

**MAUI PLANNING COMMISSION
REGULAR MINUTES
JULY 22, 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, July 22, 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: It's July 22nd, and it's 9:00 a.m., and the Planning Commission is now called to order.

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: At this time I'm going to open up to public testimony. If anyone wishes to testify at this on an agenda item they can do so by stepping forward to the mic, and you have three minutes to testify on your agenda item. Please identify yourself, and again three minutes and you can only testify at this time, you cannot testify again when the agenda item comes up unless you have something new to bring up. Does anyone wish to testify at this time? Erin Starr? Again, it's up to you if you wanna testify at this time or you can wait for the agenda item?

The following individuals testified at the beginning of the meeting:

Erin Starr - Item C-1, State Department of Accounting and General Services, SUP2
Camille Lyons - Item C-1, State Department of Accounting and General Services, SUP2
Theresa Thompson - Item C-1, State Department of Accounting and General Services, SUP2
Francis Cameron Ort - Item C-1, State Department of Accounting and General Services, SUP2
Lloyd Sodetani - Item C-1, State Department of Accounting and General Services, SUP2
Hugh Starr - Item C-1, State Department of Accounting and General Services, SUP2
Michael Kovich - Item C-1, State Department of Accounting and General Services, SUP2

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

Chairperson Lay: Anyone else wish to testify? Seeing no one, public testimony is closed and moving onto our first agenda item.

Mr. Spence: Good morning Commissioners. And speaking of the cemetery in Makawao, that's the first item on our agenda. This is State Department of Accounting and General Services requesting a State Land Use Commission Special Use Permit for the Maui Veterans Cemetery expansion for ten acres located in Makawao. Our Staff Planner this morning is Mr. Paul Fasi.

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

1. STATE OF HAWAII DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES requesting a State Land Use Commission Special Use Permit for the Maui Veterans Cemetery Expansion project of 10 acres and related improvements in the State Agricultural District at TMK: 2-4-002: por. of 009 Lot 4-A, Makawao, Island of Maui. (SUP2 2014/0009) (P. Fasi)

Mr. Paul Fasi: Good morning. This matter arises from an application for a State Land Use Commission Special Permit filed by Belt Collins of Hawaii on behalf of the State of Hawaii and it's Office of Veterans Services and the Department of Accounting and General Services today for the Maui Veterans Cemetery Association. This is the applicant.

The applicant is requesting the longest time period possible for the State Land Use Commission Special Permit. The permit is to expand the park, make improvements, continue operations well into the future. The cemetery has been in this location for approximately...for 63 years. I'm not gonna get into the details of the project improvements. I'm gonna leave that for the applicant's representative, Mr. Gene Yong is here to make a presentation. I'll just cover the government regulatory statutes.

The Land Use Designations are as follows: The State Land Use Designation is Ag. It's in the Maui Island Plan as Small Town. It's the Makawao-Pukalani-Kula Community Plan Ag, County Zoning is Ag. It is not in the SMA.

The applicable State regulations are found in 205-6, Special Permit, Hawaii Revised Statutes. And the County...it says, the County Planning Commission may permit certain and unusual and reasonable uses within the Ag and Rural Districts other than for which the district is classified and there are five such guidelines.

The subject application, the subject action did involve ...(inaudible)...Chapter 343, a Final Environmental Assessment and a Finding of No Significant Impact was completed in June of 2013 for the proposed action.

As far as County land use regulatory statutes are concerned it is in keeping with the Countywide Policy Plan Goals, Objectives and Policies. The Veterans Cemetery is approximately at 96 percent capacity. It's nearly full. It is currently only seven acres and it needs to be expanded to accommodate more grave sites for the veterans and their dependents. Since opening in 1951, seven acres has been used to accommodate the veterans of major conflicts of World War I, World War II, the Korean War, Vietnam War, Kuwait, Iraq, Afghanistan, and other conflicts worldwide. Ten additional acres is not only needed, but it is entirely justified.

The Maui Island Plan, there are two relevant Maui Island Plan policies that are immediately addressed by the proposed expansion and improvements and this is in keeping of rural landscape and lifestyle or natural system, cultural resources are protected and compliments the viability and character of the rural communities.

The proposed expansion and improvements is in harmony with the Maui Island Plan, introductory remarks and policies and goals. According to the Makawao, Pukalani Community Plan the current use as a memorial park is consistent with the land use map in the community plan.

The agencies that responded to this particular proposal, you wanna take a look at the comments from the Water Department and they stated that the particular parcel is serviced through an existing one and a half inch water meter with the flow capacity of 100 gallons per minute. The proposed project would increase the existing water demand to roughly 116,000 gallons per day from the existing 69 gallons per day. The Department of Water further commented that the Upcountry water system is capacity and no new water meters will be distributed if your not on the priority wait list, of course we all know that. So basically the irrigation that is projected is to increase the flow demand by additional 120 to 225 gallons per minute. So you wanna ask the applicant how are they gonna mitigate that. I know they're gonna put a large storage tank on site to help with that flow. And you wanna probably ask them about the new irrigation system that they're gonna install.

Traffic is a concern especially on Memorial Day as it is with every memorial park. However, the normal traffic flow on weekdays, TIAR was performed. There is a section in my report that has the traffic analysis and basically the conclusion was that the improvements will not have a significant effect on the traffic flow in that area.

This concludes the Department's report. If there's no questions I'm gonna have Gene Yong from Belt Collins make his presentation. Thank you.

Mr. Gene Yong: Thank you. My name is Gene Yong. I'm with Belt Collins. We're the agent for the applicant. With me are Neal Mitsuyoshi who's the Chief Engineer for the State Department of Defense and Ronald Hahn who is the Director for the State Office of Veterans Services and we also have various members of the design team and agencies...County and State agencies who have been involved in the process throughout. So thank you.

You each have a copy of our presentation so...of course to follow on. So as mentioned, the Veterans Cemetery was established in 1951. It consists of seven acres. Existing grave sites on the existing cemetery is about 3,320 of which only 109 are still available as of July of this year. That's roughly about 12 months of capacity left. The land is owned by the State of Hawaii as required by the VA and by Executive Order the State assigns management and maintenance of the cemetery to Maui County, and Maui County manages it through the Department of Public Works, Highways Division and we have representative of the division here to answer any questions regarding operations and maintenance.

Existing operating hours for the Maui Veterans Cemetery is Monday through Friday, 7:00 a.m. to 3:00 p.m., and I'll explain a little later on what that means. Typical attendance, visitations you know on a daily basis is approximately 20 to 30 persons per day. Typical attendance at committal services varies from 15 to 40 people, and there are about 8 to 12 committal services a month. So about two to three per week. Each of those services last for about two hours, one to two hours and we'll talk a little bit about, you know, where that occurs. There are two special events which occur annually at the Veterans Cemetery. They are ceremonies to commemorate Memorial Day and Veterans Day. At those events there are about anywhere from three to five hundred people, you

know, estimated that attend such events.

The application is for a State Special Use Permit to expand Maui...the existing cemetery onto ten acres of adjacent land within...which is in the State and County Agriculture Land Use and Zoning Districts. The purpose of the project is to alleviate the shortfall in the ground burials capacity. At this time, I'll turn the presentation over to Ronald Hahn who will go through the next couple slides. Thanks.

Mr. Ronald Hahn: Yeah, thank you, Gene. Before I get started, thank you very much Commissioners for the opportunity to testify this morning. Very briefly, I'm a 28-year Air Force Veteran. My son and daughter live on Lower Kula Road and I have family buried in Maui Veterans Cemetery and I represent the eight State Veterans Cemeteries throughout the State. Punchbowl being the Federal cemetery, all the rest all belong under the State with partnership with the County.

The ...(inaudible)...over here that Gene had made mention of 2010, we started the expansion and grave restoration project as was mentioned by some of the other briefers. Things happened much, much prior to that, but the actual formalized things started to happen back in 2010. The ten acres actually was...the communications started to occur with the landowners and with the County and we started to really work with DAGS and DLNR, Department of Land and Natural Resources.

In 2012, the Secretary at that time of Veterans Affairs Eric Shinseki physically came to visit at the Maui Veterans Cemetery and we had County representatives there, ...(inaudible)... Engineering Lieutenant Colonel Mitsuyoshi was there along with the veteran support groups and his main concern was to look specifically at what this cemetery required. And so he had seen our application that went up the year prior and noticed of all the different things that were needed. And so he made a special effort to come out there and because of his efforts and the efforts that we've worked with the County, other partnerships, it became the number one, Priority Group 1, in the nation. That's a 131 state and tribal cemeteries with the top 100 list to try to \$45 million, and Maui Veterans Cemetery came out number one on the list. So the Secretary backed it up with resources. Next slide please.

The process, we go and we lobby very hard with our State Legislators in order to try to get State match money. The VA will not provide any kind of Fed match unless we have minimum of 10 to 15 percent State match. And most of you know the last three years, the State has been in the red, furloughs, 5 percent reductions, many other complications. So we was still able to get that money because of the assurity of what the Feds have been saying that they would deliver.

Once the application went forward, the money was provided, the grant opportunity it only comes out in October and again, we've had to defer the money that we received for the last two years mainly because the State did not own the land. If you don't own the land there's no reason that that money should be provided to you because it can go to another organization, another State, another cemetery that has rights to that land and so for two years we've had to defer monies provided from the Federal Government.

We've information and coordination sessions. We counted no less than four up to five. We've dealt directly with some of the associations that were mentioned earlier starting with the veterans groups

and with public forums. We've never not closed any of the proceedings to any of the issues that have come up. And we have made some concessions as we've gone along the way and those will come up a little bit later.

Talked about the environmental ESA1, ESA2 that was conducted and of course, the FONSI. And certainly we are now starting the O & M portion of it which is the operating and maintenance portion which is the grave restoration project. It's one of five projects that we have statewide that need to be done and it's a long time coming. Just as an example, Punchbowl, they went through an entire...if you've been up to Punchbowl lately the last couple years, they went and did a complete grave restoration project for all of the graves that are up there. Maui has just started theirs up into about a month now right after Memorial Day.

Some of the challenges. We talked about some of the land acquisition issues and it is moving forward. We do wanna see that all the documents get signed and we have...the State actually has the deed and it looks very favorable that will happen, but until we get that, we are still at risk. Concessions and compromises, again we'll cover that in a few more slides coming up. The high risk piece of it for ground burials Gene mentioned about the rate that we have. We have a...the County puts out a demand sheet every single year. They just submitted theirs and it shows how many burials are occurring every month, every year and so we use that demand rate to plug and play that's why we came out number one, Priority Group 1 in the nation because we are...unfortunately our veterans are passing away at a very high rate. And the longer we wait, the opportunities to expand or do things we need to do will be cut short. And I'll talk a little bit about some of the other things.

The third deferral will cause further delays and cost higher with no other alternatives and certainly, you know, trying to bury in another cemetery and disinter and reinter is very, very problematic. The VA NCA does not see that as viable solution because of the cost factors involved. And when we do the last rites and honors for our veterans, you know, it comes with all the different protocol and so we don't wanna do those two and three times over again. It's not fair to the family. It's certainly not fair to the veteran that has to, you know, that we're placing them in sacred ground and I wanted to just point that out.

In summary, projects developed require this important piece of honor and dignity. There is less than 1 percent of our population today that has served in the military. Back in World War II with these Korean War veterans that are behind here and the rest of the Vietnam veterans and Gulf War veterans is about 10 percent. So now it's about 1 percent. And we have an aging population and we wanna make sure that they are taken care of along with their eligible family members.

Federal, State, County and Maui-based veterans collaboration has been very robust. We do a lot of things with the County on almost on a weekly basis. The Federal NCA which is the Nation Cemetery Administration, we communicate with them on a weekly basis. It's a huge project. There's a lotta different moving pieces. We also engage with the various associations that came up and testified today. We are transparent. We are not...gonna not take an issue on and not try to find a compromise or way to help both sides. We wanna be partners. We wanna be good stewards. This is not something that we take very lightly.

Community collaboration we talked about that earlier. We've been engaging, I'm still working on

a few issues that we work with some of things with the Makawao Cemetery Association. Again, we will remain engaged all the way throughout this project. And what we can do to help and to foster a relationship of a partnership we wanna do that.

Last thing, the VA NCA, again, because we haven't executed in the last two years still has us as the number one project. We want to execute this year. We have to execute this year. There's not any other alternative for burying our veterans and their eligible family members. And with your help, with your support there's no reason why that can't happen. Again, we stand ready to answer any questions you may have but I wanna turn it over to Gene to conclude some of the other portions of it.

Mr. Yong: Okay, thank you Ron. So this next slide provides you a picture of the existing cemetery. Here on the left you'll see that the white dashed area is the fenced area of Makawao Veterans, Maui Veterans Cemetery. The expansion area is existing pasture land immediately to the north of the cemetery and then the Makawao Cemetery, the private cemetery is located here to the right. The project that this application covers specifically is for the use of this ten-acre portion in yellow for cemetery purposes which is permitted subject to approval of a Special Permit, Special Use Permit.

The related improvements are the frontage improvements here at the front is on acre and a half. The grave site restoration project which Ron mentioned which is ongoing is in the existing portions of the cemetery.

Here are some photos of the cemetery. You'll see here on the left the frontage areas, these are the cook pine trees around the committal shelter and the columbarium. All of these cook pine trees will be retained. This second slide image here is the existing frontage area between Makawao Cemetery and Baldwin Avenue. This area will remain relatively unencumbered from access. This slide here looks towards the veteran's cemetery from the parking area and these photos here to the right are the photos of the existing committal shelter and columbarium complex. These photos on the left are of the existing grave sites and burial plots in the existing veterans cemetery. In the photos on the right, illustrate the...sort of the character and environment of the expansion area.

This is a plan of the existing cemeteries as they exist today. The expansion areas are noted in white. So the existing fenced area or secured area of the veterans cemetery is this area shaded in green with the red dashed outline. This area is secured. There's a vehicular gate that provides access into this internal driveway and this area is the part that is open from 7:00 to 3:00 p.m., Monday to Friday with vehicular access. After those hours, people are welcome to park outside and pass through pedestrian gates to gain into the existing cemetery. The green dots here are the existing cook pine trees and the two cook pine trees here are the areas that, are the two trees that will be affected.

The existing paved area has nine parking stalls. The balance of the parking is in overflow areas that are unpaved in this area shade in olive. The two gates for the Makawao Cemetery are here shown in the white dots and so the existing Makawao Cemetery is in brown and then this is existing seven acres of the Maui Veterans Cemetery.

You can see that the ten-acre expansion for Maui Veterans Cemetery and the additional four plus acres for the Makawao Cemetery will greatly expand both cemeteries, more than double both cemeteries. The dashed line you see here is an NC VA criteria of requiring that all burial sites be within 400 feet of either parking areas or roadside parking. So the total capacity for parking in this front corner of the project site is about 30 to 40 vehicles of which only nine are paved.

This is a picture that the future Phase 1 which is a four-acre portion of the expansion area which will be improved as part...with the current funding. It will provide about 2,000, upwards of 2,000 additional grave sites for an additional capacity for about 15 to 20 years and should suffice for quite a period of time. What you see in pink and red are the roadside parking areas which is common practice of veterans cemeteries and then 14 stalls here. When combining the roadside parking areas and the front parking stalls, the total paved parking on site will increase from 9 to 54 parking stalls. And you can see again, the 400-foot radius which provides people access to the, you know, the grave sites. One of the advantages of this roadway and the parking is to allow people to park closer to the burial sites. The area...this dashed red line here is the fence line and gate which will be secured after the veterans cemetery's operating hours. By operating hours it means when services are scheduled of the committal shelter, when the County maintenance staff is on site, and when vehicular access is permitted into the cemetery. The County staff which maintains the cemetery is based in a baseyard shortly...a short distance away. So outside of this...this gate here would be closed between...during the nonoperating hours of the veterans cemetery. Parking would still be permitted in the front and pedestrian gates would still be...permit people access into the areas. You can see here that the two, two existing gates for Makawao Cemetery, the first gate is in front of this first ceremonial gate which would remain open 24/7...if you know, unless issues start to rise primarily in the evenings, such as loitering, you know, vagrancy...(inaudible)... becomes an issue, but otherwise, the expectation is that the County would...that gate would remain open at all times.

So the location of this second gate was one of the concessions that Ron talked about. Actually providing a second gate and securing it beyond the corner of Makawao Cemetery was just...was extended as sort of a good faith gesture to ensure that the Makawao Cemetery would have access to its expansion area as well.

So the two cook pine trees that are removed here primarily because of their location relative to where access could be provided will be replaced by over 30 giant crepe myrtle trees that will grow to about, you know, 40 feet in height that will line various areas of the driveway.

So overflow parking initially would be in the unused portions of the expansion area. And they had expectations that this area here could accommodate upwards of 100 parking...100 vehicles so that by and large the daily visitation traffic and parking needs could be satisfied. And the veteran's cemetery is sharing its parking with the Makawao Cemetery for these 14 stalls, 24/7 and then the roadside parking would be available to them, you know, during the cemetery's, you know, operating hours. So the additional parking if needed for special events could be accommodated in these future expansion areas as well.

So this combined four acres and seven acres is the 11 acres which will be irrigated from the existing water meter. Existing water usage in the cemetery is less than 1 percent of the available

capacity from the existing 1 ½-inch meter. And so a new 30,000 water storage tank would be provided here and then a maintenance area for storage of equipment and materials. The remaining future development area here would be undeveloped and unbuilt until a later date.

At full build out what you see here is the final end state of the cemetery where upwards of 6,000 additional burial and grave sites equal to in excess of 50-year capacity would then be made available. And at the end ...(inaudible)...beyond 15, 20 years total parking on site would include the 14 stalls up front and then roadside parking for upwards of 60 stalls, I mean, 60 vehicles enabling a total paved parking of about 74 vehicles. At that time, parking for the special events would be handled probably off site with shuttles in addition to the 74 stalls available on site as well as other unused areas of the future development area.

I just wanted to go through a couple special topic slides. Paul talked about the five criteria for approval of a Special Use Permit. Unusual and reasonable use of Ag land. It expands the capacity of an existing veterans cemetery. It's part of an existing cemetery cluster at the northern edge of Makawao Town. It maintains the rural, open and scenic character of the area.

Criteria two, the use does not adversely affects surrounding property. The use of the expansion area for cemetery use is consistent with the open pasture lands and ag properties to the north and west side where large scale commercial cultivation is no longer practiced. It's consistent with the existing adjacent cemeteries to the east and to the south. The use does not unreasonably burden the public agencies.

Criteria three, this does not increase density occupancy or use of the property, and it better accommodates parking on site. We'll rely on the existing water meter for the first phase and we'll follow or develop additional sources for the long term.

In terms of unusual conditions, trends, and needs the cemetery cluster. acts as an open space buffer between the continued growth of Makawao Town to the south and existing open, rural and ag areas to the north.

In terms of Criteria five, unsuited for uses permitted in the district. Recent subdivision and development makes the area unlikely for large scale commercial ag cultivation...(inaudible)...future growth areas of Makawao Town to the south.

I'd like to cover...we have Derek Ono here from Unemori Engineering who can speak to specifics on the water issue, but let me just briefly cover those. The existing cemetery is covered by 1 ½ - inch water meter with a flow capacity of 100 gallons per minute or equal to a daily capacity of 144,000 gallons per day. Frequent natural rainfall in the area and water conservation practices are currently in place and existing usage is about 73 gallons per day or less than 1 percent of the available capacity.

In terms of future Phase 1 or the capacity that provides for the next 15, 20 years for veterans, we're talking about irrigating 11 acres which is the 7-acre existing cemetery and 4-acre portion of the expansion area. Water conservation strategies will continue to be in place, drought tolerant plants and grasses. Natural rainfall will continue to be the primary means to maintain the landscape. The

irrigation system is a requirement for Federal funding. The new irrigation system and automatic sprinkler serves primarily as a backup during extended dry periods and weather sensors will be in place to activate the irrigation system when needed.

A new water storage tank is being provided to address anticipated higher flow rates needed for the new irrigation system. So the peak daily water consumption is estimated to be about 68,000 gallons per day including 41,000 gallons per day for the existing cemetery and 27,000 per day for the expansion area.

In the long term for the cemetery the 17 acres, the peak water, daily water consumption is expected to increase to about 116,000 gallons per day and it will require additional water sources and if the public sources are not available, the State is committed to creating, drilling an onsite irrigation well and developing sources on site.

I'd like to further cover maybe some of the interactions that the State, and the County, and the team has had with Makawao Cemetery Association over the past year, year and a half. We have...the team has explored various alternatives for configuring the driveways and roadways. It's respected the desire for the Makawao Cemetery to have access to its gates. It would...we'd provide driveway access right up to the gate where they do not have today. They had requested a landscape buffer between the driveway and their property and so the easement will follow the driveway as configured and so out of these four alternatives in those discussions back in February and April of last year, the consensus was to continue forward with this concept which is what the latest concept has been built upon. So with that, I will go ahead and close my remarks and I think both Neal and Ron and myself are available for questions and we have other technical consultants that can answer other questions. Thank you.

Chairperson Lay: At this time, I'm gonna open up to public testimony.

a) Public Hearing

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

Ms. Erin Starr: Where do I testify?

Chairperson Lay: Right up at the mic over here in the front. The big one, next to the podium.

Ms. Starr: Right here?

Chairperson Lay: Yes.

Ms. Starr: Okay. My name is Erin Starr. Hello. I have been a Makawao resident since 1970. Our four children all went to Makawao School K thru 6. I was a den mother.

Vice-Chair Ball: Can't hear.

Chairperson Lay: Oh, could you please just move the mic a little bit towards you? So everyone can

hear. Thank you.

Ms. Starr: Can you hear me?

Chairperson Lay: Perfect.

Ms. Starr: I was a den mother for Pack 6, Makawao School a long time ago. I was brought up military. My father was in the Navy, fighter pilot on the Ticonderoga, World War II. He was a fighter pilot for the Air Force in the Korean War. I love America. I love our cemetery. I visit our warriors often there in their graves. I would like to suggest a change in the Makawao Veterans Cemetery Improvement Plan which needs to be done quickly and easily before the Special Use Permit is awarded. This change will not affect the acquisition of the 10 acres for the new Veterans Cemetery. I am very much in favor of this new ten acres. It will not affect the government funding. I'm very much in favor of getting millions of dollars from the government and it also will not affect Shrine Status which would be a very interesting thing for our cemetery.

My proposal is this we must have 24/7 access to our cemetery which we have historically had ever since I was here and even before. The current plan denies this. The current plan does not even have pedestrian access to our cemetery. On weekends we are locked out, Saturdays, Sundays, all day. Mama sans, Papa sans, widows, widowers, school kids, the public, the veterans that want to visit their friend's grave. We're also locked out after pau hana work. After 3:30 during the week Monday thru Wednesday we cannot go in. So the Makawao Cemetery Association and I will say I have a burial plot in the association and the Makawao Community Association of which I am a charter member met with Planners and County. They told us this, these restricted hours are not required for Shrine Status or for the money or for the ten acres then why do they have them? I'll tell you why. The Environmental Assessment people came from Oahu, another island they couldn't find any hours for our cemetery so they went to the baseyard in Makawao. They said what's the Makawao baseyard hours? They told them, regular working hours. That's what they said in the Environmental Assessment was the hours for this cemetery. Otherwise you cannot go in. And I said to them, but they never found any hours posted at our cemetery because there are no hours posted at our cemetery 'cause it's open. So this will be very easy you put one small little gate right next to the main one so you can come and go just like now how those small gates are, you know, they're chest high you just walk in anytime. So we can go anytime. I was very disturbed. I thought it was kind of insulting. I said, well why do you wanna lock us out tighter than a drum during pau hana hours? And this is what they told me, the planners from Oahu. They don't live here. They live on another island. And this what they told me, they said well people might litter on the graves. Litter on the graves? I've been going to that cemetery 40 years. I don't see gum wrappers left all over. The other thing they said...

Ms. Takayama-Corden: Three minutes.

Ms. Starr: How many?

Ms. Takayama-Corden: Three minutes. You're done.

Ms. Starr: Oh, I'm done?

Chairperson Lay: Yes, if you could conclude?

Ms. Starr: Oh, okay. So then they said, well maybe the County will just leave the gate open and then you can go inside. I said, no, we need pure pedestrian access the whole time. I don't wanna depend on anyone. I want an open gate. Thank you.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you very much. Our next testifier, Camille Lyons, you wish to testify?

Ms. Camille Lyons: Chairman Lay and Members of the Maui Planning Commission. My name is Camille DuBois Lyons. I am President of the Makawao Cemetery Association. I am testifying today because your agenda for this meeting specifically states that the Special Use Permit is for "the Makawao Veterans Cemetery expansion project of ten acres and related improvements." The Makawao Cemetery Association is 100 percent for the land acquisition, but has concerns with the related improvements.

It appears to be a combined package for this permit. For the record and for all veterans here today, we, the Makawao Cemetery Association and I respect our veterans and I thank all of you for your service to our country. We have nothing against Shrine Status but do object to being told it has to be a certain way when it doesn't.

Our concerns are simple. Provide adequate parking, keep the current public open space unfenced with no gate and open to the community. Allow 24-hour, seven days a week access that both our cemeteries currently enjoy. I wonder if Maui Veterans realize they will be restricted to County working hours once the second security gate is installed. Our cemetery has been in existence since 1861. We have worked in cooperation with the Veterans since they acquired their land in 1951 from us and have mutually shared the open space and now we are being excluded from it.

The plan calls for a six-foot high security fence and a locked gate that will join our boundary fence just past its first main entry. We've been told that the gate will remain open, unlocked but the State also says that, "in the event after-hour problems occur at the Veteran property, that is vandalism, the main entry gate will be locked by County personnel. However, securement of this gate will be coordinated with the Makawao Cemetery to maintain access for ingress and egress to the cemetery property." So in one breath the State says we'll have 24/7 access, and in the next breath they reserve the right to lock us out.

Prior to the Environmental Assessment we met with State and DAGS to express our concerns. We specifically told them that they should contact the Makawao Community Association because this was their backyard they were taking away and changing. A comment from of the State members said, April 23, 2013, "if this goes to a public forum the project will blow up".

We also strongly suggested they contact the Maui Outdoor Circle about the two historic pines they want to cut down. They did not. You can imagine my surprise when I saw the Final EA and learned that neither, neither the Makawao Community Association nor the Maui Outdoor Circle were contacted. Is that acting in good faith?

What is behind this project? What is so secretive that the community cannot have a say in its cemetery? I urge you to defer action on this SUP application until the issues that are of such concern are addressed. Thank you for your attention.

Chairperson Lay: Thank you. Commissioners, any questions for the testifier? Seeing none, thank you very much. The next testifier, Theresa Thompson.

Ms. Theresa Thompson: Aloha Chairperson Lay, and Maui Planning Commission. My name is Theresa Thompson. I'm a board member of the Makawao Community Association, and I'm also the Director of the Makawao Paniolo Parade and I have been for the past 20 years. Let me start by saying that I am in favor of the Veterans Cemetery acquiring the additional ten acres.

I am testifying today because of the related improvements to this project. They will prevent me from being able to access and use this 60-year-old community space to stage our historical event, the Maui Paniolo Parade. A Special Use Permit for the project as currently proposed should be denied. I would love for you to approve the acquisition of the ten acres today. But since it is coupled with the additional improvements this matter should be deferred to provide the necessary time to address the improvement issues that I have concerns with.

The developers say that there will be a six-foot high fence, and six-foot high locked gate fronting the entrance of the cemetery parking lot. I was told that the hours of operation would be Monday through Friday, 7:00 to 3:30, the same as the Public Works caretaker. Closed on weekends. This will make it impossible for working people to visit their loved ones. The developers will also improve the entrance with a 24-foot wide lane with curbing. As a result, many parade participants will not be able to drive in with the trucks and trailers to park and get ready for the parade. I would like to see this open parking area remain flat and open so that we can all continue to use and enjoy this space without restrictions for another neighborly 60 years. This request will not limit the Makawao Veterans Cemetery from attaining Shrine Status. Thank you for the opportunity to testify. I urge you to please defer action on this Special Use Permit for the Veterans Cemetery expansion project because of the related improvements. Thank you.

Chairperson Lay: Thank you. Commissioners, any questions for the testifier? Thank you very much. The next testifier, Francis Ort.

Ms. Francis Cameron Ort: Good morning. I'm Francis Cameron Ort and I'm short.

Chairperson Lay: Pull the mic down.

Ms. Ort: I'm short. I see a lot of veterans today.

Chairperson Lay: If you could face the mic just so...

Ms. Ort: I just wanna honor the veterans here briefly. Thank you so much for your service and appreciate everything you've done for our Country. I am also a board member of the Makawao Cemetery Association. Our cemetery has been caring for our deceased for over a 150 years. It is adjacent to the Makawao Veterans Cemetery as you all know. My family's buried there and my

husband's there and there will be a spot for me one day. It is a nonprofit association, nondenominational and it's available to everyone. We support the Veterans expansion 100 percent.

As previous speakers have said, the main issue is the public space in between keeping that open, having sufficient parking and also access so that we can grieve for our lost ones anytime. Grieving isn't Monday through Friday exercise. It's really, it's something you have to do all the time.

This past Memorial Day I was driving past and I had to smile 'cause that large open space was filled with cars, filled. Baldwin Avenue up and down filled with cars. If the expansion is done as has been described and it's limited to 14 stalls I cannot imagine the traffic issues we're gonna have. Baldwin Avenue is a country road. It's not designed for parking. It's not safe. Has no curbs, no sidewalks and I don't think we want them. But to restrict parking to 14 stalls for two cemeteries both who are expanding does not seem very well thought out to me.

I also would like to very...I agree with the other speakers that access is key. And with these changes, I look forward to the Veterans Cemetery expanding and I look forward to the Shrine Status and the increased honor it gives our veterans. Thank you for listening to me this morning and thank you, Commissioners for your service to the public.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you very much. Our next testifier is Lloyd Sodeani.

Mr. Lloyd Sodeani: Thank you very much Mr. Chairman. My name is Lloyd Sodeani. I've been resident for all my life, born and raised here nearly 70 years ago. I'm also a veteran. Served for 31 years, a retiree. I was formerly the Chairman of the Office of Veterans Services Board and I'm now just acting an advocate of veterans. I've been working on this project for since 1985 when Hannibal Tavares was Mayor and it was assured at that time when I was a Battalion Commander here that the ten acres would be provided to us. Well, Hannibal's not here anymore, the ten acres did not happen as he had promised, but we moved on. Fortunately, I understand that the conveyance document as been executed and recorded so as far as we're concerned the title has passed through to the State and we're now working on this Special Use Permit.

I think everyone favors having the Special Use Permit issued for the use of cemetery purposes. And the thing that I'd like to emphasize upon is that we are currently limited to just about an acre of land remaining for burials that equates to approximately maybe nine to ten months of burial space left. So it's critical that we get the Special Use Permit as soon as possible, immediately actually.

As far as all of the Shrine Status requirements and all of these other conditional things that previous speakers have mentioned, I think that still can be worked out and I'm sure that we would do everything possible. I'm talking about the State DOD as well as the agencies, other State agencies that are involved. We need to sit down and further discuss this matter, but I strongly suggest that today if you can make that decision for that Special Use Permit to be approved. Thank you very much.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you very much. The next testifier is Lloyd...I mean, Hugh Starr.

Mr. Hugh Starr: Good morning, Commissioners. Hugh Starr. I have been a 40-year resident of Makawao and I, my family has a plot in the Makawao Cemetery. When the staff, when the consultants make their presentation this morning, I would hope that the Commissioners would pay special attention to the scope of the project. The project actually covers 17 acres of land including the existing cemetery of seven acres and the proposed acquisition of ten acres. The Veterans Administration has approved funding up to \$7.8 million dollars for the work here and a good majority of it is gonna occur on the existing seven acres. So the scope of this project is actually 17 acres. So the question, the first question I would pose to the Commission and to the Director is is this better heard or more appropriately heard at the State Land Use Commission because as I understand it there's a 15-acre threshold so that's the first question I hope could be addressed here. Is there in fact jurisdiction? So as the presentations are made, I would hope you'd be able to observe this dilemma.

There's no mention of the National Environmental Policy Act Compliance in the Environmental Assessment or in the Planning Department's report. There will be Federal funds used in this project so I would appreciate some inquiry in that regard. The project is inconsistent with the Makawao-Pukalani-Kula Community Plan.

I've submitted testimony. I'm gonna have to riffle through this, sorry. And SUP is inappropriate. Processing a cemetery as a Special Use Permit does not promote the effectiveness and objectives of Chapter 205. The 50-year duration of the Special Permit is not appropriate. Fifty years Special Use Permit? Has anybody heard of that before? A cemetery, a 50-year Special Use Permit. How about a change in zoning like Makawao Cemetery is doing?

The application is incomplete because it does not address two important restrictive covenants and easements that Makawao Cemetery created when they conveyed this land to the County of Maui. First, a restricted use of what they've referred to as the open space for parking and roadway purposes only, parking and roadway purposes only, and we've been using it cooperatively for almost 60 years.

Second thing is Makawao Cemetery has a 20-foot easement across this property and if you look at carefully at the planning site plan ask about that 20-foot easement and where it is and how that interfaces with their site plan because there are serious conflicts. Gates across the easement, lawns across the easement, duplication of access.

Ms. Takayama-Corden: Three minutes.

Chairperson Lay: Please conclude.

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

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you very much. At this time, does anyone else wish to testify? Please step up to the mic, identify yourself

and you have three minutes.

Mr. Michael Kovich: My name's Michael Kovich. I've been a resident of Maui for 24 years. I'm a veterans advocate and activist currently President of Vietnam Veterans of Maui County. About 20 years ago we could have acquired this land for \$5,000 an acre. We looked ahead. We saw this problem coming. What I find acceptable is the threat to delay this so we will not have access to burials. That cemetery is gonna run out soon. Any reason for putting this off because of not being able to mitigate some of the issues right away is unacceptable to me and my club. Many of these things can be worked out, but the delaying this is not the answer for the community, any part of it. Thank you very much.

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

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

Chairperson Lay: If anyone else wishes to testify please step up to the mic, identify yourself and you have three minutes. You've already testified.

Unidentified Speaker: ...(Inaudible)...

Chairperson Lay: No, I'm sorry you had your chance. But if you have something written you can give that to us also. Anyone else wish to testify?

Mr. Hugh Starr: Yes.

Chairperson Lay: You've already testified too.

Mr. Hugh Starr: Excuse me, Mr. Chair. Mr. Fasi had advised me that I would have an opportunity to speak for an additional three minutes as long as it was new information.

Chairperson Lay: Okay, if it's new information.

Mr. Starr: Thank you. Thank you. Hugh Starr from Makawao. First of all, I want to express, I mean both mine and the Makawao Cemetery's elation that the ten acres has apparently been purchased. The State appropriated those funds. Those are not Federal funds.

Chairperson Lay: You've already covered that part. I mean, it would have to be something new that you haven't talked about.

Mr. Starr: I see. Okay, thank you. Regarding parking and the Fire Department my understanding is from working with the consultants that the project is showing a 24-foot paved roadway, curbed. When I spoke with Captain Haake of the Fire Department my understanding is in order for there to be one side parking they need 32 feet clearance. So we did ask the consultants three months ago for their calculations on parking and they have not provided that calculation. We expressed an interest and a concern about parking at face to face. Asked them for their calculations at that time, three months later, zero. Curbs prevent...these roads, internal roads are gonna be curbed. They

have the option of making roll curb, but they're chosen not to, they're gonna make 'em straight curb. So no parking, just on the roadway. And I just wanted to say that on the issue of transparency which the Director of Office of Veteran Services alluded to a bit ago, it's important to note for the Commissioners that we have had face...we, the Makawao Cemetery Association, members of the Makawao Community Association have met face to face with the consultants and the project developers at the State level to discuss these things over the last three months. We have requested written information from them specifically among other things the construction plans for the project. The construction plans have been prepared and the details appear on their maps. They have not provided those construction plans and so what...in terms of again, transparency not to make haka ka here, but just to be level field on the issue of transparency when they did not provide the information I personally filed an Uniform Information Practices Act Request for Additional Information. They did not respond and so the State is appealing to them for that information. So that's the issue of transparency--

Chairperson Lay: Okay, thank you.

Mr. Starr: Thank you very much for your time, Chair. I appreciate your patience.

Chairperson Lay: Commissioners, questions? Commissioner Hedani?

Mr. Hedani: Hugh?

Mr. Starr: Yes, aloha.

Mr. Hedani: Nobody in their right mind is gonna oppose a project for veterans, for a veterans cemetery.

Mr. Starr: That's right.

Mr. Hedani: I know you're not opposed to it.

Mr. Starr: Correct.

Mr. Hedani: So the question that I have is given the presentation that you heard today--

Mr. Starr: Yes.

Mr. Hedani: --given the information that you've been provided today--

Mr. Starr: Yes.

Mr. Hedani: --What is your position?

Mr. Starr: Our position, my position and the position of the Makawao Cemetery Association, I believe although I'm not on their board, is that the open space that the community has enjoyed collaboratively over which there's a restriction that it only be used for parking and roadway

purposes remain open 24/7. And if you listened carefully of what was said by the consultants here, they say 24/7, but...and that's not 24/7. So on the issue of trust me, but we trust you on the 24/7 too? It's hard. It's really hard to trust them on this. So that's one issue.

The second issue is being able to park on the grass like we always have. That's a community space up there. That is a community space and with respect to being against...this is not about being for the vets or against the vets, many of the Maui veterans that we've spoken with 'cause we've been working on this for a while really don't have a sense of the details of this. They have a big picture, they need more land, they're running out of space, fair enough. We're right on board with them on that. But they don't know all the details like the gates are gonna be closed. You cannot park in that open area. The parking is gonna be inadequate. The 60 stalls that they present in my view, let's look at the analysis. You can't just throw in a number of 60 'cause when I do the calculations it isn't gonna, it doesn't work up to 60, maybe it does. Show us it, be transparent.

As far as the 10 acres and the burials—

Chairperson Lay: Okay, has your question been answered, Mr. Hedani?

Mr. Hedani: Thank you.

Chairperson Lay: Thank you very much.

Mr. Starr: Thank you.

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

Mr. Freitas: Hugh, how many members in the Makawao Community Association.

Mr. Starr: You know, I'd have to ask Theresa Thompson if she knows. She says about 150.

Mr. Freitas: Because I've never seen that amount. I'm just curious.

Mr. Starr: I'm sorry, you've never seen? Okay, thank you.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none, does anyone else wish to testify at this time? Please step up to the mic and identify yourself.

Mr. Fred Ruggie: My name is Fred Ruggie and I'm Korean War Veteran and in all due respect to Hugh, the veterans have been following this thing very closely and Ron Hahn and all the officials have been keeping us fully informed. I'm 84 years old. I don't wanna be cremated. I wanna put in a casket and time's running out so I think it's urgent that you pass you this today. Thank you.

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

Mr. Paul Laub: Aloha, my name is Paul Laub and I'm President of the Maui County Veterans

Council and I specifically brought up this last week the problem of the locked gate with the Mayor. The Mayor assured me that he was going to have provided to the other cemetery a key so that if they need to get in, they will be able to get in. Thank you very kindly.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you. Does anyone else wish to testify at this time? Seeing none, we're gonna close public testimony. We'll take a 10-minute break before we start our questions. Okay, we'll reconvene at 10:10.

A recess was called at approximately 10:00 a.m., and the meeting was reconvened at approximately 10:13 a.m.

Chairperson Lay: Commissioners, you have any questions? Commissioner Ball?

Vice-Chair Ball: I have quite a few but...someone. Let's start with the irrigation. Was there any research onto new types of irrigation? There's some that are watered underneath ground, they don't spray up in the air so they use less water and that sort of thing. I don't know what the cost, what the cost difference is but...

Mr. Yong: If I can, I'd like to call up Derek Ono from Unemori Engineering if he could talk a little bit about the water system? Derek?

Mr. Derek Ono: Good morning, Mr. Commissioner and Fellow Members of the Planning Commission. As far as the type of irrigation system goes, we haven't looked into you know, reclaiming water and reusing that as the supply for the irrigation. Does that answer your question?

Vice-Chair Ball: Yes, well it probably should be looked into because I know there's more efficient types of irrigation especially if you're building it too, and you'd probably wanna look into something like that since you do have an issue with the size of your water meter.

Mr. Yong: I think the key issue is the natural rainfall that occurs in the area and how to create a smart system which compliments it and is not using, you know, potable water when it's raining—

Vice-Chair Ball: Unnecessarily.

Mr. Yong: —or unnecessarily. And so the intent is to really cover the extended dry periods and so that during the rainy season that the usage is really low and then it's only needed when...

Chairperson Lay: Okay, as we go from...if someone else answers a question, please identify yourself for the record so we have everything down, who answered the question. Thank you. Commissioners, any more questions? Commissioner Wakida?

Ms. Wakida: Yes, my question is a little more global. The ownership of the property currently is who?

Mr. Yong: If I can call on perhaps Neal if you wanna answer the question?

Lieutenant Colonel Neal Mitsuyoshi: Good morning, Board. My name is Lieutenant Colonel Neal Mitsuyoshi, Chief Engineer for the Department of Defense, State of Hawaii. The short answer to the question is it's owned by the State of Hawaii.

Ms. Wakida: Because you said in your presentation that you were still acquiring land from the State of Hawaii.

Lieutenant Colonel Mitsuyoshi: Yeah, oh okay, if you could pull up the slide? The area that we are acquiring is the additional ten-acre parcel so that's like the L-portion of the cemetery that you see on the top of that slide colored in mustard yellow. So that is the portion that literally days ago, the current owner of that property sold that property to the State of Hawaii. So we're in the process of executing the deed which should be executed by the end of this month.

Ms. Wakida: So all of the land then will be State of Hawaii land?

Lieutenant Colonel Mitsuyoshi: That's correct, yes.

Ms. Wakida: Thank you.

Mr. Yong: ...(inaudible)... there's a lot going on in terms of the land acquisition just within the recent weeks and days.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: This is maybe a threefold question, but gates have been brought up over, over, and over again. When do the...maybe you guys can't answer this, but when do the Makawao Cemetery burials happen? Are they primarily during the same hours that you guys have it or...

Mr. Yong: Perhaps we can call somebody from the Makawao Cemetery. I know, I think their caretaker, superintendent is available here.

Chairperson Lay: And please identify yourself.

Ms. Camille Lyons: I'm Camille Lyons. I'm President of the Makawao Cemetery Association. And I'm sorry, your question again please?

Vice-Chair Ball: When do the burials primarily happen at your cemetery?

Ms. Lyons: Usually after 4 o'clock in the afternoon and probably on a Friday, Saturday or Sunday and a minimum small burial would be 40 cars for a small burial.

Vice-Chair Ball: You know the grass area right now where people park, how many cars do you estimate park there, I mean how many can it fit now?

Ms. Lyons: Oh gosh, over 40.

Vice-Chair Ball: Okay.

Ms. Lyons: Because often times there'll be a....Makawao Cemetery burial and also a VA burial at the same time, and when that happens it's quite crowded.

Chairperson Lay: I have a question in regards to that. That overflow area that...well, they call it an overflow area that's in front of the Makawao Cemetery. How is the ground on that? Is it, I mean, are we looking at...is it flat for parking or is it a little difficult to maneuver?

Ms. Lyons: I will say the bikers have rutted it out quite a bit, but any car can drive in and pull over on the grass and park.

Chairperson Lay: Thank you. Commissioner Higashi?

Mr. Higashi: Yes, I have a question for the applicant. It sounds like from the testimony we've heard that it's really not the cemetery itself that's the problem. It's all the extra things like the parking area, the openness of the gates for the public. Like I would have a problem if I was working in Wailuku and my workday is till 3:30. To get up and see my relatives up there by 4:30 and the gate is locked. I think there should be some concession whereby accessibility to the public is really important and to me personally, 3 o'clock is not acceptable especially when you say, Saturday, Sunday, that's when people are not working, they wanna go and visit their relatives. And if it's locked, it's not gonna be accessible and I think those are the kinds of stuff that creates a problem with the relationship between developing something like this and the community and that's something that I think could be—

Mr. Ron Hahn: Thank you, Commissioner for bringing up that wonderful question and examples that use there.

Chairperson Lay: Again, please identify yourself?

Mr. Hahn: Ron Hahn with the State Office of Veterans Services. Thank you, sir. In all of our cemeteries, the State cemeteries including the National Cemetery of the Pacific, they have working hours that are in there. I'll use Kaneohe as an example, very large, you know, over 100-acre cemetery. We allow folks to come in from 7:30 to about 6 o'clock at night to accommodate those that are out there. And so we have grounds folks that are queued to be able to cover that area. Certainly on weekends and especially on holidays that's probably the majority of the people that come out because they're completed with work. And so we allow them to come on the weekends as well. Probably we have a security...roving security service that provides uniform service to make sure that you're not, you know, violations. I mean, I would tell you we have people barbequing in the cemetery, probably the water must be really good there 'cause they wash their cars there as well. And folks suntanning. You know these are not the appropriate things to be doing in a veterans cemetery. So that's...it's a little bit of an enforcement requirement to that. Probably what's really akin to Maui Veterans Cemetery is West Hawaii over in Kona. We've allowed through a access of a combination lock to be able to allow people in at hours where they're able to do that in partnership with the County. As long as the County understands the need for that. And I know Eric Yamashige and many of the people, Brian Hashiro, they have been very supportive of looking at trying to

increase their full-time employment opportunities. You don't pick up another ten acres and then increase it to 17 and that increase it you have to eat. And so I know they're on that road to be able to do that. I look at what's happening today, and today you have access to be able to get into see folks through the various means. I don't suspect and I don't wanna speak for the County 'cause there is that relationship. County runs, they maintain the cemetery on a day to day basis, but I would suspect that they would not wanna limit that especially with the amount of people that come out on the weekends to visit their loved ones. So we would submit to find an alternative. One was mentioned that there's key opportunity. One would be a combo lock. The first gate is always open and then to figure out what we can work out from there. There are many opportunities for this to be very successful. And there's no reason why somebody has to lose. And somebody has to win to make it pono for everyone and that's why we're standing here today and we've been there for three years to make it pono.

Mr. Higashi: Yes, I think because I personally know that area, particular area.

Mr. Hahn: Yes, sir.

Mr. Higashi: I've worked at Makawao School, and the two pine trees that enters that cemetery is a, I think it's a historical landmark and to be removing it, I think creates a problem reminiscently for those people who live there and to be destroyed I think it's something that the community would want personally. The other thing is that particular community is also shared by the Makawao Cemetery so which makes it a little unique not like the Punchbowl Cemetery where it's specifically for military. And so because of the uniqueness I think that a major problem with that kind of stuff is for instance is the parking. The land is pretty flat. It's not, it's not really lumpy or dangerous. And I think to accommodate and that's the kind of stuff that I think that the developer should work with the community on and that is how can you adequately accommodate the situation where you keep both sides pono.

Mr. Hahn: That's a great question. On the arborist piece of it, I know we're gonna have somebody come up and talk to that little more of an expert where they have talked to some of the environmental issues out there. And certainly those two pine trees have come up quite a bit. There's also talk about the 50 plus additional trees that we're adding to the cemetery as well to provide for that effort.

I would say on the parking issue just to address, you know, when you have say a Makawao rodeo or you have a event like Veteran's Day or Memorial Day where you have four or five hundred people are coming up, I will tell you real world because we run the events for the Hawaii State Veterans Cemetery which is the governor's event. There's 1,200, 1,500 people come out to that and we also support the Punchbowl event for both Memorial and Veterans Day which is probably close to 2,000 people come out to that. Even though those cemeteries are huge and large, Punchbowl you have to park at Alapai Street. You have to catch the bus up unless you're DV, distinguished visitor or a member of the VIP and so most veterans have to catch buses to come up to the ceremonies. We start about three hours prior to. The Governor in his own ceremonial thing for there, he was here, yeah in Maui for the ceremony for Memorial Day. He almost couldn't get back into his own cemetery for his own keynote because of the amount of traffic in the Hawaii State Veterans Cemetery because people have to drive...they have to get on buses to get there. So even

though lot size large, there's gotta be other alternatives to be able to do that. We tell the veterans to try to bus in. We could try to escort you, we try to figure out a way to get you where you can but I don't know if we keep adding additional parking we'll be able to the one size fits all. Carpooling, you know, the bus systems, other shuttle systems to be able to do that. We do that now for Punchbowl and for the Hawaii State Veterans Cemetery. And I don't know of any other bigger platforms that that's handled within in the State for those type of ceremonies.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: Okay, so can we get the Makawao Cemetery a key then?

Mr. Hahn: It may not even need a key. I my only need just a combination lock depending on what they put out there.

Vice-Chair Ball: You're committing to that then?

Mr. Hahn: We are committing to give them access. As long as the County is pono with that too. 'Cause we're not gonna be here to maintain that, the County will be.

Vice-Chair Ball: Okay. And then a follow up to that?

Chairperson Lay: go ahead.

Vice-Chair Ball: On those trees was there a study to save them, move them, anything like that?

Mr. Yong: Yes, I think as part of the design, in terms of the location of the, of the trees let me—

Chairperson Lay: Please identify yourself again.

Mr. Yong: I'm sorry. Gene Yong from Belt Collins, agent for the applicant. The two trees in question are here. We did talk to a landscape specialist and they talked about the cost and the survivability of relocating the trees. It was less than 50 percent probability, a cost in excess of about twenty, twenty-five thousand per tree. The team looked at different ways, I think the challenge was that the access point for the expansion area is essentially right here, and the access from the Baldwin Avene was here and so it was difficult to configure the parking and driveway around these two trees, and so the intent was to try to save as many of the cook pine trees here and then to replace that landscape character with a tree that was in keeping with the character of the area.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: To the applicant I wanna say that I like what I see in terms of the improvements that are proposed. I think the improvements would be fitting and recognize the service of the veterans that would be laid to rest there. And I think it will be a very good improvement. The problems that we've heard come up today I think need to be resolved, I think they can be resolved if we get a commitment from you, you get a commitment from Public Works relative to access we can condition

the approval on 24/7 access pedestrian as well as controlled access vehicular. I would not wanna see cars going in there with drunks that come out of a nightclub in Makawao doing donuts on the grass you know, and doing unimpeded stuff like that that happen whether we like it or not. So some means of being able to control that would be appropriate, but I think ensuring and guaranteeing 24/7 access for the people that need to visit you know, their loved ones there is something that has to be included.

Mr. Yong: Yeah, I know if...Gene Yong from Belt Collins, we have talked about that extensively because we knew how contentious that issue was and so I'd like to call up Neal Mitsuyoshi who can comment on commitments that the State and veterans are willing to make in terms of that access.

Lieutenant Colonel Mitsuyoshi: Lieutenant Colonel Mitsuyoshi, State DOD. As far as the commitments on the access, I think we are all in agreement you know that being the MCA and the State cemetery in terms of allowing the access. I don't think that that's really a concern. The one concern I will say on the State's side is because the State, unlike the State Veterans Cemetery that's owned, operated and managed by the State of Hawaii on all of the neighbor islands, each one of the neighbor island cemeteries are owned and operated...managed and operated by the individual counties so we don't...we can't speak for the County but the State is not opposed to allow the ...(inaudible)...access accessibility right. There always is concerns with damage to our veteran cemeteries. You know these cemeteries are really honored shrines to our fallen veterans and their families. And it is unfortunate that we have experiences where in other cemeteries skateboarders will use our columbariums as a devices for our skating or you know people will come in after hours and literally vandalize our columbariums and our committal shelters. So that is always a concern, but I hope we can work through those things to protect the integrity of the cemetery.

Mr. Yong: I think the team has discussed that it's willing to consent to a condition which grants them access whether it be a key, combination and that any closure is either in consultation or subject to approval of MCA so that, you know, if they concur that there's a problem then it would only be done on a mutual basis.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Is there someone here how either operates or works or maintains the Makawao Veterans Cemetery?

Mr. Yong: Yes, we have Eric Yamashige who's the Highways Division Superintendent. If I can call Eric up?

Mr. Eric Yamashige: Good morning, Mr. Chair, Commissioners. I'm sorry, I'm Eric Yamashige, Highways Superintendent for the Department of Public Works.

Ms. Wakida: And part of your job is to take care of that cemetery?

Mr. Yamashige: Yes.

Ms. Wakida: Is there currently a vandalism problem up there?

Mr. Yamashige: We do have vandalism. Like it was mentioned, our committal shelter has been vandalized at least several times since I've been here. We've had to replace glass panes, clean up some of the, I guess paint, but generally we have a pretty respectful community. It's unfortunate that we do have some that are not.

Ms. Wakida: True. And probably skateboarders and so on can whether...they can just walk in and do that sort of vandalism because the parking is right there. So where the gate is or whether it's locked or not wouldn't make any difference in that kind of vandalism ...(Inaudible)...

Mr. Yamashige: Yeah, it's like your house, yeah. You can lock everything and if they really wanna get in, they'll get in. So, it's a deterrent. We've not had to restrict access to the cemetery and that's not what is being proposed.

Ms. Wakida: What I was leading up to was I was hoping that perhaps you would consider extending the vehicular hours until later in the day before sunset, of course, and also have vehicular hours on the weekends without having to learn the combination or get a key.

Mr. Yamashige: Our challenge is our staffing. We one full-time cemetery caretaker at Makawao whose hours are 7:00 to 3:30 which is why the hours were identified as 7:00 to 3:00 because he needs to get back to our baseyard to end work. We don't intend to lock that front gate. I think it was mentioned it was a ceremonial gate, ceremonial entrance. But we do not wanna have people driving into the roadways because at that point you know, it's pretty out of sight and we cannot control what people are gonna do. I hate to learn the hard way, you know, leave it open, provide people unrestricted access. We just gotta work on it as we go along.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Eric, the main gate is always not locked. It's always open. The main gate I can go there at 6 o'clock and walk in the cemetery am I right?

Mr. Yamashige: That's correct.

Mr. Freitas: So there's not...there is always access. Thank you.

Mr. Yong: Eric, if I can...this is Gene Yong from Belt Collins, if can clarify something. On the discussion of gates and in terms of access, the limitations on access that Eric is talking about has to do with the second vehicular gate in terms of Monday to Friday, 7:00 to 3:00. As it relates to Makawao Cemetery, if this gate remains open at all times unless giving their consent they would have access to both of their existing gates as well as their expansion area, and that the thinking is that the 14 stalls up here would be shared with both cemeteries and that if they have overflow needs, requirements, they have the flexibility to access their expansion area if they choose to use their expansion area to meet those needs as well 'cause they are also you know, more than doubling in size.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: This is going to be for Paul. Why aren't we looking at a change in zoning on this?

Mr. Fasi: It's the applicant's decision to go with the Special Permit. He can go with the change in zoning route if he wants, but this is what came across my desk for this project and so this is what I'm processing.

Chairperson Lay: Director?

Mr. Spence: Just adding two cents to that the question about change in zoning. At some point, the County Council may want to initiate zoning for you know both expansion areas so it's not like it's going to go anywhere or the character is gonna change a whole lot with use over the years. So—

Vice-Chair Ball: ...be okay?

Mr. Spence: At some point that I'm sure it will come before the ...(inaudible)...

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yes, perhaps you can answer this question. Is there lighting, night lighting in this facility at all?

Mr. Yong: Actually, perhaps I can call Eric up for that question?

Mr. Yamashige: Hi Eric. Yes, there is some lighting. It's more for security so we can see if anybody's hanging out.

Ms. Wakida: And are you planning to put in additional lighting?

Mr. Yamashige: I'll defer to the consultants because I think there's limited lighting like I say for the—

Ms. Wakida: I don't think I saw any on plans.

Mr. Yamashige: For the flag pole.

Mr. Yong: Yeah, if I could call up the architect, Dwayne Hamada who can speak. There are two...there's...the existing vertical structures, there's only the committal shelter here and then a future maintenance facility which will be in a secured fenced area here, so Dwayne if could clarify where the lighting is proposed?

Mr. Dwayne Hamada: Dwayne Hamada, Design Partners. The intent is to give the County the flexibility to light two structured areas. The existing committal shelter has capability of lighting depending on the needs. And there's gonna be a maintenance building as part of this request that will also have a capability of lighting. And the County can make its own decisions whether or not to exercise the capability on an as need basis.

Mr. Yong: But there would be no large area lighting along the roadways or the cemetery grounds.

Mr. Hamada: The State cemeteries are daylight facilities. So there is no requirement for lighting of the cemetery grounds itself because the cemetery will be closed, but for property protection of the built structures there's a capability to have lighting for security purposes.

Chairperson Lay: Commissioners any more questions? Commissioner Wakida?

Ms. Wakida: I think I did my last question. In the report was a reference to a Phase 1 and Phase 2, and I'm a little...I wonder if somebody could briefly define what is considered Phase 1 and what's considered Phase 2?

Mr. Yong: Sure. Gene Yong from Belt Collins. The ten-acre expansion area is roughly this area here. So the Phase 1 expansion area goes out to this line here which will be a fence between the improved area, improved four acres, and then unimproved balance of the property here. So the Phase 1 is this area that abuts the existing cemetery so that total useable area for the cemetery in Phase 1 would be 11 acres and that the capacity provided by Phase 1 is expected to be sufficient for 15 or 20 years based on a yield of about 2,000 grave sites in the expansion area. And the grave sites will include you know, double-depth, you know stacked casket burial plots as well as buried cremains. So there's a fair amount of flexibility in terms of the yield, but that should be sufficient for about 15, 20 years. After that, once that capacity is exhausted then the State would be expected to pursue improving the phase, the balance of the site.

Ms. Wakida: So where does the entry area of the parking come in?

Mr. Yong: So the expansion, basically the internal roadway would be extended to a turnaround in the future development area and so all the access would continue to be through the primary entrance off of Baldwin Avenue.

Ms. Wakida: I'm still not clear. Is that part of Phase 1 or Phase 2?

Mr. Yong: This is all part of Phase 1, but the frontage improvements is all part of Phase 1. One of the things that is occurring here in Baldwin Avenue is that there's a couple roadway connections or driveway connections into Baldwin Avenue and through consultations with the traffic engineer for safety purposes the decision was to consolidate the two accesses into one roadway connection to Baldwin Avenue because of the curve and the sight distances in that area.

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

Mr. Hedani: Just wanted to ask Rowena if she can comment on accommodating the Makawao Parade if there are other alternatives?

Ms. Dagdag-Andaya: Thank you for that question, Commissioner Hedani. I do believe that there was a meeting sometime ago, and I think I would want to defer to either Ron or Gene to answer that.

Mr. Yong: Yeah, I know that the VA's position is that the use of the Veterans Cemetery as a

staging area for the rodeo is not desirable in a long-term basis. It does understand that it has been used that way for many years and so the County has facilitated three-way conversations between representatives of Makawao Community Association and Maui Land and Pineapple who owns the land across the street and sublease it out to Haliimaile Pineapple and Ulupalakua Ranch, and that those discussions have been generally positive and that they have the adjoining or ...(inaudible)...across the street are open to continue those discussions. And so any change in that arrangement, in the current arrangement would not be before 2015 if it does happen.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Yes, I have a question regarding your meeting with the Transportation Department and paving. I'm looking at your picture now.

Mr. Yong: Okay.

Mr. Higashi: Could you kinda visually tell me how that pavement is gonna be done versus what it is now?

Mr. Yong: Okay, right now if you look at the general area...there's a little island here.

Mr. Higashi: Right.

Mr. Yong: And there's sort of a...it will define a driveway apron or roadway...there's really no apron. I mean, Kee Road empties out here. So this area is used quite a bit for people turning around, for people pulling off. And so the intent was to try to find the maximum distance so that people entering or exiting the traffic could have clear sight lines down Baldwin Avenue in the makai direction as well as in the mauka direction. And then left turn vehicular traffic coming into the driveway would be able to see oncoming traffic to the maximum extent possible.

Mr. Higashi: Well, the question I have is that is that section that you have that white, that kinda like curve and the green-

Mr. Yong: Right.

Mr. Higashi: Are you gonna have like curbing, you know, where it's a border that goes around that area so the person is prevented from making a U-turn or whatever?

Mr. Yong: I'll call Dwayne Hamada up from Design Partners. He could speak to the specifics of that improved area.

Mr. Hamada: Dwayne Hamada Design Partners and-

Mr. Ono: Derek Ono, Unemori Engineering.

Mr. Hamada: So one of the intentions of the traffic circulation is really to make it safer. So we looked at Kee Road having a separate access to the access to Makawao and Maui Veterans

Cemetery. Understanding is that two access points very close to each other is dangerous so we combined the two access points, that single access that you see that's shared between Kee Road and the two cemeteries. That's number one.

Mr. Yong: Dwayne, if you could explain the curbing that's expected in this area?

Mr. Hamada: So from guidance from the Veterans Association, the VA, we had proposed curbing to prevent parking on the grass because that's fitting for a veterans cemetery. Everywhere else beyond the gate is going to have road curbs so people can...so it's a different type of curbing. I don't know if I answered your question.

Mr. Higashi: No, but my question is why are you creating that? Is it because you've had many accidents there or whatever that now you gotta put a curb? When if it in the past you haven't had any problem why are you now gonna create something that might create problem is my question?

Mr. Ono: So your question is to the traffic safety issues that are brought up because of the curbing? Well, I guess the thing to remember too is at that intersection configuration in the bottom corner of the site you see a green shaded area, the green shaded area is a raised embankment area so cars won't be able to easily traverse that. So it effectively it acts like a curb.

Mr. Higashi: So is it because there was problems there before or you're now just gonna do it because you wanna prevent from getting around?

Mr. Ono: The driveway configuration there is not intended to prohibit people from driving on it.

Mr. Yong: The intent is to improve safety.

Mr. Ono: It's also stop controlled.

Mr. Higashi: I understand. What I'm saying is normally when you do something like that is because you're having accidents or you're having problems and that's why you're doing that, but it sounds like you're doing it just for the purpose of number one, environmental beautification to keep the grass nice so people don't drive over it or whatever, but I personally don't see the rational for you to put curbs around that particular area.

Mr. Yong: Yeah, I think--

Chairperson Lay: Again, for our record keeping we're gonna have to...let's not do the ping pong action. I mean, if we got one person speaking let's go for it and then we can direct it to the other person, it will go much smoother and especially for writing all this down and records.

Lieutenant Colonel Mitsuyoshi: Lieutenant Colonel Mitsuyoshi. I think there are two separate issues. So regarding the configuration that's an engineering issue on the safety. So the existing roadway that's one issue. I think from the VA's perspective regardless of whatever road configuration you come out, the VA wants to require certain things at that entrance and the curbing was one of the things that was required by VA and it went along the lines of not having people, you

know, park in the front of a cemetery. So that whole entire area is gonna be basically beautified. I think I wanna take one step back and look at it from an opportunity right now for Maui Veterans Cemetery so right now all of the things that are being to Makawao including the O&M project, the Operation and Maintenance Project which is basically gonna take the existing cemetery, regrass and realign all of the headstones on the existing cemetery. The expansion cemetery which basically builds a new cemetery and the improvements that miscellaneous improvements that get done to the front of the cemetery basically improve the entrance, access to parking of the cemetery. The VA wants to do that as a holistic project and they have funded us. O & M is typically not something that is funded up front. It's a very low priority item, Priority 4 on the VA's priority whereas cemetery expansion is Priority 1, but they've agreed to bring up that projects to allow us to actually landscape the entire cemetery and realign the headstones with the understanding that at the end of this project we'll end up or the veterans will end up with a brand new looking cemetery.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: My question for the applicant. One of our testifiers gave us packet with concerns and one of the concerns had to do with an easement that apparently is...favors a...a 20-foot easement that favors the Makawao Cemetery and they had some concerns about I guess it seemed like encroachment into that easement and fencing and roadway and so on. Can you comment on that?

Mr. Yong: Sure. The existing easement is a 20-foot easement in favor of Makawao Cemetery for access purposes and it's not defined by metes and bounds. It's not defined by a map, but the Maui Veteran's Cemetery is honoring that easement by providing that access along this driveway and then these driveway extensions into the front gates and also by providing...extending that access to their expansion area.

Ms. Wakida: May I follow up?

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Does that easement run the whole length of that access road along?

Mr. Yong: But the existing easement actually only comes up to here. Let me, I should go back to some earlier slides. So the existing easement comes up to the end of this flag pole portion of the expansion area. So the driveway access that's being provided as part of this project would extend Makawao Cemetery's access actually beyond the extent of the existing easement today because this corner here does not reach Makawao Cemetery's expansion area. So in that sense the, you know, the Veterans Cemetery has tried to honor that easement you know to provide them access to their properties.

Ms. Wakida: And you've been in conversations with the Makawao Cemetery people over the easement in your plans, right?

Mr. Yong: Yes, yes.

Chairperson Lay: Commissioners, any more questions? Seeing none, can we get the

Department's recommendation?

b) Action

Mr. Fasi: The Planning Department based on the facts presented in the Department report finds that the current use is consistent with Chapter 205, Hawaii Revised Statutes, the Countywide Policy Plan, the Maui Island Plan, the Makawao-Pukalani-Kula Community Plan and applicable Title 19 Zoning Ordinances. The Maui Planning Department recommends to the Maui Planning Commission approval of the Land Use Commission Special Permit subject to the following conditions and you can see the four conditions there. The Department is recommending a time frame of 50 years and there's like the Director said, there's a good probability that the Council will initiate some kind of change in zoning for this particular area some time in the future.

Vice-Chair Ball: So move.

Mr. Freitas: Second.

Chairperson Lay: Motion by Commissioner Ball, seconded by Commissioner Freitas. Any discussion on the motion?

Vice-Chair Ball: Discussion?

Chairperson Lay: Discussion on the motion, Commissioner Ball?

Vice-Chair Ball: Just discussion about the access commitment that was addressed many times and got commitments for but we don't have it as a condition. Do we want to put a condition or do we wanna take the testimony that we had as a commitment?

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I am specifically interested in the front gate access. I thought I heard the applicant say that would be open always, 24 hours. So I would like to see that as a condition.

Mr. Fasi: I would say that if the applicant made a commitment and he's on the record for 24/7 I would think that that wouldn't have to be a condition.

Mr. Hopper: Just from an ease of enforceability, this is Michael Hopper, Deputy Corporation Counsel for the Department I would recommend some type of condition particularly the applicant I think stated they would be okay with some sort of condition. I would recommend that just for clarity sake so that in the future if there's a doubt as to exactly what's required we wouldn't have to look very far.

Chairperson Lay: Does the applicant agree with that?

Mr. Fasi: So are you saying that the condition should read something to the effect that there shall be 24/7 at the ceremonial gate, 365 days a year?

Mr. Freitas: Main gate.

Vice-Chair Ball: I would put in there unless it's so deemed that that is inappropriate, and you know—

Mr. Yong: I think if I may, Gene Yong from Belt Collins, if you know, you could say a condition would read something along the lines of 24/7 access. Any closure of the gate would be subject to approval both Makawao Cemetery Association and you know, prior consultation and approval of Makawao Cemetery Association and Maui Veterans Cemetery.

Mr. Fasi: So something to the effect that access to the ceremonial gate be subject to approval of the Maui Veteran's Cemetery and the Makawao Cemetery Association.

Unidentified Speaker: Right.

Mr. Fasi: Thank you.

Mr. Hopper: You said, access would be subject. Is it the idea that it would be—

Mr. Fasi: Closure.

Mr. Hopper: —open 24/7, and closure would be subject to the conditions as stated.

Unidentified Speaker: Right.

Mr. Hopper: Staff okay?

Mr. Fasi: That is correct.

Chairperson Lay: Maker of the motion agree?

Vice-Chair Ball: Yes.

Chairperson Lay: Along with the second?

Mr. Freitas: It's acceptable.

Vice-Chair Ball: Do we wanna address then the access of the second gate for the...

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Yeah, I think what I heard the applicant say was that the ceremonial gate in the front would be open 24/7 except for instances where they have a function going on and it's appropriate to close it is what I heard? No? It's never appropriate. You actually don't need a gate. It's decorative more than everything else then? I see. Okay.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: So I don't know if you want to add onto that or make another one about the second gate allowing access to the Makawao Cemetery for their use?

Mr. Yong: Gene Yong from Belt Collins. Closure of the second gate which is the one that really secures the Veterans Cemetery should not preclude you know the access for Makawao Cemetery into their property.

Vice-Chair Ball: Well, theory behind it is if the gate is closed at 3:00, no the second one, the gate is closed at 3:00 and they have a funeral at 4:00, they have a key to open that up so that people can park along that stretch is the theory behind that?

Mr. Yong: Let me defer to Neal Mitsuyoshi on that.

Lieutenant Colonel Mitsuyoshi: Yeah, if I understand the question...sorry, Lieutenant Colonel Mitsuyoshi, State DOD. If I understand the question right, generally speaking the second gate will stay according to business hours to help the County maintain the cemetery security. However, the request is to allow the Makawao Cemetery Association to have access to that in coordination with the County in certain situations. Is that correct?

Vice-Chair Ball: Correct.

Lieutenant Colonel Mitsuyoshi: Yeah, then I don't think, again, I don't think the State has any issues with that. I just caution that the County is the owner and operator so I don't wanna speak for the County in any situation, but the State wouldn't have you know, objection to that specific use.

Mr. Yong: I think that in protecting the County's interest and again, you know, we cannot speak for the County it would need to have the consent and prior approval of the County who manages and maintains that portion of the Maui Veteran's Cemetery. Now the thinking is that depending on what Makawao Cemetery Association's long-term intentions are for its expansion area. They have the opportunity to address any of their needs on their property and that the Maui Veterans Cemetery has afforded them access to that area of their property.

Chairperson Lay: Director wishes to comment?

Mr. Spence: Commissioners, and I'm sorry was I was speaking with Rowena briefly on this it seems access through that second gate is much more of a County issue and it's because it's based on availability of County personnel since we maintain and we provide security for that, you know, for the cemetery as a whole. So I think this is much more of a County issue to be brought up say at County budget time. You know since it may require additional personnel to keep it open for additional hours. You know, I think really that's a County issue. It's not between the applicant and the Makawao Cemetery Association. So you know, we'll take it upon ourselves to speak with County Council about the budget and those kinds of things.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: I think the issue here is they hold their funerals they say at like 4 o'clock. The issue

is having available parking. They claim to have at least 40 or more people at a funeral and it would be having access to a key where they could have that specific funeral or what have you having access after the funeral it be locked up somewhere where they could pick up the key from the County baseyard or something to that effect. I think that's the concern and I think if we address that I think it will be okay.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yes, if a veteran's family wants to hold a funeral on a weekend, how do they get into that second gate?

Mr. Yong: Perhaps I'll defer to Ron Hahn on that.

Mr. Hahn: Ron Hahn with the State Office of Veterans Services. Currently right now we do not allow burials on the weekend. It's a VA standard at this time. Punchbowl, all the other State veteran cemeteries. And so unless that gets changed and we get increased FTO different directions they're not allowed at this time. So all of our funerals are done Monday through Friday.

Mr. Yong: And that's the current practice.

Mr. Hahn: And it's been like that for decades. It does not permit or disallow people from coming in and seeing their loved ones or pay respect but as far as funerals are concerned not on weekends.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Did we resolve the question of pedestrian access 24/7?

Mr. Freitas: Yes, we did.

Mr. Hedani: That's done, right. Okay. Was I asleep when that happened?

Chairperson Lay: Still have the motion on the floor. Any more discussion on the motion on the floor? Commissioner Hedani?

Mr. Hedani: I think it's important that we proceed at this point, not defer, you know, in consideration for this project. I think the funding is a very important thing that they've worked very hard to secure. They've got priority, you know, in terms of Federal funds for this particular project. The fuse is very short relative to the amount of time that they have left with the existing space that they have. So I think it's important that we proceed.

Chairperson Lay: Corp. Counsel?

Mr. Hopper: Well, just to clarify where we are in the process. I'm not sure the amendment has been voted on at this stage. That's the motion on the floor? The amendment? Okay, thank you.

Chairperson Lay: Any more discussion? Commissioner Freitas?

Mr. Freitas: Yeah, quick question, quick comment. I what do you call second the motion. I am a veteran. I live, born and raised in Makawao. Those two pine trees can go I won't miss 'em. And I what do you call, I believe the issue of access has been met, and the issue of parking has been met and that's why I support and made the second.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: For those that are endeared to those two cook pine trees what I would suggest is when they're removed donate them to somebody, preferably a veteran that's a sculptor that can use it for ceremonial purposes for you know appropriate ceremonies in the future.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: As far as the trees are concerned, you know, a lot of people talk about honoring the veterans, supporting the veterans, I'm going trees? There are people buried there that laid down their lives they made the ultimate sacrifice and we're refusing to sacrifice a couple of trees, I'm sorry. I support the Veteran Cemetery's plans 110 percent unlike my friend over here who just supports them 100 percent.

Chairperson Lay: Commissioners any more discussion on that motion? Commissioner Wakida?

Ms. Wakida: Are we--

Chairperson Lay: Voting on the amendment.

Mr. Hopper: This only deals with the first gate. I understand there was not an amendment regarding the second gate?

Mr. Freitas: No.

Chairperson Lay: Call for the vote, let's have the Director repeat amendment.

Mr. Spence: Paul can you repeat the--

Mr. Fasi: Yes, sir. That access to the ceremonial gate, ceremonial gate be subject to approval by the Maui Veterans Cemetery and Makawao Cemetery Association.

Mr. Hopper: That states that access is approved by these groups. I thought the wording was access will be open 24/7, closure will be subject to approval by those groups. That is a difference.

Mr. Freitas: That is correct.

Mr. Fasi: We can make that modification. That the access will be open on the ceremonial gates subject to approval of the MVC and MCA and closure--

Mr. Hopper: Closure shall be--

Mr. Fasi: --to be determined by both parties. Is that correct?

Mr. Hopper: I think the wording would be that access to the ceremonial gate shall be open to the public 24/7 and closure shall be subject to the approval of the groups that--

Mr. Freitas: Right.

Mr. Hopper: --any closure shall be subject to the approval of the groups that you had mentioned.

Mr. Fasi: So noted.

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

Mr. Spence: That's eight ayes. The amendment passes.

Chairperson Lay: Now back to the motion. Any more discussion on the motion?
Commissioner Wakida?

Ms. Wakida: Yes, I certainly wholeheartedly approve the Veterans Cemetery and I know that they wanna be good neighbors to the Makawao Cemetery and if there are continuing areas of disagreement I hope that they will step forward and...the Veterans Association will step forward and try to resolve those to everybody's satisfaction. We are a small community and a friendly community and I'd like to see these issues resolved.

Chairperson Lay: Thank you. Can the Director repeat the motion?

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

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

Mr. Spence: That's eight ayes. The motion carries.

Chairperson Lay: Congratulations.

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

**VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended by the Department as Amended with a Additional Condition.
(Assenting - K. Ball, J. Freitas, J. Medeiros, M. Tsai, W. Hedani, S. Duvauchelle, P. Wakida, R. Higashi)**

Chairperson Lay: Let's take a 10-minute break and reconvene at 11:20.

A recess was called at 11:09 a.m., and the meeting was reconvened at approximately 11:23 a.m.

Chairperson Lay: Our next agenda item, we have Mr. Edward Gramit of the Mahina Surf requesting a Change of Zoning for the Mahina Surf from the R-3 Residential District to the A-1 Apartment District for property located at 4057 Lower Honoapiilani Road, and we have Paul Fasi in charge.

2. MR. EDWARD GRAMIT of the MAHINA SURF AOA requesting a Change of Zoning for the Mahina Surf from R-3 Residential District to the A-1 Apartment District for property located at 4057 Lower Honoapiilani Road at TMK: 4-3-009: 005, Lahaina, Island of Maui. (CIZ 2012/0003) (P. Fasi)

Mr. Paul Fasi: Thank you, Chairman Lay. I'm gonna be very brief in my presentation and we do have the applicant's representative here from Chris Hart & Partners, Brett Davis. This is a simple change in zoning application. You're here to make a recommendation to the County Council. The property is approximately just under two acres, 1.96. The land use designations are as follows: State Land Use is Urban, Maui Island Plan is Urban, in the West Maui Community Plan it's Multi-Family, County Zoning right now is R-3. As Chairman Lay said, the application is to change the zoning from R-3 to A-1 appropriately.

The Mahina Surf was approved for construction in the Residential District in 1968, 46 years ago, and built in accordance with the A-1 Apartment District standards. It was built pre Coastal Zone Management Laws in 1975. So the CZM Laws became effective in 1975. The property was developed in 1968. So it's considered a existing nonconforming use and structure.

The change in zoning of which this is appropriately zoned to A-1. There are five criteria that have to be met according to Title 19, Change in Zoning. The five criteria has to be met. The current zoning of R-3 is not reflective of the actual use which is an apartment use condominium. Immediate neighboring shoreline parcels are appropriately zoned A-1 Apartment and therefore the A-1 rezoning would bring about an orderly zoning map change that reflects the actual use of the particular parcel. The Department does support this change in zoning, and that concludes the Department's remarks. We do have a short presentation by the applicant's representative. Thank you.

Mr. Brett Davis: Good morning, Commissioners. My name is Brett Davis. I'm a planner with Chris Hart & Partners. Here's just a quick presentation about the project. This is the Mahina Surf. Here's an aerial photo, outline of the property in red there. And it was built in 1968-69 on 1.96 acres. There's 56 units in three buildings. Off street parking is provided.

The purpose of this request--This came about...we did some landscaping work in 2012, and as part of that application it was required that the owners initiate a change in zoning application so that's why we're here today. In addition, the change in zoning will bring the property into conformance with the West Maui Community Plan.

This is a quick before and after picture of the shoreline restoration project we did. If you focus on this tree, this tree here, it was a restoration project in coordination with DLNR and it was a success. This is a photograph of the zoning map that Paul was mentioning earlier. You can see almost all

the properties along the shoreline have gotten changes of zoning over the last 30 years. Here's the picture of the Mahina Surf itself. The building's two-stories tall. It's 28 feet, 9 inches in height and that's well within the 30 foot restrictions of A-1 Apartment. And thank you for reviewing our application.

a) Public Hearing

Chairperson Lay: At this time, I'm gonna open up 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 Hedani?

Mr. Hedani: I'm not sure who this is for. The first question that I have is does the project abut a government beach reserve, and if that's the case, how wide is that beach reserve and is the building built on government property?

Mr. Davis: Brett Davis from Chris Hart & Partners. The structures are not built on state property.

Mr. Hedani: Okay, is it abutting a government beach reserve and how wide is that reserve, 'cause in the case of Olowalu it was 50 feet wide and so the question is if the building is closer than 50 feet wide to the shoreline, it's on government property.

Mr. Davis: Okay, I'm Brett Davis again. I'm not...I can't say that the building is 50 feet from the shoreline. Let me look at my application, but I know it's outside of the shoreline setback.

Mr. Fasi: Wayne, Wayne, I'm not aware of any government strip of land in front of their apartment.

Chairperson Lay: Please wait.

Mr. Fasi: I have not seen that.

Chairperson Lay: Let's kinda wait till I give you the floor, but go ahead.

Mr. Fasi: Oh, I'm sorry.

Chairperson Lay: Go ahead.

Mr. Fasi: I was just trying to answer the Commissioner's question.

Mr. Hedani: Can we ask Paul?

Chairperson Lay: Yes, Paul go right ahead, Paul. Give us that information, thank you.

Mr. Fasi: Let me try this again. I'm so rude. I am not aware of any government land fronting their parcel.

Mr. Hedani: Okay, the only reason why I asked the question is because if you look at the map, the

map shows...this map, the map shows a red line which I think is the shoreline and it shows another line which is further back from that which looks like it's the property line, and the white space in between I believe is a government beach reserve because we had another condominium come before us before that had actually built things within the government beach reserve which was a problem. The only reason I bring that up is I'm asking a question about lateral beach access along this entire shoreline, public beach access to and from the shoreline and you know where that nearest public beach access is.

Mr. Davis: Okay, my name is Brett Davis again. Maybe one thing I could clarify is that there is no beach in front of this property. It's hardened lava shoreline with a base flood elevation approximately 12 to 13 feet. So there is stairs that access a rocky beach in front of the property but there is no sand on the property. The closest beach access would be S-turns to the north of the project. If I could show it's right here.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Small question. You have only one person who sent a letter of concern and that said they were concerned that a change in zoning would erode property values. Did you talk to these people and find out what they meant by that 'cause I don't see how this is gonna make a difference in their property value.

Mr. Davis: This is Brett Davis at Chris Hart and Partners. I did not speak to those individuals directly but I agree with you, I'm not sure how change in zoning would erode the property value.

Chairperson Lay: Back to Commissioner Hedani's question was your question answered?

Mr. Hedani: I'm not sure. Well, I don't know the answer at this point. I guess the question is is there a government beach reserve in front of the property?

Mr. Davis: This is Brett Davis of Chris & Hart Partners. To my knowledge, no.

Mr. Hedani: Okay.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: Do they currently do vacation rental here? And how would the zoning change that if any?

Mr. Davis: I'm sorry, could you repeat the question one more time?

Vice-Chair Ball: Vacation rentals. Do they do vacation rentals in the complex now, and if they change the zoning, how would that affect it? I do...does the association know about this, and I'm assuming they do 'cause they're coming in for that.

Mr. Davis: Yes, this is Brett Davis at Chris Hart & Partners. Yes, they do rent out the units. So that is allowed. And yes, the Board of Mahina Surf is aware of the request for change in zoning.

Vice-Chair Ball: So the change in zoning would probably allow it more than actually now 'cause it's R-3. It's currently not allowed.

Chairperson Lay: Director wish to comment?

Mr. Davis: Sorry, Brett Davis. The continuing use of the property would just be a continuing use of a, I'm sorry, nonconforming use.

Mr. Spence: Will Spence, I'm the Director. You know, we're...oh, I forget my dates on when all this stuff changed but at one time, vacation rentals were fine in the Apartment District, and then there was...the County Council changed that but specifically grandfathered all those in, all the properties...all the properties I believe it was in the 80's that were already doing it when the County Council changed it. So vacation rentals weren't permitted in the Apartment District. They specifically said in the ordinance everything prior to that date they could continue. So this would be one of those properties.

Vice-Chair Ball: This is in Residential zoning not in Apartment. We're changing it to Apartment zoning, right?

Mr. Spence: Right, it's still a grandfathered use within that and it's been established in that that area.

Vice-Chair Ball: Good enough for me.

Mr. Spence: I don't think changing the zoning would-

Vice-Chair Ball: Even though it's gonna help them.

Mr. Spence: As long as that use continues.

Vice-Chair Ball: Thank you, Director.

Chairperson Lay: Commissioners, any more questions? Seeing none, can we get the-oh, Commissioner Hedani?

Mr. Hedani: The second part of my question was where's the nearest beach access, yeah? If S Turns is the closest to this particular property, one of the goals of this Commission is to establish beach access every 1,500 feet. How far away from S Turns is this project located?

Mr. Davis: Brett Davis of Chris Hart & Partners. I can't give you a very accurate number right now. If I had to guess, I would guess a distance from here, Mahina Surf to here at S Turns is probably five to six hundred feet. But, that's....that's a guess.

Mr. Hedani: Let me ask the tough question then, is there an opportunity to create beach access through this property to the shoreline?

Mr. Davis: Brett Davis of Chris Hart & Partners. I don't believe that there is. No.

Mr. Hedani: Why?

Mr. Davis: Well, if you were trying to connect S Turns to Mahina Surf? No, are you trying—

Mr. Hedani: I'm trying to connect Honoapiilani Highway to the ocean.

Mr. Davis: Okay. Well, Brett Davis of Chris Hart & Partners. I guess the difficulty there is providing parking for people that wanna get to the ocean through Mahina Surf and then also, there's not exact...there's not a path to the ocean dedicated for public use. Everybody that's at Mahina Surf kind of just meanders through the lawn in the backyard down to the barbeques in the ocean area. So I'm not sure where you would put a public walkway to the ocean from this property. And again, there's no beach. It's a short...it's a hardened shoreline with a base flood elevation of 12 to 13 feet.

Mr. Hedani: Let me ask the Director this question then. Is this site appropriate for beach access?

Chairperson Lay: Director?

Mr. Spence: I can't say that I've been down there and taken a look so I don't know. I can't answer that.

Chairperson Lay: I'd like to ask a question of the Director. I mean, we're just trying to find these access points to the ocean and it's always an after the math thing like this, I mean, how possible is it where two residences close together, every so often, you know, we're creating that. I mean, is it enforceable or is it...can we do that or at this time are we just too late to step in the game?

Mr. Spence: I can't answer that.

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

b) Action

Mr. Fasi: The Maui Planning Department recommends that the Maui Planning Commission recommend to the Maui County Council approval of the change in zoning from R-3 to A-1 Apartment District.

Vice-Chair Ball: So move.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Ball, seconded by Commissioner Medeiros. 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 the change from R-3 to

A-1 zoning.

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

Mr. Spence: That's seven...oops, that's six ayes.

Chairperson Lay: All those opposed?

Mr. Spence: Motion carries.

Chairperson Lay: Motion carries.

Mr. Hopper: Note that silence is an affirmative vote. So if you don't vote that's considered a "yes" vote, just as a note.

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

**VOTED: To Recommend Approval of the Change of Zoning from R-3 Residential District to A-1 Apartment District to the County Council as Recommended by the Department.
(Assenting - K. Ball, J. Medeiros, J. Freitas, S. Duvauchelle, P. Wakida, R. Higashi, W. Hedani - abstained)
(Excused - M. Tsai)**

Chairperson Lay: Our next agenda item?

Mr. Spence: Commissioners, we're on your third public hearing item. Kahana Sunset AOA requesting Community Plan Amendment from Multi-Family to Hotel, and a Change in Zoning from R-3 Residential District to H-M Hotel District, an SMA Permit and a Shoreline Setback Variance proposed for Kahana Sunset shoreline and site improvements. And the Staff Planner, it's still morning is Mr. Jim Buika.

- 3. KAHANA SUNSET AOA requesting a Community Plan Amendment from Multifamily to Hotel, a Change in Zoning from R-3 Residential District to H-M Hotel District, a Special Management Area Use Permit, and a Shoreline Setback Variance for the proposed Kahana Sunset Shoreline and Site Improvements Project for property situated at 4909 Lower Honoapiilani Road, TMK: 4-3-003: 015, Napili, Lahaina, Island of Maui. (CPA 2012/0003) (CIZ 2012/0007) (SM1 2012/0003) (SSV 2012/0002) (J. Buika)**

The Kahana Sunset AOA proposes to demolish a portion of the existing seawall (114 feet) and the ten-foot (10') concrete stairs sited within the Shoreline Setback Area and construct a structurally engineered shoreline armoring system approximately ten (10) feet mauka of the current seawall in order to stabilize the shoreline. A thirteen-foot (13') wide stairway will be

constructed thirty (30) feet mauka of the existing stairway. The damaged seawall at the existing drainage outfall will be located three (3) feet mauka of the existing wall. A gazebo and existing shower will remain but will be relocated. The existing 300-foot long, 36-inch, corrugated metal, storm-drain line will be repaired and retrofitted to minimize sediment, debris, and pollutants into the ocean. The project will include landscape planting.

Mr. Jim Buika: Good morning. Thank you, Director of Planning, Chair, Commissioners, Deputy Director of Public Works, Corporation Counsel, my name is Jim Buika with the Planning Department. Before I believe with some initial opening remarks I'd like to alert you to an additional package, Exhibit 45 that I put on your desks. These are comments from the public mostly on the concerns with the change in zoning. There are ten comments and written responses from the applicant in that package and if you'll allow me, I will pass out one additional letter that we...that my boss, Clayton Yoshida handed to me on the way out the door this morning. One more so it makes 11. It's not exhibited, so I'll just pass it around.

Thank you, so what I'd like to do is just provide the Commission with some brief opening remarks then provide the applicant's representative, Mr. Raymond Cabebe, the opportunity to present the project to you. I believe most of you have seen it through the environmental assessment process both the Draft EA and then the Final EA that was presented on April 22, 2014. Following the presentation on the project we will be prepared to answer questions about the project from the Commission. So if this is acceptable to the Chair, I'll just begin some comments. Thanks.

The report in front of you is for both a major SMA Use Permit and a Shoreline Setback Variance since a large portion of actual project will take place in the shoreline setback area along the beach. There are also land use change proposed for this parcel that I will describe. The applicant will give you a briefing. He'll show you the location and some slides in a moment. By introductory, way of introductory comments, the project is located at Kahana Sunset Resort in Keanui Bay, Napili area north of S Turns, north of the Mahina Surf project you were just looking at. All the properties in the bay actually have seawalls now or retaining walls including Kahana Sunset which is fronted by seawalls and has been the site of multiple Emergency SMA Permits in the past, few years, 2007 was one, 2010, due to undermining of the seawalls and the lanais at the shoreline. And this project is designed to improve the shoreline area and actually to demolish a seawall that is not protecting the property but in the common area and move it back about 30 feet and/or the seawall about 10 feet and some of the stairs 30 feet to provide actually some more beach area. It's not a perfect project. It is work in the shoreline setback area again like the Mahina Surf it was built in 1971. It's subject to at that time poor siting of the buildings, chronic erosion. Then they've had...then they had big major 1980 storm where many permits along that side of town came in to build seawalls so they built some seawalls there. And the seawalls in the entire bay has exacerbated the shoreline erosion problem by creating high wave energy. So the whole aim here is to clean up what was there. They've actually taken a lot out of the shoreline area working with the State and this is remedial work and there is actually in the Final EA we had a...the master plan there are two buildings that have been subjected to potential collapse into the ocean and there is a master plan where they would consider if the buildings were damaged beyond repair that they potentially could move those buildings back. So it's kind of a strategic retreat. It's not part of this application, but

it was considered.

There are two good things that are coming out of the project that I wanna make you aware of even though we're doing work in the shoreline setback back area. The first is that we will be increasing the beach area by almost 3,000 square feet. So we will be moving back somewhat. And also another important point that I know this Commission is very interested in was adding a public access to the beach through the Kahana Sunset property that connects into Lower Honoapiilani Road, so road to shoreline access.

Regarding the land use designations the applicant is requesting a community plan amendment from Single-Family to Hotel and a change in zoning from R-3 Residential to H-M Hotel District which is a maximum of six stories height. In order to have the land use designations consistent with the existing use there's a table on Page 4 in your report that talks about the changes in land use planning, Table 1. There have been considerable public comment asking not to change, not to support the change in zoning here today. Those are in Exhibit 35 to 37. There were six email and written testimonies in the report and then I handed an additional 10. They are by surrounding neighbors who have received the notice, public hearing notice and one today.

So the reason...I'll just give you a little background from the Department's perspective on the reason for the land use designation changes. The land use designation changes are being proposed because Kahana Sunset was constructed in 1971, as a lot of that area was by way of variance granted in 1968 as an apartment condominium project on residentially zoned property. This variance is 1968 again. It is an exhibit in your packet. In 1971, the County of Maui did not have any restrictions on transient vacation rentals. We now call them short-term rentals so that use. Kahana Sunset has always operated as a transient vacation rental apartments since its inception and is now grandfathered in to do so. Over time Maui County Code regarding TVRs use has evolved to restrict TVR use to Hotel zoned property only. To date, the 1968 variance continues to govern uses on the property. However, the County Department of Planning recognizes that the proposed action is to bring the established use of the property into consistency with zoning, Hotel zoning again allowing for the TVR use that is grandfathered in there.

Based on the use of the property, Hotel is the most appropriate zoned equivalent. It should be noted Kahana Sunset has been paying real property tax at the hotel rate for many years. And it should be reiterated that no expansion or intensification of use is associated with this application. And the Department has included with the change in zoning, a condition that will limit the height restriction to what it is existing to placate the concerned citizens around there that they would build up as a hotel. So there is a restriction that will go with the deed that will not allow them to build any higher. And what the change in zoning also does is right now a single family and residential if they did have damage, if they wanted to relocate buildings, if they wanted to refurbish them, under these height restrictions they would have to go through this change in zoning, community plan amendment at that time. So with the EA done and the SMA Major Permit and the variance they're coming in as separate actions, separate tracks those will go to the Council for approval and...if you recommend approval, and then so really today we are looking at the Major SMA Permit and the variance to do the work out front, the seawalls, and I'll have Raymond right now just explain the exact work that is being done. So that concludes my opening comments and still time before lunch we'll...I'll ask the applicant to give a presentation on the project. Thank you.

Mr. Raymond Cabebe: Good morning Commissioners and Chair Lay. My name is Raymond Cabebe and I'll be doing this presentation before you. I'll be introducing to you our project team and then we also...I'll be talking about the request that we have before you and show a little bit about the existing site. Also, you have seen this presentation or this project at least once. What we will show is the relationship between the actions and the actual permits, and then we'll conclude.

For the Kahana Sunset AOA, the applicant is...we have the applicants here, Jacqueline Scheibel who is the Long Range Planning Committee Chair, Bob Scheibel, who's the Board President, Ken Gadicke is not here. He's traveling today. We also have Jordan Hart and myself for Chris Hart & Partners and Dr. Mark Siah, who is a civil and coastal engineer and Kumar Siah who's a structural engineer.

Now there's four applications as Jim said. The Special Management Area Use Permit and a Shoreline Setback Variance is before you for your review and if you know if you see fit an approval. And the Community Plan Amendment and the Change in Zoning will go to the Maui County Council with your recommendations.

This is a location map showing the property on the northwest coast of Maui. The aerial map showing the properties around it. The Alaeloa Condominium to the north, Napili Villas to the east, Keonenui Bay to west. This is the tax map showing the property is 4.467 acres. There's 79 units on the property within six buildings. There's a seventh, actually a seventh building with the support services with the office manager's residence and a laundry. It was constructed in 1971. It has your typical amenities, you know, pool, cabana, gazebos, barbeques, showers, parking. This is the property how it's situated in kind of a U-shape and the buildings are labeled Buildings A thru F. This is Lower Honoapiilani Road as it curves around this area.

As Jim said, the variance was granted in 1968, and it was constructed in 1971, and there's been several permits and emergency permits done for the shoreline protection. And the latest thing was last year when they had to remove some old stairs and a rock and concrete buttress that was...that's actually was an encroachment and while the work was being done they also constructed the stairway for the beach access.

Some photos of the property along the shoreline. Photo 1 is on the north side of the property. Photo 2 leads down to the side of Building A. And this is looking at Building A from the shoreline. And Photo 4 is looking at Building F which is the other building on the shoreline. This is the drainage outfall. This was taken I think in 2012 I believe this picture. I'll show you a more recent picture. This is the stairway that's gonna be demolished and moved back about 30 feet. This is in January and this is in April and as you can see it's kind of day light in here so that the pipe is pretty damaged and the wall is you know just barely holding up there. This is the wall in front of Building F with the buttress and the old stairway. And this is how it looks now. This is the...on the side of Building F where the proposed beach access will go and this is where the stairway that was built last year as it leads down to the shoreline. It's not open currently 'cause it doesn't have all the railings on there so it's not being used yet.

This is the master plan for the property along the shoreline. If you recall, there's like five parts to it. The demolition, reconstruction of the seawall, the drainage improvements, the landscape

improvements, shoreline access path, and then final one is the community plan amendment and change in zoning from Residential to Hotel. The master plan showing the shoreline setback is...is this red, dashed line that follows along here. So you can see that Building A and Building F are both within the shoreline area. This is...the shoreline setback is based on the average lot depth since it's greater than the annual erosion hazard rate.

This is the detail of the new wall, proposed new wall and this is how it's configured. It's about 125 feet in total, and as I said, the stairs is gonna be about 30 feet back and this portion of the wall is about 10 feet and there was a shower that's located here and it's being moved back here. And the existing gazebo is right here and it's being moved across that walkway.

The drain line improvements is 300-foot drain line that runs from this dry well all the way to this outfall, that photo that I showed you. It's gonna be replaced in its entirety. There's also a smaller drain line that is gonna be up sized and also filters are gonna be put at the inlets. This shows the landscape improvements. It's just a retaining wall that's gonna be open up the lawn a little bit and new plantings will be drought tolerant and native.

The beach access path will run along the southern boundary here. It's of crushed stone and it will follow the natural grade from Lower Honoapiilani Road down to the shoreline. There's a six-foot high fence and a planting buffer that will define its boundary next to Kahana Sunset. There's a shoreline access inventory report that was prepared in 2005 by Oceanit Laboratories. It was actually an update to that 1986 report and has a inventory of existing shoreline access areas throughout the County and it's also established priority areas that, you know, that they were looking for that access that was needed. And this was based on community input, you know, as this group went to...had community meetings and the Kahana Sunset was determined to be a priority access area. And this is their recommendation. This area contains a large condominium development with no public access and negligible space for public access parking. Land could be acquired across Lower Honoapiilani Road for a beach support park and/or parking area and an access easement through the development should be made a condition with future SMA Permit for changes to the development. And so the Department's recommendation is to have a condition for this access.

I'm gonna move onto the SMA Rules criteria. There's 12 of them and they're listed in your report and they're addressed in your report, so I'm not gonna go through all of them. The last item, the 12th item is objectives and policies of HRS Chapter 205A and these...there's ten more criteria that has to be met and that's also listed in your report and addressed in your report. Because most of the improvements are within the shoreline area, it has to...we have to get this shoreline setback variance and this is the criteria for that variance. It pertains to the drainage cause we're replacing the drainage and it's also for...it has to, it has to not artificially fix the shoreline provided the Commission also finds that a hardship will result to the applicant if the facilities or improvements are not allowed within the shoreline area.

And this is the criteria for the hardship. Erosion will, you know eventually threaten the habitable structures. The unique circumstances are this drainage system that you know serves that whole region and it's also the first public access to Keonenui Bay. And we went through several alternatives through the EA process and this was deemed the most practical. And the shoreline setback variance also requires some mandatory conditions and these five conditions are in the

recommendation from the Department.

Moving onto the Community Plan Amendment and the Change in Zoning is from Residential to Hotel and R-3 Residential to H-M Hotel. And as Jim said, you know, it's specifically for to bring the historical use to be consistent with what the land use designations should be. And there's no plans, there's no actions connected with this, with these two applications.

Just as a recap this 79-unit hotel granted...was granted a variance in 1968, constructed in 1971 when there was no TVR restrictions. The community plan map showing it as Single-Family, zoning map showing it as R-3, Residential. I think Jim referred to this table regarding Kahana Sunset and comparing the R-3 existing zoning and H-M zoning. You know, from the right side Kahana Sunset that's their existing attributes. 1971 TVRs were allowed. It meets you know, area minimums and height through the variance they met the height restrictions through the variance and the lot coverage and floor area ratios. On the height part, put a asterisk here, there's a three stories...actually H-M is usually six stories, but the staff recommendation shows it as a condition of zoning to three stories and Kahana Sunset agrees with that. It meets the front and side yard standards. Rear yard is actually the shoreline so it's kind of grandfathered in that respect because there were no shoreline rules back in 1971. And then change in zoning criteria you know meets the community plan and the community plan use map...it doesn't currently but we're doing the community amendment concurrently and it will meet the community plan. As I shown you it will meet the standards and there's no indirect or direct impacts for this project.

The Kahana Sunset is a existing hotel condominium. There's no expansion proposed. It complies with H-M zoning standards. There's no primary or secondary impacts. Just a short time line here. It was submitted originally...the applications were all submitted originally in August 2012. Last year 2013 we went through the whole Draft EA process. We had a community meeting and we submitted a final, revised final in January and this body reviewed it in April and all the notices were sent out as required. And we're here today to look at this SMA and Shoreline Setback Variance and asking for your recommendations for the Community Plan Amendment and Change in Zoning and that's gonna be a future thing with the Maui County Council.

And as we said we went through the whole process and you know the impacts were identified and mitigated and we went through the whole commenting from the agencies and addressed all the concerns. We feel that the project meets the objectives of 205A and also the Maui Planning Commission SMA Rules and Shoreline Rules and meets the criteria for a Community Plan Amendment and a Change in Zoning. The presentation is concluded so we're open for questions.

Chairperson Lay: Thank you. Commissioner so we don't have all these people that are going to publicly testify, I would like go through, I don't think there's too many to testify before we break for lunch.

Vice-Chair Ball: I gotta go.

Chairperson Lay: You gotta go.

Vice-Chair Ball: I'll be back at 1:00.

Chairperson Lay: Other Commissioners shall we go ahead and let the public testimony or should we move forward with taking lunch?

Ms. Wakida: Public testimony. I don't think there's too many.

a) Public Hearing

Chairperson Lay: Okay, I'll open to public testimony. So we're gonna go to public testimony, for those of you Commissioners who have to go, we'll let you know how it went. At this time, I'm going to open up to public testimony. Anyone that wishes to testify please step up to the mic, identify yourself and you have three minutes? You missed it Commissioner Ball. We're now closing public testimony. We gonna take lunch and reconvene at 1 o'clock.

A recess was called at 12:07 p.m., and the meeting was reconvened at 1:00 p.m.

Chairperson Lay: Come to order. It's 1 o'clock. We just finished public testimony. Commissioners, do we have any questions? Seeing none...Commissioner Wakida?

Ms. Wakida: Thank you. This is probably for Mr. Cabebe. We had a slide on the beach access. It's currently not finished. Do you have any projection on when that beach access will be completed and opened?

Mr. Cababe: I'll have Jackie Scheibel answer that question for you.

Chairperson Lay: and Jackie please identify yourself for the record. Thank you.

Ms. Jacqueline Scheibel: Hi, I'm Jacqueline Scheibel. I co-chair the Long Range Plan. And we've been working on this project coming on our third year. The steps to the beach are complete. The handrails are already installed. The safety rails you know so that people can't climb over, fall down are complete, they're not yet installed, but the actual making of those rails are complete and we're just waiting for them to be installed. And so the most difficult part of the path to the beach already is done. The plan is laid out and it's part of the plan. And so it will be completed as we go along. We know exactly what we're gonna be doing with it. We've had MECO out because there's a transformer in the way and so they've agreed that it's not gonna be problem, we will just simply fence around it. They don't object to that. And so that was one of the issues and they were out just two weeks ago. So the transformer issue is handled. And so when our project is done, the path to the beach will be complete as well. I've had people out to look at fencing and we're gonna do the fencing. Our staff will be putting the fencing up. The gates we've already looked at. The gates will lock and they'll be locked at night and they'll be opened in the morning by our staff because we want to make sure that it's safe, but...and our thought was that we would open them, I know that the book says I think 9:00 in the morning till 7:00 at night. We thought we would follow whatever the Parks do, you know, and I have to look to see what those hours are, but we would follow the Park time. So we're looking at when the...if the SMA is approved and we can start construction because we have to do it in the summer...we have to have minus tides. If the SMA is approved now and we can start construction now we expect that it will take 10, 12 weeks to do the construction that would mean the path would be open at the end of that time.

Ms. Wakida: Oh you won't be opening the path before? You couldn't complete the—

Ms. Scheibel: It's part of the —

Ms. Wakida: Let me finish my question. You couldn't complete the beach access and open it before the rest of the seawall is done?

Ms. Scheibel: Well, part of it is, it's part of the grading. You know, I mean, grading is part of it, so it will be part of the whole project and so it won't be open before. It be open some time during that process.

Ms. Wakida: Thank you.

Ms. Scheibel: Okay.

Chairperson Lay: You wish to comment on that?

Mr. Kumar Siah: About that. I'm Kumar Siah, the structural engineer for the project. One of the conditions for us to be able to do that is securing a grading and grubbing permit which is part of the project so we cannot do that. Thank you.

Chairperson Lay: Commissioners, any more questions? Can we get the Department's recommendation?

b) Action

Mr. Buika: We have four permits here so I'll just do conclusions of law and recommendation one by one is that..

Chairperson Lay: Sure that would be good.

Mr. Buika: Okay. So the first is the Community Plan Amendment. The conclusion of law. The proposed community amendment action will bring the existing condominium/hotel use into conformity and consistency with County land use plans and policies including Chapter 205A, HRS as well as the Maui...West Maui Community Plan land use map. An Environmental Assessment in accordance with Chapter 343, HRS has been accepted by the Maui Planning Commission. As such, the application complies with Chapter 2.80(b).110 of the Maui County Code. The property has three-story building on it and has been used as a transient vacation rental under the variance issued in 1968. That's the conclusion of law.

And the recommendation, the Department of Planning recommends that the Maui Planning Commission recommend approval of the Community Plan Amendment from Single-Family to Hotel to the Maui County Council. That concludes my recommendation.

Mr. Tsai: So move.

Mr. Higashi: Second.

Chairperson Lay: Moved by Commissioner Tsai, seconded by Commissioner Higashi. Any discussion on the motion? Commissioner Hedani?

Mr. Hedani: Changing zoning to H-M?

Mr. Buika: Yes, sir.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: But we're only on the Community Plan Amendment not the Change in Zoning right now, correct?

Chairperson Lay: We're gonna take one by one on this. Yes.

Ms. Wakida: So we're just on the amendment, right?

Mr. Buika: Yes, ma'am.

Chairperson Lay: Call for the vote. All those in favor? Okay, that passes. Next.

Community Plan Amendment

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

**VOTED: To Recommend Approval of the Community Plan Amendment from Multifamily to Hotel to the County Council as Recommended by the Department. To Recommend Approval of the Change in Zoning from R-3 Residential H-M hotel District to the County Council as Recommended by the Department.
(Assenting - M. Tsai, R. Higashi, J. Medeiros, J. Freitas, K. Ball, W. Hedani, S. Duvauchelle, P. Wakida)**

Mr. Buika: Okay, the conclusions of law for a Change in Zoning. The proposed change in zoning from R-3, Residential to H-M, Hotel conditioned with five height limitations to a maximum of three stories height meets the five required criteria. Those criteria are there on Page 2 of your recommendations report. I won't read those and as far as the recommendation, the Department of Planning recommends that the Commission recommend approval of the Change in Zoning to the Maui County Council subject to one condition. And the Change in Zoning is from R-3, Residential to H-M. Project specific condition that will be placed on this change in zoning reads, "That structures on the Kahana Sunset property shall be limited in height to no more than three stories with roof, including the ventilation compartments as currently configured as of July 22, 2014 accepting alternate energy devices approved by the Board of Directors of the Kahana Sunset and by the County of Maui if required, and accepting any new configurations as may be required by the

County of Maui.”

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I would like to make a slight adjustment to that project specific condition to read, “That current and future structures on the Kahana Sunset property shall be limited in height.” I really wanna see that tied in so that there’s no loopholes in that, in that wording. I wonder if that would be agreeable?

Mr. Buika: Thank you. I noted that here.

Chairperson Lay: So we make an amendment on that.

Mr. Hedani: Move to approve the recommendation as amended.

Mr. Freitas: Second.

Chairperson Lay: Okay.

Mr. Hopper: The original motion was to approve as recommended then normally you would have amendment after that motion’s been made to add that, to change that condition.

Ms. Wakida: We didn’t have a motion yet.

Mr. Hopper: Yeah, so if there’s no motion yet, then you can make a motion to discuss changes you wanna make now and then say you’re going to do the motion with those changes and just make sure staff knows those changes if you wanna go that way.

Mr. Hedani: That’s what I moved for.

Chairperson Lay: Approved yes. Motion to approve. Commissioner Ball?

Vice-Chair Ball: My concern with the way you read that was that there’s no height limitation, it’s story limitation.

Mr. Buika: Shall be limited in height to no more than three stories. So it is a story limitation.

Vice-Chair Ball: Right, so if you had 20-foot stories let’s say which is weird, but I mean where do we wanna go with the height limitation of...County, right, whatever that is or no higher than the current–

Mr. Buika: It makes reference to as currently configured. So it does make reference to existing conditions.

Vice-Chair Ball: So no higher than it is now?

Mr. Buika: So no higher than it is now.

Vice-Chair Ball: That will be in there.

Mr. Buika: Yes.

Vice-Chair Ball: Is that how it would read 20 years from now?

Unidentified Speaker: It sets a date.

Mr. Buika: It says "as currently configured as of July 22, 2014." Except any changes to...if you put on solar, PV requirement.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Just a comment. I think the Council was going through a gyration trying to define what a story was in terms of feet. I'm not sure what they decided to do.

Chairperson Lay: Director?

Mr. Spence: I would also add to this that any improvements to this property, if they're gonna be changing a building or something like that, it's gonna be require a SMA Major and that's coming back to this Commission and they're gonna have to deal with view plains and all that stuff. You know, I'm pretty happy with the condition.

Mr. Buika: Thank you.

Chairperson Lay: Any more discussion on the motion?

Ms. Wakida: Who made the motion?

Chairperson Lay: Wayne. Jack seconded.

Mr. Hedani: I moved to approve with the amendment.

Chairperson Lay: Okay so we're back to the amendment.

Mr. Spence: Just so I'm clear. The motion's to approve with the recommendation that Penny was talking about to add future buildings.

Mr. Hedani: Right. It's to approve the recommendation to the Council with Penny's amendment which I think Jim picked up.

Chairperson Lay: Okay, so the motion on the floor, any more discussion? No? Penny?

Ms. Wakida: Just for the clarity for the record so the motion will read that current and future

structures of Kahana Sunset property?

Mr. Buika: Yes, so noted.

Ms. Wakida: Thank you.

Mr. Buika: I have that here. I'll make that change according to the amendment.

Ms. Wakida: Thank you.

Chairperson Lay: Okay, the Director wish to repeat the motion?

Mr. Spence: The motion was to approve as amended. To recommend to the County Council approval of the Change in Zoning with the one condition as amended.

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

Mr. Spence: That's eight ayes.

Change in Zoning

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

**VOTED: To Recommend Approval of the Change in Zoning from R-3 Residential H-M hotel District to the County Council as Recommended by the Department.
(Assenting - W. Hedani, J. Freitas, J. Medeiros, K. Ball, M. Tsai, S. Duvauchelle, P. Wakida, R. Higashi)**

Mr. Buika: Thank you. The third action is approval or consideration of the Shoreline Setback Variance. This is conclusion of law, the shoreline setback variance application complies with the standards and criterias, core development in the shoreline setback area as set forth in Chapter 203, Shoreline Rules for the Maui Planning Commission, Section 2, Purpose, and HRS Chapter 205A as amended, and as listed and addressed in the accompanying Department report for this project under the section, State and County Shoreline Rules; Analysis for Shoreline Setback Variance. The application complies with the six...with the applicable six criteria for approval of a variance in the shoreline setback area that's set forth in Chapter 203, Shoreline Rules for the Maui Planning Commission specifically Sections, 12-203-15, Criteria for approval of a variance and these are under A 8, B, C, D, E, and F. And there are five.

So as far as the recommendation, the Maui County Planning Department recommends approval of the Shoreline Setback Variance application request subject to the following five conditions as required by Chapter 12-203-15, Criteria for approval of a variance. The five, they're on your green sheet, they're on Page 4. That the required conditions of every variance and Raymond had showed them on a slide that the applicant maintains and requires safe lateral access to and along the

shoreline for public use. That the applicant minimizes risk of adverse impacts on beach processes. That the applicant minimizes risk of structures failing and becoming loose rocks or rubble on public property. That the applicant minimizes adverse impacts on public views to, from, and along the shoreline. And finally, that the project shall comply with Chapter 19.62 and 20.08, Maui County Code relating to Flood Hazard Districts and Erosion and Sediment Control respectively. That concludes the recommendation. Recommends approval with those five conditions.

Mr. Medeiros: Move to approve.

Chairperson Lay: Motion by Commissioner Medeiros.

Mr. Hedani: Second.

Chairperson Lay: Seconded by Commissioner Hedani. Any discussion on the motion?

Mr. Hedani: Call for the question.

Mr. Spence: The motion is to approve with the required conditions as recommended by Staff.

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

Mr. Spence: That's eight ayes.

Shoreline Setback Variance

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

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

Mr. Buika: Thank you. And then finally, conclusions of law regarding the Special Management Area Use Permit. The Special Management Area Use Permit application complies with the applicable standards for the Special Management Area as follows on Page 3 of the recommendations page and as addressed in the accompanying Department report for the project and then these conditions that were reviewed are listed below A through L. The Department based on the facts presented in the Department report finds that the action as proposed does not have a significant adverse environmental and ecological effect since mitigation measures are incorporated into the project. And that said, action essentially meets the objectives, policies and guidelines of the SMA Rules and that the said actions are not restricted by or contrary to the General Plan, community plan and zoning. So the actions are consistent. So that's the conclusions of law.

And the Department's recommendation. The Maui Planning Department recommends approval of

the Special Management Area Use Permit subject to the following standard and project specific conditions. There are standard conditions on Page 5. I will not read those to you. You have reviewed those. There are six of them.

There are some project specific conditions. First one, 7 is archaeological monitoring will be conducted as required. A flood permit will be obtained, No. 8. 9, it has to do with flood lights, up lights, and those will be restricted along the shoreline. No. 10 is ensuring water quality and that marine resources are protected during the construction work. No. 11 is in regards to Department of Public Works, any required permits required there prior to beginning the work. No. 12 is regarding utilizing drought tolerant plants where possible. No. 13 is to protect...to put in during construction procedures that will protect endangered species such as honu. Instructing the construction crews, et cetera, stopping if there are any issues with endangered species. No. 14 are conditions that were placed on the project by the Department of Water Supply which are best management practices to ensure water quality during construction. No. 15 are best management practices from Department of Health requiring a National Pollutant Discharge Elimination System Permit, if required. An erosion control plan for the project. No. 16 also has to do with the Department of Health is dust control measures A thru F. 17 is construction of the seawall, the timing regarding doing it during certain seasons during low tide especially. No. 18, public access, the important one on the shoreline, public access. No. 19 is unique it requires the AOA and owners to be responsible for any clean up if any of the property falls into the ocean from damages and holds the County harmless. The Unilateral Agreement recorded with the Bureau of Conveyances or the Land Court on that one. And then No. 20 finally they have not gotten the State Certified Shoreline because they are working with the Department of Land...Bureau of Land and Natural Resources, Department of Land and Natural Resources. So at the conclusion, when the project is done, they will get their State Certified Shoreline and remove any additional encroachments as DLNR requires. And they will be required to submit a State Certified Shoreline at the conclusion of all of this remedial work along the shoreline. So that concludes the 20 conditions.

And finally, in consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission Adopt the Planning Department's Report prepared for July 22, 2014 meeting and the Department's recommendation report prepared for the same meeting as its finding of fact, conclusions of law, and decision and order on the SM1 and the Shoreline Setback Variance Permits and authorizes the Director of Planning to transmit said decision and order on behalf of the Planning Commission.

And secondly that the Planning Department also recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation documents prepared for July 22, 2014 meeting, as its proposed findings of fact, conclusions of law, and decision and order on the community plan amendment and the change in zoning and authorize the Director of Planning to transmit the Maui Planning Commission's recommendation on the community plan amendment and the change in zoning to the Maui County Council. So I might be a little ahead of myself there, but the conclusion for the SM1.

Mr. Medeiros: So move.

Chairperson Lay: Motion by Commission Medeiros.

Vice-Chair Ball: Second.

Chairperson Lay: Second by Commissioner Ball. Any discussion on the motion?

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

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

Mr. Spence: That's eight ayes. Motion carries. Congratulations.

Mr. Buika: Thank you.

Special Management Area Use Permit

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

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

Chairperson Lay: Moving on.

Mr. Spence: Commissioners, New Business, Mr. Gregg Lundberg, General Manager of Westin Maui, LLC requesting review and comments on the Draft Environmental Assessment and with us this afternoon is Ms. Ann Cua.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Director, I'd like to make a recommendation to you based upon the fact that looking at the myriad amount of SMAs that's been given to us would be assigned...I just kinda kept record of the information since March of 2014 and every month apparently there's the same SMAs that's been printed up with the planner.

Chairperson Lay: Maybe we should bring this up at the end. Let's bring this up later on when we take that up.

Mr. Higashi: At the end of our agenda report there's always a SMA report on what's happening and what's completed, et cetera, but I notice that most of it are repeat. In other words, the amount of the paperwork that is being generated for the same repeat, unless it's new—

Chairperson Lay: Commissioner, we'll deal with that when we reach that agenda item. That should be coming up and then we'll talk about that then.

Ms. Wakida: Later on the in the agenda.

Chairperson Lay: Yeah, we're gonna follow the agenda. When we reach that point, then we can discuss the matter.

Mr. Higashi: Excuse me.

D. NEW BUSINESS

- 1. MR. GREGG LUNDBERG, General Manager of WESTIN MAUI, LLC requesting review and comments on the Draft Environmental Assessment (EA) in support of the Shoreline Setback Variance and the relocation of the existing County sewer line for the proposed Master Plan Improvements for the Westin Maui Resort & Spa, at 2365 Kaanapali Parkway, TMK: 4-4-008: 019, Kaanapali, Island of Maui. (EA 2014/001) (A. Cua)**

The proposed improvements include a new parking structure, new landscaping facility, ballroom expansion and meeting room expansion, new back of the house structure, demolition of structures, roof additions, spa improvements, relocation of existing sewer line, and other related improvements.

The approving authority of the Environmental Assessment is the Maui Planning Commission.

The EA trigger is the Shoreline Setback Variance and the relocation of the existing County sewer line.

The Applicant has also submitted applications for a Special Management Area Use Permit and a Shoreline Setback Variance. The public hearings on these applications will scheduled after the Chapter 343, HRS process has been completed.

The Commission may concur on the filing of the Draft EA and anticipated Findings of No Significant Impact (FONSI) determination with the Office of Environmental Quality Control (OEQC) for publication. It may also provide its comments on the Draft EA.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I think we're just making comments on the Draft EA for today. We're not voting?

Chairperson Lay: Yeah.

Mr. Hedani: I just wanted to disclose that the Westin is a member of Kaanapali Operations so if

there's voting involved I would recuse myself from voting.

Chairperson Lay: Okay, so noted.

Ms. Ann Cua: Thank you, Chair, Members of the Commission. Yes, what we are doing today is we're having the Commission review the Draft Environmental Assessment that was prepared for the proposed master plan improvements for the Westin Maui Resort. We received the Draft Environmental Assessment on December 31st...actually that should be 2013. And the applicant has a power point presentation of all the improvements that's gonna be happening. There's quite a number of them. The trigger for us being here today and for the applicant having to do an Environmental Assessment is two things. One is they're doing work within the shoreline setback area and that work necessitates a Shoreline Setback Variance application. In addition to that, they are doing relocation of an existing County sewer line. So both of those actions trigger compliance with Chapter 343. And so that's why in addition to them asking for a Special Management Area Permit and Shoreline Setback Variance, the Shoreline Setback Variance requires the processing of an Environmental Assessment and that's why we're here today. So with that, I'd like to call on the applicant to take you through the improvements that are contained in our memorandum but to not be duplicative, I'll just have the applicant go through that and then I'll come back on later on and we can discuss some of your comments.

Ms. Cheryl Okuma: Good afternoon, Chair Lay, Commissioners. Cheryl Okuma and Karlynn Fukuda from Munekiyo & Hiraga are here before you regarding the proposed Westin Maui Resort and Spa Master Plan.

The purpose today is the Commission's review and comment on the Draft Environmental Assessment for the proposed Westin Maui Master Plan improvements. The project team here today with the applicant, for the applicant is Gregg Lundberg, Larry Cunha from WCIT Architecture, Glen Kuwaye from Wilson Okamoto, Matt Nakamoto from Austin Tsutsumi and Associates and Munekiyo & Hiraga.

The applicant, the Westin Maui proposes master plan improvements for its resort located in Kaanapali and before you today is the Draft Environmental Assessment for your review and as was mentioned by Ms. Cua, the triggers for this environmental review is the work, proposed work within the shoreline setback area which we will cover as well as the relocation of a County sewer line and the approving agency for the Draft EA is this Planning Commission.

For perspective, the subject property is right here and you know, the Hyatt would be further to the south. Whaler's Village here, the Sheraton Maui beyond. Kaanapali Parkway is right here. The property is right off that Parkway and that intersects with Honoapiilani Highway. I'd like just like to point out that this is the current parking location leased by the Westin for its employee parking. So employees are walking from this lot over to the Westin. This is a bit of an aerial view. As you can see here, this is the Westin Resort with Whaler's Village to the north and Kaanapali Alii condominium to the south.

Now the Westin Maui Resort and Spa is an oceanfront resort and it includes approximately 760 rooms as well as other amenities and opened in 1988. The original main hotel building was

built in the 70's and was known as the Maui Surf Hotel. Now it's been over 20 years of operations and this resort has not undergone a major renovation. So the proposed plan before you is the Westin's commitment to visually and functionally enhance the resort. Major improvements to the existing amenities which I'll go over are to meet the expectations in terms of employee needs, services and guest experiences and to continue to compete as a world class resort destination.

So the areas of improvement that we'll cover in the next few slides are here, the back of house, proposals for improvements to the ballroom and meeting rooms., to the restaurant and the spa. The Tropica Restaurant now known as the Sugar Shack is here and the Relish Restaurant here. As you can see there is some work proposed within this shoreline setback area. This is the 150-foot shoreline setback area so this commission will be seeing this project again at a future time.

Also proposed is on the existing parking lot to the resort is this proposed parking structure. What you have in the Draft EA is a parking structure that is four feet underground, three and a half to four and a half stories, and I'd like to come back to this because there are some proposed revisions to this parking plan and I'd like to address that at a later point in our presentation.

We also want to point out that the public beach access is up here and remains so with the 30 beach parking stalls that were previously SMA approved. The County sewer line which is one of the triggers for the Draft EA is located approximately here. And the proposal is to move it closer to the Parkway on this side.

Now there's some work that is outside of that shoreline setback area which I highlighted and just going over that. In order to accommodate employee as well as guest needs the Draft EA talks about a three and a half to four and a half garage with a landscape facility that has been located...it's now outside and an outside area is now being located within the garage. And the parking garage elevation is 36 feet. There's proposed expansion to the back of house structure for laundry facilities, hotel equipment and material storage.

And in order to improve the functionality for guests the proposed conversion of the second floor convention hall to be converted into a new ballroom. There'll be expansion of meeting rooms and spa. The interior renovations to back of house areas as well as installation of underground utilities and other related improvements.

Now this is the plan that is currently in the Draft EA, and again, I'll come back to this point at a later point in the presentation. But under this plan there would be 851 stalls that are provided, 827 stalls needed, providing an excess of 24 stalls.

Now part of this proposed work as mentioned does occur within the shoreline setback area so for this work, the Commissioners will be seeing this project as we will be coming back in terms of what's being proposed in that area. But improvements to this area include demolition of a retail kiosk, water features, existing restaurant, restrooms, storage building, removal of landscape mound, and in order to improve functionality and guest experience in the delivery of food and beverage services the projects include the installation of an open air roof structure 12 feet in height in what's now known as the Sugar House Restaurant. Installation of a portion of the Relish Restaurant, and installation of breakaway decking and actually taking out a portion of the hard deck

and replacing that with breakaway decking, and the next couple of slides are gonna address this, but the point being that the breakaway decking is really to address comments that we heard from the Planning Department on concerns with respect to, you know, what's being proposed within the shoreline setback area. During storm conditions, you know, there can be wave actions which result in scouring as a result of any kind of hardscape or hard structures in the shoreline setback area. So breakaway decking would be less impactful in terms of what's happening on the beach process in the shore area. And the next couple of slides are gonna speak to this.

So here, these are...this shows some of the proposed decking for the project. Right here is what I pointed out as far as the new roof structure for what is known as the Sugar House proposed roof structure over an existing permitted concrete slab and that square footage is 2,570 square feet. So in terms of looking at the decking, the proposed decking in this area what the applicant at the Westin is now doing is putting in new decking of these amounts here, 404, 696, 503, 867 in addition to if you can look at this...see this highlighted, yellow highlighted area there's currently existing hard deck and I'll show you a picture of that. But the applicant will be removing this and replacing that with 999 square feet of breakaway decking. That totals, 2, 570 square feet and so there's no net gain as between what is being proposed to be installed here at the restaurant and what is proposed as far as decking in the shoreline area.

Now this is another slide that basically shows you that, you know in terms of what's happening in the shoreline area there's no net gain in terms of any hardscape in there and that is because in terms of what we are removing from the shoreline area we are putting in...that we're moving here, putting in new breakaway decking and we are putting in for the demolition of these items. We're moving these from the shoreline setback areas.

Okay, this is some pictures of...This is the Tropica or Sugar House Restaurant and here you will see the limits of the proposed roof is actually here in black. And the hard deck area that is proposed for removal to be replaced with breakaway decking is shown here. This is the area of improvements off of the Relish Restaurant and here in the black you can see the limits of the proposed roof. And again, here is another perspective of that hard deck right now which will be taken out and replaced with breakaway decking.

Now in terms of the environmental review process the Draft Environmental Assessment and Anticipated Finding of No Significant Impact was published in the OEQC's Bulletin on June 23rd and the comment period ends on July 23rd which is tomorrow and we can say that to date there have been no significant comments that affect this project's scope.

Now in terms of the environmental assessment and what you look at, the assessment does suggest an Anticipated Finding of No Significant Impact. In terms of archaeology and cultural, no historic resource materials have been found on the project site and SHPD approved the archaeological survey. A monitoring plan will be submitted by the applicant for SHPD for approval and if during construction any materials are encountered then SHPD will be contacted immediately. No rare, threatened or endangered species or critical habitat has been in the area and this is an area that has been developed as a resort since the 1970's.

In terms of drainage, this project is within what's designated as Flood Zone X and that is an area

of low flood risk. There is an existing system of catch basins and drain lines. Minimal increase is expected in terms of storm water and that's due to the fact that the project is on an already improved resort area. But proposed for onsite is a storm drain system which includes inlets, pipes, filters will also be inserted at drain inlets in order to take out pollutants like sediments and you know other kinds of things that end up in storm water. Best management practices will be implemented during construction such as use of dust screens, dust fans, proper vehicle maintenance and of course, as well after post construction and the drainage system will be as per County standards.

There's no increase to hotel rooms as a result of this project and the project hence will not generate additional traffic. In terms of water and wastewater the systems will accommodate the project. Hawaii Water Service currently provides the service and it does have capacity. There's a 1 percent increase in water demand which is 2,000 gallons per day. But the resort does have water conservation measures implemented and the water savings shows that there's about 60,000 gallons per day so this 1 percent increase will not have an effect on capacity. Wastewater is expected to be about 3 percent increase, but again it's expected to have capacity and of course, as is the normal course for the County that will be confirmed at the time the building permit is issued for the project.

In terms of R1 irrigation improvements to accommodate R1 water use will be when available and where appropriate will be implemented. The resort has a number of sustainability programs and what you see here is basically an idea, a list of the kinds of programs and measures that have been implemented. Energy conservation measures include use of CFL bulbs and LED lighting. The use of those meeting room sensors that turn off when people are not in there. Water conservation measures include low flow shower heads, new laundry equipment, guest programs to forego the daily towel replacement and there are water conservation measures which show a result, about an 18 percent decrease in water usage from 2012 to 2013 and it looks like things are on target there to achieve a further reduction in terms of that consumption. There's also recycling programs, recycling separation of plastic bottles and newspapers, papers, use of emails to get guest billings out, and food and beverage currently uses no plastic bags or Styrofoams, use of eco-friendly type of cups, paper bags and compostable straws.

There have been a series of meetings that the Westin has had and meetings have occurred with the Kaanapali Alii Condominium Association of April, July, October, December 2013 and July 2014. Meetings were also held with Kaanapali Operations Association Design Review Committee in May, in December of 2013 as well as July 2014. And a meeting with Whaler's Village in July 2014.

As a result of the meetings we can say that the Kaanapali Alii Association and the KOA Board supports the scope of the proposed revised parking garage and height 'cause that has been the subject of much discussion. The Westin will be in continuing discussions with these groups regarding architectural details and landscaping throughout this process.

Now I'd like to come back to that revised parking garage. This basically goes into what that revised parking structure looks like and you know the Westin had commissioned a geotechnical study which basically recommended that due to the geology and the water table that the basement level not be underground. As you recall in the Draft EA you saw a parking design which placed the parking garage basement four feet underground. But instead the geotechnical study recommends that the

parking structure be placed at grade. So what we're presenting today to you is a revised a structure where the parking garage would be at grade, the top level of stalls that you saw in the Draft EA that top level is removed and so from a structure of 36 feet, you're now looking at a structure of 28 feet and it does not go underground. This is a cross section of that. Basically now what you will see is a structure that is now 28 feet in height instead of 36 feet. The top level has been removed and it does not go underground.

So in terms of the difference between the Draft EA and the revised parking garage that we present to you now what you will see is that under the Draft EA the total stalls provided under that plan is 851 stalls giving us an excess of 24 stalls. Under the revised parking garage plan that we are now presenting today the total stalls provided is less, 843 stalls giving us an excess of 16 stalls or in other words, this revised plan sees a loss of 8 stalls from our original Draft EA plan. And so basically what this would mean for the Westin is the 8 stalls affected or the 8 stalls lost goes against the employees share of the parking under this plan, but this is the plan that the Westin is looking at.

So our request today is for the review and comment on the Draft Environmental Assessment for this proposed project and as mentioned, you know, we will be coming back on this project because of proposed improvements in the shoreline setback area and the project is also within an SMA or Special Management Area so we will be coming back. You'll be seeing this project again due to those two requests.

This project is the Westin Maui's commitment to it employees, its guests and this community and continue to compete as a world class resort destination and on behalf of the Westin Maui we thank you for your time and your consideration on this matter and are available for any questions you may have. Thank you.

At this time I'm gonna open up 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, questions or comments? Commissioner Tsai?

Mr. Tsai: Would you please explain what breakaway decking is?

Ms. Okuma: Okay. I'll explain it the best I can but I'll probably be looking for maybe someone here can also help too. Okay, as I understand breakaway decking and concerns about beach process and what may happen in the shoreline area particularly when there's wave actions you know during the storm events, with breakaway decking during times of storm events rather than having a hard structure which remains during those actions it would breakaway. And the problem with having I guess hard structures within a shoreline area is it...there will be scouring process which basically affects the beach because of the scouring that's going on. Breakaway decking would break away so that you don't have that kind of scour going on. That's what I understand. Oh, yes, and we do have, thank you. I'm reminded that we do have a couple of backup slides here and we can actually...okay, so this is some information in terms of a breakaway decking is I guess permeable type of system. And these are different kinds of I guess materials that could be used in terms of this particular type of decking. And I'm gonna ask Larry Cunha to come up and provide a little more information on it.

Mr. Larry Cunha: Larry Cunha, WCIT Architectural. The difference between the breakaway decking and a normal decking on a normal decking it would have some type of stone paver and it would be grouted to a concrete deck. With this breakaway paver, it's basically a stone paver that's set on a sand bed. It's not grouted to the concrete, any concrete deck. So it's just a concrete paver with a sand base beneath it. So if there was any wave action essentially those pavers would break loose as opposed to if you had a regular deck that was grouted to a concrete slab where you know that would just withstand the wave and scour the shoreline more.

Chairperson Lay: Commissioner Duvauchelle?

Ms. Duvauchelle: Excuse me, I have a question for the architect. So what holds it in place?

Mr. Cunha: Just the weight of the paver itself.

Ms. Duvauchelle: Oh, okay.

Mr. Cunha: So much like your home—

Chairperson Lay: Interlock.

Mr. Cunha: Yes, they're interlocked and just the weight of the pavers that are in place typically. But in a wave action that would, you know, there's enough force there to push it aside basically.

Ms. Duvauchelle: Okay, thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yes, my question is for Cheryl. On one of your slides you showed, you said there were 999 feet of decking taken out and replaced by the same out so there was no gain. Is that...did I understand that correctly?

Ms. Okuma: Maybe we can go to this slide here. Okay, so what we actually have is the area that's being replaced is here. So we've already got an existing hard deck in that area. So the applicant will be taking that out that's 999 square feet and replacing that with breakaway decking. And the proposed project also includes some new decking in the shoreline area and that new decking will be breakaway decking. Basically this 404, 696, 503, and 867 and the 999. So breakaway decking would total this amount 2,500 square feet. Now in terms of what's happening with...also within the shoreline setback area we have this new structure of 2,570 square feet but we're removing this hard deck of 999 square feet. And what we are removing from the shoreline area as well is the kiosk is being demolished. The kiosk that is now in the shoreline area and there's also a storage building in the shoreline area but off of the Relish Restaurant, and we are now removing this hard, hardened deck. So these are sort of the hardened structures and deck that we're removing. And when you look at the net gain or loss in terms of hardscape which...within the shoreline area, we show this net. This zero, there's no net gain. So in other words, we have taken out 2,570 square feet here.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Thank you. My question's actually for Michele. A big chunk of this project is already within the shoreline setback perhaps you could tell us about that. Why do we already have part of the hotel within the shoreline setback?

Ms. McLean: I'm actually gonna defer to Ann Cua who has more of the background or the history of the development of the site.

Ms. Cua: Because it was built so long ago that's why you have...in a lot of our older hotels you have structures, you have walkways that are more permanent in nature in the shoreline setback area.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Yeah, I can add a little bit of history to that. At the time the hotel was originally constructed the shoreline setback was 40 feet as opposed to 150 feet which is what the guideline is today. So it was in compliance with all of the regulations when it was first built. I think also in terms of the breakaway decking in an abundance of caution the area that's shown as breakaway decking has never broken away and disappeared in the past, at least in the 40 years that I've been with the resort. But in anticipation of rising sea levels or whatever or an abundance of caution they've taken steps to accommodate what they believe is the County's preferred alternative. Personally I would like to see hardscape, but others would like to see breakaway decking so...

Ms. Cua: And maybe I can comment a little bit on—

Mr. Hedani: And I think also it's a permeable type of decking that would allow for infiltration.

Ms. Cua: Yeah. If I could Chair?

Chairperson Lay: Go ahead.

Ms. Cua: You know, for the Department, you know we had to balance and recognize a couple of things. The hotel is old. They want to do upgrades to the facility. They have existing structures and features within the shoreline setback area and you know, we have a process now whereby we really try and limit what is in the shoreline setback area. So in this particular case, you know in this particular case we have an area that already is improved with hard surface. It just doesn't have a roof. And so, from the hotel standpoint, you know, they wanna put a roof here and maintain the existing hard deck area. So we looked at this and we said, okay you know what can we do overall to try and balance what we're dealing here and we said, okay, can you go back and can you look at additional things 'cause they were already proposing to demolish structures within the shoreline setback area, but we said, you know, let's try and look at this square footage here that you're proposing to cover which again is already a permitted hard surface. It's existing, it has umbrellas on it now as you've seen in the photographs and if you're familiar with the site. So you know, they took a look at their existing decking and also some of the new decking that they were proposing and we said you know go and take a look at some breakaway type of decking because that is what the

Commission has and the Department has recommended for other projects that are coming in to do improvements. And so that's what they did. They took a look at what they had and amended their request to do no additional permanent decking with breakaway decking and then to remove some of their existing hardscape with breakaway decking. And I know that's, you know, it is more cost to them, you know, if the Commission does not agree we can take a look at that, but again the Department was really trying to balance this whole request here and you know our shoreline rules with an existing property that's been there from the 70's. Trying to do upgrades to deal with its employees as well as its guests.

One thing for us from the Department's standpoint now we're talking outside of the shoreline setback area. The parking structure has been an issue for a while from the Department's standpoint. We've you know, constantly been telling them when are you gonna do a parking structure because you really need to have a parking structure here. And they've known that and they've been trying to pursue this for years, and so for that parking structure we are very happy because it's gonna provide a service not only to this hotel but just to the overall area and just have a much more pleasing experience for guests and for their workers. So you know, we feel overall this is definitely a great project, and again, from the Department's standpoint we were just trying to balance all the issues here.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Ann, I was trying to flip through quickly but I couldn't find it. The property line for the Westin, does it follow, is it right against the sidewalk?

Ms. Cua: Maybe the applicant is gonna have to help me with that one.

Ms. Okuma: The property line—

Chairperson Lay: Please speak into the mic, please. Thank you.

Ms. Okuma: Sorry. The property line is makai of the boardwalk, sidewalk. This is the beach walk yeah. And so it's on the makai side. Right about there.

Ms. Wakida: So the public...the sidewalk that the public uses is part of the Westin property is that correct?

Ms. Okuma: It's on the Westin property.

Ms. Wakida: Okay.

Ms. Okuma: Right.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: Okay, the parking. You said eight stalls would be lost with the new—

Ms. Okuma: Yes.

Mr. Medeiros: –and it was gonna be taken out of the employee parking?

Ms. Okuma: Well...no, we're not...okay, let me just go back here.

Mr. Medeiros: I just heard that and I just wanted to know.

Ms. Okuma: Okay, so this was to show the difference between the plan in the Draft EA which is on this side. And what we are now coming to you today in terms of a revised plan so the difference between these two is that the Draft EA leaves us with an excess of 24 stalls. And under the revised garage plan there would be an excess of 16 stalls. And so the revised garage plan is a loss of eight stalls from the original plan. Now, you know at the time that the Westin was looking at the parking garage you know, they're looking at not only guest accommodation but employee accommodation as well. But the Westin can do this under this revised parking plan.

Mr. Medeiros: Okay, I just thought I heard that the eight stalls was gonna come from the...come out of the employees.

Ms. Okuma: No. I'll clarify that, no.

Mr. Medeiros: Okay.

Chairperson Lay: Okay, while we're on the subject of stalls are we gonna get any additional beach access stalls? Beach access stalls are we getting any?

Ms. Okuma: Oh, additional beach access?

Chairperson Lay: Yes.

Ms. Okuma: No, no additional beach access. But this project right now there's no impact by this project on beach access. Okay, so now we have 30 beach parking stalls on the Westin side. And then there's Whaler's Village on the other side there's 21 stalls, beach parking stalls there.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: There's also a beach access, there's also beach access parking stalls on the Kaanapali Alii side as well as walkways on the Kaanapali Alii side which borders the Westin. So it's got beach access on either side.

Chairperson Lay: Okay.

Mr. Gregg Lundberg: Aloha, Commissioners. My name is Gregg Lundberg. I'm the General Manager of the property. Commissioner Jason, I just wanted to clarify. We'll have 166 stalls for employees. Right now we're leasing 200 stalls from the Hyatt out at the front. And part of the reason for building the garage so that employees don't have to walk from the outside in. So I'm not

gonna get 100 percent of what I wanted the 200, but the 166 will do. As we negotiated with the Alii on how high it will be in order to prevent intervention and whatnot, we kind of come to a mutual agreement that the height of this garage is acceptable to the board and the KOA Design Board is okay with it. So we'll have a 166 stalls in this new garage which will be dedicated to the associates so we should be fine.

Mr. Medeiros: Okay.

Mr. Lundberg: Thank you.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I guess another question for the applicant. You have a budget I guess of estimated 55 million. Do you have that funding in place?

Ms. Okuma: The answer is yes. Mr. Lundberg said yes.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Has the Westin any, currently have any photo voltaic panels?

Ms. Okuma: Not currently, no.

Ms. Wakida: In the renovation for example on the parking structure I see it's a trellis, but can the applicant consider putting up some kind of renewable energy generating items?

Ms. Karlynn Fukuda: So thank you Commissioner Wakida for your question and that question had been posed before and as—Karlynn Fukuda, Munekiyo & Hiraga, sorry—as Cheryl had explained in the presentation we had a number of meetings with the Kaanapali Alii, the parking garage is located closest to them as our neighboring landowner. And they have expressed concerns about photo voltaics particularly on the parking garage. And so we are continuing to meet and discuss with them the design of the parking garage and we as Mr. Lundberg alluded to we believe we have come to an agreement in principle on the parking garage and the design that we've presented today. There are the finer details to be worked out in terms of acoustical screening, landscaping, et cetera, the trellis itself that are still in negotiations. So at this point there is not a plan to put photo voltaic on that parking trellis. That's not to say that it will never happen, but is not currently not part of this project. The other thing that I wanted to share with the Commission is that currently Starwood as an organization is reviewing a photo voltaic project for their properties and so there is currently a project that is being done separate from this EA and SMA project that is looking at photo voltaics for the existing hotel. But that would come under separate permitting from this project itself.

Chairperson Lay: Commissioners? Commissioner Wakida?

Ms. Wakida: Yeah, I think this is my last question. You're doing roof improvements, but as far as I can tell the only roof improvements are these sort of cantilevered roof going over the restaurant

is that correct?

Ms. Okuma: Two restaurants, the Sugar House and the Relish.

Ms. Wakida: Right. That's the only roof improvements, right?

Ms. Okuma: Yes.

Ms. Wakida: Thank you.

Chairperson Lay: Commissioners, any more comments? Seeing none, Ann can you go over the comment that we brought up?

Ms. Cua: Actually you were asking...you were in question mode. So I didn't record any comments. The only thing I started to record was the whole discussion about PV. So I think this is the appropriate time now where we start to talk about any comments that you would like to have to go into the Draft EA and be addressed for the Final EA.

Chairperson Lay: So Commissioner Wakida would you like that put inside as one of our comments?

Ms. Wakida: Yes, I appreciate the comment that was given. I would still like to see them explore opportunities during this process to add PV.

Ms. Cua: Within the overall project?

Ms. Wakida: Yes.

Ms. Cua: Correct. Okay. Not necessarily on the parking structure.

Ms. Wakida: No.

Ms. Cua: Yeah. Okay, so we can word that as you know, consideration be given to installing PV panels as part of the proposed renovation project.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Yeah, relative to PV, Ann I think from the Kaanapali design review standpoint you know our concern is just about the appearance of PV panels to the guests of the resort as well as the public areas of the resort and we think it can be incorporated. We're not opposed to PV. We think it could be incorporated but it has to be handled in a way that's not visible to surrounding properties or it does to create a glare problem or reflectivity problem to adjoining neighbors.

Ms. Cua: Okay.

Mr. Hedani: And that's the consideration. Possibly on the roof of the main building or the two main

buildings you know on the property where it's not visible their guests or surrounding properties would be something that would be favorably considered from a design review standpoint.

The second comment that I had was the Design Review Committee...(sound system noise)...I always do that, it's only this mic.

Vice-Chair Ball: It's only you.

Mr. Hedani: It's because of me, okay. The Design Review Committee's concern about the parking structure itself was that it be screened from view with adequate landscaping. My concern from Public Works standpoint is that there's gonna be sewer line in that vicinity so the design needs to take into consideration the ability to landscape screen the parking structure within proximity to that sewer line. I don't know if you harden the sewer line or whatever in order to ensure there's no root intrusion or if Public Works doesn't have a problem with it, fantastic, but adequate landscaping screening is something that we're requesting basically to ensure that the pedestrian public that's walking by and vehicular traffic that's going by doesn't have to look up at a four-story parking structure essentially.

Ms. Cua: Okay.

Chairperson Lay: Any more comments? Seeing none, Ann can you go over that one?

Ms. Cua: So actually I only have...assuming that was a comment, I only have two comments and I can, you know, work with the applicant on the language but, that consideration be given to installing PV panels as part of the proposed renovation project. Secondly, that the adequate landscape screening shall be incorporated around the parking structure especially with the relocation of the County sewer line, something like that or...is that?

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I think the PV was not necessary part of this project, Ann.

Ms. Cua: No, no, I understand that. Oh, I see, I see...as part of...okay.

Mr. Hedani: It's not part of the renovations at this point, but it will be...(inaudible)...

Ms. Cua: Okay so maybe as part of a...in the future.

Mr. Hedani: Right.

Ms. Cua: Okay.

Chairperson Lay: There was some question about the beach parking but none was added in on that, right? And maybe if there can be some consideration for additional beach parking if possible and access and shower and...But I'm pretty sure they do have a public shower there in the front, I was trying to think about that too, but they do so, but at least consideration for that

...(inaudible)...access.

Ms. Cua: Okay.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yeah, getting back to the PV. I did want it to be relooked at for this project. I realize it's a whole new kind of area, but you know, with the State mandate that we generate...I don't have the number in front of me, 40 percent of our energy by 2030, I mean everybody has to start pulling their own weight here. So it's something that, you know, the hotels really need to, to try and incorporate as much as they can. So I'd like just take another look.

Ms. Cua: So I guess what the Department needs from this Commission is you know, how do you want me to...how do you want us to word that language on your behalf? Do you want us to say, 'cause we're saying that the...consideration shall be given. So that means they just have to look at it. That's not saying they have to make it as part of this project. They're just saying...but though if we add in as part of the proposed renovation project that means they need to just look to see if it can be part of this project, if it can't then, then it would probably be part of a future project. But I just need direction from you as to do you want me to just cut it off and say in the future or do you want to go back to the original language of, as part of the proposed renovation project?

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I actually have a question first because that parking you're saying, well maybe that's for the applicant. How does the parking work because I know it's...the beach parking is only allowed towards, what is that side, west side of that parking lot. So all those other parking spots along, I guess Westin side is designated for something else am I correct?

Ms. Cua: Yeah, some of that, some of that parking on the side is Whaler's Village and some is Westin.

Mr. Tsai: Okay, I guess what I'm trying to understand which ones are Westin parking spots. Are they...okay...

Chairperson Lay: Please come up to the mic, identify yourself.

Mr. Lundberg: Aloha, Gregg Lundberg from Westin Maui. Our stalls are all the ones that are up adjacent to the building. The ones in the center are Whaler's Village.

Mr. Tsai: Okay, are those reserved currently for...

Mr. Lundberg: Several of them area already designated as beach access, more than half of them.

Mr. Tsai: Would you object to having more designated for beach access?

Mr. Lundberg: Well, it's gonna mess with our counts. I'd have to ask the architect about how that

would do for guest counts if I was to allocate more towards beach parking. We can look at it.

Chairperson Lay: I have another one on the beach access. I go there a lot with the kids and the family. I like that. And with your beach access a lot of the times its vendors, there's paddle boarders and I'm just wondering I mean how can we...those, they're not there...they're there for their employment to work on the beach and the beach access is actually for the public to get a chance to get to those beaches. And I'm wondering is there any way that we can make a recommendation to help make sure that that does happen more for the public and not for the retailers and supposedly employees every once in a while that come in late.

Mr. Lundberg: We monitor the vendors that are working at the property and we monitor the associates. Security checks on them all the time. I will agree with you that there's a lot of people that try and park in those parking lots that are not there specifically for the beach. And we do the best we can to monitor it, but I don't have a security officer there eight hours, eight hours a day. But all of our associates have stickers on our cars and all of our vendors have passes. So we know who they are when they come in to work the property.

Chairperson Lay: Okay, thanks.

Mr. Lundberg: You're welcome.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: The reason I wanna have the PV item in this because I'd like Westin just to respond to it one way or another and I'd like to hear what they have to say and keep them aware that this is something to be looked at.

Ms. Cua: Okay, so if we could just get you know some kind of consensus from the Commission that you would like that first comment to be worded, you know, consideration be given to installing PV panels on site as part of the proposed renovation project. If we could get some consensus?

Mr. Hopper: Well, at the end of the process you could either do a motion or you can have action by unanimous consent if you want. I mean, if there's members who do not want that condition you could take a vote now I suppose. But normally you would have a either after all the comments are read back you would have either a vote or unanimous consent action to send those comments forward. So it's up to you.

Chairperson Lay: So Commissioners, I'm thinking that maybe at this point we vote on it altogether as one at the end 'cause they are comments going in for them to work out. Agreed? Okay. Any more comments or recommendations that you might have? Seeing none, Ann could you go over them again?

Ms. Cua: Okay. So the Department is summarizing your comments in this way. One, that consideration be given to installing PV panels onsite as part of the proposed of the renovation project. Secondly, that adequate landscape screening shall be installed around the parking structure. Three, that consideration be given to additional beach parking and access, et cetera as

part of the project renovation.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: So move with the amendment.

Mr. Freitas: Second.

Mr. Medeiros: Second.

Chairperson Lay: Moved and seconded. All those in favor. Pass those recommendations through. Thank you.

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

VOTED: To Accept the Following Comments by the Commission to be Forwarded to the Applicant:

- 1. That consideration be given to installing PV panels onsite as part of the proposed of the renovation project;**
- 2. That adequate landscape screening shall be installed around the parking structure; and**
- 3. That consideration be given to additional beach parking and access, et cetera as part of the project renovation.**

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

Ms. Cua: Thank you very much.

Chairperson Lay: Let's take a 10-minute break.

Ms. McLean: Wait one second. I just want to...and a vote that you concur--

Ms. Cua: A FONSI.

Ms. McLean: --with the anticipated FONSI. You've provided your comments on the Draft EA and now you would concur--

Mr. Freitas: So move.

Mr. Medeiros: Second.

Mr. Hedani: Second.

Ms. Wakida: Concur with that?

Ms. McLean: Well, the Draft EA is gonna be published and we anticipate the Commission eventually issuing a Finding of No Significant Impact. That will be a decision that you make at a later meeting, but now that's what you need to...(inaudible)...

Ms. Cua: Yes.

Mr. Freitas: So move.

Mr. Medeiros: Second.

Ms. McLean: The EA has to be published with an anticipated–

Ms. Cua: Yeah, so if you look at, if you look at the last page of our memo where it says, Action by the Commission. We dealt with B, we got your comments but we didn't deal with A. The Department is requesting concurrence by the Commission on filing the Draft EA, and Anticipated Finding of No Significant Impact or FONSI with OEQC for publication.

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

Mr. Medeiros: Call for the vote.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Actually this is a comment on the project itself. I'd like to just compliment the applicant for doing what they're doing because what they're doing is incurring a huge expense in order to make conditions for their employees a lot better than they are today.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: My comment is real simple. I'm one of the easiest Commissioners please. You put people to work, you keep them happy, you've got my vote.

Chairperson Lay: No more comments or discussion. Call for the vote. All those in favor?

Ms. McLean: It's unanimous.

Ms. Cua: Thank you.

It was moved by Mr. Freitas, seconded by Mr. Medeiros, and

**VOTED: Concurrence by the Commission on the Filing of the Draft Environmental Assessment and Anticipated Findings of No Significant Impact (FONSI) Determination with OEQC for Publication.
(Assenting – J. Freitas, J. Medeiros, K. Ball, M. Tsai, W. Hedani, S. Duvauchelle, P. Wakida, R. Higashi)**

Chairperson Lay: And now let's take a seven-minute break to 2:30.

A recess was called at approximately 2:23 p.m., and the meeting was reconvened at approximately 2:36 p.m.

Chairperson Lay: Call back to order. Our next agenda item?

E. UNFINISHED BUSINESS

1. **MR. ISAAC HALL, attorney for JAMES BENDON, ROBERT and MARGARET KAPLAN, CYRUS MONROE, and PETER SIRACUSA submitting an appeal dated December 19, 2013 of the issuance of an SMA Exemption for the milling and resurfacing of Runway 2-20 at the Kahului Airport at 1 Kahului Airport Road, TMK: 3-8-001: 019, Kahului, Island of Maui (APPL 2013/0012) (SM5 2013/0350) (SMX 2013/0324) (P. Fasi) (Matter was previously discussed at the April 22, 2014 Maui Planning Commission meeting)**

The Commission and the public were notified of this appeal through the January 14, 2014 Maui Planning Commission agenda.

Pursuant to the Maui Planning Commission's Special Management Area Rules and its Rules of Practice and Procedure, the parties in the subject appeal are:

- a. **Appellants - James Bendon, Robert and Margaret Kaplan, Cyrus Monroe, and Peter Siracusa**
 - b. **Applicant - State Department of Transportation, Airports Division**
 - c. **Appellee - Department of Planning**
2. **MR. ISAAC HALL, attorney for Appellants JAMES BENDON; ROBERT and MARGARET KAPLAN, CYRUS MONROE, and PETER SIRACUSA submitting a Notice of Withdrawal dated June 20, 2014 of the Notice of Appeal to the Maui Planning Commission from the Decision by the Planning Director to issue SMA exemption to the State Department of Transportation for the milling and resurfacing of Runway 2-20 at the Kahului Airport at 1 Kahului Airport Road, TMK: 3-8-001: 019, Kahului, Island of Maui. (SM5 2013/00350) (SMX 2013/0324) (APPL 2013/0012) (P. Fasi)**

Ms. McLean: Thank you Chair, under Unfinished Business on your agenda was an appeal submitted by Isaac Hall representing James Bendon, Robert and Margaret Kaplan, Cyrus Monroe, and Peter Siracusa on the issuance of an SMA Exemption for the milling and resurfacing of Runway 2-20 at the Kahului Airport.

Also on your...listed under that same item from the same parties is a Notice of Withdrawal of that

Appeal. The parties settled the matter and so they withdrawal has been appealed. So this is on your agenda for you to just acknowledge receipt and there's no action that needs to be taken.

Chairperson Lay: So our next agenda item.

Ms. McLean: Ready for the next item?

Chairperson Lay: Yes.

Ms. McLean: The next item is the Proposed Findings of Fact, Conclusions of Law, and Decision and Order denying requests for a State Land Use Commission Special Use Permit and a Short-Term Rental Home Permit for the Shambala Short-Term Rental Home and Denying Petition to Intervene of the requests by Mr. Terry Epstein for property situated on approximately 2.02 acres of land in the State Agricultural District at 120 Kaimanu Place, TMK: 2-1-019: 100 in Kihei.

F. ADOPTION OF WRITTEN DECISION AND ORDER

- 1. Proposed Findings of Fact, Conclusions of Law and Decision and Order denying requests for a State Land Use Commission Special Use Permit and a Short-Term Rental Home Permit for the Shambala Short-Term Rental Home and Denying Petition to Intervene of the requests by Mr. Terry Epstein for property situated on approximately 2.02 acres of land in the State Agricultural District at 120 Kaimanu Place, TMK: 2-1-019: 100, Kihei, Island of Maui. (SUP2 2012/0030) (STKM T2012/0012) (D. Dias)**

***AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE COMMISSION TO CONSULT WITH THEIR ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE COMMISSION'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND LIABILITIES PURSUANT TO SEC. 92-5(a)(4), HRS.**

Mr. Hopper: I'd like to as stated on the agenda and consistent with HRS 92-5, I would request that the Commission prior to entering into this item enter into a brief executive session. The purpose of the executive session would be under HRS 92-5(a)(4) which states that the purpose be to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities with respect to this item.

Vice-Chair Ball: So move.

Mr. Tsai: Second.

Chairperson Lay: All those in favor of executive session. Okay, if you can clear the gallery. Thank you.

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

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

Mr. Greg Kugle: Mr. Chair, we will come back when we have a chance. I represent the Epsteins and they're here as well and we'd like to make some comments ...(inaudible)...

Mr. Hopper: Yes, the executive session we will not voting on the matter in the session. It's just for advice, but when we're in open session we'll advise the parties.

Mr. Kugle: And you won't be discussing the merits of the case, right? It's about the powers—

Mr. Hopper: This is legal advice consistent with HRS 92-5.

The Commission went into executive session at 2:40 p.m., and came out of executive session and reconvened the meeting at approximately 2:49 p.m.

Chairperson Lay: If Danny can come up and give us his presentation?

Mr. Danny Dias: Thank you, Mr. Chair and good morning Maui Planning Commission Members. I don't really have a presentation, but basically the Department is requesting that you adopt this Findings of Fact, Conclusions of Law and Decision and Order based on your decision made on November 12, 2013 for the Shambala Short-Term Rental Permit.

Before we move on I just wanna make a quick change to Page 3, Item No. 6, in parenthesis it says, (see the inspection letters dated May 15, 2014 and May 30, 2014) The year should be 2013. May 15, 2013 and May 30, 2013. Thank you.

Mr. Kugle: Thank you, Mr. Chairman. Commissioners, my name's Greg Kugle and I represent the Epsteins, the applicants on this. And I—

Chairperson Lay: If you could speak into the mic please?

Mr. Kugle: I will. Yes, thank you. Sorry. My name is Greg Kugle and I represent the Epsteins on this application. I brought with me today some Exceptions to the Proposed Findings of Fact, Conclusions of Law, Decision and Order that I would like to file an original and 15 copies. And I have just a few comments this morning. And I would also like to request that Mrs. Epstein be granted a few minutes to make a few comments a well.

I am here today first to say that we strongly object to the process that's taken place so far for the Epsteins and I know there's some new commissioners present and I will just review that very briefly 'cause I think it's relevant to what you're doing today. So the Epsteins applied for the STRH and Special Use Permits on October 13, 2012. The notices were given. There was a public hearing that occurred on October 8, 2013. At that time, the public hearing was closed. And the Commission deferred a ruling until November 12th to address a very narrow issue which was access

over what's been called Lot 29. And that was the only issue that was left to address.

Now there's a State Statute, HRS 91-13.5, that's the Administrative Procedures Act in the State of Hawaii that requires every County agency or board including this one to adopt rules about how quickly you have to act on things. And following the passage of that statute this board adopted a rule which is rule 12-201-34 that said that this Commission must render a decision within 120 days of the close of the hearing. There's a whole nother separate set of laws and rules in the Administrative Procedures Act and in your rules that specify that this is a Decision and Order, it's accompanied by Findings of Fact and Conclusions of Law. It's written, it's signed by commissioners, and it's served on the parties.

Suffice to say, 120 days from October 8th has passed, has long passed. It's now 300 days. The Epsteins filed suit against the County of Maui on June 20th. It was served on June 25th, and lo and behold two days later we're served with the Proposed Findings of Fact that you're considering today or that are before you today. And I'd also point out that although the Planning Department is recommending that you adopt these, that was not the Planning Department's recommendation all along. The Planning Department had always recommended to this Commission that it issue both permits. So we're here today not ...(inaudible)...any of the arguments that are going to take place in the court case because I believe the Commission has missed the deadline that its own rules set for it to act.

I would also say that part of the other bad process that occurred here is when the applicants made their full presentation on November [sic] 8th before the Commission it was deferred. When they came back on November 12th a month later, there were three new Commissioners present that were not here on October 8th. They were not allowed to represent their presentation to the full Commission. They were cut off in that and then those Commissioners who had not been present on October 8th were among Commissioners that voted to deny the permit.

Now another comment I'd like to make is that some Commissioners have made some statements that suggest that they disagree with the County Council and the Mayor in having set up this STRH and B&B Permit process. And they've made statements including in this case for instance that the prevalence of short-term rentals permitted through this process has removed rental stock from long-term housing and they're therefore somehow opposed to that, but I would suggest to you that that's bias against these permit applicants that the Commission can't have or if any member has that bias and doesn't feel they should grant these permits because they just disagree with the process that the Council and the Mayor set up, that's not appropriate.

Now I wanna just turn to the Proposed Findings of Fact, Conclusions of Law, Decision and Order or I'll short that to say Decision and Order and that is the proposal that you have in front of you bears no resemblance to what happened at the meeting on November 12th when this vote was supposedly taken. It does not properly characterize the evidence that was before the Commission and it certainly doesn't reflect the deliberations and the decision making that the Commissioners made when they explained their views. And I was prepared today to go through and talk about each one's comments and how they're no where near reflected in here, but I don't need to do that you can read the minutes. It's there and ultimately if the Commission goes forward with this, you know that will be something for the courts to look at. But again, what has happened was the

Epsteins were denied at that vote for completely improper purposes that have no basis in the law and then after-the-fact it's been whitewashed and it's been put before you now. But you can't change what was said and how it was done.

I think it is worth just pointing out several things. For instance, on November 12th right before the vote during the deliberations Commissioner Shibuya mentioned some concerns that the neighbors believed that they were gonna have open pasture next to them in perpetuity. Well I don't see that in these Proposed Findings of Fact. That's not there because it's not a proper basis for decision making.

Commissioner Freitas mentioned that, he said quote, "I agree with that what you call long-term rental properties are coming off the market and you have going to short term rentals and the rental market is shrinking." Again, that's nowhere in these Proposed Findings of Fact and that's completely improper. That's substituting his judgement for that of the Council and the Mayor.

And I could go on down the list. Commissioner Medeiros thought it should be a bed and breakfast and not a short-term rental. I don't see that in this Proposed Findings.

Commissioner Wakida mentioned certain things too. Outdoor speakers, even though the law says that speakers cannot be heard off the property and even though the law sets up a complete process to deal with that.

And Commissioner Hedani was concerned about a wall between the neighboring properties. It's just none of that is in these Proposed Findings of Fact. And what I also suggest to you is that somehow between November 12th when a vote was taken and admittedly many of the Commissioners in this room were here or didn't vote in favor of that, something changed. And for this Commission to change its mind and come up with a completely different decision and based on completely different factors and based on mischaracterization of the evidence that was before it raises Chapter 92 questions, the Sunshine Law on open meetings. All of these things need to be discussed in an open meeting. And I don't know how that change occurred from November to the present.

With that, I tell you I think there are a lot of problems with the process and how the Epsteins have been treated. And again, we're 300 days after the close of evidence and there's been no Decision and Order. I would like the opportunity for Ms. Epstein to speak to you for a few moments. Thank you. I'm also available to answer questions.

Ms. Kay Epstein: Good afternoon. I'm not a public speaker. This makes me so nervous. I wanted to tell you that we're just very disappointed in the system. We brought what we felt was a very valid plan for a STR that met every requirement we were asked to meet. When asked questions, we answered honestly without hesitation.

Upon reading the County's response we see that our honesty was seen as a reason to deny our request for STR Permit and Special Use Permit. The gist of what County believes is that we're liars and that our Maui Meadows neighbors accusations, accusations are facts. They're supposed to be facts, facts for the reasons of our denial.

We're hard-working people. We were brought up to believe in the system. The system is failing all of us. One month before we sent out the official letters, we sent personal letters to everyone, 27 people that lived within 500 feet of our home explaining our desire to get an STR and to operate a business from our home. We offered them a chance to speak with us. We offered to answer any questions or concerns that they might have regarding us getting an STR license. We even sent them to people that lived beyond 500 feet of our home that were in our neighborhood, Kaimanu. Only one person called us and she lives in our neighborhood and we spoke with her and I think she was probably more interested in a business down the road for herself, but not in that it would have a negative impact on her.

We retained Tom Croly to help us navigate the process. He was the first to hear of any letters of complaint. We were not...we were told not to contact those neighbors as they might see it as harassment. Once we received those letters of complaint we was surprised that anyone wrote a letter opposing us getting a STR license. This was the first time we ever heard a complaint about noise. At the time we were already in the process of making some upgrades to our home and we contacted the audio company that was providing us with the equipment and asked if there was any way for us to improve the sound outside of our...by our pool area so that it would not have any impact on the neighbors. We brought that company here to testify that they had tested that equipment and the sound level at the edge of our property is now higher, in fact probably not as high as my speaking over a microphone right now. It's less than 80 decibels. It's normal conversation level.

When I read the response that was seen as a negative. It was obvious, it was obvious that our neighbor Debra Dorn had started the writing campaign and recruited her neighbors on either side of her. We were...the four letters were almost identical starting with the fact that we're part-time residents, loud and obnoxious. Ms. Dorn also stated that we have...she's had several conversations with both Terry and I that were upsetting to her. These statements by Ms. Dorn were flat out lies, and we knew it. We tried to take the high road thinking that the Commissioners would surely see through these lies.

The first would be easily proven. We have lived in our home since its completion in 2007 except for a few months when we spent some time off island because of a family medical situation. Then the comment about disturbing conversations was another lie. I have spoken with Ms. Dorn a few times and my husband has never ever spoken with her. We figured that would be no-brainer for the Commission to see through, and that it really wasn't relevant.

All of our Maui Meadows neighbors had said that we were part-time residents. Ms. Dorn's statement that she had to yell over music was a, a bold-faced lie. Again, we were told no one would believe us as the police were never called, there's never been a complaint against us from any neighbor since the time we've owned our property in 2000 till now. Till today there still is no complaint about noise or loud music coming from our property. No one would put up with that situation without at least calling us to complain which she did not or calling the Police Department if we did not respond to her.

A lot of testimony that Ms. Dorn and Ms. Polancy had to do how rich we are. They even said we had a swimming pool for our dogs because we were so rich. This statement was so ridiculous we

were certain no one would take it seriously. We understood this was said only to prejudice our case and prejudice you against us.

When I spoke at the hearing I apologized if we had ever offended our neighbors. I also stated that I did not believe we were ever loud or had disturbed anyone and I did believe it and I still do that why didn't they call us? We have been told by a few neighbors that border these people and live across from them that Ms. Polancy knocked on their door, tried to get their support against us, we were also told she repeated the ridiculous story about how rich we were with a swimming pool just for our dogs. She also told them that my husband was a retired attorney. We did not address these statements at our hearing because we didn't believe them to be relevant to our application. However, it's clear that some Commissioners may have believed these lies. Neither is true. We do not have nor have we ever had a swimming pools just for our dogs. My husband was never an attorney. Not that being an attorney is a bad thing. He worked in the environmental field, in environmental testing for 40 years. He worked to make our environment a safer place.

We suspect that Ms. Polancy recruited her neighbor, Doug Kendrick to write a letter using these same tactics. We tried on several occasions to speak with him. However, he refused to talk with us or our representatives. We have never spoken with him. We have never met him. We have never had a complaint from him. He also never called us that there was ever an issue. We would not be applying for an STR license permit if we were as rich as Mrs. Polancy and Ms. Dorn believed. Both of these women live in homes valued at more than a million dollars and shouldn't ever have been characterized as poor. In fact, Ms. Polancy owns two homes in Maui Meadows.

The things were all said to invoke hate. How much you like or dislike a person should have nothing to do with treating them fairly or equally under the law. Neither is information relevant, neither is that information relevant to obtaining a license for operating a business.

Ms. Dorn is angry about a frog we had in 2008. She recounts a totally made up story about how we handled the issue. Ms. Dorn did not like...I'm sorry, Ms. Dorn did write to the newspaper to complain. That letter was written after the problem had been solved. We were off island when Debra called. She thought we had an alarm going off at our property. We asked a friend to check it out. She went to our home during the day. There was no noise and no electronics indicated an alarm going off. She called me again and said it had kept her up all night. I said, I will ask my friend to go back. She did go back. She went back in the evening and realized we had a frog. She called immediately Invasive Species. They came out. The frog wasn't on our property. It was in Debra Dorn's yard. They couldn't catch it because of that. My husband left his mother who had a broken hip and was having hip replacement, flew to Maui, called Invasive Species, they came out and within five minutes had caught the frog. It had crossed the wall and was in our property then.

She indicated that we didn't care about our neighbors. That we never did anything and that we wouldn't let people on our property. That's not true. We did everything in our power to solve and resolve that situation. Sorry.

Ms. Polancy went to great lengths to tell you to protect the poor people. I've already told you, Ms. Polancy owns several homes. She also accused us of being dishonest. I don't wanna malign any of my neighbors. I wasn't going to stand here and say anything negative about them, the things

that we know, but if you look in the County records, Ms. Polancy's been renting her property for years and closed her GET account has not paid taxes on it for many years. She also has been claiming a home owners exemption and taking that tax benefit for three years and has not lived in that home that she was here complaining about yet she called us dishonest and you believed her.

We first met her in 2007, and she introduced us, well actually my general contractor introduced me to her as a friend. She was his friend. And I gave her a tour of our home with her tenant at the time. It wasn't until later that I found out she lived next door. She had bought the home that Donna Kauhane's father had lived in. When they said they had anticipation of pasture land I want you to know that three of these four people bought their homes after we had built a wall. We bought our home in 2000. One purchased their home, Kathy Fitch in 2002, Debra Dorn purchased in April of 2003, and Toni Polancy purchased in 2004.

We had met with all four of the neighbors who owned the homes at the time we bought, showed them plans and the reason for constructing that wall which wasn't relevant to our hearing was the fact that one of those neighbors had sent a landscaper onto our property and chainsawed 12 trees which we still have the police report for. We were concerned about our security and who would do that. Who would possibly come and do that and we decided to build a wall along the side of our property. All three of these ladies bought their property after we had constructed the wall and landscaped it. There was mature landscaping along that line.

I had met with all four of the neighbors that owned the properties next to us before we constructed the wall after the trees had been cut, after the police had been there, and I offered to finish their side of the wall at our expense however they wanted it if they would allow us to put decorative concrete cutout block in the center of the wall. The County had told us that the decorative block would give us 48 percent air not 50 percent air through the wall which is what on Ag a fence above four feet has to be 50 percent air. So I individually met with each one of these people and no one, well one I take that back, Donna Kauhane's father was for that. His property is Toni Polancy's property now. It only borders our 475-foot property line for 20 feet. That's all her property touches ours is 20 feet in the very front of our property. Okay, I don't need to bore you.

At the end of the hearing of the hearing when the Commissioners stated their reasons for voting to deny us one of them was because of the ten speakers around our pool. They also said that we must have done something wrong and replaced these speakers. Unfortunately, we were not able to speak during this segment to clarify what was misunderstood. When we built our home we installed around the pools speakers that were being used at the time. Now there's better technology. The reason there are ten speakers around the pool is because these speakers are unidirectional. Unlike normal speakers, these speakers can only be heard when you are in front of them. All the new speakers are pointed at the pool. If you are standing behind them you can barely hear anything. We truly had no idea that our music was an issue for any neighbor until we saw their complaint letters. We are responsible, conscientious adults. We immediately asked the audio visual company to control the sound in that space. There's a speaker on each corner and there's two pools so that's eight speakers and then there's one speaker in the middle and one speaker in the middle at the bottom all aimed at the pool and that's what controls the sound. They're all programed by a computer which we have control of. We have programed it for guests, even for us it's sufficient for us to hear any music when we're in the pool.

One of the other facts that was pointed to was in the denial is that traffic was created by the STR would negatively impact Debra Dorn, Toni Polancy, Kathy Fitch and Donna Kauhane. The entrance to our subdivisions is two homes, two homes, two lots southwest of Toni Polancy's rental property. No one coming into our subdivision will ever drive past any of those neighbors.

Also, the road that comes into our subdivision feeds up to our home is on the opposite side of our lot. Our lot is 195 feet across the back and 175 feet across the front. Our driveway runs on the extreme edge from these homes. There's no way possible that they could hear unless they're standing on top of our wall or see, ever see a car or automobile in our driveway coming or going. Any worker that comes and goes does not even use our driveway. The park on the street in front of our home and they never pass these homes.

Next the fear of changing the character of the neighborhood is doubtful. Directly across the street from Donna Kauhane is a bed and breakfast. When the ...(inaudible)... owned Debra Dorn's home they rented, vacation rented their ohana. We know this because we saw the website and their ohana is next to our wall.

A few homes south of the Kaimanu entrance and gate is another bed and breakfast. These bed and breakfasts have been in our neighborhood since they've been allowed to. Our neighborhood, Kaimanu voted in favor of getting the STR license and said they are not at all concerned with us changing the character of our neighborhood. Thank you for your time.

Chairperson Lay: At this time, I'm gonna open up to public testimony. If anyone wishes to testify, identify yourself, you'll be given three minutes to testify. Seeing no one, public testimony is closed.

Mr. Hopper: I wanted to note one more thing in the Findings of Fact, Conclusions of law. I realize Finding of Fact 36, states rule 12-201-23(a), it's actually supposed to be rule 12-201-24(a). Danny if you can make a note of that along with the dates of the letters that were earlier referenced?

Ms. McLean: On Page 8?

Mr. Hopper: Page 8, Finding 36, it says, 12-201-23(a), it's actually 24(a). There isn't a 23(a).

Chairperson Lay: At this point Commissioners we can either have a discussion or a motion. Commissioner Hedani?

Mr. Hedani: Move to adopt the Findings of Fact, Conclusions of Law, Decision and Order Denying the Request for a State Land Use Commission Special Use Permit and the Short-Term Rental Home Permit for the Shambala Short-Term Rental, as amended.

Chairperson Lay: Motion by Commissioner Hedani.

Ms. Wakida: Second.

Chairperson Lay: Seconded by Commissioner Wakida. Discussion on the motion? Commissioner Tsai.

Mr. Tsai: ...(inaudible)...our legal. So we're simply adopting whatever decision was made by us...(inaudible)...for the one that was made.

Mr. Hopper: Correct.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: Question. How is that...'cause I was in favor of this actually. So...

Mr. Hopper: Yes, you can vote how you like on this particular--

Vice-Chair Ball: Because if I'm voting...this is the thought in my head. If I vote because the original vote was to deny is what I'm voting on or am I voting on what I think about the--

Mr. Hopper: You can vote either way. You could vote to approve or deny this at this point.

Vice-Chair Ball: We're approving or denying the--

Mr. Hopper: Form of the Decision and Order essentially.

Vice-Chair Ball: Not the applicant, not the application.

Mr. Hopper: Well, there's been a decision on that already. It was a six to two-vote.

Vice-Chair Ball: Right.

Mr. Hopper: This is reflecting the basis of your decision.

Vice-Chair Ball: Okay, well that's why I'm--

Ms. McLean: If I can maybe rephrase the question. What's before the Commission today is does this document reflect the discussion and what led to the Commission's decision. Whether you were in favor or against that vote does this reflect--

Vice-Chair Ball: Does it say what happened?

Ms. McLean: --what happened?

Mr. Hopper: The rule states, I wanted to bring up a rule, we've got rule 12-201-29 states, subsection c, where there has been another person admitted as a party to the proceedings or where a decision adverse to a party has been rendered, a findings of fact, conclusions of law, decision and order shall be signed by the Commissioners voting in favor of such adverse decision. And if a Commissioner is unable to sign the absent Commissioner's vote and signature shall be accounted for by the Director certifying the Commissioner's vote in a document attached to the Decision and Order. So there's...that happens after the vote. But your vote is to adopt this as the Decision and Order of the Planning Commission.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Being new on the Commission during the time that this particular application can into effect, in October of 2013, I was not present. Am I still as a Commissioner able to vote on an issue that was presented earlier although I did read the transcript of the application itself?

Mr. Hopper: There's a rule, HRS 91-11, Examination of Evidence by Agency. And it basically states that you would need to have in this particular case given an opportunity to have examined all of the evidence before you. In this case, the exhibits attached included the minutes of the meetings, it included all of the exhibits that were attached, and everything that was in the record at that point. So you could vote at this point if you believe that this based, and if you had reviewed the entire record. And again, I would state HRS 91-11, states Examination of Evidence by Agency, it states and I'll read it, whenever in a contested case, the officials of the agency who are to render the final decision have not heard and examined all of the evidence the decision if adverse to a party to the proceeding other than the agency itself shall not be made until a proposal for decision containing a statement of reasons and including determination of each issue, a fact or law necessary to the proposed decision has been served upon the parties, and an opportunity has been afforded to each party adversely affected to file exceptions and present arguments to the officials who are to render the decision who shall personally consider the whole record or such portions thereof as may be cited by the parties. That document was the draft Findings of Fact and Conclusions of Law that has been circulated to the parties. So has all of the evidence in the case, in this situation and the parties have had an opportunity to argue, make their arguments with respect to that decision and order. So I do not have an objection to you voting here if you have examined all of the evidence before the Commission.

Mr. Higashi: I would, I would feel comfortable making the decision based upon some of the questions after reading the document that the owners, I haven't had...I haven't seen any evidence of the documents that are in there and because the owners are here, I would like to have the opportunity to make the questions otherwise, I would excuse myself from.

Mr. Hopper: If you feel that you cannot vote because you have not adequately examined the evidence in this case, then yes you would not be voting on this, on this, on the findings, that's fine.

Mr. Higashi: Okay.

Mr. Kugle: The Epsteins are of course present to answer any question if the Commission would like to ask. I'm sorry, Greg Kugle for the applicants. They are present and are available to answer any questions the Commission may have. Thank you.

Chairperson Lay: Commissioners, any more questions or discussion on the motion? Call for the vote. You want to repeat?

Ms. McLean: The motion was to adopt the Findings of Fact, Conclusions of Law and Decision and Order with the minor clarifications made by Staff and Corp. Counsel.

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

Ms. McLean: Five ayes.

Chairperson Lay: Thank you.

Ms. McLean: And for the record, Commissioner Higashi you did not vote. Is that correct?

Mr. Higashi: I abstained.

Ms. McLean: Okay.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Is the Chair abstaining on this vote?

Chairperson Lay: I have read all the documentation and I will vote along with everyone else, and I will vote yes with everyone. I didn't need to, but I'm gonna...I've read everything and I feel that everything was done correctly.

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

VOTED: To Adopt the Findings of Fact, Conclusions of Law, and Decision and Order, with the Minor Clarifications Made by Staff and Corporation Counsel.
(Assenting - W. Hedani, P. Wakida, K. Ball, M. Tsai, S. Duvauchelle, I. Lay)
(Abstained - R. Higashi)
(Excused - J. Freitas, J. Medeiros)

Chairperson Lay: Okay our next agenda item?

Ms. McLean: Next item is Acceptance of the Action Minutes of the July 8, 2014 Meeting, and Regular Minutes of the April 8, 2014 Meeting.

G. ACCEPTANCE OF THE ACTION MINUTES OF THE JULY 8, 2014 MEETING AND REGULAR MINUTES OF THE APRIL 8, 2014 MEETING

Vice-Chair Ball: So move.

Mr. Hedani: Second.

Chairperson Lay: All those in favor?

Commission Members: Aye.

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

**VOTED: To Accept the Action Minutes of the July 8, 2014 Meeting and Regular Minutes of the April 8, 2014 Meeting.
(Assenting - K. Ball, W. Hedani, M. Tsai, S. Duvauchelle, P Wakida, R. Higashi)
(Excused - J. Freitas, J. Medeiros)**

Chairperson Lay: Okay, next agenda item?

Ms. McLean: Chair, the next item is the Director's Report.

H. DIRECTOR'S REPORT

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

Ms. McLean: You have your SMA Minor Permit Report, Exemption Report in your packet. Are there any questions on the SMA Reports?

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Mr. Chairman, I jumped the gun when I-

Chairperson Lay: We're ready for you now.

Mr. Higashi: -trying to explain to me about the SMA and the amount of paperwork that's generated from March 2014 till now there's a lot of repeat on it. I notice that there's...supposedly 20 planners but I was corrected that Mr. Higa is not a planner, he's someone else, but his name appears under the planner. My concern is that there's a lot of paper being generated for us and I was wondering with technology whether it be possible for the Commissioners to get laptops.

Vice-Chair Ball: Every time somebody new comes in here same thing.

Chairperson Lay: ...(inaudible)...the last time?

Vice-Chair Ball: I know, I made that...

Chairperson Lay: Said the facts and figures too, how much it would cost and everything last time.

Unidentified Speaker: Who?

Chairperson Lay: Penny last time.

Vice-Chair Ball: We're all for it.

Unidentified Speaker: Make it so, Department.

Chairperson Lay: Save a tree. We've discussed that matter, too where things have repetitively come up and it's just a matter of when they're brought, brought up and then they actually show up again a little after-the-fact. They've okayed, they've been approved, but—

Mr. Higashi: So basically because of a cost factor that members are not issued?

Ms. McLean: ...(inaudible)...moving to laptops or tablets, I believe the last time that we checked with all the Commission there were still, I can't say a majority but could have been a majority, they wanted the paper. And so we would want to all or none. We want either everyone to have the tablets or not because for the staff it's making five packets and making nine packets is—

Vice-Chair Ball: Four less.

Ms. McLean: To say rather than...well, it's not. It's still having the packets versus not having to do packets at all would be very different. So we can look at our budget, we can ask Commissioners again if everyone wants to go that way then we can see if we can—

Mr. Higashi: I would suggest we...(inaudible)...an option.

Chairperson Lay: Commissioner Hedani, you have any thoughts on that?

Mr. Hedani: I think...(inaudible)...have the paper copies makes it earlier for the public to gain access to the same information as well.

Ms. McLean: We still need to make public information available to the public and if they come in and ask for copies of things, we'll provide hard copies. We can provide a disk. We can send things by email. So in terms of providing it to the public, we would still do that however we needed to.

Chairperson Lay: When you say unanimous that means everyone or is it a majority? So do we call for a vote just to see if there's...numbers are there as far as wanting or thinking that might be a little easier for us to work with?

Unidentified Speaker: Are we saying, we step away from the papers?

Ms. McLean: You would get you know a CD in the mail or a flash drive in the mail instead of your packets, and then we'd take those from you and just reuse them, resend you stuff.

Vice-Chair Ball: Well, what about an email?

Chairperson Lay: Yeah, email. You could email everything?

Ms. McLean: Or we could email them. I don't know how, how big some of them are.

Vice-Chair Ball: I pads don't have—

Ms. McLean: Couldn't be Ipad, have to be a tablet with...that could take...(inaudible)...report.

Mr. Tsai: Hi Michele. Have you guys ever done a cost analysis of how much shipping and paper printing costs..(inaudible)...

Due to more than one member speaking at once, transcription was not possible

Ms. McLean: Okay message received.

Vice-Chair Ball: I think less copies you're doing is helping you.

Chairperson Lay: We wanna make your job easier.

Vice-Chair Ball: And if we train some people that don't know how to do it, they'll love it once they get it. And if they're not here to vote, we're voting for them.

3. Discussion of Future Maui Planning Commission Agendas

a. August 12, 2014 meeting agenda items

I. NEXT REGULAR MEETING DATE: AUGUST 12, 2014

J. ADJOURNMENT

The meeting was adjourned at approximately 3:30 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Keone Ball, Vice-Chair
Sandy Duvauchelle
Jack Freitas (excused at 2:23 p.m.)
Wayne Hedani
Richard Higashi
Ivan Lay, Chair
Jason Medeiros (excused at 2:23 p.m.)
Max Tsai
Penny Wakida

Others

Will Spence, Director, Planning Department
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works