

**HANA ADVISORY COMMITTEE TO THE
MAUI PLANNING COMMISSION
MEETING OF DECEMBER 11, 2014**

** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 2200 Main St., Suite 315, Wailuku, Maui, Hawai'i. ***

A. CALL TO ORDER

The meeting of the Hana Advisory Committee (Committee) was called to order by Chairperson, Clayton Carvalho, at approximately 4:20 p.m. Thursday, December 11, 2014, at the Helene Hall, Hana Bay, Hana, Island of Maui.

A quorum of the Committee was present (see Record of Attendance).

Chair Clayton Carvalho: Alright, good afternoon and aloha. Welcome to the hearing for the Hana Advisory Committee to the Maui Planning Commission, for December 11, Thursday. Before I continue, I'd like to introduce everyone on the board. We have to my left, far left, we have Board Member, Ed Cashman, directly to my left, Deputy Corporation Counsel, right? Correct? Richelle Thomson. Right. Board Member, Ward Mardfin, Board Member Scott Crawford, Suzette Esmeralda, to the right, and I think we -- and, I'm sorry, and Planning Program Administrator, Clayton Yoshida, in front of us.

Mr. Clayton Yoshida: Oh, yeah, I guess with us today, Mr. Chair, we also have the -- our Administrative Planning Officer, Joe Alueta, and Staff Planner, Keith Scott.

Chair Carvalho: Okay, so you're acting on behalf of Gina, who's not here, Gina Flammer, who's usually here?

B. PUBLIC TESTIMONY

Chair Carvalho: Okay, moving to agenda item B., we have public testimony for any of the -- any of the items that are going to be discussed today. If anyone can't stick around for the presentation, you can speak now if you'd like. We haven't discussed how long we were going to limit our testimony for today due to the size of the meeting, based on the attendees. Scott?

Mr. Scott Crawford: We discuss this each time but, you know, there's a balance between letting people testify up front to be able to say what they want and then go home and have dinner if you want or whatever, versus being able to have the presentation and then testify in response to the presentation so that everybody is informed about exactly what's being proposed, so, you know, I think we should leave open the option to leave public testimony open for after the presentation if anybody wants -- plans to stay through the whole thing and you want to testify after hearing the presentation.

Chair Carvalho: I'm okay with that if the other Board Members are okay? Okay.

C. APPROVAL OF MINUTES OF THE MAY 8, 2014 and MAY 19, 2014 MEETINGS

Chair Carvalho: We can move on to agenda item C, approval of the minutes for both May 8th -- approval of the minutes of May 8th and the May 19, 2014 minutes. Do we have any discussion on the minutes? Ward?

Mr. Ward Mardfin: Mr. Chair, I move approval of the minutes for May 8, 2014 as distributed.

Chair Carvalho: Ward will present the motion and, Scott?

Mr. Crawford: I'll second that motion.

Chair Carvalho: Scott will send the motion. So we do have a quorum to vote. Okay, any other discussion? No? Okay, we can put that to vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Crawford, then unanimously

VOTED: to approve the minutes of the May 8, 2014 meeting, as distributed.

Chair Carvalho: Motion unanimously passes. Ward?

Mr. Mardfin: Mr. Chairman, with regard to the minutes for our meeting on May 19th, there's one very, very small, but perhaps important to you, mistake. In the very first line, it says, "The meeting of the Hana Advisory Committee (Committee) was called to order by Vice-Chairperson, Clayton Carvalho." In the May 8th meeting, you were made the Chairman, so I have asked that the word "Vice" at the end of the very first line be removed.

Chair Carvalho: I believe because it was a continuation of a meeting, and not a new meeting, I was still presented as the vice-chair, and not the chair, because we voted on the chairpersons on May 8. I believe we just continued.

Mr. Yoshida: Mr. Chair, I guess it was a newly noticed meeting, the May 19th meeting. Though the board deferred action on the B&B -- amendments to the B&B ordinance at the May 8th meeting, so it's a separate meeting. The May 19th ...(inaudible)...

Mr. Mardfin: So it is proper to remove, on the May 19th minutes, it's proper to remove the word "Vice" before Chairman -- Chairperson?

Mr. Yoshida: Yeah, Chairperson instead of Vice-Chairperson.

Mr. Mardfin: So with that small change, I move acceptance of the minutes for the meeting of May 19, 2014.

Chair Carvalho: Do I have a second?

Mr. Crawford: Second that motion.

Chair Carvalho: Any other discussion on the minutes of May 19th? Alright, we can put that to a vote.

There being no discussion on the motion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Crawford, then unanimously

VOTED: to approve the minutes of the May 19, 2014 meeting as amended.

Chair Carvalho: Unanimously approved. We can move on to agenda item D. Clayton?

Mr. Yoshida read the following agenda item into the record:

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

- 1. MR. MARK EVENSON of CASCADIA/AT&T MOBILITY requesting a County Special Use Permit for the AT&T Cell Tower Hana Project in order to install a 75 ft. monopine communications tower and related improvements on approximately 13.812 acres of land at TMK: 1-3-002: 053 and 54, Hana, Island of Maui. (CUP 2014/0005) (K. Scott)**

Mr. Yoshida: The Staff Planner is Keith Scott, and he'll be presenting the staff report.

Mr. Keith Scott: Thank you, Clayton. Members of the Committee, as mentioned, the issue under consideration is a county special use permit for construction of a monopine style cell tower with associated equipment and landscaping, and that's at about the 30-mile marker on the Hana Highway, and any action that you would take would be a recommendation to

the Maui Planning Commission. The applicant will be making a detailed presentation so I'm not going to go into a lot of detail for the project. I will let the applicant do that.

I should note that the construction and operation of a wireless facility is permitted in the state agricultural district, so there is no state permit that's required, and what is required is a county special use permit.

The report before you addresses the project's compliance with the state rules, Maui Island Plan, the Hana Community Plan, and county zoning, and special management area rules. And at this juncture, Mark Evenson will make his presentation.

Mr. Mark Evenson: Alright, good afternoon. My name's Mark Evenson, I'm with Cascadia PM, and I'm here today on behalf of AT&T, representing them, so thank you for your time and for allowing me to give this presentation.

I have provided to you everything I'll be providing on the slide deck so in case there's any points that you can't see it for visibility reasons, that one - your right hand, sir, right there - same thing I'll be presenting here on the wall.

So AT&T is proposing to build a 75-foot, with a lightning rod on top, it comes to 79 feet. It is a communication facility designed for better cell phone coverage in this area. It would have a 50-foot-by-50-foot compound on the ground, which would have an indoor shelter for the equipment cabinets, and, additionally, it would have a backup emergency generator in case there's ever any power loss, it would run on that, it'll have 12 panel antennas, and other supporting equipment, supporting equipment being radio heads, TMAs, but primarily just 12 panel antennas inside of a 50-foot-by-50-foot compound.

So, here I have just kind of a few images just to kinda show you a little bit more on where it's going to be, these are from Google Earth, these are the lats and the longs of the sites, proposed site.

So this is AT&T's current existing coverage. I've been in this business for about six years, and this is one of the first times I've ever proposed a new site that has complete filled in a white area. It's always usually -- so, as you can see, there's currently no coverage. Even though I'm not employee for AT&T, I'm representing them, I have AT&T service. I just drove in from the airport, I didn't have any coverage until I reached the school. I believe it's the high school and the elementary school.

So, in this slide, it's just that AT&T is here in Hawaii and is committed. There's not a lot of detail on the slide I'm going to go into, but this site, AT&T would best considerably, hundreds of thousands up to almost half-a-million dollars to build this site. They're not building it because they want to offend anybody; they're building it because people are

demanding the service. This is a national average, this is not a Hawaii average, this is a national average, but it probably represents a little bit of here locally. Forty-three percent of all homes, nationally, are 100% wireless. They don't have a land line, so their primary means is cell phone only, so in the event of an emergency or a national disaster, it really comes into play to have a cell site that you can communicate with. Out in -- on the Big Island, due to the lava flow, I've been placing COWs, which are known as "cell on wheels," and that's for the additional capacity of all the people coming into the area for them to communicate, both people coming to look at it and governmental services.

This is one of the main things, at least in Oahu what I deal with, here, it's primarily coverage, but most cell sites being built now are all about data. Most areas are covered by cell sites, this area is little bit unique, obviously, but data is the primary thing. Nobody uses their phones for anything, ten years ago, except for making phone calls; now everybody uses apps, updates, and things like that.

So AT&T does try to stealth all their new sites they put in somewhere, so we typically attach onto buildings and we'll put a facade around it, we'll make fake pine trips, fake palm trees, as you can see, even a water tank. So this is the compound itself looking down. So this is the drawings, the zoning drawings, and as you can see, there's a 50-foot-by-50-foot compound, that's the top of the pole looking down with the 12-panel antennas and the shelter. That is a representation of what it'll look like. And that is a sample of what a stealth monopine looks like.

Now these are photo simulations, not included in the photo simulations is the landscaping, so this is just the site itself without the landscaping. We tried to add in the landscaping but it really just turned out to be a big blob because we couldn't really get the definition that it needs. So there's another image. This is further down the hill. As you can see in the upper lefthand corner, those are dots, and those are where the images were taken, and then where the site is. Now, this goes into the landscaping plan, so we chose to use all indigenous plants native to Hawaii, and you can kinda see there are different types, so I'll refer back to this slide if you'd like, but this is the trees that will be going in to further conceal the stealth mono -- this is a pine tree. So started off with the bigger ones to the smaller ones.

I can go over any of these slides again that anybody would like. At this point in time, I'm pretty much done with my presentation and I'll just, obviously, open it up to questions. There's always lots of questions.

Chair Carvalho: If you have any questions first, before testimony, could you please come up to the microphone and state your name for recording purposes.

Mr. Dale ?: My name is Dale and I'm just -- you had stated that there people requesting cell phone service and do you happen to have a list of those people? Are they in the area that you're proposing the tower?

Mr. Evenson: I do not have a list. I tried to get a list from AT&T. I do know that AT&T is communicating with the transportation company, Robert's Transportation, and they also run the school bus service; they had a breakdown and one of the their reps had to walk three miles in order to make a phone call for assistance.

Mr. Dale ?: Okay, yeah, you had stated that you had multiple people requesting cell phone service and to justify a half-a-million dollar investment, there must be quite a few people in that area that had requested that, and I'm just wondering if you had the list, and so if you don't have the list, no problem.

Mr. Evenson: No. I do not have a list.

Chair Carvalho: I would just like to state, right before I move on, I mean, to the next question, we'd like to keep the layout to we can have some questions answered right now, and then we're going to also just roll right into public testimony, and from there, we're going to close public testimony, and then open it for board member questions. So if you have any questions, now would be the time, and then after we finish those questions, we can move into any public testimony you may have on this subject. Thank you.

Unidentified Speaker: ...(inaudible)...

Chair Carvalho: Please come to -- yeah, please come to mike and state your name, please.

Ms. Susie Pisano: Hi. My name is Susie Pisano. I was actually quite shocked to see the tower's just like this thing in the sky, and I didn't really understand why you chose the trees that you did, they're small.

Mr. Evenson: Okay.

Ms. Pisano: Kamani is a -- I mean kamani is going to take a long time, and it's not even going to come to the height that it's at, so it's just going to be this thing sticking in the air.

Mr. Evenson: So this is -- this is the one part of the design that is not locked down. The site itself is locked down; the location's locked down; all of that. The one part that is flexible and manageable is the landscaping plan. So, currently, we're using all local indigenous plants, but we're definitely open to what you would recommend for us to plant.

I'm not a landscape design expert, but I certainly would accept any recommendations that you would have, and I could certainly have them implemented.

Ms. Pisano: Alright. Do you want that now?

Mr. Evenson: If you'd like.

Ms. Pisano: I mean a cook pine would look like that if you wanted to do a cook pine or something.

Mr. Evenson: Okay.

Ms. Pisano: But I also had the same concern as Dale when he said he had many people in this area, I mean do any of you guys know the population of this area? It can be a couple hundred? And how many -- I'm wondering, who lives here, how many people actually have AT&T?

Unidentified Speaker: I do.

Ms. Pisano: You do? Who has Verizon? Anyone? Because most people I know in Hawaii have Verizon that's why I was just -- that's all.

Mr. Evenson: Here's -- I'll give you my card. You're welcome to email me anything in design or plants. Okay.

Chair Carvalho: Thank you, Susie. Yeah, go ahead, Shane.

Mr. Shane Sinenci: Hi. Shane Sinenci. I had a two-part question. One, can you go back to the screen about the coverage, and it might be kinda piggy-back to the other ones about -- yeah, that one. So what area are we looking at 'cause it looks like by that circle that's where more coverage, we're going to extend coverage there, so is that in Hana? Would that be --

Mr. Evenson: Yeah, so --

Mr. Sinenci: Because right now there's a forest over there.

Mr. Evenson: Yep. We're going to go back one slide.

Mr. Sinenci: There's a lauhala forest.

Mr. Evenson: You can't see it that well with the light.

Mr. Sinenci: There's no people living there.

Mr. Evenson: So, as you can see --

Mr. Sinenci: Right?

Mr. Evenson: Right here is the proposed tower, and to give you a reference, that's the airport right there.

Mr. Sinenci: Oh, no, so where the coverage is going to be, the services will be covered now, the new coverage, where you had that circle.

Mr. Evenson: That is correct.

Mr. Sinenci: Okay, so --

Mr. Evenson: So this is currently the existing coverage.

Mr. Sinenci: Yeah.

Mr. Evenson: This is without the site. And with -- sorry, it's a new site build. I should have probably said that, NSB, stands for new site build.

Mr. Sinenci: Yeah, so there's no --

Mr. Evenson: There is no currently. No coverage at all. This entire area. This is the coverage objective that AT&T is trying to fill in.

Mr. Sinenci: That is a lauhala forest.

Mr. Evenson: Yeah, so that's part of the coverage objective they're trying to --

Mr. Sinenci: On the lauhala forest. There's like -- what I'm saying is there's no people there or that's along the coastline where the new coverage would be servicing.

Mr. Evenson: So this is road to -- this is the road right there, to my understanding. Now, I'm not a local expert here, but this site would cover that lower area, all the way down to the water, and actually for mariners and boaters, the coverage extends far into the water, so for fishermen out in the water, they'd have improved coverage for safety.

Mr. Sinenci: And then my second question was, with the tower so close to the highway, is there any radiation or any health risk for people or --

Mr. Evenson: So AT&T --

Mr. Sinenci: That'll emanate from the tower?

Mr. Evenson: AT&T, as all carriers, complies with the FCC and their guidelines, but like right now, there's no coverage in this room for AT&T, but we in the Verizon coverage area, do you have any concerns about this room? I mean it's just that, you know, yes, there's -- it's going to -- it's within FCC guidelines.

Ms. Alana Jean Ross: I'd like to know if you've asked the people in this area if they want this cell service.

Mr. Evenson: I did not poll the community. No.

Ms. Ross: So no ones been asked, is that correct?

Mr. Evenson: I did not poll anybody in the community. Correct.

Ms. Ross: So no one, no one in Hana at all? Okay. And when you say that you have it locked down, does that mean regardless of what we say today you're moving forward with the installation?

Mr. Evenson: No. So this is a hearing that's yet to be determined. When I say "locked down," I meant the design is not going to change. We're going to have that design. The landscaping we're open to public interest on how you'd like us to further conceal it.

Ms. Ross: And how many megahertz is this broadcasting at?

Mr. Evenson: AT&T's frequencies - now, I'm not an RF engineer, so I don't know exactly the megahertz level - each carrier operates under a frequency issued by the FCC, I believe AT&T operates in the 1900 frequency, but I can't be positive about that.

Ms. Ross: 1900 megahertz?

Mr. Evenson: Correct.

Ms. Ross: And is that per panel of the 12 panels or just one panel?

Mr. Evenson: Once again, I'm not an RF engineer so I'll answer this the best that I can, so each of the panel antennas will often operate in sometimes different frequencies for each different technology, you have --

Ms. Ross: The 12 different panels could operate 12 different frequencies, is that correct, all simultaneously?

Mr. Evenson: Actually, the panels are divided into sectors, so you have 12 antennas, and it's divided into 3 sectors, so each section, technically has 4 panel antennas, and those would be the 4 either transmitting or receiving panels.

Ms. Ross: So is it true that each of the 12 different panels could be broadcasting at a different frequency?

Mr. Evenson: I don't know the answer to that.

Ms. Ross: Thank you.

Chair Carvalho: Could you please state your full name for the record? Thank you.

Ms. Ross: Alana Jean Ross.

Chair Carvalho: Thank you.

Ms. Yvette Sampson: Hi. Yvette Sampson. Do you know if there will be a light at the top of this tower?

Mr. Evenson: There will be no light at the top of the tower.

Ms. Sampson: No light at all?

Mr. Evenson: Yes.

Ms. Sampson: Okay. Thank you.

Ms. Dawn Lono: Aloha, my name is Dawn Lono. I just wanted to get an accurate location. I was trying to look at the map and I'm not exactly sure where the tower is. Maybe Harry can help clarify that for us?

Mr. Evenson: Yep. Harry can probably describe it better than I can but --

Ms. Lono: Because it looks like it's on the Hana Highway. It's near Hana -- very close to Hana Highway.

Mr. Evenson: It's about 110 feet off of Hana Highway.

Ms. Lono: And where is it relatively to like say the entrance into Jim Nabor's farm?

Mr. Harry Coon: ...(inaudible)...

Ms. Lono: Okay. Alright. Thank you.

Chair Carvalho: Can -- yeah, hold on, hold on, hold on.

Ms. Lono: Mahalo.

Chair Carvalho: Can we please, the person who spoken in the audience, can you please state your name and location?

Mr. Coon: Yeah, Harry Coon.

Chair Carvalho: Could you repeat what you said, please?

Mr. Coon: Oh, yeah. This -- well, I was explaining it to Dawn because she's very familiar with this property than probably most people are, but this is just before Jim Nabor's place, and it's on the right-hand side of the road, there's three driveways for that property, it's known as Hana Plantation. The first driveway has a big green tank sitting on it and it's paved. The second driveway is where this will be located. It's near the easement that MECO has that there are already 60-foot tall poles running through there, so this will be set down the hill a little bit from there off the highway.

Chair Carvalho: Thank you, Harry. If no one has any other questions -- oh, okay. Go ahead.

Mr. Cockett: Aloha.

Chair Carvalho: Could your name, please?

Mr. Cockett: My name is Franklin Lloyd Wrong. Franklin Lloyd Wrong, remember? Okay, so that's good enough, yeah? So AT&T, your folks means of providing the kind of service, yeah, that is ample to the need of other than business, yeah, other than if it's a personal kind of necessity. I think we get pretty good coverage, I not talking down on AT&T, yeah, but where I find myself even live, yeah, a lot of people come and they congregate there, yeah, because this is where the service applies, yeah. A lot of people come there and they use the means of what's available to them whether it's through the service of Verizon, whether it's through the service of Straight Talk, whether it's through the service of AT&T, or Sprint, or otherwise. I think the variable doesn't really have to be recognized unless it contradicts you folks having to be here, Mr. AT&T. Can I call you "Mr. AT&T?"

Mr. Evenson: Okay. Yeah. Yes, you may.

Mr. Cockett: Is that okay? So, Mr. AT&T, is it really necessary for you folks to have your folks' operation available other than your folks limited data means? I pay \$45.00 a month for unlimited data service, yeah. Unlimited data service. I don't have -- for \$15.00 more, on top of that, I won't mention money right now at the moment, but for \$15.00 more, I can have international 24/7 for 30 days, you know, plus or minus one, two days, then -- I'll say on behalf of what's very important, yeah. Look who came. This is not everybody. This is a representative of our community, yeah, so I going try do my best in this short time that we have, forgive me if I say anything wrong to offend anybody, I not here to offend anybody, but in regards to like in a safety feature, yeah, you know from people breaking in and all this kind of, you know, things that goes on in the cyber world, yeah, that is it really necessary that you folks have to be here to sustain your folks' longevity has a corporate business? Yeah? Is it necessary for you folks to have to put an antenna, yeah, that going allow us guys another option? Yeah? Yeah? To provide us guys the kind of -- if it's a necessity, yeah, if you get the best means, not coverage, but you can protect the safety of my use of paying you, giving you what must what we have here to survive on. We have a limited amount of work, yeah, you know, there's a limited land mass in the whole means, but kind of getting back to, AT&T, I think you guys doing pretty good. I haven't checked the Fortune 500, I haven't check into you guys, the NASDAQ, and see how well you folks, you know, annual kind of revenue, kind of, you know what I mean? If you guys in the plus and the black and the red. It doesn't matter to me. This is Hana. This is our home. We want it, then we'll let you know. Is that okay with you?

Mr. Evenson: So AT&T is going to be sending a considerable amount of money, and they're a business, so they're not in business to spend money, they've in business to earn your business so --

Unidentified Speaker: ...(inaudible)...

Chair Carvalho: Thank you. Would you like -- to the mike. Please state your name.

Mr. Sol Church: My name is Sol Church. I have to ask you the same question that Shane asked you is will the community and its visitors be exposed to radiation when they pass by the tower? Just an honest answer, not one scientific answer.

Mr. Evenson: The same exposure you're getting in this room right now from a Verizon tower not too far away.

Mr. Church: Okay.

Mr. Evenson: In order for a cell phone to work, there is a coverage amount, and AT&T operates below or operates at the levels as required by the FCC.

Mr. Church: And what does that do a human's body over time being exposed to that type of radiation?

Mr. Evenson: You're below the threshold so it doesn't do anything.

Mr. Church: Below the threshold being?

Mr. Evenson: As set by the FCC.

Mr. Church: You also said demanding service, you know, AT&T is getting demands for service here.

Mr. Evenson: Correct.

Mr. Church: But you have no numbers on that?

Mr. Evenson: I do not.

Mr. Church: So really it's just AT&T trying to compete with its competitor, Verizon.

Mr. Evenson: AT&T is trying to provide the best possible service that they can to the public. Yes.

Mr. Church: Okay, well, if comes to the health of our community, I would advise to the Hana Advisory Committee that this is not a good idea for our community. Yeah, I know. I know. But, yeah, I mean we don't want to be poisoning my children and I hope AT&T wouldn't want to be poisoning our community.

Mr. Evenson: Very politely and kindly, you probably have a cell phone, right?

Mr. Church: You know, we're all exposed to radiation, correct --

Mr. Evenson: Okay.

Mr. Church: From our cell phones, but I don't let my kids sit around with a cell phone in their face from when they're five years old.

Mr. Evenson: I agree.

Mr. Church: You know, we turn it off or put it away. You know, we don't have a computer in our house where we have to be exposed to it all the time. We know what it can do to our bodies.

Mr. Evenson: So AT&T is just trying to provide service just here, like Verizon does, they don't have very good coverage out here, they're trying to increase their coverage.

Mr. Church: Yeah, well, that's not okay, not okay with me so --

Mr. Evenson: Thank you.

Chair Carvalho: Please state your name.

Ms. Andrea Rodriguez: My name is Andrea Rodriguez. I just have one question. This where it says that they ...(inaudible)... for the community and that you are FCC compliant --

Mr. Evenson: Yes.

Ms. Rodriguez: And they've done studies?

Mr. Evenson: Yes.

Ms. Rodriguez: How old are those studies?

Mr. Evenson: I don't know. So the FCC sets the guidelines, 'cause I'm not a radio frequency engineer and nor is anybody in this room, so they set the guidelines and the thresholds.

Unidentified Speaker: You don't know that.

Ms. Rodriguez: You just said you didn't know so that's what we're trying to ask.

Mr. Evenson: I'm not an RF engineer, so I'm not a professional at all of these health questions, so they set a mandate for us to comply to, and we do.

Ms. Rodriguez: Alright. Thank you.

Chair Carvalho: If anyone have anymore questions, please come to the mike, state your full name, thank you.

Mr. Don Atay: My name is Don Atay. Again, getting back to the coverage. We're talking down in an area with very low density population. Where is this coverage going to come? Is it going to come into Hana?

Mr. Evenson: No, it actually won't cover into Hana. You can see where it just kind of covers --

Mr. Atay: So it's only going to go into the school area, Waikiu again?

Mr. Evenson: That's right where the coverage begins, so, yeah, that would probably match up to it because that's right when I get coverage, where right --

Mr. Atay: Well, that's where we get coverage right now as you come into Hana.

Mr. Evenson: Yeah.

Mr. Atay: But so you're going to add your tower a little further out by up on the hill by Jim Nabors' so your coverage only going to go towards the school area, right?

Mr. Evenson: All the way down the hillside, to the water, along the road --

Mr. Atay: Yeah, I understand that.

Mr. Evenson: Yeah.

Mr. Atay: But understand, you said you not from Hana, but we from Hana.

Mr. Evenson: Yes.

Mr. Atay: We know how many people live in this area, so when you say the demand for your services, well, who's demand, the mongoose? You understand where I'm getting at? I'm trying not to be --

Mr. Evenson: No, I do. That's what --

Mr. Atay: But, you know, when you saying -- you not talking about thousands of people here, yeah. We're talking about our population of Hana where we know this area is not heavily populated, so where is the demand coming from? Are planning on building new homes in this area for to supply this demand? Development? I mean how can you justify a half-a-million dollar project for less than a hundred people in this area? You understand where I'm coming from?

Mr. Evenson: I do. And that's AT&T's choice in that they want to spend that money to provide this small amount of people better coverage.

Chair Carvalho: Thank you.

Ms. Sampson: Hi. Yvette Sampson again. Do you know if there will be a service team in the area working that's available 24/7 just in case there's a problem?

Mr. Evenson: Yes, so, to the site, AT&T will have 24/7 access. After construction's done, there'll be a technician that stops by the site about once a month just to check on the equipment, make sure it's not vandalized, make sure everything's operating properly, and that's it. So the technician has access to the site 24/7.

Ms. Sampson: Also, do you know if, you've been mentioning that the coverage will go into the ocean, out.

Mr. Evenson: Yes.

Ms. Sampson: Do you know if one of the pushes or incentives for this is the cruise ships? I know the cruise ships now are advertising that they're going to be able to give their customers, the people on the ship, coverage and if that -- and I know cruise ship, I watch cruise ship go by because I live in that area, and is that one of the incentives?

Mr. Evenson: It's not affiliated with the cruise ship at all. No. There's no relationship to the cruise ship and their better coverage. It's just AT&T providing better coverage in that area, and it does go into the water. I'm an avid sailor and fisherman, and I like to have coverage in the areas that I'm at. But no, there's no relationship to the cruise ships.

Ms. Sampson: Then my questions would be is if the majority of the people who do live in that area would sign a petition that would say we don't want this tower because you're servicing us, would AT&T do you think they would listen?

Mr. Evenson: I would present it. I can't decide what my client would do, but I would present it.

Ms. Sampson: Thank you.

Chair Carvalho: Okay, if anyone doesn't have any other questions, we can move into --

Mr. Coon: Harry Coon. I just one question. It's my understanding that these towers are actually used by multiple servers, right? AT&T's building it now, but will it be servicing other companies?

Mr. Evenson: Good question. Yes. So this site would be co-located by another carrier if they wanted to, and it's actually high enough that Verizon or T-Mobile or Sprint, there would be high probability that somebody -- another carrier would co-locate onto this tower. They need about three feet of separation, so if our antennas go down to - doing the math - the lowest part of the antenna is 71, the next carrier would be at mid-60s.

Unidentified Speaker: ...(inaudible)...

Mr. Evenson: No, it would actually be on the same tower. This tower would be able to actually hold three carriers.

Ms. Ross: That's my question. When you say 60s, are you talking again about megahertz? What are you --

Mr. Evenson: No, sorry, that was height.

Ms. Ross: Okay, I don't care about the height so much. On each of those antennas that you're talking about that other carriers could possibly piggy-back on, would those antennas each have their own frequency?

Mr. Evenson: Correct. Each --

Ms. Ross: And it'd be broadcasting separately than one another?

Mr. Evenson: Correct.

Ms. Ross: So we'd have a compound frequency broadcasting radio frequency going on?

Mr. Evenson: Each carrier operates on a licensed frequency issued by the FCC.

Ms. Ross: And where can I find out the frequency that you guys or that AT&T is operating on?

Mr. Evenson: If I had Google on my phone, maybe if somebody wants to use Verizon, we could Google AT&T's frequencies. I don't know it.

Ms. Ross: I'd just like to know where you guys have it.

Mr. Evenson: Google. Or if you want, I can have them tomorrow morning.

Ms. Ross: Thank you. Would also each of those potential third, second ...(inaudible)... cell phone companies have to go through this process or would they just be allowed to jump right on your tower?

Mr. Evenson: I believe they would have to go through this process, but I can't state exactly. Maybe a Maui County representative could state on what the use permit process that that carrier would have to go through?

Ms. Ross: I can find that answer later. Thank you.

Chair Carvalho: Could you please state your name again?

Ms. Ross: Alana Ross.

Chair Carvalho: Thank you. For the sake of minutes, could you please state your full name each time you step to the mike or take the mike. Thank you. If anyone -- question?

Mr. Coon: Harry Coon. I have one more question ...(inaudible)...

Chair Carvalho: Could you take mike? Please use the mike.

Mr. Coon: Is this lower Nahiku? It looks like Lower Nahiku Road going down there. If that's the case, then there's a lot of -- well, I say "a lot" but I've been here since 1970, there's quite a few people living off the grid in this area, but is this the airport?

Mr. Evenson: Yes. You can see it a little bit better ...(inaudible)...

Chair Carvalho: Okay, please state this over the mike.

Mr. Coon: You guys think this is Lower Nahiku?

Mr. Evenson: ...(inaudible)...

Chair Carvalho: Can we please use the mike? Thank you.

Mr. Evenson: Alright, so here's the tower. Here's the airport. Sorry it doesn't show up very well, that's why I made lots of printouts for everybody to look at.

Mr. Coon: Well, this is Kaeleku. You see the road there? Okay. And that is here? Okay, well, this is Lower Nahiku here. And then it's even covering out in here, even further. That's Pua'a Ka`a, or something like that, so it's not just all forest, and there's a lot of pig hunters that ...(inaudible)...

Mr. Evenson: I tried to get traffic numbers from highway department on how many tourists are on the road every day, I was unable to. I don't know if anybody knows the number, how many come on that road per day, per month. So 2,000 people per month or per day, so 60,000 people a month, so it is AT&T's plan, I am working on other locations in this area, so this is a part of a coverage objective of AT&T.

Chair Carvalho: If anyone else doesn't have any questions, we can move right into public testimony, I know it's kind of separated from our questions, but if you have anything to state, if you have a prepared statement, please come to the mike and you can speak now. Please state your full name. Thank you.

Ms. Leah Ross: Hi. My name is Leah Ross. It's more of a -- more of a correction, I think, than anything else, because Lower Nahiku is mile marker, like, 27, you know, that's way before where the actual tower is going to be, so where you're pointing is kind of like -- I mean who in that area -- I mean if it's not Lower Nahiku, then it's going to be -- so actually there's going to be like nobody even kind of like using AT&T up in that area. I mean it's just -- it's just pointless.

Chair Carvalho: Thank you.

Mr. Sinenci: Hi. Shane Sinenci. I would think that, as a board, we should try and defer this so that we can look at, I don't know, by listening to the questions, it doesn't seem like the demand and the -- is there for this tower. I think we should look at it more closely and look at what this tower is going to do to the community as far as health affects or -- I mean just jumping into it without anymore discussion, I think we should discuss it more. Down that area, some people talked about who's asking, where's these lists, where's the demand for a half-a-million dollar tower. I mean is there a demand? I mean are we just servicing the tourists? Is this tower going to be servicing more other corporations that is going to use the tower to transmit more of their internet business or, you know, so I think we need -- we should take a look at this more and try and look at -- I mean just weigh the demands for something like this. Is it going to benefit our community? That should be our question. Are we benefitting other people? Big corporations? Big money guys? I mean these guys are huge. We've already let so many of these big corporations to dictate how we should live over here. Are going to invite more big corporations, and this is going to benefit them while we still gotta pay, we gotta pay, you know, another bill? So I just ask the board to consider what are the benefits to our community. Thank you.

Ms. Ross: I don't if I --

Chair Carvalho: You can just take the mike if you want to.

Ms. Ross: Okay. My name is Alana Ross. Hana has a reputation for being one of the last places in the United States where you can actually go to get away from it all. You can leave everything behind, especially your cell phone, and escape to where a low-tech old Hawaii is still a way of life, but now that way is being threatened yet again, this time by AT&T. I live off the grid as do most of the people in my neighborhood. The neighborhood where that little circle is. I gave up my life to move here because it was unplugged. I specifically moved to this particular area to get away from the pollutants of electromagnetic frequencies and the distractions of the city to live a simple life, a healthy life. But now the quality of this life is being threatened. I urge you to vote against approval of the special use permit for two main reasons: One, the associated health and environmental risks are severe. A list of illnesses from exposure to electromagnetic frequency, EMS, has been collaborated by hundreds of credible scientists, including the Air Force. I brought their 42-page document with just the main pages and the conclusions here for you guys to look at. That's 32 years worth of research. Even the World Health Organization's International Agency for Research on Cancer, the IARC, who's job it is to identify carcinogenic substances, has classified radio frequency electromagnetic fields as possibly carcinogenic to humans in the same class as DDT, lead, and even engine exhaust. One thing all the government official agencies agree on is that more scientific study needs to be done to know the full effects of long term exposure to this RF technology. They cannot prove that it's safe. Without a doubt, they can't prove it's safe. I don't want to be the test subject, and not my family either. And two, we don't want to set a precedent for erecting commercial structures on ag land. You might remember the Gardenland, they were denied a special use permit. Will they be allowed back in business again? How about a hotel and campground in Kaeleku? Or maybe even a golf course at Hamoa? This particular tower is less than a half-a-mile from my front door. In 1996, the Federal Communications Act backtracked a bill to rapidly deploy the wireless infrastructure in spite of 32 years of research already concluding threats to public and environmental health, but now it's 18 years later and we have a lot more studies that show EMS have potentially damaging impacts on human health and possibly even the contribution to the colony collapses order in the beehives. The bees have magnetite in their brain which enables them to get home but when the towers are switched on, the bees become disoriented and they can't even find their way back home and they die. We need the bees to keep Hana healthy. But luckily in Hawaii, we have the Constitution, and if this can help deny the permit approval based on environmental rights and Article 6, Section 9, which states that each person has a right to a clean and healthful environment including control of pollution, conservation protection, and enhancement of the natural resources, then we need to call upon the Constitution and use our rights. I implore you all to do your research and please vote no on the approval of this special use permit, who's being requested by an off-island business, who's real concern is the money that the extended coverage will add to their bottom line, not the people of Hana.

Chair Carvalho: Thank you.

Ms. Carol Ross: My name is Carol Ross, and as Alana just stated, research has been done, it has concluded that, specifically, you children are vulnerable to cell phone tower radiation, their skulls are smaller, thinner, the radiation absorption is much higher. They're also more susceptible to genetic damage. Radiation penetrates the placental barrier and continues to react with developing embryos. To allow a tower of such close proximity to our home would not only put ourselves directly in harm's way, but would be direct negligence for the safety of all the families as well as neighboring community members, animals, plants, bees, butterflies, birds, and whatever else that lives in the lauhala forest. With all the new studies concluding health and environmental dangers, to approve yet another cell phone tower in addition to the millions already deployed, I believe it would be reckless and irresponsible. Hana is just fine the way it. We all live off the grid and ...(inaudible)... against big companies with their agendas. They never consult us first. We were never asked if we wanted this tower. And now it seems we're struggling to fight it off. We don't want to start giving out special use permits, having to defend our town against big companies coming in with their money concerns. I want -- if we start now, how will we stop the next generation littering the whole Hana Highway with cell phone towers? Meanwhile, they're doing their best not to let us know the health concerns, not knowing when ...(inaudible)... not knowing if it is ...(inaudible)... if you do research, you'll find that doctors and scientists have been warning for a very long time about this energy. Convenience over health is not an option. Special use permits to outside entities should not happen. It seems to me that, several years ago, on the Mainland, putting a cell phone tower right outside ...(inaudible)... again, AT&T ...(inaudible)... harm the entire neighborhood full of children next to a school. So please, my recommendation is ...(inaudible)...

Ms. Sarah Pagano: My name is Sarah Pagano, and until recently, I knew nothing about this at all, and I still don't know much, but the interesting thing that, for me, is that the more I learn, the more I do learn, the more questions I have about the safety of the tower coming in, and at this point, it seems really clear that it's an open-ended question at best, and there's a lot people saying, including one thing I've learned today, the entire government in Sweden is saying that these things are dangerous for people, and, you know, I don't necessarily like to go trusting the government all that much all the time, or corporations, because it seems like every time I do, or we do, we kinda get burned, especially with corporations, but the government in Sweden, as a whole, is saying that this is bad for people to be around the cell towers, and that's something worth listening to. So I think my point is is that the more -- that this is really definitely about Hana and the people who live in that area and this whole stretch of the coastline, but it's also like about something more than that. I think if there's a reason to doubt the safety of the tower, there's a reason to say either no or we need to learn more about this before saying yes to it, and that is not just for the people of Hana, but that's for other communities, like Hana, where towers are coming in from Verizon or AT&T and nobody's being asked. Clearly, nobody's being asked, none of these people, it sounds like, has been asked, and back to the safety issue.

It would be just a tragedy to find out ten years from now that we're putting more towers in and actually are harming people from them. So I think deferring until there's a lot more education happening about this and getting everybody's voice, like actually finding out this one or two hundred people, do they want it here, and put all that together and possibly say no to this and do something, set a precedent for other communities that are struggling with the same issue. Thank you.

Chair Carvalho: Before we proceed the next piece of testimony, I'd like to say that because the testimony has been so impassioned, we left out a small part of the testimony that if you have a piece of testimony, could you please hold at the mike for our Board Members to perhaps ask you questions if they have them. If our Board Members do have questions for any of the previous testimony, we can call people back up. If not, we can move on to the next piece of testimony if anyone has anything to state.

Ms. Ross: My name is Leah Ross. Six months ago, we gave up everything to move to Hana, to move to a small community from where there was phone -- phone towers here, cell phone towers there, and this there, and that there, and just, you know, this has become our home. This is, you know, what we gave up was so incredible even to be here even today. Numerous studies have linked long term EMF exposure to the increased risk for many, many conditions. Here are a few: Alzheimer disease, autism, Parkinson disease, heart disease, miscarriage, brain tumors, leukemia, fatigue, depression, immune system disorders, learning disabilities, memory loss, sleep disorders and insomnia, headaches and migraines, loss of concentration, lower sperm counts, increased blood pressure, DNA damage, blood brain barrier damage, hormonal imbalance. Do not approve this tower. We did not move to Hana for this to happen, for nobody to be asked, and we're still battling, just like we battled there, we're battling here, but this is our home. The health of Hana could depend on it. Thank you very much.

Chair Carvalho: Board Members, do you have any questions for that piece of testimony? No. Thank you.

Ms. Pisano: Hi. My name is Susie Pisano. I don't really know how the decision process works. Do we just, for you guys, do we just tell you what we think and then you all make a decision based on the majority, or do you just say, oh, well they think this, and I think this, and then my vote is what it means?

Ms. Richelle Thomson: So, basically, the public process is the board hears all of the public's testimony, and they consider all of the record in the staff's report, so they consider all of the information available to them, including public testimony, and what the Hana Advisory Committee, their role in this is to provide a recommendation to the Maui Planning Commission, which is decision-making authority on this permit. So they'll provide their recommendation based on all of the input.

Ms. Pisano: I just feel like every time I try and speak, it's pointless, so I just -- I don't know the process so I just wanted to say one thing that really struck me about what Mark said was that there was so many -- so much demand, and there's so few people here, I know you keep hearing this but I just want to reiterate, there's nobody that lives here hardly, maybe it's, I mean at best, a hundred people; it doesn't even include Lower Nahiku, which is where I think most of the people live in this area. I'm at Mile Marker 30.6. I'm, you know, half-a-mile away from this. I don't own a cell phone. I don't have a television. I don't have a microwave. I don't need science to tell me how I feel when I hold a cell phone. I want to vomit, actually. I do use one, it's necessary, but I get it out of my hand as fast as possible. The one thing is I don't understand why we have to fight them. I think the process should be they should go and knock on every single person's door that live in this area and ask us if we want it, and majority rules. I mean that's how this process should be done. There's hardly -- we live in this area because it's white. We don't live -- we live outside all that craziness because this is one of the last places, and it's really not fair that we have to fight this money. They should have to come to our door and ask us. And we all know that this is true. And this system is not working in our favor. And this is a small community. And I think we can do what's right here. And I don't know if you guys can all setup a stipulation where they have to come ask every single one of us because I didn't even know this was going on until a few days ago, and how is that right? That's totally wrong. So if there's anyway that you can write into the equation that they have to come and ask us, I think that is the proper way because this is a -- there's probably 25 people out there that don't even know this is going on, out of the 50 who live there, you know, or however many. So that's what I would like to propose that you guys have them do because it's us that are living in this area, not them. And people can wait, right? People love that they don't have -- they're like, oh my God, I don't have cell service. It's like exciting. That's why people come out here to get disconnected, you know, and so what, they get it when they get here, it's like, you know, 20 miles, big deal, and it's not that much money for this company, and you all know how many people live out there. It's not that much money for this company, so what's the point? That's all. Thank you.

Chair Carvalho: Any questions for that piece of testimony? I would just like to state that the final decision does not lie with the Advisory Committee. We make a recommendation to approve; it's a recommendation. And it's also a recommendation to deny. It also has a recommendation with conditions attached it, like you stated. There are -- we can move forwards, we can state conditions, or else we can also defer this topic until the next meeting, that's also an option that we have. This public hearing is perhaps the first people in this community have heard about it. It's going to be presented today. And there are just many options for us to take with this, many avenues for us to go down with this testimony right now. I just wanted to state that for the record for your like, you know.

Ms. Pisano: So it is possible that you could recommend something like I suggested?

Chair Carvalho: Yes. Yes, there is. We can -- there are instances where we've attached conditions to our recommendation to deny or our recommendation to approve along with -- contingent on conditions that we deliberated over.

Ms. Pisano: Okay, good. Thank you.

Ms. Sampson: Hi. Yvette Sampson. I live in that circle. I do not have cell phone reception there. My husband and I don't. And we are people who like that. I see advantages of having cell phone reception there. I do see them, but I don't want them, just because they're advantages, overall, the big picture for me is we don't want that tower there. When I hear about other people talking, it doesn't sound like many people who live there want it, and that's who we're being told is serving this tower, who it's supposed to service. I'm guessing, I don't know, but I'm guessing that some tourists, you know, because it would make sense, they're along the road, they don't have reception, they're used to having reception everywhere they go, and it's disturbing to them. I see them in town. We all see them in town - oh my gosh. I don't have reception. And, you know, yay. But just because tourists want reception in that area doesn't mean that we should have reception in that area. I also know tourists would like, some, would like McDonalds here, but that doesn't mean McDonalds would be good here, or Walmart, etcetera, etcetera, etcetera. So, to me, if AT&T is saying, and I thank you for coming, I really truly thank you for coming, if AT&T is saying this is here to serve those people, the people that are here that live in this area are telling you what I'm hearing, for the most part, they don't want it, then it doesn't sound like a good idea. At minimal, I would ask that you defer, give more time, more people to know in the area, let's find out. I'll volunteer my services to survey those people to find out if they're interested in this. We can work together on a wording if you'd like. And we can find out: Do people in this area want this service? I would like it to be rejected, but I'm only one person who lives in the area and don't feel I could speak for everyone. Thank you.

Chair Carvalho: Any questions for Yvette? Thank you. Please state your name. Thank you.

Mr. Church: Sol Church. I would ask the board to defer this action of allowing this to happen to us here in Hana. Not only because of the exposure to radiation, but, you know, of course, big businesses, but it's a violation of our human rights to have, you know, the same people who says that GMOs is okay for us to say that low levels of radiation are okay too, so I just wanted to add that to the testimony that I do not support this. Thank you.

Chair Carvalho: Questions? Thank you.

Ms. Rodriguez: Andrea Rodriguez. I live in the area where the tower is proposed, and of course I don't want it; I think the majority of us do. But I'm also curious as to people that

are here, who lives in that neighborhood? So all of us here live in that neighborhood. And how many of us are opposed? Okay. That's a pretty good number for who's representing us here. I agree with Yvette. I think that everyone should be informed, everyone -- I mean there's a ton people that live there that aren't here, and that have no idea that this is going on, and they should be aware. I mean I've lived in towns before, small towns as well, where we get notices when things are changing that going to affect our community, and I think that that should be done here instead of somebody sneaking in and then we don't know about it until it's already in process. I'm also curious to know is there any monetary beneficiary to having this tower here besides the landowner that it is selling or the property where it's going on? You guys know that?

Chair Carvalho: Maybe that's a question for Mr. Evenson.

Mr. Evenson: You'd like to know whether -- whether they're going to offer you like a monthly service discount? Actually --

Ms. Pisano: No, I'm not interested in getting that all. I would rather have my health. I'm interested if -- if like the community is going to get this so that we'll be quiet and accept it?

Mr. Evenson: There's nothing being offered.

Ms. Pisano: Okay. And I do agree with everyone else, this is one of the last places where it's not about being connected, it's about getting away from that, and we should cherish that and we should encourage to others, and people that come on the road to Hana, you know, I understand that, oh, we can't use our cell phones, their safety, but we also have emergency call boxes, however -- they're all very close to each other, they're walking distance if you need them, so I don't think that that's as big of an issue of having service because of safety when that's already being provided. Thank you.

Chair Carvalho: Any questions? Thank you. Please state your name.

Dale Basco: Dale G. Basco. I'm really hesitant to voice my opinion whether to vote against it or for it, but I can attest to you that I'm living in Kaeleku and when - Susie's my neighbor - I live up the hill, and she said the word "disconnection," and I don't, Ward, or any of you guys remember when I first moved here, I was carrying this RF meter, about what in 2000, and I just got off of about a 15-year study on how to produce these waves, and, basically, what I was interested in was the combined affect when they bounce like billiard balls off of refractive objects and they develop hot spots at certain places, and I was interested in that, and I know RF doesn't really fall into the microwave thing, but the thing is I can surely attest that these things, you can do your research, these things are now, since they've been out for 10, 15 years, there's bonafide research that do link them to health problems, and the reason I'm going with Susie's disconnection thing is because it

seems like all of us communicate somewhat telepathically, like when we care about somebody or think about somebody who would come to Hana here and we can think, we can create, but what happens when these electromagnetic waves, in the 300 megahertz range, and, Ward, you'd understand that's 300 million hertz, which is 300 million hits per second, there's no way we could create that by magnets and wheels. It has to be done with oscillators. I can tell you for sure the health effects. When you're exposed to these for a long period of time closeup, my head just started ringing for approximately ten years, and it's finally subsided being away from all that stuff, but I see it as a way of allowing us to disconnect as people, disconnecting with our environment, disconnecting with each other, by providing impedance on the exact formulations that we use as human beings to communicate with one another. Basically, I don't know if it's a good thing. It seems like a commodity. They're just a company wanting to sell a product. They've got Verizon. They want to be in here too. I understand this. And is it fair for me to say it's fair or not? I don't think so, but I can surely tell you, I don't think these things are really good being exposed to them, and there's hot spots that develop that are like billiard balls that are -- they hit on the side and then they get hit one certain point, they angulate, and these create stress, and it feels like you're all anxiety inside, and you don't really know which way is up, and you don't know if you're really feeling it because something else is there, or because it's inside of you. And so I'm just letting you know that I don't know about letting them in, but I do know about electromagnetic radiation, and so you've got some good reports, you can research it on the internet, but it isn't a vague issue. Thank you.

Chair Carvalho: Thank you. Does anyone on the board have questions for Dale? Thank you. Thank you. Does anyone else have any testimony or any new questions for --

Unidentified Speaker: ...(inaudible)...

Mr. Evenson: Yes, I am.

Chair Carvalho: Does anyone else have any testimony? Anymore testimony or questions? No.

Ms. Ross: Alana Ross. What is the next step after today? When will we know the decision?

Ms. Thomson: So the Hana Advisory Committee's role is to take all the public testimony, review all the records, and then make its recommendation to the Maui Planning Commission. There's a time limit, and this is based on FCC decision-making, and, at any rate, it's 150 days from receipt of the application, so there is a time limit in which a decision needs to be made by the Maui Planning Commission. So this Hana Advisory Committee needs to make a decision within that time frame to allow the Maui Planning Commission to make its decision prior to the expiration date of that period of time. They can

recommend to deny. They could recommend approval. They could recommend approval with conditions. So that's basically what they would do here.

Ms. Ross: Alana Ross. Just to continue, 150 days from what date?

Ms. Thomson: When the Planning Staff, Keith Scott, comes up, he can let us know the date that the receipt of the -- that the application was received, and it's 150 days from that date.

Chair Carvalho: Did you have a question? Yes.

Ms. Sampson: May I add one more thing? In thinking about people using their cell phones, seeing it, and that's their thing, their focus at the time, one of the things that I think about that road, and that part of that road, is I don't think I really want people to have cell phone reception on that part of the road. I don't want them looking at their phone, I want them looking at the road, paying attention, and, of course, enjoying the beauty at the same time. So maybe it's a good thing not to have cell phone reception at that part of the road.

Chair Carvalho: Okay. Could you please state your name, I'm sorry, even though it's a statement?

Ms. Sampson: Yvette Sampson.

Chair Carvalho: Thank you. Does anyone else have anymore testimony or questions? With that, we can close public testimony and open up for the board to have any questions, ask any questions of Mr. Evenson. Ed?

Mr. Ed Cashman: As the presentation was made, when I look at it, I cannot see the -- it doesn't make sense. Why would you want to put a tower for that little people unless you're part of a bigger plan? And I don't think it's fair to this community that we don't know that master plan because you cannot make money with hundred people. Until that plan is presented to us, you know, we have the safety concerns, and the people just don't want it, so until we know what the master plan is, how many towers we're going to have, where it's at, I don't think I could, you know, I'm not going to approve it.

Mr. Evenson: Is that a question you want me to answer or was that more of a statement?

Mr. Cashman: It's a statement that I make because a lot of these people asking you questions, answering is not giving them your card. We don't know what the answer is. And a lot of them you said because you're not this or you're not that. We should have somebody from AT&T that could answer the questions. You folks come to a community with something as big as this, and you don't have the answers, you cannot expect us to

approve it. Because I've seen these towers. I have a home in Honolulu too, yeah. When I look at this, even Shane asked you about this map, even me, I don't know where you're talking about. There's no cross-reference. And when you look at it, why would you put a tower outside of Hana Town unless you looking to other guys buy into you and you looking to add towers. What you trying to do, just business sense, it doesn't make sense. So we cannot buy -- I cannot buy it.

Chair Carvalho: Thank you. Ward?

Mr. Mardfin: I'll turn -- I'll turn a statement into a question. You mentioned, quickly in passing, that you had that circle and you said you were looking for other sites, is that -- you plan to make the whole thing blue, don't you?

Mr. Evenson: That is correct. AT&T is always trying to provide the service that they possibly can, and so they are looking to cover areas that currently are not covered, so part of the master plan would be AT&T, there's not a long -- I don't have a master plan to provide to you. AT&T is just trying to provide the best possible service to their customer base that they can.

Mr. Mardfin: But so where the whole white area, which it says existing coverage isn't, you plan to make that whole white segment a different color?

Mr. Evenson: They would like to have coverage in all places that their customers go. Yes.

Mr. Mardfin: Will you be -- now you said the coverage of this particular tower wouldn't go much past Hana School.

Mr. Evenson: And you have a good point. With my coverage map that I have there, there aren't very many reference points on there, so -- and I'm not a local expert so I don't know, I'm going to refer back to, and, unfortunately, it's a poor quality on the screen here but that's why I printed it out, these are Google Earth images that we can come back to, but I don't know exactly where it stops and ...(inaudible)...

Mr. Mardfin: Okay. Because I was looking at this and I think I do know the local area and I do think that you go sort of up to the Lower Nahiku area but I don't -- you may or may not cover it. It's a little hard to see. It looks like Keanae is covered already. And -- but you'd be doing the stuff in-between, where credit, there aren't that many people. Now, we're not here to figure out whether your business plan is a good business plan, so if -- I mean I think you're kinda nuts doing this but - from a business point of view - but that's your decision. You're asking for permission to do it. Is part of your business plan also to go past -- to include Hana Town and to go out to Kipahulu and Kaupo?

Mr. Evenson: I can't speak for every new AT&T site that'll be built in Hawaii, but I'm here representing this one today, but AT&T would like to provide the best customer service and coverage wherever their customers go. So I can't say where they're going to go to next, and what their priority is going to be, or what their build plan's going to be. We have sites that are approved that are still waiting to be built. So I don't know the answer to every single site that's going to go in.

Mr. Mardfin: Okay. Next. You also mentioned, sort of in passing or in response to a question, actually, I would hate to see four towers go up from different competing companies, but you said that you can put how many other companies on the same tower ...(inaudible)...

Mr. Evenson: So the highest position's always the best position because it offers the most coverage because of topography.

Mr. Mardfin: Right.

Mr. Evenson: So if another carrier were to come along and say that position is below the top position, it covers their objective plan, whatever that carrier's business plan is, they would approve AT&T to co-locate onto the tower, so this tower could possibly have multiple carriers.

Mr. Mardfin: So Verizon may well do that. Verizon's, basically, our only game in town, to a large extent.

Mr. Evenson: Correct.

Mr. Mardfin: And so Verizon would be the next one that would want to pop in with you guys.

Mr. Evenson: Correct. I mean it's possible. If it's part of Verizon's business plan, they would be able to co-locate onto this tower. Yes.

Mr. Mardfin: Can I keep going?

Chair Carvalho: Go ahead.

Mr. Mardfin: I'm -- has anybody done a study or thought about will this be a possibility of danger to aircraft coming into Hana Airport?

Mr. Evenson: So we have to file with the FAA. Yes. So this site, and all sites, are filed with the FAA so that is information that's submitted to them.

Mr. Mardfin: Have you already done that?

Mr. Evenson: Yes. Compliance is done by a different team but, yes, compliance is underway, environmental compliance, FAA, and things like that. Yes.

Mr. Mardfin: The reason I ask is 'cause this is 79 feet high, which I don't have a really good feel for what that height is, but it looked on your diagrams moderately high, higher than any of the surrounding items, and you said you're not going to put a light on the top of it, so if somebody comes in at night, and it's disguised to look like a tree so it blends into the ground, that strikes me as at least a potential for some harm.

Mr. Evenson: So the light will be dictated by the FAA. They're the ones that dictate what lights have to go on at certain heights.

Mr. Mardfin: So your answer that there wasn't going to be a light could turn out to incorrect?

Mr. Evenson: No, there is not going to be a light on it because the FAA is not dictating for there to be a light on it. I don't know the exact heights that it requires, I'm sure it has to do with topography, but the FAA is not going to require a light to be on this.

Mr. Mardfin: Another question. I looked at this lot on the map, are you going to have anything else on the lot? Is this a lot that AT&T bought?

Mr. Evenson: We have -- we're developing a relationship with the landowner.

Mr. Mardfin: Is there any intent to put a house or any other structure on it aside from this?

Mr. Evenson: AT&T's going to be placing just that compound on there, 50 feet by 50 feet.

Mr. Mardfin: AT&T will?

Mr. Evenson: That's correct.

Mr. Mardfin: But the landowner isn't AT&T?

Mr. Evenson: The landowner is not AT&T. No.

Mr. Mardfin: So the landowner could put something up in addition. Is it exclusive to the entire lot or just the 50-by-50 segment that you're using?

Mr. Evenson: I don't know how much of the details I can share of the agreement, but AT&T's interest is only 50 feet by 50 feet.

Mr. Mardfin: Then that would allow for somebody to put a house up right underneath your tower practically.

Mr. Evenson: I guess so. The landowner could do what he wants with his property. Yes.

Mr. Mardfin: You mentioned, on page 7, or I guess Keith mentioned on page 7, that, under 4, "According to the Maui Island Plan, the location of the project is outside any growth boundary, and a portion of the parcel is deemed to be sensitive land. The proposed project is not located within the sensitive land area and is in keeping with the Maui Island Plan's goals." What's the sensitive area?

Mr. Scott: This is Keith Scott, with the county. On the eastern most border of the property is a defile or a small gulch and that's considered to be the sensitive land.

Mr. Mardfin: Because it takes -- it transports water from the mauka to makai?

Mr. Scott: Among other things. It's also land that can't build on anyway.

Mr. Mardfin: Okay. This is skipping way ahead, but you have a condition no. 13 in the proposed recommendation, it's Standard Condition -- I'm sorry, it's Project Specific Condition no. 13, on I don't know what page, looks like page 5, and it says, "Brackish and/or reclaimed water sources should be used for dust control during construction when available." Is it available?

Mr. Evenson: AT&T would come with a truck, and it's not uncommonly to it's essentially called dousing the area to ensure that when the trucks are driving or during construction that there's not a lot of dust being produced. So, yes, if that's a requirement or a condition, we'd have to comply with that.

Mr. Mardfin: Well, it just says "when available," and that leaves, you know, everything up in the air. You could say, oh, it's not available, or you can say, you know. I will stop for now.

Chair Carvalho: Chairperson. I had a few -- Chairperson speaking, sorry. I had a few questions, and it's okay if you don't have the answers, I just wanted to see if you did have any.

Mr. Evenson: Okay.

Chair Carvalho: On the basis of that FAA approval, do you know where you stand, and I guess what is the logistics of that, like will -- where do they stand on the regulations? If we go through with this recommendation to approve and it gets to the Planning Commission, but the FAA has a whole different say on the matter, what's the next step?

Mr. Evenson: So I don't know the answer to where the FAA approval currently is. I'm going to make a strong assumption it's going to be approved, it is more of a formality, but I don't know exactly where it's at. I could get that. It is handled by my client internally, and I handle this part, but they handle the compliance with FAA directly.

Chair Carvalho: I guess, yeah, that's what I was getting at, is it is just a mere formality or it's --

Mr. Evenson: It's a formality, but it's also a necessary formality because, if not, I could just put one at the end of the runway and certainly it's a problem, so, yeah, the FAA would say no, you can't do that 'cause it's a public safety issue.

Chair Carvalho: Okay. Second question was that the location, a lot of us do identify by location but we also do by mile markers, so you said Mile Marker 30, that's ...(inaudible)...

Mr. Evenson: That's what I've been informed.

Chair Carvalho: Yeah.

Mr. Evenson: I'm not familiar with your mile markers here, but I've been informed Mile Marker 30.

Chair Carvalho: So on the guide it says 30, and then the range goes Hana side, towards the school, where it ends, and that's, for sure, I know that's 33. Does that mean that's where the range ends on that side, okay, 33 to 30, I know we don't have an exact answer on the other end, but does it extend -- would I assume it extends to 3 miles in other directions?

Mr. Evenson: That could be a fair assumption. A lot of it would depend on topography and what the topography in the area was, but coverage would be about three miles as long as there's no obstructions.

Chair Carvalho: Okay. And that leads to my third question with the topography and the visibility. Once you get to Hana Town or when you -- if you're going to expand whether it's into Hana or outside of Hana, going towards Kahului, is it a safe assumption to say that we're going to have the same visibility issues that --

Mr. Evenson: So placement of the cell phone towers, it's a difficult task. You have to have accessibility, you have to have accessibility to power, and trucks, so it's typical to get up into some areas, so -- but, yeah, we'll be looking for other sites. Does that answer your question?

Chair Carvalho: Yeah, I guess just I would assume there's going to be a few cell towers if you're talking about, not in -- in the near future, but in the far future that it's going to be every -- every certain amount of miles there's going to be another cell tower.

Mr. Evenson: That would probably be a likely objective with AT&T, I don't know their long-term business plan, but that would be a likely objective.

Chair Carvalho: Okay. Thank you. Ward?

Mr. Mardfin: Yeah, I'm looking at the site map in Exhibit -- looks like Exhibit 1. Can you tell me how far from the road this tower is?

Mr. Evenson: So our setback's going to be -- I believe it's about 110 feet from the road. The road's essentially the property line, and we'll be set back, as required by Maui County Code to their setback standards, so I believe it's 105, 110 feet. I'm actually doing a correction on the zoning drawings, so, right now, I think it says 104, but we've actually moved the compound back 10 feet to adhere to Maui County Code.

Mr. Mardfin: Thank you.

Chair Carvalho: Scott.

Mr. Crawford: Thank you for being here today to share your presentation with us. A couple questions I have, I have some comments and things that may be -- that I'll share at some point, but just to start with a couple questions. This was alluded to earlier, but is the landowner compensated for having this facility on their land, and if so, can you disclose what that compensation is?

Mr. Evenson: I cannot disclose that, but there is an agreement being made between the landowner and AT&T.

Mr. Crawford: For the record, was there any notice of this hearing given specifically to the neighbors or the, you know, the people in the coverage area aside from the general notice of hearing that was provided to the community as a whole?

Mr. Evenson: So I did a notice in the paper, as required by Maui County, and I also did a 500-foot radius mailing of all the property owners of the subject parcel.

Mr. Mardfin: How many property owners were there?

Mr. Evenson: Maybe 30 or 40, that's a rough shoot from the hip number. I can definitely get that for you. But maybe 30 or 40 mailings.

Mr. Crawford: And when was that done?

Mr. Evenson: Well, I had to give one month public -- give notice one month to this meeting, I had to do a mailing when I filed my application, and I had to do a mailing for the community meeting that I had last week, which I had no attendees last week.

Mr. Crawford: Can you describe a little bit the nature of that mailing, what was the contents of it?

Mr. Evenson: Yeah. So it was a notice of the project that proposed to take place, and I held a meeting last December 4th here, so I was here available for anybody to ask questions, and then there was also I did another mailing for tonight's to notify the public of the proposed site, took out an ad in the Maui County newspaper for three weeks, and, additionally, I did a mailing when I filed for my application.

Chair Carvalho: Chairperson. December 4th last week?

Mr. Evenson: Last week I held my community -- last Thursday, I held my community meeting.

Chair Carvalho: Okay. Thank you.

Mr. Evenson: I was here between one and three o'clock.

Chair Carvalho: Okay. Thank you.

Mr. Crawford: Can I just ask, was anybody here aware of that -- that community meeting that was held?

Unidentified Speaker: ...(inaudible)...

Chair Carvalho: Can you --

Unidentified Speaker: ...(inaudible)...

Chair Carvalho: Can you please come up? I'm sorry. No. Please state your name.

Ms. Ross: Yeah, Carol Ross. I live within that 500 feet.

Mr. Evenson: Okay.

Ms. Ross: And we received your first mailing, not the one for the 12/4 meeting, but the one for this meeting.

Mr. Evenson: Okay. I do have mailing records that I can provide.

Ms. Ross: Yeah. Alright.

Chair Carvalho: Ward?

Mr. Mardfin: Keith, could you come up here a minute? I want to ask you a question. I'm looking at Exhibit 7. This heavy outline thing I believe is the property.

Mr. Scott: Correct.

Mr. Mardfin: This scale at the bottom shows feet and this whole length says it's 15 -- says it's 3,000 feet, so 500 feet would only be about here, it would be about an inch on this paper. An inch should only get one -- I count one, two, three, four, five, six, maybe seven, maybe eight properties. I don't know where you get 40.

Mr. Evenson: I might have the mailing records with me if you'd like me to retrieve them.

Mr. Mardfin: Well, I mean did you send it out to people more than 500 feet away?

Mr. Evenson: So there was a TMK issue to begin with, so the larger -- the parcel got subdivided, and so in order to ensure -- if I run -- if I go to the website and enter in the TMK it's actually on, and I hit the button of Maui County's website to generate me the mailing list, it doesn't provide it because the TMK is so new, actually, so what I did is I took the old parcel, which is the larger size parcel --

Mr. Mardfin: Yeah, I know. They divided this into seven pieces a while ago.

Mr. Evenson: Correct. So I took the larger size parcel, and in order to ensure I was complying with my mailing, I mailed to that parcel.

Mr. Mardfin: Okay.

Mr. Evenson: And so, that is correct. If I would have adhered to that rule, I would have mailed to a lot less; actually, mailed to more than I ...(inaudible)...

Mr. Mardfin: Okay. I just was wondering why it was more, and you explained it. You took the seven parcels that somebody's trying to sell, and they split it up couple years ago, and they're trying to sell them off in pieces. I get that. Anyway, the reason I ask is 'cause this paper that that young lady passed out to me, it's fascinating reading, and it said -- I'm just reading from one page of it, but it says, "Santini, et al. found significant health problems in people living within 300 meters of a cell phone base station or tower. The recommendation was made from the study that cell phone base stations should not be placed closer than 300 meters to populated areas." But 300 meters is about 900 feet, which is about an inch-and-a-half on this, and I -- there's maybe one, two, three, four, five parcels within that thing, and I don't know of any homes up there although there may be. So even on this research paper, how's the 300 -- and when they say "populated areas," they mean a group of homes, not just a single dwelling I'm assuming, but based on the distances here, this doesn't seem like a serious health problem, at least to me.

Chair Carvalho: Scott?

Mr. Crawford: Just to get one little -- this is in terms of the landscaping, one little small maybe inconsequential correction though, but the plants that you're talking about are not actually native indigenous plants, they're Polynesian introduced plants.

Mr. Evenson: Okay.

Mr. Crawford: There's a difference in Hawaii. We have, generally, native or indigenous plants, we have invasive or exotic plants, and then we have these Polynesian introduced plants that were brought here by Polynesians, by Hawaiian voyagers when they arrived in the islands, there's about two dozen plants, most of the ones you mentioned are on that list, so they're not actually native to Hawaii, they're considered canoe plants or Polynesian introduced plants.

Mr. Evenson: Okay. That's of interest, and I could certainly adjust the landscaping plan to anything anybody would like. Thank you for that.

Mr. Crawford: ...(inaudible)...

Mr. Evenson: No, I --

Mr. Crawford: Yeah, that wasn't a statement of opposition; that was just a factual correction basically. Yeah, I'm not encouraging you to change it, I'm just saying when you present that those are vegetation options, it's accurate to call them "Polynesian introduced," not native or indigenous.

Mr. Evenson: Thank you.

Mr. Crawford: I guess that's all I have right now as far as questions specifically for you. I have some more general comments but we'll -- does anybody else have questions or anything before I --

Chair Carvalho: So does anyone else have any questions?

Mr. Crawford: Let me ask a procedural question. In order to pass anything, do we need a majority of the quorum or a majority of the entire board?

Mr. Thomson: It would need to be unanimous since there's just four of you, so you have bare quorum.

Mr. Crawford: So based on Mr. Cashman's already expressed opinion of this, we know that we're not going to vote to recommend it today because all of us would have to agree and he's already stated his opposition to that. In general, you know, first, I live in this area so I think, of the Board Members, I'm the only one that would be served by the coverage or affected by whatever negative effects there may be. So I -- and the question was raised about whether we base our recommendation on our opinions or the testimony that's submitted, and, you know, we just have to listen to everybody, everybody's testimony, and come up with our own vote based on the balance of those things, so I may feel strongly one way about a certain issue, and everybody testifies against it, I could vote based on my own opinion, or I could vote against my own opinion based on all the testimony I hear to be a representative of the community. So just in terms of how it works, we're free to vote however we want, but we weigh all those things, our own personal opinions and everybody else's testimony in this.

One thing that I think tends to happen with public hearings is that people who are very opposed to an issue and feel passionate about it are the ones that tend to come out and testify. People who are supportive of it, probably are less likely to come out and testify. So even though there's a -- you know, most of the people from the community here are opposed to it, I don't necessarily know whether that represents the sentiment of the whole community.

I think the idea of doing some kind of a survey is a valid one and, you know, I appreciate Yvette's, you know, expression to volunteer for that, and I think that it would be interesting to really see. You know, I can imagine that there are some people who live -- and just to clarify the coverage area, basically, as far as my understand, what we're talking about is from about the Waianapanapa area, where the coverage ends now or a little bit before that, just past the school, so this would include everything going along the road from past the school, to Waianapanapa, Kaeleku, Ulaino Road, Kalo Road, where I live, and out towards Lower Nahiku, although it may not quite reach Lower Nahiku Road, including the airport, so that's the area that we're talking about, AT&T is requesting to be able to put in

a tower to provide coverage to this area as well as the ocean and the boats. There may well be people living in this area who would really appreciate having cell phone service, and would like to have this tower, and we just haven't heard from them, and maybe not. We can only go based on the testimony that we've heard today, but, you know, I do think it would be valuable to really get a sentiment of, it's not that many residences, it would be really valuable to actually find out, you know, the overall feeling of the community and if they're, you know, if everybody here really is representative of the community or if there's people who just figured, well, this is going to -- this is going to pass, I don't need to go testify, and they would like to use the service when it's provided, so, you know, that's a possibility that we have to, you know, I feel like I have to keep in mind.

One thing in terms of process that I'd like to mention is that, as was described, just to reiterate this, we don't have any decision-making authority. We are purely advisory. So we can make a recommendation to the Maui Planning Commission, which can be to deny, to approve, or to approve with conditions. They can listen to us or not. When it goes to the Maui Planning Commission, that also involves a public hearing, and when it comes up on that Maui Planning Commission agenda, all of you can go to that meeting, if you so choose, and you can also testify there so that they hear from you directly. Now, they receive the minutes from this, from this hearing, and from previous hearings, what Clayton has described is that the commissioners and the Planning Department itself tend to be -- they tend to actually read the minutes and really listen to what's put on the record, so even if we vote one way or another, somebody stating their opposition and putting reasons for that in the record can have an effect, and the testimony that's put -- that's put out can have an effect. So, you know, regardless of what our recommendation is, all of your testimony is in the record for them to read, but if you want to make it known even more clearly to them, you can go to that public hearing, when it does go before the Planning Commission, you can testify in person and make sure that you're heard. So I just wanted to make sure everybody knows that. There will be another opportunity for public testimony in the course of this process and that's the actual decision-making body.

Chair Carvalho: Thank you, Scott, for the clarification. And, Uncle?

Mr. Cashman: Just to add to what Scott was saying. You don't have to go outside to testify. You can go to the county office here.

Ms. Lono: Not for the planning commission ...(inaudible)...

Mr. Cashman: Oh, take that back. In the past, I noticed they don't always listen to what we say. We voted no, and they still passed it, so -- and they've added to, so if you strongly feel against it, it might be worth your while to go or forward whatever it is, yeah.

Chair Carvalho: Ward?

Mr. Mardfin: Mr. Chairman, there are basically four things we can do tonight, probably five, actually; one is we can vote to defer to another meeting date. John Blumer-Buell has sent us an email actually requesting that we do that because he thinks it disturbs -- and he's a member of the Hana Advisory Committee, he's a Committee Member, and he asked that we defer 'cause he couldn't be here tonight and, well, no. I take that back. He asked us to defer because he thinks it interferes with view planes, and he has a couple of things that are on here as to why he thinks it ought to be deferred. The second thing we can do is approve with no conditions. The Committee may take action to recommend approval of the permit without opposing any conditions to the Maui Planning Commission. This would be -- it doesn't really mean no conditions. It means no additional conditions because the Maui Planning Commission, in our report, has put on 21 conditions, some general, some project specific. The third thing we can do is approve with conditions, and that really means to add some of our own that they didn't think of. And the fourth is an outright denial, to recommend denial of the permit request.

Had we -- I agree with Scott that Ed probably will vote no. I would have made a motion, I'll be honest with you, I'd have made a motion to approve with no conditions. I used to be on the Maui Planning Commission, we approved one like this in Paia, same disguise, a little bit off of Baldwin Avenue; it improves conditions for the people; they -- you have one tower and you can accommodate three or four companies. I would have made a minor, minor addition on page - Keith, I'm telling you so that next time it comes back, you can be aware of it - condition 6, General Condition 6: That the applicant shall develop the property in substantial compliance with the plans titled -- blah, blah, blah -- and representations made to the commission in obtaining the county special use permit, and I would have added the words, voted -- moved to add the words "and the Hana Advisory Committee" because it's coming to us first, so I would have put -- what they tell us we ought to -- they ought to be held to as well.

Nonetheless, it doesn't look like that's going to pass. If it's denial, it will not pass because I'll vote against that. If people want to -- are worried about cell phone radiation, don't buy a cell phone, you know, it's easy to deal with. And the distances that are involved here are such that none of the research seems to indicate that at the kind of distances from populated areas that you're talking about, it's very unlikely to be any damage. Can I say absolutely none? No, I can't. We don't know everything in the world. But it's unlikely to -- and, by the way, I voted no on the moratorium. No, I take it back. I voted yes on the moratorium. But I would have voted yes on this. But with Ed saying he can't vote for it, I can't vote against it. I will make a motion, Mr. Chairman, for deferral to another meeting date or our next meeting with the hopes that more information on the safety of this thing, which I believe is safe, will be provided.

Chair Carvalho: That's the motion?

Mr. Mardfin: That's my motion.

Chair Carvalho: Do I hear a second?

Mr. Crawford: I'll second that motion. This is Scott.

Chair Carvalho: Thank you, Scott. At this time, we have any discussion regarding the motion, and I want to state, on behalf of me, Chairperson, that I had some preconceived notions about today's -- today's agenda item, and what kinda changed my -- my decision is one of the -- testimony by Susie Pisano. It was a little disheartening to hear that she felt that -- that her voice doesn't count. I mean we have a lot of impassioned testimony today, but we also only have one person who was notified by mail. Everyone else was notified for this meeting -- I'm sorry, for the meeting -- for last week's meeting, only one person, who is here, received that mailer, that doesn't mean that you didn't send, it just means that that -- it's just one person who showed up, and I feel that the position of everyone here is equal to my position, I simply have a voice, but I can speak on behalf of Mile Marker 30, I don't live there. We've had issues in the past, I'm not going to pick specific instances, but it's we have an issue with a short-term rental, we have the people around that short-term rental that they're looking for approval of a permit, they were all notified, and they all show up, and they all testify whether it's for or against, and we get a good cross-section of people surrounding that area, that's always, you know, that's being debated. What I'm seeing now is that we don't have much of anything in either direction. We have a lot of people who are against it, and like Scott said, those people are outside of that boundary; the people who are for it, may or may not have showed up. They just felt like either their voice doesn't matter, or, you know, there's a bunch of factors. What I'm getting at is that I feel that we should also vote for deferral. I will possibly vote on -- I will vote for that, and I would strongly encourage everyone here to heed what Susie said and Alana said, instead of making the conditions for recommendation to approve or deny, to have AT&T go from door to door and inform people. We, as a community, should do that ourselves. We should. And I feel that's the only way we're going to get a strong answer, a strong recommendation, and good testimony. So I'd just like to also state that for the record. It is in the hands of, first, everyone here, and I can just point to the ones I already know who's going to be out there. But thank you for your testimony tonight and if -- oh, thank you, and I'll turn it to Ed.

Mr. Cashman: I can go along with the deferral, but I hope, when we do have the next meeting, AT&T, or their representative, comes with somebody who has the answers. Yeah. I don't think it's fair to the community that we ask questions and we don't get the answers, you know. What is your master plan? You know, I don't think an answer is like we're always trying to provide better service. Everybody tries to do that. What is your plans so we know what we going end up with, yeah? Because the plan that you're proposing now, it's hard to believe anybody can make money with that plan. And I think

the safety concerns gotta be addressed and answered, yeah. A lot of the people here, their concern is the safety, and, obviously, they did a lot of research, it's not from the top of their head. I mean they're giving us -- I mean we have to have somebody here who can answer it. I'll go along with the deferral. Either it's deferral or denial. But I think it's fair to the community and some of what my partners here said that maybe other people want to testify. I didn't know about this till I got the papers from the county, and that was Monday, so if I don't know and I'm on the Committee, I didn't even know about the meeting you had last week, then if we don't know, how anybody else going to know, you know? So I could go along with the deferral. Thank you.

Chair Carvalho: And thank you, Ed, and I'd like to just state thank you, Mr. Evenson, for coming in. I know that it was not your intention to deceive anyone here. We just don't have enough information. Every -- your presentation proposed or popped up questions that you couldn't answer, and then from there it even sprung even more questions that you're not able to answer and that's not fair to you or to the people testifying. Thank you. Scott?

Mr. Crawford: Regarding the health effects of this, the potential health effects, the risks that have been brought up, you know, I -- none of us I don't think are scientists, you have some technical background in this, but most of the people testifying aren't scientists, don't have an expertise in this, neither do I, so I have to just listen to what people say, and research, try to figure it out the best that I can. My personal opinion, based on the research that I've done, is that I tend to agree with Ward that I think the, based on my understanding at this time, this -- these frequencies of RF are not likely to cause cancer, not likely to cause other things, both the distance away from the towers as well as the actual frequencies and the energy that's transmitted by the towers. You know, there's the document that Alana handed out alludes to this a little bit, it mentions this, but there's a difference between the ionizing and the non-ionizing radiation, and when we hear about radiation, we tend to get alarmed over the term "radiation" but radiation is all around us all the time, the sun is radiation, the light that's allowing us to see each other is radiation, it's just electromagnetic waves, which range all the way from, you know, the low radio frequencies to microwaves and x-rays and gamma rays and things that are very energetic, like gamma rays, are the ones that have the energy to actually break apart the DNA in your cells, which is what causes cancer. The energy of RF on this level is non-ionizing radiation. It doesn't have the energy to break apart the DNA in your cells, and it won't cause cancer; that's not to say it couldn't potentially cause other health effects.

My research in looking at this, it appears that most of the -- most of the studies that show health effects tend to be fairly anecdotal, and that the general scientific consensus, which you can choose to disagree with, but the general scientific consensus is that the health effects to human are minimal or none.

So I know all of you, you know me. I'm just as concerned about the health as you are, so I'm just trying to look at the facts as best I can and figure it out, and the research that I've come to so far, that's my understanding of it. So if this was just up to me in a vacuum, I would probably vote to approve it, and I'd be interested in maybe changing to AT&T's service so I could get service at my house 'cause I can't get Verizon right now. But I also really take into consideration the feelings of all of my neighbors about this, and I think that, you know, obviously, everybody who chose to come out to this meeting feels very strongly and does feel like there's a health effect of that, so even if I may not completely agree with you on that point, I really take it into consideration very strongly.

There's also one other thing that just -- I think that a lot of -- a lot of you testifying against it today do use cell phones, and for those who don't, I really respect that; for those who choose not to, I really respect that. But a lot of us do use cell phones. The radiation coming from our cell phone, when we use it, is much more harmful than the radiation coming from the tower because of its proximity to us. And, in a way, this is a -- this is a not in my backyard issue because we're all willing to go use the cell phone towers when they're in somebody else's neighborhood, we're willing to come over here in Hana and use the cell phone towers, or go out in Kahului and use the cell phone towers out there, but we don't want one in our neighborhood that other people could be able to come in and use. So there is a kind of not in my backyard hypocrisy to this in a way that we want our little enclave of the world to be RF free, but we want to be able to use our cell phones when we go out elsewhere and everybody else is being exposed to those towers with the same health risks that you feel are there.

So those are just the things that weigh in my mind over as I look at this and try to, you know, try to really decide is this something that I, you know, support or oppose, and, honestly, I came to this hearing with a -- without a preconceived notion about how I was going to vote because I wanted to hear everybody's testimony and really see what people felt like, so, you know, I didn't come in here saying I'm definitely going to approve it or I'm opposed to it, and after listening to everybody, I'm very comfortable with the idea of deferring it and we can get more information, we can come back, we can discuss it more and have the chance for the community to really feel like, you know, the input has been heard and others to be informed and maybe provide their testimony, so that's sort of just my general thoughts on it as this point. I really, really want to thank everybody who came out to provide testimony, and sit through this whole thing, and make sure that your voices are heard, it's really, really important, and, you know, it does make a difference to us and to the Planning Commission, when it gets to there, so mahalo.

Chair Carvalho: Thank you, Scott. Ed?

Mr. Cashman: You know, if we approve the deferral, it might be to our advantage if we had a site visit.

Chair Carvalho: And that's what John Blumer-Buell, Board Member, also suggested. We can take that into consideration as well. Thank you. Richelle?

Ms. Thomson: I just wanted to bring up a couple of -- a couple of points that were discussed. So, currently, the motion, as I understand it, is to defer and you're requesting that the applicant provide more information on the safety of the tower. And so other issues that came up were view plane, and whether there were alternatives for perhaps a shorter tower; that might be something that you're interested in hearing when they come back. Also brought up was AT&T's overall plan and how this tower fits into the overall plan, and then, specifically, there was a request made that the applicant provide information on the demand for the service, the increased service, and that's actually one of the criteria that you consider under this special use permit part of the Maui County Code. So I didn't know if those items would be something that you'd want to add to your information request, but I wanted to bring it up.

Chair Carvalho: Thank you, Richelle. Does anyone have -- oh, okay. Ward?

Mr. Mardfin: I'll just say thank you, Richelle, for systematizing the sorts of things we were concerned about so when they do come back, they'll be prepared to answer things, so -- but it's not part of the motion, per se; the motion, per se, is just to defer to our next meeting.

Ms. Thomson: It is good to put on the record though which items of information you're missing from your decision making so that they can clearly come back with it.

Chair Carvalho: Any other discussion on the motion? Clayton?

Mr. Clayton Yoshida: Clayton Yoshida, with the County Planning Department. Again, I think as the Deputy Corp. Counsel had mentioned that there is a federal law, the FCC shot glass, so there is -- a deadline, so if it comes back to the board -- Committee, I think it would have to come back fairly soon.

Chair Carvalho: Do you have a time -- do you have a time frame?

Mr. Yoshida: I guess we'd have to, again, poll the members, see if we can get a quorum, and, you know, perhaps sometime next month 'cause, yeah, we have to deal with this Federal Communication Commission shot glass legislation for the municipalities to act on these types of permits. So we'll poll the members and we'll let the members and, you know, the public know when the next meeting will be, but it's probably going to be sooner rather than later.

Chair Carvalho: Thank you, Clayton. Scott?

Mr. Crawford: You know, just concerning the health affects, I want to -- if you'll allow me just read into the record a little bit here. This is a document, it's actually cited in John Blumer-Buell's letter as well, but it's from the American Cancer Society, so whatever your opinion of them may be, but I'm just going to read a few paragraphs here because I think these are useful, and perhaps they can be disputed, but I think it's useful to have this in the record.

It says: Do cellular phone towers cause cancer? Some people have expressed concern living, working, or going to school near a cell phone tower might increase the risk of cancer or other health problems. At this time, there is very little evidence to support this idea. In theory, there are some important points that would argue against cellular phone towers being able to cause cancer. First, the energy level of RF waves is relatively low especially when compared to the types of radiation that are known to increase cancer risks, such as gamma rays, x-rays, and ultraviolet light. The energy of RF waves given off by cell phone towers is not enough to break chemical bonds in DNA molecules, which is how these stronger forms of radiation may lead to cancer. A second issue have to do with wave lengths. RF waves have long wave lengths, which can only be concentrated to about an inch or two in body size. This makes it very unlikely that the energy from RF waves could be concentrated enough to affect individuals cells in the body. Third, even if RF waves were somehow able to affect cells in the body at higher doses, the level of RF waves present at ground level is very low, well below the recommended limits. Levels of energy from RF waves near cell phone towers are not significantly different from the background levels of RF radiation from other sources, such radio, television broadcast stations. For these reasons, most scientists agree that cell phone antennas or towers are unlikely to cause cancer. Studies in people. Very few human studies have focused specifically on cell phone towers and cancer risk. In one large study, British researchers compared a group of more than a thousand families of young children with cancer against a similar group of families of children without cancer. They found no link between a mother's exposure to the towers during pregnancy, based on distance from the home to the nearest tower, and the amount of energy given off by the nearby towers and the risk of early childhood cancer. In another study, researchers compared a group of more than 2600 children with cancer to a group of similar children without cancer. They found that those who lived in a town that could have exposed them to higher average RF radiation from cell phone towers, in the previous five years, had a slightly higher risk of cancer although not of any certain type of cancer. This study estimated that children's possible exposure based on the number of towers in their town and how long the signals from towers -- I mean, anyway. It did not look at actual exposure of any individual child based on how far their home or school was from the tower, this limitation reduces confidence in the result of the study. One study looked for signs of DNA or cell damage in blood cells as a possible indicator of cancer causing potential. They found that the damage was no worse than people who lived near a cell phone tower as compared to those who didn't. The amount of exposure living near a cell phone tower is typically many times lower than the exposure

from using a cell phone. About 30 studies have looked at possible links between cell phone use and tumors in people. Most studies today have not found a link between cell phone use and the development of tumors. Although these studies have some important limitations, this is an area of active research.

Ms. Ross: ...(inaudible)...

Mr. Crawford: So I'm not going to get into arguing back and forth with you on this. You had your chance to express your opinions, and you provided us this document, which is a 19 -- 1994 document --

Mr. Church: ...(inaudible)...

Mr. Crawford: Wait, Sol. Sol, you had your chance. I'm talking now. This is a 1994 document here so if you want to tell me these are old studies, this is a -- this is current information that's on the site of the American Cancer Society. So I'm just saying when it comes to, you know, you can yell at me and be mad at me because I don't agree with you on this, but I'm --

Mr. Church: When is the study from?

Ms. Ross: How long was it for?

Mr. Church: How long ago was it? And you willing to let us be the guinea pigs? You willing to let -- no, Scott, I'm going to get screened for cancer. Me. I'm 30 years ago ...(inaudible)... I going get screened for cancer. I like everybody know, I live next to the airport. I getting screened for cancer. Okay? So now I'm not going to let that ...(inaudible)...

Mr. Crawford: Wait, can you -- look, I'm willing to hear you but --

Mr. Church: ...(inaudible)...

Ms. Ross: ...(inaudible)...

Mr. Crawford: This isn't a debate. This is a public hearing. People have their opportunity to come testify, and I have my opportunity to state my opinion as a member of the board, so as we're in a discussion for deferral so, you know --

Chair Carvalho: This is a discussion for deferral and we should -- I do want to just kinda let it --

Mr. Church: ...(inaudible)...

Chair Carvalho: No, no, no. It's no one's fault.

Ms. Ross: ...(inaudible)...

Chair Carvalho: Well let's --

Mr. Crawford: We have a motion on the floor and the public testimony portion is over.

Chair Carvalho: Let's just move --

Mr. Crawford: You know, I'm sorry I riled people up more, but -- and you feel like you need to respond to me, but I'm putting my perspective based on the research that I've done on the record. You have an opportunity at the next hearing to come up and dispute me, you have an opportunity to go by the Planning Commission and dispute me, you have the opportunity to come to me, personally, and talk to me about it, and that's fine. I'm totally open to hearing your opinions. I'm just stating, based on some of the research that I've done and from what is considered, generally, a very credible source, this is what I believe is the scientific consensus at this time. So I'll leave it at that. Thank you.

Chair Carvalho: Let's -- yeah, let's also --

Mr. Crawford: One other thing, as I say, this is also only addressing the issue of cancer, so this doesn't address all the other things that people brought up. There's many other health concerns that people raised, and those may be valid, I'm not disputing those or commenting on those, this is only specifically in regards to the risk of cancer.

Chair Carvalho: And let's harp on that fact again that if we vote to defer, and it unanimously passes, that you also have another chance to speak at our next meeting, and as Clayton Yoshida has suggested, it will likely be next month, the community will be notified of it, and you can testify again. You can have the questions again. There will likely be another representative from Cascadia or perhaps AT&T themselves to --

Mr. Evenson: I'll make the request for a person that specializes in -- or our RF engineer to come.

Chair Carvalho: Right. Thank you. And I think what this is begging for is people who are very experienced in their fields to answer these very specific questions, and to also kinda sift through disputes like this where we have disputed facts, disputed evidence, one report goes against another report, let's -- let's defer. Well, my opinion is to defer and see where

we can move on from there. The motion to defer was presented by Ward, it was seconded by Scott, and let's -- we can put that all to a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Crawford, then unanimously

VOTED: to defer the item to the next meeting.

Chair Carvalho: Unanimously passes. Do you have any discussion on -- I would like to propose a ten-minute recess before we move on to the next agenda item. You want to second? You okay? You approve? Okay. Okay. Thank you.

(A recess was called at 6:35 p.m., and the meeting was reconvened at 6:50 p.m.)

Chair Carvalho: Again let's --

Mr. Evenson: If I could just say thank you. I have to get back to Oahu so thank you...(inaudible)...

Chair Carvalho: Let's move on to agenda item E.1. Clayton?

Mr. Yoshida read the following agenda item into the record:

E. COMMUNICATIONS

- 1. MAUI PLANNING COMMISSION requesting comments and recommendations from the Hana Advisory Committee to the Maui Planning Commission on Council Resolution No. 14-40 referring to the Lanai, Maui, and Molokai Planning Commissions a proposed bill to amend Section 19.04.040 and Chapter 19.30A, Maui County Code pertaining to Commercial Agricultural Structures in the Agricultural District. (J. Alueta)**

The Maui Planning Commission made this request at their October 28, 2014 meeting.

The Committee may act to provide their comments and recommendations on the proposed legislation.

Mr. Yoshida: Staff representing the department is our Administrative Planning Officer, Joe Alueta, and you are in receipt of a December 9 letter from Council Member Robert Carroll, of East Maui, concerning this matter. With that, I'll turn it over to Joe.

Mr. Joseph Alueta: Good evening, Members of the Hana Advisory Committee. My name is Joseph Alueta, I'm the Administrative Planning Officer, and I handle most of the administrative rules or changes to Title 19, maybe changes to Title 16 for signs, as well as supervise at the Zoning Administration Division. Some of you may know me, some of you don't, but there's two methodologies in which Title 19, which is the Maui County Zoning Ordinance, can be amended. One is through department initiated changes. The Planning Department has been going through an update of Title 19, systematically, and we have brought several bills before the Maui, and Molokai, and Lanai Planning Commissions. A few bills have come before Hana when they kinda have a sub-impact or may have more of an impact on the Hana region than other districts and so we have brought it before you. The other methodology is by council resolution for amendments to Title 19, and that's pretty much how this bill is being presented. By charter, the Maui County Council cannot act or change the Title 19 via resolution without first getting comments back or giving an opportunity to three planning commissions an opportunity to review and comment on it. So, typically, we would not come before you for such an ordinance unless it was specified by the county council. In this case, there was a secondary letter or a letter from Council Member Bob Carroll who asked that, I guess at the pleading of maybe the Chamber of Commerce, Hana Chamber of Commerce, I'm not exactly sure, but that the Hana Advisory Committee be given an opportunity. The Maui Planning Commission felt that that was a worthwhile endeavor. At the same time, they did not want to delay the process because we are under a time constraint to get the bill back. We did transmit our comments of the three planning commissions to the county council and that has just been done, but they wanted you to be able to have an opportunity to review it and comment on it, and then send -- and then the department would then send your comments directly to the county council as well as the Maui Planning Commission to give them update upon your comments.

Just as a preference, the -- both the Molokai and Maui Planning Commissions were not in favor of the bill as presented or as presented by the council. The department had a number of concerns and questions. We're not exactly outrightly opposed to it. We think the bill has some merit. But we feel that there's some deficiencies in details that could create more problems from an enforcement side as well as create more confusion on what would be an allowed permitted use within the agricultural district.

The department, I believe, did pass out -- you have the resolution as well as what we presented to the planning commissions. Rather than go line by line and do a table of what we would recommend changes for, we found it easier just to use a PDF copy of the bill and to use -- it should have been color, I see some of you -- I'm not sure if you have it in red,

but it may be -- it should have been in red but came out in black and white for some of you maybe, but we have where we've inserted -- where we have added comments in using kinda like Adobe Acrobat, so anyway, if I can, I'll just start on Exhibit 1, which is page 1 of Exhibit 1, which is the actual amendments to 19.04, which is the Definition section of the Maui County Code, and then -- and amendments to 19.30A.

So, the first area is an amendment to what they consider agricultural product stand. All of the areas that are bracketed, this is called a "Ramseyer format," bracketed means that the county council is proposing to delete that language. If it is underlined, they are language that they are proposing to add, okay. So you can see where they have deleted some stuff, like, and added, so they're kind of redrafting the definition for agricultural product stand, and so they're defining it as being a building or structure or place of walls, you know, and they're defining that. The only thing that the department would ask is that on the 25%, at least 25% open, is that you add "while in operation." There's been some questions on some of the product stands. Many of these go by, I guess you would know, is roadside product stands, you see them all along Hana, on the way to Hana, some of them are more elaborate, but, in general, you're allowed to have -- and if you have an agricultural lot, if you want to sell agricultural products, anyone can setup a product stand, set back from the road, and it has to be at least, on this, by definition, at least 25% open. There was a question by one of the people who do that, they said they wanted to be able to secure the product stand at night, and we said, yeah. The 25% meant open while in operation. So if you have boards that close it up, you know, like you have fold down, you know, plywood that lock up and secure the product stand at night when it's not in operation, that's okay. It's just that when it's in operation, it needs to be an open structure. This sort of gets around a couple different things, building code as well as it just allows for that it's not to be an enclosed structure.

The other areas that, moving down, is what the primary amendments that council is making is to what's allowed within the agricultural district and, primarily, what's considered to be an accessory use. Within the agricultural district, I mean, in our ordinances, you primarily have what is considered to be a principal permitted use, okay. And then you have what's considered to be accessory uses, like so they have to be accessory to some type of permitted use. And then there's other areas where you consider what is considered to be a special use, do you have to get a county special use permit because it's not an outright permitted use, and it's not deemed to be an accessory to some type of outright permitted use. So the council is, from what I can tell, from their amendments, they're not amending what's allowed by right; what's allowed in the ordinance. They're amending what is considered to be an accessory use. And so if you look on page 2, of that council's reso, you'll see what they're doing is they're, right now, you're allowed one agricultural product stand for the display, and that's what the existing language is, but they're actually deleting that allowance as well as deleting farmer's markets, okay, and what they're doing is they're just saying is you can have a maximum of two commercial agricultural structures per lot,

okay. They're not establishing size limit or anything like that, they're just saying you can have two agricultural -- commercial agricultural structures per lot in the agricultural district. And then later on in the bill, they create this whole new stuff, but before I get to that, I'll go on this page 2, talk about what they want.

We think that there needs to be or there should be some discussion on is a minimum percentage of the total floor area containing products for sale. There needs to be some type of limit, either a limit on how big, it has -- because this is supposed to be accessory to a permitted agricultural use on the property, there should be some type of connection to that permitted use, so either a percentage of the floor area should be selling products either grown in the state, grown on the island, and then not more than 51%, or some type of standard.

Should -- and I guess for conversation, if you have one of these commercial agricultural product stand, can you basically open up a Whole Foods? Can I open a Whole Foods on agricultural land and I'm selling 100% Hawaii grown products, or 51% Hawaii grown products? Or do I have to actually grow something on the lot and have that be the majority of product that is sold within the agricultural product stand? Again, if this is supposed to be accessory to a permitted agricultural use on the property, shouldn't there be a tie to the agricultural operation? And we're not clear, based on how the council has written it, that that's there. And so, again, using that example, you know, and I use this in my other discussions, and some of you may remember Hana Gardenland, okay, I actually worked on that in 1993, that's how long I've been with the department, and so under this provision, you -- there is a potential where we had an -- where they sold some orchids but the vast majority of what was being sold there was non-agriculture, they had an art gallery, they had -- they sold pizza. Now, based on this, as long as they put tomatoes that are grown on the property, are they allowed to sell the pizza because now that's a agricultural product that is derived from something they grew? So as long as I do that, I can have a -- I can open a Pizza Hut. That's, I mean in some of the reading of this, that's how I read it. You potentially could have that interpretation, and so we don't want to leave it to interpretation. We're trying to find out what does council want. Is that what they really intended? Is that what the community intended? And so that's where our concerns is. If there is no concern, if you think a Pizza Hut or a Whole Foods is an okay use as long as they sell all Hawaii or 51% of the products are grown in Hawaii, then the bill probably is going to be okay as written. But we're bringing out this food for thought, we do believe, again, we want to help farmers, but we're trying to figure out what's the best methodology to help farmers without overly commercializing or having abuse and commercialization of the agricultural district when that's not really the intention.

Other things, while we're amending, on page 4, you'll see -- these are uses under accessory, again, under accessory uses, so you see -- or, I'm sorry, excuse me, under special uses, these are things that require a special use, so in the county agricultural

district, you see additional farm dwellings, public/quasi-public institutions, major utility facilities, telecommunication and broadcast antennas. The public hearing you just had before you was for a telecommunication and broadcast antenna; that required a special use permit, okay.

Open land creation uses and structures which do not meet the criteria of being considered an accessory use. So bungee jumping, skateboard ramp, roller blade, I mean you would -- and then we would like to add "ziplines and zorbing." Okay, ziplines are -- okay. Zorbing is giant hamster balls. It's the human hamster ball. You get into an inflatable hamster ball and you roll down a hill. That's basically what it is. I mean that's the best way I can describe it. I mean they do it in Wahaca, New Zealand, that's where it was first invented in like in, not Wahaca, but Rotorua. Rotorua in New Zealand. But, again, open land -- I mean, obviously, when you want to do a paint ball field or any one -- you need a large area, that's not -- and so having the special use permit in the agricultural district makes sense, it comes before a public hearing, so we feel ziplines, and zorbing should also be listed as being something you can get a special use permit.

Then we talk about solar energy facilities that are greater than 15 acres. As you know, the state law allows for solar energy facilities as an outright permitted use, okay, up to 15 acres, okay, and the county mimicked that law by also allowing for it, but we said that anything greater than 15 acres has to get a special use permit from the commissions. One of the things that we also have a limitation on is 35 percentage of the lot, so you can't cover more than 35% of a lot. We think that you should add that in as one of the criteria to trigger a special use permit 'cause, right now, if somebody had like a 2-acre lot, and they covered 40% of the lot, they wouldn't be able to do it, and there's no mechanism except maybe a conditional permit and we feel it should actually go through a special use permit. So we just want that clarified. We think that should be included in this.

Green waste recycling facilities. Green waste recycling of your own product is fine. If you're, you know, HC&S, you're composting bagasse, if you're a wood maker or cutting down -- you're clearing your land, you want to compost the products onsite, that's fine. What this would allow for is someone who wants to a bring compost facility or green waste from off-site, onto their property, grind it, have a tub grinder or, you know, sort it, grind it; that we think needs to have a special use permit, a county special use permit. We think it just needs to have additional review, and we think it should be added to the list of county special use permits.

Okay, the next section is Section 5, on the bottom of page 4, and this is a whole new section that the county council has decided to add. They have decided to add commercial agricultural structures, okay. They establish a definition. They establish, under accessory uses, that you can have up to two; now they're establishing what those standards are under section -- what they're calling now section "19.30A.072." Okay, this is where we

have some concerns. Okay, obviously from our writing, again, the Planning Department supports the concept of supporting farmers and having them be able to do agricultural product stands, or be able to sell their product, sell finished agricultural products from stuff they have, or jellies, jams, that's the kind of things that people have normally associate with agricultural thing, but we want that should there be no limit or based on this thing, they're saying you could do as long as the majority, so 51%, as long as the structure is basically 51% is being used for agricultural products, they're not too concerned with what else goes on in that 49, okay, I mean that's kinda how we read it, and so -- and also, if you look at the two definitions, they're establishing agricultural retail food establishment, okay, so these are your fruit stands that -- or, again, I use Hana Gardenland, where you have finished -- a finished food product is being served, okay, maybe your Nahiku, you know, your smoke marlin, you know, all -- what I call "the strip mall in the jungle," okay, that may or may make this -- I mean they came in and got a special use permit, okay, but that's -- how far would this allow for this to go? They may not need a permit anymore. Maybe they would be by outright permitted. And so you have to decide is that good thing or a bad thing, and that's kinda where the comments are -- what we're looking for.

The council has come up again with agricultural retail food establishment, and then another thing called "agricultural retail structure." If you read the two, we're not sure what the difference is, okay. They both allow for other food items with no limitation, and they're just slightly worded differently, okay. Commercial ag structure that they have in there, means agricultural product stand, farmer's market, a stall within a farmer's market, market -- sorry, agricultural retail structure or agricultural retail food establishment, okay. One of things we have an issue with is that it says that an agricultural -- commercial agricultural structure could be a stall so -- but you're limited to two agricultural structures, so does that mean you can have a farmer's market with only two vendors? That doesn't -- it seems counterintuitive to what you're trying to do. So we're not sure what their intention is.

Another thing that we had an issue with or comments on was you already have other food items already included in value added products that are produced using agricultural products grown in Hawaii, and so it seems they're listing it twice.

Let's see, if you're going to have these agricultural commercial structures, do you want to have a parking requirement? Okay, I mean we think 19.36 is where the parking ordinance is, should you establish some type of parking? We think you should establish it, otherwise, the Planning Department, if left to its own demise, will just assess them as any other business commercial, and assess them with a lot of parking, and that may not be what you want, okay. Also, in the agricultural district, we don't believe that, in many areas you need, for true agricultural product stands or true agricultural activities, when parking is requirement -- required, it's not always necessary to do paved parking. We would rather see a provision within 19.36 that requires parking for agricultural product stands or agricultural retail structures and allow for gravel to be an acceptable surface. I think that

makes more sense. I mean you see that now. I mean especially in Hana where you have a lot of rain and maybe the volume of people going to it does not have the same wear and tear.

Let's see, when you look at, on page 6, they create this whole new other thing: One, the Planning Department shall maintain a data base of the commercial agricultural commercial structures to enforce this, which we always love to do; they also have that within the commercial agricultural structure, other food items and logo items shall occupy no more than 49% of the total floor area, so food for thought for us is is that -- is that number too high for you, or is that number too low? I mean, for us, they're using 49% because the majority of this has to be agriculture, so other food -- other food items, right, and logo items can't occupy more than -- but there is no maximum square footage, so can I build a 5,000 square-foot building on a 2-acre lot and have 2501 foot be used for logo wears, golf tees, and golf balls, and the rest I sell some lettuce and some cabbage, you know, or papayas? Is that really what -- I mean what I'm saying is I'm thinking if I read this, how would I maximize and build these structures? And that's how I think. Now, other people are probably thinking the same way so I'm just saying is that a good thing or a bad thing? That's up to you. Do you want to see a limit, or no limit? And for Planning Department, we feel we need to have some guidance so that we can say yay or nay some things. The clearer it is in the ordinance, the easier it is down the road to enforce as well as give guidance to people who are trying to do this in a legal manner.

On the farmer's markets, it has a limit of five acres, it's limited to daylight hours and to five acres, but the limitation doesn't apply to commercial agricultural structures, so that didn't make much sense to us. I mean I understand where they're coming from because what they did was they took that limitation that was in the original code, the original code has that for farmer's markets, okay, but before, farmer's markets was the most intense commercial activity that could go on on an agricultural lot, okay, that was related to ag, and that's why established that, okay. But now, you're establishing, basically, you're saying you could have any commercial agricultural structure, have 49%, have a -- potentially have a restaurant provided that it uses some agricultural products, have 49% of your structure sell non-agricultural related items and you're not limited to any type -- you could do it 24/7, okay. Again, we're not sure. We're just asking the council. So we're just concerned that, you know, somebody needs to clarify this for us. If it comes out like this, I think that there could be some issues later on down the road.

And then there's several definitions that use the term "parcel" or "parcels," but in 19.30A, generally, we use the term "lot" or "lots." It doesn't really matter, but right now, we can't see a problem, but we'd rather be consistent. For our -- the way we do it is that a lot -- well, a parcel is TMK parcel; a lot is a true legal entitlement or subdivision of property, okay. A parcel is more of a tax map, so you could have a parcel and have multiple lots within that parcel - just to give you a general idea of what that means.

But again, because Hana or East Maui is probably, you know, the most prolific area of what is termed "roadside stand" or -- and "farm stands," and even, I'm not sure -- again, I do not know what the Nahiku Market Place is, is it a -- it could be, like I say, a farmer's market, or something, but it has a special use permit for that use. But again, what is -- what does this community want to see? Do you want to see more of a liberalization or an expansion of your existing farmer's stand to what is being proposed, or do you feel there should be limitations? Or should there be the current process? The current process is everybody gets a 300 square-foot roadside stand, setback it's safe, it's semi-open, you can sell any product, you can agricultural products from that as long as they are grown in the, right now, grown in the State of Hawaii. So as long as you're selling that type of stuff, it's not an issue. If you try to sell nonagricultural items, you would need a special use -- county special use permit from the Planning Commissions, okay, and so -- and that's where most of your things, such Nahiku Market or anyone that does more expansion, I use Hana Gardenland because that was one of the most bigger ones that came a while ago.

so again, I'm here just to take your comments. Those are the department's concerns but also food for thought points on the bill, and again if you -- I did go to all three commissions already so I can tell you what happened there if you're interested, but I do know that Maui was interested in having Hana hear about it. Thank you.

Chair Carvalho: Thank you, Joe. Does anyone in the audience have any questions for Joe? Please come to the mike and state your name. Thank you.

Ms. Alohalani Smith: Hi. I'm Alohalani Smith from Kaupo. I kinda come in and meet up with Hana 'cause we don't have meetings like this, so thank you for having me join you folks. I did have a question because I created a business out in Kaupo named "Kau Kau Lani," it's a food trailer, and my business plan on this one is to provide food service for the community, and others, and get information as far as being an information hub. I help to do fundraising, and I hope I can stimulate the small village out there with jobs in time, and then I also have where I hit my profit margin, I donate 10% back to the nonprofits so that I can help it financially to sustain itself at least, and the other one is that I use it for the Red Cross feeding hub should, you know, when it happens, we always have it out there, we got disasters. So I heard earlier that on the non-ag commercial businesses, you know, I heard, first of all, and that's why it's great to have Joe here, but can you perform in your ag land because, per se, others were saying you pay your property tax, you pay your auto tax, and then you pay your sales tax, so I was like, okay, I'll go and visit that thought and bring it forth. Now, I know there is a special use permit, and that's the only process, but I wanted to find out is there anymore and is it more complex than it is? Yeah, like if there's any other process 'cause when I got hit with the Planning Department, I was to go and do a parking requirement, a special management permit, a special use permit, and so I really actually had to fight it because I was like, wait a minute, it's mobile and I am going to do it on the side of the road, which I got justification from the State Highways Division that it

is county right-of-way, yeah, on the side. So, you know, all I'm trying to see is it possible to do it in our property, which is not ag products, sorry, but, you know, just to kinda get the finances out there because there's actually no other way, I live in desolate land, cattle is all we have, and, you know, to slaughter them and everything, I gotta go through a whole process with, you know, the State of Hawaii, the Department of Health, so --

Mr. Alueta: Yeah, the only -- well, okay, there's -- she touched on a couple of things I was trying to address. One is a vendor's license, which is -- when you're not operating from a physical structure, but from a mobile structure, you have to get a vendor's license, and that's handled by the Department of Taxation. It primarily happens if the vending occurs outside of the county roadway, then the vending has to occur on commercial property only. So if she wanted to do it on her agricultural property, again, she could either comply with the current agricultural standards, meaning she could sell agricultural products that are grown in the State of Hawaii, and even finished agricultural products grown in the State of Hawaii, or she would have to get a county special use permit from the Planning Commission for the nonagricultural related items. The agricultural district is, obviously, for raising and growing of crops and other agricultural items or uses that are listed within the Maui County Code as well as under Chapter 205. So those are pretty much your zoning and that's pretty much what the state says you can do and what the county says you can do, that's pretty much it. The vending, again, occurs, I'm not going to be very popular 'cause I have a different interpretation of how finance interprets their vending ordinance, but if they grant a vending permit to be within the county right-of-way, right, for food items, the exception that the council has established under I think it's Chapter 5.12, which is the finance vending rules, they sort of excluded the zoning, so, basically, zoning doesn't matter at that point, or finance -- so if you're vending from within a paved or marked park stall, okay, finance has taken that to be anywhere within the right-of-way. I take it to be -- the way Planning reads that code is that it is in a paved marked stall, and there's no paved marked stalls in Kaupo, so we wouldn't approve it, but if finance approves it, that's their kuleana. It's not our law. So we don't -- the Planning Department is not involved in that. So, right now, that is her only means of which to retail nonagricultural products from that area, okay. I know there's Kaupo Store, there's -- so there is some commercial or existing nonconforming commercial out there and I think would -- it suits the small community out there. But that's -- I'm not sure if this bill would help her. I would help her in some aspect, but they would still need to an accessory. You couldn't just do a pure restaurant or purely non-restaurant type use out there. You'd still need to go through a special use permit.

Ms. Smith: Thank you. Yeah, Kaupo is the only commercial area out there and we tried to revisit that and so forth, but I lost my thought, but anyway thank you for your time and clarifying that, and thank you you folks.

Chair Carvalho: Thank you. Does anyone else have any questions or testimony?
Questions?

Mr. Sinenci: Testimony.

Chair Carvalho: Okay, testimony.

Mr. Sinenci: I'll try to be quick. Yeah, I think you -- Shane Sinenci. I think you heard from Joe how this thing is just loaded with misinterpretations. They've thrown the whole kitchen sink inside this thing. And the council themselves don't know -- they want your input so, to me, as a board, you guys should send a strong message back to this council, edit 80% of it, and send strong 20% back. This thing is open ended to all kinds of stuff. And the reason why is I think we should follow our Hana Community Plan. Commercial is commercial; ag is ag. In here, there's an oxymoron, commercial agriculture, okay. I'm for supporting our farmers. They have their stands with what they're growing. You start to put commercial on our ag lots, the majority is out in Kaeleku, okay, what's going to happen? We're already seeing this. There's a -- it doesn't state clearly what is ag and what is commercial. We have a viable commercial area in our town. We're working towards getting Hina Mailalena back and have all our farmers go over there. That's our farmer's market in our town. We have Hana Town. We don't need other towns sprouting up in our ag districts, like it's starting already. This bill says that you can build -- Joe said 5,000 square feet, 1,000 square feet is 100-by-100, 100 feet by 100 feet; that's larger than this building right here. Square feet.

Ms. Lono: That's 10,000.

Mr. Sinenci: Well, like and 50% of it is you can buy products that are made in Hawaii. Sugar comes from Hawaii. You can cook anything and everything with sugar and you can pretty much sell and you can open up a restaurant, okay. What comes with restaurants? Bathrooms. This guys are building bathrooms already. What comes with bathrooms? Workers. WWOOFers. More housing. All on ag lots. You guys allow this to happen, you're going to be allowing more commercial space in our ag district. That's ag district over there. Yeah, we want to support farmers. They can sell their products. They can bring it to Hina Mailalena. As a community, we need to work about our commercial area. We have a viable town center. Come over there and sell your wares. Leave agriculture. Leave Kaeleku to agriculture. And also to our culture sites, you open this place up, more traffic, parking, we're already seeing it over there. We've got our hala forest; we get the heiau down there. That's all culturally sensitive places down there. And what are we going to do? We're going to be bringing more people, like the Nahiku Market Place, in a culturally sensitive area up there. Kaeleku is historically hundreds of years for us Hawaiian people, and you guys wanna -- and these guys want to turn it, give it okay to turn it into another commercial strip mall in the jungle? We don't want that over there. We want to build our town center over here. Let's work to getting our town center viable and how it used to be over here. Keep Kaeleku. You can have your little farm stands. Look, this thing, you need to edit some of this stuff out. Why is all that other stuff, fishing activities,

rodeo arenas, arboretums, why is all that listed inside here? On page -- there's some more. There's camping, gun and firing ranges, archery ranges. What's going to happen to Hana you guys bring all this commercial stuff into our ag areas? Playing fields, accessory buildings and structures. So this thing is open-ended and it's not detailed. Like Joe said, they're leaving it up to us. Oh, we don't know. You guys can put more. You know, on the back of it has more rentals on top too. You're going to have to house all that workers. More of this illegal housing is going to come up on ag lots. What I'm saying is, as a board, as a community, send a strong message back to this, maybe let's wait till our Hana Community Plan comes out, and let's revisit our Hana Community Plan. The people that came before us already set what Hana was supposed to be. We get commercial. We get ag. Let's keep those things. Let's follow what those guys -- they didn't just plan it because it was, you know, ah, you know, we'll just keep this, this or that. Already, again, we don't want the added traffic up there. We don't want turnarounds. We don't want more workers, WWOOFers. So, like I said, just dissect this thing, send a strong message back, tell them what we want, we'll follow our Hana Community Plan, ag is ag, and we have a commercial area. Thank you.

Mr. Mardfin: Shane, I have a question.

Mr. Sinenci: Yeah?

Mr. Mardfin: You say to send a strong message back. We're faced with an existing law, existing set of laws, they're asking us to reflect on a couple things.

Mr. Sinenci: Yeah.

Mr. Mardfin: On page 2, the main thing they're doing on page 2 is saying they want to put in -- it currently says, no. 3: One agricultural product stand per lot, and item 4 says: A farmer's market for the growers. Instead of having those two things, they want to make 3.: A maximum of two commercial ag structures per lot, period. Is that good or bad? Does that help with what you want or not?

Mr. Sinenci: Bad. What's -- what's for them to interpret it as bathrooms? What is it to interpret it as a certified kitchen?

Mr. Mardfin: Okay, so you'd prefer -- then you prefer the current wording: One agricultural product stand per lot and a farmer's market? That's what it currently says.

Mr. Sinenci: But the commercial -- but the support buildings could be --

Mr. Mardfin: But we're faced with two choices; either we like the existing wording, I mean we can't rewrite everything, but that's not what they're after, I don't think, you either leave

the wording the way it is or you make the changes, or you modify the changes. And you're saying send a strong message. Is the strong message saying we don't want to just say a maximum two commercial ag structures? Or is it the strong message to say we like the way it is, one agricultural stand per lot and a farmer's market for the growers?

Mr. Sinenci: The size is -- he said there's no size limit. I mean you can go --

Mr. Mardfin: It doesn't have a size limit now.

Mr. Sinenci: Yeah. Put in the size limit. We don't want a hundred by -- you know, like this big, and at 50%. We want 90% of products over there. We don't want -- they're going to sell like --

Mr. Mardfin: Okay, let me --

Mr. Sinenci: Like Hana Gardenland, they're going to sell paintings, they're going to have a gallery --

Mr. Mardfin: Yeah.

Mr. Sinenci: They're going to do all this other stuff.

Mr. Mardfin: Okay. Let me -- let me go into another one.

Mr. Sinenci: That's commercial. We're going into commercial areas on ag lands.

Mr. Mardfin: Let me go into another one. The main thing on page -- on page 4, actually, they're trying to put it -- Joe was suggesting putting in a couple of things that they didn't even ask about, but the bottom of page 4, and all of page 5, and much of page 6, that is the guts of this. This is a whole new section on commercial ag structures. And are you -- is the strong thing to say don't put that whole section in?

Mr. Sinenci: Yeah.

Mr. Mardfin: Okay. That's your position. For that one, you either put it in, change what they have, or don't -- either don't put it in, or put it in the way it is, or put it in with some changes, and you're saying don't put it in at all?

Mr. Sinenci: Yes.

Mr. Mardfin: Okay. Thank you.

Mr. Sinenci: Like I said, we want to support our farmers, we want to open up one in town, 'cause this is -- then that way our town -- everybody benefits from produce. But once you start, you take it out there, a lot of our kupuna, you know, we're a mahele society, you know, it's not about selling, 'cause if you're access, you share your excess, you know. It's not about making money off of --

Mr. Mardfin: So you're -- I get your position. Your position is we shouldn't add this new section?

Mr. Sinenci: Yes.

Mr. Mardfin: Okay. Thank you.

Mr. Sinenci: Thank you.

Chair Carvalho: Thank you. Joe?

Mr. Alueta: Yeah, I just wanted to make sure I clarify some things. On the existing ordinance, right, the existing law allows for an agricultural product stand, it establishes standards that are easy to follow; it says you gotta be 15 feet away -- safety standard, 15 feet setback from the road, it establishes maximum square footages, it sets up what you can -- open provision, mean so you don't want to have a solid structure there, it's going to be a relatively open display structure, and, you know, it's gotta provide for the agricultural products that are grown. This one is more restrictive in the sense that I believe it talks about within the county, but the state law has changed and we think that it should be -- if amend this one section, you should just say, "agricultural products grown within the State of Hawaii," so at least you can say -- or I mean you can modify it any way, but right now, we're limited to County of Maui and we think that it should be -- that you should be able to sell other agricultural products.

Mr. Mardfin: So if you like -- if you like the specificity of the limitations, don't make the change.

Mr. Alueta: Right.

Mr. Mardfin: If you don't like the specificity, you say, "A maximum of two commercial ag structures per lot." Leave it at that. Let somebody else figure out how to interpret it or ...(inaudible)...

Mr. Alueta: That comes down to it because, right now, the law --

Mr. Mardfin: So that's what we're being asked to do?

Mr. Alueta: Correct. And, right now, the law also, the current law, again talks about farmer's markets and it establishes a pretty clear criteria of what is called a "farmer's market," how it operates, and the structures, and the lots, maximum lot or minimum lot areas that it can operate on. I'm not saying this can't be tweaked in the future, meaning maybe you want to have it smaller agricultural lots. But, right now, it's pretty clear. And you also have to look at what the Hana Community Plan currently has. The methodology in which you address a lot of your need for commercial uses through the special use permit has been -- I mean it has been through the special use permit process, okay, in the agricultural district, and you really have limited those uses, clearly, in your community plan. I mean I bought it tonight and it talks about what is going to be need for that region or that nearby community. And so I know that this board has been very conservative in granting special use permits, but I think that you would be a better board in this community to determine what's really supporting ag, and what's not supporting ag. So if somebody came in today and provided you with a plan, this is going to support my agricultural operations, and provided you with their limitations, you would be able to fair it out, you know, the ones that are just trying to maximize their commercial operation, or those that are really trying to have some commercial that has a good vertical integration with their agricultural operation, and that's currently the process. When somebody has a true agricultural operation, and they say, hey, I'm growing this and I want to get a special use permit because I'm going to be selling these other items that are not ag related, but they kinda keep this ag business afloat, you can see what they're proposing and you can create the boundaries that are easily interpreted, and also with a special use permit process, although it's more cumbersome, there's always the possibility of revoke -- I mean if they violate the conditions, you have the ability to deny the permit or pull the permit away from the person.

Mr. Mardfin: And in this report from the econ development energy, agriculture, and recreation committee, they say this whole thing was developed by the agricultural working group composed of Maui farmers, so Maui farmers want -- seem, at least the ones that are represented on that group, want this kind of loosening up of some regulations and the creation of new options for commercial operations of ag products. Do I sort of have the big picture here?

Mr. Alueta: Yes.

Mr. Mardfin: Okay. Thank you.

Chair Carvalho: Anymore testimony?

Ms. Lono: I have so much to say about this, and I know it's getting late already, I have an enormous amount of concerns about this bill. You mentioned the ag working group that was put together by Council Member Don Guzman. Hana doesn't really have any farmers on that ag working group that have been attending that meeting and have represented the

farmers in Hana, so I think that's really important point that needs to be recognized. This bill, the way that it's being revised, just completely opens up our agricultural lands to commercialization and retail establishments, and it's really -- it's really not about agriculture as much as it is about tourism and utilizing tourism to keep some small justification for agriculture on certain lots. Now some people would, you know, do the right thing and use it appropriately, but this is open to so much. I mean was trying to write it and it was just too much to write what can possibly happen if this passes the way it is right now. I mean where it says, and it gives you guidelines, and then it says, "and other food items," so it tells you what you can do, and then it says, "and other food items," and then it defines "other food items" means any food item that is not an agricultural product. What is that? You know, I mean there's no limitation there. You can sell anything. I could open up a store in Kaeleku, at my farm, and I can sell anything that I want in 49% of that store, anything. I just would hate to see our agricultural lands turn into all of these retail establishments, retail stores, and tourism activities, and it's -- if you look at what the Planning Commission went through, I read their minutes from their meeting that they had on this, on have an enormous amount of comments on this, and they just turned it back to the council and said they need to go -- they need to go back to square one and rewrite this.

So -- and I kind of agree that if they're going to address this in some fashion, that it certainly needs to be rewritten, and it certainly needs to be tightened up, and it certainly needs to protect our ag lands, and if nothing else, maybe we can just say, hey, Hana doesn't want to be included in this and we utilize the special use permit process that in place to deal with these kinds of options, like Joe was trying to explain, or Joe explained. You know, there is a process in place, a special use permit process, so if you want to do something like that, you at least come to the community, and there can be conditions put on it by your neighbors or by the community itself so that everybody's in agreement, and there are conditions on it, and if the conditions are violated, the permit can be pulled. Right now, if this passes, you won't be able to do anything about anything. They could do anything. And there's no recourse. There's nothing that can be done to control any of this. And I just -- I'm so concerned about it. I've been watching it for -- it's been going on for, what, over a year? Maybe two years already in the EAR committee? Yeah. And it's just been very frustrating to watch it just develop and grow and grow.

And I tell you what, any group that you put together to benefit itself is going to come up with the most loosely-based thing that they can to, you know, so -- I don't want to follow any rules if I don't have to. Shoots. You know, give me -- let me write my own bill for my property, and I'll give myself every leniency that I possibly can to do whatever I want to do, and nobody can do anything about it. Anybody would do that, if they're smart. So you put the ag working group in charge of putting this together, and this is what you get; something that gives them every latitude to do everything that they could possibly want to do on agricultural land, pretty much.

So I'm very concerned about it and would like to see if reviewed. I don't -- I mean, for us to have this process happen in a few hours on one night in Hana, and this has the potential to impact our community so greatly and so drastically, that I think this should be deferred, and discussed, and met about, and really looked at in detail before we can do anything with this. Mahalo for listening.

Mr. Mardfin: Dawn, I want to ask you a question.

Ms. Lono: Okay.

Mr. Mardfin: It's, basically, the same two that I asked Shane. On page 2 where they talk about taking the existing legislation about one agricultural product stand per lot with a lot of restrictions, and a farmer's market for the growers with some restrictions, and change it to the wording, "A maximum of two commercial ag structures per lot," you think is way too loose so you'd be opposed to doing that?

Ms. Lono: Absolutely. I think the way it's written now is actually adequate, and if you want to do something more than this, you go and get a special use permit.

Mr. Mardfin: Okay. And on the second -- and on the -- yeah, and on the second major thing that's being brought up here, this whole new section on commercial agricultural structures, you would do away with?

Ms. Lono: Absolutely.

Mr. Mardfin: Thank you.

Chair Carvalho: Any other questions? Ed.

Mr. Cashman: I'm just wondering what is our options? ...(inaudible)...

Ms. Lono: So that's not a question for me.

Mr. Cashman: Oh, excuse me.

Chair Carvalho: Any other questions for --

Ms. Lono: The only other thing I would like to say is that, you know, I have a farm, and I could be down there, I'm in a prime area, I could be down there doing anything that I want to do on that property, and doing tourism, and selling retail, and doing all of that, and I chose not to do that. I chose to be pono and go and rent a space in a commercial area and do my commercial business where it belongs, and it cost me more money than these

people who are on the side of the road and doing all of their commercial business, and selling all of the products that they're not supposed to be selling on the commercial properties, and the thing is, there's no enforcement of even the existing law, so put a law like this into place where it says forty -- who is going to go and look at the property and say, okay, you have 49%, you know, that's this, and you have 51% of that - how are you going to do that? And who is going to do it? Nobody's going to do it. It's not going to happen. They're just going to put this in place, and walk away, and everything is going to explode, and that is really what's going to happen. Thank you for listening.

Chair Carvalho: Any other testimony? Thank you. Please state your name.

Mr. Church: My name is Sol Church again. And I just have to agree with Dawn, everything she said. So, yeah, basically a lot of those people that loosening up are not even from Hawaii, they've come to Hawaii, they ask, "How do you guys afford to live out here? What can I do to make my life easier?" You know, and a lot of these people, you know, should we see if Don Guzman took bribes from some of these people to get this going for it. I mean Mr. Vasey, I'll say his name out loud, he stirred the pot, you know, to get this going, so I mean did anybody meet with him, talk to him about this? I'm just saying, I gotta agree with Dawn about everything, you know, no commercial business on ag property, I mean there's no enforcement to begin with, and what is that do for our taxes as far as on ag property 'cause I live in that area too so I have to look out for myself later on in the future. So, yeah, thank you.

Chair Carvalho: Any questions for the testimony? With that, I'd like to -- oh.

Mr. Cashman: What is our options?

Chair Carvalho: Well, I'd like to close testimony first before and -- oh, does anyone else want to testify? No? I guess, yeah with that, we'll close testimony and comments or questions from the board.

Mr. Cashman: What is our options?

Mr. Alueta: Your options are, basically, to provide us comments on the item back to both the county council and the Maui Planning Commission. Both the Maui Planning Commission and you, yourself, this body itself, doesn't have any authority to approve or deny; it's just they're seeking your comments on it. So if you have -- and that's why we're here to take the minutes and we want to get the minutes back to the Maui County Council as soon as possible. So again, all I can say is that the Molokai and Maui Planning Commissions did discuss it, they incorporated some of our comments, but the gist of it was, basically, they felt that the council should go back and really look at the department's comments and whether they see our conflicts as well as and they provided their own

comments about where they saw conflicts and enforcement issues to try to have them rework it. For Maui, it was pretty much they feel that the process that they currently have, which is you have certain allowed commercial structures, such as the fruit stand, which has defined standards, farmer's market that has defined standards, and if you don't meet those, you get a special use permit, you know. So that's pretty much -- if they want to rework it, look at what the existing structure is of how -- of those two structures that area -- I mean those things that are allowed from a commercial standpoint that can be amended, but don't just rewrite the whole thing in this -- in an attempt to liberalize it because they felt that it makes it even worse. They understand what the council was trying to do, they're trying to make it better for farmers, but in the process, they didn't feel that it came out that well, and so --

Chair Carvalho: Thank you. Any questions or comments from the board? Ed?

Mr. Cashman: Personally, I feel the -- it's just too broad, and I don't know if you guys can enforce it. Even the -- even the rules we have in place now, the enforcement is usually complaint driven, 'cause I've complained and it doesn't work, so to add to that, to add something that you know you cannot enforce and expect it to work, it doesn't make sense yeah. I mean an example is the bed and breakfast and the vacation rentals, yeah. From when you folks put in that new law two years ago, where I live, we have more illegal than legal. It didn't work, and it's not enforced. I complain. The guys shutdown for a month. And it's back in operation. So we're creating a community that this administration is more tourism. Our lifestyle that we want to live, we're reaching the fine line where we're going to have more tourists, more commercial, and we cannot live our lifestyle. Like, right now, I don't know who my neighbors are, yeah. And there's no enforcement. And it's easier and more profitable to be illegal than to be legal. Why go legal when I can make more money being illegal? And that's exactly what is happening. Thank you.

Chair Carvalho: Ward?

Mr. Mardfin: Mr. Chairman, we've actually just been asked to provide comments on this, but I'd like to go a little further, I'd like to propose a motion, and my motion is that, on page 2 of this where they delete paragraph -- items 3 and 4 to substitute just: A maximum of two commercial ag structures per lot, that we vote disapproval of that. So the motion is to disapprove of the change, the major changes being made on page 2.

Chair Carvalho: Can you be -- oh, before we hear a second, can you be more specific just in -- by section by -- just for the record?

Mr. Mardfin: Yes. On page 2, item -- it's not item, it's point 3 and point 4 they plan to delete those, that's why it's in brackets, and substitute the underlined sentence at the very top. My motion is to reject that change; to leave it as is.

Chair Carvalho: Do I hear a second? Do we have any comments on --

Mr. Crawford: I'll second.

Chair Carvalho: Okay. Any discussion on that motion?

Mr. Mardfin: I'd just like to say we have heard from our community on this pretty loud and strong, you know, I don't always follow what the community wants, but I normally do, and I think we're just saying what most of the community wants in this case.

Chair Carvalho: Any other discussion or comments on that motion?

Mr. Cashman: Can you read the motion to me? I didn't really understand what -- what we changing.

Mr. Mardfin: Ed, are you on page 2?

Mr. Cashman: Yeah.

Mr. Mardfin: What -- you the part -- you see where it says 3., and then there's some underlined words? It says: A maximum of two commercial ag structures per lot. You see that? That's what they want to put in. It's not there now. And then they want to take out everything else in 3 and 4.

Mr. Alueta: ...(inaudible)...

Mr. Mardfin: To not do it. Leave it the way it is.

Mr. Cashman: My understanding was, well, from what Joe said, we're just to give an opinion, not to make motions on changing that.

Mr. Alueta: No, those would be your comments. You're making a motion to -- on saying we don't want this change or we want this change.

Chair Carvalho: Just a motion for like a recommendation?

Mr. Alueta: Yes.

Chair Carvalho: Okay.

Mr. Alueta: I mean I'll defer to Corp. Counsel but I can either take just the comments and if there's a general consensus that that's what your comment is going to be, then I can note

it. If you want to go through the formal process of voting on every single comment, then that would be clearer obviously, but it's not always necessary. I think with four people, you might want to vote, I guess. I'll leave it to Corp. Counsel.

Ms. Thomson: That's correct. You could do it by consensus. So gather all of your comments and you could vote at the end of them, Joe can read them back, and then you could adopt them. It would have to be unanimously adopted. And if there were comments that you didn't agree with, you could exclude that, and then make combined comments together.

Chair Carvalho: Scott.

Mr. Crawford: Well, I guess, process-wise, I'm not sure what the best thing is, but, you know, this is -- in a general sense, it's something that, you know, just coming into without having a background on it or, you know, really just trying to understand it for the first time, it's hard to really form an opinion based on, you know, just the initial review, but listening to the testimony, you know, the presentation of Joe as well as the testimony of the members of the community, you know, I definitely can see how this would be, both the changes on -- this change on page 2 and this whole new section that they're trying to add, are far too broad, far too open for interpretation, and, in some sense, is very poorly written, and without getting into the details of every different aspect of it, you know, I concur with the general sense that, you know, of the department's recommendations on this, and that, you know, I think the council would be opening up, specifically here in Hana and certain properties, it would be opening up uses that really could change the nature of some of our neighborhoods and communities in ways that we wouldn't have a review, a potential to review, we wouldn't have a potential for neighbors to be able to have input, we wouldn't have a potential for the department to be able to monitor, or just the practical, you know, it just wouldn't be practical to monitor this, so I think that it's -- I think that it's problematic in a number of ways, just from my initial review and from listening to the testimony, and my initial tendency would be to support the department's recommendation in general.

Chair Carvalho: Ward.

Mr. Mardfin: The department isn't recommending rejecting this, is it? On page 2?

Mr. Alueta: From a -- because we are just providing comments to the thing, we just voiced our concern over some of the issues and wanted the commission to look at them and either see if they are -- you have the same concern we have; if you don't. In the case of Molokai and Maui, they said, yeah, we have those same concerns and they, basically, said we'd rather have them keep -- for Maui, in particular, they said this is going to create more of a problem than it solves. We like the process that we currently use. If you want to redraft it, please go back and redo it, take into consideration our comments, the planning

commission's comments -- I mean Planning Department's comments, and then come back to us. And that's pretty much what the motion was.

Mr. Mardfin: Scott, my impression is that by putting these comments, you weren't absolutely rejecting that change. I'm only talking about page 2, now. My next motion will deal with the other stuff. But you're making comments of improving it or adding stuff. I don't have either the time or, quite honestly, the inclination to do that. If we defer it, and we could deal with it, but I think deferring it just puts it off unnecessarily. I made it a motion because I thought it would be -- if we can get the four people to unanimously say we do not want the changes on page 2, it's the strongest possible statement. Shane has asked us to send a strong statement. I think the strongest statement is we reject the change. Leave it the way it is. If that fails, if one of us doesn't vote for that, then we'll be back to just comments, and my comment would be I don't like it, and you get the comments from everybody else.

Chair Carvalho: Scott. Okay, let's pass the mike to Richelle.

Ms. Thomson: I was at the Maui Planning Commission also, and to reiterate what Joe was saying, basically, the Maui Planning Commission's motion was this bill is flawed. It's so flawed that we can't comment on all of the things that we feel are wrong with it currently. They really wanted a complete redo, and then come back to the planning commissions. They did agree that the Planning Department's comments were valid, and in any rewrite, they should be considered. And then they further said that the special use permit process is the way to go. So, basically, that boils down to they didn't want the current code to change, but if it did, it needed a lot more work.

Chair Carvalho: Scott.

Mr. Crawford: Well, just in terms of the way that it was just articulated by both of you, I concur, and I would say I support the planning commission's motion and I think that all makes sense, from just my initial, you know, take and the testimony that I've heard here today.

Chair Carvalho: So perhaps we should let Ward's motion die and --

Mr. Mardin: I don't want it to die. Let's vote on it. Vote it down if you want. There's a motion on the floor. The motion has to be voted on. If you vote on it, or you vote nay. If it doesn't get four ayes, then it fails; then we're open to another motion.

Mr. Crawford: Well, I'm willing to vote in support of your motion as well because I, basically, think that that's, as far as this aspect of it, I do think that it makes more sense just to leave it the way it is or maybe slightly adjust the definitions if you think they're insufficient

rather than changing the whole thing and making it completely wide open. So I do support Ward's motion as far as this section goes. I'd rather just leave it the way it is than recommend the changes that the council has proposed.

Chair Carvalho: Any other discussion on that motion? So we can put that to a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Crawford, then

VOTED: to disapprove of the major changes being made on page 2.

(Assenting: C. Carvalho; S. Crawford; W. Mardfin)

(Dissenting: E. Cashman)

(Excused: I. Ballantyne; J. Blumer-Buell; A. Hoopai-Waikoloa)

Chair Carvalho: So motion fails. Any other discussion on this communication? Scott?

Mr. Crawford: Well, I guess then do we have a consensus on the more general question of -- I guess maybe I should just make a motion, and then we can vote on that one and see if we have a consensus, but I'd like to make a motion -- I'd like to make a motion that has a good chance of passing --

Mr. Mardfin: I move that we reject the adoption of the -- of Section 19.30A.072, commercial ag structures, in its entirety.

Mr. Crawford: I second the motion.

Chair Carvalho: Any discussion on that motion by Ward? We can put that to a vote.

There being no discussion, the motion was put to a vote.

It has been moved by Committee Member Mardfin, seconded by Committee Member Crawford, then unanimously

VOTED: to reject the adoption of Section 19.30A.072 in its entirety.

Chair Carvalho: Unanimously approved. Ward?

Mr. Mardfin: Mr. Chairman, so now we're down to -- I'm not worrying about the slight wording changes on page 1, but there is this whole big issue on page 2, and I think that's

pretty much -- I don't want to argue about zorbing or not, but if somebody wants to make a motion, I'll entertain it, but if -- I think it's appropriate for somebody to make a comment on the rest of the items aside from the one that we just rejected.

Chair Carvalho: Scott.

Mr. Crawford: I just want to ask a question regarding this just to clarify this issue of ziplines and zorbing that's mentioned in here. These are being added to the uses that would require a special use permit, so right now, could somebody put in a zipline or a zorbing activity without a permit, and the changes you're recommending would actually make it require a special use permit, or how would this actual change the status of that?

Mr. Alueta: We currently require a special use permit for ziplines in the agricultural district unless this person can show that the zipline is somehow integral to their agricultural operation.

Unidentified Speaker: ...(inaudible)...

Mr. Alueta: Well, you know, they do use ziplines in Costa Rica to transport their bananas so maybe that was somehow it was done, but, otherwise, we do require a special use permit. It would just clarify it so that if somebody calls up, hey, I want to do a zipline, they would clearly see it that, yeah, we thought about it and we say you need a special use permit. That's pretty much it. We're just adding it so that it's a little clearer to people.

Mr. Crawford: Okay, so that it's explicit that --

Mr. Alueta: It's explicit.

Mr. Crawford: That you have to have a special use permit if you want to do ziplining or zorbing.

Mr. Alueta: That is correct.

Mr. Crawford: Okay.

Chair Carvalho: Ward.

Mr. Mardfin: The alternative is to put it down under, lower in the paragraph, where it says, "The following uses or structures shall be prohibited," and make it a prohibited activity on ag land. I mean if you wanted to get really tough on it.

Chair Carvalho: Ed.

Mr. Cashman: I think that it's important to note that, through the special use, you can get special uses. Being on this Committee, I visit one site, we had a visitation site, and we're looking at a two-story building, had a office, meeting room, and on top was -- that's where they live, living quarters, and the applicant called it a barn, and they got it. I mean so it can be done. If you want to go through it, you have the resources to do it, I mean I was like I mean I know how one barn look like, but that wasn't the main -- that was the accessory building. So through the special use, if you have the resources and you have the -- you can do it, so I don't think we need all this 'cause I've seen it done.

Mr. Alueta: From what I'm hearing right now from the board is that, with the exception of maybe a few things that the Planning Department has asked to be added, you're not in support of the changes to 19.30A; you like the way -- I mean the current process, which is you get a special use permit, you don't have a problem with that process; you're concerned that, if it does pass, it would infringe -- enforcement would be an issue because you already have problems with enforcement; there could be a potential also for lifestyle infringement if the bill was passed because of the commercialization of the agricultural district. And so, essentially, you want to see the -- see no changes to the agricultural district except for a couple of the minor ones that maybe clarifies some things in the existing code rather than the complete adding and overhaul of commercial agricultural structures. Is that close to what you guys were thinking?

Chair Carvalho: Scott.

Mr. Crawford: I would say yes. It's a good summary.

Mr. Alueta: Okay. I see at least three nodding heads. Ward, would you --

Mr. Mardfin: Well, I'm a little concerned about ziplines because I know the hotel has been thinking about it, Travaasa has. I don't know. I'm not going to live or die on it. It doesn't -- it's not a -- I don't have a lot of concerns. If it passed, I could live with it. If it fails, I could live with it. So if you're talking about the three things on page 4, that's my view on that.

Mr. Alueta: That's what I'm -- I was going to -- okay.

Mr. Mardfin: The three things on page 4, do it or not. I don't really care.

Mr. Alueta: Okay.

Chair Carvalho: Richelle.

Ms. Thomson: Joe, can you help me remember if any of the other planning commissions requested that if this bill is revised and changed, that they get another opportunity to review any subsequent versions.

Mr. Alueta: I thought Molokai said the same thing, but I know that Maui did also that once it gets revised, they would -- it would have to come back to them. They don't want to see it just get revised in committee and not be able to comment on what the revisions are.

Ms. Thomson: So if that's something that Hana Advisory Committee would like to revisit the bill if it's changed, you might want to put that in your recommendation as well.

Mr. Crawford: That makes sense to me. I would like to ask that on behalf -- you know, that the Hana Advisory Committee does have the chance to review it if the bill is changed and a new version is proposed that we have a chance to review it.

Mr. Alueta: Alright. So is there a general consensus on that? Okay. So if --

Chair Carvalho: Yeah, general consensus from the board.

Mr. Alueta: Okay. Thank you very much. So again, you want to see the ordinance stay as is, no changes except for some of the minor changes on -- that the Planning Department wanted to add. Your concern again is again is if it is passed as the council has drafted, enforcement is a concern, infringement on the lifestyles within the agricultural district because of the intrusion of excess of commercial activities, and you would like to see the bill redone and have an opportunity to see it again. Okay.

Mr. Mardfin: Or not redone.

Mr. Alueta: Oh, or not redone. Okay, if it's not redone, you don't need to see it. Okay. Thank you.

Ms. Thomson: And I think you might want to add that they affirmatively voted to -- they disapproved of the entire Section 19.30A.072.

Mr. Alueta: Oh yes. Okay. Thank you.

Chair Carvalho: I guess with that, we can move on to agenda item F, Clayton?

F. DIRECTOR'S REPORT

1. Meeting day of the week, time, and place for future Hana Advisory Committee meetings for the current board year. *The Committee may take action on this matter.*

Mr. Yoshida: Okay, very quickly, meeting day of the week, time, and place for future Hana Advisory Committee meetings for the current board year, I guess we're -- I mean Richelle, Suzie, and myself, we staff various boards and commissions and they have their schedules, and then there's the council committees, and then there are the other departments that Corp. Counsel ...(inaudible)... I think for us, it's probably best for the Hana Advisory Committee meets either on Mondays or Thursdays because Tuesdays are typically Maui Planning Commission days, Wednesdays are typically Molokai Planning Commission and the three of us staff the Molokai Planning Commission, and the third Wednesday of the month is typically Lanai Planning Commission and that is now a two-day endeavor because we don't fly to Lanai anymore so we catch the boat from Lahaina and then, on Wednesday, and we come back on Thursday, so we're wondering, you know, we'd consult with you, but probably Mondays or Thursdays. As far as the time, we're wondering if, you know, there's a possibility of moving it earlier than 4:00 as I probably won't get to bed tonight till about 11:30.

Unidentified Speaker: ...(inaudible)...

Mr. Yoshida: Yeah, okay, quarter after. Okay. And then the place, is this facility okay for the Hana Advisory Committee meetings? As far as a meeting place, is this facility okay?

2. Scheduling of other Hana Region Applications

Mr. Yoshida: Okay, scheduling of other Hana region applications, we have been advised that the Kawaipapa Quarry special use permit is ready for scheduling, but first we have to deal with the AT&T tower -- tower county special use permit, so that'll probably be in January, again January's kind of a short month because we have two holidays and so forth, so possibly I don't know maybe January 26, which is a Monday.

Chair Carvalho: So Richelle suggested possibly doing a site visit on the same day of the --

Mr. Yoshida: Yeah, how early --

Chair Carvalho: If -- I mean if we're -- I actually didn't get the consensus of the board for the site visit, we would need a quorum to do a site visit, Ed and John are in favor of a site visit. It's more if we schedule it, we would have to have a quorum.

Mr. Yoshida: Yeah, we'd have to have a quorum for the site visit.

Chair Carvalho: Yeah. What time would we, generally, consider a site visit to be if it's on the same day, if it's on the 26th? Ward?

Mr. Mardfin: If you do it the way the planning commission did it, well on some things, but I would do it at 3:00, meet up there for a half-an-hour or so before the meeting, and then come right down here and start our meeting.

Chair Carvalho: We wouldn't be there in time.

Mr. Yoshida: Well, I guess the department needs time to setup the meeting place.

Chair Carvalho: We'd have to --

Mr. Yoshida: Well, we could setup the meeting place before the site visit and go to the site.

Mr. Mardfin: I mean see I'm retired so it doesn't matter to me but, you know, the guys that work, can you get off at 3:00 -- can you be somewhere at 3:00?

Chair Carvalho: I think we'd have to do it at least an hour-and-a-half before the meeting, I think just for that location, just to give us wiggle room.

Mr. Mardfin: Yeah, I'm fine with that too.

Chair Carvalho: Okay.

Mr. Mardfin: I just --

Chair Carvalho: Yeah. Okay.

Mr. Yoshida: Okay, so 2:30 site inspection, 4:00 meeting?

Chair Carvalho: Did you want to consider moving the meeting back, Board? Moving the meeting earlier in the day?

Mr. Crawford: I'm flexible. I guess my main concern is that in terms of providing the opportunity for the public to come and testify, having it after, you know, working hours tends to be I think better than having a meeting sort of in the afternoon. So I really can sympathize with your desire not to have to get home at 11:30, but I also have to think about what really works for the community to be able to come out and testify so I wouldn't want to move it too much earlier.

Chair Carvalho: And we discussed that at the meeting, on the 8th, I think May 8th, about possibly looking into a rental for the night because I can foresee this issue in January taking up the same amount of time, even longer, and --

Mr. Yoshida: Well, I can talk to my boss if they'll let us stay at Travaasa.

Chair Carvalho: Just a suggestion.

Mr. Crawford: I make a motion that we recommend that they get to stay overnight in Hana. No, just kidding.

Mr. Yoshida: Okay, with that, make sure that Suzie has your current contact information.

Mr. Crawford: Can I just ask, when are we -- did we talk about the date?

Chair Carvalho: 26th.

Mr. Crawford: Of January? Sorry. Okay, I won't be here during that time so just so you know. I'm going to be gone for the whole month of January, I'll be back on February 4th, so anything before February 4th, I won't be able to attend.

Chair Carvalho: Could we think about very early February?

Mr. Yoshida: Very early February.

Chair Carvalho: The second Monday of February?

Mr. Yoshida: February --

Chair Carvalho: I'm just worried about having a quorum.

Mr. Crawford: Yeah, I don't necessarily need to be there so if you can get a quorum from other members, then --

Mr. Yoshida: Maybe, yeah, maybe the first Monday of February.

Chair Carvalho: What's the time line look like?

Mr. Crawford: The first Monday is the 2nd so I'll be returning on the 4th.

Chair Carvalho: Then Richelle and Suzie have CRC, and so they would be tied up from 10:30 until whenever the meeting is finished, so --

Mr. Mardfin: How about the Thursday after the 4th? The 4th is a Wednesday?

Mr. Crawford: I think that's what he was just responding to.

Mr. Yoshida: Yeah, the CRC is the first Thursday of the month.

Chair Carvalho: And Monday the 9th maybe cutting it too close?

Mr. Crawford: Would be too close?

Chair Carvalho: Let's have two proposed dates and see where we get with that, perhaps we can do the 9th contingent on --

Mr. Yoshida: Okay. Yeah, I guess we'll poll the members and see if we can get a quorum.

Mr. Crawford: Right, so if it can be scheduled to be on February 9th and still have time to do the rest of the process, then we can do that. If not, then I would say just schedule it for the 26th like you originally planned and have a -- hopefully, get a quorum without me.

Mr. Yoshida: Yeah, we want to make sure we have a quorum but we want to show the applicant and the Federal Communications Commission that, you know, we are moving forward in the processing of the application one way or the other.

Mr. Mardfin: ...(inaudible)...

Chair Carvalho: We could do it in -- Richelle suggested December.

Mr. Crawford: Like next week?

Chair Carvalho: Two weeks.

Mr. Crawford: Okay, I'm leaving on the 23rd so -- 22nd?

Chair Carvalho: The problem's I think in January. We might. We may. We've only had bare quorum the last three meetings.

Mr. Mardfin: ...(inaudible)...

Mr. Yoshida: Okay, so we'll poll the other members who are not here. Again, make sure that Suzie has your current contact information, email address, and telephone number, and be sure to respond if you can or cannot attend meetings so we can determine whether we have a quorum or whether we have to cancel the meeting, and if we have to cancel the

meeting and the applicant or the consultant is flying over from Oahu, we can advise them before they get on the plane that the meeting is canceled because we don't have a quorum. With that, this is the last meeting of the calendar year 2014 and on behalf of the department, we wish you all a Happy Holiday, happy and safe holiday season, and we'll see you in 2015.

Mr. Crawford: Thank you.

Chair Carvalho: Ward?

3. Discussion of Future Hana Advisory Committee Agendas

Mr. Mardfin: ...(inaudible)... are there any -- we have the AT&T.

Mr. Yoshida: Right.

Mr. Mardfin: Is there any other significant things we need to do?

Mr. Yoshida: There's that Kawaipapa Quarry special use permit that's ready to go, and I think Gina has been receiving some of the bed and breakfast and some more bed and breakfast and short-term rental home permits in the ag district where they need a special use permit so we have some of those. Okay, thank you very much for your attendance tonight.

Chair Carvalho: Yeah, let's keep our email correspondence going to get the members that are not here, perhaps we can schedule something for January still. I'm getting email and I got the phone calls. Yes. Any Members have any other questions or comments for tonight? Scott? I'll hear a motion to adjourn the meeting.

G. ADJOURNMENT

Mr. Crawford: I will make a motion to adjourn the meeting.

Chair Carvalho: Do I --

Mr. Mardfin: Second.

Chair Carvalho: Second by Ward. And, alright, there being no further business brought before the Committee, the motion's going to be put to a vote.

It has been moved by Committee Member Crawford, seconded by Committee Member Mardfin, then unanimously

VOTED: *to adjourn the meeting at 8:26 p.m.*

Chair Carvalho: Unanimously approved. Thank you.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE

Present

Clayton Carvalho, Jr., Chairperson
Ward Mardfin, Vice-Chairperson
Ed Cashman
Scott Crawford

Excused

Ian Ballantyne
John Blumer-Buell
Anjoleen Hoopai-Waikoloa

Others

Clayton Yoshida, Planning Program Administrator
Joseph Alueta, Administrative Planning Officer
Keith Scott, Staff Planner
Richelle Thomson, Deputy Corporation Counsel

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December 10, 2014

Hana Advisory Committee to the Maui Planning Commission
Clayton Carvalho, Chair
Timely Sent Via Email to Maui County Planning Department and Committee Members.

PUBLIC TESTIMONY FOR DECEMBER 11, 2014 MEETING.

Aloha Chair Carvalho and Committee Members,

I regret I cannot attend the meeting today due to the aggravation of a lower back injury. I have several comments and recommendations for your consideration regarding Agenda Item D.1.

“Agenda Item D.1. Mr. William Spence, Planning Director transmitting the Planning Department’s MR. MARK EVENSON of CASCADIA/AT&T MOBILITY requesting a County Special Use Permit for the AT&T Cell Tower Hana Project in order to install a 75 ft. monopine communications tower and related improvements on approximately 13.812 acres of land at TMK: 1-3-002: 053 and 54, Hana, Island of Maui. (CUP 2014/0005) (K. Scott)”.

I request the committee to DEFER action on this item and request the Planning Department to schedule a site visit to the proposed location of the 75 foot cell tower and surrounding properties that are potentially impacted by the proposal. In addition, there are important issues and related information that have not been identified, addressed, adequately addressed or included in the Maui County Planning Department’s Report and Recommendation to the Hana Advisory Committee. Relevant information needs to be provided for consideration at the the next meeting of the Hana Advisory Committee.

The proposal is to install a 75 foot tall monopine (artificial tree) cell tower and related improvements. Following are several detailed comments followed by a list of relevant issues and impacts that have not been adequately addressed or included.

VIEW PLANE ISSUES & IMPACTS: The 75 foot tall monopine is an artificial tree/cell tower that may have visual, view plane, aesthetic and economic impacts on surrounding properties. A site visit and “mock up” of the proposed tower will help address the issues. In many governmental jurisdictions a “mock up” of proposed developments is legally required to determine view plane impacts. In this case, a structural mock up of the proposed 75 foot tower is an appropriate step toward mitigation of the view plane issues.

On Exhibit 3 the applicant, AT&T, states under “Notes” :

“1. PROPOSED ANTENNAS, FUTURE ANTENNAS AND ALL MOUNTING HARDWARE SHALL BE PAINTED TO MATCH THE NEW MONOPINE AND/OR PER FINAL ZONING DRAWINGS”.

“2. VISUAL IMPACTS WILL BE AFFECTED BY LOCATION AND VISIBILITY OF OBSERVER. THIS DOCUMENT IS FOR PLANNING AND INFORMATIONAL PURPOSES ONLY AND IS CONCEPTUAL. THIS IS SOLELY THE PHOTOGRAPHER’S INTERPRETATION OF THE PROPOSED DEVELOPMENT”.

The “disclaimer” statement made in #2 clearly states this is only “conceptual” and an “interpretation” of the proposed development. Therefore, a site visit and a “mock up” of the tower are totally justified in the interests of protecting the existing view planes, aesthetics and property values.

View planes are recognized as very important in the Hana Community Plan. Private property values are important for obvious financial reasons. The proposed development could impose impacts on both public and private property. There are potential liability issues for the County of Maui and others. The disclaimer does

not address or take responsibility for the very real issues and possible impacts. The Hana Advisory Committee to the Maui Planning Commission and the County of Maui have an obligation to address and discuss mitigation of the issues. The 75 foot tower may not be appropriate at this location. Are there other locations where the impacts would be less intrusive? Probably.

Another possible site that might mitigate the view plane issues is the Hana Airport. Certainly, there are other possible sites. The documents refer to Hana Airport-HIL022276 (Exhibit 3). Is this project a segment of the proposed Hana Airport improvements? If so, information needs to be provided to put the proposal in context.

“Notes” #1 states in part, “PROPOSED ANTENNAS, FUTURE ANTENNAS.....”. It appears the proposal is a segment of a larger project. What is the actual or projected long-term plan for AT&T in the Hana District? What are the other possible locations of towers and antennas are contemplated in the Hana District? These are relevant issues to the currently proposed project.

PROPERTY VALUE ISSUES & IMPACTS: The issues of private property values and cell towers is relevant and a potential liability for property owners, the County of Maui and AT&T. This is not a new issue. Following is a link to Electromagnetic Health.org and and part of the article concerning property values and desirability. **The lack of sufficient information regarding property values in the proposed project report is another valid reason to defer the issue.** This issue potentially impacts Maui County property tax assessments and taxes.
<http://electromagnetichealth.org/electromagnetic-health-blog/survey-property-desirability/>

EMF Real Estate Survey Results: “Neighborhood Cell Towers & Antennas—Do They Impact a Property’s Desirability?”Electromagnetic Health Blog (link)

“The National Institute for Science, Law and Public Policy’s survey “Neighborhood Cell Towers & Antennas—Do They Impact a Property’s Desirability?” initiated June 2, 2014, has now been completed

by 1,000 respondents as of June 28, 2014. The survey, which circulated online through email and social networking sites, in both the U.S. and abroad, sought to determine if nearby cell towers and antennas, or wireless antennas placed on top of or on the side of a building, would impact a home buyer's or renter's interest in a real estate property.

The overwhelming majority of respondents (94%) reported that cell towers and antennas in a neighborhood or on a building would impact interest in a property and the price they would be willing to pay for it. And 79% said under no circumstances would they ever purchase or rent a property within a few blocks of a cell tower or antenna.

- * 94% said a nearby cell tower or group of antennas would negatively impact interest in a property or the price they would be willing to pay for it.
- * 94% said a cell tower or group of antennas on top of, or attached to, an apartment building would negatively impact interest in the apartment building or the price they would be willing to pay for it.
- * 95% said they would opt to buy or rent a property that had zero antennas on the building over a comparable property that had several antennas on the building.
- * 79% said under no circumstances would they ever purchase or rent a property within a few blocks of a cell tower or antennas.
- * 88% said that under no circumstances would they ever purchase or rent a property with a cell tower or group of antennas on top of, or attached to, the apartment building.
- * 89% said they were generally concerned about the increasing number of cell towers and antennas in their residential neighborhood.

The National Institute for Science, Law and Public Policy (NISLAPP) was curious if respondents had previous experience with physical or cognitive effects of wireless radiation, or if their concern about neighborhood antennas was unrelated to personal experience with the radiation. Of the 1,000 respondents, 57% had previously experienced cognitive effects from radiation emitted by a cell phone, wireless router, portable phone, utility smart meter, or neighborhood antenna or cell tower, and 43% had not experienced cognitive effects. 63% of respondents had previously experienced physical effects from these devices or neighborhood towers and antennas and 37% had not experienced physical effects.

The majority of respondents provided contact information indicating they would like to receive the results of this survey or news related to the possible connection between neighborhood cell towers and antennas and real estate decisions”.

HEALTH ISSUES & IMPACTS: These very relevant issues and impacts have not been identified and addressed in the report. For your information are links to the American Cancer Society regarding cancer causes and Safespace, “Is Cell Tower Radiation Dangerous?” There are many available sites for information.

Understanding of cell tower radiation and related issues is evolving. As the science and technology evolve the current understanding will logically change. Cell towers may become obsolete due to better health or technological knowledge.

The lack of sufficient information in the proposed project report is another valid reason to defer the issue. It is questionable to approve a 25 year Special Use Permit for a project that may become obsolete or identified as dangerous. Is it possible to mitigate the radiation or monitor the radiation in the community?

American Cancer Society Information. <http://www.cancer.org/cancer/cancercauses/othercarcinogens/athome/cellular-phone-towers>

Safespace Information. "Is Cell Tower Radiation Dangerous?". <http://www.safespaceprotection.com/electrostress-from-cell-towers.aspx>

SPECIAL USE PERMIT (SUP) APPLICATION ISSUES & IMPACTS: I requested the County of Maui Planning Department to provide the completed SUP application to the Hana Advisory Committee to the Maui Planning Commission for consideration. **This important information has not been provided in the county report.** An SUP application is fifteen pages and provides vital and relevant information and representations that should to be considered in every SUP application discussion. **This is another valid reason to defer the issue and request the completed SUP application be provided for consideration.**

ISSUES AND IMPACTS THAT HAVE NOT BEEN ADEQUATELY OR COMPREHENSIVELY ADDRESSED: Cultural, Health, View Plane, Aesthetic, Property Values, Monitoring of Radiation, Possible Segmentation of Proposed Hana Airport "Expansion and Improvements", Possible Segmentation of a "Smart Meter" Plan, Long-Term Plans and Additional Towers or "Communication Centers", County of Maui Special Use Permit Application, Special Management Area (SMA) Permit. The Hana Advisory Committee to the Maui Planning Commission may want to request additional information. **The lack of comprehensive and sufficient information in the proposed project report is a valid reason to defer the issue. If possible impacts are identified, how can you mitigate them without credible information? You cannot. The Committee needs to make informed decisions.**

Mahalo for your careful consideration,

John Blumer-Buell, Hana