

**MAUI PLANNING COMMISSION
REGULAR MINUTES
FEBRUARY 10, 2015**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Ivan Lay at approximately 9:05 a.m., Tuesday, February 10, 2015, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Chairperson Lay: ...February 10th at 9:05.

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

Chairperson Lay: At this time we're gonna open up to public testimony for those of you who have...wanna testify on an agenda item that we have for today and you have to go to work after or might have to leave early we're giving you the chance and opportunity to testify at this time. If you wish to testify, please step up to mic, identify yourself and you have three minutes to testify and we're gonna go off the sign up sheet that we had earlier. If you wish to testify say yes, if no, you can testify when your agenda item comes up. Our first person is Jeff Halpin. Okay, Terry Venc.

Ms. Terry Venc: Thank you so much Mr. Chairman. Aloha ladies and gentlemen of the Maui Planning Commission. My name is Terry Venc. I'm the Executive Director of the Maui Visitor's Bureau. I have spent 25 years in this industry and I was here when we were a little newer and I have been here as we have matured. You may wonder why you see me because you don't often see me in these settings. But my reason is that I realize that there are a lot of properties as well as other businesses who are looking at making new, refreshing their businesses.

We need you to understand how important that is as you look at the business...as you look at the visitor industry as a whole. We now have, of course, our fabulous culture, our aloha, but we have a lot of new and exciting destinations ripping at our heels. Mexico is opening several new properties this year and looking at huge growth. New destinations such as Dubai, Puerto Rico, Costa Rica, some of the Cayman Islands, and Jamaica are becoming big competitors for us. The Caribbean had record growth this past year in areas where they invested in the designation.

Now that consumer confidence is on the rise, the destinations who show and deliver the best will be the winners. If there's a marketing message it is that we need to invest in our destination. We need to up our gain. We're a mature designation. Our accommodations shows it, some of our businesses, our restaurants, retail, even activities need to step up their game. We have so much competition that we've got to be moving in the same direction that the rest of the world is moving. From broad band to brick and mortar to our level of service, we need to stay competitive or the new and often called "exotic" different destinations will reap our benefits.

In the marketing world we do the same. We have to constantly upgrade our game against the competitors. We have to change our look, we have to change our creatives. We have to change our messaging just to keep up with the times so should the inventory and the infrastructure of our businesses. The strong dollar and air lift puts international travel more within reach of all of our potential visitors. Places like Europe, already mentioned Dubai, Maldives, China and Korea are all being viewed as places that may be more reachable than they have been in the past. Wholesalers are telling me or saying that tracking the bookings shows that they're double digit increases in this upcoming year to Mexico. Another article says that this is the year to go epic--

Ms. Takayama-Corden: Three minutes.

Ms. Vencl: --some place epic. Exotic places are trending and new destinations are emerging.

In closing, I felt as I looked at some of the items on your agenda, and I'm sure there are many more coming down the pipe, that I should share with you where we sit in the way of competition. We're still the dream destination for many potential visitors but we can't ignore and we must keep up with the competition. Thank you for listening and I hope that this provides you with some background on the importance of upping our game as you make your decisions on renovations or new plans that come your way, we're doing the same thing in the marketing, upping the game, changing the strategy as markets call for it. Thank you very much for your attention this morning.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you--oh, Commissioner Higashi?

Mr. Higashi: I have a question.

Ms. Vencl: Yes sir?

Mr. Higashi: As the Director of Maui Visitor's Bureau, do you have any master plan as far as creating vistas or venues that would attract tourists to Maui?

Ms. Vencl: We do not as we are simply the marketing arm. There is as you probably know the Maui Hotel and Lodging Association and they deal in that arena more than we do at the Visitor's Bureau which is one of the reasons that I'm not taking any particular position today. I'm just providing, trying to provide the information.

Mr. Higashi: Oh, okay.

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

Mr. Charles Jencks: I'll wait for the item.

Chairperson Lay: Thank you. Next we have Janice Welch.

Ms. Janice Welch: I'll wait also.

Chairperson Lay: Thank you. Dale Bonar?

Mr. Dale Bonar: I'll wait until the item comes up.

Chairperson Lay: Thank you. And we have Ed Clarke.

Mr. Ed Clarke: I'll wait.

Chairperson Lay: Okay, thank you very much. Does anybody else wish to testify at this time? Seeing no one, public testimony is closed. Our first agenda item, Mr. Director?

Mr. Spence: Good morning, Commissioners. We're agenda Item C, Public Hearings. The first item before Council Resolution 14-114 referred by Councilmember Donald Guzman. This is regarding clustering of agricultural lots within the State and County Agricultural Districts, and we have with us this morning, John Summers and Simone Bosco.

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

1. **Resolution No. 14-114 referred by Councilmember Don Guzman of the Maui County Council to the Maui, Molokai, and Lana'i Planning Commissions for an AMENDMENT TO CHAPTER 19.30A - Agricultural District of the Maui County Code, to Allow for the Creation of Agricultural Conservation Lots.**

The proposed amendment is intended to provide flexibility in site planning and design to:

- 1) **Promote land conservation;**
- 2) **Preserve agricultural land resources; and**
- 3) **Maintain district character consistent with the General Plan.**

The amendment proposes provisions for the creation of agricultural conservation lots that will be dedicated for agricultural use, in perpetuity, through a conservation easement or a unilateral agreement.

The proposed amendment to the Maui County Code (MCC) Chapter 19.30A.030, District Standards, provides for the ability to subdivide agriculturally zoned land into lots with a minimum lot area of one (1) acre provided that:

1. **For parcels with a lot area of at least 92 acres, at least 70% of the lot area must be placed in an agricultural conservation lot. For parcels with a lot area of less than 92 acres, at least 60% of the lot area shall be placed in an agricultural conservation lot.**
2. **The design of the subdivision incorporates best management practices that support the purpose and intent of the Agricultural District.**

3. Non-substantive grammatical improvements are also proposed.

It is not the intent of the proposed amendment to allow for the creation of agricultural lots beyond the maximum lot limit established under MCC Section 19.30A.030(G). (S. Bosco)

Mr. John Summers: Thank you, Mr. Chairman, Members of the Commission, and the public. My name is John Summers. I'm the Administrator of the Plan Implementation Division. And this morning we're having a public hearing on Item No. 14-114 on a Resolution that came from Council that basically seeks to amend Maui County Code Chapter 19.30A, the Agricultural Zoning Ordinance to allow for the clustering of agricultural lots. It also allows for the creation of Ag conservation lots, and we'll describe that a little bit more further on.

The resolution is being transmitted to this body pursuant to Section 8-8.4 of the Charter. So this is a standard process that we use for this type of procedure. Would like to note that after today's a public hearing we'll be taking the item to the Molokai Planning Commission tomorrow and that will be followed by Lanai next week. Basically as part of this process the Commission can recommend, there's three options for a Commission. They can recommend approval as the bill is written. The Commission can review the proposed resolution and recommend approval with changes or the Commission can recommend denial. If the Commission recommends denial what that basically means is a two-thirds vote as required by the County Council to pass the resolution.

Okay, what's the purpose of this resolution? The purpose of the resolution is to allow for the creation of agricultural subdivisions utilizing one-acre minimum lot sizes when creating an agricultural conservation lot. Okay, so you want to encourage the clustering of the smaller lots when in a subdivision while preserving a larger contiguous parcel of agricultural land. The Department worked very closely with Councilmember Guzman on this ordinance. So we've had a good working relationship with him on this. The purpose and intent are really illustrated at the bottom of this slide. It's pretty simple.

If you look at the left-hand image, we have a tract of agricultural land, unsubdivided tract. In the middle portion of that image we have a conventional subdivision utilizing fairly uniform lot sizes. Okay, and with this proposal you would have the flexibility to do a clustered subdivision that would provide a lot more sensitivity in terms of working with the topography, and you'll see the smaller lots that are clustered around open space. You'll see this large tract of property which would be the ag conservation lot. It would be protected for farming.

I think there's a couple of key points that are very important as you look at this proposal. The first is that this concept is voluntary. There's no provision requiring applicants to utilize this process if it's adopted. And the second key point is that no additional subdivision potential is allowed through this process than what's currently provided in law.

Most of the Members are very familiar with the regulation of agricultural lands in the State of Hawaii. We have a State Land Use Law that breaks up our Agricultural District. Really it's comprised of four different districts. We have a State Ag District, an Urban District, a Rural District, and a Conservation District. In the Ag District, the State Land Use Law, HRS 205 establishes permitted

uses and development standards. The District includes on the island of Maui roughly 242,000 acres. So that's about 52 percent of land area. It's a very significant portion of the lands in the State District. Countywide that number increases to about 400,000 acres. The biggest management tool in addition of the regulation of uses in the State Ag District is the minimum lot size and this is very important, is that State Ag District has a one-acre minimum lot size. The County cannot allow subdivisions smaller than one acre.

Okay this is a photograph of Molokai as you're coming in on the airplane. The most important tool that the County has to regulate our agricultural lands is the County Ag District Zoning Ordinance that's 19.30A of the Maui County Code. This particular law was adopted in 1998 really in response to the subdivision of large tracts of agricultural land. So pre-1999 an applicant could come in, basically take 1,000 acres of ag land and subdivide 500 lots. There is significant public concern that really created the political will to address this. The concerns really related to the loss of valuable agricultural land, but also the planning of infrastructure and broader planning issues.

So there was the political will, there was a desire along the legislative branch as well as the executive branch to deal with this. In 1999, December 31, 1998. The Ag Zoning Ordinance was adopted into law to address this issue. Of course, zoning ordinances regulate permitted uses. So there's a whole slew of uses listed and procedures to deal with that, deal with the use of agricultural land. But probably the most significant tool in 19.30A is what we call, the sliding scale that's in MCC 19.30A.030(G). So this tool basically determines how much subdivision potential a parcel of agricultural land has. Okay, so it regulates the number of lots and the size of the lot. This is what that tool looks like in the ordinance. Essentially if you look at the left-hand column, the applicant comes forward, looks in the Code, determines the size of their lot, looks to the right-hand side of this table and uses the formula to determine the number of two-acre lots, 15 and 25-acre lots as well as 40-acre lots that can be created from the parcel of agricultural land. The larger the lot, the relative, the fewer the total lots you get and I'll talk about that. That's a little bit complicated and I'll talk about it in the next slide. But it's important to note that the number of two-acre lots is capped at 14. Once you've reached your maximum subdivision potential the property is deed restricted for no further subdivision.

Okay, this graph depicts subdivision potential based on parcel size using the sliding scale. So if you look at a 100-acre parcel, okay 100 acres, according to that table that we looked at in a previous slide you can have a total of 12, two-acre lots, lots that can be as small as two acres, two, 15-acre lots, a 25-acre lot for a total of 15 lots. Two hundred acres, that parcel could be subdivided in up to 19 lots of various sizes. Five hundred acres, 29 lots, 1,000 acres, 46 lots. And you'll see you'll notice that for a 100-acre parcel that's about 6.6 acres per lot. Okay, as we go up to 200 acres that increases to 10.5 acres per lot, and by a 1,000 acres, we're up to 22 acres per lot. So you can see how the subdivision potential decreases relatively over the size of the parcel. You'll also note the cap on the number of small lots. So we reach our cap between one and two hundred acres and the 14 lots remain steady as parcel sizes increase.

So this slide graphically depicts how this works in practice and how post 1999 compares with pre '99. So on the X axis we have the size of agricultural parcels. On the Y axis we have subdivision potential. Okay, before and after the sliding scale this line here, this black line represents subdivision potential prior to 1999. So on a 1,000-acre parcel 500 lots. After the adoption of sliding scale, same 1,000-acre parcel, 46 lots. That's a 90 percent reduction in subdivision potential.

Okay, the way the ordinance works that's being proposed in Resolution 14-114 it's very straightforward. Basically the applicant would determine the maximum number of lots that may be created under the existing sliding scale, okay. The ordinance that came down from Council did have two sliding scales proposed and the key point here is no subdivision potential beyond what's currently provided in the Code. The law requires if one is gonna use this agricultural clustering provision that 60 to 70 percent of the parcel area be permanently protected for agricultural use. This is a critical part of the proposal. That would be 70 percent for parcel sizes of 92 acres or greater and 60 percent per parcel sizes less than 92 acres. Again, clustering could occur with parcel sizes as small as one-acre and the project itself would be reviewed against best practice with some general criteria.

Okay, this is an example of a subdivision using the current provisions in 19.30A.030(G). So we have a 1,000-acre parcel that can be subdivided in 46 lots using the formula we saw previously. We have a mixture of 2, 15, 25 and 40-acre lots. In this example they've subdivided this parcel, they've maxed it out, maximum subdivision potential at the smallest minimum lot size, so the two-acre lots down there, and we're left with a remnant parcel of about 267 acres, okay. The issue or concern with this approach is that we can end up with a lot of fragmentation of valuable agricultural land and we've seen this happen in different areas of the County.

So the proposal, next slide, same 1,000 acres. Okay, in this example we've utilized the clustering provision utilizing a two-acre minimum lot size. So we haven't dropped it one-acre. All the lots are done at two acres that leaves us with 910 acres that could be in this ag conservation lot. That would be deed restricted in perpetuity for agricultural use. No further subdivision, no change in zoning.

Okay, this slide illustrates a convention subdivision without any site plan criteria and I wanted to point out sometimes the implications that our Code can result in. In this particular instance we have a stream running through the property, we have a flood plane, we have some wooded areas and we have view corridors, let's say they're mauka, mauka view corridors. Conventional subdivision, the applicants decided to maximize their subdivision potential a total of 21 lots. All about uniform in size. With the maximization of lot count there's not a lotta room for creativity in terms of designing around some of these natural features.

All right, same parcel of land, 21 lots utilizing a clustered approach with site plan criteria. So we have our 21 lots clustered here. And with the smaller minimum lot size there's a lot more flexibility to plan around some of these natural features. So we've got the stream protected, we've got the forest protected. We've got the development out of a flood plain. We have a large contiguous agricultural lot it's available for farming. There's a lot of benefits to this approach okay, both public benefits as well as benefits to the developer.

One clear benefit is the potential preservation of agricultural land and open space. That is very, very important because we once we transfer the development potential off of this ag conservation lot, these smaller lots the value of that land starts to reflect its use as agricultural land and that would translate into a supply of agricultural land that's a lot more affordable for farming.

Second significant benefit is that you can consider with the site plan criteria conservation values

and we as well know we have significant resources in the County including an Ag District. There's also a significant reduction in impervious surfaces. So clustered lots, fewer driveways, less roadways, less runoff and non point source pollution.

For the developer, there are some significant benefits. The reduction infrastructure costs, roadways, driveways, utilities, and translating the significant cost savings. There's a big incentive to use this approach in many instances.

Another important point is that topographically a lot of these areas in the Ag District are difficult to develop. So if you can cluster your parcels, your subdivision potential, you can develop in areas that are much more cost effective making the resultant lots more affordable for the home buyer so you can work with the land under this proposal.

And when looking at 25 and 40-acre lots the market for those lots is sometime tenuous. So if you've got significant subdivision potential the 25, 40-acre size, even the 15-acre size you may have a stronger market for that subdivision if you can do a cluster concept.

This proposal and this idea is supported in our General Plan. So in the Spring of 2010 the County Council adopted the Countywide Policy Plan covering all of the islands in our County. And there's a policy in the Land Use Section under Objective 4, Policy D, to promote creative subdivision designs that implement best practices in land development, sustainable management of natural and physical resources, increase pedestrian and bicycle functionality, safety, and liveable community. So this is a broader policy as it is should be in a countywide document but supports this type of tool.

The next slide display some policy from our recently adopted Maui Island Plan adopted December, late December 2012. We have a chapter, land use chapter, we have very clear and specific policy in this chapter that supports the utilization of this type of tool and the concept. So let me just hit on these. They're very important.

Policy 711(A) reads, "Allow where appropriate the clustering of development on ag lands when approved as a CSD or similar approval mechanism." Similar policy, 711(B), "Require appropriate the review and approval of cluster subdivision design plans prior to the subdivision of ag land", okay. Now the implementing action that follows up those policies, 711(A)(4), "Revise the Ag District Ordinance," which is being proposed, "to allow for limited clustered CSD where appropriate." So a strong basis in terms of moving forward with this type of action.

The Department very much supports the concept of cluster subdivision design but we do have some concerns with the proposed bill that's attached to Resolution 14-114, not in terms of the purpose and intent but some of the more technical issues. It's a bit complicated. There's two sliding scales. One's complicated enough we don't need two. Conservation easements are difficult to enforce. That was one tool, it was in the proposal that came down from Council, we would rather use a Unilateral Agreement to administer this.

So if you look at the Exhibit 6 of your staff report, the Department did come up with an alternative bill, okay. And the bill really for all practical purposes doesn't change the substance too much, but it does simplify the proposal. There's some reorganization to make it a little easier to understand and it clarifies ...(inaudible)...provisions. I wanna walk through some of the proposals in Exhibit 6,

the bill that the Planning Department drafted working with Councilmember Guzman and his staff. Again, no increase in subdivision potential versus what we have today. The minimum lot size drops from two-acre to one-acre for projects that utilize this approach. Because we're going down to a smaller minimum lot size from two acres to one-acre, the minimum lot width should be adjusted from 200 feet which is what it currently is to 150 feet. There's some more explicit language regarding site plan criteria to go with this and the ag conservation lot, 70 percent of parcels that are 92 acres or greater, 60 percent for parcels that are smaller than 62 acres that's...92 acres that's retained.

The ag conservation lot it's really important to know that there are some real important provisions to ensure that those lands are protected if we're gonna use this proposal. So in the ordinance there's a provision that you'd have to utilize the unilateral agreement against the property that ag conservation lot, to restrict it to the permitted uses in 19.30A.050...030. 030A.050. So no special uses on the ag conservation lot. It also clarifies that the maximum developable area for farm dwellings would be 4,000 square feet. Right now we have a maximum developable area. We have...we allow in the Ag District two farm dwellings. One of those farm dwellings is capped at 1,000 square feet, okay. Under this proposal, you have a 4,000 foot cap. So we have a meaningful cap, still retaining the 1,000 square feet on the second farm dwelling, but for the first farm dwelling there essentially be a cap of 3,000 square feet on the size of that. And again, the ag conservation lot would be prohibited from changes in zoning, resubdivision, that type of things.

We do have a couple of policy issues that we're still wrestling with and we'd welcome any input on those items. The first is whether or not there should be a maximum size, parcel size on these clustered lots. So we're already saying that we're dropping the minimum lot size to one-acre. But what we've seen under the existing ordinance is for a lot of the large tracts of ag land that are being subdivided with a minimum lot size of two acres, applicants are taking those two-acre lots, they're not doing two-acre lots, with what little clustering potential you have it's not been utilized, they're doing five-acre lots or six-acre lots. So to achieve real clustering it may be beneficial to have a maximum lot size and this is fairly common practice in other jurisdictions that utilize this tool. So you might have a lot size of an acre and a maximum lot size let's say two acres or three acres for those small lots.

The second issue that we're considering is whether there should be a cap on the maximum number of lots that can be clustered. If you have a large parcel of ag land, let's say we do, there's large parcels of ag land out there under private ownership. So you have an 8,000-acre parcel that has a subdivision potential of 276 lots. So the question is whether or not there should be a cap or some provision so that the Planning Department can have more say in terms of infrastructure and other issues if we have a large proposal like that.

Wanted to reiterate that the Planning Department doesn't support the bill that's attached to Resolution 14-114 as it's written, but strongly supports the purpose and intent of that bill, okay. So we've modified it attached as Exhibit 6 to your report and our recommendation is that the Commission adopt the Planning Director's report with the recommendation, with the revised bill as it's been amended in Exhibit 6. Is there any questions?

a) Public Hearing

Chairperson Lay: Commissioners, at this time I'm going to open up to public testimony. If anyone wishes to testify, we're gonna follow the people that signed in. Charlie are you gonna testify on this agenda item?

Mr. Jencks: Yes.

Chairperson Lay: Okay, Charlie up first then.

Mr. Charles Jencks: Good morning, Members. My name is Charles Jencks. I'm here representing Pacific Rim Land and a number of large landowners on Maui and Molokai that have really large tracts of agriculturally zoned land, also as a person who has been involved in the subdivision of some of those parcels. And I'm handing out, an example that I'm going to refer to very shortly. I just would like to say that you know, did a good job, the Department did a good job presenting a little bit of the history of the Ag Ordinance 19.30A. At the time it was passed in '98, I was the Director of Public Works. I did not support the bill then because I felt that in the end regardless of the pitch that was made for the bill with regard to getting people on the land and reducing the cost of land and yada, yada, yada, it wasn't going to do that and in fact, I think if you look at the marketplace today, it did not do that. You still end up with large tracts of land and if you look at the map I just sent to you there's an exhibit that's outlined in orange which is this exhibit here, that is an actual subdivision that I did under the provisions of this bill which is 19.30A. It's 1,800 acres. Because of that bill and the sliding scale and the acreage sizes as you ramp up the 2-acre lots to the 40-acre lots this subdivision has within its boundary nearly 28,000 lineal feet of roadway. 28,000 lineal feet of roadway to serve the lots that the sliding scale requires you to put on the land for 1,800 acres. Okay, so how does that affect the landowner? Well, if you start looking at the development costs for 28,000 lineal feet of roadway at 2,500 a lineal foot, water service, electrical service, drainage improvements, you end up with a lot value of construction value of in excess of \$400,000 a lot for 86 lots. And if you can only sell the lot for \$600,000, you think you're gonna be able to sell that and make any money? The answer is no by the time you figure in land value. So the bill that was passed with maybe smaller lots okay, and the idea that someone would take 1,800 acres, you know, "x" number of two-acre lots I think is a fallacy. The bill that was passed didn't do the job it was intended to do. The bill that's before you today that was transmitted from the Council by resolution I think does exactly that in that it allows the landowner, gives him the option ladies and gentlemen, gives him the option to take 1,800 acres and do exactly as I've shown you on the other exhibit that's attached which is this exhibit here. It's has...(inaudible)... This exhibit 1,800, 86 lots results in over 80 percent, 80 percent of that area being in one large agricultural lot, because all the lots clustered onto 200-acre area. That's a-

Ms. Takayama-Corden: Three minutes.

Mr. Jencks: I'm sorry?

Ms. Takayama-Corden: Three minutes.

Mr. Jencks: What it does is it gets, gets you to where you wanna be which is clustering, putting the lots where they can easily be accessed, where it can easily be served and the infrastructure by the way on this plan could bring that cost per lot down to about \$200,000 a lot for roads, utilities, and services for the lots. So you can indeed then get the lots out to the public, get it so people can buy

land at a reasonable value and at the same time provide large areas of people space, agricultural space, and at the end of the day perhaps even implement the state's important agricultural lands policy by getting these lands into IAL. So I think it's a good bill. I think you ought just leave it the way it is. Pass it out.

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

Mr. Freitas: Charlie?

Mr. Jencks: Yes, sir?

Mr. Freitas: With your revised subdivision, what would the cost reduction be per lot would you say?

Mr. Jencks: In excess of \$200,000 a lot just for infrastructure.

Mr. Freitas: Understood.

Mr. Jencks: The cost of the original subdivision, the 1,800 acres which you know we're forced to design and layout and maximize because of the land value is approximately \$38 million. That's in excess of \$400,000 a lot in infrastructure. The revised plan, ...(inaudible)...200 acres plus for the 86 takes you down to about \$200,000 a lot. So you can see it's at a 50 percent reduction.

Mr. Freitas: So then you could deliver a cheaper product to the consumer.

Mr. Jencks: Yeah, less expensive lot per square foot, that's correct.

Mr. Freitas: Okay, thank you.

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

Mr. Medeiros: Charlie with this, as long you know the open space...this type of development will be optional, right? It's up to the developer to do it this way, right?

Mr. Jencks: That's correct. It's his option.

Mr. Medeiros: Okay so they're not gonna be locked in?

Mr. Jencks: That's correct.

Mr. Medeiros: Then it's all good with me.

Mr. Jencks: I've also attached some pictures at the end of the package. These are actual pictures from the residual land that would result if you applied this bill to the 1,800 acres. Those pictures were actually from that piece of land reflect the land that would not be subdivided but would be a part of that open space and parcel.

Chairperson Lay: Commissioners, any more questions for the testifier? I have one I kinda value

what you have brought to us and is there anything else that you'd like to add that might, you know, help us out in making this decision and moving this forward?

Mr. Jencks: I do agree you don't need two sliding scales. I think that's kinda silly and I think I think it's confusing so I would delete the one sliding scale in the ordinance, absolutely. I don't agree with the Department's concept of saying, well now you've got a one-acre lot so we're gonna roll you back at this same 10 percent. You've got 4,000 square feet on a one-acre lot for a house and a farm dwelling. I don't think that's reasonable. I think part of the...and I'd just like to direct you to another piece of stellar legislation, the Workforce Housing Bill that was passed in 2007, I believe, have a 50 percent affordable housing requirement and they thought they would make the landowners build affordable housing. Well, at the end of the day you got nothing. You got 12 units built and only three of them were sold under the provisions of the bill. If you want a landowner, if you want a landowner to use this option that provides a large amount of open space, preserves ag land you gotta incentivize them. So if you say to him, okay you can create a one-acre lot, but by the way, Jason you can only have a 3,000 square foot primary house and a 1,000 square ohana, you might say I'll pass. I might wanna make it a larger lot. But if he wants to really, if you wanna incentivize the guy say look if you do one-acre lots there's no restriction. Two-acre lots is 10 percent. Okay, but for a one-acre lot, not restriction. You might say that's a better deal for me. And lastly I think this bill would encourage landowners like Kaonoulu Ranch, Haleakala Ranch to say hey, I can now exercise IAL. As a past member of the State Land Use Commission, I reviewed petitions for IAL. It's not a easy process. If you incentivize these owners to enter into these agreements like HC&S or A&B has done with some of the lands in the central valley, you'll see additional benefits. So will the landowners with IAL. So those are my...would be my recommendations.

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

Mr. Jencks: Thank you.

Chairperson Lay: Our next testifier we have Dale Bonar.

Mr. Dale Bonar: Aloha, Members of the Maui Planning Commission. My name is Dale Bonar. For those you who don't know me, I recently retired as the Executive Director of the Hawaiian Islands Land Trust originally the Maui Coastal Land Trust. I've worked in land conservation for over 20 years. In my retirement, I'm now working to try to get young families back on farms since I had, when we were growing up as a kid, I grew up in Honolulu.

Points that have been made here that I would like to emphasize. This clustering subdivision concept is a nationally recognized concept. It's a part of smart planning for development and growth. This particular bill that you have in front you supports the concept that are in our County General Plan, and as Charlie let you know, in the Island Plan and John...it's very specifically refers in those plans, in the Maui Plan to this type of a concept being included here.

Now during the development of this plan 'cause several of us worked along with Guzman's Office in trying to make the best plan available. We talked broadly with a whole range of constituencies here in the island including the landowners, conservationists, environmentalists, developers,

farmers, ranches, the Hawaii Farm Union folks, construction folks and with the planning group. Everyone is in support of this concept. This is one of those not often things it's a win-win and you've got the development side and the environmental conservation side saying yes, this makes good sense to use a plan like this.

One of the main concerns people expressed was does this somehow give rise to that slippery slope, you know, where we're gonna end up with more residential development? And the point that you've heard is that this bill does not provide any increase in density over what is currently allowed. As Charlie mentioned, it does dramatically reduce infrastructure costs. Charlie mentioned the 50 percent reduction in this one particular project. In looking at other projects that are generally in the 500 to 1,000-acre range estimates go up to 75 percent of your infrastructure could be reduced. Reduced cost up front means reduced cost to land and development. If you look at the difficulties we have in building what are truly affordable houses here, this is one way to be bringing those values back down.

Important points to make. All this is, is an additional tool in the tool box. And as you asked this doesn't mean someone has to stick to this new subdivision, you could use the old sliding scale if you'd like so you can have different size parcels or you could do this here. The...I strongly support this bill, other environmental conservation landowners I talked with strongly support this bill, the concept of the bill, some of these little details could be worked out. I agree with some of the points that Charlie made about restricting to 4,000 square feet. Imagine you've got this 900-foot...900-acre leftover piece as John presented in his power point. You could have 4,000 square foot of residence on that. I would ask, how does that reflect if you are one of those farmers/ranchers who need to put in the worker housing which is allowable under our codes you know, showing certain types of productivity there. Does that 4,000 limit what could happen there? Somebody's gotta work 900...(inaudible)...acres of land.

Chairperson Lay: Please conclude.

Mr. Bonar: Okay. Anyway, so I strongly support, I think that this is something that the community is widely in support of. Thank you.

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

Ms. Irene Bowie: Good morning, Chair and Commissioners. I'm Irene Bowie with Maui Tomorrow Foundation. I don't have anything really to add. I'm very impressed with the presentation. The other speakers have certainly mentioned all the good points. Maui Tomorrow Foundation has supported Councilmember Guzman's resolution and we certainly support this. It's smart growth going forward and makes a lot of sense. So we just add our support to this. Thank you.

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

Mr. Rory Frampton: Good morning, Commissioners. My name is Rory Frampton. I'm a local land use planning consultant, but I'm here speaking on my own behalf. As you've heard from the

previous speakers, the current requirements of the County's Ag Ordinance, in particular the...it's really minimum lot size requirements that's established by the sliding scale leads to sprawling agricultural subdivisions with the potential to consume large amounts of agricultural open space and environmental resources and as John Summers noted, that sliding scale dramatically reduced the development potential of these large lots. But by saying that you have to do so many 15-acre lots, so many 25-acre lots and so many 40-acre lots, you really spread the footprint of the subdivision over a much larger area than you need to. So what this bill does is it says we're gonna keep the density that that sliding established but we're gonna allow you to go smaller lots so that you can concentrate your development on a smaller piece of land. And I know Commissioner Hedani a couple of months ago when I was in here, you commented on some subdivisions on the west side that are a direct result of this sliding scale and providing the landowner with an option, the only option of creating...you know for large lots creating 25-acre parcels, 40-acre parcels that extend all the way up into the foothills and all over the place rather than concentrating the development into more useable areas. So this concept's not new. It's been utilized throughout the country and as we've heard today there's a lot of consensus that we should move forward on this. What I wanna just focus my testimony on is what could appear to be punitive restrictions. Since this is an option, I don't think we wanna make it punitive for people to do this. People should look at it as something that's positive.

Right now there's three things in here. One is the limitation on special uses. It says you can't do special uses on these lots and so you're treating differently than the other lots in the Ag District. You're saying okay, if you wanna do special uses, go do the traditional subdivision that consumes all this land. I think you shouldn't be penalized by restricting the special uses. At the end, the last page of my testimony I provided a copy of the special uses. And they're really not a lot of ones in here that strike me as something that shouldn't be allowed on a large ag lot especially solar farms. So you know, a guy wouldn't be able to apply for a permit to do a solar farm over 15 acres if that restriction is in there.

The second item is the restriction on the maximum developable area. That is definitely punitive. The Planning Department's proposal would establish a 4,000 square foot limit for all lots created under this subdivision. Right now for a two-acre lot it would be 8,000 square feet. And for a three-acre lot it would be 12,000 square feet. Right now this ordinance that the Planning Department says that all the lots in the subdivision would be capped at 4,000 square feet for developable area. I don't know why a developer would wanna do that. So I say for any...my recommendation is for any lots greater than two acres it should stay the same, it should be 10 percent of the lot area just like it is for all the other lots. And for lots less than two acres, put it at 20 percent of the lot area. So that would be about the equivalent...you'd have about the equivalent developable area, but up for a one-acre lot as you would a two-acre lot, 8,000 square feet for one-acre lot. A two-acre lot would be 8,000 feet so that's if you put in the 20 percent. So in that way we're kinda creating an even playing field and you're not resulting in this dramatic reduction in developable area if you pursue this option. People just won't do it if you do that.

The third one is the Department is suggesting a requirement for clustering. While the clustering is...that's the overall principle of what we're trying to do here. It's the overall intent of the ordinance is try to minimize the footprint. Strict adherence to a cluster scheme might not always be the best design due to differences in site characteristics. Flexibility should be provided to allow for a variety of site characteristics. I would suggest that instead of having this cluster requirement that

the...there should be a requirement for the landowner to provide a site analysis and a justification for their project. So you turn in a site analysis, show where the steep slopes are, where the prime ag lands are and justify why you're putting the lots where you're putting them. And if you have that site analysis with the justification that should suffice and it would allow for flexibility for a variety of site characteristics. I also think, you know, the Planning Department changed the purpose and the intent of this bill. The purpose and intent of the Council's ordinance is much broader. It talks about preserving agricultural land resources, promoting land conservation, and maintaining district character. The Department's focus says the purpose of this bill is to allow for clustering. It's kinda half dozen or one-sixth of the other, but I do think I like the broader purpose and intent 'cause we are trying to maintain district character, protect open space as well as preserve ag land and not just focus on a very strict definition of what clustering is.

Chairperson Lay: Thank you, Rory.

Mr. Frampton: I did provide a bunch of examples and tables in terms of comparing what the sliding scale is versus what's being proposed, and if you have any questions on those exhibits that I attached, I'd be happy to answer them.

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

Mr. Frampton: Thank you.

Chairperson Lay: Does anyone else wish to testify at this time? Seeing no one, closing public testimony and now moving onto questions and comments from our Commissioners?

Mr. Freitas: I have one for the planner.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Will this bill affect the existing ag lands? Will any changes be made to the existing ag lands with this bill here or will all the buildable areas and the special use and all of those things that is available today will they stay the same?

Mr. Summers: This bill will not affect existing ag lands. Remember this is a voluntary program.

Mr. Freitas: Thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I'd like some clarification on some definitions because conservation is one of the State, four State land classifications. So, what is...what are you defining as Ag Conservation?

Chairperson Lay: If we could get you on the podium too, please? Little easier for us to talk with you. Thank you.

Mr. Summers: Sure. We actually have a definition.

Chairperson Lay: Not Commissioner, John if you can go up to the podium, please?

Mr. Summers: We do have a definition in our Zoning Ordinance of Ag Conservation and basically that means the planting of soil nourishing plants that support the conservation, the nutrient of the soil and the protection of soil from erosion. So it's much more of a preservation concept in terms of taking care of the land. I do have the definition here, but that essentially captures the intent of that definition.

Ms. Wakida: So are there any restrictions on any building in that area already?

Mr. Summers: On Ag Conservation land?

Ms. Wakida: Yes.

Mr. Summers: No, that basically...that particular definition comes into play when we analyze our farm plans. It's one of the permitted uses in the Ag District.

Chairperson Lay: Commissioner Hedani?

Mr. Hopper: Sorry, Mr. Chair. I think some clarification may be in order. In the Department's bill it defines Agricultural Conservation Lot at the end of it and it says, that lot's gonna be limited to the permitted uses set forth in 19.30A.050. I think that that's...I think that's part of the definition John, if I'm not mistaken in the Department's proposed bill?

Mr. Summers: Right. If we look at the Ag Conservation Lot provision, if you go to Page 3 of the Department's bill--

Mr. Hopper: Right.

Mr. Summers: --Exhibit 6. There is a description of what this Ag Conservation Lot is and how it would be enforced.

Mr. Hopper: And then I think that in the original bill there's similar restriction. I'm trying to find that. It's basically very similar language. So the basic idea is that the...what's gonna be restricted there is gonna be based on what's allowed by that section of the Code. So that's going to determine once that conservation lot is created what uses would be allowed in that conservation lot. And I don't know if a list of those uses is attached here, but it is in the Code. And so I think we could find that, but anyway there's a particular list of uses that would be allowed in the conservation law. Of course it's going to be a very large lot. So as far as building houses and things, you'd have that limitation for the conservation lot. It has to be 70 percent I believe of the area.

Mr. Summers: That's correct. So this Ag Conservation Lot is...it depends on the parcel size, 70 percent for parcels that are 92 acres or greater. The primary difference between the resolution that came down if you're looking at what's permitted on the Ag Conservation Lot is...in the Department's draft we do have specifically limited to the Ag Conservation Lot this maximum developable area of 4,000 feet. That maximum developable area provision does not apply to the clustered lots. It only applies to the Ag Conservation Lot.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Follow up. So if you have as suggested by this resolution, you have cluster housing and then on some place else you have Ag Conservation. You can still build housing in the Ag Conservation area?

Mr. Summers: That's correct. You can still build two farm dwellings per lot. One of those, the second one would be capped at 1,000 square feet of developable area. The total maximum developable area would be 4,000 square feet.

Mr. Hopper: John, it does say at least in the original bill that it says that the uses shall be limited to the permitted uses and the farm dwelling is actually an accessory use I believe. That's under Subsection B, Accessory Uses. This may be something that needs to be clarified through the intent of the bill, but it does state that...it does state that in the original bill that the use limitation is the permitted uses in 19.30A.050 and in the Department's bill it says, again, permitted uses set forth in 19.30A.050. And under the Permitted Uses as I, as I read them it says, agriculture, agricultural land conservation, agricultural parks, animal and livestock raising, private agricultural parks, minor utility facilities, retention, restoration, rehabilitation or improvements of buildings, sites or cultural landscapes of historic or archaeological significance, solar energy facilities, and then that's it as far as the permitted uses. Then it goes to Accessory Uses and then that's where it says two farm dwellings per lot.

Mr. Summers: If I may clarify? 19.30A.050 lists the permitted uses in the Ag District. That's inclusive of both principal uses and accessory uses. So permitted uses under 050 includes both principle and accessory uses.

Mr. Hopper: Right. That would definitely need to be clarified I think because it doesn't mention special uses and those are, you know, a separate...those are in, I think they're in, yeah, they're in a separate section. But if the intent is to say you allow all the principle or all the permitted and accessory uses I think that should probably be made clear in here if the intent is to allow the farm dwelling and the two farm dwellings. Of course, if it's gonna be 70 percent of the lot area, you would only be able to get, what two farm dwellings and maybe any farm labor dwellings, but you still only build two farm dwellings on the 70 percent size parcel. But you could still build two accessory use farm dwellings.

Mr. Summers: Yes, the two farm dwellings per lot would be permitted on this Ag Conservation Lot. And I'd like to clarify that the maximum developable area does not apply to farm labor dwellings. I think there was a testifier who suggested that was the case. It's really just limited to the farm dwellings.

Mr. Hopper: Okay, maybe this is, these are things that should be clarified just to make sure that it's known that it's not just the permitted uses. It's the permitted and accessory uses set forth in 19.30A.050 and make clear that that was the intent or if that was the intent of the original bill that it's clearly the intent of the Department's bill. But I think that that's something worth clarifying because when you read permitted uses, there's also accessory uses and it should probably say, permitted and accessory uses.

Chairperson Lay: Director?

Mr. Spence: Commissioners, maybe I, if I could clarify a couple of things. First off, I want to thank John and Simone for thoroughly analyzing this and we've discussed this a lot internally. There seems to be a couple things that maybe we could improve on. And by way of explanation to those who have testified we think Mr. Guzman did an excellent job in proposing a draft ordinance. When we looked at it from the agencies who is going to have to implement this we went, okay there's some things here that we think we can improve on. It could be difficult to interpret some things or you know, administer. And so, we've provided some suggestions to what Mr. Guzman has transmitted and the Council has transmitted. I am looking in section, on Page 2 of the Planning Department's proposed revisions it...(inaudible)...not...it does say the maximum developable area and just referring to the clusters, it says maximum developable area shall be 4,000 square feet. I think that's an inadvertent thing on our part. And I tend to think that the testifier would be correct in saying, you know, keep it from like a level playing field with the regular ag subdivisions. It should be 20 percent, I forget exactly how we put it, 20 percent of the size of the lot.

Special uses I think we can reconsider some of those things as you know, as we take this testimony, as we go to the other planning commissions and we can discuss those things. The intent however, of creating a conservation lot is to preserve land for agriculture. It's not to preserve land so somebody can do, you know, zip lines. It's not preserve agricultural land so you can do, you know, motocross track, it's in order to promote agriculture. So those are the kinds of things that we looked at and had in mind.

The one testifier, Mr. Bonar talked about additional ag dwellings on the conservation lot. Mr. Bonar is quite an advocate of the Farmland Trust Concept where you can lease out smaller tracts of land under one ownership. Say that the conservation lot is owned by a Farmland Trust, a nonprofit and then you can do long-term leases on a larger lot and be able to build multiple dwellings that each attach to an actual farming operation. And we've been in support of that kinda concept. So I think as we go back in between now and the time we transmit to Council we can discuss those kinds of things and it may just be something as simple as rule making, you know, providing for this kind of thing within administrative rules. It may have to be written into the ordinance or the provision written within the ordinance.

And then the last comment that I would like to make with Charlie's explanation or example of this 1,800-acre lot, if you're cutting that 28,000 linear feet of roadway and utilities I would...just looking at his map I would say left than half, somewhere along the way those roads are probably gonna be dedicated to the County. That means, if you...(inaudible)...roadway overall in this, in these kinda clustered subdivision that means the County is going to have to maintain that roadway. So it certainly a benefit of the County if not bearing additional burdens by having to repave 28,000 linear feet of road sometime in the future. So you know, there's certainly benefits for both the community and as well as the County...(inaudible)...

And I lied, I do have one more thought. Having grown up on...with vast open spaces in my own backyard, I look at the lifestyle that something like this would provide instead of...you know, we talk about a lot in this department about creating communities, we talk a lot about maintaining open spaces for you know, future generations. And having grown up with wide open spaces in my own backyard and now that those lands have been cut up, you know, where kids used to be able to go

and play, where people used to be able to enjoy the really wide spaces after it's subdivided into 2, and 10, and 15-acre lots it's not wide open. So you know, so being able to do these kind of cluster subdivisions I think you're more gonna build a sense of community because the neighbors will live closer together because you are enhancing in perpetuity these open spaces for the people that will live in those subdivisions and for the citizens of the county. So I think there's a lot of social value in being able to do these kind of clustering as well. Okay, now I'm done. Thank you, Mr. Chairman.

Chairperson Lay: Thank you, Director. Commissioner Higashi, you had questions?

Mr. Higashi: This is for the Director. You know this bill sounds like it's splitting hair. The bill itself is still there, but yet what you're doing now is you're adding an amendment to this bill. It's like an exception to what the original bill is about and I think that part of our job as a Commission is to look at these specific situations like sliding scale, et cetera, and making an exception to the rule of the regional rule. The way it is now it's like you have a proposed bill but it's limited to whatever you want to do with. It's not open endlessly. And I'm kinda concerned about the way this particular bill is handled from the standpoint of the original bill is still intact. So what we're doing now is we have an original bill, but that now we're adding something on that's supposed to be an exception and why can't that particular situation be presented to the Commission and still keep the original bill as it is?

Mr. Spence: You know, I think I understand the question, Mr. Chairman.

Chairperson Lay: Director?

Mr. Spence: We have an existing law for agricultural land that provides for certain kinds of subdivisions and as was explained we have a sliding scale on how you have to subdivide that if you so desire. What this is doing it's providing an additional option to property owners to be able to subdivide so it's much more efficient. We're not eliminating the original-

Mr. Higashi: Right.

Mr. Spence: -because there's too many families that have had land in their families for generations. You know, it's providing an option so they can still do the original subdivision and leave land to their kids whether it's two acres or five acres, whatever it may be. But you also have or maybe the topography, there's a lot of reasons why you wanna do, to subdivide under the existing law. Providing this other option, instead of saying you must do these certain sizes, that being able to go down to one acre and then preserve these large open spaces there's a provision...it's providing an option and this option not only is in the Maui Island Plan but it's also called for in our community plan because people recognized the inefficiency of the standard agricultural subdivision. So, and being able to do this other option, you're preserving really large tracts of useable agricultural land, but you're also creating...you're reducing sprawl, and you are just being able to do, you're creating an incentive for landowners because it costs so much less to do the infrastructure. Instead of, you know, Charlie is talking I mean, half of the 28,000 feet of roadway and utilities. So there's an incentive to providing for this. It's just two ways you can subdivide ag land. That's basically what it is. One has all these incentives built into it, the other is a traditional for whatever reason people can continue to do. But we greatly support this concept, adding this addition. It's not changing what's already there. It's providing an additional option to

landowners. I'm not sure if that answered...

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Yeah, it's just that I think we're...I feel like we're splitting hair in identifying an exception to the original bill, that's one. Number two, this particular bill I think is looks to me appropriate for Molokai and Lanai because you have a lot of land and you can subdivide it and so forth which would be beneficial for the residents because then it becomes affordable. But on Maui, I don't see that as something that's needed to be put in as an ordinance.

Chairperson Lay: Director?

Mr. Spence: Well, we will be going to Molokai and Lanai. I think Molokai tomorrow, Lanai next week. So we will get those Commission's input as well.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I'm happy that the Department opposed the bill as it's written. I think you folks have made good suggestions for improving it. The problem I have is that in my opinion, the original bill that allows for two-acre ag lots is flawed. Two-acre ag lots do not work. It does not promote agriculture. And what we're doing by not addressing that problem and this Commission deals with that every time an owner of one of those two-acre lots comes to the Commission and says, you know, the land is not suitable agriculture I really have to do this bed and breakfast in order to make ends meet and that's what we're faced with.

The bill as I see it drafted is like addressing how we can make the two-acre ag lot better when the two-acre lot does not work. It's like saying agricultural lands can be raped, but the rapist has to use a condom. You won't get any diseases, you won't get pregnant, you might enjoy it, and therefore you should go along with this, you know. My problem is that if they wanted to look at the ag bill, they should look at it from the standpoint of how do you make agriculture viable? In this particular case, the agricultural component of the subdivision has been relegated to a remnant lot. The subdivision itself which is an urban use in my mind creates an opportunity for all ag lands to become residential subdivisions with conservation lots attached to it as a remnant parcel. With a conservation designation you don't even have to grow anything on the lot. You can just leave it fallow and it would produce not one grain of food for the people in terms of agriculture.

My concern is that by reducing the infrastructure costs taking a 28,000 lineal foot roadway and making one-fourth of that is it makes these types of subdivisions suddenly become economically viable where the existing situation makes it not workable, this makes all of those lands open and fair game. And when I see guys like Charlie salivating it tells me that it's gonna create an explosion of agricultural lots, agricultural subdivisions where I haven't heard one farmer come up to us today and say, I support this bill because I can, I can really get down and open up my pig farm next to this subdivision that's gonna be part of this particular subdivision. It's not gonna happen. You have any comment on that?

Mr. Summers: I've got a couple of comments. Probably there are a number of obstacles to agricultural development in the County. The most significant is land cost. So I think this bill does

offer an opportunity to take the subdivision potential, a development potential off of these large parcels thereby making them if we restrict the uses on those properties making them much more viable for, for real agriculture, commercial agriculture.

The other issue is with the size of the lots. Ideally we would have a range of lot sizes. So it's good, it's actually healthy in the Ag District to have some two-acre lots, to have some mid-size lots. So there's really a role for the existing scale. But the fact of the matter is, you've got these large parcels that we've seen people come in and purchase those parcels for development, and we feel this is a much more sensitive way if that reality is gonna continue, we think this can be a win-win. It's a much more sensitive way to have the development to accommodate the property rights of the landowner while providing some public benefit and some benefit to the agricultural community in terms of finally having a supply of land that may be affordable in perpetuity.

You know, the Department as we noted is exploring things like potentially having a cap on the maximum number of lots to address some of the issues that you pointed out. But we wanted to hear from the Commissions, get the input of the community, the Councilmembers, and the Councilmember will have to, to weigh that out.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: You know one of the conferences that we had where they addressed the question of agricultural subdivisions I think it was on Kauai that we talked about it. You know, I asked the question of the experts that were from across the country, what does it take to create a viable agricultural product? How large does that piece of property have to be in order for agriculture, true agriculture to be viable and the answer that he gave us was a 150 acres. It takes a 150 acres to create a viable farm or agricultural productive farm. And we're still stuck with the idea of not two-acre but now one-acre lots. Having this size, are they still gonna be required to have agriculture on the one-acre lot or can they truly evolve to the gentlemen estates that they aspire to be?

Mr. Summers: No, they would still be required to prepare the farm plans, and have agriculture consistent with State Law. But you know, when we look at commercial ag it really depends on the type of agriculture. If we're dealing with very value added products like cut flowers or herbs, you could make, you could make that work on a smaller lot. But for fruits and vegetables you need a little larger lot size. So it really depends on the type of crop and that's why we like having a range of lots sizes in the Ag District, small, medium, and large.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Yeah, I'm in full agreement with Commissioner Hedani especially in reference to not getting raped I guess. I don't see the reason going down to one-acre either. I mean, even two-acres seems terribly small.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Yeah, I support the one-acre concept, but what do you call, I'm gonna buy one-acre and really want to do agriculture so I'm gonna put 10 pigs on the lot. I'm gonna 20 chickens, 1 rooster. I'm gonna be...I'm gonna have a lot of unhappy neighbors. I'm on a 14-acre subdivision,

two-acre subdivision. I am the only lot that does not have a cottage or...I have one building. I have one rooster. My neighbors complain. You know, people come here and they buy these lots and they have no intent of doing agriculture. We see it time and time again. They come over here for bed and breakfast, vacation rentals, and short-term rentals which I hate, what do you call, come over here and what do you call, buy these lots and they have absolutely no intent. So now the person that really wants to say do a little agriculture because that's all you can do, they're complaining. Look at Kula 200, that place should be zoned Urban or something else, you know.

Chairperson Lay: I have a comment on that too. I have a one-acre lot. It's Ag. I'm not gonna make money, but I can make enough for my family to live on. You know, I've got the lettuce, the cabbage, the onions, you know like that. Am I still credited as an agriculture lot because I am providing for my family or is it has to be a money criteria that I reach in order for that to be a agricultural lot?

Mr. Summers: No, subsistence agriculture is fully recognized. You don't have to be a commercial enterprise.

Chairperson Lay: Okay, another question. On your Page, I think it's Page 3 of your paper that you gave out. You gave a little concept of your cluster concept, right? On this, we have our little subdivision on the bottom left-hand side...on the right-hand side one, all these subdivisions is all separate ownership, right? All these little, the lots?

Unidentified Speaker: Yes.

Chairperson Lay: Is it always gonna be in conjunction with the larger agriculture conservation lot? Are they always gonna be together or does it become separated at the time of the sale?

Mr. Summers: The way it would work is at the time of the subdivision, the ag conservation lot would be created. And the smaller lots could be created concurrently with that or over time, but they would be separate lots and could be conveyed separately if that's...

Chairperson Lay: So what I'm looking at later on the guy goes you know I'm separated from them, I would like to subdivide this again. Is that a possibility or is there no possibility of that because of this subdivision concept?

Mr. Summers: For the ag conservation lot once that lot's created there's a unilateral agreement that's recorded against that lot preventing it from being resubdivided or for it to have the zoning changed. So that type of subdivision wouldn't be permitted on that ag conservation lot.

Chairperson Lay: Thank you. Commissioner Wakida?

Ms. Wakida: I see this clustering as an absolute bonanza for developers. And I'm little concerned that, and I share some of the Office of Planning's comments in here where some of the best agricultural lands might end up being the cluster housing because that's where the best views are and so on. Can you go back to one of your slides? It's the one at the top that says, Benefits of Cluster Subdivision with Site Plan Criteria, it's about 12 in. The land where it says prime ag land, the land that's not the clustered housing, a developer has developed this now are those separate

parcels owned by somebody else, those where it says, prime ag land?

Mr. Summers: Right. Under this concept, this would be the ag conservation lot, okay. That particular parcel would...that would be its own parcel, its own lot that could be conveyed separately to a farmer for agricultural use.

Ms. Wakida: And that can be subdivided down further?

Mr. Summers: No. No, that would defeat the whole purpose of the bill. The purpose of the bill is to ensure that this ag conservation lot 70 percent, at least 70 percent of the parcel for a 92 plus acre parcel is protected in perpetuity. That's the benefit, the public benefit to this proposal.

Ms. Wakida: Seventy percent of the ag conservation lot is, you said, or 70—

Mr. Summers: Seventy percent of the total parcel area. So if we look at the slide—

Ms. Wakida: Right.

Mr. Summers: —let's say this is a 100 acres, this will be 70 acres that would have to be deed restricted in perpetuity for agriculture and limited to that use.

Ms. Wakida: Okay, so my...I'm just trying to see how this plays out in real life if somebody wants to do some farming how they're gonna afford that lot, how they're going to...if that's a 100 acres and they...do they...they come in and by 70? There's no roads, there's no water, there's no nothing, so and it's one parcel correct? It's not being broken up into smaller farming parcels?

Mr. Summers: As the bill's written it would be one parcel.

Ms. Wakida: And there can be dwellings on it?

Mr. Summers: As proposed, there can be two farm dwellings on that large lot with a maximum developable area of 4,000 square feet.

Ms. Wakida: So the hope is, is that somebody, some ambitious farmer will come in and buy up that land and turn it into a farm adjacent to this cluster housing?

Mr. Summers: There's two, there's two goals here, okay. The first is to permanently preserve buyable tracts of agricultural land that are of a price that can be afforded by farmers. They can run their spreadsheets, they can do their financial analysis and they can make the numbers work so that's the first goal. That can only happen if the value of this land reflects its use for agriculture as opposed to development. The second goal is to make sure that we are protected in perpetuity some of our best agricultural land so that that resource is available for subsequent generations.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: How do you control where the developer puts the cluster housing?

Mr. Summers: There are...there's one explicit approach to deal with that and that is idea of having these site plan criteria. Okay, so these criteria could address issues like making sure that there's a buffer, an adequate buffer between the clustered units and the ag conservation lot so we don't have nuisance complaints. 'Cause the criteria could make sure that we have access to the ag conservation lot. Ag conservation lot is not gonna do you much good if there's no access to the lot. The criteria can address depending on how it's written the protection of any natural resources on the site. Some of these proposals in other ordinances and other jurisdictions address things like view corridors as well. So it's important to have some sort of a design review framework built into this. This starts to address some of the concerns folks might have with issues like infrastructure or density.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: John, if we give permission for development to occur then what I see there is development, residential development, high end residential development to occur on agricultural lands. If we give permission to allow that to happen, what becomes of the community plan and the Island Plan's concept of restricting urban development to areas that will be controlled and nothing happens beyond that point? What I see is that this makes everything that goes beyond that point moot. It's not longer applicable. Every place is fair game.

Mr. Summers: Right. Well, that's a excellent question. And I would say that there's a couple of factors that come into the play. One is the policy issue that we identified earlier. One of the outstanding issues we're looking for feedback on is whether there should be a cap on the number of clustered lots and what that cap would be if that's something policy wise it would be appropriate for the County. Then when we drafted the Island Plan which has a directed growth strategy including urban growth boundaries one of the two...there's two critical tools there in addition to the urban growth boundaries that are identified as part of the directed growth strategy. The second...the first is growth boundaries, the second is transferred development rights, and the third is this type of clustering approach. But in terms of managing it, how it plays out over time that's going to really be dictated by things like the site plan criteria that would be attached to the bill as well as provisions like maximum lot size or a cap on the number of lots.

Mr. Spence: May I comment?

Chairperson Lay: Director?

Mr. Spence: Perhaps it's a little bit ...(inaudible)...I hear the concerns of the Commission about is this agriculture or is this not, et cetera. I think if, and somehow this will be a boon to developers, at some point the economics of land will produce another Launiupoko where you have...(inaudible)...45-acre lots scattered across the hillside with very little agriculture taking place and all it's going to do is eat up productive land into smaller chunks, discontinuous chunks which is also not agriculture. The idea here, and that's existing law, the subdivision plat that Mr. Jencks handed out this is what we can do under existing law. Maui Island Plan or not, community plan or not, is it better? The purpose of this is it better to do something like this and chop up really large pieces of agricultural land into these big chunks or and you know, you know with the same concerns about are they really doing agriculture? You know, we require farm plans, et cetera and you know, this does make some land available for agriculture, but you know, we put over really

decades, we talked to the farmers, we talked to you know, UH Extension Service, et cetera. They talk about we really need to have contiguous pieces of agricultural land in order to do viable agriculture. Even grazing cattle, you need contiguous acreage in order to do this. This is a means to do that as opposed to saying I looked at these kinda ag subdivisions and it's...I don't see anything in here that promotes agriculture. I see that at some point the views from these lots, the views...the availability of these lots for you know, for farm dwellings it's not going to be that much different than what we see at Launiupoko. If our current law provides for that now, and you know, we don't make some kind of accommodation it just...it will just continue. Our large tracts of ag land, valuable ag land are just gonna continue to get chopped up into these bite size chunks that are not all that valuable for agriculture anyway. So I think this is something that's been recognized at least in our community plans, as was mentioned this is recognized nationally that if we can consolidate these things and if there's going to be residences on agricultural land if you can consolidate them into a smaller area that at least save the larger pieces for...it doesn't mandate anybody go farm it, but it provides contiguous, large contiguous pieces in order to accomplish that in the future.

Chairperson Lay: Commissioners, at this time I'm gonna take a break. Ten minutes. Come back at ten to we come back. Reconvene in ten minutes.

A recess was called at 10:43 a.m., and the meeting was reconvened at 10:53 a.m.

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

Mr. Medeiros: Okay, there's been a lot of discussion about Councilman Guzman's bill and everything, you know. And I look at places like Launiupoko and the County had to buy land to create open space. With this bill it's already built in. The County will not have to buy land so that there'll be open space and this land everybody's talking about oh, yeah, agriculture isn't viable. You know, ranches is good grazing land, open space. It will be there in perpetuity, okay. Hopefully you know, there will be businesses that will...with this land available maybe then businesses would be able to have ranch lands. It will be available for the rest of our lives. This is the first time since I've been here that we've had developers, conservationists, you know, all on the same page. You know, when, when did you ever see. I'll be honest Bowie and Charlie Jencks on the same page, you show me one time? I've never seen it. Okay, is it a perfect plan? No. Is it a good plan? Yes. They agree. Let's jump on this.

Chairperson Lay: Commissioners, any more questions or comments? Seeing none, can we get the...oh, excuse me, Commissioner Hedani?

Mr. Hedani: John, I hate to put you on a spot. When we do development, urban development there's all kinds of requirements for it. The County of Maui is going through a huge gyration now in West Maui just trying to make the Lahaina wastewater treatment facility comply with litigation that has been brought against it, against the County taking on the EPA and having to address that. It's a \$14 million facility that they have at the Lahaina wastewater treatment plant and it doesn't pass muster. You cannot inject its effluent into the ground anymore because they're saying that's not a good thing. You have to come up with a complete reuse plan for all of that wastewater. When we approve something like this and agricultural subdivisions become viable economically because the cost is reduced, how do you address treating all the sewage that comes from the urban portion of that development, how do you get it to the same standard that every other urban development

has to comply with at this point?

Mr. Summers: Well, the project will still need to meet all of the existing State and County requirements, all the subdivision requirements, all the infrastructure, all the water and all the wastewater requirements that we currently have, the applicant is still gonna have to meet those requirements to ensure that the project does not degrade the quality of life of surrounding neighborhoods. So there are built in protections and existing law to deal with that.

Chairperson Lay: Commissioner?

Mr. Hedani: The reason I ask the question was in the example that as placed up on the wall, you have maybe a 20-lot subdivision. How do you take that to secondary or tertiary treatment for sewage and get the water recycled so it's not polluting the ocean?

Mr. Summers: I'm not a expert on wastewater treatment facilities, but they do have private systems that can be used in this kind of circumstance to treat the wastewater to a very high quality.

Chairperson Lay: Director wish to comment?

Mr. Spence: Sure. Any subdivision, any...actually the construction of any home needs to comply with State Department of Health Rules and the State just revised their rules. It seems to me there's gonna be an option either a developer could put in a package plant or because of the size of these lots they can still do individual wastewater treatment with basically a septic system, but it still has to...the State Department of Health has like a 150 pages of rules and how deal with wastewater. Any time somebody builds a home and it's not connected to a municipal plant, you know they have to comply with DOH. All this is regulated by DOH, so there's safety built in.

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

Ms. Wakida: My concerns are in the farming side of this. I am concerned that in theory you have a large open piece of property, but in practice it's abutting very high end I would propose lots and homes and it will be a big piece of property that nobody can afford. And so we haven't done anything to further...everybody talks about wanting more ag, but we haven't done anything to refurther that industry by creating this kind of subdivision. And so I think that component needs a little more work on how to encourage farming and make it so that it is affordable and viable in the non urban residential areas. As well as that the ag lands are the best ag lands in the whole parcel. It may be that the best ag lands are where the best views are and the developer wants to put the homes there so what happens? And the rest of the lands and beaches and gullies and so on. And so, if it's in conservation but we're not doing anything helping the farmers find land that they can actually use. So I'm concerned that we talk about farming and talk about ag lots, but I don't know if it's meeting the needs of the farmers as we see them on Maui.

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

b) Action

Mr. Summers: Just reading from your staff report, Page 10. The Department supports the proposed bill as modified in Exhibit B of its staff report. The Planning Department recommends that the draft revised language be adopted in lieu of the proposed bill that's accompanying Resolution 14-114.

Chairperson Lay: Director?

Mr. Spence: And Commissioners I would say we will take your comments to heart and we will transmit those along, you know, up to the County Council changing things like the developable area of the lot, and just noting you know, and say, you know, there was testimony regarding special uses, farm land trusts, those kinds of things, and we'll certainly discuss those things internally.

Mr. Hopper: And Mr. Chair? Just to clarify if the body is going to make comments to the Commission it should approve the comments by either unanimous consent or a majority vote for the comments that it wants specifically sent onto Council. There's been a discussion today and there's been points raised, but to make them comments of the body, just like if you're commenting on an EA or something else like that, you'd wanna have your comments noted by the planner and forwarded on and either unanimous consent on the comments or a vote to recommend approval, denial or if there's additional comments to...additional amendments you had have that, but I think particularly since there's discussions going different ways it's probably a good idea to have some type of action by the body to make clear it's comments and recommendation to the Council.

Chairperson Lay: So with that, can we get the...I know the Director had a bunch of comments that he wanted to add or might be added to this and can the Director repeat those. And I don't know if you wanna go by them one by one or we're gonna hit 'em all as a whole as far as agreeing upon the comments to forward it.

Mr. Spence: I had three major things that were brought up by the Commission or actually partially by testimony. The maximum developable area I think that's something we, like I said we inadvertently inserted in the draft ordinance. Right now, right now you can do up to 10 percent of the lot size. That's what's currently in the law. So if you have a two-acre lot you can do roughly 8,000 square feet between the main house and the accessory farm dwelling. The way that this ordinance is drafted it says 4,000 square feet. So does the Commission wish to see that changed?

Mr. Freitas: So move.

Mr. Medeiros: Second.

Chairperson Lay: Any discussion on the motion? Commissioner Wakida?

Ms. Wakida: What's the motion again, please?

Chairperson Lay: To accept his comments to be included, the recommendations.

Ms. Wakida: Will's ...(inaudible)...be included?

Mr. Spence: Yeah, whatever...the Commission...I'm trying to gather some of the things that I-

Mr. Hopper: For a comment to be a comment of the body it's not just an individual person saying I have this comment because otherwise it's not a comment of the Commission unless you let everybody comment and then say, if there's no objections those will be forwarded on as our comments. But they would be the body's comments. So if the body doesn't agree that that's a comment they wanna send forward or something or like that then it wouldn't normally be...it wouldn't be sent forward. So I mean, if you're okay with what everyone is commenting on and you say after that through unanimous consent you'll forward those on. But again, some of the comments can be either contradictory or not everyone may agree with them. That's all. You're making comments as a body, as the Planning Commission not just as individual members. So if everyone's okay with what Will had proposed, you could by unanimous consent say that will be forwarded on as a comment or you could take a vote if there's people that don't agree.

Chairperson Lay: So by unanimous vote do we all agree upon the comments that Will is gonna be forwarding?

Mr. Hopper: You wanna specify what the comments?

Mr. Spence: Yeah, I basically heard about questions—

Mr. Hopper: You could have the planner or the Director read you all of the comments that heard and you know, this is common with like the Urban Design Review Board and this is common with your comments that you make on Environmental Assessments. It's the same idea. You've certainly done this on legislation before so it's not the first time, but the Department needs a letter that it can send forward and without...there was a lot discussed today and if the Department has to go through the minutes and pick and choose which stuff it sends forward that might be difficult or it could just send the minutes if you would like that and have the body make one recommendation. But normally for comments they will send a letter to the Department summarizing the comments that the Commission had. So it's important just noting that you know what comments are going to be sent forward to the Council on your behalf before that happens. So you could have perhaps the Director or Mr. Summers read back what he believes are the comments of the body and then approve that or modify it as you see fit. Maybe that's a good starting point.

Mr. Summers: Right, if you could restate your comments we'll get it typed up on the board?

Mr. Spence: Okay, I heard a concern about the developable area. And maybe I'm more reiterating of what was testified about, but the farm land trust... what you can do either special uses or other farming you can do on the conservation lot. Special uses...there were concerns by the Commissioners about this is solely just promoting development of ag land. And other...do we wanna discuss the maximum number of lots that you could do in a cluster subdivision?

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: Is there a possibility of having this particular issue postponed for the next meeting until you clarify all the areas that we need to look at and address 'cause I'm confused as far as what you're trying to propose as far as the amendment or modification to the particular bill? That's my...(inaudible)...

Chairperson Lay: Well, in our future meeting we'd be going over the same thing that we're going over right now. Yeah, so I mean if we can address it now that would be great. We can move forward on this. So for me, we're taking care of it now. I'm not sure if you're...it's what's proposed before us again, with the comments or suggestions on the board.

Commission Members: It's on the board.

Chairperson Lay: Yeah, it's right behind you on the board. So she's typing it up. John did you have any other too that we missed?

Mr. Summers: I think there were some comments generally about how the site design criteria would work as it relates to protecting things like the best ag lands and view corridors and that kind of thing, so...I mean, these issues will be brought forth in our staff report to the Council as being issues that were discussed and concerns raised by Members of the Commission. This is you know, this bill would receive a significant vetting by the County Council and we wanna make sure that all these issues are brought to the attention of the Council Members.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: So these are not conditions that we're adding on. This is being forwarded to the Council and they look it over and they'll discuss it and see what needs to be done. Am I right?

Mr. Summers: I think that's...that would probably be an efficient way to deal with it.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I would like to add a little more emphasis on looking at this resolution and how it will promote farming. Right now it's promoting the residential portion of it and open space, but that doesn't really promote the nuts and bolts of farming. I'd like that to be... and one other question, is cluster housing by definition contiguous? In other words, does it touch, each lot touches the next?

Mr. Summers: I would say that that is the case. But the way the Department will probably draft the design criteria not all the lots would have to be clustered in one group. There could be a handful of small clusters subject to the design criteria.

Chairperson Lay: So Commissioners if we can look through this and make sure that everything is on there, you guys and we'll agree upon this if there's...you know, that everything's up and anything else you wanna add just let me know or let John know. Commissioner Hedani?

Mr. Hedani: As a comment, I'd like to see the Council revisit the idea of two-acre ag lots.

Ms. Wakida: Revisit what?

Mr. Hedani: Revisit the concept of two-acre ag lots.

Mr. Tsai: Yep.

Mr. Hedani: My personal opinion is that two-acres is too small.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I'm just getting very protective of this big piece of land here that we're hypothesizing. I would like to be, the Council to really be clear about this clustering. They may say, some developer may say well I want three cluster here and three cluster and this open space is kinda this meandering thing that benefits nobody except the backyards of the homeowners. So you know, I see potential for abuse. I could certainly see the other side and what it's intended to do. But I think I would like to see the Council really look at it from the other side and that would be where the developer's simply looking out for how much money they can make and the other elements go out the window.

Chairperson Lay: Commissioner Hedani, excuse me?

Mr. Hedani: Another comment that I would have that I'd like to pass along to the Council is that for the portion that urbanized and it is urbanized, it be taxed at its highest and best value, at its highest and best use. If it's a 10,000 square foot house that's worth \$4 million to build it should be taxed as a \$4 million house in a residential.

Mr. Freitas: Second.

Mr. Summers: Are there any other issues?

Chairperson Lay: So as a body as a whole we need it, we're all in agreement that these are the comments that we'll be adding on. All those in favor? Those opposed? Okay, those are our comments then. That should do it. Thank you.

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

**VOTED: To Recommend to the County Council the Revised Language in Lieu of the Proposed Bill as Recommended by the Department with the Additional Comments of the Commission.
(Assenting - J. Freitas, J. Medeiros, M. Tsai, W. Hedani, P. Wakida, R. Higashi)
(Excused - K. Ball, S. Duvauchelle)**

We're gonna take a five-minute break so they can set up for our next agenda item.

A recess was called at 11:15 a.m., and the meeting was reconvened at 11:19 a.m.

Mr. Spence: You're second public hearing item this morning is Mr. Gregg Lundberg of Westin Maui, LLC requesting an SMA Permit for the Westin Maui for improvements including a garage, renovations, et cetera. And with us this morning is Ms. Ann Cua.

2. **MR. GREGG LUNDBERG of WESTIN MAUI LLC requesting a Special Management Area Use Permit and a Shoreline Setback Variance for the Westin Maui Resort and Spa Improvements Project to include a new parking garage, renovation and expansion of the existing convention hall and ballrooms, expansion of the existing spa facility, demolition of structures, decking, and a manmade mound within the 150 ft. shoreline setback area and replacement of said structures with new decking, installation of roof coverings and new decking areas as well as relocation of an existing County sewer line and related improvements located at 2365 Kaanapali Parkway, TMK: 4-4-008: 019, Kaanapali, Lahaina, Island of Maui. (SM1 2014/0002) (SSV 2014/0002) (A. Cua)**

Ms. Ann Cua: Good morning Mr. Chair, soon to be afternoon, and Members of the Commission.

Chairperson Lay: Commissioner Hedani, excuse me, Ann.

Mr. Hedani: Yes, Mr. Chairman. The Westin Maui is a member of Kaanapali Operations Association, a member property and as a result of that I'll be recusing myself from voting on this issue.

Chairperson Lay: You'll still be commenting?

Mr. Hedani: I always have comments.

Chairperson Lay: Continue, Ann.

Ms. Cua: Thank you, Mr. Chair. I'd just like to start by kind of taking you through how we plan to present this project today. I'm gonna make just some brief general comments, and go over the letters that we've received since the preparation of the Staff Report and then I'll turn it over to the applicant, and they'll take you through the project and then you can ask your questions of the applicant. I do wanna come back on after that, go through some of our analysis of the SMA Permit and the Shoreline Setback Variance application. And then we have of course, the public hearing to deal with and then go onto the recommendation. So are you guys all okay with that format for today?

Chairperson Lay: Sounds good.

Ms. Cua: The applications before you are Special Management Area Use Major Permit as well as a Shoreline Setback Variance for the Westin Maui. The Westin Maui is an existing hotel resort property that contains a 759 hotel rooms and other related amenities. The hotel property has not undergone a major revision or renovation in the last 20 years. The plans that are gonna be presented to you today as the Department understands it represents improvements that will address both visitor and employee needs.

And one of the goals of this project is to address parking needs of the hotel. The hotel currently leases an area for offsite parking for its employees which is anticipated to end in the near future. The proposed project plans does not reduce the number of employees at the hotel and it does not

propose any new hotel rooms. So I just kinda wanted to set the tone before we have the project presented.

Like I mentioned, since the preparation of the staff report we received a number of letters. The first letter that we received was directly after the report had gotten signed and that was a letter documenting the mutual understanding that was reached by the Association of Apartment Owners of Kaanapali Alii which is the property adjoining the Westin to the south and this was done through its board of directors. And then this agreement is with the West Maui LLC. So that is a signed agreement by both parties dated January 21, 2015.

And then we received a letter from the President of the Alii Rental Homeowners Corporation dated February 2, 2015. The president's name is Judith Harms. And then we've been receiving yesterday and as late as this morning letters from six individual units of the Kaanapali Alii, Unit 121, Robert and Paula Kindrachuk; Unit 212, George Stewart; 232, Christopher and Rosemary Siegfried; 242, Bradley Larson; 256, Philip Stotts; and Unit 262, Paul and Dana Greenawalt. All letters deal primarily with the parking structure that is proposed. So with that...oh, and then you have copies of these letters. They were emailed to you, most of them were emailed to you, hard copies were distributed this morning, and we received one letter this morning, and Carolyn was that one? And that one was also distributed as well. So with that, I'd like to turn it over to the applicant to make their presentation.

Ms. Cheryl Okuma: Thank you, Ann. Good morning, Chair Lay, Commissioners. I'm Cheryl Okuma from Munekiyo & Hiraga and we appreciate the opportunity to be here before you today on the proposed Westin Maui Resort and Spa masterplan improvements.

The project team includes those who are present here today as well, Gregg Lundberg representative of Westin Maui. LLC, architect is Larry Cunha from WCIT Architecture; Glenn Kuwaye is the civil engineer from Wilson Okamoto; the traffic engineer is Matt Nakamoto from Austin, Tsutsumi; and also from Munekiyo & Hiraga is Karlynn Fukuda.

Now this project has been before this Commission at least twice during the environmental review process as you may recall. We're here before you today in terms of your review for, on the request for a Special Management Area Use Permit and Shoreline Setback Variance for improvements proposed at the Westin Maui. And these involve the refreshment and renovation and project components that I'm gonna touch upon in upcoming slides includes the new parking garage that Ms. Cua just mentioned. Also, back of house improvements, expansion of existing meeting rooms and spa within the existing current building structure and other related improvements.

This gives you a perspective in terms of project location and the applicant's proposed improvements as you can see this is the subject property off of Kaanapali Parkway, off of Honoapiilani Highway that runs in the north-south direction in this region.

This is an aerial view. The Westin Maui Resort and Spa is an ocean front resort. And you can see here is Whaler's Village up to the north, as well as the mention of the Kaanapali Alii Memorandum of Agreement, this is the location of the Kaanapali Alii condominium.

This particular resort includes some amenities and about 760 rooms, opened in 1988, with the original hotel, the Maui Surf as you recall built originally in the '70s. I just wanna point out that during construction, the beach area access points will remain open and there's a beach access point to the north of the property as well as down to the south along the southern boundary between the Kaanapali Alii condominium and the Westin.

There's also mentioned in some of the letters pertaining to landscape and maintenance facilities and operations which are currently outside. But with this particular proposed project, the new parking is gonna come in in approximately this location and what is referred to now as the landscape facilities will be removed from where it is and actually placed inside of the parking structure. And I do have a...on the site plan I'll be able to show you that coming up.

Now in the over 30 years of operations, the resort has not undergone such a major renovation and the so the plan that you see before you is the Westin's commitment to visually and functionally enhance this resort. And the major improvements to the existing amenities are to make the expectations of its employees and the needs and services of its guests and to continue to compete as a world resort destination.

In terms of the areas proposed for improvements we have a here, this is the new parking structure and as you can see here the landscape facility that I just mentioned is gonna be removed from where it is outside. It will actually be brought into that first level of the parking structure.

The other project component involves the ballroom and a meeting room and expansions in this area. There's proposed back of house renovation. And in this area of the existing building proposed renovations to the spa, roof improvements to the existing restaurants, The Sugar House and the Relish Restaurants proposed improvements within this area as far as decking that will occur. And here is the existing 30 beach parking stalls. There's nothing proposed in terms of this area.

I'd also like to point out because the follow on slide will reference this. This was the shoreline setback at 40 feet at the time that this resort was originally built in the '80s. Today, that setback is 150 feet here. Okay, and I'm going to come back to this point a little bit later on.

Now in terms of the project scope of work, there is work proposed both outside of the shoreline setback areas as well as within, but starting with what is proposed for outside the shoreline setback area, we have here the new parking garage component to accommodate guests and employees needs. Parking garage not to exceed four parking decks with the fourth floor and parapet walls not to exceed 28 feet. Also, back of house renovation and structure expansion that you saw in the previous site plan slide. Conversion of the second floor convention hall into new ball room, expansion of the existing meeting rooms and the spa that currently exists, expansion of that facility within the current building together with other related improvements.

This next slide is an elevation view of the proposed parking structure and I just wanna point out this is the south elevation view on the south side boundary closest to the Kaanapali Alii Association. Here you will see the four level parking deck. This is the proposed trellis and of course, this is the elevator shaft here which would be right around here.

Now in terms of...there is a sewer line that does run through a portion of where the proposed parking garage is being proposed for. And there are some alternatives now that the applicant is currently assessing and that assessment is occurring in the context of discussions with the County as well as Kaanapali Operations association and those alternatives could include keeping the sewer line where it currently remains in its existing location or relocating it within the 15-foot easement on the southeast corner of the property and I'll have a follow on slide to show this a little better. Another option includes sewer location to an adjacent area that's nearest the Kaanapali Parkway roadway. So now we have the upcoming slide here that gives you an idea of where those proposed relocation alternatives could occur. Currently there is an existing County sewer line in a north-south direction and that would be in the location of the proposed garage. One of the relocation areas could be to push it out closest to the Kaanapali Parkway or another alternative could be pushing it further south of this other alternative here.

Now there's also components of the project that is within the shoreline setback area. Now there's also components of the project that is within the shoreline setback area and includes the demolition of an existing retail kiosk and I'll be able to point these out in some aerials that we have coming up here. Water features, there's an existing restroom/storage building that will be demolished and the removal of a landscape mound. To improve functionality and guest experience of food and beverage service what's proposed is the installation of a 18-foot high open-air roof structure as well as the installation of a portion of the roof structure to the Relish Restaurant.

Now in terms of this process in discussions with Planning, Planning had asked the applicant to consider the decking that it was proposing in the shoreline setback area and for this reason which you now see proposed and what you've heard before is that the applicant will be installing new pervious decking that shoreline setback area and there will also be a replacement of a portion of existing hard deck with pervious decking and I'll have some slides that show that a little bit better for you coming up here.

So in terms of the pervious deck and the roof structures within this shoreline setback area, I mentioned that the applicant is gonna...proposing for installation new pervious decking of approximately 3, 015 square feet. In addition, the applicant is gonna be proposing to remove existing hardscape decking, hard decking in this area of about 999 square feet. And already it's noted that there's going to be a removal of some of those structures like the restroom, the storage, and the retail kiosk. And I've got a slide coming up next that tells, explains a little bit more in terms of the discussion that we had with the Planning Department--let me just go back here-- I just wanna point this out that one of the project elements is the installation of a new roof area off of the existing Sugar House Restaurant and just wanna point out that this was previously permitted hardscape previously and now it's being proposed as a new roof area of about 2,500 square feet.

Well, due to discussions with the Planning Department and concerns that they had with the Sugar House Restaurant roof of approximately 2,500 square feet they were interested in knowing what could the applicant do as far as any kind of mitigation effort as far as improvements in the shoreline setback area. So it's noted that there's already kiosks, the retail kiosk being demolished of 551 square feet. Storage building would be demolished in this amount 1,020 square feet. And there is an existing hard deck walkway within the shoreline setback area that the applicant said they could take that out and replace that with pervious decking thereby ending up with this 2,570 square feet removal of hard decking and we see a total net gain of basically zero. And this would be in

conformance then with the shoreline setback rules as there would be no net gain in terms of hardscape in that area.

This is a perspective of the Sugar House Restaurant. This is the limits of the proposed roof. And this is the limit of the project and right off here to the side this is the 999 square feet of hard deck that the applicant is proposing to remove and replace with pervious decking. Of course, this is the shoreline area and this is the existing beach walkway.

This is a view of the proposed roof off of the Sugar House Restaurant...oh, sorry...and right here is the proposed roof structure and what the applicant is proposing is doors to this structure to be able to protect the guests during inclement weather. And so this is a perspective of the doors shown as closed and they will only be closed during inclement weather. Outside of inclement weather, when the weather is good, doors will remain open. So this is the roof structure off of the Sugar House Restaurant.

This is a perspective of the roof structure proposed off of the Relish Restaurant and what you'll see here is the limits of the proposed roof off of the Relish Restaurant, the limits of the proposed improvements. I mentioned the demolition of the retail kiosk that currently is there. This would be removed. This is another perspective of the existing hard deck which is about 999 square feet that will be removed and replaced with pervious decking.

We'd just like to mention that the Westin Maui is participating in a Kaanapali Beach restoration project as part of a public-private partnership together with the State of Hawaii as well as with other Kaanapali properties.

This slide is a summary of what's in the project. It just simply summarizes what I've already covered in the prior slides in terms of project components.

Now in terms of the review of the Shoreline Setback Area Variance there are a number of criteria for consideration and the next few slides will just address this. Starting off with the criteria of reasonable use the proposed project is a reasonable use of the land. As you can see the project is confined to what was previously improved within in this existing resort. And the reason for these improvements is to enhance and better the service to guests in terms of delivery of food and beverage service. As mentioned and noted in the prior slides there's no increase in the hardscape within the shoreline setback area as the 999 square feet of hard decking is gonna be replaced with pervious decking and we note that the project is located about 69 feet away from the certified shoreline.

There are unique circumstances in terms of this project and this resort. If you recall, I pointed out in the earlier slide that when the resort was originally constructed it was when the shoreline setback was at 40 feet. It's now of course, a 150 feet. And as you can see what does exist as far as the project site is already fairly built out. However, the proposed improvements would allow the Westin Maui to meet its demands and expectations of its customers.

The proposal is in conformance with the Shoreline Setback Rules. We note that there had previously been shoreline setback approvals, SMA Minor Permits that were granted, EA exemptions for deck areas that you currently see within the 150-foot shoreline setback area.

There are a number of sustainability programs that are ongoing at the Westin Maui, energy conservation, water conservation. We note that from 2012 to 2014 recent data shows a 27 percent decrease in water usage and further reduction is anticipated in 2015. There's also a number of recycling efforts that are going on on the resort.

There has been community outreach in the past. Meetings with the Kaanapali Alii Condominium Association going back to April of 2013 and to most recently January 2015, and discussions which did result in that mutual understanding in a letter that Ms. Cua has referenced and passed out to the Commissioners. There'd also been meetings with the Kaanapali Operations Association Design Review Committee since 2013 and conceptual approval was received from the Design Committee as well. And discussions also included the Whaler's Village.

Now as previously mentioned this project has been before this Commission before. In terms of the environmental review and because the Planning Commission did make some comments we have that noted here in these slides. This Commission reviewed the Draft Environmental Assessment back in 2014 summer of last year, and the triggers for the environmental review was the work being proposed within the shoreline setback area as well as the County sewer line location.

One of the comments that the Commission had made pertained to renewable energy and the use of photo voltaic panels. And we note that that effort is continuing to proceed in terms of design and preliminary review. There is a consultant working on this who would need to review plan with the Kaanapali Operations Association and prepare an SMA application as well.

Another comment by this Commission during the Draft EA was the proposed parking structure be screened with landscape from visual mitigation. And we had indicated that there would be landscaping incorporated around the proposed parking garage subject of course, to any requirements of the county or if any third party easements were needed.

The third and last comment from the Commission pertained to beach parking stalls and related amenities. And we note that because of the constraints on the resort site there are limitations in terms of being able to balance the needs of the resort guests together with employees.

That environmental review ended in a final review, EA review by this Planning Commission November 10, 2014 and a Finding of No Significant Impact Determination was issued and there were no challenges to that issuance. So, again, we're here before you today to request this Planning Commission's consideration of approval of our request on a Special Management Area Use Permit and Shoreline Setback Variance. And on behalf of the Westin Maui we'd like to thank you for your time and consideration of a project reflective of the resort's commitment to continue as a world class destination and we're available for any comments. Thank you.

Chairperson Lay: Commissioners, at this time we're gonna open up to public testimony. If anyone wishes to testify, our first testifier is Jeff Halpin.

a) Public Hearing

Mr. Jeff Halpin: Members of the Planning Commission thank you for the opportunity to testify today. I'm here as a principal of Classic Resorts which is the managing agent for the Association of Apartment Owners of Kaanapali Alii. As Ann said you've received a copy of understanding.

Chairperson Lay: Can you please repeat your name please?

Mr. Halpin: Jeff Halpin, H-A-L-P-I-N, thank you. You've received a copy of the Letter of Understanding between the Association and the Westin related to the 624-space parking structure the Westin is seeking to build. Primary purpose of that agreement was to come to some arrangement as to the structure's maximum height which was very sensitive to the owners at Alii. Also, important to the homeowners at Alii are the landscaping, acoustical screening and the use of shielded lighting in the finished structure. There's no denying that this will be a massive structure over an acre of hardscape and four stories. The landscaping will be important in camouflaging its mass to Kaanapali Alii and the Kaanapali Resort. Six hundred plus stalls will also create a lot of traffic with headlights and screeching tires acoustical mitigation to the southern exposure is critical in making sure light transference to adjacent buildings is minimized. The Westin as suggested has several lean to unpermitted structured along the Alii boundary. We don't believe they're representative of a four-star property, but the agreement addresses those structures and we hope that the Westin will accelerate the removal and not wait for the completion of construction.

While the Planning Staff's recommendation to the Commission included best management practices for noise and dust, it's unclear to me what that means. Does it mean the Westin will pay for the cleaning or the power washing of the Alii towers or does it mean that backup alarms will be only utilized during certain hours. So like I say, as a layman I don't understand what that exactly means so I'd suggest that the BMPs be I think more clearly defined.

And lastly, I'd like to make the Commission aware that the Westin has yet to receive final approval from the Kaanapali Operators Association which is the entity in charge of controlling the architectural approvals within the resort. So with that, I thank you for considering my input.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing...oh, Commissioner Tsai?

Mr. Tsai: I'm sorry, can I have you name again, please, sir?

Mr. Halpin: Jeff Halpin.

Mr. Tsai: Yeah, Jeff this matter has come before us at least a couple of times I remember this and going back probably a year. How come this is brought up with all the objection letters now versus

—

Mr. Halpin: I can't speak to the individual owners. I mean, I was a part of discussions that lead to an agreement that was between the Board of Directors and the AOA and the Westin. So...and as part of that agreement it's stated that the Association would not interfere with any individual owners that wanted to express their own opinion as to the merits of the parking structure. So I mean, all those individuals took the action on their own and not within the scope of the Association of Apartment Owners. I'm just kinda reiterating like I said what was the most important which was

the height restrictions as well as other concerns that Alii has that are mentioned in that letter, but I just wanted to emphasize those.

Mr. Tsai: How long have you been in discussion with the operators of the Westin?

Mr. Halpin: Oh, probably 15 to 18 months. I mean, they made presentations to like the Homeowners Association at various times as the project went through its planning.

Mr. Tsai: Thank you.

Chairperson Lay: Commissioners, any more questions for the testifier? Seeing none, anyone else with to testify at this time? Step forward, identify yourself and you have three minutes.

Mr. Mike Bunyard: Thanks for letting us be here. My name is Mike Bunyard. I'm the Unit Chair representing the employees for the union and I'm here to speak on behalf of this project. It's well over needed. I've been working at the Westin for 20 years, my wife for over 23 and one of my kids for seven years now. We do need an upgrade. There's a commercial on T.V. that talks about the nightlife and dazzle of Kaanapali Parkway. Well, we need some of that dazzle back in our building and our structure.

Some of the things I wanna hit on. I work in banquets. We definitely need new and better space to compete with the other properties around us. With the restaurants inclement weather things like that this roofing overhead is gonna be a big help when it does rain and we have weather like today. You know, as workers we're not making money. We need a place where people can go so they're not leaving property.

And briefly on the parking garage, we've been putting on, logging on a lot of miles walking from where our employees park right now. It's a big dust bowl. It takes wear and tear on our cars and vehicles. I just love to be able to park on property and so would our guests. Thank you very much.

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

Ms. Sadie Dennis: Aloha and good morning. My name is Sadie Dennis. I am a night auditor and front desk agent at the Westin Maui. I'm also the editor for our Unit Bulletin and so in that capacity I get to speak to a lot of our employees. One of the biggest issues I feel for them is job security so I just want to touch on that. But real quick I'm gonna change directions.

Earlier we heard from I believe her name was Ms. Vencl from the Maui Visitors Bureau. One thing she said which really struck me is very important is the need for us to be able to compete. Because I work at the front desk I get to speak with a lot of guests and one of those things that we hear a lot is oh it was so hard this year to figure out where we were going on vacation, Mexico, Dubai, Puerto Rico, Australia, wherever. All of those places have sun and sand. Well, Maui has sun and sand, but one thing that we have that a lot of places don't have and we have in ...(inaudible)...is aloha. But aloha alone isn't gonna bring those guests back. In order to remain competitive we need to be able to give our guests something that is unique. If you allow these improvements I

believe that as a hotel we'll be able to provide our guests with something that is beautiful, something that is fresh, that is modern, and then with the aloha also, we'll bring them back. And bringing them back year after year provides that job security. I, myself, I'm a single parent. I just graduated my third child. She's off to college. The other employees it allows for them to pay their mortgages, take their families on vacations, provide a quality of life for their families. So all of that is important.

And real quick touching upon the improvements. Mike brought up the parking. And I can split that into two parts. For our guests they're spending five and six hours just to travel here. Then they're gonna jump in a cab or a rent-a-car or a shuttle to get to the west side. And if they're in a rent-a-car they're driving in circles in our parking lot because we've very limited. And then if they find a parking stall, they're trying to navigate in there because they're so tiny. So it's not the best check-in experience that we can offer. So that would be great if we could do that.

For our employees like Mike said, it's a lot of wear and tear not just on our vehicles but on our health and well-being. When it rains, when it's super windy we're walking to work in the rain. We no longer have a shuttle service and that's been gone for a couple of years. So that's a concern. And another concern, not just as a woman but for all of our employees safety. Before graveyard I used to work 2:00 to 10:00 and getting off late at night and while the roadway is lit, it's still very dark, so for employees to walk to parking lot, pass a bar, and then through the parking lot it is a lot. But anyway, like I said, in order for us to remain competitive, those improvements would help and definitely keep our employees working and hopeful of that. Thank you.

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

Mr. Medeiros: How far away do you park?

Ms. Dennis: Well, I work graveyard so I actually get to park there, but prior to...if you go out to the front of the roadway, we have to pass our property, pass the Alii, cross the road that takes to you to the Marriott and the Hyatt, and then there's a huge area of land which is the golf course. Once you get there, there's the bar where Paradise Grill is and if you work the late shift, night shifts, you usually get the parking that's all the way in the back. So again, you've already walked to the parking lot, now you're walking all the way to the back of the parking lot, so...

Mr. Medeiros: So it's a short hike then?

Ms. Dennis: If you say so, it's not quite a short hike, but yeah.

Mr. Medeiros: Okay, with this new structure gives you access to work for the employees, right.

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

Mr. Bruce U'u: Aloha, Bruce U'u, Hawaii Regional Council of Carpenters. I wasn't gonna speak but I'm gonna speak. We heard about the upgrades needed for the visitor industry which is needed and also the construction jobs that going to be allowed if this moves forward will be greatly beneficial for our guys to sustain their living here. And a side note, in H-2 Zoning which the Westin

has the maximum allowable height is 160 feet, and at their 28 feet, I think that's very good in mitigation. Thank you.

Chairperson Lay: Commissioners, any questions for the testifier? Seeing none, thank you very much. Does anyone else wish to testify at this time? Seeing no one, we're closing public testimony. Thank you very much. And Commissioners, let's take lunch. Reconvene at 1 o'clock.

A recess was called at 11:57 a.m., and the meeting was reconvened at 1:07 p.m.

Chairperson Lay: And at this point we at questions from our Commissioners or comments from our Commissioners. Commissioner Wakida?

Ms. Wakida: For Cheryl please. I wonder if you could go back to a slide. It was the one showing the parking structure. Was that the parking structure? No, the next one. That one. Okay, that doesn't seem...that seems a little different from what the Commission got. Am I looking at the right thing here?

Ms. Okuma: ...(inaudible)...

Ms. Wakida: I don't...it says Figure 4. It's Figure 4. Because ours doesn't show...well, the one...this one...doesn't show that elevator tower there on the left. Is that an elevator tower?

Ms. Okuma: I'm not sure what...all right, I see that, but there is a elevator shaft in the plans which is...yeah, it doesn't show here yeah.

Ms. Wakida: Yes, I was wondering...I find those generally perched onto the buildings unsightly. And was hoping the developer could find a way to disguise it a little, put something around it. And may I continue, Chair?

Chairperson Lay: Yes.

Ms. Wakida: Along the lines of disguising things we've had a lot of concern from Kaanapali Alii people about what they're going to see. Your rendering here is quite good in disguising the parking structure. The reality is often not the case when actual things get finished and so on and so on. I would strongly...this is a landscaping design also?

Ms. Okuma: Yes.

Ms. Wakida: Okay, I would strongly urge that the developers really, really beef up this landscaping. Not that it doesn't look good here, but that it continue to be this full and high because that will give the Kaanapali Alii people a lot less to have to have in their face with this parking structure. You can do an awful lot with landscaping to beautify, as you know, to beautify things. So it's been my observation over the years that pictures often, it's a nice picture that we see but it doesn't, isn't really what happens when everything gets finished because they say well there's too much rubbish from the trees or whatever. So I would hope that you would stick with very strongly to this look.

Ms. Okuma: So noted.

Ms. Wakida: If that's...if this is your actual landscaping plan.

Ms. Okuma: Yes.

Ms. Wakida: And not just a design.

Ms. Okuma: Yes.

Ms. Karlynn Fukuda: Good afternoon, Commissioners. Karlynn Fukuda of Munekiyo & Hiraga. Commissioner Wakida, I also wanted to point out that currently there's a row of mature monkey pod trees between the Alii and the Westin and those trees we're planning to keep those trees.

Ms. Wakida: Great.

Ms. Fukuda: So there's already, you know, some canopy that's full size mature that's there already.

Ms. Wakida: Great, and—

Ms. Fukuda: Oh again help to facilitate and that's not shown here on this plan, but we are planning to keep those trees.

Ms. Wakida: Wonderful. And fill in underneath it.

Ms. Fukuda: Right.

Ms. Wakida: Because often those monkeypod trees get trimmed from the bottom so they get lifted up so you have wonderful canopy, but you have an awful lot of space in between. So thank you.

Ms. Fukuda: Yes.

Chairperson Lay: In that same line, possibly color coordination that coincides with the foliage to help blend it in and not make it harsh difference to the building in back, but actually everything blends in with the foliage that might be a consideration too.

Ms. Fukuda: Okay.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Cheryl, could you bring up the slide that shows the new roof? The front of the building it shows doors that will be open and close, and what about the sides of that structure?

Ms. Okuma: Right, same thing.

Ms. Wakida: They're folding—

Ms. Okuma: Folding doors.

Ms. Wakida: Folding doors that open?

Ms. Okuma: Yes

Ms. Wakida: And at night what happens?

Ms. Okuma: At night they're gonna kept...stay open, right? It's only during inclement weather that the doors will be closed for the protection of guests. All other times, doors will remain open.

Ms. Wakida: And through the overnight hours?

Ms. Okuma: Yes. Yes.

Chairperson Lay: Could I see Slide 10, please? Okay, your parking structure is gonna be where on this picture here?

Ms. Okuma: Approximately this location.

Chairperson Lay: Okay, the building behind it is the hotel itself, how many stories on that building?

Ms. Okuma: Twelve stories.

Chairperson Lay: Twelve stories. And that building in the front will be four, right?

Ms. Okuma: Yes.

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

Mr. Tsai: To expand on that, based on the objection letters from Kaanapali Alii, I guess depending on where the unit is and if I was looking towards mauka or the mountain views is that necessarily gonna block it or is it you're gonna see the buildings behind it anyway because it's a 12-story building existing/

Ms. Okuma: Well there were some view analysis that were done and do you have some visuals? Maybe I can ask Larry Cunha, the architect to come up and I'm gonna pull up...

Mr. Larry Cunha: Good afternoon, my name is Larry Cunha, WCIT Architecture, the architect for the project. Yeah, we did a lot of view studies from actually from the Alii itself. We actually took photographs from the Alii units from the lower floors and the upper floors and overlaid in our parking garage model. So on the lower floors of the Alii what they're actually at, what they'd be looking back at is the existing tree canopy of the monkeypods. And on our property and there's existing landscaping on their own property. And right now, we're not touching the monkeypods that are along that property line. So as you can see here like on this fourth floor unit this is the before and after. There's really not much of a change here. That the top of the parking garage is in the tree canopy. So then as you get up to the higher floors, you're actually looking over the top of the parking garage and the tree canopy. So we're not blocking existing views on the lower floors at all or the upper floors.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: So the top two photos are they looking from a higher floor?

Mr. Cunha: In different units. So depending on where they were in the building, you know, some of are situated more on the south side and some are situated more on the north side. So this was second floor but it was closer to the Westin Maui Hotel. This on the fourth floor was probably a bit more back into the middle of the Alii tower that's looking back toward the parking lot.

Mr. Tsai: So the picture you just pointed to the upper right-hand corner that's after, right?

Mr. Cunha: Right.

Mr. Tsai: That's the parking structure. And that's before?

Mr. Cunha: This is the before on the second floor and the after.

Mr. Tsai: Okay>

Mr. Cunha: Fourth floor this is the before and the after.

Mr. Tsai: Thank you.

Chairperson Lay: Commissioners, questions? We have no more questions, can we get—oh, Commissioner Hedani?

Mr. Hedani: This is just a comment. I think the Westin should be commended for attempting to relocate their employee offsite parking onto the site. From a planning standpoint for the property we like to see every property become independent and stand on its own. All of the impacts, all of the uses that they generate for that particular property get resolved onsite. And from that perspective this particular parking structure does that. It eliminates offsite parking. It puts it back onsite. It places the parking mauka of the existing hotel units which is part of our master planning principle is to put the parking mauka side essentially of the building itself. It's not as far mauka as the Kaanapali Alii would like and it's not aligned parallel with the Kaanapali Parkway like the Kaanapali Alii would like both of which would improve the structure in terms of appearance and impact. That being said, I think what they've done is they've committed to landscaping the structure as much as possible out from view so that the impact to the Alii as well as to the Kaanapali Parkway is minimized.

I'm a little bit concerned that there's a caveat in the statement that they made that said landscape and screen from view except for County requirements. I interpret that to mean the County of Maui Public Works Department says you cannot plant the monkeypod tree next to a sewer line and therefore you cannot have landscape screening in this particular portion which would give them an out from screening the parking structure from that area. If that provision were eliminated in terms of making it screened from view without conditions I think we would be happier with that particular provision.

I think they've done a lot in terms of reducing the overall height of the structure. The original proposal that they made was for a five-story structure. They've eliminated one floor from the design and they've actually reduced the number of stalls that they were proposing in this presentation that they're making to you.

Kaanapali has a three-step approval process, conceptual, preliminary and final. They've gotten conceptual approval and you have a copy of the conceptual approval conditional letter that we sent to them in your packet. They're still going through a preliminary and a final approval design process within the resort itself. And we will make our best efforts to try to screen it from view from the Parkway as well as surrounding properties.

The other thing I wanted to mention is that the project itself is intended to clean up a lot of things that over the years have been kind of cockroached into the property, a little bit of a landscaping shed here, a little bit of laundry over here and things that need to be refreshed, cleaned up, made professional and incorporated into the hotel itself and they're making their best efforts in terms of addressing all those concerns. And like Terry said this morning, trying to bring the property back up to speed in terms of competitiveness in the report.

I know the Kaanapali Alii would be overjoyed if they got rid of their temporary landscaping shed all the other stuff that they're complaining about in their letters. And I think that's something that they've already committed to at this point. So I would encourage support for the project and essentially asking them to screen it from...the Kaanapali Beach Hotel has done an excellent job of screening their parking structure from view, Sheraton not so much, Whaler's Village not so much. In this particular case, the parking structure is gonna be exposed to almost 100 percent of the units in Kaanapali. The Sheraton parking structure only impacts the Sheraton 'cause only the Sheraton guests make it that far. This particular intersection affects everybody going to the Hyatt, Marriott, Alii, Westin, Whaler's Village, Kaanapali Beach Hotel, The Whaler, and the Sheraton, as well as the Royal Lahaina. So with the exception of Maui Kaanapali Villas, if it sticks out and stands out there like a sore thumb, almost 100 percent of the people that come to Kaanapali will see this structure. So I think it's critically important to screen it with landscaping from view.

Chairperson Lay: Thank you. Commissioner Higashi?

Mr. Higashi: I'd like to also ditto...commend the developers for building a parking structure that's within the facilities rather than having the employees travel to another area and it's I think like one of the testifiers said it becomes a health and safety situation. So I'm glad that they're supporting the County.

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

b) Action

Ms. Cua: Mr. Chair, I did have...I'd like to summarize some points. I know you want my recommendation and I'll try and be as brief as I can, but I wanna hit a couple of things. First off, just to let the Commission know that, you know, when this project came into the Department we really had to balance the overall goals of this project which we 100 percent agreed with. You know,

cleaning up some of the areas, providing parking. We have been telling the Westin they needed additional parking for many years and so we were very pleased to see a parking structure come in. And just the overall upgrade of the hotel we felt was just in the best interest of you know this project successfully moving forward and serving our visitors.

You know, then we have to balance work that they wanted to do in the shoreline setback area and we talked about that through the Environmental Assessment process. We had to, we, the Department had to get a point where we felt comfortable moving forward because we have the shoreline setback rules and that's why we worked with the applicant and asked them, you know, besides demolishing the features and the structures that you are proposing to demolish is there anything else that you can remove so that you end up with a net zero in improvement in the shoreline setback area. And that's why they're removing that walkways that you saw several times in the photographs, removing it and putting a pervious surface. So we feel a lot more comfortable that there's not...there's a zero net increase in the hardscape. So again, moving forward we just felt there needed to be this balance for us to be able to support this project and we are supporting this project.

In terms of the SMA criteria, I did wanna point out just a couple of things. The project is consistent with the underlining State Land Use designation of Urban, County zoning and West Maui Community Plan. It's also consistent with the Urban Growth Boundary designation. The project is proposing improvements to previously developed areas. So it is not anticipated to contribute to significant adverse impacts on infrastructure, public facilities, natural or cultural resources, and the environment.

I do wanna read, because you know, we are talking about views here I just wanna remind the Commission that, that our jurisdiction through the SMA permit process is to protect public views to and along the shoreline. The interior improvements to the spa, public corridors and ballrooms will not alter any natural land form nor will it impact the existing public views to and along the shoreline. The demolition of structures and removal and replacement of a portion of existing deck, roof, and new deck installations will occur on previously developed portion of the property and will therefore not impact the existing views to and along the shoreline.

The new, one-story, back of house structure and parking garage not exceed four parking levels with a landscaping facility is located mauka of the resort building and will not be visible from the shoreline. In addition, the view of the parking structure will be buffered by existing and new landscaping areas around the garage along Kaanapali Parkway and the south boundary of the structure.

In terms of the shoreline setback area, I'm not gonna go through all the criteria. I had planned to, but I think our big point here is that with the balance of improvements to demolition within the shoreline setback area, we feel that the project meets the criteria established for granting of a variance.

And one other point that we normally bring up is that we did take the design of this project to the Urban Design Review Board and this was in September of 2014. Their letter is attached as Exhibit 15, but generally some of the members expressed concern about building improvements proposed within the shoreline setback area, but overall the board indicated that they appreciated

the applicant's good faith effort to have a net zero increase in building improvements within the shoreline setback area. So that concludes my brief comments unless there's any questions.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I move to approve as recommended by Staff.

Mr. Medeiros: Second.

Ms. Cua: I didn't give the recommendation yet, sorry. I don't have to. That was just my analysis. We are recommending approval of the SMA...well, first of all, the Shoreline Setback Variance includes...we're recommending nine conditions. Those conditions comes directly out of the law, the Shoreline Setback law. And then we are recommending approval of the SMA Permit as well subject to six standard conditions, and three project specific conditions.

Chairperson Lay: Commissioner Tsai? Oh, excuse me, Commissioner Wakida?

Ms. Wakida: I don't wanna make a motion. I wanted to ask a question.

Chairperson Lay: Sure.

Ms. Wakida: If I don't want to add to those things or amendments or anything. I just would like some reassurance on two points if possible. That they will make an effort to have their elevator tower not look so utilitarian, add some interest 'cause guests from two sides are gonna be looking down on it. So whatever they could do to add some visual interest so that it's not just –

Chairperson Lay: Commissioner Wakida, we can add that to the...our recommendation with the motion. If we get the motion first, we can do comments after.

Ms. Wakida: I didn't make it condition...hanging on the motion. I just wanted to get kinda of a friendly agreement with the developer is that okay?

Chairperson Lay: Okay.

Ms. Okuma: Yes.

Ms. Wakida: And the other area of concern and I've been over this with you folks the last two times you came so I'm not gonna go on into it again, but I would...the roof that's being built into the shoreline area as long as it remains a roof and a few years down the road the hotel doesn't get tempt to do start enclosing it. That's what I want to be reassured of that it remains an open structure. So, I'm getting a nod so I assume that you're...those are not unreasonable.

Chairperson Lay: Okay, we got the nod.

Ms. Cua: And if I could, you know, one of the conditions associated with any permit that you grant is that they construct the project substantially as they represented to you and that's clearly what

they've represented that the structure will remain open. Those doors will remain open except for when there is inclement weather.

Mr. Tsai: Yeah, I made the motion and offer to move forward with the discussion which was also I wanna make sure I guess to have a condition regarding the parking structure, question to Commissioner Hedani that address your concern about visibility from Kaanapali Parkway? Are you satisfied with that or you wanna reword it?

Mr. Hedani: I think a condition that requires that the structure be screened from view with adequate landscaping would be something that I would recommend.

Mr. Tsai: That's what Ann brought up, right?

Ms. Cua: Okay, we just have to be really be careful on the language and the reason why I say that is because I'm the one that's gonna have the plans and have to interpret the condition. And when I see the parking structure shall be screened from view is that total view? You know what I'm saying? I think what I was hearing if I could look back at my notes, there was concern about the additional screening at the elevator tower. You know that, you either can get concurrence from the applicant or you could add a condition. There was concern about a substantial landscaping along the parking structure between the structure and the Kaanapali Alii. One way to do that is have them use field stock trees for some of the new planting that they're doing. You know, that's kinda like an easy way to do that. And in terms of, I heard a brief comment about the landscaping along Kaanapali Parkway. So you know, if we wanna maybe focus on the landscaping rather than you know, percentage screening of the structure. I just need to make sure it's something that we can adequately get compliance or look for compliance.

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

Ms. Thomson: Yes, just a brief comment. To be sure that any conditions that you propose are adequately tied to SMA Law or the Shoreline Setback Rules. As far as visually screening buildings you could tie them into possibly noise impacts or views to and along the shoreline. But other than that you may want to just confirm with the applicant that those are representations that they intend to keep.

Ms. Cua: Another thing we could do, thank you for that, I know we've been instructed to be more careful when we impose conditions that they are clearly related to the permits that we're granting and we're gonna try and be better with that moving forward. Another thing that I know we've done in the past is when we do our approval letter and we list all the conditions of the various permit, there can be a paragraph after that that says, and the Commission, you know strongly urged that you, dah, dah, dah, dah, dah. And so again, it's kind of memorializing what you've talked about, but it's not adding a condition. It's like you know, you understand that you communicated that this is what you'd like, you know the screening of the elevator and that mature landscaping be used. That's another option. Director, would you be okay with that?

Mr. Spence: I would be fine with that. I also wanted to comment that and to maybe clarity in the discussion with the Commissioners that you know, you just don't plant four-story trees and you

know...I mean it's not gonna be screened tomorrow. I mean, you can make all best efforts right now and put, I mean, even field stock is not four-stories.

Ms. Cua: Correct.

Mr. Spence: So you can shade it, you can buffer it or you know, help shield, buffer, all that, but it's just hard to hide a four-story parking structure. So you can certainly soften ...(inaudible)...but yes, I think the discussion that Ann is talking about would be fine.

Chairperson Lay: Does the maker of the motion agree with the recommendation?

Mr. Tsai: Well, I'm just concerned about the visual impacts as well as stated by Commissioner Hedani. I must wanna make sure we take steps in ensuring that as much as could to make that happen. I understand you can't hide a four-story parking structure, but I understand there's you know, acoustical screen which you can add some type of visual buffer, you know, just looking at cars in different levels. I mean that would really help too.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: The Westin has received conceptual approval from Kaanapali. They still are going through a process within our organization, our architectural review system. And we can more than adequately address I believe the landscaping criteria in the preliminary design and the final construction drawing design once they submit a comprehensive landscaping plan for the project. The only concern that I have in that is if they come back to us and say we can't do it because the County is not allowing us to do it which may very well happen. But in closing I think, you know, I think we can address it through the review process one way or another.

Chairperson Lay: Okay.

Mr. Spence: I think if we leave it as a comment after the conditions that would provide the flexibility. It's been discussed with the Commission and certainly the applicant is here listening to all this and then they have other people to again talk to each other. It seems to me that it provides the necessarily flexibility.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: And just to buffer this, landscaping also really helps reduce noise so it's another good reason for them to as much as they can so they get less complaints from the Kaanapali Alii people.

Chairperson Lay: Commissioners, any more questions or comments on the recommendation, on the motion, on the motion excuse me? Can we have the Director repeat the motion?

Mr. Spence: The motion is to approve as recommended by Staff and with the little discussion afterwards on landscape buffer.

Ms. Cua: And is it just landscape buffer or is it the additional screening of the elevator tower?

Ms. Wakida: Something to make it visually more interesting so it's not an eyesore.

Mr. Tsai: Yeah, I'm okay with that.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: One other comment that I noticed in this particular application which I was very pleased with was that a required condition from the Department identified it in Condition No. 1 is that the applicant maintains and requires safe lateral access to and along the shoreline of a public beach, and I think that if that particular provision were applied generally and widely to all shoreline properties that come before the Commission I think would set a tremendous precedent in terms of expanding lateral access for the public in all areas of the island.

Ms. Cua: And I do wanna just...thank you for that comment, I do wanna clarify that when I mention...that's a condition of the Shoreline Setback Variance. That's the first condition of the Shoreline Setback Variance and that's actually something that's required by the law, the Shoreline Setback Variance Law., anyway...

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

Mr. Spence: Five ayes.

Chairperson Lay: Motion carries. Congratulations.

Ms. Cua: Thank you.

It was moved by Mr. Tsai, seconded by Mr. Medeiros,

**VOTED: To Approve the Special Management Area Use Permit and Shoreline Setback Variance as Recommended by the Department with the Comment Regarding the Landscape Buffer and the Screening of Elevator Shaft to Make It Visually More Interesting.
(Assenting - M. Tsai, J. Medeiros, P. Wakida, R. Higashi, I. Lay)
(Recused - W. Hedani)
(Excused - K. Ball, S. Duvauchelle, J. Freitas)**

Chairperson Lay: Five-minute break so they can set up for our next agenda item.

A recess was called at 1:40 p.m. and the meeting was reconvened at 1:48 p.m.

Chairperson Lay: Our next agenda item?

Mr. Spence: Commissioners, we're on the third public hearing item. Ms. Christine Conlon-Kemp, Director of Milowai Maalaea AOA requesting a SMA Permit and Shoreline Setback Variance for seawall repairs, and Mr. Keith Scott is the Planner for this project.

3. MS. CHRISTINE CONLON-KEMP, Director of the MILOWAI MAALAEA AOA requesting a Special Management Area Use Permit and a Shoreline Setback Variance for the proposed seawall repairs at the Milowai Maalaea, 50 Hauoli Street, TMK: 3-8-014: 022, Maalaea, Island of Maui. (SM1 2012/0008) (SSV 2012/0004) (K. Scott)

Mr. Keith Scott: Good afternoon, Commission. The action under consideration is an SMA Use Permit for the substantial repair of the seawall at the Milowai Maalaea. The Final EA for the project was reviewed by the Planning Commission on June 10, 2014. It was accepted and Findings of No Significant Impact were made. The consultant has prepared a presentation for this hearing. I will now turn the podium over to Jordan Hart of Chris Hart and Partners.

Mr. Jordan Hart: Good afternoon Commissioners. My name is Jordan Hart at Chris Hart and Partners. As Keith Scott mentioned we're applying for a Special Management Area Use Permit and Shoreline Setback Variance for the repair of the seawall at Milowai Maalaea. The applicant is the Milowai Maalaea AOA. The project representatives for the association are Ms. Christine Conlon-Kemp and Mr. Bob Wood. Consultant, planning consultants for the project are Brett Davis and myself from Chris Hart and Partners. Structural engineer for the project is Mr. Walter Vorfeld who is in attendance as well as our coastal engineer, Mr. Jim Berry also in attendance and they can each answer any questions you may regarding those subjects.

For orientation, this is the project location. Maalaea north is up in this map. The Maui Ocean Center is to the west. The Maalaea Harbor is immediately to the west. This is an oblique aerial photograph. The red circle is the project site, the seawall extends in this direction here, the breakwall for the harbor is here. This community is accessed by Hauoli Street on the north end. This is a tax map of the project site. Again, the breakwall here, this is the seawall location. This is the shoreline survey for the project. The parcel is the existing 43-unit condominium complex on 1.24 acres. It was originally constructed in 1975. It includes a pool, oceanfront lawn, barbeques, outdoor shower, onsite parking and garage as well as surface parking.

These are some photos of the seawall. As you're aware we've been at this process for some time. These photos were taken in February of 2013. The condition of the wall is not as bad as it is today, but it was beginning to be compromised and cracking and was separating from the soil. A orange secured safety fence was installed to keep beach users away from the gap in the wall that developing. These photos were taken yesterday and they basically just slow the advance of the collapse of the wall. It's further separating from the soil. The cracks are becoming larger and the erosion process is basically accelerating. Again, these are just further photos of the same condition. Advancing of the separation of the soil.

We presented our Draft Environmental Assessment to the Maui Planning Commission and received comments and updated our Final Environmental Assessment to reflect the comments we received. One of the situations we were asked to explore was the concept of a sloping revetment. The primary reason that we didn't, we weren't able to or preferred not to pursue the sloping revetment was first because of the amount of land area that would need to be lost as a result of the proposal. This would result in the need to excavate approximately 20 feet from the current shoreline now and this would limit area that is actually currently used by fishermen and people walking along the

shoreline. In some locations the distance between the existing structure of the Milowai and this option would be three feet. And so as a result of that the proposal has been to basically shore up and solidify the existing seawall that's primarily intact with the exception of the areas that were shown in those former photographs. But the proposed plan will basically firm up the seawall to be able to last for a significant time going forward.

Some other issues that were discussed were the basically the reflectivity of the potential...of the seawall as opposed to a sloping revetment. The determination had been that the relationship to the Maalaea Harbor breakwall was the cause of the primary reflectivity in that area and as I stated Jim Berry of Sea Engineering is here to answer any further detailed questions that you might have with regard to those subjects.

I'll bring up Walter Vorfeld who is the structural engineer for the project to discuss the construction scope for the repair of the existing seawall at this time.

Mr. Walter Vorfeld: Good afternoon, Walter Vorfeld of Walter Vorfeld and Associates. I'm a licensed structural engineer here. I've been practicing on Maui for 25 years I'm going to skip I think more appropriately to the next section.

What we have here is a cross section of the seawall indicating this stone element right here is an approximation of the existing seawall in place. Our plan here if you have a copy of this and it's easier to read along with the copy I suggest you do that, but our plan here is to use injection of a polyurethane grout into the fine material that is below the wall that is actually the source of the problem. We're losing the support material below the wall by way of erosion and what our intent is is to solidify that material to a depth of two feet or so below this wall using an injected polyurethane foam that migrates into inner ...(inaudible)...between sand, gravel, rocks, et cetera and reacts and solidifies and becomes an inert material. At a point later if you're interested in seeing some small samples of this material, I have two of them here for you to look at.

Number one, we will inject below the wall solidifying the base making it no longer erodible and essentially extending the wall and its foundation down another two feet or more if possible depending on what the material down here is below the current level of the shoreline basically by way of injection of the foam as a liquid material establishing a new foundation below this wall that extends well below the line at which erosion occurring now giving it extended life until such time as the shoreline erodes below that point which we don't know when that's gonna happen.

Anyway, onward. What we here, what we plan on doing is excavating a trench for the entire length of the wall behind it. Taking...installing reinforcing steel, that's this black line with dots on it, and then using pneumatically applied gunite, shotcrete by another term, concrete against the rear of the wall, some of which will actually go into the voids between the stones and bond onto the rock and so on and fill voids that are at the backside of the wall, and build this out to a thickness of about eight inches or so 'cause essentially giving the back of the wall a continuous spine, structural spine. That element by itself combined with the weight of the wall would actually be sufficient to act as a retaining wall because of its reinforcing and its strength. So the combined element now becomes something that will be stable, will be locked together, some of that grout will undoubtedly be used to fill in voids within the stone wall as well, and this cement will lock it together along its length.

This zone here, this gray zone here in the back here is a cavity of free draining crushed rock. Probably the smallest piece of which will be about a half an inch in greatest dimension and the largest piece maybe an inch to an inch and a half. All the way around that continuous volume of crushed rock is what's called filter fabric. You see it all the time in new construction projects. It's basically the same thing that they use for dust fence. If you wanted to make drip coffee, you could actually use that material for drip coffee. Fine material does not migrate through it. The point being to not let fine material migrate into the gravel layer thereby plugging it and keeping it from acting as a drainage gallery that's the purpose of the gravel layer is water will percolate down from the top, percolate in from the side, any sea water that comes in and gets in here will be gathered in that gravel area and then be discharged by these weep holes. This circle down here is a continuous pipe at the bottom of the gravel area with perforations in it that will accumulate any buildup of water down here and eliminate any hydrostatic pressure that might otherwise build up on the backside of the wall connecting to the discharge pipes at about eight-foot on center through the base and going into the ocean. Most of the time, the water leaving through here is gonna be ocean water anyway, splashing up over the top of the wall and draining down through here and then leaving out. That is actually a source of the erosion problem right now is water comes up over the top, deposits itself here, drains down behind the wall, discharges through the base. We're losing the fine material out from underneath that wall that's providing it with the support of this foundation. That's kind of it in a nutshell.

So now this is a site plan of the wall. This is the stair in the middle of the property. There's the breakwall. This we plan...we don't plan on doing anything necessarily behind here because this is a...it's almost a revetment the way it's been taken care of in the past. It's from this corner which is where the photograph showed very significant damage down to the end of the wall here that we're applying for the permit for. It may be done in stages over the duration of the permit, but I wish this picture was three times the size so you could actually see what I'm talking about, but this area in front represents the wall itself, the stone and mortar that's currently in place. These darker zones which I attempted to delineate as separate zones represents one, the concrete wall directly behind the stone wall; and two, the gravel gallery behind that concrete wall and hiding in there somewhere is the drainage pipe and the discharge pipes. There's a discharge pipe right there. And it's just a...it's a planned view of the extent of the section that we just looked at showing you how much of this property is involved and where we're gonna be placing or doing that repair. Not a whole lot more to say besides that. It's...I think we tried to make it as clear as we can. If you have any questions, I'm happy to try and answer them.

Mr. Hart: This is Jordan Hart with Chris Hart and Partners, again. So in conclusion, the Planning Department has concluded that the agency comments that was received have been addressed, and the Maui Planning Commission did vote to approve a Finding of No Significant for our Final Environmental Assessment on June 10, 2014. The Department has recommended approval of the project and we have seen the staff report and recommendations and the applicant is comfortable with complying with those recommendations and so at this point we respectfully request approval of an SMA Major Permit and a Shoreline Setback Variance for the project.

a) Public Hearing

Chairperson Lay: At this time, I'm going to open up to public testimony. If anyone wishes to testify? Ed Clarke? Not here. Does anyone else wish to testify? If so, step up to the mic, identify yourself

and you have three minutes. Seeing no one, public testimony is closed. Commissioners, questions? Commissioner Wakida?

Ms. Wakida: I have a question for Mr. Vorfeld. May we have that picture back up? Just a matter of clarification. The graveled area on the right,...(inaudible)...half inch pieces of gravel. That's about how wide approximately?

Mr. Vorfeld: It's probably going to end to being a minimum of 12 inches and at the base, probably wider at the top just because of the way a trench tends to, it's angle of repose so-to-speak. This soil is fairly stiff and the line that I've got drawn there showing the extent of the gravel in terms of its inclination is probably what the trench is gonna naturally want to take, the shape it's gonna take on.

Ms. Wakida: Okay. And then you said that area is surrounded by a...this fabric, this dust fencing fabric, right. But water can permeate through it?

Mr. Vorfeld: The fabric?

Ms. Wakida: Uh huh.

Mr. Vorfeld: Yes, the fine material cannot.

Ms. Wakida: Okay. So obviously you know and splash zones on the ocean, the water splashes up and it's gonna splash more than 12 inches of course. So is there a hope that water will also...so we don't have another erosion problem beyond what we've already fixed. Will water be able to percolate in here and get out that weep hole?

Mr. Vorfeld: Absolutely. That's the whole intent of this gravel drainage gallery is to provide a top to bottom layer into which water will percolate both vertically as well as horizontally as it migrates from mauka to makai.

Ms. Wakida: Okay, so that horizontal is what I was interested in.

Mr. Vorfeld: This is all intended to collect any surface water or water that's in the ground that wants to moves through the base of the wall and pass it through the wall without removing any fine material that's on the bottom of the wall.

Ms. Wakida: Okay, thank you.

Chairperson Lay: Follow up on that. Your weep holes how far apart are they?

Mr. Vorfeld: Eight-foot.

Chairperson Lay: Eight foot apart. On your ocean side weep hole is it in the water or above the water?

Mr. Vorfeld: It's probably right around...it's hard to say because this is a bunch of rock and mortar. We will attempt to get every one of them as a low to the water line as we possibly can. I would like to have it above the level of grade so that it doesn't contribute to erosion locally if you follow what I'm saying?

Mr. Lay: Yeah.

Mr. Vorfeld: But that would be...that's why where I've got it indicated right now it's just slightly above where the beach level will be. Now that comes and goes, right? But we've also got some limitations as to how low or where we can place them horizontally because if exactly eight-foot on center there's a big boulder, we're not gonna put it there. We may have to up, we may have to down, we may have to go sideways. So there's a lot of them to relieve the hydrostatic pressure. I don't remember what the count was, but it's a number of lineal feet and I think it's probably at least 180 lineal feet. So there's at least 25 along the length of that wall.

Chairperson Lay: See for me, with the ocean movement you've got your waves, you've got your water. You're gonna have a shoreline that has a pounding action of the waves hitting your weep hole area you're not afraid of that creating that because of that breathing in and out of the ocean and the air a soft pocket in the back where your pipe is into your fabric area?

Mr. Vorfeld. You cannot displace the gravel. It will not move. You may have water forced back in, but it's got nowhere to go except out again when the tide goes down if you follow what I mean. Now if the sea level, if the level of the water behind that wall rises and lowers every day as the tide comes and goes where I...I don't even know if I've shown where the level of the ocean is, but there probably will be times when there is standing water in the bottom of that drainage gallery. But if the water level is higher than the pipe, it can't drain. But as soon as the tide goes down it can drain if you follow what I mean.

Chairperson Lay: It's actually better when it's under the water.

Mr. Vorfeld: What it's meant to do is to prevent that drainage from moving the fine material out from under the wall which is what it's been doing for years. By solidifying and essentially eliminating the fine material and providing this drainage gallery, you've kinda hit it from two sides. It also...that also eliminates to a great extent the tendency for fine material behind the wall and behind the drainage gallery from removing forward again. That answer you question?

Chairperson Lay: Yes.

Mr. Vorfeld: Okay.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Yeah, do you have that sample you brought?

Mr. Vorfeld: Oh, that's right.

Mr. Tsai: I'd like to see that.

Mr. Vorfeld: Before I do so. I'll take them out of the bag and I'll tell you what they are and they may not look like much, but this one, the white one is, and these are injected into molds simulating conditions underground where you have confinement of the material. The top of the mold is open so it actually can come out but this is gravel inside here. I should have ground some of the material off. You can really see the gravel 'cause we've got the smoothness of the plastic mold on the outside but you can see the black spots, okay. Now I really want you guys to hold this and feel how hard it is. And this is sand. Same idea, they sent me half of the sample. This is about probably 85 or 90 percent beach sand. It may not look like it, but this is in a container, they've injected the urethane into this, it's moved into the cracks and crevices between the sand and bonded them all together. I think we have a combination of that and this and possibly material that's bigger than that than the gravel that's in that. But it will still encapsulate it and turn it all into one mass, almost like plastic concrete.

Mr. Tsai: So this is what's gonna go below about two to three feet of this?

Mr. Vorfeld: Exactly.

Mr. Tsai: Is this about the about actual size of them turns out when they...

Mr. Vorfeld: No, it would be continuous.

Mr. Tsai: Continues.

Mr. Vorfeld: That material in your hand is what you would see in that lower 18 to 24 inches of wall for the length of the wall. That becomes a continuous foundation underneath the wall. It also bonds with the bottom of the wall, creeps up into the cracks and crevices and grabs a hold of it.

Mr. Tsai: And what's the...is there a drying time for that?

Mr. Vorfeld: Almost instantaneous. As soon as it's released and it reacts with water it doesn't chemically react with water. Water sets off of the reaction and it starts to harden as soon as it comes in contact with water. There's...I don't know if we have this in the documents here, but I did some extensive research its environmental impact, nothing, 100 percent inert once it dies. And its tendency to bleed out of the wall during the injection time is minimal. It comes out in kernels and because it hardens as soon as it's in water, it floats to the surface and if that happens, I'm sure we plan on having containment when this is going on the way. As soon as it happens a fish net will pick up all the loose particles. But the loose particles do not do any harm at all. There's been environmental studies in aquatic environments, marine environments, et cetera, et cetera, and all the references, it's international studies say no impact, none whatsoever.

Mr. Tsai: Wow.

Mr. Vorfeld: I believe it's Exhibit 8 in your report.

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

Ms. Wakida: Just one for Jordan. This is just a clarification. The condominium unit is a four-story, 43-unit, multi-family building or is it a 47-unit?

Mr. Hart: I believe it's 43. I noticed the same thing.

Ms. Wakida: It says 47 condominium. It's 43?

Mr. Hart: Forty-three, yeah.

Ms. Wakida: Okay. That's all.

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

Mr. Hedani: Jordan, the sign regarding the public access, the owners of the condominium, the association is good with that and in terms of maintaining that, and acknowledges lateral access along the property?

Mr. Hart: Yes, yes they have.

Mr. Hedani: Thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yeah, I have a comment. This is not my favorite seawall. We like to seawall, I like to see seawalls nice and sloped and all that sort of thing. However, this condominium has very little space to work with and I think they have really jumped through the hoops to do the best they can. And 43 units is not very many people to shoulder this expense for a lot of work that's going on here. So I really acknowledge what they've had to sacrifice and they've had to pay to get this far and get them to do what they're planning to do.

Mr. Hart: Thank you.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I'd also like to acknowledge the efforts that you folks went through to evaluate the option of the slanted revetment.

Mr. Hart: Thank you.

Chairperson Lay: I'd like to acknowledge this is a very innovative this. I like it. It's good for the environment and we have a lot of erosion happening on the island and it's good to know we have a different option, a good option actually. I think it's just a matter of designing the wall to help...(inaudible)...the waves would be a good one. Again, the access to the beach thank you again too. That's very important for me and my family. I always look for that and I appreciate the efforts that you've done on that. Thank you. Any more questions or comments? Seeing none, can we get the Department's recommendation?

b) Action

Mr. Scott: The Department recommends approval of the project including nine conditions that are required by law for the Variance. Six standard conditions for the Use Permit as well as five project specific conditions.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: Motion to accept the recommendation.

Mr. Higashi: Second.

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

Mr. Medeiros: You had me at fishing access.

Chairperson Lay: Any more discussion on the motion? Can we get the Director to repeat the motion?

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

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

Mr. Hart: Thank you.

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

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

Chairperson Lay: Take a little three-minute break for set up.

A recess was called at 2:14 p.m., and the meeting was reconvened at 2:19 p.m.

Mr. Spence: Okay, Commissioners, we are on the fourth public hearing item. Ms. Janice R. Welsh of Hula Maui, LLC requesting a change in zoning from R-1 to Service Business Residential here in Wailuku, and the Staff Planner is Mr. Paul Fasi.

4. MS. JANICE R. WELSH of HULA MAUI, LLC requesting a Change of Zoning from R-1 Residential District to Service Business Residential (SBR) District for property of approximately 11,117 square feet of land situated at 2241 W. Vineyard Street, TMK: 3-4-014: 038, Wailuku, Island of Maui. (CIZ 2014/0005) (P. Fasi)

Mr. Paul Fasi: Good afternoon, Commissioners. I do have with me Dave and Janice Welsh if you have any questions and detail. The property is currently operating under a Conditional Permit. It has been for the past 24 years. It's been renewed three times. The last renewal was in 2008, and at that hearing at the Council they granted 10 years and the objective of the 10 years was to give the Welches enough time to get the change in zoning done. So with that in mind, the Wailuku-Kahului Community is SBR already. So by granting this, making the recommendation to the Council for the change in zoning to SBR will bring it into conformance with the Wailuku Community Plan which is the objective today. They've met all the criteria for a proper change in zoning. They have been like I say, previously renewed three times, and so we would like to take care of this situation once and for all grant them the change in zoning which is, brings it into conformance like I said with the community plan.

We don't have any issues with this. There have been no substantive comments from any other government agencies and they have met the requirements for the change in zoning. If there are no questions, this concludes this Department's report.

a) Public Hearing

Chairperson Lay: I'm going to open it up for public testimony. If anyone wishes to testify, please step forward, identify yourself and you have three minutes. Seeing no one, public testimony is closed. Commissioners, any questions or comments? Commissioner Wakida?

Ms. Wakida: Paul, I'm looking at Exhibit 7, I guess. What is the zoning adjacent to this property?

Mr. Fasi: The zoning adjacent is SBR as well.

Ms. Wakida: Well, this one's zoned R-1, right?

Mr. Fasi: Correct.

Ms. Wakida: So the one next to it is...

Mr. Fasi: It's spotty up and down Vineyard Street. So we're trying to bring it into conformity.

Ms. Wakida: But the property immediately on the right is that...do you know what that zoning is?

Mr. Fasi: I believe it's SBR as well. That is the court reporter's building.

Ms. Wakida: Okay.

Chairperson Lay: Commissioners any more questions? Commissioner Wakida?

Ms. Wakida: You know I always have questions. Can all four structures that are currently on the property be used for commercial purposes at this when, if the zoning is granted?

Mr. Fasi: Theoretically.

Ms. Wakida: And I wonder if I could ask the applicant a question?

Mr. Fasi: No, you can't.

Ms. Wakida: Oh, you're like your dad you know that?

Ms. Janice Welsh: Hi.

Chairperson Lay: Please identify yourself.

Ms. Welsh: Right now there are four buildings on the property.

Ms. Wakida: Your name please?

Ms. Welsh: Janice Welsh. I'm the owner.

Ms. Wakida: My question, hold on, right now one is being used for a business and three are residential, is that correct?

Ms. Welsh: That's correct.

Ms. Wakida: My question is are you planning to replace the current houses in the near future with commercial structures?

Ms. Welsh: No, I'm not.

Ms. Wakida: Okay. Are you planning to leave them as...they're being used as homes, right?

Ms. Welsh: Yes.

Ms. Wakida: Are you planning to leave those three as homes?

Ms. Welsh: Yes.

Ms. Wakida: Okay, that's it. Thank you.

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

b) Action

Mr. Fasi: Planning Department recommends approval to the Maui Planning Commission that it recommend approval to the County Council as presented to the Planning Commission.

Mr. Tsai: So move.

Mr. Medeiros: Second.

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

Mr. Spence: The motion is to recommend approval of the Change in Zoning to County Council as recommended.

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

Ms. Wakida: One moment. I'm sorry, change in zoning from what to what?

Mr. Spence: From R-1 to Service Business Residential.

Ms. Wakida: Thank you.

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

Mr. Spence: Five ayes.

Chairperson Lay: Motion carries. Thank you. Congratulations.

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

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

Mr. Spence: Commissioners, we are on the Acceptance of the Action Minutes from January 27, 2015.

D. ACCEPTANCE OF THE ACTION MINUTES OF THE JANUARY 27, 2015 MEETING

Chairperson Lay: Everybody get a chance to look through our minutes, any changes? If not need a recommendation for approval.

Mr. Medeiros: So move.

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

Commission Members: Aye.

Chairperson Lay: Those opposed? Acceptance.

It was moved by Mr. Medeiros, then

**VOTED: To Accept the Action Minutes of the January 27, 2015 Meeting.
(Assenting - J. Medeiros, M. Tsai, W. Hedani, P. Wakida, R. Higashi)
(Excused - K. Ball, S. Duvauchelle, J. Freitas)**

Mr. Spence: Director's Report. The first item is notification of issuance of an Emergency Permit, Mr. Macario Sarian, On-Site Manager of Paki Maui AOA. It's an SMA Emergency Permit to fill large cavities formed in the rear yard of an existing seawall. And that's just to let you know they have to come in for a permanent SMA, and Mr. Keith Scott is going to explain.

E. DIRECTOR'S REPORT

1. Notification of the Issuance of the following Special Management Area (SMA) Emergency Permit for review:

January 12, 2015 approval letter to MR. MACARIO SARIAN, On-Site Manager of the PAKI MAUI AOA for a Special Management Area Emergency Permit to temporarily fill large cavities that have recently formed in the rear yard behind an existing seawall at the Paki Maui, 3615 Lower Honoapiilani Road, TMK: 4-4-001: 050 and 051, Lahaina, Island of Maui. (SM3 2015/0001) (SSA 2015/0003) (K. Scott)

Mr. Keith Scott: Yes, the permit is good for 180 days and within that period of time they have to come to us with an ultimate solution to shore up the seawall and make it permanent.

Chairperson Lay: Information only?

Mr. Spence: Information only.

2. SMA Minor Permit Report (Appendix A)

3. SMA Exemption Report (Appendix B)

Mr. Spence: You have in your packets the SMA Minor Permit and SMA Exemption Reports. If there are no questions on that?

4. Discussion of Future Maui Planning Commission Agendas

a. February 24, 2015 meeting agenda items

Mr. Spence: Future Planning Commission agenda for February 24th. You have a public hearing for a bed and breakfast home. And then you have the Director's Report asking the Commission to waive its review for an SMA time extension. And then there'll be one more emergency notification, one more emergency permit.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Director, we received an email from Hololani forwarded to us from Carolyn. I think that that's the name of the condo that said they were anxious to get on our agenda for a future meeting. You know what I'm talking about?

Mr. Spence: Yes, we've gotten. We're working on their permit.

Ms. Wakida: Okay. They're not ready to come before us yet?

Mr. Spence: I'm not sure exactly what's lacking, but we are...we're definitely working on the application and preparing it to bring it before you.

Ms. Wakida: I don't know why there was the reference to me at the bottom. I don't know...I didn't recognize any names. That's all.

Mr. Spence: Okay.

Chairperson Lay: Is that it? Nothing more on the agenda?

Ms. Thomson: Commissioners, I wasn't here at the beginning of the meeting but I understand that there were some comments made on the record that were of an inappropriate nature. And I wanted to remind everybody that they need to exercise proper decorum in the context of the meetings. So thank you.

Chairperson Lay: So noted. Can we get a motion to adjourn.

Mr. Medeiros: So move.

Chairperson Lay:(gavel)...

F. NEXT REGULAR MEETING DATE: February 24, 2015

G. ADJOURNMENT

The meeting was adjourned at approximately 2:30 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN

RECORD OF ATTENDANCE

Present

Jack Freitas (9:00 a.m. - 12:00 p.m.)
Wayne Hedani
Richard Higashi
Ivan Lay, Chair
Jason Medeiros
Max Tsai
Penny Wakida

Excused

Keone Ball, Vice-Chair
Sandy Duvauchelle

Others

Will Spence, Director, Planning Department
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
(9:00 a.m. - 12:00 p.m.)
Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel
(in attendance at 1:00 p.m.)
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (9:00 a.m. - 12:00 p.m.)