

**MAUI PLANNING COMMISSION
REGULAR MINUTES
DECEMBER 9, 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, December 9, 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 Commission is now called to order. It's December 9th at 9 o'clock.

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

Chairperson Lay: We're gonna start off with opening it up to public testimony. If anyone wishes to testify, they can testify at this time if you can't make it when the agenda item comes up, but if you do testify at this time you won't be able to testify when the agenda item comes up. Please step up to the microphone, let us know who you are, and you have three minutes to testify. We're gonna be following the list that we have over here. If you have your cell phone, please too, turn it on silent and we would appreciate that.

The following individuals testified at the beginning of the meeting:

Brad Fowler - Item C-4, Marie Sherrow, Bed and Breakfast Home Permit
Dennis Hudson - Item C-4, Marie Sherrow, Bed and Breakfast Home Permit
Carrie Williams - Item C-4, Marie Sherrow, Bed and Breakfast Home Permit

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 none, public testimony is closed and we're moving to our first agenda item.

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

Ms. McLean: Good morning, Chair, Commissioners. We have five public hearing items on the agenda today. The first one is a request from Mr. Greg Walker of Kai Ani Development, Inc., for a Special Management Area Use Permit for the Cove Beach Village project, a three-story, 32-unit apartment complex on one acre of land along with parking, amenities, and landscaping in the A-2, Apartment District at 82 Kanani Road, TMK: 3-9-016: 004 in Kihei. And Keith Scott is your Staff Planner.

- 1. MR. GREG WALKER of KAI ANI DEVELOPMENT, INC. requesting a Special Management Area Use Permit for the Cove Beach Village project, a three (3) story, thirty-two (32) unit apartment complex on one (1) acre of land along with parking, amenities, and landscaping in the A-2 Apartment District at 82 Kanani Road, TMK: 3-9-016: 004, Kihei, Island of Maui. (SM1 2014/0005) (K. Scott)**

Mr. Keith Scott: Thank you very much, Members of the Commission and just to add to the Director's comment this proposed project was presented to the Urban Design Review Board on September 2nd, and the board recommended approval with conditions which are incorporated into the project as it is presented to you today. At this juncture, Greg Walker of Kai Ani Development would like to make a brief presentation.

Mr. Greg Walker: Good morning, my name is Greg Walker with Victory Development and I just wanted to basically introduce our staff here that's been working on this project from Day 1 and just give a kind of a overview. Most of you may know that we, we actually purchased this property in foreclosure and it originally had all of the SMA and all of the permitting was 100 percent approved at one time. What we did with this is we greatly enhanced it as far as the exterior of the buildings and also the interior floor plans. With some of the amenities we increased the size of the pool to make it a very nice neighborhood and we also added carports around the perimeter of the property that would accommodate PV panels in the building process to help, you know, to help with some of the costs for the common area electricity.

So...and if you guys don't know who Victory Development is, most of you maybe familiar with Kai Ani Village, we've been building that for the last five years down on Kihei and South Lipoa. We think it...as a matter of fact, we just are closing our last units this week. I'm so glad it's over. It's been long, long five years during this hard economy, but we did it and we think it's a good representation of smart growth in the community. If you some of you may noticed over the years that piece of land on the corner there it was just greatly overgrown. We've spent well over thirty to forty thousand dollars cleaning up the whole area including the wetlands behind there. And so hopefully that's a good representation of what, you know, we're about and you know how we work with the community and everything.

And so having said that, our CEO is Todd Libel. He comes from Southern California and he owns Victory Development. And then we're working with Jordan Hart and Associates and we have Raymond and David, and then we also have our traffic consultant, Phillip Rowell here. So if you have any questions about traffic, he'll be able to answer those. And Stacy Otomo's office, Mark Matsuda is here to answer any civil engineering questions today. Okay, thank you.

Mr. Raymond Cabebe: Thank you, Greg. Good morning, Commissioners and Chair Lay. My name is Raymond Cabebe and I'll be guiding you through this presentation on behalf of Kai Ani Development

Greg has already done the introductions and what I'll be going through is the elements of the existing site and the land use designations. Also, giving you design elements and additional project information and then I'll summarize and conclude. These, I guess Greg has already done these introductions, so I won't go through them again.

This is the location map showing you the location close...the nearest landmark here is Kalama Park. Of course, the new Police Station is up in this area here. Okay it lies on Kanani Road. This is South Kihei Road here, Walaka Road, Walaka Street on the backside. This is an aerial showing the properties that surround the subject site, the Blue Seabreeze Apartments right here to the east, Kalama Terrace to the south, Hale Kanani to the west, and the makai side Kalama Heights across the street. The Blue Seabreeze is a four-story building over parking. So it's basically a five-story building. It has 32 units. Kalama Terrace is two-stories over parking with 61 units, and Hale Kanani is three-stories with 72 units. Kalama Heights is three-stories with 200 units, and this vacant lot here is a future Kalama Kai with 40 units and that's gonna be three-story structures. This is a picture of the site. It's one acre and it's currently vacant.

Community planned for multi-family, State Land Use Urban. It's zoned A-2 Apartment. Photos of the site or the area surrounding the site. This is Kanani Road looking east and that big building in the back there is the Blue Seabreeze Apartments, and the photo on the bottom is looking across the street from Kalama Heights towards Kalama Terrace and Hale Kanani Condos on the right side. Looking down makai down Kanani Road and this is looking across...the bottom photo is looking across the site from Kalama Heights.

There was a KCA Design Review meeting that we presented this project to in July and as Keith stated there was a UDRB also on September 2nd, and the next day we also had a community meeting at Kai Ani Village and had invited owners within 500 feet and we also, it was also advertised on the KCA website. We had seven people show up for that meeting. And what I'll do is when I go through the project description I'll note down what...out of these three meetings what came out of these three meetings and how we addressed their comments.

Okay, this project has 32 units and it has three configurations. They're all two bedrooms and then one and two baths, and every unit has a lanai. It has the typical common areas of an apartment, swimming pool, a deck lounge area, a recreation area, restrooms and owner storage.

This project will comply with workforce housing. Twenty-five percent of the units will be onsite. The pricing shall be determined by Department of Housing and Human Concerns when the units are ready for market and the housing agreement will determine the distribution of units. If you are following the workforce housing changes I think the previously there was a category called "gap", the "gap income people", that's no longer being used for the ownership agreements.

This is the site plan. As you can see it's nearly square. This is Kanani Road up here on the top, and basically the driveway circulates around the building and the parking is also located on the outskirts of the property and there's 61 stalls on the outside here and there's six under the building on the west side. There's ADA stalls located in this area and close access to the elevator that's here. There's a trash enclosure on this corner. It's also room there for recyclables. The two-way driveway also includes speed tables at the ADA crosswalk and at the entrance here and also here. Those locations were determined by our traffic engineer. Those were also UDRB recommendation and also the KCA has that on their checklist also.

As you can see the buildings are actually four separate buildings and they're unified by a common roof area. So there's a...and the courtyard is in the central area. This colored walkway here something that was recommended by the KCA also. It's a shared, six-foot wide bike pedestrian

path and it's gonna be designated by brick pavers and it will also provide pervious paving here in this area.

And at the community meeting there was a concern that there's not gonna be enough guest parking available and so what the applicant is going to do is assign one stall to each unit and the rest will be open or guest parking.

At this time, I'll bring up David Sarita, who is the landscape architect and he'll be talking about the landscape plan. David?

Mr. David Sarita: Good morning. My name is David Sarita, landscape architect with Chris Hart & Partners. I'll take you through some of the landscape amenities for the project. Essentially it breaks down into three areas. There's the parking lot, the front of the building next to the street, and then within the right of way of Kanani Road.

So on Kanani Road within the right of way what we'd like to do is maintain the continuity of the adjacent properties within the street, so we would like put street planting and a grass planter strip. Trees and grass within the right of way and irrigate and maintain that. The front of the property will be the most heavily planted with tropical plants that welcome the guests and residents as well as present the project nicely to the street. The parking lot, what we've done is despite the fact that carports will shade 100 percent of the parking we still have all of the Code compliant shade trees for the parking and we've grouped those strategically so they don't interfere with the PV panels you can see in purple on the plan. We have six native species of plants, trees or shrubs. There'll be approximately 6,000 square feet of landscape area.

The irrigation will be for water conservation purposes we'll have drip irrigation which could bring down the irrigation to as low as 700 gallons per day. The irrigation system will also be R-1, recycled water ready so that when recycled water becomes available in this area we can hook it up and all of the underground system will be R-1 water compliant.

So for the site lighting we have parking lot lighting, building wall lighting, pathway lights and the landscape and recessed ceiling lights all of which will be LED and Dark Sky compliant. Here's the images of the proposed lighting features. You can see that some of the colors are bit different, but the colors will be coordinated to compliment the building. That's it. Thank you.

Mr. Cabebe: Thank you, David. Raymond Cabebe here again. Okay, these are unit plans, Plan No. 1 there's gonna be 50 of these units. They're two-bedroom, one-bath, 755 square feet. Unit Plan 2, there'll be 14 of these units, 944 square feet, two-bedroom, two-bath, and this is Plan 3, there's only gonna be 3 of these and they're 1,061 square feet, two-bedroom, two-bath.

These are the elevations. This is the north elevation looking from the street. The property has a slope of about 6 percent from east to west. East on this side, and the maximum height on the west side is about 44 feet, and on the east side about 34 feet. If you'll note the break in the building where the stairwells are and that occurs on every elevation, and this helps to break up the building mass and the perceived volume of the building is further reduced by the vertical offset of the walls. It gives you a little bit more depth on the facade and breaks up the building again.

The minimum roof overhang is four feet. I was extended from three feet as a recommendation from the KCA and it varies because of the way the walls are offset. In some areas, the overhang is as much as 11 feet. And it's kind of hard to see here but the UDRB also recommended that we break the roof line and so the roof was actually redesigned and you can kinda see a little bit of the shadow but there's breaks in the roof here and here. This is the east on the mauka side I guess yeah. So it's three feet...three stories I'm sorry, 34 feet on this side. This is the south side. The bicycle storage is gonna be in this area here. And this is the west side and this shows the parking that's under the building. The building is about 44 feet on this side of the building.

Okay, this is a perspective looking from Kalama Heights and the east entrance to the project site this will be right-turn only, right-turn in and out only. This is the entrance to Kalama Heights here, left-turn into Kalama Heights. And this is the west entrance and this has all movements allowed here. So there's a left-turn that's proposed, restriping here, the left-turn into the project, and there's also a allowed left-turn out from this driveway.

This is a bird's eye view looking from the Blue...from the project to the east. And this is an interior view of the courtyard, the pool area and you note the landscape plantings screen the units on that level from the pool area.

This is the signage that's gonna be on Kanani Road side. It's 20.75 square feet. What's allowable for this district is 32 square feet. So it's smaller than what's allowable. It's gonna be lighted and this is what it will look at night. So it's real soft light behind it.

There are two existing water meters. There's a 5/8 that's gonna be used for irrigation and a 2-inch for domestic. As David stated the irrigation will be designed to accept R-1 when available. The calculated demand is 7,920 gallons per day. The Water Department required water sense, high efficiency fixtures and that will be utilized throughout with dual flush toilets and Energy Star laundry facilities. Sewer estimated...is estimated at 8,168 gallons per day and there's still some capacity left at the Kihei wastewater reclamation facility. There is gonna be a...the project doesn't have a lateral at...right now because you have to install a manhole so that's gonna be done offsite.

For drainage, there's a increase of 3.07 cubic feet per second. The post development runoff will be contained by a subsurface retention system. KCA had recommended that we look at Green Streets and the UDRB also recommended we look at Low Impact Development Guidelines for, to promote storm water management. And these principles manage rainfall at the source and aim to enhance local environment and protect watersheds and the idea is to mimic the site's predevelopment hydrology. This project achieves this by minimizing impervious paving by maximizing the number of compact stalls, sizing all stalls and driveways to minimum width requirements and thereby, you know, maximizing our landscape area. The rain gutters will direct roof runoff to vegetated areas. As I noted, the brick pavers for the bike path, pedestrian path also you know provides some measure of pervious paving. And so all of the generated runoff will be contained onsite. So there's nothing that's going offsite.

As I pointed out, the east driveway will be right-turns in and out and the west driveway will be full service, and Kanani Road will be restriped for that left-turn and we're hoping that this will minimize congestion by just, you know, restricting the entry to this one full-service entrance.

Some sustainability features as Greg had mentioned, there's photo voltaic panels over the parking on the outside of the project, on the outskirts of the project. The electrical system...when the electrical system is designed the PV system will be sized accordingly and our application submitted to Maui Electric who will ultimately determine if safe and reliable power can be provided on this circuit or if an interconnection requirement study is required.

Additionally, KCA had noted that the water, solar water heating was not provided due to the complexity of providing individual systems it was not deemed feasible. But in response, the applicant will utilize tankless water heaters as an energy efficient option. And the applicant will be providing solar water heating for the pool.

Community connectivity. There's numerous parks in the area. Cove Beach, Kalama, Charlie Young, Kamaole 1. There's shopping within walking distance. Also, Kihei Town Center where Foodland's located, the Kalama Triangle. Kamalii School is within half a mile. There's a Church of Latter Saints within a half a mile. Of course, the new Kihei Police Station is also within a half a mile.

This portion of Kihei has a excellent network of sidewalks. There's also alternative...opportunities for alternative transportation is bus stop at Walaka Street which is less, is about 0.2 miles away and they're also providing bike storage.

This proposed three-story apartment complex is infill and it's surrounded by similar properties. We've gone through all of the comments from the agencies and we've tried to address everything and the project meets the objects of HRS Chapter 205A and also the SMA Rules of the Maui Planning Commission. And based on the foregoing, the proposed Cove Beach Village Project will not have any cumulative impact or a significant environmental or ecological effect on the SMA. So therefore, we think the approval of the SMA Use Permit is warranted. We feel this is a well-designed project given the site constraints. It's small in relative scale and compatible with the neighborhood. It provides affordable housing as well as adding to the housing inventory. That concludes our presentation and thank you for listening.

a) Public Hearing

Chairperson Lay: Commissioners, at this time we're gonna open up for public testimony. We'll be going off the list first. Donnie Becker?

Mr. Donnie Becker: Hello everybody. I was here about nine years ago testifying about another commercial project that was gonna be built in this area. And we got an approval from the Planning Commission to force the developer actually to give back to our community because smart growth means that that things are being improved and they're not interfering with the lives of the people that live in the area. I have a whole bunch of letters here I'd like to submit. I don't know if you individually can read them after this event here, how does this work?

Chairperson Lay: Usually we get that information before so everybody—but you can pass it where we can look at it.

Mr. Becker: Yeah, I mean I'd love to do that right now. I have letters from the Kihei Community

Association and in a nutshell we met with the County officials including the Deputy Director of Public Works, engineering...engineer of Public Works, traffic engineers, State engineers, the Kihei Police Department and all acknowledged the poor configuration of roads leading to the same development. We're talking about another development that never happened. This is nine years ago that we testified. It was called Kalama Heights Phase 2, and Kalama Heights Phase 2 never happened. The economy was that bad, I guess they never, you know, performed their development. So now we're here today in front of you to suggest to you that a developer like this Cove Beach Village should get more involved especially with the smart growth of fixing the roads leading to and from their development. I mean, that's really what's happening in our community I think is that we're allowing a lot of construction to happen, and we're not even thinking about the roads leading to it.

I'd like to read the letter. This is in 2005, this letter. We humbly ask the County of Maui, Public Works Department to take emergency relief because we acknowledge that there's a poor configuration of an intersection on Kanani Road. If you're coming off Kanani Road at Piilani Highway there are safety hazards. And everybody agrees that the problems will eventually be severely increased with a newly installed traffic signal. This is before we had a signal at Kanani. We also didn't have a police station and now we have more construction that's, you know, about to built with I think 67 stalls are gonna be there. We know they're gonna mostly be filled. So we're talking 100 cars additional going down this road that already is in disrepair. So I'd like to...can I pass this stuff out, maybe you guys can look at it while....

So I also have a letter from the Planning Commission and it's a clarification because there was some misunderstanding at the beginning of us testifying and having the Planning Commission get involved with the last developer of exactly what we're expecting. We're not expecting the developer to do the improvements on the road, what we are expecting is to work in conjunction with the County of Maui, Public Works Department engineers in designing the road, redesigning the road the way that it's operated today. I would hope that a lot of people know this road. It's pretty famous. I mean, we have Cove Beach, we have Charlie Young Beach. It's a very important entrance to our town of Kihei and it's never ever been redesigned from the original way that it was built years ago. So we're...all the residents is here are trying to impress upon the Planning Commission because that's our only, you know outlet is to have--

Ms. Takayama-Corden: Three minutes.

Mr. Becker: --you guys...I didn't hear.

Chairperson Lay: Please conclude.

Mr. Becker: I never...you know we never have the help with the County getting involved. You know we've been there you know waiting for this development to happen and it's never happened. So I please suggest to you as a Planning Commission that it was agreed years ago that the Planning Commission mentioned to the developer or acknowledged that the developer should be the one that is forced to help working with the County to help design the road to make it safer for everybody.

Chairperson Lay: Thank you.

Mr. Becker: Okay.

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

Ms. Wakida: First of all, are you representing a particular group?

Mr. Becker: I was on the board of the Kihei Community Association in 2005 which is when this happened. Currently I'm not on the board. I'm speaking as a resident.

Ms. Wakida: I see.

Mr. Becker: I also have a letter which I forgot to mention, there's a police officer lieutenant from the, from the Lahaina Police Department, he very importantly wanted me to read this letter so let me, let me do and that will shed the light.

Chairperson Lay: The question...we only can address the question directed at you.

Mr. Becker: Well, if you'd like to understand it from—

Ms. Wakida: But in a minute. Can I ask a follow up question?

Chairperson Lay: Go ahead.

Ms. Wakida: You are unhappy with the configuration of the...what specifically are you unhappy with?

Mr. Becker: I don't know if you guys have driven on this road but it's almost like you're in a third world country I'm sorry to say. You're actually coming off Kanani at the police station and you're coming down Kanani at Piilani Highway, from Piilani Highway and it's a rutted road. I have pictures. This is what the road looks like.

Ms. Wakida: So you're saying one of the problems is the—

Mr. Becker: Is the rutted road and then there's an off-angle stop—

Ms. Wakida: Excuse me?

Mr. Becker: Okay.

Ms. Wakida: So you're saying one of the problems is the surface of the road?

Mr. Becker: Absolutely.

Ms. Wakida: And what about the route?

Mr. Becker: The off-angle stop sign intersection which is down below the Piilani Highway, the first place where you're told to stop is off-angle. The stop sign is off-angle. So when people are coming

up from the beach and they're actually having to make a left to go to Kanani they're actually cutting over a double yellow line. It's especially when buses and trucks are going through that intersection. So at the same time people are coming down, the trucks and buses are actually cutting off the intersection. I have pictures here that will explain that.

Ms. Wakida: Okay.

Mr. Becker: So it's been known that everybody agrees this road is very, very much in...it's a dangerous intersection, very dangerous.

Ms. Wakida: Thank you.

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

Mr. Higashi: Yes, I'd like to have a clarification. Are you saying that his developer is responsible for the road past the development itself, what are you—

Mr. Becker: What the Planning Commission, you know in the past with Diane Shepherd she was here as one of your Commissioners and she got really involved with this 'cause she actually, you know, drives down that road all the time and she knows that this road is dangerous. So what she suggested to the developer, and I have the paperwork here, that...stated that the developer will help to design the road working in conjunction with the County of Maui, Public Works Department. So all they're doing is designing the road working with the County of Maui. Once that's designed then the County now will know how much money to budget to actually to the improvements. So we're not suggesting that the developer pays for the improvement, only the design.

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

Mr. Becker: So I can submit these too?

Chairperson Lay: Our next testifier is Donnie, I mean, Karen Michand.

Mr. Becker: Can I just hand the microphone over to her?

Chairperson Lay: Is she on—

Mr. Becker: She's in a wheelchair.

Chairperson Lay: Okay, we'll take a second to accommodate her or you can have the mic.

Ms. Karen Michand: Is this thing on? Hi, I'm Karen Michand. I live on Kanoe Street which is right below Kalama Heights. I'm basically here today to speak about the road as well. I ride on a bus and go through this intersection that we're talking about all the time and we cross over a double yellow line to get onto the highway and up by the police station. Then also, as a wheelchair person this road is very unsafe. I've almost been run over by a police officer coming up the hill because the road...what the one, not Kanani Road but the next one over?

Mr. Becker: Auhana.

Mr. Michand: Auhana, has no sidewalks and so when I'm coming down Ohana I go down the street. A police officer was coming up the street, as he turned around the corner he was going about I don't know, 70 by the time he got to me and he almost ran me down. So it's very unsafe. And the speed bumps that were put in, if you're in a wheelchair you can't go over those. They're too big, they're too high, they weren't done correctly and they're really in a kind of a odd space I would say. Hold a second. I have to put my glasses on.

This is a letter from the police officer. It has been brought to my attention that Kanani Developments in the process of trying to approvals to building on the open lot located on Makena side of Kanani Road. It was formerly owned by Betsill Brothers. I recall the decision held by the residents, Kihei Community Association and the Planning Committee to have the developer to submit plans showing improvements to the intersection of Kanani and Ohana Street at the end of South Kihei Road with a bike path and sidewalks. I understand the improvements have given...was given but still to this day hasn't been any work done especially with the dangerous misalignment intersection at Kanani and Ohana. There was a significantly increased traffic on Piilani Highway in the last few years--

Ms. Takayama-Corden: Three minutes.

Ms. Michand: --and it's only more worse now in the immediate area. Anyway, so for the safety of people, you're gonna have disabled units there, and because of the new police station they come flying down that street all day long. And it's just not safe for people walking 'cause a lot of people walking in the community, riding their bikes, it's unsafe and I would like to be able to go down the street and use the sidewalk like anyone else. But since there isn't one on Auhana Street or the--connecting the two, Kanani Road and Auhana Street, I would like you to address making it safe for everyone. Thank you.

Chairperson Lay: Thank you very much. Commissioners, any questions for the testifier? I would like to say thank you very much for coming here. We don't usually, I know it's difficult that you had to get here and we appreciate you coming down here and voicing your concerns. It's very important that we get a head up on what's going in that area and thank you. Our next testifier is Sandra Akina.

Ms. Sandra Akina: Good morning, my name is Sandra Akina and I am the owner of Akina Bus Service and Akina Aloha Tours and brought my driver, Kalani--

Chairperson Lay: A little closer to the mic please?

Ms. Akina: And I brought my driver, Kalani Ku to talk about the same issue that was said by the first two...the testifiers before. Anyway, we have been in Kihei forever and we seem to have been fighting this problem about that road. I think that's a wonderful project that you have and I compliment you on it, but I'm hoping that you can help us with this road. As you can hear we've been over this for, like Donnie said, so many years and we have not had the road fixed yet. Part of it was done, but coming off the highway onto Kanani Road it's an embarrassment if you look at all the other roads that come off the highway. It's very nicely paved, but this one is rutted and the

path that our buses have to take, we are not in compliance with the laws and I'm gonna have Kalani Ku talk to you about that. So really wish you would consider the road area that the developer possibly could help us. We're not expecting a lot because I know their project isn't very large but anything that they can give us to help fix the road would really, really help all the population and make it safe. I'm always afraid that my buses going out there. We talk to the drivers, we have safety classes all the time. We talk to the drivers. We have safety classes all the time. We talk to the drivers about how they drive on that road because it's narrow. They have to make the turn. There's a car that's gonna be parked there at the stop sign and they have to make the turn, we told them to be careful because some of the people do not stop, they just go right through that stop sign. And so Kalani Ku can tell you a little bit more about that. Thank you

Chairperson Lay: Okay, and I'll allow Kalani to come on as a separate testifier in conjunction with your testimony.

Ms. Akina: Yes.

Chairperson Lay: Go ahead Kalani identify yourself and you have three minutes.

Mr. Kalani Ku: Okay, hi, good morning. My name is Kalani Ku. I am the driver trainer for Akina Aloha Tours and I have been with them for almost 10 years. Over the last 10 years that I've driven for Akina Aloha Tours I have come and down of that highway of Kanani day in and day out. The road itself it is definitely rutted. It's definitely in disrepair and we really, really need to address that part of the highway or that part of the road.

Coming down off of Kanani besides the embarrassment of how it looks coming down, coming down with all the buses and it's not just us although we come down with vans, we come down with SUVs, we come down with mini buses, we come down motorcoaches, we even come down with school buses, Akina Aloha Tours as well as Robert's Tours, Polynesian Adventure Tours, MEO, we all use that road up and down, day in and day out as well as other truck companies that goes up and down that road just as well. And because that road is heavily used, what we is asking for like a project like this to give back to the community to help us develop that part of the road. You know, it's gonna be used more and more when this project goes in and with the way that it is designed right now, coming off of Kanani onto Auhana it is definitely a dangerous...it does put us in a dangerous situation every now and then especially with cars that is coming down from left to right or from Kamalii Elementary School coming down to South Kihei Road. And with the way that the intersection is designed, it is designed at an angle and there are many times where not just me, but our other drivers that does have a difficultly of always looking off to your left because of that angle. Sometimes it does get easily missed seeing a vehicle coming down. There was a...well, no there is a speed bump that is just off to the left of that intersection, but a lotta cars just come down flying off of that road there that which does puts us into a dangerous situation.

Coming up from Auhana when we are making a left-turn onto Kanani Road that also puts us into a dangerous situation because of the way that it's designed and we make that left turn, some of us, like me because I have the job of trainer, I can make that left-hand turn with some of our vehicles without crossing that yellow line. But you know, we have some less experienced drivers, you know, whether it's bus companies or truck companies making that turn that it does put other vehicles coming down on that road into a dangerous situation.

So we're asking right now if we can at least try see what we can do as far as having this--

Ms. Takayama-Corden: Three minutes.

Mr. Ku: --new project that's coming in, coming into Kihei to you know, somehow give back to the community, you know, to help us redesign that road in a way maybe--

Chairperson Lay: Thank you, if you could please conclude or--

Mr. Ku: I'm sorry?

Chairperson Lay: You've been given the three minutes at this time.

Mr. Ku: Okay. You know, just give back to the community to at least give something into a fund to help with that part of the highway for all of us. Thank you.

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

Vice-Chair Ball: So in your experience do you think that it's a quick fix, but it's not a permanent fix that a stop sign at that intersection would help coming from Kamalii down you say people fly where that intersection meets with Kanani, right?

Mr. Ku: Oh, yes.

Vice-Chair Ball: You don't have a stop sign, so if it has a stop sign--

Mr. Ku: No, it doesn't have a stop sign.

Vice-Chair Ball: --there, Kanani has a stop sign.

Mr. Ku: Correct.

Vice-Chair Ball: At least it would kinda slow that traffic down a little bit--

Mr. Ku: Exactly.

Vice-Chair Ball: --temporarily fixing it.

Mr. Ku: That would be a temporary fix.

Vice-Chair Ball: 'Cause I mean that whole section needs to be realigned. I mean it's gonna take a while. We might have to condemn properties...(inaudible)...for that so, I don't know if that might--

Mr. Ku: That would help.

Vice-Chair Ball: You have a semi solution.

Mr. Ku: That would help, yes.

Chairperson Lay: Commissioners, any more questions for the testifiers? Commissioner Tsai?

Mr. Tsai: I'd like to ask Deputy Director to respond please?

Chairperson Lay: We're still in testimony. We can ask that when we go to...after this. Commissioners, any questions for the testifiers? Thank you very much. That concludes our...well, does anyone else wish to testify at this time? If so, please step up to the mic, identify yourself, and you have three minutes to testify. Seeing none, public testimony is closed and now we're opening up to our Commissioners. Commissioners, any questions or comments? Commissioner Tsai?

Mr. Tsai: My last question. Can the Deputy Director of Public Works please respond?

Ms. Dagdag-Andaya: Sure. I wonder if Raymond can pull up a Google map? I don't know if it's connected to the internet. One thing you need to know about Mr. Becker's concerns and the Akina's concern was that we've been working with them since I believe 2012. Mr. Becker's correct, I think back in 2008 there was a project that had come in for an SMA. This was Phase 2 of the Kalama Heights project and in it one of the Commission Members, Dr. Shepherd, had indicated that she wanted to see a condition where...now again, I think this is on a different parcel. It's not, it's not on this TMK. It's for a different parcel, but in it she requested a condition where bike lanes and associates be designed in partnership with the Department of Public Works and that the design of the bike lanes shall incorporate the area from the intersection of Piilani Highway down to South Kihei, but that same developer would also only be required to make the improvements fronting their property. So that's correct, there was a condition in there that said, hey applicant you help design improvements along Kanani Road with Public Works or from Piilani Highway all the way down to Public Works. So we had looked at the intersection of Kanani and Auhana and mind you there's two intersections. There's one just coming off of Piilani Highway and that's, I believe that's where Mr. Becker lives. That intersection I wish I could show you a Google Map. Mine is frozen right now. But as you're coming down from Piilani Highway onto Kanani Road there is a stop sign right there. So we consulted with the Police Department. They've had several officers come by and take a look and they understand it's an enforcement issue. They've actually had police officers stay there, sit there and watch the traffic and make sure that people make stops. They have...I think they cited a couple of people who have made those Hollywood stops going down.

We also did some work on the striping there just to...and I think our staff what they did was they bolded or they made it a lot more brighter the stop sign and the stop line. I think we had some changes to the stop sign as well. Coming up from Kanani, when you're coming up from South Kihei Road, I can't remember now if there was a stop sign located there, but there is none so people do come up. The only stop is that that approach from Piilani Highway down there's a stop sign there and then I think there's another stop from that other road, let's see Exhibit 9, in fact, okay, if you're looking at Exhibit 9, yeah, so if you're on Exhibit 9, there's that blue rectangle and on the Piilani Highway side of that blue rectangle you'll see Halona Street and then there's a road coming off of Piilani Highway. That is Kanani Road. And then where Halona intersect that is that intersection that the testifiers are talking about. And then you can see from where the red square that is where the project is located.

Mr. Becker: ...(inaudible-speaking from the audience)...

Chairperson Lay: Excuse me, you're out of order.

Ms. Dagdag-Andaya: And like I mentioned earlier, there was a document. This was, actually it was dated April 23, 2009, but this again, I think this is a different TMK. Yeah, this is a different TMK, but in it are conditions placed upon that other project. So I'm not aware of any other conditions on this particular property. However, what the testifiers are mentioning is that there are some concerns about that intersection at the top of Kanani Road and yeah, I kinda wish there was street view of it. Maybe what I can...if you want, I can go over there and use their...

Chairperson Lay: And Donnie, that paperwork you have you can give it to our first Commissioner here and he'll pass it around.

Mr. Becker: ...(inaudible)...clear up what she's saying.

Chairperson Lay: Or even those other letters that you have too, if you want us to look at it.

Mr. Becker: And I have pictures of that intersection also.

Chairperson Lay: Okay, thank you.

Ms. Dagdag-Andaya: Okay, for the record, this is Rowena Dagdag, Public Works. So this is Kanani Road or let me just orient you here. Piilani Highway is here. This is South. This is north. So Piilani Highway, Kanani Road goes here and then this is one intersection. Kanani Road continues on here and then Kanani Road continues on down to the project site which is located here. So if I zoom in here a little bit, this is the intersection that we're looking at or that the testifiers are making mention of. And as you can see there's a stop sign or the stop approach here. There's also, this is another approach here and I can't remember if there was a stop sign here, but according this there isn't one. There's also a speed table located somewhere around here that we just installed. As far as improvements to the roadway, I believe, I can't remember exactly, but I believe that we are moving forward with road resurfacing in the next year to do this portion of Kanani Road.

Unidentified Speaker from the audience: What about aroundabout?

Chairperson Lay: Please no...let's let our person explain what's going on. Only when you're recognized then you have a chance to talk. Right now we're having Public Works run through everything.

Ms. Dagdag-Andaya: So this is, I'm on Kanani Road right now and I'm headed towards the intersection of Piilani and Kanani. Here's the intersection right there. Stop sign is here. So there is a stop bar here, but we recently maybe about two years ago had our sign crew do some changes here. I think we did this and then we may have made some shoulder improvements as well. So, and the buses I believe what they're saying is that when they make their left-turn approach here sometimes they have to crossover the double yellow line. We had police take a look at it and you know, they...police have seen it in other locations as well. If you're coming, I mean I can give you

an example, if you're on Waiehu Beach Road making a left-turn into the McDonalds on Eha Street most of the some of the buses that do go there they do have to crossover the yellow line. A lot of the large trucks sometimes they crossover that yellow line. But I don't know, I mean, I don't know traffic laws. I would want to have a police officer be able to explain that. As you see here when you're going down Kanani Road—

Vice-Chair Ball: Can you back? Can I ask a question while we're at that intersection if you can go back a little bit to where you were positioned before.

Ms. Dagdag-Andaya: Is that okay?

Vice-Chair Ball: No, coming back again the same way.

Mr. Hedani: Turn around.

Vice-Chair Ball: Yeah, turn around. Turn your car around and start heading the road again.

Ms. Dagdag-Andaya: This is a slow car.

Vice-Chair Ball: So approach intersection there and a little bit more, a little bit further up and then now turn to the left as you would. As you approach that, that it kinda doesn't show it there, but as you approach that that street is very hidden by that hedge there which you guys are waiting for a bad accident there especially with the police cars coming there. They're trying to get through that intersection. I don't know why you can't just put a stop sign there that stops that traffic from coming down like that. Everybody's gotta stop and then everybody goes, right. I mean, that would be a quick solution because if you're talking about developments gonna pay for this it's never gonna happen, never gonna happen. They're gonna put piecemeal sidewalks all the way up that road, but that would prevent some sort of...it would help the traffic that I've been hearing, the public testify about right there. Those buses are making that turn too and they're, you know, big buses they're gonna make that turn slowly. Somebody coming down that road or whatever is not, it's not gonna be able to stop maybe. I mean you're just waiting for it to happen especially 'cause it's gonna be buses come, you know, at home at dark and all that stuff too, so I don't if that's possible. I mean, I know how Public Works is—

Chairperson Lay: Commissioner Tsai has a question.

Ms. Dagdag-Andaya: I just wanted to touch upon that. I think we did consider putting a stop sign there and also making this a four-way stop at one point. I can't remember what the decision...why we decided not to do that, but there was a good reason for it. I can check with my engineers. But we can take a look at that. Another thing that I also wanted point out was sight distance concerns regarding this hedge. So I can have staff go in and take a look and kinda measure this, but I can also go back to staff and have them consider this being a four-way stop.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Hey Deputy, I think the other concern, and I know this road really well if you come on Auhana trying to make that left-turn onto I guess Kanani or what is that—

Vice-Chair Ball: Kanani.

Mr. Tsai: Yeah, and I think the angle what's it coming down from it's not right and if we're gonna resurface the road is there property rights that we can actually make it so that right at that intersection the angle is kinda more turned down to Auhana because the angle...if you're coming up this way it's such a sharp left-turn coming up Auhana that I think that's another challenge where the bus is or other cars will have try to go over the double lane.

Ms. Dagdag-Andaya: Okay, let me just go back here.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: And I just, I too, don't know anything about your striping laws but perhaps that stop stripe could be pulled back so that that yellow line doesn't extend out. Maybe you could look at that.

Ms. Dagdag-Andaya: Right. In fact, we did even take a look at making some changes here and then moving this over. Now, just remember now we are going in for a resurfacing in the next year so I mean to do...these things kinda, it does take time. We wanted to make sure that the resurfacing scheduled matched up with any kind of improvements we do to the shoulder here.

Mr. Tsai: Well, I'm actually talking about maybe on Auhana Road or actually...wait a minute, I'm getting mixed up now...

Mr. Becker: Can I say something real important?

Chairperson Lay: No, I'm sorry. You've already testified.

Mr. Tsai: Go back Rowena. Okay, you see how sharp the left-turn is if you're coming up trying to get to Piilani Highway?

Ms. Dagdag-Andaya: From here?

Mr. Tsai: Yeah. It's almost like a-

Mr. Becker: ...(inaudible-speaking from the audience)...death trap.

Mr. Tsai: Yeah, I mean if you can actually angle a little bit so that where the current stop sign kinda face down towards...you know what I'm talking about?

Ms. Dagdag-Andaya: That's what I'm talking about. If we, I think this portion here is part of our County right of way. So as part of our resurfacing project what we can do is move, shift the stop over this way to allow for more room on this side.

Mr. Tsai: Perfect. Thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Getting back to our project, my question is for Rowena. Are developments required to pay an assessment to the County for road improvements, curbs that sort of thing?

Ms. Dagdag-Andaya: There is no road assessment fee. That's something that's currently being developed right now. And that would be for more regional traffic improvements. What the developer is required to do is make any improvements based on the traffic impact assessment report, make improvements to the frontage or any kind of other, I mean other areas. Based on the size of the project, they would be limited to curb, gutter, sidewalks. So they are gonna develop the front of their property and also, we also commented and said that they are required to do a left-turn, an exclusive left-turn lane into the project. So that...I mean according to Code, that's what they would be required to do.

Ms. Wakida: Well, I think this may be is an area that could be looked at further because as these areas like this particular area in Kihei get developed, the access to those areas then needs to be developed along with the area that's fronting the property. So who pays for that? And you know, if the developers want access, clean access to their property then maybe this is the time where everybody has to put a little bit in the pot.

Chairperson Lay: I have a quick question, and this is for...I'm going to call Sandra just because of her expertise in that area with the buses. Sandra if you can come back to the podium? I just wanna ask you a couple of questions because your company is involved with that intersection. So it's a two-part question Sandra. So your company is it school buses or just strictly tour?

Ms. Sandra Akina: Both.

Chairperson Lay: Okay, so with your school buses you would have to go down that road for picking up the children.

Ms. Akina: Yes.

Chairperson Lay: Your tour bus is it possible to go in the road after that where they have that school and it's a heavy, a bigger intersection with another intersection on the bottom? We're just trying to figure an access, an easier access in and out.

Ms. Akina: We come out through the back area which is 131 Auhana. Our hours are from 7:00 a.m. to 7:00 p.m. We access, we leave our property from the back going through Auhana and then up that way. And then from...the other 12 hours we can go on Alahale, cause we have two properties, yeah. Go down Alahale and then take South Kihei Road and we still go up and use that route.

Chairperson Lay: So you have your baseyards located in those areas?

Ms. Akina: Yes, right there.

Chairperson Lay: Just getting an understanding of it. Thank you. Commissioner Higashi? You're

done Sandra, thank you.

Mr. Higashi: Basically know that it's basically not the responsibility of the developer on this, but I think for health and safety reasons it definitely is a problem because I was acting vice-principal at Kamalii Elementary. I'm very familiar with this intersection and I think going back to do an immediate fix would be to put a four-way stop and eliminate all those hedges that prevent people from seeing just from the fact that that intersection is not a straight intersection. So to prevent any future problems I would suggest that the Public Work put four-way stop over there and eliminate all the places that would be visible obstruction.

Chairperson Lay: Thank you. Commissioners, any more questions or comments? Commissioner Hedani?

Mr. Hedani: I think we're getting a little bit off the subject of the proposed development. Yeah, the development itself is right in the middle of a straight street. It's smack dab in the center of a block that's a straight roadway. All of the problems that we're talking about on Kanani Road and Auhana Street are things that should be addressed I think by Public Works as a matter of course in studying the roadway and making it a safe roadway from an engineering standpoint. The only question that I would have is, you know, is there a cost that Public Works needs to occur in order to make that safe that they currently cannot cover?

Chairperson Lay: Deputy Director?

Ms. Dagdag-Andaya: Chair, it would be a major CIP item just to reconfigure the intersection. When we met with Mr. Becker numerous occasions along with even Councilmember Couch. We did...there was some cost. There was a big cost associated with this, but we also mentioned to Mr. Becker and some of his neighbors that we would take incremental small steps in order to make changes here. One of them was inserting or installing a speed table. So we did install a speed table on Kanani Road, I think it was like right around here somewhere just to slow down traffic. There was another request to do a speed table at the top. But because of our resurfacing scheduled we wanted to make sure that all of that gets done all at the same time. So when we go in for resurfacing, one of the things that our engineer looked at was improving the shoulder area here so we can move the stop sign over towards like this way where you see the trees here. There was a discussion about creating a four-way stop and I can't remember exactly what happened with that discussion but there was, there were some arguments against doing a four-way stop according—I mean, in discussion with our traffic engineer and also with Police Department, but we can revisit that, that suggestion once more. We also had...we talked about even doing a roundabout here, but that would be, again a major CIP item. So we also took a look at traffic data and crash data at this intersection and it was very minimal. Not...I wouldn't say not enough to warrant, but it wasn't at a level that would have warranted traffic improvements here. So, I mean, we took a look...yeah, we did take a look at crash data, we consulted with the Police Department, and we did talk with the neighbors. There are some gaps in the sidewalks as you can see most of this is developed from South Kihei Road on up with the exception of this property here which is the project area. There's also sidewalks going up along Kanani Road here. On the opposite of Kanani Road on the north side, that's an area that hasn't been done yet. But this is an older area. I don't think they were required to do sidewalks at that time.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess, I guess what I heard the Public Works Deputy Director say is that within the next year it's gonna be resurfaced so that should take care of the rutting problem. I think from my perspective what needs to happen is a professional engineering company should do a study of improvements to the intersections that can make it safer along with cutting the hedge down to three feet high so you have clear line of sight of oncoming vehicles which is something that should be done automatically and immediately I think.

Chairperson Lay: Yeah, on that subject, is there rules, laws or regulations as far as hedging next to an intersection if a setback or height, are there any requirements on that?

Ms. Dagdag-Andaya: There are requirements for it. I don't know the language exactly, but I can have our Code Enforcement staff person come in and take a look. That is an area or that is an issue that we also consult with the Police Department on.

Chairperson Lay: Okay, thank you. Commissioner Hedani?

Mr. Hedani: Just a comment. One case of somebody not having line of sight and crossing the intersection and killing someone is gonna be a huge expense to the County from the standpoint of liability and I think that needs to be addressed.

Ms. Dagdag-Andaya: And also...I wanna point out, once you said that we did also consult with Corp. Counsel on this intersection as well. So we've had numerous people take a look at this intersection. Again, it's something that's you know we're taking incremental steps although it's not moving fast, what's really...I mean, what Mr. Becker had mentioned earlier about Betsill or the...I'm sorry let me backtrack a little bit. The developer of that project I think in 2009, 2008 did have that condition where they would need to work with the traffic engineer and Public Works to make, to design roadway improvements which includes bike lanes along that stretch from Piilani Highway to Kanani Road—

Mr. Becker: ...said it was Auhana.

Chairperson Lay: Please in the gallery, please hold it down.

Ms. Dagdag-Andaya: I'm sorry, Kalama Heights Phase 2 was required to work with Public Works and a traffic engineer to make improvements from Piilani Highway down to South Kihei Road.

Mr. Becker: On Auhana Road.

Ms. Dagdag-Andaya: On Auhana Road.

Mr. Becker: That letter can—

Chairperson Lay: Donnie, if you would please—thank you.

Ms. Dagdag-Andaya: But again, that was contingent upon that project moving forward. So of

course, I mean, that project didn't move forward and so we were stuck. We had no project to move on. For now, I mean, if we were to incorporate it into our CIP budget, we would need to look at traffic data. In order to get even a traffic engineer to design it that takes money. So that has to be programmed as a CIP item.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess my question Rowena is does the Department of Public Works have a request that it's making of this particular developer?

Ms. Dagdag-Andaya: We only...we don't have a request for this intersection here. We have a request for that left-turn lane into this property. That is—

Mr. Hedani: Okay, but you're not, you're not asking for an engineering study?

Ms. Dagdag-Andaya: We are not asking for an engineering study.

Mr. Hedani: Or a condition to—

Ms. Dagdag-Andaya: No, not a condition, but we are, I mean we are asking them to fulfill what they're required to do which is provide left-turn lane and any kind of frontage improvements, curb, gutter and sidewalk.

Mr. Hedani: Thank you.

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

Mr. Tsai: Rowena, you spoke to the fact that that's gonna, and it's in the plan to resurface the Kanani Road coming down. Is there a more specific timeline for that?

Ms. Dagdag-Andaya: As far as the resurfacing schedule. I don't know. I'm checking with staff right now. Typically, I mean if it's at the end of...I mean, if we're budgeted for...say we were budgeted in Fiscal Year 15, it was part of road schedule it would probably happen sometime next in the coming year. But I'll need to confirm that information. I did see Kanani Road on a schedule for resurfacing and I thought, I thought it was for this coming year, calendar year, and with that we'll make the incremental improvements, and then we'll also take a look at, revisit that issue about making it into a four-way stop.

Mr. Tsai: Thank you.

Chairperson Lay: Thank you. Commissioner Wakida?

Ms. Wakida: I have a question for the developer about workforce housing.

Mr. Hart: This is Jordan Hart, Chris Hart & Partners.

Ms. Wakida: You are going to have eight units at...for residents with income qualified groups. In

today's money what would that be?

Mr. Hart: I'm not sure if we have the HUD affordability breakdown with us right now. Those are all defined in the agreement with Department of Housing and Human Concerns. So they're not established right now and they will be established by the Department, but I don't have the HUD affordability breakdown right now I believe unless you have it there before you.

Ms. Wakida: Well, I have one, but I don't know what percent you're looking at. Is it, you know, 100 percent median income, 160 percent?

Mr. Hart: Okay, so it looks like below moderate is 30 percent, moderate is 50 percent, and above moderate is 20 percent ...(inaudible)...

Ms. Wakida: Yeah, what I'm interested in is what you are targeting.

Unidentified Speaker: Those are the three.

Mr. Hart: Yeah, so it will those that would be targeted.

Ms. Wakida: From which to which?

Mr. Hart: So it would be below moderate which is 30 percent, moderate which is 50 percent and above moderate which is 20 percent of the median.

Ms. Wakida: I don't think you're reading the chart right at least...my low moderate is 81 to 100 percent of median income.

Mr. Hart: Oh sorry, I apologize. So 30...I'm sorry that's the breakdown of the units. So there's eight units. That's the multiplier. So it would be like 30 percent of the eight units, 50 percent...sorry...(inaudible)...

Ms. Wakida: So the eight units would be priced if in today's affordable chart between three-hundred and five-hundred and sixty-eight thousand dollars according to this if for a two-bedroom.

Mr. Hart: According to County's Workforce Housing Ordinance?

Ms. Wakida: Yeah.

Mr. Hart: Okay. Yeah, I mean...

Ms. Wakida: So...and the rest of your units would be priced above that? I'm a little confused by you say, 50 percent of the units are expected to be sold at less than 600,000. That's what you say in here. So if half the units are sold at less than—

Mr. Hart: That would be basically the developer's assumption based on the size of the units and the market rate for units right now.

Ms. Wakida: Okay, I'm specifically concerned with the affordable area and what that range is whether you're looking—

Mr. Hart: Okay, I misspoke when I speaking about it. So moderate, do you have the...does it state on that HUD affordability guideline, does it make a descriptor like moderate, above moderate, and so on?

Ms. Wakida: Yes.

Mr. Hart: Okay, so what is that percentage at moderate?

Ms. Wakida: At moderate it's a 101 to 120.

Mr. Hart: Percent of the median income.

Ms. Wakida: Yes.

Mr. Hart: So 50 percent of the affordable units will be in that range, 30 percent of the units will be in the range of below moderate which is what percent of the median income?

Ms. Wakida: Eighty-one to hundred percent.

Mr. Hart: Okay, and then 20 percent of the eight units would be in the above moderate income bracket.

Ms. Wakida: And these are all to be sold, right?

Mr. Hart: Yeah, this is not a for-rent development.

Ms. Wakida: Okay, Chairperson I have a—

Chairperson Lay: Excuse me, Commissioner Wakida?

Ms. Wakida: I was gonna ask permission to continue my questions.

Chairperson Lay: Continue on, Commissioner Wakida.

Ms. Wakida: These are condominiums? This is a condominium? You call it apartments, but it's a condominium.

Mr. Hart: Well, it's Apartment zoned, but they're fee simple condominiums, they will be sold.

Ms. Wakida: With maintenance fees?

Mr. Hart: There will be maintenance fees, yes.

Ms. Wakida: Can you give me an idea what those will be?

Mr. Hart: Not, not right now. They're doing...well, you know things like the PV system reduce common area electricity cost, but no, there's no specific maintenance fee projection right now. There's specific requirements for reserves and things like that that will have to be calculated out when the condominium documents are basically finalized to begin selling these units, but we don't have that number here.

Ms. Wakida: Okay, and one more question on workforce housing. You said it's part of a workforce housing agreement. Are these units fulfilling or establishing any credits connected with another project?

Mr. Hart: These units meet the requirement of this project onsite. And if I could just add a little bit more. This isn't the project's decision on how to do the cost breakdown or the unit pricing. This is all under the established framework of the Workforce Housing Ordinance. And so basically when you apply that set of requirements to this project and you propose to build on site, this is the breakdown that you come out with and so this isn't driven by the developer, it's driven by the existing County ordinance.

Ms. Wakida: I understand, but some developers doing large projects have to provide workforce housing or they establish credits having built something previously. Is this project in any way connected to any of those two scenarios?

Mr. Hart: So the requirement when you produce the affordable housing on site, the workforce housing on site the requirement is for 20 percent, 25 percent of the units to be workforce housing units and so the proposal here is to provide those units on site which is these eight units.

Ms. Wakida: So it's all self-contained then?

Mr. Hart: That's right.

Ms. Wakida: Thank you.

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

Mr. Medeiros: Okay, just so that people like me don't get confused, you know, ballpark range, how much are these units gonna cost going from cheapest to highest?

Mr. Hart: Maybe I could take a look at the HUD breakdown and see if I can figure that out right now, could I borrow that from you?

Mr. Medeiros: The only reason I asking is because you know like the breakdowns and everything yeah, I can't understand it, but a lot of my friends who watch this they just wanna know how much?

Chairperson Lay: At this time, Deputy Director would like to comment on what we're going through.

Ms. McLean: Thank you, Chair. I appreciate the applicant trying to give as clear an answer as they can to your question. I just wanted to remind the Commissioners that what's before you is a Special Management Area Use Permit. Affordable housing and the pricing of the units really isn't

under the SMA criteria. So it's a valid question, they'll provide an answer, but it's not really something that under the SMA process is a major consideration or should be conditioned or anything like that. We're looking at impacts to the coastal zone through this process rather than the pricing of the units.

Chairperson Lay: Thank you. Commissioner Wakida?

Ms. Wakida: I understand. Thank you, Deputy Director. This is probably part of a larger issue that I would like to see just addressed and I understand that it's a restriction on this about how we're really meeting the affordable housing market and low income. We look at an awful lot of luxury developments, high income developments, bed and breakfasts, all that sort of things, so I think this is a conversation that while it isn't a restriction for them, it's a conversation that the Planning Department needs to keep current.

Chairperson Lay: Thank you. Go ahead.

Mr. Hart: Apologize for the delay. So basically 30 percent of the units would be below moderate which is 81 to 100 percent of the median income and to reiterate, this is County of Maui workforce housing, but that's the ordinance, and so these are supposed to be normal working people in the County of Maui. At a interest rate of four percent which is assumed to be the rate when these are being sold, the sale price for the units, those units would be \$298,265 to \$331,500. For the moderate rate income which is gonna be 50 percent of the units that are being presented, the low sale price is \$364,565 to \$397,715, and then for the above moderate which is gonna be 20 percent of the units the low sale price is \$430,865 and the high sale price is \$464,015.

Chairperson Lay: Thank you, Jordan. Commissioner Wakida?

Ms. Wakida: Jordan, can you give me the date of what you're looking at?

Mr. Hart: Well, this is 2013 affordable sales price guidelines.

Ms. Wakida: Okay, I have 2014 so the prices are up.

Mr. Hart: Okay, I could read those if...into the record.

Chairperson Lay: No, not necessary. Anyone want to hear them? Commissioner Tsai?

Mr. Tsai: For the developer, you guys have funding in place?

Mr. Walker: Actually we do have several options. We have not finalized that at this time.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Follow up timeline for construction and completion?

Chairperson Lay: Please identify yourself too for the record?

Mr. Walker: My name is Greg Walker with Victory Development. We plan on submitting for permitting. Plans are fully drawn at this time and need to be finalized, but we plan on submitting for permitting in the first quarter of 2015 and based on receiving the permits, we'll begin construction after that. One of the things that need to be actually said here, you know, as far as money out go, by building a community like this in the community, we are bringing revenue to the tax base and all of that goes to the final dollar and you know, when you have vacant lots sitting there empty that does nothing for the County. And so we feel very good about that.

Chairperson Lay: Thank you. Commissioners, any more questions or...Commissioner Medeiros?

Mr. Medeiros: Yeah, I asked that question more out of curiosity because you know I just wanted to know, I mean, I like the project. I was gonna support it anyway no matter what his answer was. Okay, but sometimes it's a lot easier you know for me to understand what I'm voting for. The project itself it does add to the community.

Chairperson Lay: Thank you. Commissioners, any more questions or comments? Seeing none, can we get the Department's recommendation?

b) Action

Mr. Scott: The Department's recommendation is approval with the six standard and eleven project specific conditions. Commissioner Tsai?

Mr. Tsai: I move to approve as recommended.

Mr. Hedani: Second.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Tsai, seconded by Commissioner Hedani. Any discussion on the motion? Seeing none, can we...oh, Commissioner Hedani?

Mr. Hedani: I like the project. I think it's an attractive project from the standpoint of providing housing in a range that is affordable to a segment of our community. I think it's a needed project. I think it's positive for the Kihei area. I think that the improvements that are needed to Kanani Road and Auhana Road is something that should be undertaken by the County as soon as possible and I would encourage the Deputy Director to inquire with Public Works on what studies and improvements can be made to improve the safety of that area.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Yeah, I echo Commissioner Hedani's comments as well. I think this is a good project and I have to say you know, turning an empty lot into something people can live and affordable is a good idea. And I just hope the Department of Public Works can get that Auhana...Kanani, sorry, Road fixed and you know, paved, so...

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I agree with one of the testifiers, you know, Kanani Road does look like a third world country right now.

Chairperson Lay: Commissioners, any more questions or comments on the motion on the floor? Seeing none, can we get the Deputy Director to repeat the motion?

Ms. McLean: To approve the Special Management Area Use Permit for the project subject to the conditions in the staff report.

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

Ms. McLean: Seven ayes.

Chairperson Lay: The project passes. Congratulations.

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

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

Chairperson Lay: And Commissioners, we're gonna take a ten-minute break, reconvene at 10:45.

A recess was called at approximately 10:35 a.m., and the meeting was reconvened at 10:51 a.m.

Ms. McLean: Your second public hearing item is a request for Mr. Peter Martin of Makila Land Company requesting a Special Management Area Use Permit for the Makila Ranches Phase II Agricultural Subdivision creating 11 agricultural lots, one non-developable greenway lot, two roadway lots, and related infrastructure improvements including two drainage basins, site utilities and landscaping in the vicinity of Launiupoko inland from the Kai Hele Ku and Honoapiilani Highway intersection at TMK; 4-7-001: 026 in Lahaina. Kurt Wollenhaupt is the Staff Planner.

- 2. MR. PETER MARTIN of MAKILA LAND CO., INC. requesting a Special Management Area Use Permit for the Makila Ranches Phase II Agricultural Subdivision creating 11 agricultural lots, one (1) non-developable greenway lot, two (2) roadway lots, and related infrastructure improvement, including two (2) drainage basins, site utilities, and landscaping in the vicinity of Launiupoko (inland from the Kai Hele Ku and Honoapiilani Highway intersection) at TMK: 4-7-001: 026, Lahaina, Island of Maui. (SM1 2009/0014) (K. Wollenhaupt)**

Mr. Kurt Wollenhaupt: Good morning, Members of the Maui Planning Commission. Pleasure to be here today for this project which has importance not only to the developer but also to the County of Maui. I'm gonna be presenting just a brief overview on some historical information with regards

to how the County Council does figure into this project and then today, the project team members are represented by Heidi Bigelow and by Rory Frampton, they're the developers representatives, and Mr. Mich Hirano of the consulting firm of Munekiyo & Hiraga will be doing the extensive power point presentation. So I'm not wanting to overlap with what he's going to be saying.

The Makila Land Company is proposing the subdivision of a 214.46 acre parcel and that parcel's indicated on the viewing slide here in the gray. It's also in your booklets as Exhibit 3. As was indicated by the Deputy Director there's going to be a proposed subdivision of 11 agricultural lots that would be 1 to 11. These would be approximately 15 acres in size, and these would be for single-family homes. Each of those would of course be required to go through the farm plan process so that the agricultural sense of this area would be retained.

In addition, and where it becomes important especially to the County of Maui is the nondevelopable greenway lot known as Lot No. 12 of approximately 37.7 acres. If we're to go back for a little bit of history here. The 214.46 project acre site along with 148 acres south of Kai Hele Ku has been the subject of an intensive County Council debate in late 2013. At the Council meeting of December 20, 2013, the Council did adopt Resolution 13-151 which is in your packet to authorize the purchase of 186 acres at Launiupoko encompassing not only this in light green, but also our nondevelopable Greenway Lot No. 12. Therefore, what the Resolution 13-151 which is entitled approving the acquisition of approximately 186 acres, Launiupoko, Maui, Hawaii detailed was that as of now the County of Maui has purchased this parcel, County Property A of 148 acres. That has closed, the County owns it.

How today's project figures in with Resolution is this nondevelopable Greenway Lot which is tied into the greater application for subdivision that we're going to be reviewing today under the guidelines of the SMA Rules. This nondevelopable greenway lot of 37.7 acres is part of today's SMA application and is important from the standpoint of the overall Maui Island Plan which is shown in Exhibit 45 under the name of Protected Area Diagram Lahaina Central Map WC-1. The importance is that this is to provide a greenway which will be owned by County of Maui from the Olowalu landfill area all the way to the Puamana Beach Park. Why this is important and how it effects today is that, and quote from the acquisition agreement of Section 7 of the basic provisions, "The closing date for this property transaction, that being the property transaction for sale from the developer to the County of Maui of this greenway lot shall be within 27 months of the effective date or within the 45 days of final subdivision approval whichever occurs first. Failure to meet the closing date or extended closing date may result in the termination agreement by the County." So therein lies the County's interest of course in this property is to ensure in perpetuity that there will be a greenway along the ocean in this area of Launiupoko. Much of the other information that's now to become will be presented by Mr. Mich Hirano. They're going to be discussing in detail the specific subdivision itself and how it relates to the SMA. So I'll just get his presentation up here in just a second. So Mr. Mich Hirano of Munekiyo & Hiraga will do the presentation. Thank you.

Mr. Mich Hirano: Thank you, Kurt. And good morning, Chair Lay and Commissioners, and Deputy Director and Corporation Counsel. My name is Mich Hirano with Munekiyo & Hiraga and we're representing the applicant, Makila Land Company with the SMA application before you this morning. We've prepared a power point presentation just to give you an overview of the project and just talk about some of the features of the development as well assess it in terms of the SMA criteria.

This is a recent location map. I think everyone's familiar with the project area. It's south of Lahaina. It's in West Maui. Bounded in the south by Kai Hele Ku, Kai Hele Ku Street and Puamana Park in the north. It's just mauka of Honoapiilani Highway and it is bordered by the proposed Lahaina Bypass southern terminus route on the eastern boundary.

Project site description, it's located in Launiupoko. In West Maui agricultural land has been used for cattle grazing, former sugar plantation land. It's identified by TMK: (2)-4-7-001: 026. So it is one large parcel of approximately 214.6 acres. This is just some photographs of the subject property. This is sorta standing on the mauka side of the property just by...here's Kai Hele Ku Street, Launiupoko Wayside State Park, in the midground Honoapiilani Highway, and Lanai looking in the distance to the west. Again, this is looking north to the project. It's sort of very gently sloping agricultural land, ...(inaudible)...grassland. It ranges in elevation from about 15 feet above mean sea level on the western portion of the property up to 130 feet above sea level. So it's very low elevation in the foothills of the West Maui Mountains. Here's looking at an eastern view or mauka view of the property, again, very gently sloping up towards to the West Maui Mountains.

As Kurt had identified, the project involves a number of components. It's a subdivision and this SMA is for the subdivision action and for the improvements of that subdivision. It involves 11 agricultural lots of approximately 15 acres in area. There is a one nondevelopable greenway lot of approximately 37.7 acres, and this will be purchased by the County for the Olowalu to Puamana Greenway Plan. There are two internal roadway lots which will provide internal circulation for the subdivided lots. The project also involves underground utilities, roadway improvements, and drainage improvements. There will be landscaping along the roadway, and the project also accommodates two alignments for the southern terminus of the Lahaina Bypass.

This is the project in kind of its regional context. The Lahaina Bypass right now there is a section of the Lahaina Bypass that is constructed and it...you access it off of Honoapiilani Highway from Hokiokio Road and then you go north and Keawe Street you come back down into Honoapiilani Highway. The southern terminus is a southern extension of the bypass from Hokiokio Road going south. The current alignment terminates just south of Launiupoko Beachside Park. The alternative that the Department of Transportation is seriously looking at and is the preferred alternative which is subject of an Environmental Assessment is a southern more mauka alignment of the bypass southern terminus and it will be...it'll terminate and rejoin Honoapiilani Highway near the former Olowalu landfill transition site.

There are 11 agricultural lots in the subdivision. This is the...in the greenway lot, this is the 37 acre greenway lot that will be upon final subdivision be purchased by the County of Maui. In it, is the Lahaina Watershed Flood Control Project...a portion of that project which provides storm water management for the West Maui Mountains and it terminates within the greenway lot. There are the roadway lots. This is one Roadway Lot A and then this is the other roadway lot that joins up on the mauka connection. And again, these are the two County parkway plan lots that will be part of the greenway plan from Olowalu to Puamana.

So in site plan, in terms of the details of the project again, 11 agricultural lots approximately 15 acres in area. They will be accessed by this roadway lot which is Roadway Lot A, and Roadway Lot B will provide access to the agricultural lots. The greenway lot runs on the makai side of the

roadway lot. There will be again, the alignments have been sort of designated through this subdivision. The southern terminus alignment and there's alternative B and alternative A which is a more mauka alignment of the southern terminus.

This is a photograph of some of the current development and improvements. This is the outlet of the watershed, the Lahaina watershed flood control outlet and debris basin. The County had built this portion of the drainageway plan a few years ago and they're working from the south to the north on it and eventually will be crossing the Kaula Stream.

I'd like to just highlight this particular slide in that there are two, I guess areas of interest and of concern to the project that relate to the project. This kind of red line is the SMA line. Generally the SMA line runs along Honoapiilani Highway, but it also crosses Honoapiilani Highway and goes mauka of the highway in the various...and along sections of that route and this is the SMA line as it relates to the subdivision. So the subdivision, most of the subdivision is mauka of the SMA or outside the SMA. However, there are some small pieces of the roadway and some of the improvements that will be in the SMA. And then this orange line just below or makai of the SMA line is the 150-foot shoreline setback line which is measured from the shoreline which is this green line, this surveyed shoreline fronting Honoapiilani Highway and also because of the Shoreline Rules that setback is a 150 feet from that shoreline and it goes into...although this is a not a shoreline property, it does go into the property and the improvements that are being proposed with the subdivision improvements are outside the shoreline setback area.

This is the drainage plan for the property and for the development. There are two drainage basins that are being developed which would take the storm water runoff from the roadway improvements and these are in the lower portions of the site. Each individual landowner will be responsible to carry out drainage improvements on their property as they develop the property for their farm dwellings as well as for their agricultural purposes.

Internal circulation again, the connection for the property and the subdivision is along interior Roadway A which connects to Kai Hele Ku Street and then will access the current Honoapiilani Highway and this is a controlled intersection, traffic signal lights, three-way or four-way sort of intersection. This leg of the intersection is really the driveway into the parking area for Launiupoko State Park.

The project in terms of its criteria and assessment to the SMA Rules it does maintain the open space resources. There are...it's a low density agricultural development with 15-acre minimum lot size. So it's a very low density project. The proposed design guidelines will also be established which will further help mitigate any visual impacts and maintain open space resources and heights of buildings will be restricted to 25 feet maximum height. It's an Agricultural zoned area and the permitted height in the Agriculture zone is 30 feet. So these will be five feet lower so they're making an effort to maintain the visual resources. There'll be fairly large setbacks from the proposed bypass corridor so the setback to maintain a makai view of the ocean there will be a 150-foot setback for any buildings from the corridor which will then, you know, maintain the open space view corridors to the west or looking over the ocean. And then from the existing Honoapiilani Highway, that 37-acre greenway lot will also maintain open space resources for the mauka views up to the West Maui Mountains.

Again, this is the...just sort of an idea of what the setbacks will be. It's hard to read on this map but there is a very fine line that just shows you where that setback will be from the(inaudible)...on the makai side of the bypass route. And then again, looking on the...to the...to preserve the mauka views along the existing Honoapiilani Highway, the greenway lots not only on this property, but on the adjacent north property that's purchased by the County will also maintain the mauka views.

There was a site simulation view analysis done on the...from the alignment of the Lahaina bypass southern terminus and as you can see here this is the view corridor along this access route and looking over to Lanai and you could barely see the buildings in this simulation. So again, lots of open space still being maintained by this project. And then this is one looking at this Section B, and this is from the mauka alignment, Alignment A, Alternative A of the bypass southern terminus, and again, as you can see from this vantage point, the three homes a lot of still open space. These homes are actually below the canopy, the existing canopy that you see over Launiupoko State Park.

The project is in compliance with the County Plans, Policies, and Objectives. It maintains the agricultural land use designation. The underlying zoning is Agriculture and Community Plan designated as Agricultural land use. The greenway lot would allow for the mauka relocation of Honoapiilani Highway if necessary. And this is language that was incorporated into the Maui Island Plan. And then, then it also implements the Maui Island Plan with respect to the greenway lots and the open space park resources along that western waterfront and shoreline. An archaeological investigation was also carried out.

There was an inventory survey done of the entire property. Three sites were identified within the project area and these included rock clearing mounds, terraces and irrigation ditches and these were all post contact features that were all associated with the sugar plantation that was carried out on that land. The archaeological monitoring of...there was requirements from the State Historic Preservation Division about archaeological monitoring because of these rock formations. And these rock formations were found to be basically pushed piles of agricultural clearing. So further archaeological monitoring was carried out on, excuse me, on adjacent rock mounds near the project district not within the project area. And there were no cultural features found within those push mounds or rock mounds and they were determined to be just related to agricultural clearing of the sugar cane fields and so at that follow up assessment, SHPD said no further work was required for the archaeological features of these sites. Nevertheless, archaeological monitoring will be carried out during the grading of the roadways and ground disturbance of the property.

A cultural impact assessment was also carried out by the archaeological firm and the interviews were carried out with five native individuals and organizations that were very familiar with the West Maui area. The interviewees were not aware of any cultural activities that were associated with those portions of the land that make up this subdivision the 214 acres. And they felt that, they determined that there would be no cultural impacts that were associated with the development.

And lastly we talked about the community benefit and this is really a piece in that overall puzzle that would allow the SMA approval by this body, it would allow the subdivision to be finalized. On the finalization of that subdivision, the 37.7-acre greenway lot will then be transferred over to the County which is part of the proposed 2.5-mile greenway plan from the Puamana to Olowalu area. The plan then also in the regional context and allows or accommodates the mauka alignment of the Lahaina bypass southern terminus and this would result in reduced impacts to the future County

lands and greenway plan. And again, just to, you know, reemphasize, this is the project. The components of that project which will be finalized is this 37.7 acre transfer to the County. This is the southern portion and outlet for the Lahaina watershed project. The landowner, Makila Land Company has dedicated this alignment, both alignment alternatives to the State Department of Transportation for the mauka...for the Lahaina bypass southern terminus alignment. This was a...this land was given to the State of Hawaii and Department of Transportation for that portion of the route. And then again, the final subdivision will involve the roadway lots and the 11 agricultural lots. So thank you, and the project team is here to answer any questions the Commission may have.

a) Public Hearing

Chairperson Lay: Commissioners, at this time I'm going to open up to public testimony. The first one I have on our list is Wendy Taomoto on behalf of the Mayor.

Ms. Wendy Taomoto: Hi, I'm Wendy Taomoto from the Department of Management. I'm going to read the testimony of Mayor Alan M. Arakawa.

Good morning, Planning Commissioners. On behalf of the Mayor's Office we would like to thank you for your thoughtful consideration of Makila Land Company, LLC's SMA application for the Makila Ranches II Subdivision.

During the 2013-calendar year, my office presented the Launiupoko land acquisition to the County Council. This acquisition represents a major step towards accomplishing the goals, the overall goal of a greenway project from the Pali to Puamana which was initiated many years ago. After due deliberation, the Council approved the Launiupoko land acquisition in the beginning of 2014.

The County's acquisition consists of two parcels acquisitions. The first acquisition, which was completed in February of this year, was the acquisition of 148-acre parcel immediately south of the Ranches II Subdivision. The second acquisition of approximately 37.7 acres is pending final subdivision approval of the Ranches II Subdivision being considered today.

Much thought and deliberation has gone into the County's acquisition and we believe it will provide long-term benefits to Maui residents and visitors for generations to come. On behalf of the County Administration, we request your favorable consideration of the SMA Permit for the Ranches II Subdivision.

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

Mr. Keeaumoku Kapu: Aloha kakou.

Commission Members: Aloha.

Mr. Kapu: My name is Keeaumoku Kapu. I live in the valley of Kauaula, and this is not the first time for us with any type of development like this especially in those areas. We've been for years and still today in litigation on a lot of issues that have arised with Makila Land Company and Peter

Martin. And that's not the reason why I'm here to bicker about the past.

What I'm here for is to make sure that this body considers a lot of things that has definitely not been placed on your review. One of them are to make sure that unobstructed easements or accesses to the mauka areas be provided for kuleana land owners that still live mauka today. None of that was discussed. I know there have been roadways that was set in for the families that live mauka but now that the development in the area definitely, drastically changes the outcome for our families and they questioned us to why we're here today.

Another one is to...well, maybe I gotta go little bit back on the historical part about this whole thing. It wasn't about the development, it wasn't about homes, it wasn't about providing, you know, a whole amount of new homes to be provided for people that don't live here. It was about where we fit in the equation, our kuleana families that live mauka in this valley. How much of this development is gonna impact us, our natural way of life, our everyday uses, and rights to our water so we can our taro. We wanted to know where we fit in? Where is it that is gonna be to a point of we being extinct from this valley, from being deprived of doing the things that we naturally did before for generations.

So with that said, my question is, okay how much water they going draw from that valley? They cannot get that much from Launiupoko. We already know how much water they're getting. So how much more water they going draw from Kauaula Valley that going deprive us as kuleana landowners to do our traditions and our practices for the next generations to come. How much more of those resources that going be deprived from the families that live there. We get about 50 families live in the valley that been living the kuleana lifestyle for a long time. And years, I can say 2001 was the first time when we came in front of this body or in front of the County body on other different developments as you can see how Launiupoko has grown so much, yeah, that everybody benefits over there all except for the hiapo or the people that is of this place.

So I place this upon all of you to make sure that you ask those right questions on how long we going get when we going get deprived of our access rights, our mineral rights, our water rights. How long is it gonna be until we going progress or do we progress or are we progressing? Today, I can tell you all right now, we're not progressing one bit. Every time development comes within these areas, the big question we ask is where do we fit into this development? Where are we a part of this? And still today, nothing.

Chairperson Lay: Keeaumoku please conclude.

Mr. Kapu: Okay, so high considerations. You know they claim that they went to five organizations. On the historical part, there's no mention about Hirai Camp being placed on the bottom as part of the archaeological inventory survey. The Hirai Camp which was a mill camp also had a cemetery down on the bottom that I can introduce to some families that claim—

Chairperson Lay: Thank you very much Keeaumoku.

Mr. Kapu: —that they have burials down there. So highly consider this. A, I know this thing is already paid off already with the Mayor—

Chairperson Lay: Thank you, Keeaumoku we're gonna have to conclude right now.

Mr. Kapu: --with the Mayor automatically supporting this project with a pen of \$13 million that the County already bought this thing out.

Chairperson Lay: ...(gavel)...gonna take a recess.

Mr. Kapu: --so you know what, do you guys due diligence. Don't just swipe this off the face of the map thinking we no exist. Okay, do your due diligence.

Chairperson Lay: A three-minute break everyone.

A recess was called at 11:22 a.m., and the meeting was reconvened at 11:25 a.m.

Chairperson Lay: Back to order. Our next testifier we have Uilani Kapu.

Ms. Uilani Kapu: Aloha mai kakou.

Chairperson Lay: Aloha.

Ms. Kapu: Uilani Kapu, Kuleana Kuikahi, LLC.

Chairperson Lay: Oh, excuse me. One second, I have a question. Thank you. Commissioner Hedani?

Mr. Hedani: We were gonna be given a chance to question the prior testifier?

Chairperson Lay: Oh, excuse me. Yes, yes we are. Excuse me on that. Commissioners, any questions for our testifier?

Mr. Hedani: Yeah, I wanted to ask Keeaumoku if he could point out to us what land he's talking about in terms of kuleana lands and families that are being affected?

Chairperson Lay: Okay.

Mr. Keeaumoku Kapu: We live mauka of the whole development area. So right along Kauaula River. This is I'm assuming, yeah, Kauaula Puehue. So right in this area over here we have families that live. I know it's far away from the development area, but the resources come from our valley. The resources, the accesses that was provided for our family. We get some government accesses that we use on the north side of Kauaula River. So we're not impacted. The general families that live along side this area here--

Ms. Uilani Kapu: Road B is their access so...

Mr. K. Kapu: There's Road B.

Ms. U. Kapu: Right there on Lot B...(inaudible-not speaking into a microphone)...

Mr. K. Okay, so there seems to be some kind of provisions, I don't know what Road B is all about, but there's concerns on how this development is gonna really impact our families that live mauka.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Yes, couple questions. One is who do you represent?

Mr. K. Kapu: My wife is president of Kuleana Kuikahi, LLC. I'm the CEO for Aha Moku O Maui, Inc. Aha Moku O Maui, Inc., was formed in 2007 by a signature by Linda Lingle, the Governor in 2007 forming the Aha Moku Council, and I'm the CEO for that.

Mr. Higashi: Your testimony was you're concerned about water usage?

Mr. K. Kapu: Yeah.

Mr. Higashi: According to the Department of Water Supply, County, they said that this particular applicant is using two sources. One is private water system, is that part of your well or something that you're talking about?

Mr. K. Kapu: I think the private water system would come from Launiupoko Irrigation Company, but there's two sources. Launiupoko and Kauaula. Another thing, that valley is not a State management area. It's a private watershed. So in this....(inaudible)...there's conditions set on how much the families going get that changes, depends on how the water runs in that area. If there's a breakdown, we call, the come up, they fix it. Yeah our concerns is now that the development is gonna get broader, how many more times we gonna have to call to make sure our taro, yeah, well, you know what I talking about.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Has the Aha Moku Council had an opportunity to take a look at this?

Mr. K. Kapu: The Aha Moku Council was finalized in 2012 by a signature from Neil Abrecrombie placing the Aha Moku Advisory Committee under DLNR. So we've come in front of the Cultural Resources Commission to share what this whole thing was all about but it was definitely mandated that the County and State Agencies need to comply with the Aha Moku Advisory and there's a website, Aha Moku O Maui.org You can find more information on there about what we're all about and what basically...we've gone for testimony in front of the GPAC to make sure that ACT 212 of the Aha Moku System was implemented in GPAC. They required that the County seek the resources or recommendations from people that live within the ahupua`as or lived within these areas that may be detrimentally impacted to get recommendations for families that understand the areas, understand the history, the archaeological sites. You know, I sorry for me going off a hand from before, I apologize to everybody, but this is a lot of things is very, very touchy in these areas because one change can change the outcome of the families that living in the valley. And despite of what the conditions are I think that memorandum should be put together to make sure that the families are not wondering what's gonna happen for the next seasons to come.

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

very much.

Mr. K. Kapu: Thank you.

Chairperson Lay: Our next testifier Uilani Kapu.

Ms. Uilani Kapu: Aloha mai kakou. Uilani Kapu, President of Kuleana Kuhikahi. To answer your question, no, the resident and Ahu Moku has not been available for this project. We had no clue about it until we saw it on the Planning agenda. So to go back on that one, the communities, the site that's on here it kind of questioned us listening to this that is this a tradeoff? Because we remember when it was in front of GPAC there was no building below the bypass and now this comes out, I don't know if it's a tradeoff with the Mayor or what so we wanna find out about that or is it an approval of 37.7 acres for 11 ranch homes? And then my husband brought up Hirai Camp being there. I also have Road B, is it gonna go under the bypass or is it gonna connect to the bypass, how is that gonna happen because I remember in the GPAC we didn't want any connections to the bypass unless it was from a heavy set road like Keawe Street.

Also again, ocean management due to runoffs. We have five different limus that are within that ocean over there. Who's gonna be managing the runoffs because that place turns red big time and it just covers up our reefs. So who's gonna be responsible for all of this.

And then who's gonna be responsible for the retention basin that's on Lot 10 and 4? Being that's gonna be put in, where's that retention water gonna go? Is it gonna go in our ocean? Again, who's gonna manage our ocean because during the flood project, we had a problem with them shooting out from Puamana and then they went farther out past Puamana Beach Park where they're relocating over there. So that one we're holding the State responsible for. They're the ones that's gonna be responsible for the management of that, but who's gonna be responsible for the management of the two on Lot 4 and Lot 10, the people that buy those lots? So who's gonna uphold that to them saying that they're gonna be responsible for it? And what type of responsibility are they gonna be having? Is it gonna be three-month cleanup, is it gonna be every single month cleanup? We wanna know all of these questions because we use that ocean right there.

We wanna know who's gonna have the height restrictions for our view planes to be official for everybody that's gonna be traversing on the bypass if this project goes through. Because like I said, my understanding was there was not gonna be any development below the bypass. When did it change?

So that's the only things that I want you folks to think about before passing it through. It's a big project that it...that's gonna encompass here. The lots are gonna be huge 15 acres. Are they gonna be able to subdivide later on in the future like they did--

Ms. Takayama-Corden: Three minutes.

Ms. U. Kapu: --on the top ones. Those are type of questions that I wanna know the answers for. Mahalo.

Chairperson Lay: Thank you. Commissioners, any questions for the testifier? Commissioner

Higashi?

Mr. Higashi: First of all--

Chairperson Lay: Into the mic please, Mr. Higashi. Commissioner Higashi if you can speak into the mic?

Mr. Higashi: Oh, excuse me. First of all, do you own any of the property from the old Hawaii land acquisition, the ahupua`a that you were mentioning about this particular area?

Ms. U. Kapu: In Launiupoko I do not own property in Launiupoko there is...I mean, they're saying it's Thomas Phillips. But before that it was Kuleana lands, yes. In that sense we do because we did have court cases on below during the flood project that was maintained...that we wouldn't...the state took over. It went through Makila Land Company, they got paid off the \$13 mil for all those properties on the bottom. And then we live up top. I, personally, my husband's family is Kuleana land owners. I live...my family is more down by the other ohana that lives on the bottom, the Palakikos and the Dizons. That's where my ohana is. So I do have Kuleana, but it's not under our family right now, it's under my husband's. So our concern is just for the access and for...but within this area, no.

Mr. Higashi: Okay, the other question is you know, that water, there's water that's going into the basin, catch water--

Ms. U. Kapu: Yes.

Mr. Higashi: What is the rainfall situation that would create water to be settled in that particular area?

Ms. U. Kapu: It's a 50-year thing. It's a 50-year flood because by the...what is that our swimming pool, it builds up, it backs up constantly every time we have heavy rains. But now that Mokuula is going to be coming back where it's slowly coming through the process, Army Corp of Engineers is in it, the water retains there, that was a traditional waterways so it was just determined as a 50-year flood project plan that set forth because it always used to fill up on the bottom side?

Mr. Higashi: So in your own recognition did you ever see that much water?

Ms. U. Kapu: I've seen it. I've seen it.

Mr. Higashi: Once, twice?

Ms. U. Kapu: Once.

Mr. Higashi: Thank you.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none, thank you very much. Does anyone else wish to testify at this time? Seeing no one, public testimony...oh, excuse me. Please identify yourself and you have three minutes.

Ms. Sybil Lopez: My name is Sybil Lopez. I am not speaking...I am speaking on behalf of one of those kuleana landowners that lives up there. I just felt the heart and the need to just come up and just give a little history of where that is. That's where my mother resides right now. She's part of the kuleana properties.

Just to explain the Road B, that's the access that we were given. Prior to that access we had where the watershed project is, but it closed down because of that. So they put a...that blocked that original access which was the old Lahaina Town Road. That was our road, then our road was Kauauola Road. That got blocked off as well. So right now the only access we would have had was the Road B, and now it would be Kai Heke Ku Street. So that would be the only access right now that we are able to get up to our property. That's all I wanted to say.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you very much. Does anyone else wish to testify at this time?

Ms. Wakida: I have a question?

Chairperson Lay: For her?

Ms. Wakida: Yes.

Chairperson Lay: Okay.

Ms. Wakida: I apologize, it took me a minute to process some information. Your access to family property comes up through there. Where does it cross Kauauola Stream?

Ms. Lopez: On our property. So it's all dirt road and gravel. So once we get off the paved road, but every time our original road always moves. So we first would go through...our first...I've been raised there all my life, so the first access I ever knew of was during the sugar plantation and we would go on the dirt roads up. The next one would be when Lahaina aquarium came into place. So they made our access come through there. So we would always go through Lahaina aquarium up until they closed that place down. Then they put it around where the watershed project is currently, and then they closed that place down. So the next access would be Road B, but because it's unpaved we would go on the paved road, the Kai Heke Ku Street currently.

Ms. Wakida: And then, but I'm just...the property to the south of Kauauola is...does your family property, is your family property on the south side on the...on the Kihei side of Kauauola or on the --

Ms. Lopez: The way we live on that area is on the Kauauola River. So we do all of our cultural traditions using that river streambed that comes all the way down to Puamana.

Ms. Wakida: No I, no I understand, but what I'm trying to get at is I'm just not clear how you get across the stream, at which point you get across the stream. Is it up by the reservoir?

Ms. Lopez: No, it's...so the reason why they moved our roads a lot is because of the development and the selling of the lands that originally have access to our land. So that's why it kept on moving,

and I don't know if I'm answering your question on the property.

Ms. Wakida: No. Perhaps Pua can show us where the...how you access today up there from the Launiupoko side.

Ms. Lopez: So yeah, we would go off of Kai Hele Ku Street, then what is that road? That road, yeah following the laser, then you go up somehow Wainee in that area, then you go up that...you know where Lahaina Stables are?

Ms. Wakida: Yes.

Ms. Lopez: So that's our cutoff because that's where it doesn't, it doesn't get any paved any more. So it goes into our roadways. So the only landmark that we had was the two telephone poles, and so we would have to look at the telephone poles and that's where we would drive through, but it no longer exists because of the fencing, the other landowner...the newer current landowners and so they would always reroute us, so...

Ms. Wakida: Okay, okay, I understand.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none, thank you very much. Does anyone else wish to testify at this time? Seeing no one, public testimony is closed. Commissioners, now we're moving onto questions and comments.

Vice-Chair Ball: I got a question, I guess.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: So let's go back to this Road B for the developer then and address this, what we're talking about here as far as your concern?

Mr. Hirano: Rory Frampton with Makila Land is gonna just address that.

Mr. Rory Frampton: Okay, what I'll address right now...sorry, Rory Frampton. I'm a planning consultant for Makila Land Company and I'll address the what alluded in the previous speakers in terms of access up into the...for the kuleana properties up in the valley. As was pointed out earlier, the valley...Kauaula Stream comes right down through Puamana development and then it runs mauka of this way all the way and there's a couple areas where there are kuleana families located and they had different...well, two of the lower ones which are roughly in this vicinity and then a little bit higher up, they have access on the south side of Kauaula Stream and so as was described earlier, their access has been modified as the flood control project has come forward and as the various subdivisions, but there is an easement in favor of those families to guarantee access from this side of the property up mauka. And they cross the stream up near the top and they actually, they actually cross over the streambed, I think it's in their properties or it may be in the vicinity of where their property is located. That's for the lower people

Up mauka, the Kapu Ohana, their access is on the north side of Kauaula Stream. And if you were to travel the bypass today if you look real quickly you can see where they made an underpass to

accommodate that mauka access. That same situation will happen here. So the old access, the historical access was roughly in this area. An easement was granted to them which, sorry for flipping around here, you can see this dirt road that goes up, that's where if they wanna use the dirt road they can go up that way right now and there's an easement on that road. Or if they wanna go on the paved road they gotta go all the way more of a ... (inaudible)... route through the various subdivisions. Once, once Roadway B is developed that access easement will be placed over. It's a relocate, relocateable access easement. The access easement will be placed over Roadway B and all the way up to their properties and through here so they will be... not only will they be allowed because the public is gonna be allowed to go on these roads, but there will be a specific access easement in favor of those families that will remain in perpetuity. And mainly because of that those access rights and that easement, the State of Hawaii on the south side of Kauaula Stream will be having an underpass so that access can continue mauka and it was largely on the bases of there being an existing easement in favor of the families up there that the State of Hawaii recognize the need to have a underpass similar to the north side of Kauaula Stream for the mauka kuleana families. So any ways, that's how... so access have been considered and will be provided... Yes, it will be relocated but now it will be paved and the access easement for those families will remain in place. So for the long winded discussion.

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

Mr. Hedani: This is a question for Mr. Frampton. The families, the families in the valley were concerned about water right--

Mr. Frampton: Yes.

Mr. Hedani: What can you say about that. Who owns the water rights in the valley and how are the Kuleana water rights being protected?

Mr. Frampton: That's a complicated question and I'll give you a simple, straightforward answer. The water diversion in Kauaula Valley and Luaniupoko Valley was created by the Sugar company way back probably a 100 years ago or close to. And there were diversions, there were source development tunnels that were put in place and diversions put in place for irrigation water. When Makila Land Company purchased the land from the plantation, those diversion structures were transferred over to Makila and they formed a irrigation company, Launiupoko Irrigation Company that now basically manages those structures. And so it's Launiupoko Irrigation Company basically inherited the old former plantation irrigation system and it's being used to supply non potable water for the various projects in the area as well as it provides water for the kuleana families and so, you know, once Makila came in there was a rudimentary kind of a water supply system previously. Makila did come in and Launiupoko Irrigation Company did put in, upgraded the filters, and put in lines and maintains the lines for the families that have been discussed, the families. There's basically three concentrations of families, and all those three areas do get water from that diversion system that was inherited from Pioneer Mill. And they do grow taro loi up there like the previous speaker mentioned. So there are no plans to eliminate the use of that water for those purposes.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess the question that I had is my understanding of kuleana water is that it's

protected water forever. That a property that has kuleana water rights cannot be cut off from that water. Is that your understanding?

Mr. Frampton: That's my understanding too. As the previous speaker mentioned it's not a regulated management area, but I think the kuleana waters are...it's my understanding is that they're protected as well.

Mr. Hedani: And so, I guess my question is is there a commitment from Makila Land Company if you're owners of the water rights to ensure that that continues in perpetuity for the families that have kuleana lands.

Mr. Frampton: Yeah, they do not plan on cutting off that water. The issue of water rights and when you say ownership of water rights that starts getting into I don't know if that's the proper terminology but they do manage the system and they do intend to keep the waters flowing for the kuleana land uses. Yes.

Mr. Hedani: So the answer is yes?

Mr. Frampton: Sorry, yes.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: On the issue of water in your report it says that the potable water comes from a well and the nonpotable water comes from a reservoir which is fed by a tunnel and where does the tunnel lead to?

Mr. Frampton: The tunnel is way up mauka. So back when they...in most of the valleys up in West Maui and what they did was they went way up mauka and they drilled holes into the valley walls until they found perched water sources. And when they did find those sources that became a...they're actually given well numbers. And so it supplies water to the streams and actually allows for a more stable rate of water flow. So in addition to the natural stream flow, the water from the stream is supplemented by these source development tunnels is what they're called. So that's the reference to the tunnel it's it empties into the stream, come down the stream, actually runs through a diversion, goes through a hydropower plant--there is a hydropower plant up there right now--then goes into a siphon and into a reservoir that's referenced in the report. And from that reservoir it gets distributed more to south side of the area.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Just a side note, but kuleana water rights I do...I believe that I've read that kuleana water rights were contingent on growing taro as Mr. Kapu does, that was a provision for kuleana. I don't know if you can confirm that.

Mr. Frampton: I believe that would be one of the reasons for allowing use, but I think there's multiple bases to claim water use rights for kuleana purposes.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Rory, do you have your drainage person here?

Mr. Frampton: No, but I could answer those questions.

Ms. Wakida: Okay, could you pull up the map that has...that one I guess it will do. It has the retention basins on it.

Mr. Frampton: The one, the drainage plan has, yeah.

Ms. Wakida: Okay.

Mr. Frampton: Yeah.

Ms. Wakida: And those retention basins, can you repeat what those retention basins serve?

Mr. Frampton: Those serve the improvements from the subdivision. So they're gonna be grabbing the increase in water that's created by the paved roadways would be going into these detention basins so that the improvements from the subdivision would not create any additional net increase in water.

Ms. Wakida: So for example Lot 7 or the roadway adjacent how does that flow get to those retention...one of those retention basins?

Mr. Frampton: Lot 7's...so the drainage basins will be taking water from the roadways. Each individual property owner will be required to have an engineer and to provide that no increase in water comes off of their property and because each property and we don't really know...we don't really know how the owners are gonna develop their property and what kind of uses and what kind of ag and where they're gonna put their homes, it's gonna be up to the land owner that's gonna be required to hire a civil engineer and consult with the Natural Resources Conservation Service to develop basically a runoff plan from their property.

Ms. Wakida: Yes, that wasn't quite my question. My question was the road that's adjacent to, how is the runoff, how is this graded so the runoff from the road gets into one of those two retention basins?

Mr. Frampton: Through grass swales that run along the roadway.

Ms. Wakida: And while--

Chairperson Lay: Go ahead.

Ms. Wakida: --on the question of retention basins, a testifier brought up about the...who's responsible for those retention basins?

Mr. Frampton: It will be the homeowners association.

Ms. Wakida: They would be on private land, correct?

Mr. Frampton: Correct. As most of the other developments in that area have established drainage facilities that are maintained by the homeowners association. So you pay, as all the owners, you contribute to the fees and they're maintained by the homeowners association. There'll be easements over the basins in favor of the homeowners association and they'll actually be responsible for maintenance.

Ms. Wakida: Okay.

Chairperson Lay: Commissioners? Commissioner Wakida?

Ms. Wakida: I still have some more drainage questions.

Mr. Frampton: Okay.

Ms. Wakida: On your predevelopment drainage area map, you show three culverts which are a little bit of a concern to me because these empty right into the ocean and I share Mrs. Kapu's concern about things getting dumped into the ocean there. Are culverts 1 and 2 still there because the State came in and did a bunch of improvements?

Mr. Frampton: So I think on this map you're referring to the existing culverts 1 and 2--

Ms. Wakida: Yes.

Mr. Frampton: --that go under the existing Honoapiilani Highway.

Ms. Wakida: Yes, are they still there?

Mr. Frampton: That's my understanding. The work that you were talking about was--and this map probably doesn't actually show the shoreline--but there was some, a lot of shoreline erosion on the north side of Launiupoko Beach Park.

Ms. Wakida: So my question if they still maintain those culverts?

Mr. Frampton: That's my understanding that they have not been eliminated.

Ms. Wakida: And those culverts capture drainage from all sorts of places is that right?

Mr. Frampton: Those two culverts capture drainage from fairly large basins that run mauka up to the upper ridges. So yes, those are the two significant outlets for drainage coming from mauka above the development areas.

Ms. Wakida: You're planning to have post development retain their runoff on site correct?

Mr. Frampton: The homeowners they will generate no more runoff than what's coming off their property now.

Ms. Wakida: Okay.

Chairperson Lay: Commissioners? Commissioner Hedani?

Mr. Hedani: I have a question about the Pali to Puamana Parkway. I don't know if the Department has a position on that or if you can describe what that is supposed to be and what it's supposed to look like? Okay, here's my question. Let me be more specific. The SMA area is defined by the state highway closest to the ocean. When the Lahaina bypass goes in, does that become the state highway closest to the ocean and does the State abandon Honoapiilani Highway in favor of the County, for the County to take care of Honoapiilani Highway as its responsibility in the future or what's the plan on that?

Ms. McLean: The SMA boundaries in general follow coastal highways but not always. If the coastal highway moves whether it's makai or mauka, the SMA boundary stays where it is. That is the map that was adopted at the time those lines were drawn and those lines do not change unless new maps are adopted and through countywide, statewide. So should that roadway move mauka, I know it is this Mayor's intention anyway to have the existing makai alignment be used as more of a bikeway, pedestrian way in general not for vehicular traffic and have that the whole area that would be makai of the new mauka alignment be this parkway. In terms of ownership, I think he would like to, this Mayor would like to take ownership of that entire area, but that's a huge undertaking, requires discussion with the Council, discussion with the community. I think that's what he would like to see, but there are a number of parties involved if we could get to that point.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: So everything that we see in green would become a park is where we gotten with?

Ms. McLean: In general, that's the...that was the original plan. But between now and when that actually happens--

Mr. Hedani: Subject--

Ms. McLean: --it's subject to, yeah, to existing ownership, whether it's the State, whether it's private owners, there are a number of factors that could change what the lands are used for.

Mr. Hedani: Far enough.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Along this line I have a question for such Mich, and it has to with Exhibit 17 which is a response to the Department of Parks and Recreation. You there?

Mr. Hirano: Yes.

Ms. Wakida: On No. 3, the last sentence, the nonbuildable greenway lot will be retained by the applicant. What greenway lot is that being...is that referred to?

Mr. Hirano: As you can see this letter was done in 2010. At that time, it was a private parcel. But it's the 37.7 acre greenway lot that the County has purchased.

Ms. Wakida: So this statement is no longer true?

Mr. Hirano: It's stated by the fact that of the recent developments with the County's purchase of the 2.5 mile stretch of land.

Ms. Wakida: Okay, so just to be clear this greenway lot will not be retained by the applicant?

Mr. Hirano: No, it's...no, it won't be, yes.

Ms. Wakida: Okay, okay.

Chairperson Lay: Commissioners, comments or questions? Commissioner Tsai?

Mr. Tsai: Yeah, for the developer what is the price point for these lots?

Mr. Hirano: Let Rory speak to that.

Mr. Frampton: I don't think any price points have been developed to date. You know it will be whatever the market conditions allow. They're large lots, 15 acres close to the ocean they will probably be pretty high end safe to say.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Just a comment about this greenway. I hope that if and when the County takes over that they do everything they can to retain the water that is supposed to come through those culverts. I think that's just a really difficult...I think it's a bad idea to have those culverts, they are draining directly into the ocean with runoff coming from that whole side of the mountain, and perhaps that something in that greenway can be...it can be developed so that it could absorb it before it gets further.

Chairperson Lay: Commissioners? Commissioner Hedani?

Mr. Hedani: I guess this is for either Rory or for Mich, Rory probably. Rory?

Mr. Frampton: Yes.

Mr. Hedani: The original Makila Subdivision, I was on the Commission when we approved that. One of the things that I didn't anticipate was agricultural homeowners deciding to build their home on the top of pu'u. I'm crushed at what happened essentially with homes being built on top of the mountains, excavations being done with fill being dumped over the side of the property to extend the flat buildable area for their homes. And essentially affecting the scenic resource that we had of the pu'us and the mountains. Driveways going all the way up the mountain in order to create a house where you would never anticipate a house being built. And I guess my question is that the legacy that Makila brings to the Launiupoko-Kauaula area and is that what we're gonna see going into the future?

Mr. Frampton: The Makila Subdivision you know covered a rather large area and there were multiple phase subdivisions that have gone on over time. I'm not sure if any of them actually came to the Planning Commission, not the Makila Subdivisions. On one of the subdivisions by the pu`us, and Pu`u Hipa and Pu`u Mahanaluanui, the actual tops of the pu`us have been set aside in preservation areas. In the other phases of the Makila Subdivisions there were not conservation easements, but there was a conservation easement put on the top of the pu`us in those two areas, the sides you know didn't have...weren't afforded those protections. You know, I don't speak for the ownership of Makila...well I speak for the ownership of Makila, but I'm not part of the ownership of Makila, and so I think, you know, that question is probably more better directed to the principals of Makila.

Mr. Hedani: Are they present today?

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Rory, I would like you to address the question that was also brought up by the testifier about can the lots be subdivided and secondly can they be condominiumized?

Mr. Frampton: No, they cannot be further subdivided. They're established at 15-acre minimum lots based on the sliding scale in the County's Ag Ordinance. My understand is that at present there would be a position where they could be condominiumized just like any other ag property or urban zoned property on the island.

Ms. Wakida: I was under the understanding that the Puamana Subdivision could not be.

Mr. Frampton: There may be restrictions, based on private homeowners associations, so I...under the County and State laws they allow properties to be condominiumized. And oftentimes, homeowners associations or other entities will through their own controls prohibit condominiumization.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Since you're standing. The 37.7 acre greenway lot is that being dedicated to the County as open space or is that being sold to the County?

Mr. Frampton: Under the County's land acquisition agreement, it's being purchased by the County, so the County will own it.

Mr. Hedani: And what would that purchase price of that be?

Mr. Frampton: For the 37 acres it's approximately \$3 million.

Mr. Hedani: I'm sorry?

Mr. Frampton: Three million dollars approximately for that 37-acre piece.

Mr. Hedani: Three million dollars?

Mr. Frampton: Three. Yes, it's in your handout, yes.

Mr. Hedani: Okay. Is most of that dedicated toward a drainage easement in the future?

Mr. Frampton: Not most of it. Of the 37 acres approximately eight or nine acres. I think it's between eight and nine acres is the flood control project. What happened it's a little complicated but of the 37 acres there's about an eight or nine-acre portion where they've built the flood control project. They've actually already paid Makila for that portion because they're occupying that area with a County or a public facility. So once this subdivision goes through the remaining portions will be transferred over to Makila. The remaining amount of that \$3 million. So, yeah it's a portion of the area.

Chairperson Lay: Commissioners, any more questions or comments? We're into lunch time. Okay, if we could get the Department's recommendations at this time?

b) Action

Mr. Wollenhaupt: Good afternoon, Commissioners. In light of this as being a application for a Special Management Area Use Permit, the standards of the application are found under HRS 205A 26, and the Rules of the Maui Planning Commission. In evaluating this project, the Department does recommend approval of the Special Management Area Use Permit and that the permit would be contingent upon fulfillment of 20 conditions as outlined in the green part of your application packet. Therefore, in consideration the Planning Department recommends that the Maui Planning Commission adopt the Department's report prepared for the December 9, 2014 meeting and the Department's recommendation report as its findings of fact, conclusions of law, and decision and order and authorizes the Director of Planning to transmit said decision and order on behalf of this Planning Commission.

Chairperson Lay: Commissioner Medeiros.

Mr. Medeiros: I move that we accept the Department's recommendation.

Chairperson Lay: Motion by Commissioner Medeiros.

Vice-Chair Ball: Second it.

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

Mr. Hedani: I'm wondering if it's appropriate at this point for the Commission to attach a condition that would ensure mauka kuleana land owners rights to access through the project as well as to solidify water rights for those families in the future?

Vice-Chair Ball: Is that under 1A, Page3? Can somebody answer that?

Chairperson Lay: Deputy Director?

Ms. McLean: I think, I do think the issue is appropriate under SMA criteria. I would ask for Corp. Counsel's assistance and ensuring that the wording is appropriate to this project so that it doesn't go beyond the scope of the project because your requirement on the applicant that's beyond the impacts of the development.

Vice-Chair Ball: But the question was does 1A cover that?

Ms. McLean: Well, 1A isn't a condition. 1A is SMA criteria. It's making a statement that the project meets and satisfies those criteria. But in terms of an actual condition then you would word it in such a way the applicant shall ensure vehicular access to the mauka kuleana lands. Would also wanna get some guidance from the applicant to make sure that's specific enough so that you understand what it means and what the requirements are on you and also if Corp. Counsel feels that that's appropriate to mitigate impacts.

Chairperson Lay: Corp. Counsel, you wish to comment on that?

Mr. Hopper: I would need to see a drafted condition at this point and I'm not sure exactly what the wording would be and what you would want to do. It's a very vague suggestion at this point. We would want to pin it down and exactly...you're talking about a specific access easement through the project where the project subdivision would have to be modified. That's one issue. If you're talking about in general access, but it has to be through the subdivision not around the subdivision. That's something I think the Commission would have to discuss, but I'm not sure if through debate, we've had one commission member make a suggestion, I don't know if other commissioners are going to agree or want that altered or what have you. I think the general issues of kuleana water rights, gathering rights and access rights are relevant to the SMA discussion, but to see the exact condition and what it would or wouldn't entail I think is important at this point.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess my question would be if the applicant would have an objection to a condition being attached to the project along those lines.

Chairperson Lay: Go ahead, Rory

Mr. Frampton: In terms of access, I think that's a lot more straightforward and the applicant would be okay with a condition that would read something to the effect of that existing access easements in favor of mauka kuleana families shall be maintained. And you know that...'cause this project could potentially directly impact access to mauka properties so I think that's appropriate. When it comes to the water resources, it's again, a much more complicated endeavor and I'm not sure with all due respect whether or not this Commission in an SMA process can really...for this particular project can really dive into the deep issues with regards to the protecting the kuleana rights. I know the kuleana rights there are laws that protect that. There are laws and the Commission on Water Resource Managements and the Articles of the Constitution of the State of Hawaii which guarantee kuleana rights for access and for water. So I think...I have a harder time crafting something with regards to water, but I think with the access that's straightforward and that's not a problem.

Chairperson Lay: Okay, Rory on your access we were talking about a stationary access point,

right?

Mr. Frampton: The existing, the wording of the language would say that the existing access easements of mauka kuleana families shall be maintained. The specifics of the easement do allow it to be relocated. In this case, once this subdivision road goes in and that becomes, and it gets relocated along Road B and under the bypass it's gonna be fixed for an awfully long time. But just to be clear the easement would still be potentially relocatable but the reality of that would be very unlikely once the road's built and the underpass is built.

Chairperson Lay: Okay, thank you.

Mr. Frampton: You're welcome.

Chairperson Lay: Commissioners, any more comments or questions on the motion? Commissioner Hedani?

Mr. Hedani: I would move to accept the applicant's language to protect kuleana access rights as he stated.

Vice-Chair Ball: Well, you can't, we can.

Mr. Hedani: Oh, you did already.

Mr. Hopper: You can move to amend. Make a motion to amend to add that.

Mr. Medeiros: We already have a motion on the floor, however I would be willing to accept Mr. Hedani's language as a friendly amendment.

Vice-Chair Ball: Second.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I think that Mr. Frampton said that the language relating to the easement was straightforward enough that it could be included. The language to water though is another whole issue that I think it's a very important issue, but I wonder if it's within the purview of this particular project?

Chairperson Lay: Deputy Director?

Ms. McLean: If we could do one issue at a time? This motion or the amendment dealt with vehicular access.

Ms. Wakida: Okay.

Ms. McLean: And that was accepted as a friendly amendment.

Ms. Wakida: Oh, I'm sorry. I misunderstood him. I thought he said both.

Ms. McLean: I think that was just the vehicular access, right?

Mr. Frampton: Access.

Ms. McLean: Access easement. Well, that's true it isn't limited to vehicular, but access you're talking physical access more like roadway type access. Would it be...so that's been incorporated as part of the main motion.

Mr. Hedani: For clarity purposes can we just have the amendment or the condition be stated?

Chairperson Lay: Okay, go ahead Rory.

Mr. Frampton: Yes. Again, this is Rory. That existing access easements in favor of mauka kuleana families shall be maintained.

Mr. Hedani: In perpetuity.

Mr. Frampton: In perpetuity.

Chairperson Lay: Okay. So at this point, it put on as a friendly amendment. The maker of the motion and seconder of the motion agree, okay. Any more discussion on the motion or questions?

Ms. McLean: So that's all part of the main motion?

Chairperson Lay: Yes.

Ms. McLean: Regarding water, I'd like to run this by Mike for language. Something to the effect of the applicant shall develop the project in such a way that shall not impede existing kuleana water rights something like that which is probably just reiterating existing law but establishes it as a specific condition.

Mr. Hopper: Yes, normally you'd be looking to see is there evidence of the project would have an adverse effect on kuleana water rights potentially. But I think a condition like that generally stating that is not a problem because the project is not...would not be permitted to have adverse effects on existing kuleana water rights any way. So something like that or that the project shall not adversely affect existing kuleana water rights. As far as dealing with a, you know, a more long-term issue you can only really look at this project and its impacts specifically. So that would be the target.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I'd be willing to accept that as a friendly amendment also.

Vice-Chair Ball: Yes.

Mr. Hopper: Does the applicant have a comment on that?

Chairperson Lay: Does the applicant have a comment on that at this time?

Mr. Frampton: Could you please restate the wording?

Mr. Hopper: Use your wording or my wording?

Ms. McLean: I said, the applicant shall develop the project in a way that shall not impede existing kuleana water rights.

Mr. Frampton: It's a little hard because the applicant doesn't have direct control over the water system. The water system is controlled by Launiupoko Irrigation Company. That's a PUC regulated company and it has multiple customers and multiple...well, customers and responsibilities. So to put the burden on the—

Ms. McLean: ...the project as Mike's proposed language was the project shall not—

Mr. Frampton: I think if there's a general...so it's like sort of a general statement saying that this project shall be—

Ms. McLean: Adversely impact.

Mr. Frampton: Shall not adversely impact—it gets a little sticky because there are many things that could potentially impact the water other than this project, but...

Mr. Hopper: Well, in any compliance issue there would need to be shown evidence that it's the project that had the adverse impact for the condition to be an issue. I mean, it is access...it's project specific, so I'm not...I think that would certainly have to be a component of any enforcement action not that there is an adverse effect, but that it's because of the project or due to the project. Other than that, the Commission would have no jurisdiction to deal with the issue other than based on the impacts of this subdivision that's being approved.

Ms. McLean: So the project shall not adversely impact existing kuleana water rights.

Mr. Frampton: Well, I think that's where...you know hearing the Corp. Counsel's explanation that the Commission would have to show that it was this project that was affecting the rights, I think that would be very problematic given the multiple hundreds of other users on the system. And how do you parcel that out. I just...I understand the concept, and I don't have any problem with the concept because we don't think this is gonna impact...this one project won't tip the scales to have, you know to force the shutoff of the water to the existing users. But I do have a...just I don't understand how it would be enforced. I just think that's where I have the problem with that condition.

Chairperson Lay: Commissioner Hedani?

Mr. Frampton: And just...I'm sorry, and I do think it's covered under existing law and under the PUC and the way the water company is ran and regulated.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: From my perspective the subdivision and the demands for water from the subdivision are impacts that would draw from the existing water system and that system comes from Launiupoko and Kauaula. It's controlled by a water company. It's regulated separately, but the impact to the water company is still real from the subdivision so there is a connection between the subdivision and the water being drawn from the same system that provides water to the kuleana families. So from my perspective they're connected in that regard. And what I'd like to see is that we get a commitment essentially from the landowner that the families won't be cut off from water because of this or the next subdivision or changing plans down in the future because if the water is cut off, the families disappear.

Chairperson Lay: Rory, you wanna comment on that?

Mr. Frampton: All I can say is again, and this is partly repetitious but...well, I guess practically speaking if those families were cut off by water they'd have multiple means of raising hell if you will, and taking the irrigation company to task and there are multiple venues or at least I know one major venue where they could go to the Commission on Water Resource Management to try to get control over those uses and there's probably multiple other ways they could force that. If you want a general condition saying that this project itself will not lead to a direct impact on kuleana land uses and I guess it would be okay, but again, it just becomes problematical in terms of enforcement and if there's some problem that's created due to some other situation, does this project get taken to task and the various future homeowners or is it really the irrigation company that is the one that should be held responsible. So you know, this project will eventually be sold off to 11 separate owners and they'll have their own homeowners association and they will be customers of the water service provider which is for the nonpotable system is Launiupoko Irrigation Company.

Mr. Hedani: Isn't the landowner also the water company?

Mr. Frampton: For the most part the owners are similar but once their lots are sold it will not be.

Mr. Hedani: No, I mean the owner of the development currently.

Mr. Frampton: Currently, yes.

Mr. Hedani: So he owns the water rights basically?

Mr. Frampton: They own the system, yes.

Mr. Hedani: And the irrigation company?

Mr. Frampton: Yes. And they're very similar--

Mr. Hedani: So what I'm saying is that if we have a friendly agreement essentially then we avoid all of the litigation--

Mr. Frampton: Absolutely.

Mr. Hedani: --in the future by simply saying you will not be cut off from water rights in the future.

Mr. Frampton: And I believe I said that that the...I've never heard anybody saying they're cut off the water rights. And my understanding is that will continue. And in terms of a friendly, you know, understanding, absolutely. It's just putting that in writing and making it a condition of this 11-lot ag subdivision is where I have difficulties just understanding how that would all work.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: You know the way I look at it like, 11-lot subdivision would not affect the kuleana water rights, okay. However, you know if it gets subdivided down the road 20 years from now it might, you know. All we want is for you guys to do everything within your power to protect the water rights. Once it's sold you have no control. What we're asking for is a commitment from you while you have control.

Mr. Frampton: I understand and it would be technically a commitment from the ...(inaudible)...landowner, but you know, like I said, they don't have any intention of cutting the water rights for the kuleanas.

Chairperson Lay: Deputy Director?

Ms. McLean: Thank you, Chair. Perhaps another way to approach this instead of the language that we talked about would be to add a condition that you've seen often before which is that the project shall be developed in substantial compliance with the representations made at today's meeting. That would cover not just the water issue, but the roadway access issue. We can still keep in the roadway condition, but any of the other broader issues that were discussed it would be bound by the discussion that you base your decision on.

Chairperson Lay: Anyone wanna do a motion on that? Commissioner Medeiros?

Mr. Medeiros: I'll make the motion to accept the Planning Director's recommendation.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Second.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: How many motions do we have on the floor?

Chairperson Lay: They've all passed because it's friendly amendments.

Mr. Hopper: Well, just to note there's already a condition on representations made. It's...or I believe it was maybe that was the earlier project, but I don't know if Kurt could help me out. But I thought standard to these generally there is a representations made condition

Ms. McLean: There often is that condition, but I didn't it so that's why...just add it.

Mr. Hopper: Oh, it's not on this one. So adding essentially the standard condition language from the previous project about representations.

Ms. McLean: No, I apologize it is Condition 4. It is already in there. My apologies.

Mr. Hopper: And again, it's generally recommended to have if there's specific concerns to have specific conditions but this condition would...it states what it states and it is that the property has to be developed in substantial compliance with the representations made. But if there's a specific issue with regard to water or others that's why we have 19 other conditions, they can be added as well.

Chairperson Lay: Rory, do you wish to comment on that?

Mr. Frampton: No. 4.

Ms. McLean: Yes, we just, we just saw that.

Mr. Frampton: Yeah, but my comment is just regarding the issue that we're grappling with here and maybe a way to approach it is that the Commission could specifically make a finding that this project would not impact the Native Hawaii Kuleana Rights as established through Article 12, Section 7 of the Hawaii State Constitution and I thank Keeaumoku for providing me that citation. And so if we make a finding that the project itself shall not impact those...any rights or...any rights or privileges provided by the guarantees of the Constitution that finding might cover it.

Chairperson Lay: Corp. Counsel?

Mr. Hopper: Yeah, I mean, you could add that. You could say or not just the Constitution but under Hawaii Law, under the laws of the State of Hawaii. That of course is going to apply regardless of what the Commission does but normally one of the Commission tasks is to do that mitigation on a project specific basis. So that's up to the Commission to add. But again, that's going to be...that's existing law right now. So the project, if the project has that adverse impact then that would be a potential breach of the Hawaii State Constitution and other-

Chairperson Lay: Okay, so we got already. Commissioner Tsai?

Mr. Tsai: Is...(inaudible)...water?

Mr. Hopper: If you're talking about kuleana water rights, then yes.

Mr. Tsai: ...(inaudible-not talking into microphone)...

Mr. Hopper: Well, generally yeah. I mean it would.

Chairperson Lay: Commissioners, any more comments or questions. We've already had a couple of friendly amendments added to it. And okay, at this point I'm gonna ask for the Department's recommendation.

Ms. McLean: Well, the—

Chairperson Lay: Yeah, if you can restate the motion.

Ms. McLean: Restate the motion. Well, the last friendly amendment that we made was actually already a condition. So I'm not going to include that. So my understanding is that the recommendation is to approve the Special Management Area Use Permit for the project subject to the 20 conditions in the staff report with one additional condition that the existing access easements in favor of mauka kuleana families shall be maintained in perpetuity.

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

Ms. McLean: Seven ayes.

Chairperson Lay: Motion carries.

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

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

Chairperson Lay: We're gonna break for lunch be back at 1:30.

A recess was called at 12:30 p.m., and the meeting was reconvened at 1:30 p.m.

Chairperson Lay: Commission is now back to order. Our next agenda item?

Ms. McLean: Thank you Chair, Commissioners. Your third public hearing item today is a request from Dr. Fredrick Sands for a Bed and Breakfast Home Permit to operate the Hunakai Cottage Bed and Breakfast, a one-bedroom B&B in the R-3 Residential District at 290 Paani Place, TMK: 3-8-002: 098, in Spreckelsville.

I'm just noting that stated on the agenda is that this application is being referred to you because an existing permitted B&B is operating within 500 feet of the proposed property, and Gina Flammer is your Staff Planner.

- 3. DR. FREDRICK H. SANDS requesting a Bed and Breakfast Home Permit to operate the Hunakai Cottage Bed and Breakfast, a one bedroom bed and breakfast (B&B) home in the R-3 Residential District at 290 Paani Place, TMK: 3-8-002: 098, Spreckelsville, Island of Maui. (BBWK T2014/0001) (G. Flammer)**

This bed and breakfast home application is being referred to the Maui Planning Commission for review and action because an existing permitted

bed and breakfast home is operating within five hundred feet radius of the proposed bed and breakfast home lot.

Ms. Gina Flammer: Okay, good afternoon, Commissioners. I'm gonna show you a power point that just gives you some pictures about the location and what the property is. Okay, so here's the cottage right up front. It's above the garage you can see. The applicant's are Rick and Melissa Sands who are there today with their daughter. It's Dr. Rick Sands who started at Kaiser in 1981, so I couldn't do the math on that one. He's been here quite a long time.

So I wanted to show you where he is first. We've got the Spreckelsville map. You can see in relation to the Maui Country Club where the property is. I wanted to give you an overhead view so you can see a little closer where everything is. It's a one-bedroom cottage that it's pointing to right there. Sugar Cove Beach is at the end of the their street at Paani, Country Club and Baby Beach are both to the right. So a lot of traffic kinda heading in that direction and going in two different areas. You can see the parcel map here in the 500-foot and then you can see where the other property is located. The other B&B that's down here. And this just gives you a better idea of what we're talking about in the neighborhood where it is located. And then here's a neighborhood map that just kinda gives you an overview of where everything is. This is of course, is the Country Club and you have Baby Beach over here, and then Sugar Cove Beach is down this way.

So there here we are again. It's a 576 square foot cottage that's located above their garage. This lets you see where the parking is and how the guests access the cottage. And then I'm just gonna show you some pictures of what it looks like inside. So the main area, and then you have the kitchen on the other side, and then the one-bedroom is just back right off that main area.

So neighborhood support. There were eight letters of support. Seven were from neighbors including two adjacent neighbors. I think you were emailed the testimony and I gave you hard copies today. There was an extra one that came in also that you just only have a hard copy from.

There was one protest received after the public hearing notice. There was nothing during the 45-day initial mailing. But sometimes when people get a second notice they see a public hearing, they'll send something in. It was from someone who owns a house. I think he did live there at one point, he had concerns about the road width. He's further down the street. So I just wanted to show you where he is. He cites an easement in the letter where he's concerned about traffic and using that easement. The easement's in front of his house. You might have been confused about where this property was. So this property is at the beginning of the road and to access it, you don't go down this way, you'd come up. This is a dead end when you go this way.

I also wanted to point out there was no agency comments and there were no police reports for the property. So pretty simple project here. And that's what I have for you today. I have the applicant if you have any questions.

a) Public Hearing

Chairperson Lay: At this time I'm going to open up to public testimony. If anyone wishes to testify at this time please step forward, identify yourself and you have three minutes. Seeing no one, we're closing public testimony. Commissioners, any questions or comments? Commissioner Ball?

Vice-Chair Ball: Gina, Exhibit 5, the bottom picture is that the guest parking where those pavers are and so the residents park in the garage and is that how that works with that?

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

Dr. Rick Sands: I'm Rick Sands and the parking is just to the right of the garage there. It's actually...so that's a guest parking and then there's actually three additional parking to here right in the front of this picture under this tree and then there's the two in the garage. But the designated parking for the B&B is to the right of the garage.

Vice-Chair Ball: Okay, thanks.

Chairperson Lay: Commissioners? Commissioner Wakida?

Ms. Wakida: Gina, you can probably answer this. I'm just looking at Exhibit 5. To the right of the garage is that on the grass or is that paved over there? To the right, he said to the right of the garage.

Ms. Flammer: Yes, I think the beginning is paved and then as you get further back it's grass.

Ms. Wakida: Okay.

Ms. Flammer: Oh, excuse me. I'm being corrected here by the applicant. It's grasscrete is what it is. I'm sorry, I don't have better picture of it.

Chairperson Lay: Commissioners? If we have no more further questions or comments, ask for the Department's recommendation.

b) Action

Ms. Flammer: Okay, so we evaluate the project against Maui County Code 19.64, the B&B Bill. And in the recommendation we go through each of those criteria in there and in the report as well. So we're basing our approval upon 16 conditions. If anybody has any questions I can answer them otherwise I'm not going to go into the 16 conditions. So in consideration of the foregoing the Planning Department recommends that the Commission adopt the report prepared for today, December 8, 2014 as its findings of fact, conclusions of law, and decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Vice-Chair Ball: Move to approve as recommended by Planner Flammer.

Mr. Tsai: Second.

Chairperson Lay: Motion by Commissioner Ball, seconded by Commissioner Tsai. Any comments or questions on the motion on the floor? Commissioner Wakida?

Ms. Wakida: I will support this approval. I like the fact that they've got quite a few letters of

support, but it does seem to be a good fit. It's a one-bedroom, it's a small B&B, the family lives there. So it seems to have minimal impact to the area so maintain a residential nature.

Chairperson Lay: Commissioners, any more questions or comments on the motion on the floor?
Commissioner Higashi?

Mr. Higashi: Personally I know Dr. Sands. He's been a very supportive medical doctor as well as a community member in that particular area.

Chairperson Lay: No more questions or comments. Can we get the Deputy Director to repeat the motion on the floor.

Ms. McLean: The motion is to approve the B&B application subject to the 16 conditions in the staff recommendation.

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

Ms. McLean: Six ayes.

Chairperson Lay: Motion carries. Congratulations. Thank you very much.

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

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

Chairperson Lay: Our next agenda item?

Ms. McLean: Your forth public hearing item today is a request from Ms. Marie Sherrow for a Bed and Breakfast Home Permit to operate the Maui Joy Villa Bed and Breakfast, a two-bedroom B&B located in Maui Meadows at 620 Kumulani Drive, TMK: 2-1-018: 003 in Kihei. As noted on the agenda as well, this application is being referred to you because an existing B&B Home is operating within a 500-foot radius, and your Planner this afternoon is Sybil Lopez. I believe this is the first time that Sybil is a relatively new Planner with the Department is presenting a project to you.

- 4. MS. MARIE T. SHERROW requesting a Bed and Breakfast Home Permit to operate the Maui Joy Villa Bed and Breakfast, a two (2) bedroom bed and breakfast home located in Maui Meadows at 620 Kumulani Drive, TMK: 2-1-018: 003, Kihei, Island of Maui. (BBKM T2014/0001) (S. Lopez)**

This bed and breakfast home application is being referred to the Maui Planning Commission for review and action because an existing permitted bed and breakfast home is operating within five hundred feet radius of the proposed bed and breakfast home lot.

Ms. Sybil Lopez: Good afternoon, Commission. Good afternoon, Corp. Counsel and Planning Director. I'm Sybil Lopez. I am the Planner assigned to this project, and yes, this is my first time before you.

Vice-Chair Ball: Try to go easy on you.

Ms. Lopez: Yes, please thank you. Right now we are looking at the Maui Joy Villa Bed and Breakfast, BBKM 2014/0001. The applicant is here in the audience if you have any questions for her. She's available. Her name is Marie Theresa Sherrow. Her TMK is (2) 2-1-018: 003 located at 620 Kumulani Drive, Kihei 96753.

Maui Joy Villa is here to obtain a Bed and Breakfast Home Permit to operate the Maui Joy Villa as a bed and breakfast. It's a two-bedroom, bed and breakfast home in the State Rural District and County Rural District. It's approximately .5 acres of land located at the 620 Kumulani Drive. We are looking at a location map, it's...you can see Kihei-Makena community area and she sits right there on the bottom right next to the undeveloped area.

And why are we here? We are here based on Chapter 19.64.050 under the permitting processing, A3, that the application shall be processed as provided in Subsection B of this section if any of the following occur: If an existing bed and breakfast home is operating on a lot within a 500-foot distance from the lot on which the bed and breakfast home is proposed.

So B&B regulations. Under the Maui County Code Chapter 19.64.030 are the County shall be restricted in approving permits for bed and breakfasts homes as distributed per the following community plan areas. As far as Maui Island the total B&B limit is 400. In the Kihei-Makena area the total B&B is 100. Currently right now we have 22 permitted B&Bs, about 22 percent penetration in that area. There are three permitted B&B homes within 500 feet of the subject property. So the three are located as such. So No. 1 is the Birds of Paradise, No. 2 is the Maui Ocean Palms, and No. 3 is Maui Hale Olina which you heard from the property owner earlier today testifying in support of the applicant. And the located proposed B&B is located right there. Another aerial, as you notice this is where the proposed area is and you can see all the trees in this neighborhood and how it goes up and down. So this is where the three are located.

This is her floor plan, the site plan. We have the owner's parking access in here and the B&B parking area on that. And the owner resides in this area. As noted, B&B bedroom No. 1, bedroom No. 2, as well as their parking space. So these are just some of the photos depicted from the application that is presented to you. Just looking at the different views from the dwelling. Looking at the southwest view, looking at the main entrance on where the guest parking is located and fronting the Kumulani Drive. Other pictures, views of the north side view, as you enter into the B&B, and nice west side sunset from the dwelling. East side, so as you're looking at the east side from where the dwelling is located and more south side photos.

And now we're look into the interior area. So we have bedroom No. 1 and bedroom No. 2. And on the plan, this is where it is located. And these are smoke detectors located in every room and the fire extinguishers as well as her fire escape plan that is located in every bedroom.

Just a little bit about the applicant. She purchased her home back in 1994. She's been in the neighborhood for about 20 years. The nature of the neighborhood changed from a more older residential area to more of a mainland owner. The owner will reside and is currently residing on site and will serve as the designated manager.

Compliance. There were no objections that were received after certified mailings on August 14th Notice of Filing of a B&B permit application. There were no objections were received after certified mailings on October 28 regarding the Notice of Public Hearing. There were no objections received from any person in the Maui County after the applicant published Letter of Notice in to the *Maui News*. So Maui Joy Villa has been compliant and has completed all items on the application and the approval of the Planning Department. There were 18 letters of support from the neighbors. Two permitted B&Bs provided their letters of support and you've already heard three of those neighbors today testifying on her behalf. Mahalo. Thank you.

a) Public Hearing

Chairperson Lay: At this time, we're gonna open up to public testimony. If anyone wishes to testify at this time, come up to the mic, identify yourself, and you have three minutes.

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

Chairperson Lay: Our first testifier, Brad Fowler. Do you wish to testify at this time?

Mr. Brad Fowler: My name's Brad Fowler. My wife and I, Katherine reside at 608 Kumulani which is the house next door to Terry Sherrow's application for bed and breakfast. Terry lived in the neighborhood for a long time. My wife and I have only been there two years, but we don't know Terry real well, we've only been there for two years, but the property...her property sits above our place on Maui Meadows. As far as noise, gosh her property's well vegetated. There's a lot of trees, a lot of, you know, in fact you can't even really see her house. I think that that will help any noise concerns in the neighborhood. She as a parking area right, you know, off the street, a nice long parking area. She seems to know, what...when we have questions about you know, life in our neighborhood we asked Terry. She seems to be pretty well informed what the rules and regulations are. You know, we just...I think...my wife and I think both that she would do a good job with the bed and breakfast. She would comply with regulations. If there was any complaints from neighbors, I think she would take them well.

Chairperson Lay: Thank you.

Mr. Fowler: Okay.

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

Mr. Fowler: Okay, thank you.

Chairperson Lay: Our next testifier is Dennis Hudson. Do you wish to testify at this time?

Mr. Dennis Hudson: Hi, I'm Dennis Hudson. I live at 631 Kumulani Drive, Kihei which is across the street and one house up from the applicant. I also operate a bed and breakfast, a permitted bed and breakfast. When Marie asked me to consider submitting a recommendation I said, okay, but I have to take a look at your house, your property just to see if it would be a good application or maybe you should modify some things because I do have experience in this now. So I went to the property, I walked the grounds. The exterior is well kept, it's well maintained, well landscaped, it's very attractive. Inside the house she's got two very good sized rooms which will be fine for the bed and breakfast type of visitor. Terry is very well aware of the rules, the regulations of bed and breakfast. The biggest problem you could have is noise. If your guests make a lot of noise, it's gonna bother the neighbors. If you bother the neighbors, you're gonna have a problem. And she's well aware of that. She has quiet hours listed from 9:00 p.m. to 8:00 in the morning. She lives in the house. I don't anticipate any kinds of problems and I would ask you to approve her approval for her permit.

Chairperson Lay: Commissioners, any questions for the testifier? I'd like to comment if you don't mind? I appreciate you going out there and checking out the property when somebody asks you, you know, to approve a bed and breakfast and I thank you for that, doing those extra efforts.

Mr. Hudson: Thank you.

Chairperson Lay: Our next testifier, Donnie Becker?

Mr. Becker: I'll wait.

Chairperson Lay: Okay, thank you very much. Karen Michand? Do you wish at this time? She'll wait. Okay, thank you. Sandra Akina?

Ms. Akina: I'll wait.

Chairperson Lay: Kalani Ku?

Mr. Ku: I'll wait.

Chairperson Lay: Carrie Williams?

Ms. Carrie Williams: Good morning, my name is Carrie Williams and I live down the street from Terry at 530 Kumulani. And I'm here to represent and support her in getting her B&B which is going to be called the Maui Joy Villa. I met Terry 10 years ago when she was my realtor first. And she soon became a very good friend and neighbor. She believe...I also have a bed and breakfast that's down the street and I obtained that permit 10 years ago. And she was a big part of me being able to get that dream to happen. I was nurse first and then I came over here and started this B&B. I really do believe that she's got the qualities. I'd like to talk more on her qualities. I've seen her home. I've been in several times. I know she knows all the rules but I think it takes a very special person to run a B&B. And knowing Terry for all those years, she's got professionalism, she's friendly, she's outgoing, she knows all of her neighbors. She's very involved in the neighborhood. And she also definitely has the spirit of aloha. And I really think that her B&B will be an asset to Maui and also it's going to help me when I have too many people coming to stay at my bed and

breakfast, I can refer her place to them. So please really consider accepting it because I don't think you'll regret it. She's a great person and her B&B will be lovely. Thank you.

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

Chairperson Lay: Seeing no one, public testimony is closed. Commissioners, questions or comments? Commissioner Wakida?

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

Ms. Marie Sherrow: Aloha, my name is Terry Sherrow, Marie T. Sherrow.

Ms. Wakida: The two bedrooms that you're using for your B&B, do they have outside entrances?

Ms. Sherrow: One of them does.

Ms. Wakida: So, can...what I'm getting at is so, at least one bedroom has to be accessed by coming through the main entry?

Ms. Sherrow: The two bedrooms would be rented at the same time.

Ms. Wakida: Okay.

Ms. Sherrow: So it's not like I would do one bedroom and one bedroom so it would be the same party. And on my fire escape plan I show that the bedroom 2 they go directly out, on bedroom 1 they can either go it's like a one step through a doorway and they're right at the lanai door or they can go through my area that there is a door that is an alternative way that they can go through my living room and out the lanai.

Ms. Wakida: What was the first option you said for bedroom 1?

Ms. Sherrow: Bedroom...I have a fire escape plan...okay so...

Ms. Wakida: Okay, I'm not addressing the fire-

Ms. Sherrow: Oh, okay.

Ms. Wakida: I'm just addressing their-

Ms. Sherrow: Access?

Ms. Wakida: Access, yeah.

Ms. Sherrow: Yeah, the bedroom, bedroom 2 is straight out the lanai, and bedroom 1 goes through bedroom....bedroom 2 goes through bedroom 1 to get out.

Ms. Wakida: So in other words, there's an adjoining door between the two bedrooms?

Ms. Sherrow: It's only about 400 square feet the whole thing.

Ms. Wakida: Well, what I'm getting at is you're living in an adjacent bedroom so you're not expecting your guests to come into the common area?

Ms. Sherrow: No. Only...I've put in also for a...that they can use the bathroom in the common area because it's large and my mom was in a wheelchair for 11 years and so I bought the home because it had wide doorways and everything so it would help her with her wheelchair. So I would think that if somebody had a need to use that shower in there that I would allow that.

Ms. Wakida: Okay, yeah I'm only bringing this up because you are...from the floor plan that we have here appear to be sharing your house with two other people and that is not usually the case with a B&B, not totally unheard of but usually it's more of a separate area and you're not having to interact on a daily basis.

Ms. Sherrow: Yeah, I traveled all over the world and I stayed in B&B and almost every B&B that I know of is a family owned and operated and the people come into your home. Here I notice a lot of people have adjacent cottages or separate, completely separate areas and in my case, I'm going to be more of a traditional B&B.

Ms. Wakida: Okay, thank you.

Ms. Sherrow: You're welcome.

Chairperson Lay: Okay, just for clarity, your bathroom in bedroom 2 that, B1 is your bathroom?

Ms. Sherrow: Yes.

Chairperson Lay: And that can be accessed from both sides?

Ms. Sherrow: Yes.

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

Mr. Hedani: Just wanted to compliment the applicant on working with the neighborhood and obtaining the letters of support that you received.

Chairperson Lay: And the testifiers that came in.

Ms. Sherrow: Thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I, too, am glad that you worked with the neighborhood. Although if you do this again,

I urge you not to use form letters.

Ms. Sherrow: Okay, thank you.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I guess a question for the Department. We have 100 in the Kihei-Makena Plan, 100 B&Bs and I notice we've been having a lot of B&Bs come for approval in front of us especially in the I guess this Maui Meadows area. How many we have right now? I mean it says total limit is 400 and-

Ms. Lopez: So in that Kihei-Makena area we have 22 permitted B&Bs right now.

Mr. Tsai: Right, how many in Maui Meadows?

Ms. Lopez: So this would more of Maui Meadows. I don't think I have another...but I can get that answer for you.

Vice-Chair Ball: I have a question on that, follow up with Max's question.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: Was there a cap on B&Bs also or just vacation rentals in Maui Meadows?

Ms. McLean: The Maui Meadows cap is just for short-term rental homes. A cap of five. There is no cap specific to Maui Meadows for B&Bs. Looking at Exhibit 7 in your staff report it shows five B&Bs in that corner of Maui Meadows. It doesn't show the entirety of Maui Meadows, but it shows the vicinity of the subject property.

Mr. Tsai: ...(inaudible)...

Ms. McLean: Oh, thank you. Flip the page one more, Exhibit 8, got 11 or 12.

Ms. Lopez: Eleven. There are 11 permitted right in Maui Meadows and there are two pending in that area. So two more B&Bs are pending.

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

b) Action

Ms. Lopez: The Maui Planning Department recommends approval of the Bed and Breakfast Home Permit subject to the following conditions. We have 1 thru 17 conditions and the B&B Home Permit shall be valid until December 31,2017 subject to further time extensions by the Director pursuant to the provisions of Section 19.64.060 under the Maui County Code. In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the December 9, 2014 meeting

as the findings of fact, conclusions of law, and decision and order and authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission. Thank you.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I move to accept the recommendation.

Mr. Higashi: Second.

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

Mr. Medeiros: With bed and breakfasts more times than not I support that mostly because they property owner is there, okay. And being that there's no complaints from the neighbors, they go with it, I good with it.

Chairperson Lay: Commissioners, any more questions or comments on the motion on the floor? If none, Deputy Director can you repeat the motion?

Ms. McLean: The motion is to approve the Bed and Breakfast Permit subject to the 17 conditions in the staff recommendation.

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

Ms. McLean: Seven ayes.

Chairperson Lay: Motion carries. Congratulations.

Ms. Lopez: Thank you.

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

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

Chairperson Lay: Our next agenda item?

Ms. McLean: Your fifth and final public hearing item for today is a request from Mr. William Stevens for a Short-Term Rental Home Permit to operate the 35 Kai Pali Place Short-Term Rental Hoem in the R-2 Residential District at 35 Kai Pali Place, TM: 4-5-004: 049 in Lahaina. Kurt Wollenhaupt is your Staff Planner. And once again, it's noted on the agenda this application is being referred to because an existing permitted short-term rental home is operating within 500 feet.

5. **MR. WILLIAM W. STEVENS requesting a Short-Term Rental Home Permit in order to operate the 35 Kai Pali Place Short-Term Rental Home (STRH) in the R-2 Residential District at 35 Kai Pali Place, TMK: 4-5-004: 049, Lahaina, Island of Maui. (STWM T2014/0002) (K. Wollenhaupt)**

This short-term rental home permit application is being referred to the Maui Planning Commission for review and action because an existing permitted short-term rental home is operating within five hundred feet radius of the proposed short-term rental home lot.

Mr. Kurt Wollenhaupt: Good afternoon, Members of the Maui Planning Commission. The item before you at the moment is a request by the applicant, Mr. William Stevens who is in the audience today along with Mr. Steven's consultant, Mr. Mikal Torgerson who will be doing a power point presentation to acquaint the Members of the Commission with this specific property.

This is a request...we're transitioning from our B&B that we just had, two previously to now the short-term rental home permit which as all the Commissioners know does allow a homeowner to rent out their entire home to any party they essentially wish to. They may or may not be permanent residents of Hawaii.

This home is a five-bedroom short-term rental home located at 35 Kai Pali Place which is in Lahaina just north of Mala Wharf area. This area is as our Deputy Director did indicate under review today because there are other permitted short-term rental home operations within 500 feet of the subject property. There are in fact, four permitted STRH operations within 500 feet of this property. However, it should be noted that there are certain areas which the Planning Department in looking at each application do seem perhaps more appropriate for a clustering of short-term rental homes.

This is an area that is direct ocean front access, a highly improved cul de sac, and when we look at the potential some of these homes being rented out to well, let's say workforce house it would probably be highly unlikely in reality just because of the value of many of these homes. So we have seen our clusters on the ocean where you do have these higher valued homes. That being the case, the Maui Planning Commission has looked and Page 7 or Exhibit 7 has looked at this neighborhood in the past. As indicated there are four permitted STRHs in the immediate Kai Pali Place neighborhood and cul de sac. There is one permitted B&B home called the Maui Home that has been permitted for quite a few years and this Commission did look at another proposed short-term rental home on Lahilahi Place and that one was denied. It's my understanding that that road and in driving it is a less developed road. It is a neighborhood that it would probably be classified more as typical residential if you will when you look at land values which is just the reality of that area. That being the case, today we're looking at 19.65.030 of the Maui Code in reviewing this project.

We have...did receive at the very outer boundary of the 500-foot radius but actually across from the development call Puunoa a letter of concern from residents who I understand live Corvallis, Oregon. Again, their properties are accessed by a completely different road pattern. There is the developed area of Puunoa between this property and the others. So it would seem less likely that this would impact any of their operations over on their street. The Police Department had no

recommendations or comments. There have been no requests for service on this property and Mr. Torgerson does have a power point in order to show you this specific home.

Mr. Mikal Torgerson: Would you like me to proceed, Chair?

Chairperson Lay: If you could identify yourself first?

Mr. Torgerson: Thank you. Mikal Torgerson. I'm here representing the applicant, and Chair Lay and other Board Members thank you so much for hearing our application. As Kurt mentioned, this property is on Baby Beach south of the Mala Wharf area, and just a little bit south of the Puunoa Project. It is on a dead end cul de sac right here and the bulk of these properties in this area are either presently approved vacation rentals, short-term vacation rentals or second homes for folks. And there's a blow up of the subject property. This is looking from the cul de sac looking makai at the front of the property you see one of the four provided off-street parking spaces there. This is looking up toward the front door of the property and looking from the front door back towards the street.

It's worth noting this home has actually been in the applicant's family for about 38 years. They bought this some time ago and it's just been their family home for a number of years, and his father actually had the property built. This is looking in the foyer and back toward the water and through the great room. The kitchen area, great room and the bedrooms upstairs each have a lanai. This is looking from that outside lanai toward the ocean. From the sideyard toward the ocean. And this is the makai side oceanfront view of the house.

And as Kurt mentioned on the site plan we've got four provided off-street parking spaces in excess of the required amount. I've got the floor plans available for you if you have any questions related to those.

Just briefly I wanted to cover the five criteria by which the Code says you might look at these projects. The first one I wanted to talk about was the number and distance of the subject parcel to other permitted short-term rental homes. And occasionally I see the concern about having too many short-term rental homes and particularly displacing workforce housing in those kinds of neighborhoods and also the impacts that they might have in a neighborhood that's occupied by workforce housing or a more traditional neighborhood that that could be disruptive to their lifestyle. Conversely there are occasions as Kurt alluded to where it's prudent planning practice to cluster like uses in the same way that we've done the hotels in Kaanapali and Wailea sometimes I think it's...I would submit that it's good planning practice to just cluster short-term rentals. And in, this is one of those unique areas where I would argue it is prudent because these homes are either presently approved short-term rental homes or the remaining ones are second homes that are used as vacation type properties. And so, those two uses are not just so dissimilar, they don't have such an impact on one another as if you were to put this in a more traditional neighborhood.

As Kurt mentioned, there was one letter of concern raised that author owns these two properties on the opposite side of Puunoa about 500 feet away down the beach. And the concerns raised were related to property values in the Hotel District and whether short-term rentals are allowed at all. I think maybe he wasn't familiar with the short-term rental house ordinance. And then the last concern that he raised was related to bringing tourist into his neighborhood which I found somewhat

ironic since he's from Oregon and tourist himself. But in any case, as we all know the beaches of Hawaii are really for the use and enjoyment of everybody and that would be the only way that this property would ever have any impact on this property because the two road systems don't interact. We'd have to come out to Front Street, come all the back, and then come down here which just seems would be rather unlikely for users of this property to do.

As Kurt mentioned, there were no existing or past complaints about rentals on the property. The Maui County Police Department had no comment on the application and were not aware of any past complaints or RFSs on the property.

There's no known existing or past noncompliance with government regulations related to this property that we're aware of. And the last of the five criteria doesn't apply. It's more related to condominium associations and that sort of thing.

And so with that, I wanted to brief, I know you guys have had a long day, but I am available for any questions that you might have. Also here today is Mark Stevens and he's available for any questions that you might have. Maybe I'll just go ahead and introduce him and have him come up if you don't mind letting him know. And with that, we just respectfully request approval and make ourselves available.

Mr. Mark Stevens: I just wanted to say, this is Mark Stevens. This property has been in our family for 38 years now. My dad built the house. What's happened is over the years that house has now transferred to us and the family, and my brother and my sister and now the grand kids are using it. We want to maintain that, but one of our problems is the cost. The taxes are high and the maintenance is high. So it's one of the reasons we wanted to put in a short-term rental and get that from that. So I'd appreciate your consideration. An questions I can answer?

a) Public Hearing

Chairperson Lay: At this time I'm gonna open up to public testimony. If anyone wishes to testify, please step forward, identify yourself and you have three minutes. Seeing no one, public testimony is now closed. Commissioner Ball, you have a question?

Vice-Chair Ball: I do actually. There was a slide that you had up Kurt, and maybe somebody can push it back. It was a shoreline slide, maybe further back. Like an aerial. Maybe the one, one more back from that. Yeah. So, and I know the representation on this exhibit 6, yellow line is not this property line, but my question is in the previous ones that were on the shoreline like this, the DLNR has been contacting owners about maybe some growth that's going...their growth going into the State land. Now my question is that that section there of I don't know what this is in front, naupaka or something, have you been contacted by the DLNR or is that being watered by the property or any one of those combinations?

Mr. Torgerson: I can probably answer part of the question and then I might turn it over to Mark. I'm familiar with how this GIS system works with the aerial and the imposition of the property lines over it and that's frequently not quite accurate in how those two jibe together so I wouldn't necessarily say that that vegetation is correct relative to the property line. And I think that is naupaka in front of the house. As to whether it's being irrigated by the owners or DLNR has

contacted them I guess I'd ask Mark that. So for the record he's saying he hasn't been contacted.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: The photograph that you have of the naupaka I think showed an irrigation line along the top of it.

Mr. Torgerson: I think there's a fence, there's like a chainlink fence that shows, I think I know the photo you're talking about, right there. This...Mark that's not a irrigation line is that? That's a fence?

Mr. Stevens: ...(inaudible - speaking from the audience)...

Ms. McLean: Can the applicant come up and speak into the microphone please?

Mr. Hedani: I couldn't hear the response.

Mr. Stevens: I'm Mark Stevens. That is a chainlink fence there and then the area beyond that is not irrigated by the property.

Chairperson Lay: Commissioner Ball?

Vice-Chair Ball: Is that the property line then, the chainlink fence or is it on the other side of the naupaka or where is it?

Chairperson Lay: Please talk into the mic.

Mr. Stevens: I don't know exactly where the property line is. I believe it's inside of the property line, but I'm not sure about that.

Vice-Chair Ball: The fence?

Mr. Stevens: The fence, yes.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess the question you know on the exhibits that you have before us shows a straight line. Usually that the case where you have land courted property. Is this property land courted?

Mr. Torgerson: The line you're referring to on the site plan, I took from the assessor's records but I don't know how that was—

Mr. Hedani: I'm just asking if the title to the property is land courted or not? Either it's in land court or it's in the regular system. Usually the makai property line is based upon the commonly accepted definition which would be the high water mark as evidenced by the wash of the waves where a debris line left by the wash of the waves or vegetation which is why the discussion on whether or not the edge of the vegetation is part of your property or not. Do you consider the naupaka on your

property or not?

Mr. Torgerson: To answer part of your question it looks like it is the land court.

Mr. Hedani: It is land courted property.

Mr. Torgerson: That's what Kurt is showing me, yes. That's what the deed says.

Mr. Hedani: Okay. If that's the case, then I think the naupaka is sitting on State land.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Interestingly it hit on the same concern here. That naupaka though should go and if it's DLNR concern and it's not being watered by the homeowner then it should be removed because it's inhibiting the restoration to the beach according to the workshop that we've been given. However, I don't know that, you know, if you're not watering it, I don't see that it's the homeowner's responsibility for that. But it is something that should be—

Mr. Stevens: It runs up and down that whole entire—

Chairperson Lay: Please step up to the mic please again, if you have a comment on it.

Mr. Stevens: That growth runs up and down that beach in front of almost all the houses and the condos down from us.

Ms. Wakida: Yes, I know. It gets very invasive.

Mr. Stevens: Yes.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: Question for the owner. Where do you live?

Mr. Stevens: I live in California.

Mr. Medeiros: Why? You've got that.

Mr. Stevens: Yeah. You know, just to give you a little history on it. My father bought that piece of land if any of you had been around and know that area 38 years ago, that was just shacks and shanties and it was nothing there and so he just took a whim and bought it and everybody thought he was crazy. And so he ultimately said let's build a house for the family and so the family does come over at Christmas. There's a large family now. And then we come in the summer typically and so that's the tradition we've had since he got the house 30, I think he built the house. He bought the lot 38 years ago and then built the house 32 years ago, and so that's been our tradition and so we all stay there and party and have a good time.

Mr. Medeiros: I'm going to support this, but I'm gonna give you some local advice, move real quick.

Mr. Stevens: Move here?

Mr. Medeiros: Yeah.

Mr. Stevens: I would love to.

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

Mr. Wollenhaupt: The Planning Department in looking at the overall application and in looking at the application with regards to Chapter 19.65.030 of the Maui Code regarding short-term rentals does recommend approval of this proposed short-term rental home application subject to 23 conditions. The STRH Permit will be valid until December 31, 2015, this is customary, subject to further time extensions by the Planning Director. The other conditions, the other 22 conditions are the standard conditions which have been to the other STRHs. Therefore, in consideration the Planning Department does recommend the Planning Commission adopt the Department's report and recommendation prepared for the December 9, 2014 meeting as the findings of fact, conclusions of law, and decision and order and authorize the Director of Planning to transmit the written decision and order on behalf of the Planning Commission.

Vice-Chair Ball: Move to approve.

Mr. Medeiros: Second.

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

Ms. McLean: To approve the Short-Term Rental Home Permit subject to the 23 conditions in the staff recommendation.

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

Ms. McLean: Seven ayes.

Chairperson Lay: Motion carries. Congratulations.

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

VOTED: To Approve the Short-Term Rental Home Permit as Recommended by the Department.
(Assenting - K. Ball J. Medeiros, M. Tsai, W. Hedani, S. Duvauchelle, P. Wakida, R. Higashi)
(Excused - J. Freitas)

Chairperson Lay: Our next agenda item?

Ms. McLean: Our next agenda item is acceptance of the Action Minutes of the November 19, 2014 and November 25, 2014 meetings and the Regular Minutes of the November 19, 2014 meeting.

D. ACCEPTANCE OF THE ACTION MINUTES OF NOVEMBER 19, 2014 AND NOVEMBER 25, 2014 MEETINGS AND REGULAR MINUTES OF THE NOVEMBER 19, 2014 MEETING.

Vice-Chair Ball: Move to accept unless there's changes.

Chairperson Lay: Motion by Commissioner Ball.

Ms. Wakida: Second.

Chairperson Lay: We'll do a verbal acceptance. All those in favor say, aye.

Commission Members: Aye.

Chairperson Lay: Those opposed? Motion carries.

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

**VOTED: To Accept the Action Minutes of the November 19, 2014, and November 25, 2014 Meetings, and Regular Minutes of the November 19, 2104 Meeting.
(Assenting - K. Ball, P. Wakida, J. Medeiros, M. Tsai, W. Hedani,
S. Duvauchelle, R. Higashi)
(Excused - J. Freitas)**

Chairperson Lay: Our next agenda item?

Ms. McLean: Under Director's Report, the first item is designation of the Hana Advisory Committee to conduct the public hearing and provide its recommendation on the following application. A request from Mr. Wayne Arakaki on behalf of Kawaipapa Agricultural Park for a State Land Use Commission Special Use Permit for mining and resource extraction on a 12-acre portion of a 72.8 acre parcel located in the State Agricultural District at TMK: 1-3-004: por. Of 001 in Kawaipapa, Hana.

E. DIRECTOR'S REPORT

- 1. Designation of the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing and provide its recommendation on the following application:**

MR. WAYNE I. ARAKAKI on behalf of KAWAIPAPA AGRICULTURAL PARK requesting a State Land Use Commission Special Use Permit for mining and resource extraction on a 12-acre portion of a 72.8 acre parcel located in the

State Agricultural District at TMK: 1-3-004: por. of 001, Kawaipapa, Hana, Island of Maui. (SUP2 2014/0002) (S. Lopez)

Ms. McLean: And again, the request before you today is for the Hana Advisory Committee to conduct the public hearing and provide its recommendations.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I move to designate the Hana Advisory Committee to conduct the public hearing and provide its recommendation.

Vice-Chair Ball: Second.

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

Vice-Chair Ball: Do we know what they're mining? Just for curiosity's sake.

Ms. Sybil Lopez: The mining is for...oh, sorry, I'm Sybil Lopez the Planner on this project. What they're mining is for aggregate for the Hana community area.

Vice-Chair Ball: Oh, okay.

Chairperson Lay: Any more questions or comments on the motion on the floor? Deputy Director to repeat the motion.

Ms. McLean: To designate the Hana Advisory Committee to conduct the public hearing and provide its recommendation.

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

Ms. McLean: Six ayes.

Chairperson Lay: Motion carries.

Ms. Lopez: Thank you.

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

**VOTED: To Designate the Hana Advisory Committee to Conduct the Public Hearing and Provide Its Recommendation.
(Assenting - P. Wakida, K. Ball, J. Medeiros, M. Tsai, W. Hedani,
S. Duvauchelle, R. Higashi)
(Excused - J. Freitas)**

Ms. McLean: Next item is notification of the transfer of an SMA Use Permit by letter dated November 21, 2014 from Paradise Ridge, Limited Partnership to Maui Paradise Ridge, LLC for the

Paradise Ridge Estates project and related improvements at 2757 South Kihei Road. TMK: 3-9-004: 132 in Kihei. The action for you today is to acknowledge receipt of this notification.

2. Notification to the Maui Planning Commission pursuant to its SMA Rules of the transfer of the following Special Management Area Use Permit:

Transfer by letter dated November 21, 2014 from PARADISE RIDGE LIMITED PARTNERSHIP to MAUI PARADISE RIDGE, LLC of the Special Management Area Use Permit for the Paradise Ridge Estates project and related improvements at 2757 South Kihei Road, TMK: 3-9-004: 132, Kihei, Island of Maui. (SM1 2001/0010) (K. Scott)

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Question for the Deputy. Where is that 2757 South Kihei?

Ms. McLean: I don't know the closest cross street to that.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: The time extension is to August 2014 is that correct?

Ms. McLean: This is just a permit transfer.

Ms. Wakida: It says use permit and time extension to complete construction. So that what's left on the time extension is what about eight months is that it? Oh wait, sorry, no that's last year. My mistake. I'm just interested to know how long the time extension is going for?

Ms. McLean: There's also a letter in your packet that she's referring to. The time extension I believe had previously been granted administratively and that can be a two-year extension that the director would have granted previously.

Ms. Wakida: ...(inaudible)...from August probably or actually July I think.

Ms. McLean: That was done previously.

Ms. Wakida: Okay.

Ms. McLean: And yeah, today is just notice of the permit transfer. The consultant, Mike Summers is here if you'd like for him to clarify that.

Chairperson Lay: You guys have any questions for Mike? Mike, could you give us the location of that project?

Mr. Mike Summers: Sure let me just clarify. We have two requests that are in before the Department. One was already administratively approved and that was a transfer of ownership. And so it appears that on our agenda today they're just notifying you of the transfer of ownership from

the Paradise Ridge Limited Partnership to Maui Paradise Ridge. Our second request is for a time extension. Our extension will expire on March 31, 2015 and so we are requesting a time extension to March 31, 2017. I don't see that that's on your agenda.

Chairperson Lay: Right, so we can't address it. Commissioner Ball?

Vice-Chair Ball: Procedurally for Corp. Counsel is this now we can't address it because it's not on the agenda even though we had a letter stating as such?

Mr. Hopper: Well, you can't take it up and make a decision on it. Is that something that's going to be a decision item for the Commission?

Ms. McLean: What, the time extension? Time extensions of up to two years depending on how the original permit was worded under the current SMA Rules, time extensions can be granted administratively by the Director if it's for up to two years.

Chairperson Lay: But are we addressing that today?

Ms. McLean: No, that's not what's on the agenda today.

Mr. Hopper: No, I just wanted to know if it's gonna come—but that's gonna be a notification item to the Commission?

Ms. McLean: That would be—

Mr. Hopper: The administrative time extension.

Ms. McLean: Those are waive review I believe. Yeah, it's a waive review.

Mr. Hopper: It's a waive review. So the Commission will see that.

Ms. McLean: ...be on the agenda for you.

Vice-Chair Ball: So it wasn't left off accidentally then it just wasn't on this thing?

Ms. McLean: I don't think it's time yet for the time extension to be before you.

Mr. Hopper: In any case, so you know it's coming before you. I mean, it's part of that...of this item in general, but you can't take action on it at this point if it's a waive review item. But I think it's fair to ask since there's a letter in your packet and this item for the project is generally in here. I don't think that's a problem, but I wouldn't...if that's gonna be a future agenda item where you're going to discuss and make a decision on, then I wouldn't go much further with that today.

Chairperson Lay: So noted. So we're moving onto our next agenda item.

Ms. Wakida: So wait. What are we being asked to do?

Chairperson Lay: We're just acknowledging that.
Mr. Hedani: Move to acknowledge receipt of the request.

Vice-Chair Ball: Second.

Chairperson Lay: Motion by Commissioner Hedani to acknowledge and seconded by Commissioner Ball. Any questions or comments on the recommendation on the floor? At this point we're just gonna ask for verbal acceptance of it. All those in favor?

Commission Members: Aye.

Chairperson Lay: Those opposed? Acknowledged.

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

**VOTED: To Acknowledge Receipt of the Notification of Transfer of the Special Management Area Use Permit.
(Assenting - W. Hedani, K. Ball, J. Medeiros, M. Tsai, S. Duvauchelle,
P. Wakida, R. Higashi)
(Excused - J. Freitas)**

Ms. McLean: The next few items Chair, the SMA Minor Report and SMA Exemption Report.

3. SMA Minor Permit Report (Appendix A)

4. SMA Exemption Report (Appendix B)

Chairperson Lay: Everybody get a chance to look at 'em? Any questions? Commissioner Wakida?

Ms. Wakida: Just one. I received a couple of them stapled here to things. I'm wondering if that's because of the two most recent pages or it's stapled to the agenda actually and this is...you know, this isn't the first time and I'm just wondering if there was a reason for that?

Mr. Hopper: Yeah, it's for Sunshine Law purposes. It's for Sunshine Law purposes because in the past there would be open and closed applications report and people would want to sometimes ask questions and the concern would be well, members of the public on the agenda didn't actually see what the permits were and if you wanted to discuss them, just saying open applications list doesn't give notification of all the potential projects where you've got open applications. So attaching them to the agenda so the public can them was considered a better practice. So they could...the public could understand that there may be questions on the applications list and what the list was. Because in the past that apparently not included as part of the agenda.

Ms. Wakida: So, excuse me?

Chairperson Lay: Go ahead Commissioner Wakida?

Ms. Wakida: So these are just the most current ones? 'Cause this is only 2014. I mean, our

regular packet has got 15 pages. This has only got two. So they're not putting all in. So, which is fine I'm just curious to know why just a couple pages.

Ms. McLean: It should all be there. There should be—

Ms. Wakida: It's stapled to the agenda.

Chairperson Lay: To the agenda. Yeah, the back of the agenda, the last pages.

Ms. McLean: Okay, I'll just convey what Carolyn is saying. The minor and exemptions that are approved get stapled to the agenda. The other ones are open applications. So yeah, it's just that two short pages that are part of the agenda for Sunshine Law Purposes.

Ms. Wakida: Just the ones that are approved. Okay, got it

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: How often are these updated?

Ms. McLean: They're generated for each meeting.

Mr. Tsai: Because there is some guy named Max Tsai has a swimming pool that's open assessment. I don't think that's true.

Chairperson Lay: Just for informational purposes, right?

Mr. Tsai: Yeah, I'm using it as an example.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Nobody is gonna be able to track discussion unless we use the microphones.

Chairperson Lay: Please be acknowledged by the Chair as you guys speak so we can move on smoothly and get our communication working together. Thank you. Commissioner Higashi?

Mr. Higashi: Yes, I brought this up before to the Director. We have projects that apparently is open since July 2008 is there any deadline when these projects get terminated or cut out. I mean, it's like 10 years?

Ms. McLean: There can often be extenuating circumstances for why we would leave a project open. The Department processes in the range of four to five hundred SMA Assessments a year. And so, if you look at that first page there are two still left from 2008, three left from 2009, and five from 2010, and then the rest are from 2011 to the present. So often times it's you know we'll get the applications, we'll send it out for agency review and I don't mean to pick on this particular agency but the State Historic Preservation Division sometimes takes a while in their review if there are potential archaeological resources on the property, they'll say, oh we want there to be...we want an inventory survey performed. And so then the applicant has to hire an archaeologist to do the

inventory survey and then those results get transmitted to SHPD for approval then they might say oh, well if the project proceeds we want there to be an archaeological monitor. And so then the archaeologist has to prepare a monitoring plan that gets approved by SHPD before we can issue the SMA Permit. So that can sometimes take a couple of years for those things to happen. And in the meantime we keep the application open. That's just one example. That's not uncommon when you know the applicant is doing everything they're supposed to do but it just takes time for those things.

Mr. Higashi: The reason I asked is when I looked at some of the permit names and so forth they're talking about a footwear wash area or chainlink fence and that's 10 years ago.

Ms. McLean: I don't have an answer for that one in particular.

Chairperson Lay: Commissioners, we need an acknowledgment SMA Appendix A and B.

Vice-Chair Ball: Acknowledged.

Mr. Tsai: Second.

Chairperson Lay: All those in favor acknowledging say, aye?

Commission Members: Aye.

Chairperson Lay: Those opposed? Motion carried acknowledgment Minor Permit Report and Exemptions.

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

**VOTED: To Accept the SMA Minor and SMA Exempt Permit Reports.
(Assenting - K. Ball, M. Tsai, J. Medeiros, W. Hedani, S. Duvauchelle,
P. Wakida, R. Higashi)
(Excused - J. Freitas)**

5. Discussion of Future Maui Planning Commission Agendas

a. January 13, 2015 meeting agenda items

Ms. McLean: Last item Commissioners is you have a memo for January 13th regular meeting agenda items. There are two public hearing items, oh excuse me, three public hearing items. Under New Business you do have a Final Environmental Assessment to review. I think that's been distributed so that will be coming up next time plus a couple of other items. Any questions or comments?

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I'd like to acknowledge the Deputy Director for our very tasty holiday treat.

Chairperson Lay: And like to wish everybody on Maui Happy Holidays. Commissioner Higashi?

Mr. Higashi: Yes, I'd like to put under New Business.

Chairperson Lay: Okay.

Mr. Higashi: Request to have Mr. Brian Hoyle up here at our January 13th meeting to answer some of the questions that were asked of him at the I think it was November 23rd hearing in Lahaina regarding the West Maui Hospital.

Chairperson Lay: So noted. How is it procedurally, how do we do that?

Ms. McLean: The Director staffed that meeting so I can check with him to see what the issues were and how those would be posted. I'm not familiar what the issues might be.

Mr. Higashi: The reason why I asked was during the November 23rd hearing I asked Mr. Hoyle specifically about hiring practices that outside agencies have and that his response according to my understanding was that they only hire outside of Hawaii specific areas that they cannot accomplish or get here in Hawaii, example, architect that he selected is from Tennessee who has no understanding of the architectural design and plan of what's happening. And I have a concern about that because if we didn't have one I can see him getting a specialized person or company outside of Hawaii. But we do in Hawaii have qualified people in that area. And so my question is how did he come to that conclusion as one example. And I know there were others as well.

Ms. McLean: Okay.

Chairperson Lay: Thank you. Commissioners, any more questions or anything, comments? Commissioner Medeiros?

Mr. Medeiros: Mele Kalikimaka.

Chairperson Lay: Planning Commission is adjourned.

F. NEXT REGULAR MEETING DATE: January 13, 2015

G. ADJOURNMENT

The meeting was adjourned at approximately 2:35 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Keone Ball, Vice-Chair
Sandy Duvauchelle
Wayne Hedani
Richard Higashi
Ivan Lay, Chair
Jason Medeiros
Max Tsai
Penny Wakida

Excused

Jack Freitas

Others

Michele McLean, Deputy Director, Planning Department
Mike Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works