his property.

Chairperson Lay: One second, before we proceed any further I have to take this opportunity, we're gonna introduce him more thoroughly. Richard Higashi is a new Member on our Planning Commission. We welcome you, and welcome to the fire.

Mr. Higashi: Thank you, Mr. Chair.

Chairperson Lay: Richard, you have a question.

Mr. Higashi: Yes, Audrey.

Mr. Nour: Arjuna.

Mr. Higashi: You seem like to me you're reading a testimony?

Mr. Nour: Yes.

Mr. Higashi: From Mr. Honig rather than from your personal opinion?

Mr. Nour: Right.

Mr. Higashi: And I think as a member of the council, I would be more interested in finding out what your opinion is about this particular project rather than Mr. Honig's testimony which I think we could have easily read.

Mr. Nour: Sure. Well, my personal thing is like I said to you, I came here and I've looking for conscious individuals who are working with the land. That's one of my private passion and I heard about Mr. Honig and called up and I asked if I may visit. I was jaw dropped. I was so impressed and of course, there's a certain amount of kind of newness in me in this island so I'm obviously, you know, just loving everything I'm seeing, but I was really impressed what his attitude toward the aina, his attitude towards how he can maintain this so that it not goes out of control, and the fact that he's put so much energy into this, so many years I sat down three hours and I found out who he is. His story and the land's story is the same story so what you have here is somebody who is an honorable being who is really trying to do something beautiful for the land. And those are my personal, emotional feeling about the whole experience that I had, the twice I've been there.

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.

Vice-Chair Ball: Is Nancy Gilgoff here?

Ms. Nancy Gilgoff: Hello, my name is Nancy Gilgoff. I live at 411 Haumana Road. I've been at 411 Haumana Road for 20 years. I have presented to you the last time I testified in the last meeting that the road...I was asked about the quality of the road during a storm and I have sent pictures to you of a storm that we had in January or February and I have a short video of what that road looks like just at the fork where Kulike comes into Haumana. The water pours down off that corner property, the property that goes between the two. A car gets stalled in the picture. You'll see a car get stalled on the side of the road. When this happens, I don't pass it. I either stay on one side or the other. It is really rapidly moving. That's the one culvert that goes there.

So the problem, the main...to me the most dangerous part of the road is actually the top part where the road is quite wide and it's because we have to hug the shoulder to avoid the cars especially when we're coming down. The people who don't know how to drive on this road...there are no lines, they come up, and if you're not hugging the shoulder, they're gonna be in your lane just as you come around there. There are blind corners at the top where the road is wider. So to me, and there's also kids walking home from school. The Kulike folks I don't think they've been informed about this. And they are definitely gonna be impacted. Their children walk the road. They have more traffic than we do. Halfway down the road it forks off to them. So I'm...I think that, you know, the Kulike folks will find some problems with having more traffic on it.

I notice that in his new amended things he again asks for one evening. I'm very opposed to evening, dark driving on the road. Again, people who don't know how to drive on this road could get into situations where they get stuck or whatever, lights going up and down, it just to me makes no sense to allow anything to happen there in the evening.

One of the things I know that Fredrick keeps bringing up that he paved the bottom of the road. That he put in these underground things. He's the only one who benefitted from that. Our, our wires aren't underground. We applied to the County. We got that road paved up to the bottom of it where he was the only one there. So as far as I'm concerned his action there really was about Fredrick as most of this is about Fredrick. So that's it. Thank you.

Vice-Chair Ball: Thank you. Any questions for the testifier? Wayne?

Mr. Hedani: I'm sorry, I didn't get your name again?

Ms. Gilgoff: Nancy Gilgoff.

Mr. Hedani: Nancy, this shot really bothers me.

Ms. Gilgoff: Yeah.

Mr. Hedani: I have a son that was in a situation where he was out with some kids scouting...during a scouting event had to cross a stream that looked very much like something like that. And if it wasn't for his actions, a couple of the kids would have gone down the stream, over the waterfall, down a cliff. In this particular case, if you go back to the end of that shot there's no way to avoid the water if you're trying to escape from the bottom property.

Ms. Gilgoff: Well, it doesn't go all the way down. So it will stop maybe oh, I'd say quarter, half, not maybe an eighth of a mile down. This is the culvert. Most of the water will rush in there, what doesn't fit streams down the road. There's no waterfall, but of course, it makes for ditches in the road.

Mr. Hedani: Right, I'm not concerned about a waterfall, but I'm concerned about right at that point right there—

Ms. Gilgoff: Yeah.

Mr. Hedani: The water stems from one end of the road to the other.

Ms. Gilgoff: Yes.

Mr. Hedani: And there's no way that you can make it up that road safely.

Ms. Gilgoff: To me, even if you made the street three lanes, you're always gonna have that water pouring down because it comes from the fields across the street, you know, up on Kulike and then it runs through that corner property and it always has. Before there was house there it ran through

there that's why they put in that culvert.

Mr. Hedani: How often does this condition occur?

Ms. Gilgoff: Tropical depressions, so...this one wasn't a tropical depression it was a tropical storm. I would say at least three times a year. It isn't regular but it's unpredictable. It can be not raining at our house and this starts happening. So we don't know that it's gonna happen sometimes.

Vice-Chair Ball: Max?

Mr. Tsai: Yeah, Nancy can you explain, I'm not familiar with this road at all. There was a fork right there so which is the main road we're talking about? Is it to the left?

Ms. Gilgoff: So this is, this is Haumana.

Mr. Tsai: Okay, so what is that to the right?

Ms. Gilgoff: Right is Kulike. So the first half of the road is for both streets.

Mr. Tsai: Okay.

Ms. Gilgoff: And the first half then goes to the right to Kulike and we're straight on. And the water pours off of the pasture from Kulike across their little things down through the corner property that's between the two roads and then it pours outta there onto our street.

Mr. Tsai: Thank you.

Vice-Chair Ball: Any other questions? Seeing none, thank you Nancy.

Ms. Gilgoff: Thank you.

Vice-Chair Ball: Teresa Hill, are you here? Please identify yourself and you have three minutes.

Ms. Teresa Hill: Aloha, I'm Teresa Hill. I'm registered nurse and I have been coming to Fredrick's garden since 2006 and it has always been very safe and easy to drive to The Gardens and there has been very little to no traffic and in that photo that was probably maybe at the most four inches deep maybe not even to your ankles. The road is steep enough that the water drains very well, and people drive very slow on that road because it is...that they just drive slow. And so, one wonders what incentive there is to go through enormous effort of five years that Fredrick has spent in the permitting process to attain rights that have been traditionally granted without a Special Use Permit. There are many, many illegal venues operating on the island and if our very modest proposal is denied that sends a clear message to the other centers that they should never try to get permitting with the County.

So the Commissioners have been provided with clarifying photos of the road by each address showing the actual width of the road. The pictures are very small and I have a thumb drive that I

would request to show on the screen at this time. Thank you.

Mr. Spence: Excuse me, just for the clarity of the Commissioners, you could either request to view this information at this time or you could request it of the applicant.

Vice-Chair Ball: Well, it's part of her testimony so we'll allow it.

Mr. Spence: Okay, okay.

Mr. Honig: Am I allowed to narrate...(inaudible-speaking from audience)...

Vice-Chair Ball: No, this is Nancy's...or Teresa's testimony. Can you make that bigger?

Ms. Hill: So that pipe was showing that the...that it's 13 feet. So that's equivalent to two cars so there is enough room for cars to pass.

Vice-Chair Ball: Can you go back two shots, three shots? Is that the intersection that we saw, sorry, kind of out of turn here. Put a note on that number, come back at the time.

Mr. Spence: ...(inaudible)...

Vice-Chair Ball: Oh, we are? Okay, thank you. Are there any questions for the testifier? Wayne?

Mr. Hedani: Is it Teresa?

Ms. Hill: Yes.

Mr. Hedani: What was the purpose of showing us those photographs?

Ms. Hill: Because the photos that had been provided were very small and so this you could be able to see it better.

Mr. Hedani: And you're trying to depict the scale of the road as opposed to the pipe?

Ms. Hill: Yes.

Mr. Hedani: And how long is the pipe?

Ms. Hill: Thirteen feet.

Mr. Hedani: And we're supposed to take your word for it that is 13 feet?

Ms. Hill: And there was a car in one of the photos to show that each side of the pipe would be the size of a car which is six feet.

Mr. Hedani: Okay, thank you.



Ms. Hill: Yes.

Vice-Chair Ball: Any further questions for the testifier? I just wanted to go back to that slide that I asked to stop on and get for the record if that's the intersection that we were looking at in the video? I think there was another one. It was a different shot.

Mr. Spence: Yeah, it was a different shot.

Mr. Wollenhaupt: That's the intersection of Kulike. Kulike was a one-way road that veers off to the right that ends. Then Haumana continues on down to the applicant's property.

Vice-Chair Ball: There was a different shot though than that. It's that one, yeah.

Unidentified Speaker: I don't think that's Kulike, that's a driveway.

Mr. Wollenhaupt: That would be a driveway.

Vice-Chair Ball: That looks like the shot in the video though. Was that, is that...I am incorrect there?

Mr. Wollenhaupt: You'd have to call up Nancy Gilgoff.

Vice-Chair Ball: Okay, well that's fine. Okay. Let's move on. Thank you very much Teresa. Oh, sorry we have one more question. Max?

Mr. Tsai: Sorry Teresa, from these photos I don't...I don't deem this road safe for passing because you gotta go off the shoulders and you're taking a picture in a perfectly dry sunny day. And I don't feel that's safe, if you go back in the beginning, ...(inaudible)...roads a lot narrower. I don't think it's safe to pass.

Vice-Chair Ball: She's just a testifier...

Ms. Hill: I have, I have been to the property after it's rained and during when it's been raining and have never had a problem and I'm someone too, is you know, someone that when the first time that this happened I was not familiar with the roads at all, but considered it still safe.

Chairperson Lay: Thank you. Jason, question?

Mr. Medeiros: From the pictures provided me the last time there are parts of the road that was wide and there are parts of the road that was narrow. Do you have any pictures of this on the narrow parts of the road with a car passing?

Ms. Hill: I believe that that would...what you're...(inaudible)..the road is not any more narrow.

Mr. Medeiros: So the picture with the car is one of the narrow parts of the road?

Ms. Hill: That to me is more of the narrow spot right there.

Mr. Medeiros: Okay, but that one has no car in it. I was asking if you had any pictures of a car passing that pole on a narrow part of the road? That's all I'm asking.

Ms. Hill:...have to go, right there, there we go.

Mr. Medeiros: That's a narrow part? No, I'm sorry I've seen narrower parts of the road that was narrower than that. That's a wide portion of the road.

Ms. Hill: There's always some place to—

Mr. Medeiros: I just asking if you have any pictures of the narrow part with a car? Okay, that's all I'm asking.

Vice-Chair Ball: No, this is her testimony. Okay, the answer is no. Thank you, Teresa. There's actually a question from the Director to?

Mr. Spence: To Public Works. Can just for the Commission's information can you give us the standards for an agricultural road, the right of way, the width? I know it's two lanes for a standard road but also what's the standard lane width should be?

Ms. Dagdag-Andaya: Well, typically about 10 to 11, 11-foot standard for ag/rural road for travel lane. And in the past, with this particular application we've asked for 20-foot pavement width to allow for safe travel of two cars to pass through. So yeah, according to our standards it would have to be about 11 feet wide.

Mr. Spence: That's 11 feet wide per lane?

Ms. Dagdag-Andaya: Per lane.

Mr. Spence: So 22 feet total?

Ms. Dagdag-Andaya: Yeah.

Mr. Spence: And then I recall standard right of way for ag roads was 40 feet?

Ms. Dagdag-Andaya: Right, that's correct, 40-foot wide right of way.

Mr. Spence: Okay, thank you.

Vice-Chair Ball: Wayne?

Mr. Hedani: This is a question for Teresa actually. Teresa are these your photographs or someone else's photographs.

Ms. Hill: These are Fredricks and so he's the one that's most familiar but I have been driving on the property so as I see it, I know from –

Mr. Hedani: So your testimony and the photographs you just showed us weren't your photographs?

Ms. Hill: They're not my photographs, they are, they are...

Mr. Hedani: They're the applicant's photographs.

Ms. Hill: Yes they are his. But I do know the, but as I said, I've traveled that road many times.

Mr. Hedani: Right.

Ms. Hill: And I know many places that are not safe to drive.

Mr. Hedani: I've never seen a PVC pipe that's 13 feet long. Usually they're like 8 feet long in my experience, and golf carts are usually 4 feet wide instead of what would have to be 6 feet wide in order to relate to the 13-foot wide pole that you have there. You know how wide that golf cart is?

Ms. Hill: I'm not sure. I just know though from my own experience that I have never had a...I always felt that I could pass.

Mr. Hedani: Okay, thank you.

Vice-Chair Ball: Max?

Mr. Tsai: Yeah, as a follow up to Public Works, can you confirm the width of the road at various areas?

Ms. Dagdag-Andaya: I took a look at Pictometry. This is a program that we use and we're able to measure widths and also the height of buildings and whatnot and looking at Haumana Road it's about...it varies in certain areas between 18 feet to as little as 11 feet in some areas. So that's what I had taken a look at. I asked staff to confirm it and they confirmed that the width varies in several areas to as little as 11 feet.

Mr. Tsai: Thank you.

Vice-Chair Ball: Okay, anyone else? There's no one on the list here but does anyone else want to testify? Okay, lady first, please identify yourself when you come up.

Ms. Lisa Kasprizyeki: My name is Lisa Kasprizyeki and I was a tenant of Nancy Gilgoff for 12 years starting in 1999 and I loved the neighborhood as is, but I know the issue is safety and traffic. I know this road in all weather. And even before there was much traffic at all, so when I moved there it was just a gravel road and to this day now with whatever traffic there is including wedding traffic or traffic to the bottom of the road I do have to pull off the road and you know, the people coming down that aren't familiar with the neighborhood are they're the kind, they're wide-eyed, they're in a new place

and...but they stay on the road so that means that, you know, typical of country roads where people don't know, they're kind of afraid or whatever, they're staying to what's safe and they may be in a rent-a-car and they don't want to pull off and get the car scratched and so I have to not just pull off but stop which I'm happy to do because I still consider myself part of the neighborhood and I like to show that we're gracious. But it is a pull off and stop situation. That's what I wanted to add.

Vice-Chair Ball: Thank you. Any questions for Lisa? Seeing none, thank you.

Mr. Dan Mizner: My name's Dan Mizner. I'm a resident of Haumana Road and I'd just like to say since your last meeting nothing's changed. The road is still there. It's not where it's surveyed so you look on the map, it's not how it's supposed to be. Yes, some properties are on the road, some are, some aren't. So, but we're dealt the cards that were given us. That's what the road we drive on. It's an ag road, it's narrow, it's long, and to have a commercial enterprise at the end of the road impacts everyone on the road. So I ask you to not to approve this amendment. So, thank you very much.

Vice-Chair Ball: Any questions for Dan? Max?

Mr. Tsai: Yeah, Dan I'm just asking kind of, can you elaborate on your statement like you're saying it's not what it appears to be. What do you mean by that? Is it worse?

Mr. Mizner: The road is surveyed on the map on way, but the road was built on and off where it was surveyed. So these encroachments, yes there's places where the road is here, but the survey shows it over here.

Vice-Chair Ball: Anything else? Okay, thank you Dan. Anyone else, this is your opportunity to shine on public access T.V. Seeing none, we will close the public testimony. Thank you for testifying and we will move back to the pleasure of the Commission. Jason?

Mr. Medeiros: The Department's recommendation what was it again?

Mr. Spence: What's before the Commission is either a Motion to Rescind the denial or to amend that denial. And somebody would have to make that motion.

Mr. Medeiros: I move to rescind the denial for discussion purposes.

Vice-Chair Ball: Is there a second?

Mr. Hedani: Second.

Vice-Chair Ball: Seeing a second. All in favor of that...oh, sorry discussion? All in favor?

Ms. Wakida: Who seconded the motion?

Vice-Chair Ball: Wayne.

Mr. Spence: Wayne.

Vice-Chair Ball: All in favor to rescind the motion. Say, "aye".

Ms. Wakida: Should we have a show of hands?

Vice-Chair Ball: Yeah, show of hands.

Mr. Spence: One, two, three, four, five ayes.

Vice-Chair Ball: Any opposed? One opposed.

Mr. Spence: One opposed.

Vice-Chair Ball: Motion carries.

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

**VOTED: To Rescind the State Land Use Commission Special Use Permit Denial  
Action from March 25, 2014.  
(Assenting - J. Medeiros, W. Hedani, M. Tsai, P. Wakida, R. Higashi)  
(Dissenting - J. Freitas)  
(Excused - S. Duvauchelle, I. Lay)**

Vice-Chair Ball: Now what we'll do is we will revisit this then. Are you ready for this?

Mr. Wollenhaupt: Well, actually the additional information that was given in this application would have been noted in Supplement No. 9 which is 86 pages and then Supplement No. 10 which was received last evening. The Department doesn't have a formal presentation but is here to answer questions about information that has been received since the formal presentation that was done on the 25<sup>th</sup> of March in all the documents, the main documents and then Supplements 1 through 8.

Vice-Chair Ball: And if the applicant will come forward too, so I can speak to you as well. And so we're gonna focus only on that, okay. We're not gonna back and rehash what the previous meeting was about, but we will talk about any new information that you have to present today, okay. So try to focus on that.

Mr. Honig: You're asking me if I have any new--

Vice-Chair Ball: No, I'm telling you that we are only focusing on the new information that you have to present and not revisiting the old information, okay.

Mr. Honig: Okay. Any other information I'd like to present. First--

Mr. Hedani: Mr. Chair?

Vice-Chair Ball: Yes, hold on one second.

Mr. Hedani: Can you have the applicant speak directly into the microphone please?

Vice-Chair Ball: Yes.

Mr. Honig: Yes.

Vice-Chair Ball: Thank you.

Mr. Honig: This is Fredrick Honig. First, I'll tell you I'm very, very grateful to you and I think that you will be so proud of yourselves. You know, who's remembered in history are the bold people who give something like this a chance and you... I promise you that we will diligently fulfill your dreams of being really an example to this island of excellent stewardship and we have the highest intentions with that property which is very... which we consider to be a sacred temple. We consider the entire 11 acres of the property to be the temple itself and we worship God in the form of nature which we see reflected in that sacred land. And it has ancient Hawaiian taro fields that we look forward to restoring. We've been working for years and years. We've met with Kamehameha Schools, we've met with Hui Malama Schools, we've done pilot programs with them and with Sacred Hearts School that regularly comes. And those children are... it is so deeply meaningful for them that some of those kids even start to cry when they see those beautiful fields. And when I see the benefit that it gives to so many people including the senior citizens. We've had the Kaunoha senior citizen, Clarise has come to inspect The Gardens and she thinks it would be an excellent place for their hiking clubs and we've done many hiking clubs, you know, before of seniors and The Gardens are very safe. You know, in 20 years we've never had an injury. We have a lot of policies that keep that happening. We don't allow any guests to go around by themselves. We're completely alcohol free. We don't let people run. People come there with a reverence to nature and they treat it like a church and the kids get that too. Like schools screen carefully which students they bring to make sure they brings kids who are mature enough and they always have to stay in the group, you know, in the same area with everyone. And we normally use shuttles, like it's like when Hui Malama group came, they came in just one van. If you would give me, you know, just a few moments, I could do this power point for me. You could just get like a little...

Vice-Chair Ball: Go ahead.

Mr. Honig: Kevin if you would hook up your computer to that? Well, maybe while they're setting that up I could just continue to share with you. Okay, okay, okay. As far as that road, Haumana Road has its own safety actually in its narrowness as funny as that may sound and I love Haumana Road just the way it is even though it's a little narrow road. That it has speed bumps which I helped to get in. I have been the steward of that road. I'm the one who has that Fire Department come down regularly for inspections to our gardens and I am a certified fire fighter. I served for over a decade Rural Virginia Fire. I'm very safety conscious. I have the same fire fighting one and two as the fire fighters in Paia and... and I'm friends with them and I'm looking forward... I hope I'm wasting your time. Please tell me I'm wasting your time?

Vice-Chair Ball: Let's focus on your revised proposal, okay?

Mr. Honig: As far as the width of the Haumana Road, that pole was very carefully done. What is is that cars are six-foot wide according to Wikipedia included their extended mirrors. So if you have two, six-foot cars plus one-foot in between, that's a 13-foot pole. And if you go to the last slide in there I actually have a picture showing the tape measure on top of the pole showing that in fact it is a 13-foot pole. And those two red flags show you Haumana Road as 20-foot wide, it has a 20-foot wide easement and all of the lawns on both sides of the road are part of the road, it's just that they're lawn. A lot of the lawns have actually grown over the road so the asphalted road actually sticks out much further than you would think. It's at least 14-foot wide and then normally it would have three feet on each side which makes the whole 20-foot. Now some of the neighbors have encroached.

But I'm ...(inaudible)...as much as Nancy, at the end of the day I want to be able to walk up that road and, you know, be friends with these neighbors. I've known them all and they've all helped me very generously in many, many ways. Every single one of these people here are my friends and I love the people on Haumana Road. So the last thing that I would ever want to do is be a bad neighbor and I have been an excellent neighbor to the people so far as you know as far as helping the road or helping the electricity and doing a lot too, we mow the lawn and we're just starting, okay.

Okay, so as far as drinking water, our drinking water and all of our utilities, these people have looked at us over head to foot. Our wastewater is half the capacity we're using of our actual system. We're approved for 90 people per, you know, per program and the biggest program that we're proposing is 40 and most of that...that's only one evening program she was saying about evening programs. One we're proposing is only one evening program per month because I did bring it to our members and there are several of our members who can never, ever, ever, come during the way because they have kids, they have work, and everything like that. So the only way that they can come to a program is in the evening. And in the evening we are not noisy. Like we are the quietest of people. I rarely leave the property. I'm there almost all the time and I'm there for every single program and I am more sensitive than any other person than any of my neighbors. If there are ever a lot of noise or commotion or something I would never allow that. And I also...we're also a bird sanctuary and I have peacocks that will start to scream if they are unhappy. So we are quiet. We're quiet, we're safe, we're respectful and we're offering programs that are immensely needed for this island.

This island is in desperate need of having food sustainability. We are one of the most vulnerable spots on this entire plant and this ecosystem is vulnerable, okay. And we are very good at teaching how to grow food like, you know, how to sprout, how to grow food, how to sprout your food, how to eat plant-based nutrition and we can help this island so that the kids coming out of this island are not diabetic and overweight by the time they're out of high school. We could help the Hawaiian culture actually survive as a culture because they won't be having diabetes by the time they're in high school. And I have done these pilot programs with Hui Malama. These kids are anxious to learn Hawaiian horticulture and to get...learn about how to eat good food. And we are very good at helping them and inspiring them and if you look at our website you can see some of the testimonials and the slideshows from the kids and how meaningful it is too.

Okay, as far as drinking water, our drinking water we have...oh, yeah, we had a letter that came in last night, you know, from Mr. Mel Hamano who is the head of the Safe Water Drinking Branch and he confirmed that the programs that we're offering are within the rights of our private water system that we have the right to do these programs within the, within the, within the water system. And we have met with Patty Kitkowski and we are working out, you know, every little detail. We're allowed to have bag lunch. We're allowed to have catered and we will follow every single guideline that they ask us to.

Vice-Chair Ball: Fred, Fred?

Mr. Honig: Yes?

Vice-Chair Ball: Kevin can help you, you know? He can testify. This is not like public testimony. He's part of the application. So you can work together.

Mr. Honig: Thank you, thank you.

Vice-Chair Ball: Just hold on a second. If you have to, go one at a time. You cannot...you present or you present but not both at the same time, okay?

Mr. Hoeke: Good after...good morning again. Just to hit the points that were the stumbling points the last time. The main one...

Vice-Chair Ball: Kevin, identify yourself please?

Mr. Hoeke: I'm sorry, Kevin Hoeke. The main stumbling block, one of the main stumbling blocks is that in the Department's presentation there was a question as to whether the drinking water system was adequate for these events and that did become a big safety issue. So what we did is we clarified that with the gentleman that sent the letter last night. So he looked at our exact proposal, he said it's absolutely kosher. It's a zero safety issue.

The wastewater as well there's a reference in our materials to a letter that shows I think Fredrick covered that. We have a letter that shows we could have 90-person events. We're only asking for a few 24-person events. So wastewater is also definitely not a problem. So those two, those are zeros.

When we really are talking about the road safety, there's no authority that's more convincing than the Police Department that was asked to assess that exact issue. The letter from the Police Department is in your materials and in the package for today. And they were analyzing a plan traffic wise the numbers were probably eight times to ten times more than we're requesting. Honestly, it's our original proposal that included 80-person events. That's the one the Police looked at and they addressed that exact issue and their conclusion that--

Mr. Honig: They approved it completely. It's in my--

Mr. Hoeke: Just get that writing. I mean, there's like a one sentence conclusion where they're



saying there are not traffic safety issues for this road according to the experts, the Police, for a plan that was eight times more traffic than what we're requesting.

Mr. Honig: The Fire Department too.

Mr. Hoeke: The Fire Department as well. We have letters from...pull that quote out please. So those were the three issues that came up last time and two of the three are slam dunks, zero issue on the wastewater or the drinking water. The road safety issue, the experts, the Police have said, you're fine at eight times the requested level. The Fire Department agreed. And the most important thing that I really just do wanna kind of make sure you guys understand is that...okay, this is the Chief of Police that said, there are no objections to the progression of this project at this time from the police standpoint in regards to pedestrian and vehicular movement. There are no objections to the progression of this project in regards to pedestrian and vehicular movement. And when they're saying this project on February 12, 2013, again, eight times more traffic than what we're requesting now.

My final comment is just that, from just a absolute truth standpoint at 20-years-old, Swaroop became a monk and they built a church and it's world-class church. He spent 20 years helping to build that church. He wanted to build a church here on Maui, and we're not saying you know a gigantic, you know, whatever. We will stick with whatever you give us. If it has to be a small church with just one service a week that's all we get. We understand that. We wanna be 100 percent in compliance with the law. That's why we're here. Just like Teresa was saying, you know, we're the event center that's trying to come into compliance with the law. We've worked so hard to get a clean slate with the Department. He's built this thing. It's an amazing resource for school kids or church participants that can gather there occasionally 10...you guys, seriously we're committed. We've said 10 cars. We'll make people carpool if they wanna come to these events, 10 vehicles per event is all we're asking for and it's one or two events a week. Please give him a chance. He's 40 years literally 40 years he's been working to build what he has there. He's trying to open it on a very small scale to do spiritual practices on one of the most inspiring organic holistic horticulture based botanical gardens I've ever seen in my life and he just wants to have a few legal events there not for money, it's for church and we're just saying we understand there's a road safety issue. We're going to address that limiting the number of cars every time we have an event telling every single participant it is vital you drive extremely slowly and carefully. That's gonna happen. We will do everything we can to keep...it's a 20-foot wide easement legally. We'll do everything we can to make sure those things are mowed. We will keep that road and keep these limited number of church participants as absolutely as safe as possible and I really want to back up this gentleman. The pictures originally it made that road look about seven feet wide and it really did look so scary and I've driven the road for years. It's used as a legitimate two-lane road. I mean honestly, cars pass each other by 90 percent of that road and it's not a problem. And with the amount of emphasis that we're gonna be having on our limited number of participants which are usually repeat participants we're surely to keep it safe. You guys have been so patient and...I am not a computer guy, I tried to help him with his...(inaudible)...

Mr. Wollenhaupt: I think we'll need a short recess to figure out the--

Vice-Chair Ball: Does the board wanna take lunch now and then we'll come back and power the

rest of it out?

Mr. Medeiros: I have one question before we break though?

Vice-Chair Ball: Yes, Jason?

Mr. Medeiros: You stated okay now, correct me if I'm wrong, you stated that if the Commission decided on one service a week, he would find that acceptable?

Vice-Chair Ball: Let's wait, let's wait on that questioning right now. We're still in the presentation phase so...that's a good question for right after they give us their presentation.

Mr. Medeiros: Oh, okay.

Vice-Chair Ball: So the question is we could take lunch now for an hour, come back at 12:35 and then we'll just work the rest of the day? Go ahead Penny.

Ms. Wakida: It will give the applicant time to get their computer problem solved I think.

Vice-Chair Ball: Yeah, and then the presentations today--

Mr. Hoeke: You know, we have an idea. I mean, if you folks feel like...I mean, basically what this presents is that, you know, on the days that we have true communications with Will's office, they've allowed some school kids to come out and see it. You know, we've got pictures of these kids on this incredible piece of property where they're learning about horticulture. You know, we're a plant-based, nutrition-based church. We've got picture of just how incredibly inspiring this piece of property is. It's one of the most inspiring properties we've ever seen. I think you already get that. If we show you these pictures I don't know if it's gonna change that much. So we don't wanna. If you feel like you wanna see picture of the property, we'll try to make this thing work.

Vice-Chair Ball: As a commission we wanna allow you your full presentation. So, if you need the time, we can take lunch now, we can come back. I think the other people that are waiting to have their turn will be happy too because they can go and then they know they're in for the rest of the day too.

Mr. Hoeke: All right. We appreciate your interest, and I just have one last thing to say and that is that you know, the first time we came to do our hearing last time we did know the process. Something happened where we told the agenda item, it was...we were told it was only agenda item on either that morning or that day I swear to you, is that on it?

Vice-Chair Ball: All right, we're not gonna argue that.

Mr. Hoeke: Just one quick point though. That was our understanding is that some other people had dropped their projects, two people dropped their projects so we were one of the only things agenda'd that day. We thought we had like an hour. I mean, this is his life mission to try to get this SUP at this point and so we spent...we ended up alienated the group 'cause I know we were

moving too slow and spending too much time and then what happened was that we basically said, okay, we sense that we'll surrender and stop talking because we know that we can handle the—

Vice-Chair Ball: The only time constraints you're under is really the public testimony that is not your time constraint. It's the only time constraints in this room is the public testimony which is limited to three minutes. So don't feel like you have to rush through it. That's why we'll take a lunch break, you guys figure that out and we'll come back.

Mr. Hoeke: I know. Now, I don't feel like a rush, rush, rush mode. Anyway, my only point was that when we're saying the frustration we had last time was that we never really got to address the important issues because there was never a question and ask.

Vice-Chair Ball: I understand and you'll have that opportunity. Wayne?

Mr. Hedani: Before we break for lunch I'd like the applicant to consider because I wasn't present at the meeting, although I've viewed the entire video of the meeting, there are several questions that I have that I would like them to consider.

Vice-Chair Ball: Okay.

Mr. Hedani: I'm confused at this point as to what they're asking for because they application that we have before us and what they're representing is going to be their operation do not equal at this point. So what I would like them to think about while we're at lunch is what exactly they're proposing to do.

Mr. Hoeke: Sir, could I, could I do that right now? It's so simple and we did state it earlier this morning. Right now we're asking six—

Mr. Hedani: I'd like you to wait until we're done.

Vice-Chair Ball: Yeah, hold on a second. We're having a discussion within our...(inaudible)...here. So what do you guys wanna do, you guys wanna take lunch now or continue till noon? Either way?

Mr. Freitas: Let's go.

Mr. Hoeke: We did bring up the power point.

Mr. Honig: It's up, it's ready so you could do it now.

Vice-Chair Ball: Okay, let's do it.

Mr. Honig: You know you can look...there's the map of The Gardens, but all of our wooden structures combined do not equal the size of one average size Maui house. We built very little structures. They're tiny structures that are tucked away so that when guests. There's no—

Vice-Chair Ball: Sorry Fred, identify yourself again—

Mr. Honig: I'm Fredrick Honig. I'm The Gardens steward. So when people walk around The Gardens they don't see...they don't see any structures. They just see, you know, the land and the structures are very much apart. You can see the rainbows there all the times, it's called Uaoa Bay which means the misty rain so we get rainbows all the time and that's our beautiful Spirit of Aloha multipurpose tent structure which is rated...it has a certificate of occupancy for 178 people and we're only using it for 15 percent of its capacity in this and less than 50 percent of its septic capacity, so...and it has sprinkler systems and everything else in it too.

So we can keep moving that's good, keeping moving forward and you can see the rainbows and that's the cliff in the distance, Uaoa Bay. There are...those are my kids, the birds. And this shows that we have a garden for each world tradition so that we invite people from all different world religions to realize that there are 12 values that all world religions all agree upon and those 12 values are the formation and the essence of the Spirit of Aloha. So we believe that the Spirit of Aloha itself will ultimately be the force that will help to unit humanity and we're honored to be stewards of that. Kevin will...you just move them forward. You know, do you want me to rush or do you wanna see this 'cause he's afraid that you're-

Vice-Chair Ball: The floor is yours. Do whatever you want.

Mr. Honig: Well, then if he gives me the space, I'd rather have the space. These are, these are you know, see some of the people. You know, we have many volunteers. We're basically a volunteer organization. The whole organization has been built the miracle of the donation of people. There's hardly an organization or company on this island that haven't significantly donated to us. This is, you see the doves and this is one of our services. And these are one of my favorite groups which I love working with seniors, my mother lived at...you know for last nine months at The Gardens and absolutely love senior citizens and they love to come and it's so sweet to have them. And they I believe will ultimately be the volunteers that will help Maui really attain its sustainability goals. So we're gonna try to do programs to put the seniors to work.

And this is Unity Church. We invited them to be our guests to do just a tour of The Gardens and also they were doing their summit conference for coming up with their own goals of their church for organization. You can see they're putting the values that they believe in and how that affects them. And I hope that this building will be used for the County too that you'll all come and consider it.

Okay, this is the Sacred Hearts School kids who are my favorite. And this is the Sacred Heart School kids again. That's the principal of the Sacred Hearts School. And we also do Martin Luther King programs. I'm a big fan of Martin Luther King. I organized a program for him. And these are the kids. You see how cute they are and how excited they are to learn about horticulture and we're sharing about the values of the Spirit of Aloha and how to implement that in their daily life and we focus on the Mother Mary site and the St. Francis site which is what they're, from their traditionally talked about stories about St. Francis and it's very meaningful to the students and sometimes in controlled ways we have preschool kids come.

That's Alii who's my, who is my baby for 15 years, I was his...helped to bring him up. Alii, we have a couple peacocks and they eat all our centipedes. We're completely bug free and we're also able to fertilize the entire garden just with birds. Wherever I go I whistle and all the birds come and we

put food down and the birds themselves are our fertilizing system. We put 4,000 pounds of food per year and we get 8,000 pounds of fertilizer exactly where we want it. We have irrigation systems everywhere. Those are gardenias. We have the world's greatest gardenias and ultimately we will help this island become sustainable. We will help...we're committed to planting 1,000 breadfruit trees per year that we're gonna bring forth into this island through our gardens and have your senior citizens and the students help to plant them.

Hui Malama and you see that van. The whole Hui...the whole class and the teachers all came in one van and that's the normal thing that you will see coming down Haumana Road is one vehicle. And this is our reception building for smaller classes and programs we have because it's more fun looking. And you can see how happy the kids and the teachers are.

And this is, these are our ulu trees. We have native ulu trees, some of the best on the island and I'm about, what you're looking at me this human being, I'm about 20 percent breadfruit. It's my...(inaudible)...I eat more breadfruit than probably anyone on this island and I have it with...and I can tell everybody how to make delicious breadfruit dishes. And I believe one day Maui will be known as the breadfruit isle.

And this is our pond and this is where we grow our mosquito fish. When we first got this gardens it was the most mosquito filled place on the entire island. There were swarms of mosquitos which we've totally eliminated just with mosquito fish and we have urns, about a 100 of them around the property and everywhere the mosquitos land into the urns they deposit their eggs and when they turn into those little larvae the mosquito fish eat them and it's possible for the entire island of Maui to be mosquito free and we're gonna help that happen and with the students.

And this is, this is one of the classes. This is Rebecca who's one of the greatest horticulturist she runs the volunteerism groups and work with Community Work Day. And this is the grandmother tree, one of the most sacred trees on the island. Here's Rebecca again with the students. And we do a prayer, before allow the kids to come and be in the garden they do a prayer that they be blessed with ua mau ke ea o ka aina i ka pono and that they work in reverence with the land and they get that.

And that's one of the most beautiful spots on Maui it's a hooponopono spot and we hope that resolutions will happen at some time soon, in this church also will be used for helping people to come together including us in the County. The Hui Malama kids again saying good bye. And this is me. I wrote a song to ua mau ke ea o ka aina i ka pono to my Country Tis of Thee so I wrote a aloha anthem that I sing.

This is, we have so many fruit trees that are fertilized by our birds and papaya trees. I eat almost all of my food just from the garden. See how many coconuts. That's my only vehicle. I do not own a car. My only vehicle that own is that golf cart and we have...we're allowed with our church to have our own potlucks which are for the church members that are sanctioned by the Health Department and so we all learn how to eat plant-based food with these potlucks that we have regularly.

And this is Mrs. Delima who's the Headmaster of Kamehameha Schools, who's very supportive. Not too fast please. She's very supportive of our vision and she believe that once we get through

this that she'll be, you know, at least once a week bringing down Kamehameha Schools and we may actually do a hula performance with Kamehameha School with the ocean in the background instead of being inside of a building.

And that on the left is Congressman, Congressman Dennis Kucinich, who's a member of our advisory board and best selling author Harold Bloomfield who also volunteers his expertise and also on the left is Dr. Wayne Dyer who's one of the foremost fund raisers for public television and Ram Dass who are dear friends of mine and are on our advisory committee, and then also on our advisory committee on the left is Wayne Pacelle who is the director of the Humane Society of America which is the largest nonprofit organization in the country and he's also an advocate of plant-based nutrition. And these are the trustees, Hulu Lindsey and the Dan, the OHA Trustees and OHA is also very supportive of us and of our future and they believe that if we can show programs for three years successfully they'll be able to fund us. They're not able to fund until you show three years of success. So after three years, we'll probably be able to get OHA funding for our programs also. And this is Theresa Dunham and Jenny Pickett who are also very supportive. You can see that stone that I'm holding. Jenny Pickett is the head of the Archaeological Preservation Division. I can't go any faster and this is all important things for them to know, so please...if you want me to go faster, you tell me instead of him. Wait go back to that one with Jenny Pickett. Jenny Pickett is the head of the Historical Preservation of Maui and Theresa Dunham is the State head and they are thrilled about our idea of restoring the taro field and having students again working in the taro field and we have taken a decade to achieve that because we have talked with every Hawaiian elder and we had the whole thing planned out and agreed upon so there's no questions about how we're doing it. Everybody is in agreement that we should be restoring that and the way that we're doing it. And this is Dr. Michael Beck with and his wife who are wonderful ministers and teachers from L.A and again, Wayne Dyer.

And this is like, even before we do any horticultural classes we always do some stretching first which helps things to stay, to be healthy and to make it so you don't have accidents when you're bending over and your strains. This is...don't go so quickly...this shows you another type of van that you know, this is a 16-passenger van which is often used. Two of these vans can bring 32 people and that's you know, even a large program so most of them are just a small thing. There's you know, other vehicles that have come down the driveway with no problem. We are licensed for the very largest vehicle on the island which is the fire trucks and the fire trucks have come down and with Colin Yamamoto and they've done all the preplanning and everything. So we're safe.

Here's our meditation class at the taro field area. And views of the coast and this is the Sacred Heart School kids and you know, church supporters and volunteers. And see the lushness of the jungle and all of this area you can see is so lush but it's virtually mosquito free and it's also mongoose free. So we have the most, the best bird sanctuary on the island and we're completely mongoose free. We have 25 traps that constantly every day so if a mongoose gets in, a rat, we don't have any pests not even frogs.

Mr. Hoeke: It is a really thriving—

Vice-Chair Ball: Kevin, if you—Identify yourself...you can talk but you gotta identify yourself and then—

Mr. Hoeke: This is, this is Kevin, it is really a thriving bird community there which you never see on Maui because of the mongoose and he really has exemplified that you can get rid of mosquitos, you can get rid mongooses and change the ecosystem and that's the kind of the thing we can teach the people of Maui, wow he got rid of all that stuff and now all the birds are happy and the mosquitos are gone. It's an incredible learning center, really truly is.

Mr. Honig: And we will soon be having Nene even though we have to...like once we get through this process there are, there are ways of filing out forms to be as a bird sanctuary...we're a certified national wildlife bird sanctuary without mongoose. We'll be one of the few place where Nene can be safe. Those are the urns you see that one of the...everywhere we those urns and there's a certain type of plant that we plant in there. We never have to change the fish and we never have to feed them. We just let them be, all we have to do is keep the water full and the same urn for years and years will be catching mosquitos. The Buddhist site. That's the Mother Mary's site that holds the Aloha Temple and the island in the bay is called Papanui o Kane, which means the great reef of Kane which is the lord of the sea.

There I am in my minister's robe. And there I am doing a little yoga. I'm over 60 years old so you can see this yoga and plant-based nutrition, you can see my sister how she can do all those poses. It keeps you healthy.

There's the water flow when it's flowing. This is the Papanui o Kane taro garden area where we'll be having hula dances. That's a tour that we do with Ram Dass. This is some yogi stretching out a little bit and this is our main house. Don't go too fast. They're just structures here on the property. Okay, this is The Garden's office and that's our waterfall pavilion and it has awnings that can open up. You can hold about up to 80 people and we have white chairs. This our wonderful potting shed where we'll be growing the breadfruit starts. And there's or beloved bird in the temple. This is the, this is that cave, you know, it was part of the historic...one of the historic features of the property. It was actually a traditional type of burial cave, but it was never actually employed or used but it was built around 1950, but it's a traditional type of cave, so it's a burial cave even though there's no burial actually in it. And this shows you the sacred, ancient taro fields that are probably close to a thousand years old and the last time they were restacked was over a 100 years ago and we're gonna go into the restacking the walls except for that one large one in the middle, but all the other walls in the course of this renovation will be restacked and the taro will be grown there again in these fields.

Mr. Hoeke: This is Kevin, and I know this is gonna sound really woo woo, I've traveled all over the planet, this is one of the most powerful spots I've ever stepped foot on in my life and every time I go there, I've been probably 100, 150 times, every time I step near it it's an incredible...the sacred feeling of the ancient taro bed is unparallel and the ability to share that with kids and to restore this traditional horticulture methods is something we've been working for 10 years.

Mr. Honig: Yeah, sometimes people cry, they get goosebumps. I mean, everyone reacts to it differently, but everybody feels it. This is one of the many gardens we have, vegetable gardens. And we have so much fruit. Basically I eat virtually all of my own food that's grown here and ultimately we're gonna be doing greenhouses and we're gonna be doing hydroponic, aquaponic, aeroponic, sprouting, micro greens, and so when anybody comes to the gardens they will

learn...they will have their every type of agriculture that could be grown here we'll have an example of. And we'll also have numbers so that people can order if they want this type of avocado tree, they can order them from us and we will help the Maui farmers united to get jobs. We help the horticulture on this island, we will help the people use local food and also buy their food. There's no reason why we should be importing any vegetation whatsoever from outside. It brings koki frogs and all kinds of problems, but we will help this island move toward all of our food and all of our plants being grown here on the island itself.

Mr. Hoeke: Okay, I know it's time for lunch. I know...just thank your patience so much and I've been so pushy because of all the time constraints. I just wanted to make sure you knew what we're asking for is a chance to do it legal out there and to do it right. Eight events a month, maximum of 10 cars per event and these people are gonna be so clear from outreach materials and our contact with them, they're gonna drive like my grandmother every time up and down that road. So eight events a month, six of them just 24 people, 10 cars. Two of them 40 people, and we're gonna make one change before we were saying events till 8:00. If it's the winter season and it's getting dark early we're not going to go till late. We'll gauge it more like sunset. But during the times of year where it's light later, maybe as late as 8:00, but only one evening event a month. So these are all gonna be daytime events, they're all gonna be tiny and every single person is able to participate in these events is gonna be having a very powerful experience which empowers Maui. Thank you.

Vice-Chair Ball: Okay, what we'll do now is we're gonna break for lunch. We'll reconvene at 1:00. At that time, we'll go into questions for you. So recess till 1:00.

A recess was called at approximately 12:00 p.m., and the meeting was reconvened at approximately 1:00 p.m.

Vice-Chair Ball: I'll call the Planning Commission meeting of April 8<sup>th</sup> back to order. Where did we leave off? Presentation I believe was finalized, yes?

Unidentified Speaker: Yes.

Vice-Chair Ball: We will have questions, yes.

Mr. Spence: Do you wanna ask questions of the applicant?

Vice-Chair Ball: Yes. Fred why don't you come forward, and I guess Kevin you too, just in case we have questions for you also. Okay, Members if you have questions for the applicant, this would be a good time to ask them. Penny?

Ms. Wakida: Kevin, would repeat what you covered just before we adjourned before lunch it was what, the number of events you were proposing and the number of people per event please?

Mr. Hoeke: Certainly. It would be eight events a month roughly. It's a four-week cycle is what we're talking about. Eight events, six of them 24 people over by 4:00. And we are fine with the condition that says, no more than 10 vehicles. Two events in that four-week cycle, month cycle are



40 people, one of them could end you know, around dusk or 8:00, the other one would be over by 4:00.

We were also gonna make a condition around noise. There was some testimony earlier, but we commit to having events that do not bother any neighbors noise wise, period. That's not a problem for us.

Oh, the second event, the 40 people event, that's also limited to 10 vehicles.

Ms. Wakida: I'm doing some math.

Mr. Hoeke: Okay.

Ms. Wakida: Based on the water situation.

Mr. Hoeke: Well, then I need to address something with you and I think maybe you're gonna get a great laugh out of this. So we talked with the gentleman whose name I can't remember yesterday.

Mr. Honig: Melvin Hamano.

Mr. Hoeke: I don't know if the Feds made a very funny interpretation of the law or I don't know if the Feds wrote a funny law or if the interpretation here in Maui is funny, but when we were running through the numbers with them, when we added more events, honestly, ...(inaudible)...the events that just proposed but if we added more small events then he said it's okay. But if we went back to the proposal that we're just talking about right here then he said we're over. It has something to with the way the mathematics were averaged out. So to specifically meet their requirements we would actually have to add additional small events to balance out the events over 24 people, but what just makes zero sense to us is if they're approving a project that has more projects and then you take projects away, how could that, how could that cause us to be dinged. So technically we actually have to...if we ...(inaudible)...we would actually have to ask for two more five-person events or you can make a three-person event, we don't care, we would have to add two more events at let's say three people and then that would all of a sudden make the formula work. So, if you want to approve it on that level, one way around this is is we would have a condition saying we are not going to exercise our three-person events until further notice or something like that because we don't really need that. We've already decided what our minimum is. You see that funny situation where he said add events and all of sudden it works, it didn't make sense?

Vice-Chair Ball: Penny?

Ms. Wakida: Well, I don't know, I mean, you know, you've been through all of this with him, but I'm just reading his letter that says if there are more than 60 events a year which serves 25 or persons then you'll need to apply for a public water system?

Mr. Hoeke: But you know, but you know that we don't. We're only proposing 12 not 60. We're proposing only 12 events up to 24 people...with 24.

Ms. Wakida: You–

Mr. Hoeke: We have 24–

Ms. Wakida: So you were going to have six events–

Mr. Hoeke: Twenty-four or less.

Ms. Wakida: Of 24 or less a what?

Mr. Hoeke: Month.

Ms. Wakida: A month. So that would be 6 times 12.

Mr. Hoeke: But that doesn't go toward the 60. The 60 events you just said is over 24 person max. Let me reread it, maybe I'm mistaken.

Ms. Wakida: Well, you're right it says, which serve 25 or more persons.

Mr. Hoeke: Exactly. That's one of the things we clarified with him yesterday. The other most important thing is he wrote a letter last night that just points exactly at our proposal and says that's a okay for their system. It's a one...do you have that email by any chance?

Ms. Wakida: May I ask another question? The 24 people does that include staff?

Mr. Hoeke: Yes.

Ms. Wakida: So if you have a class or a wedding or whatever, the 24 number has to include everybody on property?

Mr. Hoeke: Total.

Ms. Wakida: Okay.

Chairperson Lay: Okay, Jack?

Mr. Freitas: How many people you have in your membership?

Mr. Honig: You know we're somewhat informal organization. We're volunteers. I would say–

Vice-Chair Ball: Fred?

Mr. Honig: I'm Fredrick Honig.

Vice-Chair Ball: Identify yourself every time.

Mr. Honig: Yes, I will. Thank you. Fredrick Honig speaking. I would estimate that in our ohana that's means the people who if we invite, you know, people to a program and you know, we're saying we're doing this kind of program that there are more or less about 80 people who are, are like kindred souls, you know, who are supporting our organization. And normally if we have like all of our services are also volunteer so like people come to a service, we have an inspiring program, we have a vegan potluck, and then after they help us garden or it's volunteering someway or another. So it's like the...(inaudible)...

Vice-Chair Ball: Thank you. Kurt?

Mr. Wollenhaupt: Oh, the letter of which you're referring that would have been with regards to Commissioner Wakida's. There's supplement no. 10 in which Mr. Hamano does take this calculation. The critical point to the calculation that we're using an average. So they are correct. And when you average out a greater number of events with smaller numbers then the numbers work to their favor in order for them to maintain a private water system. It seems counter intuitive that this averaging number is what we're mentioning. So that was on supplement 10, and now I've handed out you now a letter from Ms. Patty Kitkowski which should be known now as supplement no. 11, that was just, that was just emailed to me this afternoon. However, the calculations of Ms. Wakida was interested in would be on Page No. 3 of supplement 10 from Mr. Hamano. So it has to do when you have over...when you have 25 or more people more than 59 times of the year, you have to do a public water system, but that is an average number. That is not...you average out the number of people. So if you had 2 times 40 plus 2 times 24 divided by the number of days that you're having it, the averages will work out to a higher number than it would intuitively think the applicant is wanting. So we can go into it in more depth, but that's the crux of this private-public water system issue.

Mr. Hoeke: I think everybody does have the one sentence response and he just said, this is from yesterday, this is what page of the package?

Mr. Wollenhaupt: Supplement no. 10.

Mr. Hoeke: Supplement no. 10 we outlined our program that we described to you and we added two events that we don't even want and then he says, yes, under the proposal the Spirit of Aloha Garden would be at 23.4 under this proposal The Gardens would not be a public water system requiring regulation by the Department of Health. So if you looked at our exact proposal, listed the items, and said no problem.

Vice-Chair Ball: Wayne?

Mr. Hedani: Mr. Honig or Kevin, either one.

Mr. Hoeke: Okay.

Mr. Hedani: How do you treat your water on your property?

Mr. Honig: According to Hydrologists and many water experts we may have one of the purest water

sources on the island. We have our well is, you know it goes down 240 foot so it actually picks up the water below sea level. And we are blessed to be in the Haleakala aquifer so we have the purest water that's filtered through miles and miles of rocks which we've had tested. And the water...we have a very sophisticated and modern and updated water system irrigation, electrical, all of our infrastructure is top notch.

Mr. Hedani: Mr. Honig.

Mr. Honig: Yes?

Mr. Hedani: How do you treat your water?

Mr. Honig: We don't. We are not required to do any treatment to our water other than filtering the water that we drink. We have professional filters but the actual water itself it goes into a 6,000 gallon tank and it's changed every single day. Like it's fresh water that comes from our water tank.

Mr. Hedani: So that water isn't chlorinated?

Mr. Honig: That's correct. It is not required to be. That is correct. But before we drink it it's filtered through .5 with 5 micron filter, then .5 micron filter, then through ultraviolet light which kills 99.999 percent of bacteria. So our water is totally pure without having to chlorinate it. And I would say to tell you that there's no amount of money that County could ever spend that could prove that their water is safer than ours because chlorine ultimately is a poison and when it gets into your stomach it can kill your bacteria. If you put on your plants it kills the bacteria in the soil which makes your plants not grow. So we have pure water and it's clean and we've been using it for 15 years.

Vice-Chair Ball: Penny? Follow up to that, Wayne?

Mr. Hedani: So leptospirosis, giardia, ...(inaudible)..., all of those items are killed by your system—

Mr. Honig: Yes.

Mr. Hedani: —before the water is consumed?

Mr. Honig: That's correct. That's correct because the filtration systems that we use are very elaborate and the water that comes out according to these filters you could almost put sewage water and then it drink it through these filters, but —

Mr. Hedani: Well, that's my concern because you have sewage water on the property through a leach field going down into the water system that you're syphoning for well system.

Mr. Honig: That was very carefully, you know, before we able to get the permit to put this well in which we put ourselves, we drilled this well, they did exhaustive studies on the distance that this is from our septic systems which is almost a 1,000 feet. And the well we put in the furthest direction even though it was much more expensive to build instead of building it closer to the ocean where we could have done it at a 100 feet, we put it far away, high away so there's not salt water, you

know, the brackishness and far away from our septic system. So it was totally approved and you know, the water is safe.

Vice-Chair Ball: Penny?

Ms. Wakida: Actually I have a question for Kurt so I'll wait if there's other questions.

Vice-Chair Ball: Do you have a follow up to that follow up Wayne?

Mr. Hedani: You said it was totally approved. Who was it approved by?

Mr. Honig: The well, the well, the private water systems and the wells before you even have a well there's all kinds of procedures and state procedures and we have to keep records every month, every month I have to send a record to the well people to tell them how many gallons we used that month.

Mr. Hedani: So you're saying that your system is approved by the State of Hawaii.

Mr. Honig: Yes, it was indeed. It's a certified private water system and we're allowed to use it. The way that we use it is a 100 percent legal. And as long as we use it so that the less than 59 days out of the year there are...you have 24 people a day all the time and 59 days out of the year you can more than that.

Vice-Chair Ball: Director?

Mr. Spence: Yes, thank you. Just for the Commissioners because there seems to be a mixture of things happening with this private water system and just by way of explanation the well, I have no doubt is, you know, they obtained a well drilling permit and all that. So the well I'm sure is fine. I have not personally seen the permit. The one, the one email received by Mel, from Mel Hamano from the Safe Water Drinking Branch really what it says is it's not a public water system. Okay, so it doesn't fall under the requirements under that whole set rules...the rules are like 150 pages long that Department of Water Supply has to deal with or you know, some large subdivision may have their own private water systems, they all fall under, a quote, unquote, for the purposes of regulation only, they fall under what's known as public water system. In this case, the use if kept under a certain amount is considered a private water system. So this email here from Mel Hamano says under the proposal the Spirit of Aloha Gardens would not be a public water system requiring regulation by the Safe Water Drinking Branch, the Safe Drinking Water Branch of the Department of Health. So then we get to, and perhaps Kurt should talk...he's had all the discussions with Ms, Kitkowski from another branch of Department of Health. He received...he received an email that he just handed out since lunch that says, even though he's not, Fred is not regulated as public water system, still is not considered potable water. Now I think it's up to the...at least as far as that branch of Department of Health. So I think if, I mean, you've heard testimony from Mr. Honig that they filter their drinking water, it goes under ultraviolet light, it kills all the bugs, et cetera. So that I think, that should be, you know, even though it's not regulated by Department of Health, it's still...it's Mr. Honig's system that he installed to make sure that it's clean. Okay, clear as mud?

Vice-Chair Ball: Do you have a question for Will or...

Mr. Spence: ...(inaudible)..but Department of Health.

Mr. Hedani: Well, my concern is that he doesn't have potable water on the property that can be consumed by the public. And if he cannot wash fruits with the water and Mr. Honig says the water is perfectly fine, it's perfectly safe, I've got real concerns about that. Whether or not it's a public system or a private system, the people are still people and they can get sick if contaminants get into the system that are not being checked.

Mr. Hoeke: We have a solution. What if we, what if we added a condition...we're not having large events. There's water delivery or we can-

Vice-Chair Ball: Kevin identify yourself.

Mr. Hoeke: This is Kevin Hoeke. And there are many ways to get drinking water for the size of events we're doing down there. We'll go ahead and add a condition that says that we'll have drinking water available from, you know, bottles like so many houses that you go in 'cause so many people have unpotable water especially out in that part of the island. People are very used to, you don't just drink out of a sink without asking and in places, by the sinks we have a large five-gallon bottle, that's the one they're gonna get their water from and it's a simple solution. It doesn't cost us anything and we can, we can manage that. That would be a condition.

Vice-Chair Ball: Question for the Director on that. When the Department, I don't know, Health I guess it is, are they aware of the intended use when they were asked to comment on this?

Mr. Spence: Well, certainly from looking at the emails, all the discussion about Spirit of Aloha and their gatherings so I would certainly say yes. They're very aware of the proposed uses.

Vice-Chair Ball: That they're gonna have public down there joining them? Kurt?

Mr. Wollenhaupt: Well, if we go back to the original 300-page staff report on Page 18, the discussions have been frequent to say the less Ms. Kitkowski, but it's important that we distinguish the Safe Water Drinking Branch versus the Department of Sanitation. The Department of Sanitation and Ms. Kitkowski's email this morning does indicate that she's concerned. Those concerns were outlined both on Page 18 of the original staff report and then on the Supplement No. 9, further information from Ms. Kitkowski in which she does not...she still insists and I won't go through it all but getting to the point, catering must be conducted by approved caterers permits from the Department of Health, the catering staff must serve all food. No one outside the catering staff is permitted to serve food, the caterer must provide hand washing facilities, portable sink with soap and paper towels. The water must be potable for the hand sink. At no time can the caterers or special event participants use the water at the Spirit of Aloha facility. All drinking water to be provided for catered special events is either brought in participants or supplied by the caterer in a bottled water or other approved source. That's for the catering.

With regards to church programs, the Department of Health has no jurisdiction over the church and

its members. That is for church members only and not for the recruitment of church members, tour, classroom, students or events on the property. Nevertheless they are indicating that she does have a concern with the use of the water for the events that she's been reviewing and a solution had been offered that Mr. Honig could simply haul public water that's delivered from the sanitized source to a proper storage tank and have that on site.

Vice-Chair Ball: Okay. Thank you. I think we vetted that question. Any questions? Penny?

Ms. Wakida: However it's for Kurt not for the applicant.

Vice-Chair Ball: That's fine. Kurt?

Ms. Wakida: Could you please review...I know you answered this question the last time but we have new people. What is the current permit on the property and what are the current permitted activities on the property?

Mr. Wollenhaupt: Well, the current permit is that they have a farm plan so that they can engage in their farming operation. It's a residentially owned property so they have their main house which they have. They can have a second farm dwelling which they have. They can have multiple accessory buildings for the purposes of the agricultural activities of which you have seen there are a considerable number. Aside from that that is what their...those are the permits that they have. Well, they're a botanical garden so in that essence they can operate as a botanical garden and they can have tours which I think were commented on before by the Director. It's not something that we specifically would have a permit in our KIVA system, but they are listed as a botanical garden.

Vice-Chair Ball: Wayne?

Mr. Hedani: Mr. Honig, in 2008, generated \$148,000 in income from the property. How did you generate that income?

Mr. Honig: Where did you get that number from?

Mr. Hedani: From the transcripts of the last meeting.

Mr. Honig: Hundred and forty-eight thousand in the course of the year. The majority of our income comes from students that I help with health issues. I'm a health consultant and I've helped a lot of people who have been near death's door who had gone to all kinds of clinics and they were not able to be helped and I've helped them you know, regain their health just by moving them toward plant-based nutrition and some of them have been so grateful that they've donated...one donated \$100,000 to our organization over several years. And every...basically we're just by donation. I give freely and I receive. You know, people...I don't really charge. I don't run a business. I'm not going to be running a wedding business per se, but if people want to come to the property and have the wedding there or some event there, I do it by donation and I do all of my service by donation.

Vice-Chair Ball: Wayne?

Mr. Hedani: So you've done, so you've done weddings by donation?

Mr. Honig: Yes, definitely. I do—

Mr. Hedani: You've done honeymoons by donation?

Mr. Honig: I don't do...we don't do vacation rental on the property. We don't have that happening.

Mr. Hedani: Weren't you cited for that in the past?

Mr. Honig: I'll tell you what happened, but I'll just also remind you that that whole thing, like the resolution, we had an appeal that we could have taken this to, but we decided to just pay the fines with the idea that our slate would be in fact wiped completely clean and that's what we were told. In the past it was not actually vacation rental but what it was was that one of the people who was a volunteer who was staying in the main house and helping would go on vacation and then he would try to find somebody who would stay there while he away to help fund his vacation. And he was the one who was doing it. He considered it like kind of sublet or something like that. So he was the one who was doing it. I actually haven't done that for years and years and years. I'm not saying that...and even then it wasn't really vacation rental, it was people who might have wanted to come for a healing because they had some issue they wanted to come and spend some time at The Gardens and work with me on their healing. So because we're not like vacation rental or weddings because most people who have weddings let me just say they wanna have alcohol, the wanna smoke cigarettes, they wanna have loud music, none of which are possible for us. So the only type of person who would wanna be married that is someone who is holistic and nature oriented who's willing to do that and the same with somebody who's a guest to the property. Most people do not wanna be in zones that are so strictly regulated that no alcohol, no cigarettes, no drugs and no loud music. And also everybody who comes, you know, the people who have come like over these years how I've been able to build this up, you know, over these 20 years is completely with volunteers. I've never had a ...(inaudible)...My parents very generously gave me the money for the down payment and then since then, you know, people have donated. There's hardly a person on this island or company on this island or a business on this island who has not significantly donated in serious ways. The electricians, the surveyors, the plumbers, the electrical—

Vice-Chair Ball: Okay, we're getting a little far away from the question.

Mr. Honig: Okay, thank you.

Vice-Chair Ball: Does anyone else have a question? Penny?

Ms. Wakida: Yes, Fred. I just have sort of a global question about your plans for the future because you have created obviously an exquisitely beautiful piece of property.

Mr. Honig: Thank you. I appreciate it.

Ms. Wakida: You've put a lot of work into it, you have inspired a lot of people with the beauty of the place. You've had groups comes visit which is all perfectly allowable within your current permit and



you seem to be existing wonderfully. My question is why do you wanna rock the boat here? Why do you wanna do anything other than what you're doing now which seems to be working for you just fine?

Mr. Honig: I would have done that, but Will...the Director told us that we as a botanical garden do not have the right to teach horticulture without a special use permit. And we're about teaching horticulture and that's what all botanical gardens do by definition. And so if we cannot teach horticulture at our botanical garden there was no reason for me to have built it in the first because I'm not interested in running a tourist destination. I'm interested in having one of the top notch horticultural centers of the world. I'm interested in being the cutting edge of what is happening in horticulture and also sustainable taro fields like we are gonna be recirculating the water. We'll be the first one on Maui to be doing that. We'll have wetland taro. So it was necessary because of not being able to teach horticulture. After we were not able to teach horticulture we were basically left with doing tours which is not functional.

Ms. Wakida: So, so these events, excuse me Fred, so these events that you are now proposing eight a month—

Mr. Honig: Yes.

Ms. Wakida: —so those would all be horticulture classes?

Mr. Honig: Well, you know there's no one who comes there who doesn't get my spiel about plant-based nutrition. I've helped thousands and thousands of people and I'll help all of you too. Ultimately this island will ultimately be—

Ms. Wakida: No but back up here because you—

Mr. Honig: Yeah, yes we—

Ms. Wakida: —the Director said that you needed a permit to have your horticulture classes.

Mr. Honig: Yes.

Ms. Wakida: So what I'm trying to find out is is this really what you wanna do is have your horticulture classes?

Mr. Honig: Yeah that's...the main thing I wanna do is get people to move to plant-based nutrition. I've done that all my adult life. I've helped thousands of thousands of people.

Vice-Chair Ball: Okay—

Mr. Honig: So the way that I do that is to get them to start eating—

Vice-Chair Ball: We understand that part. We're gonna kinda move this along a little bit because we have a lot of things to do here, so—

Mr. Hoeke: One sentence follow up, I mean there's also–

Vice-Chair Ball: Identify yourself Kevin.

Mr. Hoeke: Sorry, Kevin Hoeke. And there's also a church function that has to do with bringing people together too, I mean, we're kind of a nature-based church. We wanna be able to have occasional services as we outlined. Bringing people over there, part of our church to enjoy the beauty of the land and do ceremony so there's also that piece.

Vice-Chair Ball: Okay. Jack?

Mr. Freitas: Yeah, getting back to this traffic issue, this Haumana Road. How in the world you're gonna control that you only have 40 cars or 10 cars there or whatever number? I wanna know how you're gonna control. You put out an event, we're gonna have a church service, okay, now you have say, I have somebody come from the mainland and I'm telling them, hey they're gonna have a church service there, they're gonna start...they're starting at 10 o'clock, I can't get there till 11:00, say okay, I'll meet you guys there. So now what you're gonna do? Ten cars show up, you going say, you get outta here?

Mr. Hoeke: Well, for one thing we can put on our outreach and we're gonna be having, we're gonna have a lotta control over the outreach, a lot of these is gonna be personal invitations members and so forth, but not allowed without it for the 24-person event, you're not allowed if you don't come in a carpool. So they've been told ahead a time. You don't have two people in your car you're not allowed.

Mr. Freitas: So you're gonna turn them away?

Mr. Hoeke: Absolutely. If we are committing to 10 cars then any car that comes has to bring at least two. The other thing is, especially for the 40-person event what we're committing to here is 10 vehicles and he did show you that some of these vans that are, you know, normal width van, we can bring–well, how the shuttle work.

Mr. Freitas: Yeah, I know the yellow bus can bring quite a few.

Mr. Honig: Well, there's other options that we have too. We are a certified 501(c)(3) nonprofit organization and the Haiku Community Center has a conference room that they will rent to nonprofits organizations at a reasonable rate. So we can have people go there on a day that we have the larger event. We can rent that space. We have people stay there. We can have the orientation there. So that's one option of a thing that we could do and we can shuttle from there. Does Will have a problem with that?

Vice-Chair Ball: Director?

Mr. Spence: I think this would, this would be a case that we would have to look at more closely, but certainly we have...if you have required parking and you say, well I'm gonna park over on this other property that normally requires an offsite parking permit. Okay, the parking at the Haiku

Community Center would require permission for the County. Okay, so that's one thing. Normally there's an offsite parking plan, but then you have the question of the use of the Haiku Community Center itself. So if you have a number of people parking there in order so they could carpool down to the site, what happens to the events that are being held at the Haiku Community Center. I've been there at times where that parking lot is absolutely jammed just with an event at that community center. So there would have...you know, that's sort of a thing we would have to explore that a little bit.

Mr. Honig: That's just one option. We're actually...I don't have a vehicle myself. I carpooled here. We came with four people here. So everybody has iPhones these days and we're very good at that. You can text people and it's actually a beautiful thing to carpool, basically carpool from a different place.

Vice-Chair Ball: Okay, is there another question?

Mr. Hoeke: Kevin Hoeke. And we're not talking about advertising these, hey come one, come all. These are gonna be specific invitations. We have RSVPs 'cause your concern is real. We can't just open it up to the world and then cut people off that's no function and we got traffic on the road that way. RSVPs, carpools, shuttle if necessary.

Vice-Chair Ball: I think you guys answered that questions. That's fine. Any other? Yes, Penny?

Ms. Wakida: Are you currently advertising for weddings?

Mr. Honig: No, no we're not. I will not be advertising for weddings. I'm not going to be—

Ms. Wakida: We were given in our packet something that came off the internet.

Mr. Honig: Probably years and years ago.

Ms. Wakida: Well, it was taken off the internet this month.

Mr. Honig: But it's not from us. I don't know who it's from. We can't control what other people do.

Mr. Hoeke: I do believe when we were—

Ms. Wakida: And it's advertising for up to 40 guests which of course then puts you over the number because that doesn't include the staff and the caterers and whoever else.

Mr. Honig: I don't know what ad you're referring to.

Mr. Hoeke: I mean, as we said I mean, there was —

Ms. Wakida: Anyway, but you say you're not currently advertising?

Mr. Honig: No, we're not.

Mr. Hoeke: And when this has come up in the past, you know, as we've said and we've worked hard with Thomas and Will to get a clean slate, but yeah, sometimes when things happen in the past the way the internet works, things stick around. There's wedding planners that might have picked something up off an ...(inaudible)...site and they're trying to hustle business. So sometimes get on the internet that are not in our control and that's just the basic truth.

Vice-Chair Ball: Okay, Jason?

Mr. Medeiros: You said that your events are, you know, really quiet. You guys don't have loud speakers, but through my recollection at the last meeting one of the complaints they would hear over the loud speakers, Aloha.

Mr. Honig: Okay, that's our spirit. We always do that. And I'm sorry, that's how we end our programs like that, aloha and that's how it is. You know, all of our programs end with an aloha.

Mr. Medeiros: And is there any loudspeakers?

Mr. Honig: It's not loudspeakers. It's just us. You know, there is an aloha at the end. But I would say about Mr. Piazza—

Vice-Chair Ball: No, we don't need the comments about the people. Any questions? Wayne?

Mr. Hedani: I'm gonna give you an opinion and I'd like you to respond to it. As a result of the actions that you've taken in the past a traditional trail that leads to the ocean was permanently closed by the Department of Land and Natural Resources as a direct result of infractions that you initiated that resulted in a citation and fine. And to this day, that trail is closed because of your actions. Do you have a response to that?

Mr. Honig: I do. I'm so grateful that you brought that up. The reality of it is that I am a very good steward of land and I have completely eliminated erosion from our property. We're the only property that does not...and there was erosion on that trail going down and we put just cement, not steps, just within each foot stool, we put a little bit of cement on it so just to make it safer for the trail. That was all that we did. That trail was already there when we got the stewardship of this land 21 years ago. And then one of the neighbors who you might know who often comes here reported us to the Mayor's Office that was many years ago and the Mayor...with his whole list, somebody you know here who lives on Holokai Road, he reported us with all these other things that he says were problems which were none of them were problems but he was just trying to get us in trouble. And so, so we, and so they forwarded to Charles Villalon this citation. Charles Villalon called me and he said, Mr. Honig you have to get the Department of Land and Natural Resources out here to inspect your trail. I want you to get them out, I wanna see their report. So I was forced to call the Department of Land and Natural Resources because of this person who for 16 years—

Mr. Hoeke: Be on point.

Mr. Honig: I'm staying on point. For 16 years I never stopped one person from coming down that trail and I love that trail myself and I hired an attorney, Anthony Rankin, and I...instead of...they told

me all you have to do is cover up the trail and we won't give you any fine, just cover up your steps. And I said, no I don't wanna cover up, and I went and got Hawaiian people to give testimony. I said we have to keep this trail 'cause historic trail and I paid to go to Honolulu and with Anthony Ranken's help and I gave as much presentation as I am to you begging those people to leave that trail open and I had testimony from Hawaiians, and Hawaiians and fathers and everything–

Vice-Chair Ball: Is the trail closed?

Mr. Honig: The trail, that was Laura Theiland–

Vice-Chair Ball: Yes or no.

Mr. Honig: –Seven to zero, she said–

Vice-Chair Ball: Yes or no.

Mr. Honig: –she said close it.

Vice-Chair Ball: So it's closed?

Mr. Honig: Yes, yes. She made us close it and then she fined us \$2,500, but it was not I who caused that to happen.

Vice-Chair Ball: We got the answer. That's fine. Wayne?

Mr. Hedani: Here's my problem with that. I'm an avid fisherman.

Mr. Honig: Yeah.

Mr. Hedani: I fished down Haumana Road.

Mr. Honig: Sure.

Mr. Hedani: I don't go down Haumana Road all the way to the ocean because the Spirit of Aloha Temple has a gate at the end of the road and I can't go through the gate. So access to the ocean is essentially blocked by your gate. The Spirit of Aloha Temple has no aloha for the people of the Maui that wanna access the ocean beyond your gate.

Mr. Honig: That's is–

Mr. Hedani: Where I go is on the tributary road to the right, to the bay that's to the right where I scale down a 200-foot cliff in order to get to the ocean. My problem is that your actions that you took in the past without permission, without seeking the permission that you should have sought from the Department of Land and Natural Resources to make it safer or whatever has resulted in legal involvement of the Department of Land and Natural Resources to the point where people can't even access the ocean over that area at this point. That really bothers me.

Mr. Hoeke: I mean the first question that you...go ahead and finish up, but the first...this is Kevin Hoeke, the first question you asked was whether he sort of intentionally tried to keep fishermen away and like he said for 16 years before that he never took—

Mr. Hedani: That's not what I said.

Mr. Hoeke: You know, I'm sorry, that's my bad.

Mr. Hedani: I said that he took actions—

Mr. Hoeke: Right.

Mr. Hedani: Which resulted in the trail being closed and barred from people at this point in time.

Mr. Hoeke: I wanted to make sure you knew—

Mr. Hedani: Let me speak before you answer.

Mr. Hoeke: Please do.

Mr. Hedani: Yeah. He was fined by the Department of Land and Natural Resources—

Mr. Hoeke: Yeah.

Mr. Hedani: —for the improvements that he put in place illegally, and that he was forced to remove and the trail is now closed as a result of legal action that he took with the Department of Land and Natural Resources which put them into a defensive mode to say, the trail is closed. And that's a proximate cause of what you had done.

Mr. Hoeke: When I...Kevin Hoeke again, when I first started to talk, I'm sorry I misunderstood your question. I wanted to make sure though there was never an intention to close that down.

Vice-Chair Ball: Okay, let's not debate that.

Mr. Hoeke: But I just wanted to say that...

Vice-Chair Ball: Any other questions? Penny?

Ms. Wakida: I just wanted to call your attention to the slide that Kurt put up that was in our packet that does advertise the Spirit of Aloha wedding ceremonies \$1,250, \$3,500 for the wedding and reception up to 80 guests. And it was—

Mr. Honig: Which site is that?

Vice-Chair Ball: What's the question?

Mr. Honig: A Maui Wedding Day. That's not my site.

Ms. Wakida: I just wanted to show you what we were looking at in our packet.

Mr. Honig: That's not my site. You know, like I think what it is is that we have the most beautiful site on Maui and so these wedding companies you know they wanna get business. These people aren't doing weddings at my site, but they probably get a lotta customers just calling them and then they could book them wherever they want.

Vice-Chair Ball: I have a question. The botanical garden is that continue or be included as the events, part of the events?

Mr. Honig: I'm not sure what you mean. Are we gonna do programs?

Vice-Chair Ball: Well, it looked like there was a lotta cars in the pictures that we saw as a botanical garden I guess pictures.

Mr. Hoeke: There are no...okay, there's not tours going on. Like he said, he doesn't wanna open this up to the public. He wants to do tours like Hui Malama School kids, seniors, specialized confined. It's never been open a single day or advertised in that manner so there's not a bunch of traffic going down there.

Vice-Chair Ball: What were the pictures of all the cars?

Mr. Hoeke: That was an event that occurred at some point and in the past. Now we're never gonna have that many cars again 'cause we're committing to 10, but just to answer your question no advertisement around tours in the past, none anticipated in the future, but to be honest one of the reasons that we want this SUP is so he doesn't have to do those kinds of tours.

Vice-Chair Ball: So you'll just tours then no open to the public and just come in there and—

Mr. Hoeke: It would be legal for him to do that.

Vice-Chair Ball: No, I understand that but I'm asking the question now what are you gonna...what is your intent?

Mr. Hoeke: Never has.

Mr. Honig: No, that's never been my intention. My intention is to be an educational facility.

Mr. Freitas: Are we ready for a motion?

Vice-Chair Ball: Not yet. I have questions for what Request for Service has this property received maybe John can answer that or Will, someone?

Mr. Spence: The question was, if I have it right, how many requests for service have been filed?

Okay, there's six total that are of a complaint nature questioning the uses on the property or buildings without permits. There's a few others just requesting government information. I think Mr. Honig filed one or two of those things, you know, can you give me information about this or that or some realtor requested information. But six total that regarding some kind of complaint.

Mr. Hoeke: Over what span?

Mr. Spence: I'm sorry?

Mr. Hoeke: Over what span of time?

Mr. Spence: Since 2001. There's one from 2001, 2004, 2007, 2010, 11 and 2013. And I should add Commissioners to my knowledge all of those things have been resolved. So I mean, the issue with DLNR that's been closed. The issues, you know, we reached a Settlement Agreement with the County over the building permits and over the vacation rentals and all that, that's all been cleared by us. So these are...this is the number of RFSs filed, but these have all been cleared up.

Vice-Chair Ball: Corp. Counsel?

Ms. Thomson: My understanding is that there's only one open item relating to this property and that would be an appeal of the Director's decision regarding certain uses that are not related to this SUP application. They're related to...it's a definition...it's a definition call on what's related to agriculture, allowed agricultural uses and what is outside of that. So I believe that it was based on request for information from the applicant, from Mr. Honig to clarify which uses are and are not within the definition of ag and he is appealing the Director's decision on that. So it doesn't have anything to pertain directly to the SUP for religious-based services but that is my understanding is that's the only ongoing current matter related to the property.

Vice-Chair Ball: Jason?

Mr. Medeiros: Yeah, you're gonna be having...what your plans is to have kids running around the property, right?

Mr. Honig: Is what?

Mr. Medeiros: Part of your plans is you're gonna have kids from the schools and everything running around the property?

Mr. Honig: No, that's not true. Kids are never...no one is allowed to ever run on the property. We have strict rules for what happens. If the kids wanna come they have to come always with a legal adult, a legal guardian or with a teacher...as an approved part of a school function where the liability waiver forms are already done. They come to an orientation. They stick with one group. They're never allowed to be in any area by themselves ever. The kids are never allowed to be out, not even from one garden to the next garden and there's not allowed to be...there has to be one adult for every eight students that's the biggest ratio. The adult had to be in the very same garden as those students at all times. So there's nobody who's ever allowed to just walk around, you know, the



property by itself. We do it with staff. We're very, very controlled and very safe as far as procedures. There's no bicycling, no motorcycle driving, no roller blades, no competitive sports and the kids come knowing that they have to be very serious or they won't be invited back.

Vice-Chair Ball: Thank you. Max?

Mr. Tsai: So my understanding is you're gonna continue having weddings at your...which is considered an event on your site?

Mr. Honig: Yes, I mean, we consider weddings as a sacred holistic weddings without alcohol. If they are catered, they're plant-based nutrition. It's very, it's a sacred place for people who want to have that type of experience. Not everybody wants that. A lot of people would rather be in a place where they can have alcohol. So just by saying no alcohol you very much change the vibration of what's happening at that event, and people-

Vice-Chair Ball: Jack?

Mr. Freitas: How long have you had this property, sir?

Mr. Honig: Twenty-one years.

Mr. Freitas: And how come, you talk about this sacred taro garden. How come there's no taro planted in this sacred taro garden?

Mr. Honig: I'll tell you why because the Department of Land and Natural...we have wanted to do that from the beginning but it cost \$10,000 for us to complete the archaeological inventory survey. That cost \$10,000 and then it cost...and so we had to raise that money and we paid that amount. It was very difficult for us and then it was several years where it was \$7,800 for the preservation plan and which we didn't have at that time. You know, how to come up with that, it was difficult for fund raising. So we ultimately Jenny Pickett and Theresa Dunham were very kind and they kind of helped to walk me through it and I also met with many Hawaiians who helped me in...to create the preservation plan and they accepted by you know, just this group of effort. I checked with Kamehameha Schools, with everyone-

Vice-Chair Ball: Okay, it was financial, right, okay.

Mr. Honig: It was mostly, and also the time it took-

Vice-Chair Ball: Anyone else have a question? Wayne?

Mr. Hedani: Fred.

Vice-Chair Ball: I'm helping you, Fred.

Mr. Hedani: Back in 2010 I was on the Planning Commission when your request for TVRs, helicopter operations, church, botanical garden came before the group.

Mr. Honig: Yes.

Mr. Hedani: Your application was denied in 2010.

Mr. Honig: Yes.

Mr. Hedani: Part of the testimony that we heard was because our archaeological structures that were on the property were being bulldozed.

Mr. Honig: That's not true. I swear to you that's not.

Mr. Hedani: I'm telling you what we heard—

Mr. Honig: I know—

Vice-Chair Ball: Don't argue.

Unidentified Speaker: Let him finish.

Mr. Hedani: I'm telling you what we heard at the hearing.

Mr. Honig: I know that. I know you heard that.

Mr. Hedani: That rocks that should not have been moved were moved from their perspective and things like that. And that in part lead to the denial of your permit at that time.

Mr. Honig: Yes.

Mr. Hedani: You're saying that no archaeological survey has been on the property to this day?

Mr. Honig: No, it was completed even before that 2010. It was completed in 2006. Dr. Howe Hammod of Archaeological Surveys himself was the head of that and that was the thing we paid \$10,000. That was completed before that time. Before we had that meeting, four years before that the archaeological inventory survey had been completed and he would verify and it says in that included in the staff report that he praised us and he said that it was remarkable the amount that we had been able to preserve and we considered those to be absolutely priceless and I know that there was some false testimony which I could have cleared up but I was not given the opportunity. That very day it was just like torture to me and I was sitting here and I'll remember that and I was not allowed to speak and to tell that it already been resolved.

Vice-Chair Ball: Any other questions?

Mr. Honig: It's true.

Vice-Chair Ball: No further questions?

Mr. Medeiros: I got one more.

Vice-Chair Ball: Jason then Max.

Mr. Medeiros: Something that's been bothering me this whole meeting. You keep talking about all these Hawaiians that have been helping you and everything, where are they?

Mr. Honig: Lani Star is...Elizabeth Lindsey's...(inaudible)...

Mr. Hoeke: This is Kevin Hoeke. Yeah, I mean, Lani Star has been here both times is Maui born Hawaiian and but there is, you know, it's like a lotta haoles that have, I mean, open our hearts and our spaces and would love to have a lot of Hawaiian incorporation, but it's, I mean, in a way it's like high school. I mean, it's a lotta times where it's kind of you know, the haoles hang out and the Hawaiians hang out, but I mean, my gosh, we absolutely welcome Hawaiians and I'd say, I'd say every event I've been there's at least been a few Hawaiians there for sure. I mean, that's, that's been, and it's, you know, it's a haole scene and it's kind of like that unfortunately.

Mr. Honig: ...(inaudible-not speaking into the mic)...

Mr. Medeiros: I just asked where was the Hawaiians 'cause I don't see--

Unidentified Speaker: Use your mic.

Mr. Honig: This is...the leading people in the Hawaiian movement is Dr. Elizabeth Lindsey. She is, she is, she goes before the United Nations. She is a Hawaiian elder of the highest order and this is the, this is the recommendation that she wrote to us for this very meeting. I would hereby like to offer my testimony in support of Mr. Fredrick Honig, who is so requesting a special use permit for Spirit of Aloha Temple.

Vice-Chair Ball: Okay, Fred we got that. So Max ask your question.

Mr. Tsai: Yeah, you guys offer a condition. I have some issues with I guess as representing the government here for enforcing that, so --

Vice-Chair Ball: Let's wait for the conditions to come up and then we'll have that I guess?

Mr. Freitas: No, they proposed.

Vice-Chair Ball: Yeah, but Kurt's gonna read the recommendation as soon as we're done with questioning--

Mr. Tsai: Okay, that's fine.

Vice-Chair Ball: --then we can discuss that as they come up. It's in there or whatever, if that's okay? Anyone else? Department's recommendation?

Mr. Wollenhaupt: If I may defer to the Director on the process here, to Corporation Counsel because there was a recommendation that was given at the March 25<sup>th</sup> meeting, but procedurally today I...

Ms. Thomson: I think you know perhaps you could point to the parts of the recommendation that have changed based on any of the new information. You know, it's probably understandable that based on...it's a different scope of numbers of people, numbers of events and all that's being proposed. So most likely the conditions that the Planning Department recommended would also change based on that new number but there's probably many other things in the proposed...in the Planning Department's recommendations that would still be valid so maybe Kurt could just say which items would change or if none we can go through them.

Mr. Wollenhaupt: I'm going to hand out to the Commissioners a redlined version that I don't believe that you've seen 'cause that's the discussion document. We're gonna have to do. So you should be in receipt now of a March 25, 2014-document noted as Maui Planning Department's Recommendation to the Maui Planning Commission for the March 25, 2014 meeting. This is a redline version with some potential changes that were being considered, but of course, now we would be potentially redlining a lot more. That being the case, we would then turn to Page No. 4.

Mr. Spence: Kurt, if you would hold on just for a second. I think there's a basic question of what is the Department recommending and Kurt can go into the recommended decisions, but I would say based on what the applicant is now proposing we would recommend approval of that with the voluntary restrictions on automobiles, number of cars and those kinds of things. So just so the record's clear on that the Planning Department would be recommending approval of their proposal that came in most recently.

Mr. Freitas: Ready for the motion?

Mr. Spence: I think we ought to go, probably ought to go through the recommended conditions.

Mr. Freitas: The recommendation, the conditions?

Ms. Wakida: Project specific conditions.

Mr. Wollenhaupt: Well, actually we probably better start with the standard conditions. The first one was that the Land Use Commission Special Use Permit would be valid until March 31, 2016. The thought there was giving the applicant a two-year period in which to consider their applicant and we would be able to monitor them. I believe there has been some discussion here as to whether or not one year.

Vice-Chair Ball: Any questions about that?

Mr. Freitas: None.

Mr. Wollenhaupt: Then we would go 2, no questions. 3, the liability, a million. There was some discussion here about liability issues. That's up to the board.

Vice-Chair Ball: Recommendation to raise the amount?

Ms. Wakida: I think it maybe it would be prudent to raise the amount, but I wouldn't be able to provide a number. Maybe we could be advised?

Vice-Chair Ball: Can we get some advisement?

Ms. Thomson: That I don't have a good ability to be able to give a different number. I know a million is the standard. Depending on the level of risk that you believe the County is exposed to with the circumstances related to this property, it's on a cliff side, depending on the hours you may feel that the nighttime hours are more risky, you know, the kinds of those factors might weigh into increasing the insurance limit, you know a \$2 million policy or a \$3 million policy, you know, perhaps something in that realm based on the risks as you see it apply to this property and those activities.

Vice-Chair Ball: Question for the applicant. Do you have a problem with that, any of those figures 2, 3, 4 million?

Mr. Honig: Well, I think right now we a \$1 million policy. We've never used it. You know, in 20 years we've never once had an accident.

Vice-Chair Ball: Do you have a problem with the increase?

Mr. Honig: I would rather it just stay the same because then it's the same as our current policy.

Vice-Chair Ball: Well, of course yes, but do you have a problem with the increase? We don't know what it is yet is what I'm getting at. So I wanna get your okay to get that figured out.

Mr. Hoeke: This is Kevin Hoeke. We're open to that discussion if you wanna put out a number and then that's gonna make or break the difference we're more than willing to talk about it.

Vice-Chair Ball: Okay, well let's move on then and then we'll come back to that after we can...maybe somebody can research that while we're moving on. Kurt?

Mr. Wollenhaupt: Well, as miraculous as it could be we actually have a connection. So let's go to project specific conditions. No. 6 shouldn't provide anything different. That just indicates that they need to get any outstanding building permits finished. No. 7 is now a highly problematic because it would have to be rewritten. That the applicant shall be limited to six programs per month with a maximum of 24 people with no more than 10 vehicles for each event. The hours of operation would be between 10:00 and 4:00 p.m., and that the applicant would be limited to two programs of 40 people once per month with one event to end by dusk, and one event to be held between 10:00 and 4:00 p.m., again with no more than 10 vehicles. So that would essentially be the focus of Condition No. 7 which talks about the number of events.

Vice-Chair Ball: I have a question for zoning enforcement. How is that regulated?

Mr. John Rapacz: Thank you. I had some questions about that when I was listening earlier as well.

I don't know how we would be able to enforce that unless rather than the number of people being associated...a number of people, a number of vehicles being associated with the event, they were simply maximum number allowed on the property. So for example, if the event started at 10:00 a.m. and there were already six vehicles there then only four more vehicles could arrive. Otherwise, we're gonna have to go and count how many vehicles are there before the event and be sure that each...that none of those vehicles is already associated with the event. It's gonna get very complicated unless we just set maximums.

The idea of dusk I think is obviously not very specific. I would suggest instead that you look at the published sunset so that there's no question. You can look in the paper, you see what time sunset is. Being on the east side, it's gonna be darker a little bit earlier that will still give people time hopefully to get up the road and off the road before it's dark.

Oh, in terms of what happens at 4:00 p.m. when the event ends does that mean that everyone who does not live on the property must be off of the property at 4:00 p.m. Otherwise, we won't know who is remaining as part of the event and who is not. We won't be able to enforce that. So again, I would say that non residence or overnight guests, anyone else would have to be off the property.

Other question is goes more to the uses. It's still not clear, well to me at least and I haven't been here for all of the hearings what exactly will be allowed at what are called "events". I don't know what the limitations are in terms of agricultural education, weddings, what constitutes a religious activity that would fall under the permit. So that, that would need to be clarified as well.

Give me one second and I'll just check my other questions. And also, again back to the maximum number of people and vehicles if there are folks on the property for another reason in other words, they're not there for the event, they may just happen to be there for the botanical garden or some other purpose they would have to count towards the event during the time period of the event. We're not gonna be able to figure out who's there for what purpose. Thank you.

Vice-Chair Ball: Thank you. Max, oh sorry, Corp. Counsel?

Ms. Thomson: I was gonna say that perhaps a way of dealing with those concerns are to have a per day, a 24-hour period you know, so that you could limit it on that kinda daily basis with the 10-car maximum and the number of people.

Vice-Chair Ball: Max?

Mr. Rapacz: Mr....oh, sorry.

Vice-Chair Ball: Sorry go ahead. I called on Max, let him finish.

Mr. Tsai: Yeah, just I guess--

Vice-Chair Ball: No, hold on.

Mr. Rapacz: If I could, again, 24 hours it's an enforcement issue. So the more limited the time

frame is in which we have to enforce, the better we'll be able to enforce it. So, set times is best in terms of enforcement.

Vice-Chair Ball: Max?

Mr. Tsai: My understanding is it easier to enforce when we're talking about just next number of people or cars –

Mr. Rapacz: Correct.

Mr. Tsai: –inclusive of, you know, if they have caterers, if they have other guests, whoever?

Mr. Rapacz: That's right.

Mr. Tsai: All right.

Mr. Rapacz: Thank you.

Vice-Chair Ball: Jason?

Mr. Medeiros: Enforcement, would it be easier if there was a condition that they cannot have an event prior to notifying you guys say five days before the event. Any unscheduled event is again to... I mean, they just have to schedule it one-week in advance and give you guys the notice so that you guys would have or whatever you would need to make plans just in case you wanna check. You don't have to schedule, you know, schedule it every event, but if you know when the event is you can schedule accordingly.

Mr. Rapacz: Okay.

Mr. Medeiros: Would that help?

Mr. Rapacz: You know, that's an interesting idea. I would not want to have to give approval of any kind of event obviously, but if there is a schedule it would be great if we had the schedule.

Mr. Medeiros: And then that way they can...you can schedule enforcement accordingly 'cause you know you don't have enough people to go every event.

Mr. Rapacz: Sure.

Mr. Medeiros: Yeah, I know that.

Mr. Rapacz: Right. I think that's a good idea. If they do have a scheduled event then it would be great if we were notified, and then we would know. I'm not sure what type of scheduling they have in mind and it would just be a matter of alerting us, but it would not be anything we'd even have to acknowledge.

Vice-Chair Ball: Okay, Kurt?

Mr. Wollenhaupt: Are we going onto 8?

Vice-Chair Ball: Yes.

Mr. Spence: Can I—

Vice-Chair Ball: Director?

Mr. Spence: On that, on that note, I would rather just get a...for the Department's sake I'd rather just get just a schedule from assuming that if the Commission approves this...just send us in a schedule or something rather than—

Mr. Rapacz: Right. That's what I'm looking for.

Mr. Spence: —I don't want one, having one staff planner assigned to monitor the Spirit of Aloha activities.

Mr. Rapacz: I agree.

Mr. Spence: It's just, it's too onerous. It's too hard for the applicant. It's too hard for the Department to keep track of all that.

Vice-Chair Ball: Kurt?

Mr. Wollenhaupt: Well, now we're moving onto No. 8.

Mr. Medeiros: I have one more.

Vice-Chair Ball: Jason, sorry.

Mr. Medeiros: The sunset thing, okay. One of the things that bothered me was the road conditions. I know you guys said end at sunset, okay, which means by the time everybody gets out of that function the road is going to be dark. That's the part that bothers me, the darkness. Could we have it like a half-hour before sunset because sunrise and sunset is posted that way it will give them a half-hour to get out of dodge for lack of a better expression.

Vice-Chair Ball: Penny?

Ms. Wakida: I'm asking Kurt perhaps it would be simpler just to give a time like say the events, all events, the two events both of them have to end by 4:30 something like...just put a time on them rather I think dusk and sunset, I agree with Jason are moveable and hard to pin down. So if just added a time.

Vice-Chair Ball: Jason?



Mr. Medeiros: You know, I think that you know setting a time like 4:30, you know, 'cause you know, people like to have, you know, events a little later and if it's a half hour before it gets dark that to me would be...you know, I wanna make it workable for a church you know. And for me to just be too stringent on times and everything like that they already have a 4 o'clock thing, and maybe I don't but maybe they need the 5:00, until 5:30 or 6 o'clock, you know. I just don't wanna handcuff 'em. You know, as long as there's light, it's safe, but I sort of follow where you're going you know what I mean?

Ms. Wakida: That's what I'm suggesting is to give a specific time whether it's 4:30 or 6 o'clock for the purposes of enforcement dusk can become arbitrary.

Vice-Chair Ball: There should definitely be a time then. Okay.

Mr. Wollenhaupt: No. 8—

Mr. Hoeke: I have a quick process question. I'm completely not understanding when I hear several ideas and then we're moving on. Has there been an idea that's been adopted or—

Vice-Chair Ball: Not yet. We'll cover those at the end.

Mr. Hoeke: Got it. ...(inaudible)...

Vice-Chair Ball: We're just kinda hashing—

Mr. Hoeke: —proposals.

Vice-Chair Ball: Yeah.

Mr. Hoeke: Got it.

Mr. Wollenhaupt: No. 8 has to do with the impacts to the onsite private water system. The applicant will maintain a maximum of 24 people on the property except that 25 or more people may be allowed 59 days per year subject to attendance limits under Condition 7 which we're going to have to conclude. So actually nothing really changes here because this all is functioning off of No. 7. It's just simply stating what the Safe Water Drinking Department has to do with private water systems.

Vice-Chair Ball: Okay.

Mr. Wollenhaupt: No. 8, doesn't really change—

Vice-Chair Ball: Oh, sorry Jason, question?

Mr. Medeiros: Yeah, a question with that one is I mean we know that they were thinking of...they proposed to bring in water and all that for drinking and washing and all that. But for safety issues, you know, could we require, require them to turn off their pump for these events and that way

nobody will accidentally turn on the pipe and use that water? I mean, you guys turn it off?

Ms. Thomson: I think you know, the only problem is they might be using that also for toilet flushing.

Mr. Medeiros: Oh, flushing, oh I forgot about that one.

Vice-Chair Ball: Wayne?

Mr. Hedani: I'm more confused than most of you. The recommendation that we have under No. 7, the first line it says 48 events per year divided by 12 months that comes out to 4 events per month. The applicant is requesting 8 events per months or 96 events in a year. So they're requesting double the amount of events that they have in the original condition.

Vice-Chair Ball: Kurt?

Mr. Wollenhaupt: That's true. The number of the events has been circulating. The original...well, the original recommendation was that you could have 48 events per years, 24 of the events would be for 48, 24 events out of it so half, half would be you could have up 40 people, then you could have half of them would be up 25 people which, 24 people which has to do with the Safe Water Drinking Act. So the difference would be that you're having four events, 12 times 4 is 48 event under the old proposal.

This one, this proposal which is just coming into us today will have...I guess it will have eight events, but those will be at a less intense number of people. So there could be a balance there. But in terms of gross number of events on site the proposal would be increasing. So before you could have four events per month, now they're proposing eight events per month. Before you could have two events up to 40 people, two events half of that. Now you're gonna have two events at 40 people and then you're gonna six events up to 24 people. So you are...well, the intensity is probably about the same then.

Vice-Chair Ball: Corporation Counsel?

Ms. Thomson: Thank you. Commissioner Hedani, I think...please correct me if I'm wrong but what you're looking for is asking the applicant is he including all of the church related events including church services, classes and these church related events that were previously pulled out into separate categories. Are these all included in the number that the applicant is proposing. Is that what you mean? You wanna know what the total number of activities of all nature related to this SUP?

Mr. Hedani: Well, my concern is even more basic than that. We've already heard from the Department of Health that water is an issue. Water is a problem. Water safety is a problem. And from my perspective I wouldn't wanna see this happen unless it was certified as public water system safe to drink. That would be my position.

Mr. Wollenhaupt: Oh, just to...okay, so we're going to go back to the original. The original application was for three items. One was for the church related services. That was for a church

related service that would be held once-a-week up to 20 people. That would have a total up to 24 attendees. So you have a church service once-a-week. You had a classroom in which they were requesting to have four classes a week. That would be a total of 24 attendees and then you have the church related events and that would be four a month. So if you were to add the numbers you would have four church services a month, you'd have four church related events, now you're eight, and you would have 16 different types of classes. So 16 plus 8 that would be the total. So you're reducing the number of activities on the site with the new proposal. So before you had classroom, church, church related events. Now we're going into this program.

Vice-Chair Ball: Director?

Mr. Spence: No, I'll wait until we get into discussion on the conditions for water.

Mr. Hoeke: And I did...there is one letter from one of the water departments that said there was a potential problem. I've heard that, but it seems like most of the numbers you're running that department was definitely satisfied with our proposal.

Vice-Chair Ball: Okay. Kurt?

Mr. Wollenhaupt: Are we moving onto No....what we are doing now? Are we moving onto 8 to 9?

Vice-Chair Ball: Yes. To 9.

Mr. Wollenhaupt: That's pretty straight forward. There's nothing here that would probably change with regards to this modification. No. 10 is a little problematic. Ms. Kitkowski and Mr. Hamano, Department of Health and also Safe Water Drinking have significant proposed conditions that they wish to place upon the original application. I don't know how much you'd wanna get into it but it does have to do with, again, the washing the food and I only speak to this in Supplement No. 9, Page 19 from Ms. Kitkowski as of 4:07 on Friday regards to cooking demonstrations that seem to be somewhat of importance because of the use of food. A temporary food establishment permit from the DOH must be applied for. Produce and fruits must be taken from the botanical garden site to an approved DOH kitchen to be washed with potable water. All prep work, wash and rinse and cleaning, and cutting should be done at the approved kitchen. They may then bring back the food to the site and have a demo along with enough potable water available to complete the demo. That would be a specific condition that's been new. There's not been a great deal of time to analyze all this within regards to the new proposal. However there is going to...the conditions are going to reflect many of what we have thought before because these are coming straight from Ms. Kitkowski word for word.

Vice-Chair Ball: Has the applicant had time to review that?

Mr. Honig: I could tell you—

Vice-Chair Ball: Yes or no.

Mr. Honig: Yes.

Vice-Chair Ball: Okay. Continue.

Mr. Wollenhaupt: So we're gonna move on then to No. 11. This is a condition from the Department of Health that they will need to engage in testing for common chemicals: atrazine, ethylene dibromide, 1,2-dibromo-3-chloropropane, et cetera, and also with coliform bacteria. Nothing's changed on that.

No. 12, well now this would be considerably different. So we're going to...essentially then in order to reduce the amount of traffic on Haumana Road no more than 10 vehicles shall be on site for any event at any time. That seems to be what we're going for. If you have any thoughts?

Vice-Chair Ball: Continue.

Mr. Wollenhaupt: No. 13, well...the requirement for most, well for Churches or any kind of buildings is that there is a parking plan. A parking plan would incorporate landscaping trees, et cetera. So in talking with the Zoning Department, they wanted parking plans submitted for review and acceptance, and acceptance prior to events being held at The Gardens. Proof of this acceptance shall be submitted prior to commencement of any operations.

Mr. Hoeke: No, I believe that was when we were proposing 35 cars.

Vice-Chair Ball: Any questions? Continue.

Mr. Wollenhaupt: Again, that was under the old...okay-

Mr. Hoeke: Under the old proposal.

Mr. Wollenhaupt: No. 14, this was that the applicant will work with the Fire Department and Department of Public Works to build a hardened driveway surface on the subject property to address the steep incline and decline and the need for emergency vehicles to gain traction. Again, that was under the old proposal. That was...we had spoken with Mr. Scott English of the Fire Department and he seemed to, under the old proposal, be okay with such an enhancement to the hardened surface of the driveway which is now gravel.

Vice-Chair Ball: So this is the same?

Mr. Wollenhaupt: So it would be-

Vice-Chair Ball: We're keeping this the same?

Mr. Wollenhaupt: Accepted, yes...I would.

Vice-Chair Ball: Okay, any questions? Continue.

Mr. Wollenhaupt: No. 15, the Department is, is...would give the highest priority to the applicant to complete their preservation plan as soon as possible. I've dealt with the applicant has submitted

their preservation plan but it does need to be approved by SHPD, DLNR and so we would tell the applicant to use all resources to get it approved. Nothing's changed on that.

Vice-Chair Ball: Questions? Continue.

Mr. Wollenhaupt: 16. Now we're back to the hours. So it would be that any programs permitted would be allowed between the hours of 10:00 and "X", we'll have to figure out a specific time. Other than that...

Vice-Chair Ball: Comments on that? Penny?

Ms. Wakida: Do we...perhaps it can read not to commence before 10 o'clock and not end later than 6 o'clock or earlier based on what was approved in Item 7.

Ms. Thomson: Probably we can just deal with the hours just in once section. I think Section 7, you know, once we get, you know if we get to that then we can discuss the parameters of the hours a little further.

Ms. Wakida: Okay, so you would just change it to say, shall be as posted in Item 7?

Ms. Thomson: My recommendation regarding 16 is that it really just has to do with noise amplification so I would take the hours out of there completely and just deal with whether or not any noise amplification is allowed.

Vice-Chair Ball: Okay, recommendation...no, hold on. Discussion on that then. Let's change this right now. Jason?

Mr. Medeiros: They already said that they don't use amplification. Therefore, could we strike strongly discourage and replace it with amplification will not be used.

Vice-Chair Ball: No amplification will be.

Mr. Medeiros: They already said that they don't use it, so you know, why don't we just insert that, no amplification?

Vice-Chair Ball: Penny?

Ms. Wakida: I was gonna agree that...I'd like that to read that no amplification will be used particularly given the intimate nature of their activities.

Vice-Chair Ball: Okay. I think you can strike all the stuff on top too.

Mr. Wollenhaupt: Oh, oh yeah. I'm just trying to get the words down.

Vice-Chair Ball: Okay, put in there, okay.

Mr. Wollenhaupt: I can't go any faster.

Vice-Chair Ball: Okay, pretty good.

Mr. Wollenhaupt: No. 17 continues but with a codicil of saying that there will be a 24-hour notice to the applicant or authorized representative for periodic inspections by County enforcement personnel. Now this of course would be different than police. The police can go at, you know, a notice of concern. But for us to come out there, 24-hour notice.

Vice-Chair Ball: Zoning Enforcement, John?

Mr. Rapacz: We would respectfully request that that additional language be removed. If what we're trying to do is determine whether the applicant is complying with the restrictions on events we need to be at the event and of course, if we tell them in advance 24 hours then the event might come off differently.

Unidentified Speaker: I agree with that.

Vice-Chair Ball: Okay, strike the red.

Mr. Wollenhaupt: No. 18, that's straightforward. No short-term rental, B&Bs, TVRs unless they get prior authorization.

Vice-Chair Ball: Okay, any problems with that? No? Continue.

Mr. Wollenhaupt: No. 19, upon the filing and investigation of the RFS regarding operations, the Department of Planning may refer the permit back to this Commission for modification or revocation.

Vice-Chair Ball: Yes, Corporation Counsel?

Ms. Thomson: I had a minor...well, it's not very minor but a suggested change to the language. That if the Director of Planning has received reliable evidence of a violation of the permit conditions, then the Director may refer the permit back to the Maui Planning Commission. My concern with it as written was that upon filing of any request whether it was substantiated or not, you know, that they would bring it back here and I don't know that that would be the intent.

Vice-Chair Ball: Thank you. Go ahead Director.

Mr. Spence: I would agree with Corp. Counsel on that and saying, you know, we would undergo our normal investigation procedures on when somebody files an RFS we just don't automatically...if somebody complains we send it back to the Commission. We would have to go through our normal process for that to happen.

Vice-Chair Ball: Okay, you had a problem with that? Good.

Mr. Wollenhaupt: No. 20 no changes.

Vice-Chair Ball: Okay.

Mr. Wollenhaupt: No. 21, no changes except we're strike out classroom, church services, church related would be something like detailing both ..(inaudible)...concerns of the permitted activities, but otherwise not changes.

Vice-Chair Ball: Okay, problems? No? Penny?

Ms. Wakida: Well, are we, are we going back now and opening discussion like to Item No. 7?

Vice-Chair Ball: Sure.

Ms. Wakida: Okay-

Mr. Spence: ...(inaudible)...

Vice-Chair Ball: Could do that.

Mr. Spence: I don't know.

Vice-Chair Ball: Well, let's fix 7 first and then we'll do that.

Mr. Spence: Okay.

Vice-Chair Ball: 'Cause it does need some adjusting. Go ahead.

Ms. Wakida: I would like...we have spent two days listening to a lot of important testimony from you folks, but we also spent a lotta of that time listening to a lot of opposition and we need to value that as much as we value your testimony and in light of all the people that live on the road, I would like to reduce the number of programs allowed by half of this amount for two years. And if things are moving along smoothly and the people there aren't any objections then there can be...we can revisit that if you choose, but I think, I think in light of all of the people, for your neighbors who are unhappy with this, with your events of any kind, I would, I would recommend reducing this, new numbers.

Vice-Chair Ball: To 24?

Ms. Wakida: From three program events and one, 40 so it would be four a month. No, total, ...(inaudible)...eight.

Mr. Spence: So you're referring-

Vice-Chair Ball: Director?

Mr. Spence: Commissioner Wakida are you referring to their current proposal, half of that or are

you referring to the, the what they were discussing before?

Ms. Wakida: I'm referring to the, what I thought was the current proposal from the applicant, six programs a month, 24 max. Two programs, 40 max and other conditions. But those with an 8 total a month. I'm suggesting cutting that in half.

Vice-Chair Ball: To—

Ms. Wakida: Four, 24 event. And...to four a month rather than eight a month.

Unidentified Speaker: I'm okay with that.

Vice-Chair Ball: Any questions about that? Jason?

Mr. Medeiros: And that one was for two years.

Ms. Wakida: Well, the recommendation in here is for two years.

Vice-Chair Ball: The application is for two years and then review--

Ms. Wakida: The application they're asking two, we don't have to go with two years, we can go with one year.

Mr. Medeiros: I was thinking you know, I like that idea but I think two years is for a trial period is...was a little long and if they had it for one year and they came back and we revisit it and then given 'em the three years.

Mr. Tsai: I agree.

Mr. Medeiros: If there was no problem. Oh, I'm sorry. Do I have to say that again?

Mr. Spence: You probably should.

Mr. Medeiros: While I agree with what you are saying, my idea is you know, if it's a trial period, make it a trial period for one year and they can come back and if there has been no problems and no complaints and they have been in compliance then we can give 'em two years next year. I'll be here.

Mr. Tsai: I agree.

Vice-Chair Ball: Well, that's a different...we're working on 7 right now so, let's work on 7, then we'll go to 1. Director?

Mr. Spence: Let me point out, I mean, Commissioner Wakida is discussing having four events per month. I would...I would just submit to the Commission that normally a church has a service at last one service per week. So that would be, you know, pretty normal. So just to draw that to your



attention. You're talking about no other activities other than a perhaps a single...but it would be up to them what it would be. But that would be pretty normal for the church just to have, you know, that one activity. And churches normally have more than that.

Vice-Chair Ball: Richard?

Mr. Higashi: So I have a question. What is the definition of an event?

Mr. Spence: I would...I don't know if we have a formal definition. I would say it's probably a gathering of people who don't live on the property.

Mr. Hoeke: I mean where we're starting from is having asked Will what can we do as a botanical garden other than tours and the rule is basically nothing. I mean, seriously we're not allowed to any event of any kind teaching horticulture, yoga class period nothing. So we're starting with you can't do any kind of gatherings on your botanical garden. So yes, we're saying as a church we wanna do church related events. That would either be horticulture type classes, tours for seniors and children.

Vice-Chair Ball: Okay, thank you. Jack, you have a question?

Mr. Freitas: No.

Vice-Chair Ball: No, questions? Yes, Penny?

Ms. Wakida: And then, well I'm still sticking by my recommendation, but...and in addition I would put the end time for the 40 max event, I would put that at 6 o'clock, 6:00 p.m.

Vice-Chair Ball: Okay, 10:00 a.m., and 6:00 p.m. All right, and then max number of related events was?

Mr. Spence: Four events.

Ms. Thomson: It's four total.

Vice-Chair Ball: Four total, okay. Does anybody have a problem with those numbers?

Ms. Wakida: In light of what the applicant's been promoting they want to do agricultural type events, they want to do...that's been their whole thrust of their presentation. They haven't talked about services of any--

Vice-Chair Ball: Going back to Richard's question. Do we have a definition of event?

Mr. Spence: No. No, we don't. I think...I mean would be any...at least to me it would any kind of activity where people other than who live, whoever lives on the property. I mean, that's, you know, whether it be a tour or whether it be a...and they can do that with the botanical garden but for classes, for a church event, church service, a wedding or like that.

Vice-Chair Ball: Richard?

Mr. Higashi: Yes, the reason why I asked is because an event according to what they're talking about, I could have two people that go to a tour that would be considered one event you know. So who's gonna be monitoring if Penny says there's 40 events is that consider two people walking in is one event is what was I was kinda wondering about because listening to what Kevin is saying, you know you could have... 'cause it's not just open, they have to make an appointment and then they come in. So if you get two people coming in and they're gonna give a guided tour that's one event or is not?

Mr. Hoeke: I may, I may have misspoke. We're allowed to do garden tours right now as a botanical garden unlimited. There's no limitation on how many garden, strictly tours, no class.

Mr. Higashi: So your guided tour is a different?

Mr. Hoeke: Exactly.

Vice-Chair Ball: But when we discuss that then those would be...if somebody showed up for that would be in the count if enforcement was there, correct?

Mr. Rapacz: My understanding is that right now there's no limitation on the guided tours. However if during an event in which for example there were only 24 people allowed, if there were folks on the property doing the guided tour they would count towards the event.

Mr. Hoeke: We're not doing guided tours like that>

Mr. Rapacz: Fine.

Mr. Hoeke: Okay.

Vice-Chair Ball: Okay, let's go to No. 1 then. There was some discussion with the date of the application. Standard Condition No. 1, March 31, 2016. Is everybody fine with that?

Mr. Tsai: I would like to limit it. I agree with Commissioner...Jason. I will say one-year I think I'd like to see that he prove themselves.

Vice-Chair Ball: Wayne?

Mr. Hedani: I'm not exactly sure what we're doing right now. We heard from Staff in terms of what their revised recommendation is, but there's no motion on the floor.

Vice-Chair Ball: No, we're trying to figure this out before we do that so that we don't have to do this again.

Mr. Hedani: So this is just discussion on the staff recommendation?

Vice-Chair Ball: Right.

Mr. Freitas: So basically what we're doing, we're critiquing the recommendations and then a motion to go or no go, got it, okay?

Vice-Chair Ball: Pretty much, yeah. So is there a problem with the one-year, changing it to one-year? Jason?

Mr. Medeiros: I just wanted to say the reason I agree with Penny is because I heard them time and time again, we just wanna start. We wanna starting point because they got nothing right now. Well, Penny has offered them a starting point for a period of one year instead of two. For a period of one year as a trial period and if everything works out they get what they ask for. We can consider again what they ask for.

Vice-Chair Ball: Is the applicant okay with the one-year time frame?

Mr. Hoeke: Yes.

Vice-Chair Ball: Okay, I think we went through all of them.

Mr. Honig: ...(inaudible-not speaking into a microphone)...

Vice-Chair Ball: So we still have No. 3. Do we have another figure?

Mr. Wollenhaupt: The million-dollar policy.

Vice-Chair Ball: Do we have another figure? Did somebody go research that or somebody come up with some brilliant number that we can use or insurance people in the house that we could ask? Jack?

Mr. Freitas: They require me to have \$2 million dollars for my business. Two million would be a good number.

Mr. Spence: I've seen, and I would have to go back and look, but I've seen 2 million on other places.

Vice-Chair Ball: Okay, are we agreeable to 2 million, yes? Okay, make that change.

Mr. Hoeke: Did you wanna know where we're at with these as you go?

Vice-Chair Ball: No, we're making this up so, you're either gonna get it or not with the recommendation that we give.

Mr. Hoeke: I mean--

Vice-Chair Ball: Wayne?

Mr. Hoeke: --our comment was we're okay with 2 million but I mean it's--

Mr. Hedani: From the standpoint of procedure, Keone, the applicant is participating in Commission discussion right now, is that something that we're permitting?

Vice-Chair Ball: Well, we're trying not to, but...

Mr. Hedani: It's the first time that I've seen that an applicant has been enabled to interject their opinion on every recommendation that the staff has.

Vice-Chair Ball: Noted.

Mr. Thomson: The reason, I requested that the Chair ask the applicant whether he is okay with a one-year permit time limit and that is go give the applicant the opportunity to weigh on whether or not that would excessively burden him. So if he's okay with that time constraint then I think that we can go on. But that was, that was really the reason that I wanted the applicant to weigh in just on that one item.

Mr. Hoeke: Why on that item as opposed to other items?

Vice-Chair Ball: Let's not, let's not get into it.

Mr. Thomson: Yeah.

Mr. Freitas: Point of order?

Vice-Chair Ball: Jack?

Mr. Freitas: I believe that the applicant shouldn't be in charge, a in the discussion of the Planning Commission.

Vice-Chair Ball: Noted. Kurt?

Mr. Wollenhaupt: Oh, well okay, now we're No. 3, we're gonna leave 4 fine, 5 fine, 6 fine, 7 we gotta get some language here. It's in purple with Ms. Penny Wakida's comments, program shall be limited to three programs per month with a maximum of 24 attendees, one program with 40 attendees including employees and staff which will be held between the hours of 10:00 to 6:00. The total number of vehicles... (inaudible)... property at any given time be limited to 10. Preliminary scheduled events should be given to the Zoning and Enforcement Division, so...

Vice-Chair Ball: Penny?

Ms. Wakida: I think the, that the first group, the three programs I think they came up with 10:00 to 4:00 and then the one, one to 6:00. The one by itself to 6:00. So it was 10:00 to 4:00 for the first group and one for the max of 40 can be to 6:00.

Vice-Chair Ball: Okay.

Mr. Wollenhaupt: And if I could have Zoning and Enforcement on the number of vehicles? Is that, is this, is this?

Mr. Rapacz: Yes. And if I could Mr. Chair, also rather than referring to attendees, if we could refer to persons on the property.

Ms. Wakida: Right.

Mr. Rapacz: Again, so that we don't have to try to figure out who is an attendee and who is not. That's my suggestion to the Commission. Also, as I had mentioned earlier in terms of the closing time, the end of the event I think we need to specify what that means. So the event ends at 4:00 and everybody stays for a few hours to talk or is that the attendees must be off the property by that time?

Vice-Chair Ball: Richard?

Mr. Higashi: Mr. Chair, from the standpoint of ...(inaudible)...of Maui anyway, 10:00 to 6:00 if I recall, the months of December, January it comes like about 5:00 to 5:50--

Vice-Chair Ball: Talk into the mic, Richard. Talk into the microphone.

Mr. Higashi: Oh, excuse me. Sorry. My understanding looking at the time element when you're looking at December, January, winter months, the sun goes down especially in the Haiku area by about 5:00, 5:30 if I recall and my really basic concern is safety from the standpoint that that's a cliff area and whether they are church people or not if they decide to wander down there, it's dark already, so my only concern at this time is I think in the month of area where the sun goes down early then the time should also go correspondence to that because that's, that's getting dark and I'm only looking from safety standpoint, agreeing with Penny about sticking to a certain time element.

Vice-Chair Ball: Okay, is there another time you'd like to add in there? Ivan?

Chairperson Lay: Under 7, might I suggest maybe 45 minutes or an hour before sunset, that way it fluctuates with the setting of the sun and the time of year?

Vice-Chair Ball: Zoning and Enforcement wanted us to make a specific time.

Chairperson Lay: Oh, okay.

Vice-Chair Ball: They ...(inaudible)...say what it was, but we could change it to 5:00, 'cause then 5:00 runs across the year. Are we okay with that?

Mr. Tsai: Chair, address the issue from Zoning, are we saying 5 o'clock everybody have to--

Vice-Chair Ball: Yeah, it's up there. Everybody has to be off. If they're not living on there. Are we ready for a motion?

Mr. Freitas: I move to deny.

Mr. Hedani: Second.

Vice-Chair Ball: There's a motion to deny the application?

Mr. Freitas: Yes.

Vice-Chair Ball: Okay, all in favor? I'm sorry, discussion? We had a lot of discussion? Jason?

Mr. Medeiros: I'll be speaking against the motion. You know, I think that the recommendations made by Penny and that...you know, some of the other people would suffice as a start for a religious organization. I was raised to respect all religions and what Penny came up with is a good start. Let's look at it, and then make the real decision next year. If they do not comply within that year it will be revoked. They already have a settlement agreement on the revocation of whatever permits they get, you know, so in my opinion I think that Penny's recommendation is more appropriate and I will be voting against the motion.

Mr. Freitas: Discussion? Jack?

Mr. Freitas: Yeah, one of the reasons why I made the motion I still stand fast on the safety issue. I know that road. I know that road very well. I have a towing company. We go down that road. We do pull cars outta there and you have children walking, you have pedestrians walking, you have bicycles, walking on a bicycle path, and I believe there's a safety issue.

Vice-Chair Ball: Wayne?

Mr. Hedani: I agree with Jack from the standpoint of the road. If you look at the draft conclusions of law under Item B, it says the desired use would not affect surrounding properties. That's not true. The desired use will affect every single property that's on Haumana Road. I've been down Haumana Road. I've tried to access the ocean down Haumana Road. The applicant has caused beach access to be closed down Haumana Road. You can't get to the ocean down Haumana Road even if I wanted to. It's affected everybody on the island that goes fishing from the standpoint of traditional access rights. Safety is an issue on the road. There are blind curves on the road. We've seen pictures today that demonstrate that the road is 10 feet wide in places, 11 feet wide according to Public Works. That's not enough for two lanes of traffic. I've driven down the road. I know there are blind curves. I know there's children playing on the road and it's dangerous. I don't think we need to give one year for somebody to get killed, a small child to get killed in order to make up our minds as to whether or not it's safe or unsafe. The applicant's representatives have said well if the road is dangerous then we should widen it. Widening the road, an agricultural road will affect every single property on Haumana Road. The applicant has said I would like the road to stay the way it is. If you leave the road the way it is it's dangerous. If widen it to 22 feet which is what Public Works has asked for then everybody gets assessed for that and it becomes a commercial road, a

commercial residential type road as opposed to an agricultural road. And I'm not convinced that agricultural uses on the property are precluded.

Personally, I don't have a problem with them coming in for a church application if it's just for a church, but I have a problem with "events" that are undefined including weddings where there's no control that the County can exert over it. More to follow.

Vice-Chair Ball: Any more comments? Ready to vote? All in favor of denial, raise your hand please?

Mr. Spence: That's two ayes.

Vice-Chair Ball: All opposed? Three.

Mr. Spence: That's three opposed.

Mr. Tsai: I'm not opposing.

Chairperson Lay: I'm not voting.

Mr. Tsai: I'm abstaining.

Vice-Chair Ball: Abstain is yes. So motion is--

Mr. Spence: They didn't raise their hand in the affirmative.

Vice-Chair Ball: You're saying yes, was the motion.

Ms. Thomson: If you, right. If you don't affirmatively or negatively, you're assumed to have vote in favor of the motion that's on the floor.

Vice-Chair Ball: To deny.

Ms. Thomson: To deny.

Mr. Spence: Okay, so then then, so then that would be four in favor of denial.

Mr. Freitas: Yes.

Mr. Spence: And Mr. Chairman, if you'll allow me with those voting against the motion please again raise your hands? Okay, that's three against. So it's four, three motion fails.

Mr. Hoeke: I thought that those two gentlemen didn't vote.

Ms. Thomson: ...(inaudible)...five.

Mr. Tsai: The Chair have to make--he needs to vote.

Mr. Freitas: ...(inaudible)...five.

Mr. Tsai: Yeah, he has to vote.

Mr. Spence: Then the Chair needs to vote.

Vice-Chair Ball: I'll vote to deny.

Mr. Spence: So that's five voting against...voting to deny. The motion is carried.

Mr. Hoeke: Someone is going to have to fill us in. What just happened.

Vice-Chair Ball: The motion was carried to deny your application.

Mr. Hoeke: So where do we stand.

Vice-Chair Ball: Your application has been denied.

Mr. Hoeke: Our application to have you reconsider our, our proposal?

Vice-Chair Ball: All around, yes.

Mr. Hoeke: Well, thanks for your time. I really felt, we really felt listened to this time and--

Vice-Chair Ball: Good. Thank you for coming in.

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

**VOTED: To Deny the State Land use Commission Special Use Permit.  
(Assenting - J. Freitas, W. Hedani, **Abstained - M. Tsai, I. Lay, K. Ball**)  
(Dissenting - J. Medeiros, P. Wakida, R. Higashi)  
(Excused - S. Duvauchelle)**

Vice-Chair Ball: Next on the agenda...you know what, let's take a five-minute break. Go to 3:00 and then we'll try and power the rest of this out.

A recess was called at approximately 2:55 p.m., and the meeting was reconvened at approximately 3:05 p.m.

Chairperson Lay: Our next agenda item?

Mr. Spence: Okay, so Mr. Chairman, my understanding is our...okay, Commissioners we're on Item F, Public Hearings, we're wondering if we could take No. 2 out of order?



Chairperson Lay: Commissioners, what we're gonna do, we're gonna move F-1 back one and we're gonna start off with F-2. This is requesting a Community Plan Amendment from Agriculture to Heavy Industrial. We have a couple guys that have to leave and catch a plane and we're just gonna help them to catch their plane.

Mr. Spence: Okay, so Commissioners, this is CMBY 2011 Investment, LLC requesting Community Plan Amendment from Ag to Heavy Industrial and Change in Zoning from County Ag to M-3, this is the first one, M-3 Heavy Industrial District for the Puunene Heavy Industrial Subdivision. We're seeing a whole of Mr. Wollenhaupt this morning, this day.

F. **PUBLIC HEARING** (Action to be taken after public hearing item.) (To begin at 1:00 p.m. or soon thereafter.)

2. **CMBY 2011 INVESTMENT, LLC requesting a Community Plan Amendment from Agriculture to Heavy Industrial and a Change of Zoning from County Agriculture District to M-3 Heavy Industrial District for the Puunene Heavy Industrial Subdivision located on 88 acres of land approximately one (1) mile southeast of the intersection of Mokulele Highway, Mehamaha Loop, and Kamaaina Road at TMK: 3-8-008: 019, Puunene, Island of Maui. (CPA 2012/0002) (CIZ 2012/0005) (K. Wollenhaupt)**

Mr. Kurt Wollenhaupt: Good afternoon, Members of the Maui Planning Commission. The item before is as indicated previously a request for a Community Plan Amendment and a Change in Zoning. This has been requested by the entity CMBY 2011 Investment, LLC, for the CPA and CIZ on 86.080 acres of land at Pulehunui, District of Wailuku, Maui, Hawaii.

The Commissioners with the exception of our newest Commissioner would be familiar with this project as the Maui Planning Commission on November 27, 2012 accepted the Final Environmental Assessment that being a rather large document of which this Commission no doubt has a copy.

In addition, this was required because of the Community Plan Amendment and that set the wheels in motion for going to the State Land Use Commission for District Boundary Amendment to move this property from the Agricultural State District to the Urban State District. That was approved by the State Land Use Commission on October 17, 2013 and approved to form on November 22, 2013. Again, now setting the wheels in motion for the Maui Planning Commission's review which they will be giving a advisory comment to the County Council on these two applications.

I'm not going to go into history because Mr. Glenn Tadaki of the Chris Hart & Partners firm along Blanca Lafolette and Charlie Jencks will be providing an excellent overview today. But I did wanna make a couple of editorial comments. This is the first for our new zoning category of Restricted Industrial. It's important to note this because much of our land that's been zoned Industrial is on a tiered zoning system and has been eaten away by offices uses, items, uses which are not industrial. So it is critical for this island in order to maintain the lifestyle to have a place not that's beautiful but also a place where the activities that are not so beautiful can happen and that's why

this is an important project for the island of Maui.

And I'll finally conclude that is in...it does meet the goals of the new Maui Island Plan. The ... (inaudible)...with both Pulehunui Planned Growth area encompasses just over 639 acres. And this area is envisioned to represent a logical expansion of industrial land use in the area. With that, Mr. Tadaki will give the presentation.

Mr. Glenn Tadaki: Thank you, Kurt. My name is Glenn Tadaki. I'm with Chris Hart & Partners, the planning consultant for the applicant, CMBY 2011 Investment LLC. First of all I'd like to thank Kurt for having done such an outstanding job on the Department's staff report to the Commission. I'd also like to thank him for presenting our power point presentation to him, to you in a one-minute format especially given what you've just been through.

As Kurt mentioned, the applicant is proposing to develop a heavy industrial subdivision on 86 acres of land which is currently vacant and undeveloped. The subject parcel consists of 86 acres as I mentioned, 66 acres of which is designated for up to 28 developable lots ranging in size from half acre to 20 acres. Eleven acres are to be set aside for internal roadways while the remaining nine acres are designated for drainage retention basins. I'd like to point out that the final number of lots and the final lot sizes will depend upon market conditions at the time of final subdivision approval or when the applicant is ready to commence with construction. The estimated cost of constructing the subdivision is approximately \$20 million, this is in 2011 dollars. The subdivision construction time frame is about 30 months.

This slide, the conceptual site and landscape plan for the subdivision, the large lots are located in the areas that are shown in green and the smaller lots are located in the areas that are shown in the pea color. This is a layout of the subdivision showing the various subdivision lots and their locations. The subject property is located about four miles south of Kahului and three miles north of Kihei. It lies in the State Urban District and is designated for agricultural uses by both the Kihei-Makena Community Plan and Maui County Zoning. The property as Kurt mentioned is located in the Urban Growth Boundaries of the Maui Island and is part of the 639-acre Pulehunui Planned Growth Area. Project site is bordered by Project District 10 which is known as the Old Puunene Airport. It's 561-acre which the community plan designated as a master planned recreational and expansion area to meet future recreational needs and to provide areas for industrial activities which are better suited away from urban areas. The community plan specifically states that approximately 125 acres including and adjacent to the Hawaiian Cement site should be utilized for heavy industrial purposes. The Hawaii National Guard Armory, Maui Raceway Park and various recreational motor sports facilities are also located in PD-10. The property's close proximity to existing heavy industrial uses in the area such as the Hawaiian Cement quarry and the Central Maui Baseyard.

This slide shows the location of the subject property in relation to roadways and developed areas in the region. This is an aerial photo of the subject property and surrounding lands including the Hawaiian Cement quarry, Maui Raceway Park, the National Guard Armory, HC&S sugar cane fields, and an HC&S irrigation reservoir.

This slide shows the location of the subject property within the Urban Growth Boundaries and the

Pulehunui Planned Growth Area. The Pulehunui Planned Growth Area as I mentioned is part of the Maui Island Plan. It's located within the Urban Growth Boundaries and it includes 639 acres as specifically designated for heavy industrial, public/quasi-public and recreational uses. The Planned Growth area is a logical expansion of heavy industrial uses in the area and its location midway between Kihei and Kahului makes it an ideal location for serving the island's long-term heavy industrial needs.

This slide shows areas of future development in the subject parcel, Project District 10 to the west, State-owned lands that are under the control of the Department of Land and Natural Resources and the Department of Hawaiian Homelands. These State-owned lands are part of the Pulehunui Master Plan which is 939 acres I believe that are intended for future development.

These are some photos of the site and surrounding area. This is a photo taken from the intersection of Mokulele Highway and Kamaaina Road. Looking toward the east the subject parcel is about 1.4 miles to the east. Here's the view toward the subject parcel taken from the HC&S reservoir. This is a typical scene on the subject property. This is a sugar cane field to the east of the project site. Hawaiian Cement quarries in the background. This is a photo of the HC&S irrigation reservoir and the Hawaiian Cement quarry which is about two-tenths of a mile to the east. The photo is of Project District 10 which is adjacent and to the west of the project site. Maui Raceway Park can be seen in the background.

As Kurt mentioned, the EA was prepared because the project involves a request for a community plan amendment and the use of State lands for access and utility easement which was granted by the Board of Land and Natural Resources in April of last year. This access and utility easement provides access from Mokulele Highway to the subject property.

The Draft EA availability was published in the Environmental Notice on June 8, 2012. At the Commission's meeting on June 26, 2012, the Commission reviewed and commented on the Draft EA. Subsequently on November 27 of that year the Commission reviewed and accepted the Final EA and authorized the publication of the Final EA and the Finding of No Significant Impact. On June 8th of last year, the Final EA and the Finding of No Significant Impact were published in the Environmental Notice. The 30-day legal challenge period for the Final EA and FONSI expired the following month with no legal challenges filed.

The State Land Use Commission reclassified the subject parcel from the State Agricultural District to the State Urban District on November 22nd of last year. Based on their Findings of Fact and Conclusions of Law, the Land Use Commission determined that the reclassification of the property will not significant effect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural and natural resources of the area. The 25 conditions of approval which the Land Use Commission set forth in the Decision and Order and for which the applicant is responsible for is included in Exhibit 1 of the Planning Department's staff report.

The subject parcel is located or designated for agricultural use by the Kihei-Makena Community Plan. Adjacent and to the west of the site is Project District 10. The subject parcel is in the County Agricultural Zoning District as are the surrounding lands. In order to develop the project the applicant is requesting a Community Plan Amendment from Agriculture to Heavy Industrial and a

Change in Zoning from Agricultural to M-3, Restricted Industrial. The applicant's request for the CPA and CIZ were filed in April of last year. The processing of the CPA and CIZ was held in abeyance until the Land Use Commission granted the District Boundary Amendment. In December of last year as I mentioned, the Maui Planning Commission conducted a site visit of the subject parcel in connection with the site visit for the Maui Research and Technology Park. The meeting to review the applicant's request for the CPA and CIZ is being held today.

M-3 Restricted Industrial Zoning set forth in Chapter 19.25 of the Maui County Code. The purpose of M-3 Zoning is basically to provide for manufacturing and nuisance activities which are not allowed in any other zoning act, district. These activities are usually obnoxious or offensive in nature. Primary uses in M-3 include the manufacture, processing, storage, retrieval of goods from raw materials. Related office space and limited retail or product display areas are allowed as accessory uses. In addition to manufacturing or process goods from raw materials, the intended market for the project includes those seeking industrial warehouse space and secure baseyard areas.

Subdivision improvements to be constructed by the applicant include a backbone improvements such as infrastructure and utility systems. The ownership and maintenance of these improvements will rest with the subdivision of lot owners association. Subdivision backbone improvements include a dual water system for potable irrigation and fire flow use. Drainage system, internal roadway system and utilities, common area, landscaping and irrigation. Also would like to point out that lot owners will be responsible for all improvements on and to their lots including the installation of individual wastewater systems such as aerobic treatment units and leach fields.

The private water system components for the subdivision are depicted in this slide. The key improvements are three source wells, three reverse osmosis processing tanks, one-250,000 million gallon storage tank, one-400,000 million gallon storage tank, one-400,000 million gallon nonpotable storage tank, booster pumps and backup generator power for fire protection.

This slide depicts the preliminary grading and drainage plan. The site slopes in a east to west direction with a slope of approximately 1.8 percent.

This slide reflects the intersection improvements at Kamaaina Road and Mokulele Highway. Essentially the improvements to accommodate the proposed project are a separate right-turn lane, an acceleration lane for northbound traffic, and a southbound left-turn deceleration lane onto Kamaaina Road.

The project will not require any Department of Army Permits since it does not involve any navigable waters of the U.S. nor does it involve the placement of dredged or fill material into waters of the U.S.

There are no rare or threatened or endangered species of plant, insect or animal life on the property nor are there any wetlands or critical wildlife habitat.

No significant noise impacts are expected due to the properties location, it's distance from Mokulele Highway and it's distance from residential areas in Kahului and Kihei. Although some heavy

industrial uses can create air pollution, any activity involving a potential pollution source, subject to review and approval by the Department of Health's Clean Air Branch.

The archaeological inventory survey and monitoring plan for the project were approved by State Historic Preservation Division in 2012. Cultural impact assessment indicates that the project area has not been used for traditional or historical cultural purposes.

An annual average of 65 direct and indirect jobs on Maui is forecasted during the project's 30-month construction period. And 142 direct and indirect jobs are expected during the 10-year lot build out period.

The subject property has a Land Study Bureau rating of E which is one of the lowest productivity ratings. It is the lowest in fact. It is not designated as an agricultural land of importance to the State of Hawaii. The project will not impact surface water sources nor it is expected to have an effect on ground water resources, downstream properties and marine waters.

The design and operation of the project's private water system is subject to the review and approval by the Department of Health Safe Drinking Water Branch. The design and installation of individual wastewater systems for each lot are subject to review and approval by the DOH's Wastewater Branch. No drainage impacts to adjacent or downstream properties are expected. Project's private drainage system will comply with all applicable regulatory requirements.

With the proposed improvements to the intersection of Mokulele Highway and Kamaaina Road is not expected to have a significant or adverse effect upon traffic. Power and communication systems will be extended to the subdivision from existing overhead facilities. And exterior lighting will be shielded or downward directed to minimize impacts to migratory seabirds traversing the area. Lot owners will be encouraged to use sustainable building design guidelines and energy and water conservation measures when developing their lots.

The reclassification of the subject property will not adversely affect neighboring land uses since the existing character of the surrounding area will be maintained. Reclassification of the property will not adversely affect agriculture nor will have it a negative effect on the inventory of agricultural lands that are available for large scale or diversified ag use. The project is not expected to result in any adverse environmental and socio economic impacts nor is it expected to have an adverse effect upon existing public services and service area limits. Infrastructure systems such as water, wastewater, drainage and roadways will be privately owned and maintained and will not affect public systems. Because of the current limited supply of heavy industrial land the project is expected to alleviate the pent up demand for purely heavy industrial land. The project is consistent with existing heavy industrial uses in the area and the uses planned for Project District 10 which is intended as a master planned recreational and industrial expansion area. The subject property as part of the 639-acre Pulehunui Planned Growth Area which is designated for heavy industrial, public/quasi-public and recreational uses. Plus represents logical expansion of heavy industrial uses in that Planned Growth Area and its location midway between Kihei and Kahului makes it an ideal site to serve the island's long-term heavy industrial needs and its proximity to the Kahului airport and Kahului harbor make it even more attractive.

That's all I have. If you have any questions, be happy to answer them at this time.

Chairperson Lay: Commissioners, we're gonna hold back our questions until after public testimony.

**a) Public Hearing**

Chairperson Lay: Now we're gonna open up to public testimony. If anyone wishes to testify please step forward, give us your name, and you have three minutes. Seeing none, public testimony is closed. Commissioners, any questions? Commissioner Hedani?

Mr. Hedani: Glenn, the project area is there a way to landscape just the perimeter?

Mr. Tadaki: The conceptual site and landscape plan shows landscape plantings along the perimeter of the subject property basically to provide screening.

Mr. Hedani: So it will be screened from view?

Mr. Tadaki: To provide screening around the perimeter of the site.

Chairperson Lay: Director?

Mr. Spence: This is as a comment, you can barely make out this site from Mokulele Highway. So screening or whatever, the larger Pulehunui area there's gonna be part, portions of that that we still have big questions on views and appearances, but not this particular site at all.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess my question on landscaping is I like the project, I like what it represents, I like what it's gonna accomplish and looking down the road what I wanted to know was what the surrounding uses around it might be because Department of Hawaiian Homelands has some land in that area and can it be screened from view from surrounding properties anticipating what might happen in the future? And a second question would be is there a proposal for expansion of the project once it's completely built out?

Mr. Tadaki: First let me answer the part of your question dealing with surrounding or adjacent land uses. There is as one of the exhibits in the Planning Department staff report a conceptual land use plan for the Puunene Airport master plan area which is 222 acres west of and adjacent to the subject parcel. The Puunene Airport master plan area has been work-in-progress for a number of years. You know the land for the PAMP was executive ordered by the State of Hawaii. And there was a user needs assessment that was done, oh golly, back in the early 1990's and for a while the County had been actively working on planning for that project. Periodically it's been put on hold depending on the priorities of the Administration. And at this point in time, the Long Range Planning Division is working on the plan. It's still a work-in-progress and if I may show you, okay, this is the...these are generalized land uses that are proposed by the master plan. The...as I mentioned the Puunene Airport master plan area is west of and adjacent to the subject property. The uses that are proposed within the PAMP essentially reflect existing uses in that they're

primarily motor sports recreational type uses.

From what I understand though the proposed jail site for the Maui prison that site is planned to be relocated about a mile mauka of the highway. I'm not sure what the current status of those plans are it's part of the Pulehunui Master Plan that the State agencies, DHHL, DLNR and Department of Public Safety have been working on in cooperation with the County of Maui.

The DHHL lands that you referred to to the south of the project area are agricultural lands. They're not designated for any type of residential use or occupancy. The problem in that area is that the wind and dust make it very unattractive for anything other than agricultural type uses. So in talking with staff with DHHL their plans are to use those lands for agricultural homestead purposes, in other words, agricultural development, no residential homestead on the property.

And as the Director mentioned, you know, the site, the project site is located about a mile mauka of Mokulele Highway so it's hard to see. It's not readily visible from Mokulele Highway. Our preliminary site and landscape plan does show landscape plantings along the western boundary of the property which is the side that faces Project District 10 or the Puunene Airport master planned area.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess my question is is this, yeah, if we're gonna go heavy industrial, I mean, the mother of all uses, the ultimate armpit of uses, the best thing to do is hide it all the way around.

Mr. Tadaki: Yes.

Mr. Hedani: And what I would suggest is providing an easement along the outer boundary of the property so that when the person acquires the property for his use, he implements a portion of a coordinated landscape plan that would ultimately screen it from view from surrounding properties because we don't know what that's gonna be down the line and Hawaiian Homes is Hawaiian Homes, but people are people, yeah, if they cannot see it, you know, they won't throw rocks at you so much.

Mr. Tadaki: That's a very good recommendation Mr. Hedani and I think you know, either Charlie or Blanca may wish to speak to that matter, but you know, I think that's a good suggestion.

Mr. Hedani: Commissioner Wakida?

Ms. Wakida: Yes, thank you. I'd like to echo the concern that was brought up, and to please encourage the applicant to not just screening and bushes but some really serious large canopy trees and provide enough irrigation for those because this is an industrial area that's gonna be a heat magnet. It's just gonna be a radiation area and that will help offset that heat that that area generates as well as the carbon footprint and 10, 15 years down the road this will enhance just the whole general area. I don't...it's an important project and we need it, but it doesn't need to look like an apocalyptic survivor. It can be provided with some good landscaping and by that I mean growth trees that will be there 20 years from now.

Mr. Tadaki: Okay, and that's another good recommendation. I think that's something that the applicant is...would be more than willing to consider, you know, trying to come up with a coordinated landscape plan for the subdivision and all the users within it. Getting back, Wayne to the second part of your question I do not believe that the applicant has any expansion plans beyond what is currently proposed.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: My only comment on that is I think that you know once the project gets going and gets done, progress being what it is, it's something that should be thought about. Something that should be considered as for the future.

Mr. Tadaki: Okay, that's a point well-taken and should the, you know, opportunity present itself, I'm sure the applicant would be willing to consider it.

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

**b) Action**

Mr. Wollenhaupt: The recommendation would be coming in two parts. We'd first look at the Community Plan Amendment. The Department would recommend approval of the Community Plan Amendment changing the CP designation from Agricultural to Heavy Industrial and authorize the Planning Director to transmit the recommendations to the Maui County Council on behalf of the Commission.

Mr. Freitas: So move.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Ball, seconded by Commissioner Freitas, okay.

Mr. Ball: My hand was up anyway.

Chairperson Lay: Any discussion the motion? Commissioner Hedani?

Mr. Hedani: I just wanted to say I thought the presentation and the development was well thought out and comprehensive and I appreciated that.

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

Mr. Medeiros: I like the project. It's needed, and you know, I'd like to see it get done quickly and painlessly as possible.

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



Mr. Spence: The motion is to recommend approval of the Community Plan Amendment to the County Council.

Chairperson Lay: Call for the vote, all those in favor?

Mr. Spence: Okay, that's seven ayes.

Chairperson Lay: Motion carries. Congratulations.

### **Community Plan Amendment**

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

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

Mr. Wollenhaupt: The second part would be a motion for a recommendation approving the Change in Zoning subject to the two conditions that are in the staff report. The conditions are in great part outlined from the State Land Use Commission. The change in zoning would change the Zoning District from Agricultural to the M-3, Restricted Industrial and the recommendation would be authorize the Planning Director to transmit the recommendation on the Change in Zoning to the Maui County Council on behalf of the Commission.

Mr. Freitas: So move.

Mr. Ball: Second.

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

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

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

Mr. Spence: That's seven ayes.

Chairperson Lay: Motion carries. Congratulations.

### **Change of Zoning**

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

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

Mr. Tadaki: Thank you very much, Chairman and Members of the Commission.

Mr. Spence: Okay, Commissioners, your third public hearing—okay, we're going back to No. 1, we're transmitting a Council Resolution to you with regard to protection of historic trees. With us this afternoon is Mr. Joseph Alueta.

- 1. MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 13-139 referring to the Maui Planning Commission a proposed bill to amend Chapter 19.52, Maui County Code, relating to protection of trees within Historic Districts 1, 2, and 3. (J. Alueta)**

Mr. Joe Alueta: Good afternoon, Commissioners. My name is Joe Alueta, I'm your Administrative Planning Officer for those of you who don't know me. My primary role is dealing with amendments to Title 19, as well as your rules and ordinances. There's two ways in which you can do a law. One way is by director initiated which myself or the Director will draft a bill amending Title 19 which is the Zoning Code or the rules or it can be initiated by the Council.

In this case, you have today a resolution from the Council primarily dealing with...well, the purpose of the bill primarily to protect historic trees or large trees within the three Historic Districts. There are three historic districts within the County of Maui. There's a map. Two of them are in Lahaina along Front Street primarily and another one is here in Wailuku.

When we get a bill from, or a resolution to amend Title 19, it's, we don't know what we're gonna get. It's kinda like, we hope it's a well-written bill. Sometime it is, sometimes it's not and a lot of time we try to convince Council that they should try to ferret out a lot of the issues when they have a bill because they do have the staff and resources to do that. Sometimes there's a lot of anxiousness by the Council to get a bill out if they wanna hit something and they'll send down what we consider sometimes a half-baked bill and that's the kinda way we kinda got this bill.

It's a great idea. I mean, there's no...we don't wanna get it wrong...the Administration does support trees. We'd like to protect the trees, however, we do need to have a process in which you identify which trees you're gonna protect, which trees are significant as well as, in the unfortunate event that you do need to remove a tree because it's destroying somebody's...becoming a hazard basically, either it's become diseased. We've had several instances where Maui has had some type of infestation and that has damaged some of our beautiful trees in which it has been the result that we had to take them down. But you need to have a process to try to...if the tree's not able to be saved, you need to be able to identify, how do you remove it, and what's the process?

A lot of times the argument has been, you know, from an engineering standpoint, you know, public

safety standpoint the tree is lifting up some sidewalk, it becomes a hazard, let's cut the tree down. There's been many cases outside of the Historic District as well as inside the Historic District someone had made the front page news, the ones in Kihei, some of you may have remembered, and there's also been one recently, one within Lahaina Town itself. And unless someone makes a big stink about it, you know, the tree pretty much will get cut down. We wanna be able to have a balance between purely engineering standards over purely, you know, I guess tree hugger standard, but we wanna save as many trees as we can in effective manner.

The bill today, again has got its issues. We did take it to the cultural resources commission and again, on Page 2 of the memo report we go over what CRC's comments are, you know, expand the area to include the National Landmark District. These are the comments to the Planning Commission. Establish a mechanism to identify significant trees and some incentives to have a significant tree or just establish any significant tree within the Historic District is considered an exceptional tree. There is a process throughout the County of Maui to identify and nominate what they consider exceptional trees. And there's some tax incentive to landowners that maintain and preserve those trees. Cultural Resources felt there should be something like that for the Historic District rather than just using the stick, there's some type of carrot to landowners as well to preserve those trees.

You know, some real basic stuff like inventory the trees. We've always talked about this. No one's ever been able to get funding for it, but to go around to inventory what trees are in the Historic District both on private as well as public lands to give us a better idea. Establish CRC authority over trees along with the Arborist Committee. I guess this is where, you know, from a Department standpoint in our presentation to the Council was that, you know, we don't have the expertise within the Planning Department nor is there really expertise on the health of the trees within. And so we pretty much had a...there is an Arborist Committee, we felt this bill or the protection of the trees should really be fund...come out of the Parks and Arborist Commission. However, the CRC feels they wanna maintain their authority within the Historic District and that authority is still there. But they wanna be able to at least get go to the Arborist Committee and get their professional input, but they wanna maintain the final authority of whether or not a tree is removed. That's one of their comments.

Establish different criteria for different types of trees. One size does not fit all. This bill did not really have said...certain diameter of a tree when you really look at or the circumference of a tree. That really was only like a 10-inch diameter when you figured it out. And so, you know, maybe that makes sense if it's, you know, certain species of trees, 10-inch diameter is a significant tree, but if it's a monkey pod or some other tree, 10-inches doesn't really, it doesn't really mean much. They didn't establish even where you measure and how you measure it. We feel all of those needs to be added into the bill, but maybe, again one size does not fit all and that's some of the things that we wanted to have ferreted out.

You know, I was really impressed with the CRC when I went to them 'cause they came up with a lotta stuff, you know, that I guess I wasn't aware of as far as protocol you know, for the establishment of removal, but also just, you know, when a tree is planted, you know the significance of the keiki that come along from that. I mean, it's one thing you know when you get huli from, when you're growing taro and all that, I understand that part, but from a aspect of other types of

trees that were planted and how those things are taken into consideration into its significance. I mean, I thought those were really good comments that they had by the CRC.

And you know, almost a broken record, effective enforcement. Enforcement, enforcement, everybody wants us to be more effective in our enforcement. How do we go about enforcing these whatever rules or when the ordinance is changed?

Some general comments coming outta CRC to you on things that also should be consider in identifying a significant tree, the cultural grouping and protocol associated with that tree, planted by a famous person or planted to commemorate a significant event. Other comments, concerns raised by the CRC, the maintenance of significant trees within the Historic District, and again, coming back to, think tree protection first, infrastructure second. I think that was a thing that they really wanted to get home, I guess maybe to Public Works or DOT or whoever but they wanted the Council to consider that as well as you. And then you know, establish some type of cultural protocol to remove the tree. If the tree does need to be removed, what is it, how is it gonna be done? Maybe mitigating measure by replanting it somewhere else or establishing some type of protocol.

The CRC also wanted to make sure that you guys were aware of all of the testimony and as well as the...some good resources that were brought by some testifiers. It was...the Department almost wished we had it beforehand. We did not get these until the day of the meeting. They are attached as your exhibit. I wanted to make sure that you did get them all, and the CRC also with regards to how other jurisdictions are handling this.

And I guess the bottom line is from the Planning Department's standpoint is like, we're not necessarily recommending denial per se, we're just recommending that Council take another crack at it and to refine it and use some of the resources and comments that came back from the CRC and then I guess from where you go from here is, do you like the bill as is written and you want to recommend approval of it or do you also have...do you share the same concerns that we do as far as from the Planning Department as well as the CRC and wanna just forward those concerns, echo those same concerns and then add your concerns about the bill to the Council. And so that's kinda where we're at. That pretty much concludes my presentation on the ordinance itself.

**a) Public Hearing**

Chairperson Lay: Commissioners at this time I'm going to do public testimony is anyone wishes to testify on this please step forward, identify yourself and you have three minutes. Seeing no one, public testimony is closed. Commissioners, any questions or comments? Commissioner Wakida?

Ms. Wakida: So just to clarify we have a bill but the Department has looked at it and the CRC has looked at it and the CRC has made some recommendations and the Department is saying .we think some of those recommendations need to be incorporated in the bill and you guys go write it?

Mr. Alueta: And that's pretty much...well, yeah because it's not our bill to rewrite. We have rewritten Council's bills and it just ends up being a mess. I mean honestly they get...we don't know what they're thinking or what they're gonna agree with and so...because they started it, let them

finish it as far as here's our comments. And that's pretty much your role here. When they send a bill down to us, we say hey we got concerns with it because if you pass it as is, right, there's gonna be some enforcement issues. It will be...I guess you could say it would be better than what is now on the books, but at the same time it will create a lot more confusion for the Planning Department to try, one, to enforce it, as well as, I think that's our biggest issue is how do we implement it? As well as what is the standards for us to remove it? We currently like I said, the examples of when there has been a conflict the Planning Department, Public Works, the CRC didn't result...didn't go to this bill, didn't go to 19.52 to look at how do we remove a tree, it all became, Public Works, CRC, Planning Department, everybody starting talking, Arborist Committee sat down and talked and negotiated how do we save this tree or how do we relocate the infrastructure to preserve the tree and that's what it came down to. And so I guess from our aspect, we'd wanna see it somehow codified, you know, some kind of process that we're currently doing behind the scenes but at the same time, if we need to enforce this bill, how do we enforce it? Give us the tools to say this is how it's gonna be enforced.

Mr. Spence: Just a couple of comments on our concerns and I'll just tell you some of my experience when the County Council passed this resolution, when they passed it out for, you know, input by the various agencies and the different bodies, I started walking through the Historic District in Lahaina and I'm sure some of our Commissioners will weigh in on this, and I like...for instance I went down Luakini Street which is behind a lotta of the commercial buildings and the way that the bill is written just any tree of a certain circumference would be a significant tree. But when we were up in front of Council, and we'll get back to Luakini Street, when we got up in front of Council, David Sakoda, the County Arborist was like, that's an arbitrary number that 11 ½ -inch diameter because you have monkey pods 11 ½ is a baby. There's nothing significant about this. But then you have other trees that may be very, very old who never reach that diameter. So you know, it's species specific and just because a tree may be small doesn't mean it's not...doesn't mean it's insignificant. So his recommendation was that we do an inventory which made a lot more sense and just see what really is in the Historic District that's significant. I went walking through the Historic District specifically looking at an eye with trees, at...towards trees with large trunks or small trunks or whatever. I know that some of the trees within a couple parking lots had very large diameter trunks but because they were on an edge of a property and possibly planted because of parking requirements, I mean, the tree grew up and there was just a little bundle of leaves at the top. You know, there's nothing...but it would meet this definition and I'm like that makes no sense. This is a little lollipop tree that this law would call it significant, but anybody just looking at it would go, I don't think so. But then you go to like Maria Lanakila Church and I'm looking, I'm facing the cemetery there and this, you know, there's no, there's no place in this proposed law that says where you measure from. So I was looking at one of the palm trees about chest high that palm tree is very small, but at the base is very large and up above, about chest high, about you know, 4 ½ feet or whatever it is, it gets much larger again. So how do you measure these things? So again, here's a tree that may be significant but would not meet, possibly not meet the definitions and it's just very confusing and being in that cemetery I would tend to think it is significant. So just a lotta questions we had about this particular bill and I think it would be good to, you know, definitely preserve, give more protection to trees within the historic district, but the way that this bill is crafted is just not it.

Mr. Ball: So what do you want us to do?

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: So what, can you please, maybe Joe could help us one more time, what sort of action do you want, does the Commission take?

Mr. Alueta: I think that our recommendation at this time is to, is against the bill but to try to take...recommend Council take into consideration the comments from the CRC as well as the Department and yourself into redrafting to address some of the concerns. I think there was a lot resource...and to consider some of the resources that were provided in the testimony. I think there was quite a bit and I think that can all be incorporated into a bill and I think that the staff and the committee that it came out of can really get their teeth into it and draft something and then send it back to us.

Chairperson Lay: Commissioner Ball?

Mr. Ball: I'd like to recommend a motion, a motion to recommend the proposal as presented by the Staff.

Mr. Medeiros: Second.

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

Mr. Hedani: Not...I have 11 comments on this proposal. So I don't know if you wanna get everybody else's comments first?

Chairperson Lay: Commissioner Wakida you wish to go first?

Ms. Wakida: I would just like to include that this be done in a timely manner because sometimes these things just get waylaid and they go on, and on, and on. We're losing trees as we speak in Lahaina and shade is absolutely critical in Lahaina. You fry in that town if you don't have shade and all along Front Street large growth trees have been cut down. So I don't think I can suggest a deadline but I would like to really urge that this be completed in a timely manner. That's all.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I'd like comments from the Commission to go forward to the Council too, as a recommendation and I can just run down the list really quick if you like. The first comment I had was I looked at the Santa Barbara proposal and Santa Barbara identifies all the trees that were considered significant. I mean, they named each tree and it was that important to them, yeah as far as the location and identification of the tree. I think they ended up with 85 trees that they considered significant. The proposal that's coming from the Council is nonspecific, it includes all trees. Yeah, I think that's inappropriate.

Trees can be of an invasive species, according to their proposal an invasive species tree would be considered significant and protected if it's over 11 ½ inches in diameter.

Mr. Alueta: Yeah, I brought that up. Do you want to preserve an African tulip tree?

Mr. Hedani: Right.

Mr. Alueta: And they were like, no, no, no. And I'm like, well that's...and so the CRC kinda has that idea. I agree with you.

Mr. Hedani: My forth comment was that 36-inch circumference is less than one-foot in diameter and this would include almost all trees. I think what they were thinking about is 36-inches in diameter might be considered a significant tree. When you think about the banyan tree in Lahaina you're talking about a huge diameter of just the trunk yeah. I have monkey pod trees in Kaanapali that have roots that are 25 inches in diameter beneath the sidewalk that we cut in order to preserve the sidewalk and the trunks of the trees are five feet in diameter. You know, just in the resort and the resort was started was 1962. So I thought it was too broad and that they should think about a caliper diameter for the trunk as suggested by the Arborist Committee 4 ½ feet above ground level and maybe 3 to 5 feet in diameter as being significant or some other criteria that they can come up with other than what was suggested.

I suggest that they include language for hazardous tree removal as you suggested because sometimes it is hazardous and provide for a replacement or relocation alternative so they can suggest an native Hawaiian tree as a replacement for example. You know, location where the tree is gonna be happy as an alternative.

My other comment was that I thought the ultimate decision shouldn't be a cultural decision, it should be an arborist decision from my perspective. So I thought the Arborist Committee should have the final say. And I guess it's the law of the best of intentions yeah. When a proposal like this comes up I think it discourages people from planting trees because they are afraid that whatever they plant is gonna end up being significant down the line and they won't be able to renovate their property 20 years, 30, years, 40 years down the line. And I know that it would...it has already encourage the destruction of trees because in anticipation of something like this coming up, acres and acres of land have been plowed under just to make sure that none of the trees would end up being significant. So the opposite effect of what you want is what's happening right now.

Chairperson Lay: Does the maker of the motion agree with that.

Mr. Ball: Yes, I do.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yeah, and in addition, I'm questioning the wisdom of having a specific number like a diameter to be the criteria because I like the arborists having the final say because there are trees that could be considered significant but the diameter is not the significant criteria for those trees so if there are other standards.?

Mr. Alueta: Yeah, and I think that was the CRC's comments that it should be the diameter of what a significant tree, it should be species specific and I believe the Director was indicating the same

thing.

Ms. Wakida: Okay.

Mr. Alueta: With you know, lollipop tree that's not...a big tree but it's you know, obviously not significant whereas when you have a small tree that was, you know, in a graveyard clearly would have been...should be considered significant given the historic context of it.

Ms. Wakida: Okay, I have a question for the Director?

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: What is the Department's feeling about expanding it to include National Landmark District, National Historic Landmark...

Mr. Spence: Right at the present time I would say, no. The reason being the National Landmark currently takes in huge amounts of non historic properties. So when you have...and some of the ...I'm trying to think if some of the vacation rentals you've reviewed are in the National Landmark because it does extend...it's pretty far mauka of Front Street. It does include properties that are definitely not historic so if somebody starts just planting a tree in that area, all of a sudden you're ending up with a supposedly significant tree that's really not. There is a proposal to look at the National Landmark boundaries and reduce those so we're cutting out some of those more modern subdivisions, maybe at that time we would wanna include it. But at the moment no.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Point of clarification. Did you say if it was a choice between infrastructure and the tree that that would be a critical decision making?

Mr. Alueta: Well, as indicated the Cultural Resources Commission feels that Public Works should look at you know, saving the tree first, infrastructure second. Right now, like I say, whenever trees damage infrastructure and it really becomes a health and safety issue ultimately the tree almost inevitably loses. I think Public Works can probably speak more to that. They've had their share of tree removal or tree preservation so I think they would, but again, we're...especially in the Historic District because of its location because it is a special district you should consider the tree first before you start and look at relocating the maybe the sidewalk or relocating the water or sewer lines if possible.

Chairperson Lay: Does Public Works wish to comment?

Ms. Dagdag-Andaya: Sure. So in the past, I guess three, four years now, we've had couple issues that have come up regarding these trees and the tree roots and their effect on sidewalks and so we've taken a look at different alternatives to maintaining the infrastructure while preserving the trees. So what we do, one of the first things that we do is try to work with the County Arborist in seeing how we preserve the tree or save the tree. So for example like on South Kihei Road there were reports that the tree roots were uplifting the side walk and what we did was instead of



replacing the side walk like a concrete sidewalk we put in asphalt. It's little bit more...it stretches a little bit more and ....I mean, it may be a maintenance issue where we have to go back and replace it but what we try to do is try to save the tree first. We also work with DCAB, the Disability Communication Access Board and we work with them on ADA issues as well. I know there's a lot different factors that are in play, you got ADA issues, maintaining infrastructure, preserving the tree, but we try our very best to try to mitigate everything in one.

Chairperson Lay: Commissioners, any comments or questions on the motion?  
Commissioner Medeiros?

Mr. Medeiros: You know, I think that protecting the trees is a good thing. However, if I got a choice between a tree, you know, with the exception of the banyan tree, I don't care what you don't touch that tree, I'm from Lahaina, there are times when the tree will take up a sidewalk so safety issues. There's times when it might affect a water main or you know, sewer, you know, and I think that when it comes to servicing the public, you know, that has to take priority over a tree. You know, how many of you have lost water for an extended period of time, you know, how much does that upset you and how do I explain to a kid that, oh, you cannot take a shower 'cause you know, we gotta save the tree and the tree breaking the pipe? You know, I mean both sides have to be looked at and I agree what Public Works is doing right now they're trying to find a solution, but to just go, no the tree first, that's wrong, you know. Look at both sides, weigh it out, do what they're doing now, you know, it ain't broke don't fix it.

Chairperson Lay: Any more questions or comments? If not if we can get the Director to repeat the motion?

Mr. Spence: Mr. Chairman, I'm not sure if I can remember what the motion was. Would the maker please restate it?

Mr. Ball: The motion was to accept the or to recommend the Department's recommendations, the Commission's recommendations, and the Cultural Resources Commission's recommendations to the Council.

Mr. Alueta: And the comments that I got again from, primarily from Mr. Hedani, Commissioner Hedani was, you know, he did like the Santa Barbara...there was other ordinances out there that were pretty good, that the way they had named them. Should exclude some invasive trees. You had recommended a larger caliper tree. I guess from the Department's standpoint we're recommending that you be caliper, caliper specific to the species. Measuring by the...how the Arborists is doing. Look at the language the Arborist...Language for hazardous tree removal which again goes back to Mr. Medeiros's comments. Replacement or relocation of trees and the ultimate authority should really be with the Arborists as far as if there is gonna be removal. And just general comments about the bill may discourage people from planting trees as well as the bill may be encouraging people to remove trees in anticipation of the bill and that the Council should take that into consideration. I guess, and from Ms. Wakida is like, you know, given those comments and concerns, the bill needs to be...the Council should react to the comments and try to get something back to the Commission as soon as possible. That kinda summarizes it.

Ms. Thomson: I think maybe one more clarification also that, that the CRC's comments you may or may not agree with all of them. One of the CRC's comments was in priority tree first, infrastructure second where Commissioner Medeiros was suggesting that it's more of a balancing.

Mr. Alueta: Okay.

Mr. Medeiros: Yeah, I was suggesting status quo. What the Public Works are doing, is doing now is good with me.

Mr. Alueta: Okay.

Chairperson Lay: Okay, do the Commissioners have an understanding of the motion? If so, let's call for the vote. All those in favor?

Mr. Spence: Five ayes.

Chairperson Lay: Motion carries.

Mr. Alueta: Thank you very much.

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

**VOTED: To Recommend the Department's, the Commission's, and the Cultural Resources Commission's Recommendations to the County Council.  
(Assenting - K. Ball, J. Medeiros, W. Hedani, P. Wakida, R. Higashi)  
(Excused - S. Duvauchelle, J. Freitas, M. Tsai)**

Mr. Spence: Commissioners, it's 4:17 and we are on your last Public Hearing item. This is an application by Ms. Ann Fricker for a Short-Term Rental Home Permit to operate the Kuau Point Short-Term Rental Home in the R-1 Residential District. And our Staff Planner this afternoon is Ms. Gina Flammer.

- 3. MS. ANN FRICKER requesting a Short-Term Rental Home Permit in order to operate the Kuau Point Short-Term Rental Home located in the R-1 Residential District at 115 Aleiki Place, TMK: 2-6-012: 073, Paia, Island of Maui. (STPH T2013/0021) (G. Flammer)**

This application is being reviewed by the Maui Planning Commission because there is at least one permitted Short-Term Rental Home operation located within 500 ft. of the subject property.

Ms. Gina Flammer: We're just gonna pull up a power point. It'll just take a second. Okay, good afternoon. Thank you for your patience. I appreciate that. I believe the Director read the description. I'm not sure. It's to obtain a Short-Term Rental Home to operate a three-bedroom dwelling in the County Residential Zone on approximately .4139 acres. So the applicant is gonna

give you a power point that's gonna give a little bit of history of the property. It's brief. I did wanna point out in the report that you have just a few things. On Page 2, I did give a description of the project but there's also I included the applicant's description in the exhibit. You can see what was submitted with the application. And then on Page 3 if you look at No. 5 and 6 under, Description of the Property, 5 is a brief neighborhood description. So we're talking about the residential neighborhood that's adjacent to Mama's Fish House, the Kuau Plaza Condominium complex, the Kuau Cemetery. I go into a little bit about what the lots are there.

In No. 6, we're because of a trigger because there's two other permitted operations in the same neighborhood and then I do give you some maps, but then I wanted to let you know when we go into our analysis if you go to Page 12, in there we look much closer at who are two approved permits. One of them is on the same street, it's for six bedrooms it was approved last year. There's been no complaints. There were no neighbor protests during the application period. There were no police comments and we haven't had any comments since.

The second existing operation in that neighborhood is located around the corner. There's a map in Exhibit 10 shows you where they're located. This particular property was a bed and breakfast first and then owner purchased the lot next door, built her home there, moved into it and then turned what was the bed and breakfast into a short-term rental home. She still lives next door. I just wanted to let you know that.

I mention in here there was a protest letter so I go into a little bit analysis about that protest letter and I will let the applicant talk about that in his power point. I do wanna note that the protest letter came in during the 45-day initial application period. You know how applicants are required to notify their neighbors when we receive the application and they have 45 days to protest. This came in during that time. I know the applicant did go and speak with him. He did not submit another one for the public hearing though he did receive another public hearing notice.

And then I wanted to point out that we have six letters of testimony, five are letters of support, four of them are from neighbors that are close by, and one is the protest letter that we just talked about. In your Exhibits we have maps showing you where it is. We have a pictometry overview to show you. I included Mama's down on the bottom just to give you a little better sense of what kinda neighborhood where we are. Their own written description that they submitted. The letter that the applicant sent to all of their neighbors at the beginning of the process and then I have the map that shows you where all the...where the other two located. Exhibit 11 is the community plan region that shows you. I did the bed and breakfast one because I know you like to see those as well. I wanted to point out that this isn't in the Maui Island Plan Small Town Boundary for Kuau. So you can see the map in Exhibit 13. The Police had no comments on this. And then we have the letters of support as well as the protest letter that's in the back. I'm gonna turn it over to Robert Sandberg who is the applicant's husband and who's gonna give you a brief presentation.

Ms. Ann Fricker: Actually, I was just going to introduce myself first. My name is Ann Fricker and I want to thank you in advance for your consideration and your time. My parents bought this house 32 years ago and absolutely loved it. So we grew up knowing about it. Whenever we were in Hawaii we would go visit it. The renters there would let us go out and sit in the backyard and look at the ocean and we very much liked it and wanted the ocean views but we also like the

neighborhood. It has a lot of aloha spirit, very friendly. So we admire, respect and want to protect that neighborhood and that's really as important as anything to us. We want to be amenable to any kind of criticisms. We're willing to do just about anything to overcome them. And we really want to screen renters to make sure that they are they type of people who would be respectful of the neighborhood, follow the rules that are in the short-term planning permit requirements. So thank you so much for listening to our request and my husband, Robert Sanberg, is going to give you a brief, hopefully very brief rundown and a slide show, thank you.

Mr. Robert Sandberg: This really is a short slide show. If not a minute, three minutes, four. I'll go through it and then questions afterward. We want to talk about the neighborhood.

Unidentified Speaker: Please talk into the mic.

Mr. Sandberg: Sure. We want to talk about the neighborhood. We want to talk about our house. And we want to talk about our family. I'm trying to advance... You know what, I respect your time, so I'll just talk through while we're trying to get the slide show. Probably all of you know Kuau neighborhood. If not, it's a small enclosed area next to Mama's Fish House. It's a no outlet neighborhood meaning there's one road in off of Hana Highway and one road out. That road leads off the street to go into the town. Those three roads all lead down to one shoreline road, Alaiki which is where we are. So it's a small area where everyone walks around. You know the neighborhood. It's 20 mile an hour speed limit in our neighborhood, most people go 10 miles an hour it's out of respect.

When we started the process of considering a short-term rental we first of all, Ann and I visited all of our adjacent neighbors and talked to all of them before we even put in a permit to see if anybody had any issues at all. We wanted them to know us. No issues. We spent evenings walking around the neighborhood, running into people, introducing ourselves if we didn't know them, and again, explaining what we're doing. And we've got a map in there that shows the 500-foot diameter and we've got green dots on everybody that we talked to and didn't have a problem with it. There was one letter of protest that came in Rich Ferrari sent it in in September. Are we good to go? Okay. That was the bit about the neighborhood which is basically the neighbors are used to seeing a lot of visitors. That's the one way into the outlet near Kuau Mart Store and leading down to the three main street. They each feed down to the ocean side street, Alaiki. There's one of the streets that points down to Alaiki. Our place is right at the end. There's a wall around it so it goes right to our wall and that's the street view and this is outside.

So as I mentioned we spent time seeing our neighbors and talking with them. Our house right there in the middle, green dots, all people that we've talked with. We didn't...we weren't able to talk to everybody. I'm kinda shy about knocking on doors, Ann isn't. Ann has knocked on a few doors. Some of them, there's no conversation because people don't always live in their homes, they live some place else. One protest came in from Rich Ferrari in September. We ran into him in January and in his letter he talks about, he's concerned about people not being invested in the neighborhood. His concern Ann understood was that we were investors, speculators, that were investing in the house. He didn't realize it's been a family house for 32 years, and he's okay with it.

Our floor plan is basically 2,000 square feet, single story. We have no swimming pool. We have no hot tub. We have no amplified music. We like it as a quiet, peaceful, light, bright ocean side place. We're looking for people that have that appreciation. We're right on the ocean, beautiful view. That's the channel, the launch channel for windsurfers that goes right out from our area. The house is on almost a half an acre so there's plenty of space. Hundred feet from the street to the house so we're buffered, it's quiet, it's private. We spent the last year and a half working with designers and craftsmen and using some of our own family art to decorate the house as a place that's bright and cheery. One that is all new, it's all clean and sparkly and we hope that it offers a good alternative primarily to families. That's our target for renting would be to families, maybe grandma and grandpa and maybe the kids. Dining room on the ocean.

As background, Mom and Dad as Ann said bought this as their retirement place 32 years ago. It has never been a short-term rental. It's a place that our family has always owned. Mom and dad lived long, long lives. Dad passed away just a few months in November at 93. Mom passed away a little bit before that, but they loved the place. We talked about it at dinners for years. Ann said we grew up hearing about the place. Well we're in our late sixties, they've been there 32 years, so we were pretty grown but we spent a lot of family time thinking about it, talking about.

Why do we want this as a vacation rental? Why now, why this? As I mentioned, there are three children, Ann, her brother and she has a sister and all of us are grown and we all have grown children and someday soon we're gonna have grandchildren. So as a short-term rental it's a way our three families can share it. There's two of us, Ann and me on the right, her brother with Machida-Fricker family and she has a sister too who...and her husband are in California. They're a little eccentric. They...you probably don't know many people like them. They avoid going in cars whenever they can. Neither one of them has been on an airplane in 45 years. So if we had this as short-term rental, our families can share, but they can't, but they could share with the rental. So the house is what mom and dad had left to the family. We see it as a good alternative for all of us to enjoy and share it.

The neighborhood is very important to us as Ann mentioned so the way we wanna approach it is to rent the house, not the rooms. There was mentioned of other places in the neighborhood. They are short-term rentals but six bedrooms or so or more bedrooms than another place, they rent out or can rent out each bedroom as a suite to a couple. There could be four or five couples. They have I think smaller minimum than us, four, five day minimum. We're hoping for one, one family hopefully to rent the whole house for a minimum of a week so lower traffic. We have local, experienced property managers that we're confident can screen the applicants for us and as I said, families are preferred. I think I made it in three or four minutes. And mahalo for your time and consideration.

**a) Public Hearing**

Chairperson Lay: Commissioners, at this time I'm going to go to public testimony. If anyone wishes to testify, please step up to the mic, identify yourself and you have three minutes. Seeing no one, public testimony is closed. Commissioners, any questions? Commissioner Wakida?

Ms. Wakida: This would be I think for the applicant. Your home's lovely and the location is lovely.

Are you aware that Paia and Haiku have a community plan? You may be generally aware, you may not, well anyway it does. And I am always a little concerned about the gentrification of Paia and Haiku because it was always such a local community and when I see all these little pink squares here I even get more concerned and so it sent me to the community plan. And it says in here, and I'll read you this paragraph no. 13, it says, limit visitor accommodations to owner-occupied bed and breakfast establishment especially in residential areas in both scale and character. Any proposed bed and breakfast should not be situated near the shoreline so as to avoid the proliferation of this use and subsequent changes in the character of the region's coast. So I assume that you're not familiar with that paragraph in the community plan?

Mr. Sandberg: We are not applying for a bed and breakfast permit.

Ms. Wakida: I know you're not. I think when this was written they didn't...short-term rentals it wasn't language that the Department was using in those days so it says though if you do have a rental it should be bed and breakfast, however it shouldn't be located on a shoreline.

Mr. Sandberg: And all that's changed.

Ms. Wakida: You're not aware that that is in the community plan I assume.

Ms. Fricker: I don't know what they meant by change either. I'm thinking, you know, we did not change the footprint of the house or anything like that. All we did was to paint inside and kinda spruce it up. But are you saying...what was the change that they were referring to, just to have it be a short-term rental?

Ms. Wakida: No, change the character of the neighborhood.

Ms. Fricker: Right, to have the rentals. And that's what we really don't want to do as much as we possibly can. We would like to spend a lot of time there as the family.

Ms. Flammer: That's a interesting provision you pulled out because Council had to consider that as well when they adopted the short-term rental law. They decided not to put a provision in the law about shoreline properties. I was kind of curious when I went to the Haiku Community Association how they felt about that one in particular. There's other policies in here too that speaks to hotel use. So I asked them about the different provisions and the shoreline and they didn't make any statements that they wanted a prohibition. I thought if they did it might be something that we would consider and bring forth to Council as part of our due diligence that we did before we brought the bill, but they did not bring that up as something that they wanted.

Ms. Wakida: May I continue Chairperson with a question?

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Well, my question is, does the short-term rental bill trump the community plan?

Ms. Flammer: Probably something for our Director to discuss?

Chairperson Lay: Director?

Mr. Spence: I think that's, I think that's something the Commission should consider in this. I mean,...as I recall the passage, the policy in the plan it's so it doesn't change the neighborhood. If I think if the Commission is in talking with the applicants and reviewing the material if you think it's changing the neighborhood then you would have, you might have reasons to deny, but likewise if it's not changing the neighborhood I don't see a reason why, you know, you can't approve it.

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

Mr. Medeiros: Yeah, okay obviously you're not a resident of Maui because you just wanna use it for you and your family a few weeks out of the year. Do you plan on ever living on Maui?

Mr. Sandberg: Robert Sandberg. We have been staying many more than a few weeks out of the year. Our intention is to spend extended periods between our various families. We been coming to Maui for...I first came here in '71. We come here often. We may have health issues that would bring us here. Our home in California is one that has 75 steps up from the street to the house. This is ideal for people that have mobility issues. It's all one level. It's a wonderful option that we have as a place to live. And I think yes, we'd love to live here, but there's too many circumstances that all play out and all make things happen. We're not occasional visitors that are here for two weeks a year. We've been visiting here regularly for extended period for over 30 years.

Mr. Medeiros: Okay, the key word for me is visiting. That's all. Thank you.

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

**b) Action**

Ms. Flammer: Okay, so as you can see from the report that you have the Department recommends approval with 23 conditions. I could go through them but you've seen these many times. These are for the short-term rental. It's a little different. Sometimes we go through the ag ones. So in consideration of the foregoing, being the analysis that we did and the 23 conditions that the Planning Department recommends that the Maui Planning Commission adopt the Department's report and recommendation prepared for today's meeting April 8, 2014 as its findings of fact, conclusion of law, and decision and order and authorize the Director of Planning to transmit said decision and order.

And the only other thing I wanna mention is if you're gonna have discussion about it, it be very useful to have you open up to Page 7 of the report that has all the requirements listed.

Chairperson Lay: Commissioner Ball?

Mr. Ball: Motion to approve as recommended by Staff.

Chairperson Lay: Motion by Commissioner Ball.

Mr. Hedani: Second.

Chairperson Lay: Seconded by Commissioner Hedani. Any discussion on the motion? Commissioner Wakida?

Ms. Wakida: I will be voting against the motion. I feel that the community plan has merit. It was made 19 years ago to keep and this particular item no. 13 seems to me it was prevent chipping away at neighborhoods and losing of rural nature of the areas and residential areas which is exactly what's happening now. So I will be following the community plan's recommendation.

Chairperson Lay: Commissioner Medeiros? I also will be voting against the motion. You know, we come across so much of these, you know. And the bed and breakfasts I can live with because that's people living there taking care of the property because it's their home not just their property. Okay, they, they are visitors, you know, extended or not that's all, and that's what they are, you know, and I think will go with the community plan also.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: From everything that I've heard today I get a sense from this couple that they have more understanding about aloha and about the neighborhood and about people than what we're subjected to for hours, and hours, and hours today. I get a sense of aloha from the couple. I get a sense that they communicate with the neighborhood. They talk with people and that they can...well, they made nice improvements to the property and they can operate it in a way that would be not disruptive to ...(inaudible)...neighborhood. This sounds really strange coming from me because I'm usually death on short-term rentals, but I really get a sense of aloha from this couple and I'd like to help them out. I'd like to see them keep the property within their family instead of having to part with it and it provides their family with the opportunity to enjoy the property as was originally conceived by their parents. So my perspective that makes a difference. And you know, I agree with Penny from the standpoint of the community plan says this, but the community plan should be revised to keep with the rest of the laws that have been passed.

And I think if they had a chance to look at that particular provision again, they may reconsider it. I think the Council as well as the Department should look at the number of short-term rentals and bed and breakfasts that were originally approved because my personal opinion is that it's too high and it's impacting neighborhoods over the long term, but I have a genuine sense that there is some aloha here and that's the reason why I support it.

Chairperson Lay: Okay, I'd like to comment just an observational point from what I've seen and what they've testified before so they've been here a while, their parents have been here a while, they got approvals from their neighbors which is sometimes really, really difficult out there to get and there's a lot of heart behind it and yes, there is a issue on if this is what we had in mind for the future and just an observation for your guys to think about too while you're voting right now. Any more discussion? Commissioner Higashi?

Mr. Higashi: Mr. Chair, looking at the request itself I think if it was a rental unit for a longer term of time like two years or three years you'd have less movement in that particular community. So in



that way they're having it request at weekly. I have a problem with that in that particular area. I'm familiar with Kuau. The street is very narrow. It's not, it's not wide streets like Kamehameha Avenue in Kahului. So I would kinda strongly agree with Penny from the standpoint that we have look also and address the community plan and if that's one of the issues then we should abide what is there. Thank you.

Chairperson Lay: Commissioners? Commissioner Ball?'

Mr. Ball: Let me make a suggestion that we defer this to the next meeting because it looks like we're gonna have a standoff. We'll go around and around and if we defer it to the next meeting then it stays open and we'll have more members to vote on this and the application stays open. So that's my two cents on it.

Mr. Medeiros: I agree with Commissioner...

Chairperson Lay: You seconding the motion then?

Mr. Medeiros: Well, yeah... I will be voting against that. I wanna be fair, you know they're nice people. I wanna be fair and the only way we can be fair is that there are more people here to help us to make the decision. As it stands right now it would be...with the amount of the people we have it wouldn't be fair to them. Are we withdrawing our motion then?

Mr. Ball: I will withdraw my original motion and replace it with my new motion to defer.

Mr. Medeiros: Second.

Mr. Ball: With Corp. Counsel's blessing.

Mr. Spence: Who seconded the original?

Mr. Medeiros: Me.

Chairperson Lay: Any discussion on the new motion?

Mr. Spence: Okay, so just so that the record's clear Commissioner Ball withdraws his original motion and Commissioner Hedani consents. And so now there's a new motion on the floor by Commissioner Ball to defer this item to another meeting.

Mr. Medeiros: And I seconded it.

Mr. Spence: And Commissioner Medeiros has seconded that.

Ms. Flammer: I just have procedural question about renoticing. Do we need to be date specific if we're gonna not have to...

Mr. Spence: We've held the required public hearing.

Ms. Flammer: Okay.

Mr. Spence: So I mean, but of course, the...if neighbors wanna testify at the next time this comes up it's just like any other agenda item and they're welcome to do so.

Ms. Flammer: Okay.

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

Mr. Spence: The motion is to defer the item until another date, and I think that date will just have to be whenever we have room.

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

Mr. Spence: That's five ayes.

Chairperson Lay: Thank you.

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

**VOTED: To Defer the Matter to Another Meeting in Order to have More Members Present.  
(Assenting - K. Ball, J. Medeiros, W. Hedani, P. Wakida, R. Higashi)  
(Excused - S. Duvauchelle, J. Freitas, M. Tsai)**

Chairperson Lay: At this time I need to take a five-minute break. At this point Commissioners, Commissioner Hedani?

Mr. Hedani: You know, in deference to the people that have stayed here all day waiting for their item to come up I think we should try to power through.

Mr. Ball: I have to leave, but--

Mr. Medeiros: Do we have quorum?

Mr. Ball: You do have a quorum but it's gonna have to be unanimous. It's gonna have to be a unanimous vote otherwise.

Ms. Wakida: I have to...(inaudible)...

Mr. Ball: It's gonna be another hour.

Ms. Wakida: Apologies to certainly to--

Chairperson Lay: For those who have been here.

Ms. Wakida: –the people who have been waiting around.

Chairperson Lay: Okay, we have a motion on the floor to defer the rest of our agenda to the next meeting. Again, well see if we got that first. We have a second by Commissioner Wakida. Call for the vote. All in favor of deferring the rest of our agenda to the next meeting?

Commission Members: Aye.

Chairperson Lay: Again, we apologize for those who shown up today.

## **G. COMMUNICATIONS**

1. **MAUI LANI VILLAGE CENTER, INC., requesting a time extension and amendment to Condition No. 32 of a Project District Phase II approval for the construction of the Maui Lani Village Mixed Use (VMX) project located on approximately 56.9 acres of land along Maui Lani Parkway and Kuikahi Drive, TMK: 3-8-097: 002 thru 081, Kahului, Island of Maui. (PH2 2007/0002) (D. Dias)**

**Condition No. 32 reads: “That as represented by the applicant, and agreed to by the Department of Public Works (DPW) Maui Lani will agree to expedite the design and construction of the initial two lanes of Maui Lani Parkway (MLP) between Kuikahi Drive and Onehee Avenue together with the extension of Onehee Avenue to intersect with the MLP. Maui Lani will complete the MLP improvements by December 2013 subject to approval by the SHPD and the Burial Council. Said completion shall be a condition of the Phase II approval but shall not be a condition of occupancy or subdivision approval for the VMX District. (Recommended by Department of Public Works (DPW)).**

## **H. ACCEPTANCE OF THE ACTION MINUTES OF THE FEBRUARY 25, 2014, MARCH 11, 2014 AND MARCH 25, 2014 MEETINGS AND REGULAR MINUTES OF THE NOVEMBER 26, 2013 MEETING**

## **I. DIRECTOR’S REPORT**

1. **MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission’s SMA Rules of his intent to process the following time extension requests administratively:**
  - a. **KAK II, LLC requesting a one (1) year time extension on the Special Management Area (SMA) Use Permit condition to complete construction of the Ke Alii Kai II (aka Moana Estates) Subdivision and related improvements at TMK: 3-9-019: 004, Kihei, Island of Maui. (C.**

**Thackerson)**

The Applicant's consultant states that the Applicant needs to complete the construction of the remaining six (6) homes.

- b. WESTIN MAUI RESORT & SPA requesting a two (2) year time extension on the Special Management Area (SMA) Use Permit condition to initiate construction of the renovations to its lobby and porte cochere at TMK: 4-4-008: 019, Kaanapali, Lahaina, Island of Maui. (SM1 2008/0020) (K. Scott)**
  - c. WAILEA MF-7 LLC requesting a two (2) year time extension on the Special Management Area (SMA) Use Permit condition to initiate construction of the Wailea MF-7 Multi-Family Residential Project at Kai Malu Drive at TMK: 2-1-008: 116, Wailea, Kihei, Island of Maui. (SM1 2006/0038) (C. Thackerson)**
- 2. Maui Planning Commission requesting that the Hana Advisory Committee to the Maui Planning Commission provide its comments on the following matters prior to review by the Maui Planning Commission:**
- a. Mr. William Spence, Planning Director transmitting the Planning Department's Report with comments, recommendations, and proposed amendments to the planning commissions for review and transmittal to the Council on Ordinance No. 3941 relating to Short-Term Rental Homes pursuant to Section 16 of Ordinance No. 3941. (G. Flammer)**
  - b. Mr. William Spence, Planning Director transmitting the Planning Department's Report with comments, recommendations, and proposed amendments to the planning commissions for review and transmittal to the Council relating to Chapter 19.64 of the Maui County Code relating to Bed and Breakfast Homes. (G. Flammer)**
- 3. SMA Minor Permit Report (Appendix A)**
- 4. SMA Exemptions Report (Appendix B)**

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

**VOTED: To Defer Items G-1, H, I-1a, b, c, 2a, b, 3 and 4 to Next Agenda Due to the Lateness of the Day.  
(Assenting - J. Medeiros, P. Wakida, K. Ball, W. Hedani, R. Higashi)  
(Excused - S. Duvauchelle, J. Freitas, M. Tsai)**

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

**a. April 22, 2014 meeting agenda items**

Mr. Spence: Commissioners, briefly what's coming up on April 22<sup>nd</sup>, Mr. David Gomes of Hawaiian Cement requesting a Land Use Commission Special Use Permit. The second public hearing is Mr. Roger Casey and Ms. Louise Edmund requesting a Land Use Commission Special Use Permit to operate a short-term rental in the Ag District. And then there'll be acceptance of the Final Environmental Assessment for Kahana Sunset as a Finding of No Significant Impact. And then there'll be some scheduling of some matters, and orientation workshop and we'll try to fit in whatever we can from this meeting.

Chairperson Lay: Any further business. If not, I need a motion to adjourn.

Ms. Wakida: So move.

Mr. Medeiros: Second.

**J. NEXT REGULAR MEETING DATE: APRIL 22, 2014**

**K. ADJOURNMENT**

The meeting was adjourned at 4:53 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN  
Secretary to Boards and Commissions

## **RECORD OF ATTENDANCE**

### **Present**

Keone Ball  
Jack Freitas (excused at 3:46 .p.m.)  
Wayne Hedani  
Richard Higashi  
Ivan Lay, Chair (excused 10:11 a.m. - 2:32 p.m.)  
Jason Medeiros  
Max Tsai (excused at 3:46 p.m.)  
Penny Wakida

### **Excused**

Sandy Duvauchelle

### **Others**

William Spence, Director, Planning Department  
John Rapacz, Planning Department  
Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel  
Rowena Dagdag-Andaya, Director, Department of Public Works