

**MAUI PLANNING COMMISSION  
REGULAR MINUTES  
AUGUST 26, 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, August 26, 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: The Planning Commission is now called to order. It's 9 o'clock and it's August 26th. Before we start our meeting today, Commissioner Wakida would like to say something.

Ms. Wakida: Yes, I would like to recognize Rowena Dagdag-Andaya for her amazing role in Miss Saigon and her son, Trey, who practically stole the show, her four-year-old son Trey.

Vice-Chair Ball: She was a tree.

Ms. Wakida: Oh no, she was much more than that.

**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.

Chairperson Lay: Okay everyone at this time we're gonna open up to public testimony. If anybody has somewhere to go today and would like to testify on an agenda item that we have we're giving you the time now to come forward. We're giving you three minutes. Say who you are and what you're addressing. So we're open for public testimony. We have Christina Hemming.

The following individuals testified at the beginning of the meeting:

Christina Hemming - Item C-1, Gavin and Deanna Ferguson, SMA  
Rebecca Hannah - Item C-1, Gavin and Deanna Ferguson, SMA  
Arik Salvador - Item C-1, Gavin and Deanna Ferguson, SMA  
Chris Haywood - Item C-1, Gavin and Deanna Ferguson, SMA

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

Chairperson Lay: Does anyone else wish to testify at this time? Seeing no one, public testimony is now closed. Moving onto our first agenda item?

Mr. Yoshida: Thank you, Mr. Chair, Members of the Commission. Clayton Yoshida, Administrator, Current Division, Planning Department representing...subbing for the Planning Director, Will Spence and Deputy Planning Director Michele McLean who are involved in meditated settlement talks regarding appeals of enforcement actions taken by the Department.

The first public hearing item is from Genesee Capital requesting a transfer of the Special Management Area Permit from Genesee Capital to Kupono Partners, LLC for the Maui Lu Redevelopment Project at 575 South Kihei Road, TMK: 3-9-001: 083, 086, and 120, Kihei, Island of Maui. The Staff handling this is the Planning Supervisor, Ann Cua.

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

**1. GENESEE CAPITAL requesting transfer of the Special Management Area Use Permit from GENESEE CAPITAL to KUPONO PARTNERS, LLC for the Maui Lu Redevelopment project at 575 South Kihei Road, TMK: 3-9-001: 083, 086, and 120, Kihei, Island of Maui. (SM1 2003/0021) (A. Cua)**

Ms. Ann Cua: Good morning, Mr. Chair, Members of the Commission. I think this item will be quick today. As Clayton mentioned, the project is requesting a transfer in the permit holder from Genesee Capital to Kupono Partners, LLC. The Maui Lu Project has come before you a number of times already and it just came before you in May. This project started off in well, way before 2008, but in 2008 they received a SMA Permit from the Planning Commission after a lengthy contested case hearing by a hearing officer as well as reopening of the contested case hearing by the Planning Commission. And then in 2011, on May 24th the Commission granted a three-year time extension to initiate construction and then just in May, on May 13th, the Commission conducted a public hearing on a request for a two-year time extension to initiate construction and you approved that two-year extension and so the project has until July 31, 2016.

When that meeting or after that meeting, the applicant submitted a request for a time extension and normally the Planning Director is able to issue a time extension. You don't normally see a time extension through a public hearing. Normally we're able to issue time...I mean, excuse me, not time extension, transfer in permit holders. Normally we just issue those and then we report to you at your meeting. In this particular case because of the intervention, we are required to bring this project to you because the applicant was not able to get waivers from the intervenor. So that's why we're before you for a simple time extension.

So I think all of you are very familiar with the project. They're asking for a SMA Permit to demolish a lot of the buildings. You're very familiar I think with the Maui Lu Project which was built out, built in the early '60s and is definitely in need of an uplift. And so they're been trying to move forward to get that project completed. It's gonna include construction of 388 lock-off units contained with one to four-story buildings. The total count represents an increase of 170 units from what's there now. As probably most of you recall there's a two-story building that's located on the ocean side of the property. The Maui Lu property straddles both sides of South Kihei Road. And through the SMA Permit process the Planning Commission required and the applicant agreed to demolish the two-story structure that contained units that's on the ocean side of the property. And instead all that's going to be there is a one-story beach club that has a restaurant and a pool. So in terms of views of the shoreline, it's definitely gonna be enhanced. They're doing beach nourishment, dune stabilization, a lot of beach improvements so that's gonna definitely be a very improved area, a shoreline area.

So as part of the permit transfer it's very important for the new owner to be aware of the project

itself, the conditions that are associated with the project and so we normally ask...or the rules require a commitment from the new owner that yes, I am familiar with the scope of the project that's been proposed and approved. I'm familiar with the conditions that have been imposed on this project and I am able to fulfill those conditions. And so we do have first of all, a letter from the initial application, initial applicant, Genesee Capital. A letter of consent to transfer the SMA Permit to Kupono Partners, LLC. We've also received a signed affidavit from Kupono Partners, LLC, that they are in the process of purchasing land improvements at 575 South Kihei Road commonly known as the Maui Lu Hotel. The new permitholder further confirmed that they've read the SMA permit document in this particular case and are familiar with its contents. Finally, the new permitholder acknowledges the conditions contained in the SMA Permit and agrees to comply with the terms and conditions of that permit.

The applicant has submitted a preliminary compliance report. We've attached that for you as Exhibit 15, and it addresses their compliance thus far with the 31 conditions. We want to note for that compliance report there's numerous projects that come in for...that submits several preliminary compliance reports. In this particular case, what the applicant had wanted to do first was to demolish some of the buildings. So they did their first preliminary compliance report to address conditions that they need to address before they do that, and then once they're coming to do construction of all the new buildings they're gonna have to come in with another compliance report to just update their status of compliance with the conditions. So our acknowledgment of their compliance report is attached as Exhibit 16.

As of this date, we haven't received any letters in support of or in opposition to this transfer request and I guess at this point in time we can take questions. We have Mr. Gregg Schneider in the audience that represents the applicant, the current applicant. And we have a gentleman, I'm sorry, I forget his name but representing the new applicant and you might wanna hear from both of them in terms of the future plans for the project.

Chairperson Lay: Okay, at this time I'm gonna open up for public testimony.

**a) Public Hearing**

Chairperson Lay: If anyone wishes to testify on this agenda item, please step forward and you have three minutes. Seeing no one, oh...

Ms. Chris Bateman: Thank you. I'm Chris Bateman. I live at the Villas at Kenolio just across the street. I came here just to observe, but my biggest concern about the development is the trees in Maui Lu. I'm hoping everybody has seen the trees over there. So I don't know if the Planning Commission has anything to do with how they're gonna develop it, but that's just my concern. And the age of the building, it's just a landmark in Kihei I think. So I've been around for over 30 years and it will be sad to see it go, but I hope they can save the trees. So that's all I wanna say.

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

Mr. Freitas: Not for the testifier.

Chairperson Lay: Oh, okay. Thank you very much. One moment if you can please wait.

Ms. Wakida: Ms. Bateman, one quick question. What kind of trees are they?

Ms. Bateman: I believe they're--

Ms. Wakida: Ironwood?

Ms. Bateman: No, no, not...I wanna say monkey pod but that's not what it is. Is it monkey pod? It's the purple flower. The big umbrella trees, mimosa, mimosa trees.

Ms. Wakida: Okay, thank you.

Chairperson Lay: Commissioners, any more questions for the testifier? Thank you very much. Please step forward, identify yourself and you have three minutes.

Ms. Jill Engledow: Hi, my name is Jill Engledow and I just moved to the Villas at Kenolio and just became aware of this, you know, sorry I wasn't paying attention when I lived in Wailuku. But I just wanna second what Chris said. Those trees are amazing. They are fabulous. I just had no idea what a beautiful piece of property that is, and I don't...we're probably way too late to be throwing this out there but please save as many trees as possible. And I believe they're monkey pods and there's also a lot of coconuts. So obviously this stuff is all 40, 50 years old so it's wonderful. Thank you.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you very much. Anyone else wish to testify at this time. At this time, public testimony is closed and Commissioner Freitas, you have a question?

Mr. Freitas: Yes, I do. It's probably for the developer. Chris, the development has been in development, we have done time extension after time extension, are they ready to move forward with the project.

Mr. Jordan Hart: Okay, with regard to timing, I'd rather bring up Mr. Will Beaton, who is representing Kupono Partners to speak about that timing.

Mr. Will Beaton: Aloha, good morning. My name is Will Beaton. I'm a partner with the CapRidge Group and representing Kupono Partners. We're very excited about the Maui Lu. We've been working on it for over a year now with Gregg and his partners. And we are prepared to move ahead as soon as we acquire the property. We plan to begin the demolition, initial abatement that's required prior to demolition in September. And we expect demolition to be completed sometime in January. And then we have plans to begin mass grading work in November, December as soon as possible. We have a design team on board, ready to go as soon we acquire the property. A good local team that understands Hawaii and Hawaiianna design. My former company was called Hawaiianna Development Group. I have a great sensitivity to Hawaiian culture and Hawaiian agriculture and so we're very sensitive about those conditions. We have read the SMA multiple times and this transfer of the SMA entitlements is a condition to our acquisition of the property. Obviously without it, we couldn't do anything, but we're very excited to move forward.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: So the length of construction you think it's gonna take?

Mr. Beaton: Our schedule right now is about 48 months for complete construction in three phases. First phase include all the public improvements and all of the main amenities. The beach club, the lobby building and about a little over of a third of the units and then following right after that, a second phase. So it will be a continuous construction. There won't be any lapping, but it will be built in phases because it's a very, very large project.

Mr. Tsai: And I assume you're gonna stay open during that time?

Mr. Beaton: Yes. Well, stay open...as soon as we get the first phase built, we'll open and so we'll begin sales. We actually can begin sales before construction begins once it's registered as a timeshare project. But we are demolishing the existing hotel beginning late September.

Mr. Tsai: Thank you.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: And when was the first phase gonna be completed estimate?

Mr. Beaton: The first phase I believe, I don't have a schedule in front of me, but I believe we're looking at starting in February to March of 2016 and I think it's about 16 months right, Mike, I think we're projecting around 16 months for the first phase.

Mr. Medeiros: Okay. Kupono Partners, right? I tried to Google it, I couldn't find anything.

Mr. Beaton: It's a newly formed company. It's a Hawaii LLC set up specifically for this project. There are two partners, CapRidge Group is one partner and another partner is an individual investor from Japan. And so CapRidge Group has an office in Honolulu and I run that office. It's based in Tokyo and the chairman of CapRidge Group who side the affidavit is formerly from Hawaii. He lived in Hawaii in the '80s and '90s, moved to Japan in the late '90s with CB Richard Ellis.

Mr. Medeiros: Yeah, the reason I asked that is because remember when you were here or they were here, Penny had asked--

Chairperson Lay: The mic.

Mr. Medeiros: Oh, Penny had asked if there was any plans on selling it. Is that why you guys wanted the extension and I believe they said no, not really but if you get a good offer, you know, you'll take it or something? You know, then I look up Kupono and I get CapRidge. It's like everything is just...(inaudible)...don't get me wrong, I like the project, okay. You know, so don't think to panic. I like the project, okay, except for some parking issues that I have I really like the project. Why do you have CapRidge as the owner, but you start a new Kupono?

Mr. Beaton: Well, it's typical in projects of this size to set up a separate LLC as an investment company and it's done all the time in Hawaii. It's really to limit liability. And so Kupono Partners was set up as a special purpose company for the development of the Maui Lu. And so it will own

the property. It will borrow the money from the lenders. It acts as a special development entity.

Mr. Medeiros: Okay, I just was curious about the new owners. I couldn't find them.

Mr. Beaton: Yeah, it was just formed. Kuponno Partners was formed as of July 2nd I believe formally.

Mr. Medeiros: And tell Matt Bailey I said, howzit.

Mr. Beaton: Okay, I will.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Bill, what's the name of the partner out of Japan?

Mr. Beaton: The partner, Mr. Matsuoka is his name.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: You've heard a couple of testifiers express concerns about the old growth trees which are treasures in Hawaii. When they do get cut down they often don't get replaced with anything nearly as magnificent or as large a canopy. So we'd be interested to know what you foresee as the plans for the trees on the property?

Mr. Beaton: Our plan is to keep as much of the existing landscaping as we possibly can. There are a lot of old palm trees that need to come down, they're dangerous. But we've already talked with our landscape architect and with Jordan and we know that they're valuable. We treasure them. So they are going to be integrated into the project. We know that some of them will have to move and we intend to do that and preserve as much of the existing landscaping as we can. Because we want it to be a Hawaiian resort. We want it to feel like old Hawaii and we know that the landscaping is critical to accomplish that.

Ms. Wakida: Right, just to clarify, you can't really move old growth trees so when you say move trees what maybe did you mean?

Mr. Hart: Jordan Hart from Chris Hart & Partners. So the monkey pods do move well and so those would be the ones that would be, you know, appropriate for relocation. Any others that aren't gonna be able to move well and do already conflict with the existing site plan will have to be completely removed but those were kind of analyzed and discussed in the review and presentation of our original site and that this those trees that are being eliminated are really minimized and the monkey pods are ones that really do relocate well so those will be basically put into a container relocated to the side of the site, construction can proceed and then they can be brought back in and they actually have a lot of value because you know mature trees are more beneficial to the environment, but you know, the setting of a place than brand-new trees as you were kind of indicating. So there's a value on all fronts for saving them.

Ms. Wakida: Can you be a little more specific about what percent of the trees will be taken out?

Mr. Hart: I don't know. That's gonna be difficult to say right now. I don't know. I couldn't tell you an exact percentage.

Ms. Wakida: Okay, well I think the neighborhood will be watching.

Mr. Hart: Okay.

Chairperson Lay: Commissioners, any more questions?

Ms. Wakida: Is Mr. Hart, did you want to add something?

Mr. Hart: Yeah, well basically the primary application outlines specifically the tree count. So there's existing 43 monkey pods, 15 are to be preserved in place. There are 441 coconut palm, 200 will be relocated. There are other types of palms approximately 28 many of those they'll be relocated if possible. Papayas there's two, they'll not be saved. Pines, these would be ironwood trees, they're primarily gonna be removed. A lot of these are located on the makai side fronting South Kihei Road. There's 45 Plumeria trees, approximately 10 of them are still in good shape to be preserved and relocated. There's one shower tree. This may not be able. This doesn't relocate well. And then there's 35 other types of trees that probably won't go. There's things like African tulips on the site, just because of the age of it. And then there are--

Ms. Wakida: I'm sorry, what did...you said those 35 trees will stay or won't stay?

Mr. Hart: No, no they would be...those are various types of trees. It's quite a large property so there are things like African tulips that exist and those..they're invasive, they couldn't be on a new planting plan that's approved by the County of Maui so they'll have to be removed. But they exist, there's trees in their inventory. And then there's seven tulip trees which will not be saved and 16 umbrella trees which will also not be saved. So I think that the primary interest was in the monkey pods and as I was saying those do transplant well, and they do have value to the developer of the property and so there's really no point in throwing away or disarding any of those trees that can be preserved. So all the ones that can be preserved it's intended to preserve them. And then 15 of them can be preserved in their current location which is ideal.

Ms. Wakida: Thank you.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Yeah, I guess this would be for Will. Like Jack I've heard about this project for such a long time. Coming off of 2009 when the economy tanked and everybody was looking for work, this was one of the great hopes that we had that would happen in order to put people back to work. Four years is I think a reasonable time frame for a project of this scope. My question is is the financing in place and what is the scope of the financing?

Mr. Beaton: The financing to acquire the property is in place. We have a tentative commitment on the construction loan but they can't make a commitment until we actually have bids and we have to design the project first to get permits and then we'll go out to bid. So the lender's out of Arizona. They do timeshare projects so they've told us that they...they basically looked at our economics

and they support them. And have also a big part of timeshare is consumer financing because buyers want financing to acquire the units and they also provide consumer financing.

Mr. Hedani: I guess my question is do you have a scope of or a range of investment that you project at this point?

Mr. Beaton: The total cost of the project is \$270 million. And of that, right now the lender is the saying that \$80 million has to be equity and we have \$80 million in equity that's been put in place.

Mr. Hedani: Thank you.

Chairperson Lay: Commissioners, any questions? I have a question for you. Okay, with our uniqueness of the island and you having some background with Hawaii I hope that you have an understanding about our workers here. But we're stuck on this island and we're concerned about other contractors coming in from different areas to work here, make money and then they leave and meanwhile we have qualified workers here. So what we're hoping for from you is, you know, is you letting us know as much as possible you can get local workers, local contractors to do this project so we can keep the money here and get our people working over here on the island.

Mr. Beaton: Totally understood and couldn't agree more. We would love it if it could be all Maui workers quite honestly. Certainly Hawaiian-based companies, we support that.

Chairperson Lay: Thank you. Commissioner Medeiros?

Mr. Medeiros: Adding to that what about the current workers that the Maui Lu will they be first in line for hire back?

Mr. Beaton: Well, Aston is offering them I believe, Gregg maybe you can address this since he's handling it. Gregg probably had a hand in it.

Mr. Schneider: Yes, Gregg Schneider the applicant. We're in negotiations with Aston and the union right now. I thought we'd come to terms. Paul Mancini, our attorney, has been working with them, but seems like everybody's happy with how we're gonna work out that situation. The hotel will be closing and it seems like everybody's come to terms on that understands the situation and they seem to be happy with that, so...

Mr. Medeiros: Okay, I was just curious.

Mr. Schneider: Sure, sure.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Yeah, sorry sir, what's your current staffing count right now?

Mr. Schneider: Aston has I believe about 34 employees there.

Chairperson Lay: Commissioner Medeiros?



Mr. Medeiros: Exact closing date?

Mr. Schneider: Closing the hotel is September 10th.

Mr. Medeiros: September 10th, and then it won't open until February 2016, the first phase, after the first phase is done?

Mr. Schneider: I understand talking to the new buyer that's approximately the time that they'll--

Mr. Beaton: February 2016 is the start of Phase 1, start of construction. So 16 months after that.

Mr. Medeiros: Okay, so--

Mr. Beaton: So that's roughly June 2017 completion of Phase 1.

Mr. Medeiros: 2017 so that means you're gonna be coming to see us for another extension?

Mr. Schneider: Excuse me, you know nobody's made any plans that far out so, you know, nobody can answer that question for you.

Chairperson Lay: Commissioners, any more questions? Commissioner Tsai, excuse me.

Mr. Tsai: So am I understanding correctly this is gonna be all timeshare?

Mr. Schneider: Correct.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: This is for anybody. What happens to the existing employees and are they taken care of in the interim?

Mr. Schneider: Well there's severance and there's benefits and so forth that needs to be paid out to them at the closing of the hotel.

Ms. Cua: I would like to clarify a question that was just asked. When you approved the time extension in May of this year the time extension was for the period of time to initiate construction. So they have to initiate construction by July 31, 2016. And they should be able to do that because they're planning to go in and get a demolition permit. I don't know if they've even filed already. But pulling a demo permit and doing demolition would satisfy that. So they don't have to start construction of the brand new buildings to be able to start construction. So they should be fine with the start construction and then they have five years to complete from the date of the initiation so they should be okay.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yes Ann, one just a clarification. It says the new permit holders which is Kupono Partners are in the process of purchasing land improvements. Do they also own the land?

Ms. Cua: I believe that they will. That's my understanding.

Ms. Wakida: So they're purchasing the land and the improvements?

Ms. Cua: That's my understanding.

Ms. Wakida: Thank you.

Chairperson Lay: Okay, I have one more thing. Prior to these employees being laid off, I'm wondering if you can put a blast out to the other hotels just making availability of these qualified people so they might have a chance to find another work spot too. You know, a little email to the different hotels letting them know that you have qualified workers ready out there that will be needing work?

Mr. Schneider: You know, I'd be happy to talk to Aston about that. That's really their employees, but I'll bring it up with them. I can't speak with them, but I'll do my best to do whatever we can on that.

Chairperson Lay: Appreciate that.

Mr. Schneider: So that you. Thank you for your service.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: This question is for Ann. I was surprised that you didn't remember Will's name.

Ms. Cua: I'm sorry. I'm slipping.

Mr. Hedani: My question is when was the original application for this project filed and how many years ago was that?

Ms. Cua: Oh my goodness. With my memory, I can tell you when I got it. I got involved in like 2003. 2003 is when I got involved. It was originally assigned to another planner and I got the project to supposedly finish it off which was just supposed to be to come you with the hearing officer's report and the thought was that would be accepted and we'd move on. But what happened was you did not accept the hearing officer's report. You opened the hearing because you wanted to discuss more about shoreline issues. But the good thing is that's how we got the beach nourishment project that they're doing, the demolition of the two-story structure on the ocean side. So there was a lot of good that happened, but there was... this project has been a long time coming like I said.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess this is basically just a comment more than a question since it's 2003 it's 11 years ago. At some point, I think the assumptions that were made from the original application are gonna lapse. They're not gonna be apples to apples, oranges to oranges. So my own perspective I'd like to see the project move forward quickly and I would hesitate to grant extension

after extension at this point. Probably requesting an entirely new SMA if that's what you know, is being asked.

Ms. Cua: In terms of the Department's recommendation, we too, get to that point at some point. You know, with this particular project we did send it out for agency comments like with Public Works and you know we feel that there hasn't been significant, significant change in that immediate area. The project is still the same. You know, and that's why we feel comfortable at this point, but they're like you there may be a point in time if this continues that we would not be comfortable, but at this point we are.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I would support Wayne's comments about you know, like how long is long? You know, I mean, how long is it going to take? Right now, you have employees that are about to let go. There's a disruption in their lives. Yeah, I know you guys are doing everything to cushion it and I appreciate that, but the bottom line is there's a lapse between the start, the demolition and the initial phase of completion. That five years you said, so extensions might come about. And if I'm around I would lean towards supporting Wayne.

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

Ms. Wakida: Just one for Ann. On Condition 6, it says that the final construction shall be in accordance with the preliminary architectural plans dated October 2003, and updated in 2004. Hadn't they been updated since then when that...there's all the sewer line controversy and so on? Condition 6?

Ms. Cua: I don't know. Jordan, can you help me with that one? I might have to go back to some of the old time extension letters just to make sure. We may have covered that in maybe even another condition. Can I get back to you on that one?

Ms. Wakida: Sure.

Mr. Hart: I think that the only real difference would be that the makai habitable structures, the units, we didn't update the site plan after it was agreed with the Planning Commission that those would be removed, but those are on the record, they are to be removed. So that would be the only change to the design is that the beach club is gonna be reduced to a single structure and that the 19 units are gonna be completely eliminated on the makai side.

Ms. Wakida: Okay, as long as it's clear in other documents.

Mr. Hart: Oh yes, it is.

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

**b) Action**

Ms. Cua: Yes, Mr. Chair. All necessary requirements for a permit transfer have been met. Further the scope of the project remains the same and the previous findings of fact, conclusions of law, decision and order granting the permit are still applicable and therefore the Planning Department is recommending that the Commission approve the request to transfer the permit holder from Genesee Capital to Kupono Partners, LLC.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: Move to accept the Department's recommendation.

Mr. Tsai: Second.

Chairperson Lay: Motion by Commissioner Medeiros, seconded by Commissioner Tsai. Any discussion on the motion? Seeing none, can we get Clayton to repeat the motion? Oh, excuse me, Commissioner Hedani?

Mr. Hedani: I guess this is just a comment, a repeat of what I said before but what I'd like to see is this being the last hurrah for this project in that henceforth we see something, we see dust flying, something happened.

Mr. Yoshida: The motion is to approve the SMA Use Permit transfer request.

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

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

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

Chairperson Lay: At this time Commissioners, let's take a eight-minute break until 10 o'clock and then reconvene then.

Ms. Cua: Thank you.

A recess was called at 9:52 a.m., and the meeting was reconvened at 10:04 a.m.

Mr. Yoshida: The second public hearing item is from Mr. Albert Kanno, Manager of ABC Development Company, LLC requesting a Community Plan Amendment from Ag to Light Industrial, a State Land Use District Boundary Amendment from State Ag District to State Urban District, a Change of Zoning from County Ag District to M-1 Light Industrial District for the Waikapu Light Industrial, 7-lot subdivision and related improvements at 109 East Waiko Road, TMK: 3-8-007: 105, Waikapu, Island of Maui. Staff Planner is Paul Fasi.

2. **MR. ALBERT KANNO, Manager of ABC DEVELOPMENT COMPANY, LLC requesting the following land use entitlements for the Waikapu Light Industrial 7-lot light industrial subdivision and related improvements at 109 East Waiko Road, TMK: 3-8-007: 105, Waikapu, Island of Maui: (P. Fasi)**
  - a. **Community Plan Amendment from Ag. to Light Industrial (CPA 2013/0004)**
  - b. **State Land Use District Boundary Amendment from State Ag. District to State Urban District (DBA 2013/0002)**
  - c. **Change of Zoning from County Ag District to M-1 Light Industrial District (CIZ 2013/0008)**

Mr. Paul Fasi: Good morning. I'm gonna be very brief in my introduction. The applicant has a presentation that will go over the details of the project. The land use designation changes and entitlements are necessary for the development of a proposed 7-lot light industrial development and related improvements. It will be segregated into a condominium property regime and that means it's one TMK with seven individual, they're gonna call it unit, seven individual unit owners.

This is very similar to a project that was approved earlier by this Commission for the Waiko Light Industrial project right next door, the Vince Bagoyo project. This is next door also to the Fong Construction Baseyard. So all three developments, all three uses of the land are all similar. It's properly situated. It's in a good area for light industrial development.

The property is in...and the action, proposed action is in conformance with all government regulatory ordinances. Today, we're reviewing and going to give recommendations to the County Council on a District Boundary Amendment, a Change of Zoning, and a Community Plan Amendment.

The Community Plan Amendment was a trigger for an EA. The EA was done. We're done with that process. This Commission did issue a Finding of No Significant Impact on the Final EA and so here we are to process the land use entitlement application. If there are no questions for the Department, I'm gonna have the applicant do their presentation. Thank you.

Ms. Cheryl Okuma: Good morning, Chair Lay, Commissioners. I'm Cheryl Okuma from Munekiyo & Hiraga. We appreciate the opportunity to be here before you today on our request regarding the Waikapu Light Industrial Project located in Waikapu.

The project team here today is Albert Kanno of the ABC Development Company, the owner-applicant for this project. Civil Engineer is RT Tanaka Engineers, Inc., and we have Kirk Tanaka with us. Traffic engineer is Austin Tsutsumi and Associates and Matt Nakamoto is here today. Ian Sandison from Carlsmith Ball is the environmental attorney on this project. And Munekiyo & Hiraga is the planning consultant and with me today is Mike Munekiyo.

As you've heard from Paul Fasi, the Maui Planning Commission did review the Final EA on March 11, 2104. The trigger was the community plan or is the Community Plan Amendment. And the Maui Planning Commission did issue a Finding of No Significant Impact, a FONSI determination and that Final EA and FONSI was published April 23rd of this year. That 30-day period, challenge

period ended May 23rd completing the environmental review with no challenges filed for this project.

As you heard, we're before you today to request land use changes and this is what you see here. We're requesting a District Boundary Amendment changing the existing designation Agriculture to Urban. A Community Plan Amendment requesting the designation change from Ag to Light Industrial and a Change in Zoning, changing the existing designation of Ag to M-1, Light Industrial.

You can see the project site on this plan here. It's about 8.55 acres and as you heard before the former parcel of the Maui Scrap Metal operations which had been ongoing for 20 somewhat years. It was In 2007 that the applicant purchased this property and committed to cleaning up the site. And just to clarify for the record, you'll see that as mentioned by Paul Fasi of the recent approved Waiko Industrial is located here to the east with Fong Construction Baseyard nearby to the east and East Waiko Road is south of the project site. Kuihelani Highway is to the east connecting to West Maui, and on the western side Honoapiilani Highway.

As you've seen the before this is the project site before the clean up at the time that Mr. Kanno acquired this property. This is a view west within the project site looking out towards West Maui Mountains and you can see the existing electrical utility lines that are within Waiko Baseyard just to the west. Forty thousand tons of scrap metals, tires and appliances were removed by the applicant from the site, shipped to Hawaii at significant cost. The large metals that were basically on this site were sheared and baled and shipped off to Honolulu. The metals remaining were separated from the soil with a specialized piece of equipment. And here you will see this property as it exists today. The property after clean up is now fit for industrial use.

Just a summary of the remedial action undertaken by Mr. Kanno beginning 2007 over a period of seven years involved a cleanup at significant cost to enhance the environment. As you could see from the prior site, the metals were shipped off island by use of a trommel which is a special equipment separating metals from soils, comprehensive environmental investigation was conducted to assess the post removal site condition, and an environmental evaluation assessed that soil condition and there was an analysis to evaluate various remedial action alternatives. The remedy that was ultimately approved by Department of Health is this effort involved coordination with the State Department of Health. That resulted in the soil consolidation in subsurface containment cells and capped with three feet of clean fill. And as mentioned, this was approved by Department of Health.

So now the applicant is proposing to develop these light, seven light industrial lots under condominium property regime as you've heard. The applicant will keep one of those lots for industrial use. And as you can see from the slide here, this is the existing access roadway. This will be...and this basically accesses two of those seven lots. There will be this access roadway to access the remaining five units.

Now one of the requests is for a District Boundary Amendment and there are criteria that go with this. So I'd just like to address those criteria these next few slides. Lands are characterized by city like concentration. As you can see the project is located within an existing urban area near basic services that are available such as water and wastewater. The project is nearby the Waiko Baseyard to the west, Consolidated Baseyard to the east, Waiale Project District to the north, and

the recently approved Waiko Industrial Project. There is the Waikapu community located nearby the project. And as you can see the project is within an area with concentrations of people, roads, and urban lands. It is proximate to the basic services in areas for foreseeable urban growth. As you'll see later the project is located within what is identified in the Maui Island Plan as being within the Urban Growth Boundary. These lands are free from adverse environmental effects. The project area is outside of flood and tsunami hazard areas. And extensive site restoration has been completed on this site on what was formerly a scrap metal receiving facility. The land is contiguous with proposed urban areas such as what we mentioned, Waiko Baseyard, the Waiko Industrial Project, and the Waiale Project District urban areas which are contiguous to this project site. This is appropriate for new urban concentrations. This project area is within an area that's designated for future urban growth and nearby existing infrastructure and services that are available.

Community Plan Amendment is our other request. And these are criteria that we'll cover over these next few slides. The project is consistent with the County Policy and General Plans. It is located within the Maui Island Plan's Urban Growth Boundary. There's also consistency with the Wailuku-Kahului Community Plan. As mentioned, the project site was used for a scrap metal recovery for over 20, 25 years and there are construction baseyards and similarly situated industrial businesses nearby the project. This is the Maui Island Plan map and as you can see the project site is within the designated Urban Growth Boundary which is identified in this kinda reddish shading.

Our third request is for a Change in Zoning and as you can see there are criteria that are addressed here in these next few slides. The proposed project is within what is identified as future urban growth designated area and in that sense, conforms to the General Plan and community plan. The Community Plan Amendment request to a light industrial use will create land use consistency with the community plan map. The project site has the lowest agricultural productivity rating of E and as mentioned was the former use of scrap metal recovery, and prior to that, there was sand mining activities on this parcel.

The existing infrastructure for utilities and transportation is within the proximity of this project site. And there are no adverse effects to parks, schools or other public facilities. In terms of impact to cultural, economic and environmental characters of the area, this project supports economic opportunities and provides business opportunities within this community. There are no adverse effects to cultural or archaeological resources and the environmental cleanup undertaken by the applicant at significant costs improves public health and welfare within the community.

So in summary, in terms of our three requests that are before you today, for the District Boundary Amendment the eight criteria that we've gone over are met, and as you can see the Maui Island Plan designates this area of the project site as being within the Urban Growth Boundary. Our second request is for a Community Plan Amendment from Agriculture to Light Industrial and the proposed project is consistent with that surrounding industrial area that runs up and down East Waiko Road. And our third request is for a Change in Zoning from Agriculture to M-1 Light Industrial. As was noted this project area has not been in agricultural use due to its prior industrial activities for over 25 years and the site is classified as a low productive rating for ag lands. So we would respectfully request and seek the Maui Planning Commission's recommendation of approval to the Maui County Council for our three requests, the District Boundary Amendment request from Ag to Urban, Community Plan Amendment request from Agricultural to Light Industrial and Change

in Zoning from Agricultural to M-1, Light Industrial. We thank you for your time and are available for any questions. Thank you.

Chairperson Lay: Commissioners at this time I'm gonna open up for public testimony.

**a) Public Hearing**

Chairperson Lay: If anyone wishes to testify, please step forward, identify yourself, and you have three minutes. Seeing no one, public testimony is closed. Commissioners, any questions? Commissioner Freitas?

Mr. Freitas: Question for the Chair are we taking articles one at a time or three at a time.

Chairperson Lay: Yeah, they're all combined, all tied in one way or another, but I think if we go, take them individually it might be a little better.

Mr. Freitas: Thank you.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Chair, because the project is light industrial and it's adjacent to the Waikapu community I look at Waiale Road as an important roadway that connects the community to the outside and as such, what I'd like to see is a comprehensive landscaping plan that makes sure that Waiale Road doesn't become an armpit type of a road, you know, something that's attractive for the community as well as meeting the light industrial needs of the area. Is there a landscaping plan for the project area being considered?

Ms. Okuma: Well, we know that there are requirements in terms of landscaping and some of those requirements are gonna be tied to, you know, parking stall requirements and that would be depend on what the uses are on each one of these particular units. So we know that with respect to that there'll be some landscaping requirements and that will happen through the building permit process as the various agencies such as you know, Public Works and Planning are reviewing the building permits. And also, we know that there will be requirements in terms of that north side of East Waiko Road that fronts the project in terms of what the County may require as far as landscaping, trees, such as...you know things like that in terms of the right of way. So...

Mr. Hedani: From my perspective because it's a condominium project and it has such long frontage along Waiko Road a comprehensive landscaping plan for that entire length of roadway would be something that I think should be supported.

Chairperson Lay: Public Works wish to comment on that?

Ms. Dagdag-Andaya: I think I can address that. We have plans, in fact...excuse me, we have our EA for the Waiale Road extension or Waiko Road improvements out and you know, when we look at complete streets I think that might be an appropriate time as we get closer to construction of the project and our discussions with Planning Department, Parks Department and looking at how we can make it "complete", and adhere to complete street guidelines, bring in complete street



elements, I think at that point that's when we can discuss what kind of landscaping improvements we'd like to see for Waiale, Waiale Road. I don't know if that will address your questions regarding this project, but as Cheryl had mentioned it does go through that building permit review and so there will be landscaping requirements through the parking requirements and all that.

Mr. Hedani: Okay, thank you. I'm glad that Public Works is taking that perspective. My only concern is that when the private sector does it, it always ends up better. It always ends up looking better because they have more money to throw at it basically and having them create buffer you know to supplement their complete street program I think is something that would be good.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I'd like to echo Mr. Hedani's concern. The industrial area along Mokulele Highway, one of the tenants is a close friend of my mine and one of their complaints is that it's so hot there because the developers have never been interested in planting trees. Now that's an older development and things have changed. So having...being forward looking and planting trees is not only of course good for the environment, but it will be good for the tenants as well. I'm concerned with things 10, 20 years down the road. And as the central area begins to develop it may or may not develop residentially around this, but it might. And I agree that these industrial areas while they are very important, we need them because they serve an important function. They need to be attractive. If you look at this overhead map and you look at the other consolidated baseyard, I don't see...of course, this is an aerial view, but I don't see any greenery at all. And this is a disservice to our island, it not only heats us up, we're consistently one of the hot spots in the nation, I mean, in the islands. But it is a disservice to the tenants. So I think you can't place enough importance on having shade trees. And if they were planted along the roadway and the perimeter of the property, and I thought when we originally saw a landscaping plan on this I thought there were shade trees on the perimeter.

Mr. Kirk Tanaka: Good morning, Chair Lay and Members of the Maui Planning Commission. My name is Kirk Tanaka. We're the civil engineering consultant for the project. This is more in the realm of landscape architecture but I can share with you what I know. As part of the building permit requirements Waiko Road will be required to be ultimately built to urban standards which includes trees. And Rowena might be able to help me on this, she would know more about it but, as I understand it the County eventually will improve Waiko Road with...to urban standards and at that point I imagine there will be guidelines. There are guidelines for street trees and it will, you know, the project will comply with you know, the guidelines of street trees within you know the context of the guidelines.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Well, I think what I would like to see is that the developer go above and beyond the minimum guidelines.

Mr. Tanaka: Okay, as part...what also I think Cheryl, what I think Cheryl said initially was that the shade trees will be planted on site as a requirement of the off street parking ordinance and so we would, you know, it be definitely in compliance with that and that will be as part of the building permit applications when each individual unit owner comes into develop their unit.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Kirk?

Mr. Tanaka: Yes.

Mr. Hedani: Just a suggestion. The County tries a lot you know in terms of doing things to make it attractive, but you can't really put a shade tree you know within 18 inches between the sidewalk and the curb or the gutter and expect it to thrive.

Mr. Tanaka: Exactly, yes.

Mr. Hedani: What I'd like to see is a landscape buffer between the project and the roadway or say the first 10 feet or 15 feet within the property that abuts Waiko Road. Create a landscape easement along that area that would be funded by the condominium property regime in perpetuity inclusive of shade trees.

Mr. Tanaka: Primarily to shield to development from traffic on Waiko Road.

Mr. Hedani: Well, ultimately you'll have sidewalks along Waiko Road that people can traverse, right, for exercise or whatever, shade trees will provide shade for the sidewalks and screening landscaping would make sure you're not looking ugly stuff you know in a light industrial. We need light industrial property, but like in the case of Mokulele Highway they provided screening landscaping, a landscape easement along their property of the highway and it essentially works behind that landscaping screen to do what it needs to do without being visually obstructive, yeah?

Mr. Tanaka: Okay. We'll discuss it with the client.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Just a comment on Waiko Road. That industrial park that they have there they have what do you call landscaping all along the road and it looks very good. I would presume that that thing would continue, but it looks great.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: While I can agree with Commissioner Wakida and Commissioner Hedani, light industrial projects are really needed on Maui. And I'm old school, no armpit, no arm, okay. You know, do what you guys can to make it look nice, but we need the light industrial project.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Yes, I'd like to commend the applicant, I'm looking at Page 6, and the pile of debris that was there and looking at what has happened automatically makes the place look much cleaner and I think more attractive in an area and I think that should be commendable.

Chairperson Lay: Okay, I'll just give a little take on that also. As far as the buildings in the area and

the agriculture development on shading or trying to I guess lighten up the area, a lot of the times the buildings that are built do blend in with the environment, but I think in this area what we wanna do is enhance it, right? We wanna make it more colorful, more inviting. So if that can be put into consideration also, I mean, we're trying to bump it a little more and we can beautify the place. Commissioners, any more questions or comments? Commissioner Hedani?

Mr. Hedani: Yeah, I think in the case of changing the land use, changing the zoning, I don't think it's appropriate to attach things to it, you know in terms of easements or requirements like that. But I think just suggesting it to them for consideration is basically where I'm coming from.

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

Ms. Wakida: Well, I just... I just can't give too much support to Commissioner Hedani's suggestion. Yeah, I don't like leaving it up to Public Works to have to do our trees for us if the developer can incorporate that into the project that would be wonderful.

Chairperson Lay: Commissioners, seeing no more comments or questions can we get the Department's recommendations. And again, we're gonna go through it one by one.

**b) Action**

Mr. Fasi: We have three land use entitlement requests here. Did you want me to incorporate them all together or do you wanna do them separately?

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

Mr. Fasi: The Planning Department recommends to the Maui Planning Commission that it recommend approval to the Maui County Council for the District Boundary Amendment from Ag to Urban.

Mr. Freitas: So move.

Mr. Medeiros: Second.

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

Mr. Yoshida: The motion is to recommend approval of the Land Use District Boundary Amendment request from State Ag to State Urban.

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

**District Boundary Amendment**

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

**VOTED: To Recommend Approval of the State Land Use District Boundary Amendment from State Ag District to State Urban District as Recommended by the Department.  
(Assenting - J. Freitas, J. Medeiros, K. Ball, M. Tsai, W. Hedani, S. Duvauchelle, P. Wakida, R. Higashi)**

Mr. Fasi: The Planning Department recommends to the Maui Planning Commission that it recommend approval to the Maui County Council for the Community Plan Amendment from Ag to Light Industrial.

Mr. Freitas: So move.

Mr. Medeiros: Second.

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

Mr. Yoshida: The motion is to recommend approval of the Community Plan Amendment request from Agriculture to Light Industrial.

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

### **Community Plan Amendment**

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

**VOTED: To Recommend Approval of the Community Plan Amendment from Agriculture to Light Industrial as Recommended by the Department.  
(Assenting - J. Freitas, J. Medeiros, K. Ball, M. Tsai, W. Hedani, S. Duvauchelle, P. Wakida, R. Higashi)**

Mr. Fasi: The Planning Department recommends to the Maui Planning Commission that it recommend approval to the Maui County Council for the Change of Zoning from Agricultural to M-1 Light Industrial.

Mr. Freitas: So move.

Mr. Medeiros: Second.

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

Mr. Medeiros: I'd also like to say I would support Commissioner Hedani's suggestion. I wasn't willing to support a condition, but a suggestion, yeah, I'm all in.

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

the motion?

Mr. Yoshida: The motion is to recommend approval of the Change of Zoning from Agricultural to M-1, Light Industrial incorporating...well, the applicant consider incorporating landscaping to...a landscape buffer.

Mr. Hedani: It was a suggestion.

Chairperson Lay: That was just a suggestion.

Mr. Freitas: It's not part of the motion. I don't believe it's part of the motion. I believe it's just a suggestion made.

Chairperson Lay: So we're on the final...would you like to repeat the...

Mr. Fasi: The Planning Department recommends to the Maui Planning Commission that it recommend approval to the Maui County Council for a change of zoning from Agricultural to M 1, Light Industrial.

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

### **Change of Zoning**

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

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

Mr. Fasi: Thank you for your expeditious action.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: On the three votes that we took because it's being transcribed off of the audio I think the record should reflect that it was eight ayes in favor on all three votes.

Chairperson Lay: Okay. On all three votes it was eight ayes in favor.

Ms. Okuma: Thank you, Commissioners.

Chairperson Lay: Thank you. Our next agenda item? Oh, let's take a five-minute break everyone in between so we can set up.

A recess was called at 10:35 a.m., and the meeting was reconvened at approximately 10:41 a.m.

Mr. Yoshida: Our third public hearing is from Gavin and Deanna Ferguson requesting a Special Management Area Use Permit in order to construct a two-story, approximately 9,347 square foot house, 1,847 square feet of garage area, 1306 square feet of storage area with both covered and uncovered lanai space and related improvements On property located 72 Lae Place, TMK: 2-6-008: 009, Paia. The Staff Planner is Jim Buika.

**3. GAVIN & DEANNA FERGUSON requesting a Special Management Area Use Permit in order to construct a two-story, approximately 9,347 square-foot house, 1,847 square feet of garage area, 1,306 square feet of storage area with both covered and uncovered lanai space, and related improvements on property located at 72 Lae Place, TMK: 2-6-008: 009, Paia, Island of Maui. (SM1 2014/0003) (J. Buika)**

Mr. Jim Buika: Thank you, Mr. Yoshida. My name is Jim Buika. I'm a Planner with the Planning Department. And on behalf of the Department and the people of Maui County, I'd like to thank all of you as Commissioners for all your time and expertise in the role that you play. Thank you very much. It's a hard job I know.

I'd like to introduce the project first and then I will turn it over to Dean Frampton who is the authorized representative for the owners and also the Planning Consultant and we also have Mr. and Mrs. Ferguson here in the audience also the owners of the property if you have any questions for them today, and Dean will introduce the planning team.

I'd like to alert you to this handout that was placed in front of you. It has the 11 x 17 color landscape plan and the building plans and attached to the back are two letters that have come in with applicant's responses just recently. So those are additional handouts to the Planning report and the recommendations report in front of you.

What I will do is I'll just give from the planning perspective an overview from the environmental perspective on this project and so I'll preempt some of the things that Dean will do in his presentation but also reinforce some of the materials here. Very quickly, the project is for a single-family residence on the shoreline in Paia at 72 Lae Place. The location is at the end of Lae Place at the end of a County road on a large peninsula property that's over an acre, 1.1 acres, almost 48,000 square feet. So it's a large parcel.

The parcel has all the land use entitlements in place and it has a state certified shoreline that is dated November 2013. Again, Dean will orient you to more of the project and after my presentation we'll be available to answer and Dean will be able to answer any questions you may have. The reason we are bring the single family residence before you for the proposed construction is that it is a home that is greater than 7,500 square feet. And in 2012, the State Legislature changed the Coastal Zone Management Act to require a public hearing for homes that are over 7,500 square feet and that includes kind of all the massing on a piece of property. So what it does, it allows more public input, commission review, and more neighbor review.

So in terms of potential environmental impacts the size of the project again is 9,347 square feet. It's a two-story structure. It does have a garage and storage and lanai totaling 13,544 square feet. In addition to that there's a pool. So the home is 9,347, total square footage is 13,544. The

shoreline setback... it's kind of a pie-shaped parcel. Shoreline setback is 43 feet and the house will not even be near built or at the shoreline setback area. It will be built farther back, about 55 to 65 feet. Really there's just parts of the driveway, landscaping and then there's a pool that reaches close to the 43-foot setback. So we have a large setback. It's on...the elevation is about 16 feet along the coastal bluff. It is a coastal bluff along the whole parcel and it elevates to about 30 feet. So there are no...the placement of the house is back away from any coastal hazards which is very good.

There is an existing single-family residence, an older one on the property. It has a permit to be demolished and they also have a permit to build a, to construct a water well, so they will use local water for landscaping, for water conservation.

And then just to conclude my presentation, from the Coastal Zone Management perspective there is mitigation in place for all of the outstanding issues. Again, the setback is 43 feet. Structures are at least 55 feet mauka of the coastal bluff. The shoreline will be preserved and protected. There is no coastal hazard to the structures. The shoreline will be preserved in its natural state which is very good. Shoreline access will be preserved. It is a dangerous bluff. It's 10 to 15 feet high. So the access is actually along Lae Place. It always has been. Dean will show you some photos of that where traditionally the fishermen go down and access the bluff in front. The applicants have no problem with people continuing to use the shoreline.

The existing view plain corridors according to the CZM Law from the highways will not be impacted at all. The applicant is working with the neighbors to mitigate any loss of shoreline view to neighboring properties.

Their archaeology has not been completed yet, but there is an archaeology monitoring plan that has gone to SHPD and there's a condition in the project that no grading or ground altering will happen without an archaeological monitoring plan. There are really no cultural issues. There was a Cultural Impact Assessment done. Their two comments were to minimize runoff into the ocean and then to protect, there's about 40 shore bird burrows on the very point way from away from the project that is really beautiful and the owners will certainly do everything, work with DOFAW, Division of Forestry and Wildlife to set in a plan to protect the shoreline birds which nest from April till about November. And the Cultural Impact Study said that the proposed project will have no impact on the birds in that area.

Drainage will contain all the runoff created by the new construction. It will actually through different mechanisms that we have our...the drainage consultant is here, the civil engineer, there will be a 44 percent net decrease in runoff that is present from the exact set up right now. So the entire project will have less runoff into the ocean than is present right now.

We went to Urban Design Review Board to look at the proposed structure. They had very limited comments. Basically talked about add energy conservation inside the house, water conservation which the applicants will do. And the comment that is a condition in there is to make it look a little more Hawaiian so they are increasing the eaves, but that was just a general guidance that UDRB gave us. There are some minor structures that exist today in the shoreline setback area at the entrance. It's only the entrance to the property, no real structures. So the Department will approve after this hearing, will approve a shoreline setback approval for just the entrance gate and a gravel

road. There's a gravel driveway right now. It's gonna remain gravel. So that's about it, and they're going to minimize a little bit of the landscaping, preserve a little more view as you come down Lae Place out towards the ocean.

And then there are two public comments that were handed out to you that we can review if there's desire by the Commission from two of the neighbors. So this completes my initial assessment and with the Chair's permission I'll turn it over to Dean Frampton to present a short power point so you can see the property with a little more perspective. Thank you.

Mr. Dean Frampton: Thank you, Jim. Good morning, Mr. Chairman, Members of the Commission. I'm Dean Frampton and we're representing Gavin and Deanna Ferguson on our project this morning for their new residence at 72 Lae Place. Jim took most of my presentation and gave it to you guys. So what I'm gonna do, is I'm gonna run through...he covered a lot of portions, the important issues, but I'm gonna run through a quick presentation. I'm gonna have Bill Mitchell finish up with a discussion on our landscape plan, and then at that point we can kinda talk about some of the issues that came up this morning and there may be some more issues that come up as a result of public testimony, but that's kinda what we had in mind here. So I'm gonna run through this power point presentation.

So as Jim noted the owners are here, Gavin and Deanna Ferguson. The architect on this project was Fred Loesberg. He's actually traveling on the mainland right now. Landscape architect is Bill Mitchell. Civil engineer is Doug Gomes. Contractor is Joe DeLorenzo. Archaeologist is Lisa Rotunno-Hazuka and we are the planners.

The subject property is identified by TMK: 2-6-008: 009. We're approximately 1.1 acres in size. The elevation of our property not including the rocky shoreline below the bluff ranges in height between 13 feet above sea level at its lowest point in the bluff to about 30 feet above sea level at the back of the property. State Land Use is Urban, zoning is R-3, Residential, the community plan is Single-Family and of course, we're in the SMA.

So just gonna go through a couple of maps here. This is obviously everybody knows Paia Town, Baldwin Avenue, Hana Highway. Here's our road right there. One more Bill, and there's our property that just popped up right there. This is a blow up of the subject property right here. The property boundaries are approximately in this location right here. Lae Place is right there and we'll come back and talk about it. Anyway, that's the subject property.

Now I'm just gonna take you through a couple photos that show you the access point from Hana Highway here. This is the view from Hana Highway. If you're driving by on the State Highway right here this is where Lae Place goes left from the Hana Highway. This is looking north towards Hookipa, this is looking south towards Paia. Now we're just gonna do a couple photos right in this area to help give you kind of a perspective our driveway area. Here's Lae Place. This is the terminus of the driveway and there's our existing gate there and existing landscaping that goes down to the shoreline edge, I'd say the top of the cliff right there. A couple of views on the property. This is kind of standing almost in the middle of the property looking back towards the mauka direction. This is from that same spot turning around looking out straight towards the ocean, and this is looking from the last point that you saw there this is looking towards Hookipa. You can see the neighboring property right there. I apologize for the lighting on this. This is looking, that's not



showing up very well, but that's the existing cottage, I'm sorry existing main residence and that's the existing cottage. You can see the existing landscaping that occurs off on this property right here.

So our project improvements include as Jim explained and you have... the staff report that got had a poorly... I saw it yesterday and it had a poor set of plans so it was pretty hard to read. That's why I handed you out a set of the project plans. But we're talking about 9,300 square feet of living area, 1,800 square feet of garage area, 1,300 square feet of storage, approximately 1,000 square feet of lanai area for a total of 13,500 square feet of improvements.

In addition to the dwelling, we're talking about doing a CMU retaining wall. In some areas it will be retaining and in some areas it will just be boundary, but it would be along the northeast and the southeast facing boundaries. In addition to the well, we'd also have an exercise pool and a spa. There will be landscaping improvements including some smaller site walls and of course lighting that will be all down shielded in compliance with the County Code. The existing gravel driveway and the entry gate will be constructed and slightly realigned. The water meter that's existing will be upgraded and the water lateral will also require to be upgraded. Utility connections will be upgraded and roof mounted PVs will be included and we're also doing drainage improvements obviously. Doug Gomes is available to discuss it a little bit more but generally speaking surface and subsurface improvements will accommodate additional runoff, it'll include 36-inch grated boxes with 30-inch diameter perforated pipes. That's the subsurface system. The surface system will involve use of landscape retention basins. And Jim mentioned this earlier, approximate capacity is 1,588 cubic feet and it's approximately 44 percent greater than volume... volume required by Code. Bill Mitchell will finish the presentation talking about the landscaping. We're generally gonna utilize native plants adapted to the dry and salty shoreline environment of Kuau. The irrigation system will also use a private well on site. Again, this is an elevation of the home. You'll see these are not skylights, these are PV panels. They're there just for representation that they will be constructed and included in the home. Again, you have project plans in front of you just some additional elevations. I'll add that we did go to the UDRB as Jim mentioned and we generally got a good review with a couple of suggestions along the way. This is the east elevation looking toward Kahului side. A lot of these, these are just straight elevation they're not showing the landscaping or the perimeter or of the perimeter wall. Okay, and this is a front view from the ocean looking mauka.

So along the way as part of our SMA application we did a number of substudies. One of the substudies that we did was a cultural impact assessment. It involved interviews with long time residents of the area. Jim alluded to this a little bit, but what the cultural impact verified is what I think most of us know is that this is a coastline area that has been traditionally used for gathering of, gathering practices. And this was acknowledged in the cultural impact assessment that due to the steep cliffs of our property, the bluffs that we have, the property points... this property was not traditionally being used for access but the portion of this property that is the rocky shoreline has for lateral access. The recommendations of a cultural impact assessment were that the protect the... or that there's protection of gathering of coastal resources, and that we can do our best to minimize it and in our opinion eliminate runoff during construction and also coordinate with SHPD in the case of an inadvertent burial or discovery.

So shoreline access is a very important issue and the reason we have this slide up here, this is to

kind of give you guys an idea of what is going on. So lateral access has occurred traditionally as we understand it all along this area in Kuau here. Okay, I'm just gonna, if you can advance...this is our property, another angle of our property. Here's our boundaries. You see the bluff that I'm talking about in this area is about 30 feet in height and it goes down to about 13. This is the lateral access that is used every day by fishermen out in front of this property. And as I said, again we find no evidence of anybody going up and down this cliff. Another view of that of this area showing down on the side here are the cliffs that we're dealing with. Access to this area generally occurs right in this particular spot and I'll show you a few more photos of that right now. So this is from the...near the end of the road looking back. You see this little sand trail right here? That's what we're talking about. You can go a little closer. This is from that spot, the trail is right here and this is looking back. It's important to note in terms of scale that this height right here is at least 10 feet if not more. This is a steep cliff. It's actually kind of worrisome and these rocks here prevent...are there to prevent cars from going over the edge. You can see a little makeshift stairway that people use to go directly to the ocean for diving and people will walk straight across this property and go out around the edge. This is just another view of that, a close up view of that drop-down access way.

In addition to the cultural impact assessment we also have archaeological issues. A inventory survey was completed by Archaeological Services Hawaii and it's been submitted to the SHPD. The report recommends that all future ground disturbing activities be completed under the guidance of a monitor. We have no problem with that and we've actually already submitted an archaeological monitoring plan and it's plan for approval by SHPD. No excavation, no grading permits, no building permits can be issued until that archaeological monitoring plan is approved by SHPD.

Another important study that we had done on this property was a biological study done by Bob Hobdy. There was no identified endangered or threatened species but what he did indicate was Jim mentioned this earlier is that there's the native seabird, `ua`u kani or the wedge-tail shearwater. They identified about 40 burrows on the north portion of the property and I'll show you some photos of that in a second. The survey recommended giving these birds a space to maintain their annual breeding and nesting cycles and we're working with Bob Hobdy right now and Bill Mitchell is our landscape architect to develop, we call it a landscape barrier. It's a concept that would protect the birds and--Bill if you could skip ahead? It would be about...these are pictures of the ...(inaudible)...right here and this is on that far north point. And this is the edge of the cliff. Right here, the cliff doesn't drop off, it slopes here and then it drops off again, but the idea--if you could go back--speeding me along, I guess I'm talking too long. If you could go forward, you can go forward again, one more time, keeping going, one more forward towards the end, yeah. There we go. So here's the landscaping plan. I'm just gonna finish by talking about his little burrow site and I'm gonna turn it over to Bill Mitchell. Right in this area is what we're talking about and the concept would be to take a little fence. We're gonna work with planning and Bob Hobdy and Forestry and Wildlife if we need to, but the idea would be to just do a little fence round here two to three in height maybe made of chicken wire and planted with naupaka or an appropriate species that would keep, as best we can, keep rats, dogs, mongoose out if it's possible. It may not be the end all solution but it represents the best effort that we can do to try and protect these burrow spots. They have been victimized by feral cats in the past, they have been victimized by dogs, so it's, it's something that we wanna work on. I think that's it. If we have Bill Mitchell, if you're available just to talk a little bit about the landscaping plan.

Mr. Bill Mitchell: Thank you, Dean. Good morning, Mr. Chair, Members of the Commission. My name is Bill Mitchell. I'm the project landscape architect. Nothing very complicated about this property but something that we were excited about when the owners engaged us to look at it which was the existence of about 35 to 40 hybrid Samoan coconut palms and that's fairly unique to have that already on a property and be able to use them. And the owners were very excited as well to keep those in place and really nestle this project and the architecture within an existing coconut grove is what it is as you saw by Dean's photos. So we're moving about, oh about a handful, maybe a dozen of those back onto to the site, but most of them stay in place. So we think it does a nice job of nestling what is in my opinion a very handsome piece of Hawaiian craftsman architecture within an existing, existing landscape and the rest of it very simple. As Dean mentioned we're using some native ground cover and shrubs along the top of the bluff and we'll use some here on the frontage of Lae Place and that's pretty much it. And we do have as Dean mentioned, we'll be using a well, an irrigation well for irrigation so we won't be using any potable water. So all in all, pretty simple. Sort of an elegant, understated project nestled in a coconut grove. Thank you.

Mr. Frampton: That's our simple presentation and we're available for questions. Thank you.

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. And please address the mic so they can hear you too, thank you.

**a) Public Hearing**

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

Chairperson Lay: Would you like to testify at this time, Christina?

Ms. Christina Hemming: Yes.

Chairperson Lay: Okay. And remember if you do testify now you wouldn't be able to testify when the agenda item comes before us later on.

Ms. Christina Hemming: Hi, good morning.

Chairperson Lay: Good morning.

Ms. Hemming: My name's Christina Hemming, and I haven't been to one of these meetings in a while. I think some people will recognize me here. I am here to talk about the development at 79 Lae Place. I go to Lae Place a lot to go swimming and I wanna remind the Planning Commission here that you guys are in charge of the SMA Rules and the SMA enforcement which is a federally mandated set of laws. On my way here, I passed by a beautiful sign that said that there was going to be a medical plaza built in a pond that's been set aside for rare birds. I guess the birds are gonna need some doctors. I don't know how that got passed. I also drove by Waa Place in Kuau. You might remember that when you used to drive on the highway you could see the ocean from Hana Highway down Waa Place, now the Planning Commission is responsible for the view plains from the State highway into the ocean and now there's nothing but a big, huge,

beautiful lava wall protecting two houses that are both for sale.

Which brings me to Lae Place, a small under developed road basically falling into the ocean. It's a little bench on the left that overlooks the bay. There's...there used to be a property there but of course it got demolished in the last tsunami in '64. So my request to you at this time is you're gonna have to look at the cumulative aspect because we all know that the planning...that the County wants more money for property taxes so they're gonna build this 9,300 square foot house, okay. I walked up here from the parking lot and where did I see the water draining down from the gutter system? Right on the parking lot. I wanna know if the Planning Commission is gonna address runoff from a 9,300 square foot roof onto the property. So I saw on the property plans they're gonna have some swales. Where are they gonna get the swales? Are they gonna be moving dirt around on the property? That is a bay that is widely used by many people for fishing. And this property is right on the water. This property is a dynamic piece of property because as we know water flows from the ground, it goes underground and out. So you're gonna be do...they're gonna be doing a lot of construction on the property, moving a lot of soil that is gonna change the way the water flows off the property and then you're gonna have a 10,000 square foot roof. They need to address that. They need to address...okay, they need to address the infrastructure underneath the road and this is main point, where is the access to the ocean gonna be?

Chairperson Lay: Okay, please conclude.

Ms. Hemming: Because right now the wall from the adjoining property it cuts off the access. So I wanna make sure two things. I'd like the Planning Commission to just do two things. Make sure that there's public access from Lae Place, and two, make sure they never become a vacation rental or a bed and breakfast.

Chairperson Lay: Thank you.

Ms. Hemming: Because this is a single-family house, right?

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

Ms. Rebecca Hannah: Good morning, my name is Rebecca Hannah.

Chairperson Lay: Wait till you get to the mic. Go ahead.

Ms. Rebecca Hannah: Oh, sorry. Good morning. Rebecca Hannah. I also am addressing 72 Lae Place. I'm a resident in the area. I'm representing my personal residence and also the property next door to me at 42 Kai Place. I'd like to take the opportunity to welcome the Fergusons into the neighborhood if they are present. And I'd also like to thank the County for their assurance that all the rules and regulations for a new build in the Shoreline Management Area are adhered to. It is your pledge that the environment is not jeopardized or special privileges be granted. The shoreline and the waters have been used for many years by fisherman. And I think it's important that we remember that.

My husband and I constructed a new building,... (inaudible)...restored one of the original plantation homes. And it was our primary goal to respect the neighbors that had been there, the Omuras, the Nagatas, these people have been there since the small neighborhood, two streets was developed many, many years ago and I hope that the Fergusons will do the same respect all of us that have been there for a long time, including the Karpovichs, the Omuras, the Nagatas, Arik Salvador, many of us have been there for a long time, others more so than me.

It's also my understanding that they wanna put in a 14-foot hedge. I will alert and forewarn the adjoining neighbors that they should be very cautious about the species of the hedge. I'm actually experiencing ramifications from mutual adjoining neighbor that has planted an encroaching species that it should never had been planted in this area. I believe illegal fill was brought it. It's blocking several hundred thousand dollars worth of views. It's blocking tradewinds. It's very costly to maintain. So once again, I'm recommending the adjoining neighbors do their due diligence on the hedge that's gonna be put in.

In closing I wanna thank the neighbors that have brought up their concerns about this construction. I'm hoping that aloha, integrity, the respect in the environment will be guarded by all of you folks. Thank you.

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

Mr. Arik Salvador: Good morning everyone. My name is Arik Salvador and I am one of the neighbors at 72 Lae Place also. And I wanna say good morning to a lot of my neighbors who are also here and to all you guys.

You know, I'm the kind of neighbor that feels that we should all be able to do within respect for the neighborhood what you want. The Fergusons bought a beautiful piece of property they should be able to build a house that they want. And I really wish them a lot of success and happiness in their construction process; it's a hard process as I know.

With that being said, what's the impact to the rest of the neighborhood and are the guidelines that I think the Planning Department has set? My understanding and of course I could be wrong is that 7,500 square feet is kind of a maximum for a complete development of a single-family home. This is a 12...my understanding it's a 12,000 square foot house. I heard somebody else say it's 9,000 something square foot house. But my understanding from the plans that I've received it's a 12,000 square foot house and I do think that has a lot of impact on the rest of the neighborhood. The view plains of course are a concern. I'm the property right behind the Fergusons. Okay, with that being said, that you know, I don't...that's their property. They can do it, but if they plan on planting things that have a potential to grow over all their neighbors and create a maintenance issue for the neighbors, I think it's something that it's fair that we all look at. Also, the usage of Lae Place to build a 12,000 square foot house, Lae Place is a road that's been contentious because it is so close to the water and the property right on the water is beginning to deteriorate affecting the road. And then the next thing is really like years and years of impact, noise impact to the neighbors on a 12,000 square foot house. When is too big, too big? And I guess that's the only question that I have for the Planning Commission is it really fair to the neighborhood, is it fair to the guidelines that

we set for building to allow a house of that proportion on that lot? But for the rest of it, I wish everybody a lot of success in whatever they do and thank you.

Chairperson Lay: Commissioners, any questions for the testifier?

Vice-Chair Ball: I have a question.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: Give me a little bit of idea what the beach access is down...around that area and how this may or may not affect?

Mr. Salvador: You know the beach access has been changing, it's been dynamic like somebody testified. Part of Lae Place right now depending on where it is it's anywhere from four feet away from the water to 12 feet maybe let's say away from the water and you used to be able to access it at different places along Lae, but we're having a lot of erosion. At 72 Lae the way that the fence is set there is no more beach access there. To be honest I don't know if there really, really ever was. We used to be able walk down to kind of the rocks and around to the point, around Lae if you ever wanted to go fishing or I spear fish there sometimes. A lot of fishermen do. So it's a long time since there was ever a access all the way at the end of that point which some people call Maliko Point. So you're asking me a question that's really been ever-changing thing. There is a little, little trail at one end of Lae, at the Hana Highway end of Lae Place there is a little trail to go down. The person who testified before was right that the last people to build a big house put a big fence and they literally kind of closed off that access because now you have to kinda get around the wall to get down to that thing. So I wish I could give you a clearer answer on that, but it's been affected over the years with building I guess is the easiest way I can say.

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

Mr. Salvador: Thank you so much.

Chairperson Lay: Does anyone else wish to testify at this time? Seeing no one, I'm closing public testimony. Our first agenda item.

Mr. Medeiros: Oops, somebody.

Chairperson Lay: Oh, excuse me. Sorry about that.

Ms. Chris Haywood: Good morning, I'm Chris Haywood and I'm here representing one of the neighbors adjoining this property at 72 Lae Place. Our concern for my client is the view. The eight-foot wall that is being proposed to be built between the properties will impact his view and also the landscaping. I understand that my client and the Fergusons are working together to try to mitigate this situation, but I do feel it's important to bring it to the attention of the Planning Commission.

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

Ms. Wakida: Yes, good morning. Who are you representing?

Ms. Chris Haywood: Gunter Kauwertz.

Ms. Wakida: And he's a resident on Lae?

Ms. Haywood: No, he's on Kuau Beach Place, but it is the property which adjoins directly this property. It's on the other side of the point.

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

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

Ms. Virginia Karpovich: May I give you some photographs to pass around?

Unidentified Speaker: This is one set to pass around?

Mr. Karpovich: Yes, just kinda to peruse. My name is Virginia Karpovich and I've lived on Lae Place for over 30 years and these photographs which you see give you an idea of just how precious this little estuary is and the people who use this place are all of our adjoining neighbors and the fishermen who have watched their children, their grandchildren grow up and come and feed themselves from our bay. So this bay is very precious. And I've talked to both Deanna and Gavin about how important it is to protect this estuary and I think that that is their goal is to do that and I trust that that's what they're gonna do.

So this bay is an unusual treasure. For those of you who haven't been there there's not too many places left on Maui's north shore where you can do this. And one of my big concerns is is that this project cuts and fills 75 percent of the lot. So that means there's gonna be a lotta dirt moved around. So I'd like to make sure that there's screens around to protect the dirt from going into the ocean. And I'm also concerned about the compaction of this area which will be necessitated after they move that much dirt. This is a very fragile acre of land. Since I've lived there over 30 years I've watched it go from a flat piece land to an undulating piece of land so we know that it is not a stable piece of land. And a lot of these photographs you'll see, you'll see 'cause you'll see me in there 30 years ago, these are quite old.

But one of the things that's happening is our road is falling into the ocean. Actually Maui County at one point had set aside a \$125,000 which of course got lost somewhere to study what to do about it and none of us really want to do a rock wall. So I'm concerned about compaction and how that will affect the pali because I've talked to other people who've done construction in other areas and when you do heavy compacting as this will require there can be far reaching effects with the compaction.

The other thing I'm concerned about and my husband shook hands with Gavin is about our little neighborhood being over inundated with construction vehicles and workers and they have assured us that this project will be staged out of the area and we appreciate that. And other than that, I welcome them to the neighborhood. I have a 100-year-old house which my husband and I

painstakingly have renovated.

Ms. Takayama-Corden: Three minutes.

Ms. Karpovich: And Clayton knows, he knows this area, and many other neighbors have as well and we welcome you to the neighborhood and see what a lovely place we have. And we hope our new neighbors will help us on our mission to preserve it for everyone.

Chairperson Lay: Thank you. Commissioners, any questions? Commissioner Freitas?

Mr. Freitas: On this paper, could you show me your home please?

Ms. Karpovich: ...(inaudible)...

Mr. Freitas: Thank you.

Ms. Karpovich: I saw you in Alive and Well the other day. Just to let you know I live three houses from the project site and as I said, I'm probably the only remaining neighbor in the area other than Mrs. Nagata who wanted to come and she's 96, but I didn't bring her. So anyway, I hope this kinda gives you an idea of how important these decisions that's made today is.

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

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

Ms. Karpovich: My name is Ginny Karpovich.

Mr. Hedani: Ginny?

Ms. Karpovich: Yes.

Mr. Hedani: Thank you for your testimony and thank you for sharing the photographs. Being a person that's lived there the longest, you're kind of like a valuable resource from my perspective. This is one photograph that's been provided to us on the project site. If you look at the photograph you notice that there's sedimentation in the bay on the left and on the right and my question is do you know where that sediment is coming from?

Ms. Karpovich: Well sometimes there is a five...there's a ditch that runs on the Kahului side of Lae Place. It is the property adjacent to where Mr. Buika showed you the access down to the ocean is. And so that funnels a lot of runoff from Hana Highway and even some above from Kuau Bay View and some also from down the road. So we do get runoff. We also get algal blooms in the bay and it comes and it goes.

Mr. Hedani: So from your...you know if I just look at this photograph my immediate assumption that I would jump to is the sedimentation is coming from erosion off of that bank, you know, off of this particular property.



Ms. Karpovich: Off of the—

Mr. Hedani: But you're telling me that it's coming from off site locations mauka side?

Ms. Karpovich: Off site and also in front of the Mantokuji Temple there's massive erosion and there's red dirt coming off of that side and that...actually that side of the bay, the Kahului side of the bay has a lot more sedimentation.

Mr. Hedani: Not from this particular property?

Ms. Karpovich: No. Actually there's very little coming off from this property except in the very, very, very high surf.

Mr. Hedani: Right.

Ms. Karpovich: I do have to add one correction and that is, the truth, and that is that the fishermen have always accessed around the top of the pali and I certainly don't blame them. In this day and age with all the break-ins and stuff, I don't blame them for wanting to have some security. But the truth of the matter is that just this week one of the fishermen got a 45-pound off the point. So any way that's the truth.

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

Mr. Hedani: Just to share something with you, last week went throw netting, a 107.7 pound ulua floated up to me from the ocean and it had just died because it swallowed a porcupine fish.

Ms. Karpovich: Oh my God, hopefully you didn't eat it.

Mr. Hedani: I caught a 107.7 pound fish with this hand.

Ms. Karpovich: Wow. Well then I have to tell you that last week there was a 108-pound ulua off of the Kahului point of our bay, two fishermen got it diving. One with one, and the other with the other and they ate it and it was fine. I think actually we don't Ciguatera in our bay I'm hoping. I'm a nurse too, so I follow those things. So congratulations and come and fish in our bay. Come enjoy, beautiful, beautiful place on Maui.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none, again, thank you for your pictures and your time. Does anyone else wish to testify at this time? If so, please step up to the mic, identify yourself and you have three minutes.

Mr. Konnie Newbro: Hello, my name is Konnie Newbro and I am or my husband and I own the property directly adjacent to the project. I did write a letter and I just wanted to let you know that we met with the planners and with Deanna and Gavin and we are working together and we have resolved many of our issues. So I just wanted to say that it seems like everyone is moving forward in a positive direction and we're all being very neighborly. The only thing, you know, along with the rest of the neighborhood we expressed our view corridors and everything working together to maintain those and they are agreeing to do the best that they can. So thank you very much for your

time.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I'm going to ask the Jack question. Where's your property located on this map?

Ms. Newbro: Our address is 60 Lae Place. So we are the house that right as you enter in their main driveway, their entrance gate.

Chairperson Lay: On the right-hand side.

Ms. Newbro: Yeah, so it's—

Mr. Frampton: You can see...(inaudible)...it's kind of dark.

Ms. Newbro: So if you can show 'em where the gate is?

Mr. Frampton: Yeah, it's right here.

Ms. Newbro: Okay, so we have that house right there.

Mr. Tsai: Thank you.

Chairperson Lay: Commissioner Freitas? No? Commissioners, any more questions for the testifier? Seeing none, thank you very much.

Ms. Newbro: Okay, thank you.

Chairperson Lay: Does anyone else wish to testify at this time, please step forward?

Mr. Martin Lenny: Good morning, my name is Martin Lenny. I've been living on the north shore for 29 years and Gavin and Deanna became friends of mine and like myself and like many of us in this room they have a love affair with this island. They bought this property...and when they were looking at buying the property it was really important in my opinion that they realize the very strong responsibilities of ownership in a place like this. And I firmly believe that they are going to be amazing neighbors. I believe they're gonna be incredible stewards of the land because they've done a lot of research. During their design phase they toured the island and they learned all about the architecture that would fit for that location. And I know them to be very neighborly and wanting to resolve anything that is of concern. And you know, they've surrounded themselves with professionals who could advise them and swiftly come to a conclusion on the building. So I'm here for this reason to support them. Thank you.

Chairperson Lay: Commissioners, any questions for the testifier? If not, thank you very much. Does anyone else wish to testify at this time? Please step forward and identify yourself. You have three minutes.

Mr. Bruce U'u: Good morning, Commissioners and thank you for your time. And I appreciate you

guys time serving on the Commission. I'm here to support the project. Our neighboring...I'm a neighboring property owner. Our family property owns on the opposite side of the bay where the erosion happens by the way. But there's no revetment. There's no rock revetment in our area. There's some on this side that's existing already. But I just wanted to come up here and say that I think they are right people. At times, a lot of people moving into Paia...by the way life-long resident, my parents, grandparents, we all from Paia, so life-long resident. But more importantly than a structure of this size is the people within the structure and I think they fit the bill. The only different between me and them is I try to draw my dream house and they get to build it. And so my saying to you guys don't kill a dream. I think they deserve to build there, I think they're going through right process with the right people and I support the project. Thank you.

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

Mr. U'u: And sorry, about that Wayne, about your ulua, but I still would have took a picture and hold 'em up.

Chairperson Lay: Does anyone else wish to testify at this time? Seeing none, we're closing public testimony. Commissioners, any questions? Seeing—Commissioner Wakida?

Ms. Wakida: My question is for Clayton. What is the rule on the number of kitchens in a residential home?

Mr. Yoshida: One kitchen.

Ms. Wakida: One kitchen.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I guess maybe Jim might wanna field this to somebody else. I was looking at the plan and there is a what looks like on A2, the second floor, the guest wing, I'm wondering in the...what kind of kitchen set up is in the what they call snack bar area? It says, guest lounge, snack bar.

Mr. Buika: Well, for sure there will only be allowed one kitchen. It will have to go through the Building Department and Zoning and Enforcement Division. They will not allow a second kitchen. It looks like it's just a sink.

Unidentified Speaker: Wet bar?

Mr. Buika: A bar sink is what Dean is telling me. So it's not full kitchen by any means.

Ms. Wakida: Okay.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Jim, I only have one question in this property and that's relative to beach access. From your perspective is beach access guaranteed to the shoreline in this area?

Mr. Buika: For this parcel here you're saying is beach—

Mr. Hedani: Not necessarily for the project...Lae Place...I don't know who the unfortunate soul was that owned the property makai of Lae Place. There was a property owner I guess at that location 'cause it shows a lot on your drawings, yeah. But my question is, well he obviously cannot build a house on his property any more. So is public access to the beach guaranteed just through the existing Lae Place? Let me put it another way. Let me put it another way.

Mr. Buika: I mean it is...you saw the pictures.

Mr. Hedani: Right.

Mr. Buika: And it is...it is a...I've been down there, it's where everybody accesses so they don't have to go onto the physical property—

Mr. Hedani: Right.

Mr. Buika: —to access the shoreline around there.

Mr. Hedani: Well, let me give you my comment in context. You heard the testifier earlier say that the truth of the matter is people walk along their property to get to the point. How they get to the point is another question. If you give a fisherman an ability to get to the point, to get to the point even if it takes a ...(inaudible-someone coughing)...because that's the nature of the beast. From the perspective of just being able to access the rocks so you can go laterally along the beach is it ...let's assume that these fine people no longer own the property, somebody came by, gave them a \$50 million offer on the property and said I want to buy your property now, and they say okay, deal, shake hands on it. Build a wall a property that cuts off the property from Lae Place, is access to the rocks and lateral access along the property still guaranteed just the existence of Lae?

Mr. Buika: Yes it would be.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I have a question for the applicant.

Mr. Buika: The owner or the...

Ms. Wakida: The owner.

Mr. Buika: Owner.

Mr. Gavin Ferguson: Hi.

Ms. Wakida: Good morning. You're Mr. Ferguson?

Mr. Ferguson: That's correct. Yes.

Ms. Wakida: Are you planning to use this dwelling for weddings or B&B?

Mr. Ferguson: If my sons gets married, probably. I would hope so. Commercially, commercially, no we don't-

Chairperson Lay: Before you continue, just identify yourself for the record.

Mr. Ferguson: Oh, Gavin Ferguson and wife, Deanna right behind me here. We're the owners.

Ms. Wakida: Thank you. So you're not planning to use it for any commercial purposes now or in the future?

Mr. Ferguson: Not at the moment. No, we don't plan on doing it, no.

Ms. Wakida: And I...this is just for the record because it may be on other minds. And the guest that I had referenced earlier is that something that you intend to rent out or is that for personal use?

Mr. Ferguson: We do not intend to rent it out. It's all attached to the house. It's not a separate dwelling. It's all one dwelling with the house, but it's kind of off on its own privacy area if you would.

Ms. Wakida: Thank you.

Mr. Ferguson: Anything else?

Chairperson Lay: Commissioners? Commissioner Wakida?

Ms. Wakida: Maybe this is for...yes, Mr. Frampton. It was just a concern brought up by one of the testifiers about the impact on the neighborhood of compacting. Maybe somebody could address that?

Mr. Frampton: The civil engineer is here. He'll answer that question.

Mr. Douglas Gomes: Douglas Gomes, Engineering Dynamics. I'm the civil engineer. What's involved in the site preparation is there is a four to five foot cut along the south east boundary. And in preparation of the building foundation and there is still on the pool area and there's about a two or three-foot of fill that would occur in that area to create a full platform \ for the building. Generally in construction fill is placed in one-foot layers and compacted to a certain density that would support, you know, the resulting structure. So in this case it's not a major amount of fill material where you would use vibratory compactors and heavy equipment. You would use smaller equipment because we're only dealing with a not huge amount of fill. And like I said, it's in layers of 10 or 12 inches.

Ms. Wakida: Okay, it's 'cause I've lived next to where compacting has gone on and it shakes the pictures off the wall. So...

Mr. Gomes: It doesn't have to be. You know, they can do compaction with static rollers. It doesn't have to be with vibratory compactors. You do that when you have a lot of depth, you know, several

feet of depth and you really need to get the lower levels heavily...high density compacted. But this is not the case here.

Ms. Wakida: Okay, thank you.

Chairperson Lay: Commissioner Duvauchelle?

Ms. Duvauchelle: For Mr. Gomes?

Mr. Gomes: Yes.

Ms. Duvauchelle: Are you balancing the project or are you having to bring in import material?

Mr. Gomes: Actually there's excess of material on the site so that material would have to be hauled out.

Ms. Duvauchelle: Okay, thank you.

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

Mr. Hedani: This is for Bill Mitchell.

Mr. Mitchell: Good morning again, my name's Bill Mitchell, project landscape architect.

Mr. Hedani: Bill, the landscaping that you have on the ocean front of the property--

Mr. Mitchell: Yes.

Mr. Hedani: --some species of plant material grows very aggressively when it's irrigated.

Mr. Mitchell: Correct.

Mr. Hedani: And it grows outwards.

Mr. Mitchell: Correct.

Mr. Hedani: In this particular case, just from this picture--

Mr. Mitchell: Yes.

Mr. Hedani: --the concern that I have is that it would cover all the rocks and make lateral access along the rocks more difficult.

Mr. Mitchell: Good question. There's so much vertical distance between the top of that bluff and the bottom I don't foresee any of that native ground cover encroaching down where it would create a barrier to lateral access.

Mr. Hedani: Thank you.

Mr. Mitchell: Yes, thank you.

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

Vice-Chair Ball: Is there any plans to plant something on that bank from the rocks up? It looks pretty barren a lot of dirt.

Mr. Mitchell: Bill Mitchell again. There is not because of the verticality of it and no way to irrigate it. It would be nice if we could get a native material to grow on it. It doesn't appear there's gonna be a way to do it. But that's the reason for the ground cover native along the top of the bank. Hopefully we'll get some rooting to stabilize that edge. It's a fairly stable edge now. There's a lot of rock in that surface back in the back itself, but I don't foresee being able to get plant material to actually grow into the bank, but good question.

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

**b) Action**

Mr. Buika: Thank you. First, regarding conclusions of law. The Special Management Area Use Permit application complies with the applicable standards for the Special Management Area. As addressed in the accompanying department report for this project and on Page 2 and 3 in the green sheet you have there, the Department based on the facts presented in the Department report finds that the action as proposed does not have a significant adverse environmental or ecological effect since mitigation measures are incorporated into the project and that the 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.

The Department's recommendation, the Maui County Planning Department recommends approval of the Special Management Area Use Permit subject to some standard and project specific conditions in your, again in the recommendations report there are some standard conditions. There are six of them. I won't read them. They're with every SMA project. There are some project specific conditions that I will summarize for you.

Project Specific Condition No. 7 That the lighting will be fully shielded in compliance with Section 12-8.5, Hawaii Revised Statutes, and that additional mitigation actions shall be undertaken to minimize predators for the protected seabirds that are protected under State Law Section 183-D-62, Hawaii Revised Statutes.

Condition No. 8. That to the satisfaction of the Department or the State Historic Preservation Division all ground altering...all ground disturbing activities shall be monitored in accordance with an approved archaeological monitoring plan. As noted in the plan, full-time monitoring will be the protocol for this project and the State Historic Preservation Division shall be notified of the onset and completion of the project.

No. 9. That the Maui County Code 19.62, which is the Flood Hazard District will be complied with.

No. 10. That no artificial light from flood lamps, up lamps or spot lights shall be used for decorative or aesthetic purposes for illuminating the shoreline and the ocean waters or be directed to travel across the property boundaries towards the shoreline and the ocean waters. And this is for the safety of the birds. They tend to think it's the moon, and they travel go in circles and end up in the water and die. So we don't want that.

No. 11. Best management practices shall be implemented to ensure water quality and marine resources are protected.

No. 12. That the required approvals shall be obtained from the Department of Public Works prior to the commencement of all work.

No. 13. That the department... that to the Department's satisfaction, the proposed development will utilize drought tolerant plants and native trees in the landscaping scheme where possible.

No. 14. Discusses construction, best management practices of alerting the... doing a visual survey, alerting all the construction personnel to any Federally protected birds and our honu in the area and to have some controls on that during construction.

No. 15. Has to do with again, Department of Health, a National Pollutant Discharge Elimination System Permit will be obtained by the contractor if required.

No. 16. Is that an erosion control plan will provide specific measures to mitigate erosion during construction.

No. 17. That adequate dust control measures will be complied with, with the provisions of the Hawaii Administrative Rules, Chapter 11-60.1, Air Pollution Control, Section 11-60.1 thru 33, Fugitive Dust will be implemented during all phases of the construction.

No. 18. Shoreline access with the permission of the Chair and the Commission, right now the...it has to do with lateral shoreline access and the way it's stated in here is, the lateral shoreline access along the shoreline shall be granted to the public. The Department prefers to change the language of that to, the applicant shall not impede existing lateral access along rocky shoreline. So the applicant shall not impede existing lateral access along the rocky shoreline.

No. 19. That at the recommendation by the Urban Design Review Board the applicant is encouraged to add additional water and energy efficiency within the single-family residential structure and encourage "something that looks a little more Hawaiian in its architectural style." And that's as far as we could pin them down and I think we've done that.

So in consideration, those are the 19 specific or 7 thru 19 are specific conditions on the project and in conclusion and in consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report prepared for the August 26, 2014 meeting and the Department's Recommendation report prepared for the same meeting as its finding of fact, conclusions of law and decisions and order on the Special



Management Area Use Permit and to authorize the Director of Planning to transmit said written decision and order on the behalf of the Planning Commission. This concludes my Department's recommendation to the Maui Planning Commission. Thank you.

Mr. Freitas: So move to accept.

Mr. Tsai: Second.

Chairperson Lay: Motion by Commissioner Freitas, second by Commissioner Tsai. Any discussion on the motion? Commissioner Freitas?

Mr. Freitas: I believe in property rights. I believe that they have complied with all the requirements required to build this home and they did everything that they were required to do. This is the reason why I support this thing 100 percent.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: It seems like this family has done everything possible to be as a cooperative with the neighborhood and with the land which I commend them for. If I could make a condition that says that this property could never in the future be used for any commercial purpose I would, but I don't think probably that's appropriate at this time, but I hope should down the line the Fergusons ever choose to sell this that it is not turned into something that would be a blight on the neighborhood, a rental or a venue for some commercial activities.

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

Mr. Hedani: When you go ulua fishing you're probably carrying 50 to 100 pounds worth of stuff in order to get to the ocean for people that don't catch ulua with their bare hands, and this is something that I'm suggesting more than requiring but if the owners could consider...I actually like your original language more than the revised language on lateral public access, but I'm willing to go with your language to preserve the rocky shoreline. And my suggestion to the owners is that if and when people wanna carry their stuff over your property to get to the point because it's so heavy and a 100 yards worth of traipsing over the rocks with ulua poles can be very challenging that they consider allowing them to use traditional access paths.

Mr. Buika: So noted. I'm sure the applicant will comply with that.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I'm in full support of this project. I think the applicant did a great job covering all their basis and it's a nicely designed project.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: This is, this is one comment that is in recognition of the service of former chairman Kent Hiranaga is that every effort be made to try to contain 100 percent of runoff from the property on site. That's just a suggestion.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: Let's cut to the chase, this is a good project and by my count, they already won, let's vote.

Chairperson Lay: I'd like to comment on this too. What I do like about this project is you reached out to your neighbors. You contacted them, you talked with them, you were sympathetic to their needs and I do appreciate that and you still try to maintain this very valuable point as best you could. And with the same right of you being able to build a house on your place. Any more discussion on the motion? If not, could we get Mr. Yoshida to repeat the motion?

Mr. Yoshida: The motion is to approve the Special Management Area Use Permit request with the conditions as recommended by the Planning Department.

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

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

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

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

A recess was called at 11:39 a.m., and the meeting was reconvened at 11:50 a.m.

Mr. Yoshida: ...is the Acceptance of the Action Minutes of the August 12, 2014 Meeting and Regular Minutes of the May 13, 2014 meeting.

**D. ACCEPTANCE OF THE ACTION MINUTES OF THE AUGUST 12, 2014 MEETING AND REGULAR MINUTES OF THE MAY 13, 2014 MEETING**

Vice-Chair Ball: So moved.

Mr. Freitas: Second.

Chairperson Lay: Motion by Commissioner Ball and seconded by Commissioner Freitas. All those in favor of acceptance, a verbal commitment yes.

Commission Members: Aye.

Chairperson Lay: That's eight ayes.

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

**VOTED: To Accept the Action Minutes of the August 12, 2014 and Regular Minutes of the May 13, 2014 Meetings  
(Assenting - K. Ball, J. Freitas, J. Medeiros, M. Tsai, W. Hedani,  
S. Duvauchelle, P. Wakida, R. Higashi)**

Mr. Yoshida: Item 1 under Director's Report, Mr. Chair is the scheduling of a site inspection and determination of a public hearing date in West Maui for the application related to the proposed West Maui Hospital and Medical Center.

**E. DIRECTOR'S REPORT**

**1. Scheduling of the Site Inspection and Public Hearing Date in West Maui for the following applications relating to the proposed West Maui Hospital and Medical Center. Since the project is seeking both Phase I and Phase II Project District Approvals, pursuant to the provisions of Section 19.45.050 of the Maui County Code, a public hearing needs to be held in the affected community plan area (West Maui). The applications are:**

**a. New Proposed West Maui Hospital and Medical Center Site at the Kaanapali-North Beach Mauka Project District:**

**MR. WILLIAM SPENCE, Planning Director transmitting on behalf of NEWPORT HOSPITAL CORPORATION the following requests for the proposed West Maui Hospital and Medical Center site a Community Plan Amendment to address the inclusion of the hospital in the Kaanapali-North Beach Mauka Project District; a State Land Use District Boundary Amendment from State Agricultural District to State Urban District; a Change in Zoning from County Agricultural District to Kaanapali-North Beach Mauka Project District, a Phase I Project District Approval, and a Phase 2 Project District Approval for property situated at TMK: 4-4-002: 052 (por.), Kaanapali, Island of Maui. (CPA 2014/0002) (DBA 2014/0002) (CIZ 2014/0002) (PH1 2014/0001) (PH2 2014/0002) (G. Flammer)**

**The proposed West Maui Hospital and Medical Center is an acute care hospital, assisted living facility, skilled nursing facility and rehabilitation center, and medical offices building.**

**b. Reversion of Land Use Entitlements at Prior Site (near Lahaina Civic Center) to its original Land Use Designations**

**MR. WILLIAM SPENCE, Planning Director transmitting on behalf of NEWPORT HOSPITAL CORPORATION the following requests for the former planned West Maui Hospital site a Community Plan Amendment from Public/Quasi-Public to Agriculture, a State Land Use District Boundary Amendment from State Urban District to State Agricultural**

**District; and a Change in Zoning from P-1 Public/Quasi-Public District to County Ag. District at TMK: 4-4-006: 070, Lahaina, Island of Maui. (CPA 2014/0003) (DBA 2014/0003) (CIZ 2014/0003) (G. Flammer)**

Mr. Yoshida: As part of the entitlements a project requires a Phase 1 and Phase 2 Project District Approval. The Code requires that the first public hearing be held in the community plan region. So we have to have the first public hearing in West Maui. There are two sites. One is the new site in the Kaanapali 2020 Project District and which they're seeking to gain these entitlements. And the second site is the one that they went to several years ago several years ago by the Lahaina Civic Center which they want to revert the entitlements back to the original. So we're looking...we're currently processing these applications. Gina Flammer is the Staff Planner on these and we're looking at potentially a special meeting in November, maybe like November 18<sup>th</sup>. If you could give us a indication as to, you know, some dates then we can try to locate facilities. Also, you wanna do a site inspection, what time fo day you wanna do a site inspection. You wanna have site inspection in the morning, meeting in the afternoon or site inspection in the afternoon, meeting in the evening. So those are some of trhe questions that we seek some guidance on.

We haven't done this very frequently. I think the last time was maybe four and a half years ago for the Kula Lodge, Phase 2 Project District Approval. But you know, because it is a special meeting, that you are volunteers, you know, we're seeking your input.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Why wouldn't we just do it as part of our regular meeting on either the 11 or the 25?

Mr. Yoshida: We could do that, but you know we would, you know, just like some guidance as to facility 'cause as you notice because of the HCPO applications are kind of...that's kind of the dividing line. Either Planners are scheduling their things before HCPO or they're gonna schedule it after HCPO. So I just was wondering about this pent up demand.

Chairperson Lay: Commissioners, any comments and any date from that time for the site inspection and our meeting?

Chairperson Lay: ...Commissioner Wakida?

Ms. Wakida: What day of the week is...you were suggesting November 18.

Mr. Yoshida: It's a Tuesday. Because of the Labor Day holiday on November 11<sup>th</sup>, the November meeting, regular meetings are November 10<sup>th</sup> and November 25<sup>th</sup>.

Ms. Wakida: Labor Day is in September.

Vice-Chair Ball: Veteran's Day.

Ms. Wakida: Oh, Veteran's Day. I would prefer morning and afternoon rather than afternoon and evening.

Mr. Yoshida: So site inspection in the morning and meeting in the afternoon.

Ms. Wakida: If it's on that particular Tuesday. Any other day of the week it's okay. I don't, I don't care.

Vice-Chair Ball: Do we wanna go to Wednesday then, on the 19<sup>th</sup>?

Ms. Wakida: You prefer a afternoon, evening?

Vice-Chair Ball: Well, if it's for the public, I mean we should probably do it in the afternoon and then an evening meeting so they can attend the meeting if we're going all the way out to their district.

Ms. Duvauchelle: For people that work.

Vice-Chair Ball: Yep. So afternoon, evening.

Ms. Duvauchelle: On what date?

Vice-Chair Ball: November 19<sup>th</sup>.

Chairperson Lay: Any more suggestions? So we're looking at Wednesday the 19<sup>th</sup> in the evening.

Vice-Chair Ball: What was the time for those? What would the site inspection be like 4 o'clock and the meeting be at like 5:00 or 5:30 or ...(inaudible)...

Chairperson Lay: Is it two site inspections or is just one?

Mr. Yoshida: I think, well we probably need a little time to set up the meeting place.

Ms. Wakida: Are there other projects coming up on the west side that we could combine there for a site inspection?

Mr. Yoshida: I don't know if, you know, those will be ready at this point. But we know that we have to go to West Maui at least for West Maui Hospital.

Vice-Chair Ball: Are we looking, are we looking at lot of public testimony on this? I mean, are we gonna be there hours or are we gonna be...

Chairperson Lay: Yeah, that's something to think about too?

Vice-Chair Ball: So that might want us to push it a little bit earlier in the day.

Mr. Freitas: No, I think in the evening would be good, you know people working. If we're gonna do it may as well give everybody the opportunity to do, then there's no come back later on, I was working, I couldn't make it, you guys made a decision...just if we gotta do it, let's do it right.

Chairperson Lay: The right way one time.

Vice-Chair Ball: Well, that's why I was thinking just start it earlier like at 4:00. ...(inaudible)...have the site inspection, whatever...

Unidentified Speaker: Just worried about the drive home.

Vice-Chair Ball: Yeah. That's why I don't want it to go until midnight.

Chairperson Lay: So Wednesday, the 19<sup>th</sup>, and it looks pretty good at the evening and then schedule what site visits we can come up with that are in accordance to what's in, maybe in our future.

Ms. Wakida: I know that Longs Drugs is looking to...I don't know if they're in the works yet add a wing in Lahaina, the Cannery, but I don't know what stage they're at. They have something in the paper about it.

Mr. Yoshida: Okay, so I guess we'll try to work with those...that schedule and maybe report back at the September 23<sup>rd</sup> meeting.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: You might wanna talk to Kaanapali Land to see whether or not they can give the commission an update on their 2020 as part of, you know, just a brief orientation to what their plans are so we're not all surprised.

Mr. Yoshida: Can we move on then?

Chairperson Lay: Yeah, I'm just thinking it's a pretty big project. There might be a lot of people.

Mr. Freitas: Maybe not, you never know.

Chairperson Lay: You never know, that's right. So okay, yes moving on.

## **2. Approval of the proposed meeting schedule for Calendar Year 2015**

Mr. Yoshida: Okay, we have circulated the meeting schedule for calendar year 2015 for your consideration just so we can plan and reserve the room. So it is okay to move forward with 2015 schedule.

Mr. Tsai: So moved.

Chairperson Lay: All those in favor?

Commission Members: Aye.

Chairperson Lay: Okay.

**3. SMA Minor Permit Report (Appendix A)**

**4. SMA Exemption Report (Appendix B)**

Mr. Yoshida: we have circulated the SMA Minor Permit and SMA Exemption Reports.

Chairperson Lay: Everybody get a chance to look at it? Any questions? Commissioner Higashi?

Mr. Higashi: Yes, I've been looking at the summary report and I mentioned to Director Spence that why is it that there's project that are from 2008 still on the books and it could have been incomplete or whatever. Is there anyway of either eliminating it so it's no longer on it because the applicant is not working on it or whatever?

Mr. Yoshida: We could look to informing the Department to try to update the open SMA Assessments. Maybe some of them have been done but have not been closed out yet so at least it's a more current reflection of the open SMA Assessments.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I brought up that came concern a couple years ago, and I got the same answer that things were incomplete. So there's no limit on how long an applicant can keep an application in the works then? I mean after, say five years on these SMA Minors they can't just get kicked off if there's no activity?

Mr. Yoshida: Well, sometimes the applications are depending on each other that you know they need to get a Conditional Permit let's say from the Council in order for us to say that it meets the zoning, is consistent with zoning, but most times they've...if it's been pending for a while we ask the applicant for more information and we give them a certain time limit to submit the information and if they don't then we close the application saying--

Ms. Wakida: Yeah, that's good.

Mr. Yoshida: --that when you submit a complete application then we can process it. But we'll try to look at the list department wide and try to make it reflect more of what is really open.

Chairperson Lay: Commissioners, any more questions on our SMA Minor Reports? Seeing none, okay can we get a verbal vote of acceptance? All those in favor?

Commission Members: Aye.

Chairperson Lay: Those opposed? Okay. Acceptance of our SMA Minor Reports. Next agenda item?

**5. Discussion of Future Maui Planning Commission Agendas**

**a. September 9, 2014 meeting agenda items**

Mr. Yoshida: Yes, Mr. Chair we have circulated a list of items that will be ready for the September 9<sup>th</sup> meeting, only like three items. Well, one actually is a notification of a transfer of the SMA Permit for the Hyatt Regency Time Share Project. I don't know what the wish of the Commission is if they want to...that's the day before the Planning Conference. So if they wanna cancel the meeting and defer the items till the September 23<sup>rd</sup> meeting?

Chairperson Lay: Three items.

Mr. Freitas: I move to defer to the 23<sup>rd</sup> meeting.

Chairperson Lay: Okay.

Mr. Tsai: So no meeting.

Mr. Medeiros: Second.

Chairperson Lay: Any more discussion on that? I mean, we're canceling the meeting.

Vice-Chair Ball: The September 9<sup>th</sup> meeting.

Chairperson Lay: And we'll just add it onto the next one because there's just what three agenda items you said, yeah?

Mr. Yoshida: Yeah, one of them is a notification of a transfer of an SMA Permit.

Vice-Chair Ball: So the next meeting is on the 23<sup>rd</sup>?

Chairperson Lay: Okay, let's call for a motion on that.

Mr. Freitas: I made the motion.

Mr. Medeiros: I seconded it.

Chairperson Lay: Okay, there's a motion on the floor by Commissioner Freitas, seconded by Commissioner Medeiros. Any discussion on the motion? Commissioner Wakida?

Ms. Wakida: Is there any concern about the applicants like the first one from Hana because she's already on an agenda here is there any problem with deferring that?

Mr. Yoshida: Well, it's a communication item so there's no newspaper notice or the applicant didn't have to notice the people within a 500-foot radius.

Ms. Wakida: Okay.

Mr. Yoshida: And she has been in operation there since 1985.

Ms. Wakida: Okay.



Chairperson Lay: Any more discussion on the motion? Okay, so we're voting on canceling one meeting and adding that agenda to the next meeting. All those in favor?

Commission Members: Aye.

Chairperson Lay: Those opposed? Motion carries. Meeting is canceled. Next agenda item?

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

**VOTED: To Cancel the September 9, 2014 Meeting, and reschedule the three items to the September 23, 2014 agenda.  
(Assenting - J. Freitas, J. Medeiros, K. Ball, M. Tsai, W. Hedani,  
S. Duvauchelle, P. Wakida, R. Higashi)**

Mr. Yoshida: Well, so we are having the Planning Conference, statewide Planning Conference, September 10 to the 12<sup>th</sup>, and again, we've asked the Commission to report at the September—those who are attending at the 23<sup>rd</sup> meeting of what they got out of the conference. There are certain breakout sessions which we would want you folks to divide yourself so we have full conference on the breakout sessions and you can report on the ...(inaudible)...of the conference. We hope that you enjoy the Planning Conference, September 10<sup>th</sup> to the 12th.

Chairperson Lay: How does that work with choosing classes? And are we registered?

Mr. Tsai: What is the details?

Mr. Yoshida: Well, I think these are more for the breakout sessions like there are certain times when there are four sessions occurring at the same time. So you get to choose whether you wanna attend the one on sea level rise or use of important agricultural lands or some other topics. Want you folks to kind of you know mingle spread yourselves out so that you collectively have attended, witnessed the full ...(inaudible)...

Vice-Chair Ball: What time are we supposed to be there and all that?

Mr. Yoshida: Well, I think the program will be available online so you can kinda decide which sessions you know you are very interested. But if you see several of your colleagues, like five of our colleagues there you can attend one of the other sessions.

Mr. Freitas: I've got a question Clayton, being that it is a conference and it's you know, break out sessions why does the Sunshine Law comes into play with what do you call Commissioners?

Chairperson Lay: It's public education thing, right?

Mr. Freitas: Yeah, yeah, no. That's my question.

Mr. Hopper: You're not discussing board business.

Mr. Freitas: We are not discussing board business.

Mr. Hopper: Board business is something that's on your agenda or that's going to come before you on your agenda. The stuff at the meeting is basically general planning stuff. So you're not gonna have meetings on I don't know the upcoming whatever project you're gonna have a meeting and discuss the general planning principles, so they don't consider that board business generally.

Mr. Freitas: So we can have three or four people in one of those breakout sessions?

Mr. Hopper: Yeah, I don't see that as a problem as long as it's not on board business. The problem with the Council members was potentially people going to meetings where they'd be hearing like a community meeting on a specific project or something and then that was a potential issue. This shouldn't be a problem as long as it's general...I haven't seen all the sessions, but as long as it's general stuff, then I don't think it's a problem.

Mr. Freitas: Thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: The past couple of off island conference we got emails and different things about what's going on. Because of course we had to make plane reservations and so on, I'm assuming we're registered for this? How do we know we're registered?

Mr. Yoshida: I think all of you who said you'd like to attend the conference have been registered for the conference or if you wanna attend a certain mobile workshop.

Ms. Wakida: But I mean as far as when we show up they've got our names right, and then our packets and whatever?

Mr. Yoshida: Well, we'll make sure that you get that information before the conference start. We'll check on that and we'll get back to the members?

Vice-Chair Ball: Can we get an email then with the conference stuff, schedule and everything?

Mr. Yoshida: We'll send that electronically to you.

**F. NEXT REGULAR MEETING DATE: SEPTEMBER 9, 2014**

**The September 9, 2014 meeting was canceled and the items scheduled for this meeting are rescheduled to the September 23, 2014 meeting.**

Chairperson Lay: Okay, our next agenda, anything else? Okay, all those in favor of adjourning the meeting?

Commission Members: Aye.

Chairperson Lay: Meeting adjourned.

**G. ADJOURNMENT**

The meeting was adjourned at approximately 12:10 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  
Wayne Hedani  
Richard Higashi  
Ivan Lay, Chair  
Jason Medeiros  
Max Tsai  
Penny Wakida

**Others**

Clayton Yoshida, Planning Program Administrator, Current Division, Planning Department  
Mike Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works