

**MAUI PLANNING COMMISSION
REGULAR MINUTES
JANUARY 27, 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, January 27, 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: It's January 27th 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: We're gonna open today's meeting with public testimony for anyone who has to go anywhere and wishes to testify on any agenda item that we have today, come up to the front, identify yourself and you have three minutes to do your testimony. But if you do a testimony now you won't be allowed to do a testimony when the agenda item comes up. Anyone wish to testify at this time? Identify yourself and you have three minutes. Thank you.

The following individual testified at the beginning of the meeting;

Ms. Lucienne de Naie - Items C-2 and E-1

Her testimony can be found under the items on which she testified.

Chairperson Lay: Does anyone else wish to testify at this time? Seeing no one, public testimony is closed and we're moving onto our first agenda item.

Ms. McLean: Good morning, Chair and Commissioners. You have four public hearing items today. The first one is a request for Mr. Clarke Howatt of the Kaanapali Hale AOA for a Special Management Area Use Permit for the Maui Kaanapali Villas Renovation of an existing support facility to a two-level support facility structure with fitness and parking at 45 Kai Ala Place, TMM: 4-4-004: 011 in Kaanapali. Candace Thackerson is the Staff Planner.

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

- 1. MR. CLARKE HOWATT of the KAA NAPALI HALE AOA requesting a Special Management Area Use Permit for the Maui Kaanapali Villas Renovation of an existing support facility to a two-level support facility structure with fitness room and parking at 45 Kai Ala Place, TMK: 4-4-006: 011, Kaanapali, Island of Maui. (SM1 2010/0003) (C. Thackerson)**

Ms. Candace Thackerson: Good morning, Commissioners.

Chairperson Lay: One moment, Candace. Commissioner Hedani?

Mr. Hedani: Mr. Chairman, the Hale Kaanapali AOA, Maui Kaanapali Villas is a member of Kaanapali Operations Association, Inc., and therefore, I have a conflict of interest and I'll be recusing myself from voting on this matter although I would like to participate in the discussion.

Chairperson Lay: Yes, and so noted. Continue.

Ms. Thackerson: Okay. This item is under your review because Maui Kaanapali Villas is located within the special management area regarding review of the project under HRS 205. While the parcel is located along the shoreline, it does not trigger compliance with HRS 343 or Chapter 203 as the project and activity is located well outside the shoreline setback area.

The subject property is on 11.764 acres parcel located in Kaanapali which is Maui's first planned resort destination within Lahaina, Maui. The Maui Kaanapali Villas is a 264-unit residential condominium contained within a main six-story building and six, two-story buildings. Site amenities include a restaurant, parking, and two swimming pools. The property was originally constructed in 1966 and is located along Kai Ala Place on Honoapiilani Highway.

The applicant is proposing to renovate the existing support facility containing an office, shop, laundry, garage, mechanical and air-conditioning equipment located on the subject property to a two-level structure which will also include a spa and fitness center and more parking. The renovated structure will have an approximate overall dimension of 42 feet wide by 290 feet and will be two stories.

The project was reviewed by nine government agencies as well as the Maui Electric Company. There were no significant concerns or comments received by agencies that were able to be mitigated by conditions to the project. The State Historic Preservation Division has approved the archaeological monitoring plan as submitted by the applicant by letter dated December 17, 2014, and deemed that no historic properties will be affected. The project was also reviewed by the Urban Design Review Board at their regular meetings on June 13, 2012 and again on July 14, 2014 without any comments or recommendations further to the Planning Commission.

The applicant is here and they have a short Power Point presentation with details for design layout and construction of the proposed project.

Mr. Raymond Cabebe: Good morning, Commissioners. Good morning, Chair Lay, Deputy Director McLean. My name is Raymond Cabebe and I will be guiding you through this presentation for the Maui Kaanapali Villas Support Facility Project on behalf of the applicant, the Maui Kaanapali Villas AOA. Maui Kaanapali Villas is seeking a SMA Use Permit to construct renovations to its support facility in order to improve guest amenities and to provide a more efficient facility to its maintenance staff.

I'll begin with an introduction of our project team, go through the land use, a little bit of the history, the existing site and the proposed structure and the design elements, landscape plan and then we'll conclude, and then our team will be available for any questions.

We have Mr. Norm Weil here from the Kaanapali Villas AOA, Mr. Charlie Palumbo, who's the architect for this project, Ms. Lisa Rotunno-Hazuka, who's the archaeologist from Archaeological Services Maui. We have David Sereda from our office, from Chris Hart & Partners, who's the landscape architect, and Jordan Hart and myself doing the planning work for this project, and also Mr. Paul Mancini is here for counsel for the project.

Here's the TMK map. Well, actually it's a location map and it shows the site on the north side of the Kaanapali Resort. This is the tax map. The parcel is like...is a L-shape parcel with Honoapiilani Highway on its east side. This is an aerial map showing again, Honoapiilani Highway, the International Colony Club across the highway, the Royal Lahaina Resort to the south, Kahekili Beach, and there's also some residences here to the north, and the Westin Kaanapali Ocean Resort Villas to the north also.

There's a State Land Use Designation of Urban. The West Maui Community Plan is Hotel. The County Zoning is A-2, Apartment District. And it was constructed in 1965 and there was a variance that was granted by the, at the time the Maui Planning and Traffic Commission to allow the hotel development on Apartment zoning.

This is an artist rendition of what the hotel was supposed to look like and it's also...there was groundbreaking in 1965 with Conrad Hilton, Jr., attending. This is like a postcard picture of the hotel when it was originally constructed. And this is an old Amfac map. Those of a certain age can remember the old Kaanapali air strip here right to the north. The existing site consists of 260 hotel condominium units in five of the buildings. The other two buildings are the restaurant and the seventh building is the support facility that we're...that's proposed to be renovated. It's on a 11.764 acres. Began construction in 1965. The hotel actually opened in '67. The hotel has typical amenities of many of the hotels in Kaanapali and there's 191 parking stalls.

This is the existing site. When it was constructed, the buildings were given letter names like A, B, C, D and so the corresponding building names were corresponding to those lettering so you have the Aloha Tower, the Banyan Building, Coconut Building, Dolphin, and then Emerald. The Aloha Tower is a six-story building and the rest of the buildings, rest of the condominium buildings are two stories, the restaurant is one-story and also the support facility is one story currently.

This is an aerial photograph. Some photographs of the existing site. This is what it looks like today. It's one story. The approach to the site of the building through this driveway here and then this is a dirt road that goes around the backside of the building and comes around the chiller room which is right here. This is front side of the building. This is a garage with six spaces. And this is the front of the building looking in the other direction.

This is a plan of the existing building and at this point, I'm gonna bring up Charlie Palumbo to talk about the proposed facility.

Mr. Charles Palumbo: Aloha everyone. Charlie Palumbo here. Thank you for your time. The first thing we did looking at this project was to try and make an assessment of the existing structure and see if it's worth, you know saving. And it has pretty extensive termite damage, and has been there I believe from the inception of the project. So it's been there for quite some time. And within that

structure we're actually gonna save some of the existing pieces, but the footprint of the new building is gonna be very similar to the existing. The existing is about 12,500 square feet on the ground and our new footprint will be about 12,000 square feet on the ground. Go to the next slide.

So a couple of things that we're doing. We're gonna be sculpting the drive a little bit better to work...so we're sculpting a little bit back here to make it easier to get in and out, but the footprint of the building is gonna stay essentially the same. This chiller is in the same position that it is right now and we also have this ice storage component which may or may not remain the main HPAC system depending...they're doing a analysis on the existing mechanical right now. But this, in this design, we're keeping this piece right here.

This is the upper level. This is a new thing that we're doing. We're proposing 29 additional stalls for the project, so this could be used for primarily employee parking back in this area. The highway is along here. And one of the nice things about this project is there's an existing large canopy of trees along the highway right here that really screens almost entirely this maintenance...well it does screen it entirely right now and it will continue to screen the proposed second floor of this project also.

So we are at as I had mentioned about 11,500 square feet on the ground and an additional 7,352. So the upper area what we'll be doing is locating primarily maintenance, owner storage and the parking up here. The offices are all support spaces for maintenance and storage. On the ground floor, you know, the laundry component, recycling, all of these components are there. We're adding a larger exercise room which will be used primarily for, you know, all exclusively for the guests property and you know, the owners of the property. Recreation room, so there's a little bit of facility we're adding to the space, some amenities for them.

So this picture kinda tells it all. What we have here is this is the highway right here and we have this large existing canopy that is to remain. We'll be doing our parking over here and so what your read is at this level is really one-story building. The second floor is or the lower floor is really out of view. And because of this large canopy there's very minimal impact to passerbys and neighbors.

This is another section. See we're showing this ice storage. I don't know if you folks are familiar with that, but it uses large tanks that makes ice cubes at night when energy was cheap when it was initially built. And so it uses less expensive energy at night and then those ice, those ice pieces actually melt during the day and that's the HVAC system. So it uses less expensive off demand power to create this cooling effect for the building. So that's...let's go back to that for a second, so this is the ice storage right over here. This is an existing laundry and we are proposing the recreation areas and all of that below and then this is the landscaping, maintenance, and parking, and some owner storage also.

So the character of the building is, you know, not to draw a lot of attention to itself, but to be an attractive amenity to the property. We plan to keep it under the 35-foot height at the top, you know, from the lowest point to the top 35 feet. So really at this level it's really reading as a one-story structure so it's, you know, 20 feet to the ridge right there. So the roof slope will be between 4 and 12 and 6 and 12 depending on what we can get once we actually do the detailed site work and get really into the working drawings of this. It's gonna be, and it's a EIFS system, so synthetic plaster, probably a two or three tone on the building to help break down the mass. We've introduced some

canopies, awnings at the lower area. The roof material we're proposing a composite shingle or a cement shake still reviewing that. So it will be compatible with what is already existing on the property.

We have this ramp that's to the north side that will provide access. So it's dead-end parking. You take this ramp up and down over here and then tucked into the side here is a recycle, green waste area that it's already in use on the property.

This is the highway side so beyond the canopy of trees that's really screening all of this, this will be primarily roll up doors and some windows and things like that that will be used to access the maintenance vehicles and all of the supplies and those components will be in this area and then parking along here. And we will be you know, incorporating the landscape, the recommended landscape of one tree per five stalls and all of that will be incorporated into the design also. Thank you very much.

Mr. David Sereda: Good morning, my name is David Sereda, a landscape architect with Chris Hart & Partners. I'll just take you briefly through some of the landscape components. So primarily the purpose of the landscape is for shade and screening. In terms of screening the property next door to the subject property is the Royal Lahaina and so we've provided some Areca Palm screening along this edge. And then also along the highway we've augmented the existing screening from the highway side that Charlie referred to. With our shade canopy trees, six Milo trees for the parking. So these also will serve to shade the parking for the new structure. The reason we've chosen the Milo trees is because they're a native species that are drought and salt tolerant. The roots aren't invasive and the litter is not a, doesn't pose a hazard for any pedestrians on the surface for the parking area. In addition to the screening and the shade we'll also provide some internal screening for the building itself for the activities for the building and the loading zone in front. Thank you. Oh, and sorry, these are couple pictures of the proposed plant material, Areca Palms and Milo.

Mr. Cabebe: Thank you, David. So this is a site plan with the new building up here in the, what is that, the south, southeast corner of the building. As I said before there's 29 stalls installed up here. There's 191 existing. According to Planning parking calculations 209 stalls are required. So there's an excess of five stalls after this building is constructed. And also at the request of Planning 16 stalls down here, the area in blue it will be designated as beach parking from...between the hours of 9:00 a.m. and 7:00 p.m.

This is the view from Honoapiilanl Highway. As Charlie and David just talked about the screening is about 12 wide patch of planting here from the shoulder to the Kaanapali Villas, Maui Kaanapali Villas property.

This picture was taken in 2012. It's off Google Earth of course, but...so it's much taller and thicker than...today if you drive by it's thicker. And this is looking south and keep in mind that this building here is a six-story building and we propose the building to be two stories down here. So you won't be able to see it.

Utilities. Water is...is a private water system that's provided by Hawaii Water Service. There's an existing four-inch meter. As far as sewer, the Lahaina wastewater reclamation facility has

9.0 million gallons capacity. And it has a remaining capacity of 2.1 million gallons and that's adequate for this facility.

For drainage there's a new net decrease of 1.02 cubic feet per second according to the engineering calculations.

As I said before, the original permit was obtained in 1965 along with the variance to allow the hotel being constructed on Apartment zoning, within Apartment zoning. And between '66 and '67, when the rest of the buildings were constructed ... between '68 and '85 there were various shops and restaurants, present renovations done on the property. In 1995, there was three of the...there were three units that were created from the restaurant that was in there that closed. In '98, some commercial space in the Aloha Tower was also converted to four units. So they started out with 253 unit and it's now at 260. In 2007 and 2008, their pools were renovated. In 2010, there were some interior renovations in the common areas, the lobby and reception, retail and offices. And also in that same year is when we first applied for this SMA Permit. In 2011 we submitted a revised permit and in 2012, the Urban Design Review Board looked at the original design and also Kaanapali Operations Association reviewed the plans for this.

There was a...the design was changed a little so we had to go back to the Urban Design Review Board last year in July and we have recommendations from them that's in your report. And also last year there was...Mr. Mancini went before the Board of Variances and Appeals to get a Declaratory Ruling about the variance, the 1965 variance, and if there's any questions about that Mr. Mancini can answer that.

And to conclude here, as we have shown the proposed renovations will not have any negative visual impacts. The project will the objectives of both HRS Chapter 205A and Maui Planning Commission SMA Rules. And based on what we have presented today, we feel that the approval of the SMA application is warranted. This concludes our presentation. Thank you for listening and we are available for any questions.

Chairperson Lay: Thank you very much, Raymond.

a) Public Hearing

Chairperson Lay: At this time, I'm gonna open up to public testimony. If anyone wishes to testify on this agenda item, step forward, identify yourself and you have three minutes. Seeing no one, we're closing public testimony. Commissioners, questions? Commissioner Wakida?

Ms. Wakida: Maybe Mr. Cabebe could answer this question. The new renovation, the roof top seems like it's particularly well suited to put some PV panels on because it appears to have a nice leveled slope on either side. Has the developer considered photo voltaic panels?

Mr. Cabebe: Maui Kaanapali Villas originally were looking into installing PV panels.

Chairperson Lay: Please identify yourself too.

Mr. Norm Weil: I'm Norm Weil. I'm the President of the AOA. Excellent question. Yes, we're

very interested in pursuing PV. In fact we already have a current application for permit in for doing PV on the roof of our tower. And this afternoon, I'm going to a meeting with Johnson Controls, who's doing a complete study to see what additional PV we could add to our project. We're very energy focused and want to do as much as possible to conserve energy.

Chairperson Lay: Go ahead.

Ms. Wakida: So, however you haven't included any of that in this design on this project?

Mr. Weil: No, we haven't included it at this point. But when we go to actual building drawings, if it's possible to add PV, I'm certain that knowing our board that we would encourage that it be added.

Ms. Wakida: Okay, thank you.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: This is a question for Raymond. I'm trying to recall Raymond the architecture review process that we went through for this particular project. I know we went through several extensive meetings, you know, with Maui Kaanapali Villas. I think the building was well received with the modifications that were incorporated into the design. One of the open questions my recollection is that you got conceptual and preliminary design approval, but you haven't received final design approval from the Kaanapali Operations Association yet is that correct?

Mr. Cabebe: That's correct.

Mr. Hedani: Okay, one of the open questions that we had with the original proposal was for PV over the parking deck on the upper level of the support facility. Is that still being considered or are you looking at alternate areas for PV at this time?

Mr. Cabebe: According to Mr. Weil they're still considering it. I think he's looking at the whole property as a whole to see you know, what can be done and we're looking at their needs and I guess in the future that could still could be a possibility, but it hasn't been included in their current plans.

Mr. Hedani: Okay, from my perspective and this is just a comment. You know, we have approved a project within Kaanapali that has PV over the parking deck. That was The Whaler's Village project that was reviewed by this body as well as with modifications, reviewed by the Design Review Committee. So there is a template for doing PV over parking areas. It would be flat versus slanted, it would have trellises added around the periphery, et cetera, but we can go through that later, you know, at your convenience, yeah. For the Commission's edification we're not through with the design process for this particular project and a lot of these comments would be incorporated in any final approval that we grant. So from my perspective I would like a commitment from you at this point just to make sure that future PV projects will come back to Kaanapali Operations Association for review.

Mr. Cabebe: Okay.

Mr. Hedani: But, that's something that's already in your CC&Rs actually.

Mr. Cabebe: Yeah, Mr. Weil just nodded his head. So, he said he's agreeable with that.

Mr. Hedani: Yeah, the second item I wanted to bring to the Commission's attention is that of all the projects in Kaanapali there's only one project that does not have lateral access along the beach. We have a beachwalk from Hanakao Beach Park to Black Rock. We have a beachwalk that extends from the fifth green all the way to the north end of Kaanapali to the Mahana Condominiums actually. All of North Beach is integrated. The Royal Lahaina has committed to lateral access along the beach when they do their redesign project. The Maui Kaanapali Villas project has committed to us lateral access along the beach because they're the only remaining property where the beachwalk ends up in a chicken wire fence. You can't go through it. You gotta go back onto the beach and then come back onto the property or you gotta go through a circuitous route within the property to get to the other side of the property. But the commitment from the Board of Directors was that at the time the Royal Lahaina implements their beachwalk they will tie in the Royal Lahaina's beachwalk to the North Beach beachwalk makai of the existing buildings. That was a commitment that I had gotten from the Board of Directors of Maui Kaanapali Villas and I just wanted to go on record that that commitment exists as far as lateral access along the beach makai of the existing buildings is that correct?

Mr. Cabebe: Let me point out to you where the path is right now, the public path that goes through the property. There is as Commission Hedani indicated there's a path right here I think that's what shown right here and it ends right there and it goes...there's a sign that directs you this way and then goes across here, behind through the pool and then comes out here. Currently Royal Lahaina does not have a path as Mr. Hedani also said, but it continues on here through their parking lot. And so if you go there like, you know, during the morning hours you'll see the joggers coming through here, they'll run here, they'll come through here, all the through the property here, and that's correct there is no public path here. If you wanted to see the beach or go to the beach you can step off the path here and go onto the beach and walk through and continue on here.

Chairperson Lay: Please identify yourself again too.

Mr. Weil: Norm Weil, President of the AOA. Yes, I would confirm that we have had discussions with Mr. Hedani regarding this. I'm not sure I would classify the discussions as a commitment on our part to do that. We've discussed that option with legal counsel because I'm not sure that even if our Board of Directors had made a commitment that we would be able to deliver that without owner approval. So anything that we're able to do with our common areas is subject to owner approval according to not only Hawaiian Statute but our declarations. So we have recently worked with the County in setting up the access that Raymond just showed. And my further understanding is that that there are a number of properties still in Kaanapali that have not provided the type of walkway that was discussed. Our neighbor to the north Royal Lahaina I know had discussions about providing that walkway. They had big plans for redevelopment, those have not come to fruition and I don't think that they're gonna come to fruition anytime in the near future. Further to the north, the Sheraton has a situation that's very similar to ours in which there's a walkway that meanders not exactly right on the shore. In fact, I believe our walkway is...has excellent demarcation for the public to direct them to the path and has been quite enjoyable in connecting our property with the walkway to the south to, up to through the Royal Lahaina. So I just wanted

there to be some clarification that one, we've had discussions; two, the board has not made a commitment; and three, that the board is not empowered to make a commitment even if it wanted to. That's ultimately up to our owners. There's further legal complications and if you wanted to go into that Mr. Mancini is here and he would be able to discuss that with you. Thank you.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: That was not to my understanding. My understanding when I met with the Board was that they were willing to commit to a lateral beach access walkway makai of the existing buildings provided that the implementation of that walkway be timed to the completion of the Royal Lahaina's project makai lateral access walkway. Royal Lahaina in their approval for their SMA Permit for their redevelopment committed to a makai lateral access walkway which would dead end on the Maui Kaanapali Villa's property and the intent was to tie the walkway system to become an intra resort pedestrian walkway system for the entire Kaanapali Beach Resort.

In the case of the Royal Lahaina, the Commission required Royal Lahaina to include makai lateral access as part of the approval process for the SMA Permit. And I would encourage the Commission to consider imposing the Commission's...a condition similar to that requiring makai lateral access from...for the project as part of the SMA Permit. Thank you.

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

Mr. Medeiros: The last guy that spoke what was his name?

Chairperson Lay: The owner or the legal?

Mr. Medeiros: Right next to you. Howzit, forgot your name.

Mr. Weil: Norm.

Mr. Medeiros: Norm. Okay, you said that your board cannot make the decision and everything and the owners, only the owners can. Are they represented here?

Mr. Weil: The owners are represented by the Board of Directors. I'm the President of the Association.

Mr. Medeiros: Okay, so you can speak for the owners?

Mr. Weil: The way that an owner's association works is that the Board of Directors has limited authority. And changes to common areas for instance are things that are subject to the full vote of our ownership. There's other things in the daily operation of the association that the Board of Directors have been authorized to transact. So, if you want more of the legal complexity that's involved here, our attorney is with us and he can speak to that. I believe that it's not only our association but every association in the State of Hawaii is similarly restricted. And so even if our Board of Directors unanimously agreed to what Mr. Hedani has proposed we would not be authorized by I believe Hawaiian Statute nor our Declarations or Bylaws to take that step. And the issue is further complicated by a series of easements that exist or do not exist and by the current

configuration of the property.

And so as an example, the property to our north, the Royal Lahaina has the same restrictions I think in its current configuration and so their agreement would come into effect only when their property is redeveloped and reconfigured and would lend itself to the pathway that Mr. Hedani has proposed. And I think you know, Mr. Hedani is to be commended for his vision in trying to establish that pathway throughout our property, and I think it would be a wonderful thing if it could come into fruition. Unfortunately, there are current physical restrictions that would make that a complex thing to happen. What we're talking about here is simply redeveloping a building at the very rear of our property that is in dire need of redevelopment. If you'll recall the pictures of the current structure and its description as termite ridden. We need to do something about that and I think from a resort standpoint it would behoove the entire resort of Kaanapali to see that building refreshed since the Kaanapali Trolley, its route runs right between the tower and that building. So there's that little roadway in front of the building, the trolley goes in front of that and that's gotta be the worst looking building on its route right now. I think you might agree with that. And so what we're proposing is a bright new building that would enhance the rider's experience and not take 'em through that old building any more.

We're more than happy to continue the discussion with Mr. Hedani concerning the walkway but I'm not seeing that it has any direct correlation to our request today and that is to get the SMA Permit that we've been attempting to get for now five years to move forward with our project. We really do need to move forward without those types of restrictions. I think that would only tie up our project for another several years and we need to do something now. So if you have any further legal questions as I said, Mr. Mancini is here and he could answer those for you as well.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Well, I was gonna ask Mr. Mancini come up to give us a condensed version of what we're going through here.

Mr. Paul Mancini: Thank you, Mr. Tsai. My name is Paul Mancini. I'll try to explain this as simply as I can. The AOA had asked me to look into the question of first whether there was a beach pathway easement that existed on the property right now and I looked through all the documents and there isn't. I think Norm tried to convey the fact they'd like to cooperate and would like to see what we could do. The problem here as in other properties when you create an easement you're really affecting the common interest of the parties and therefore you have to go to the ownership when you're amending common interest of the parties. The board doesn't have the authority itself to amend common interest. If there was an easement now in the front there would be no issue whatsoever. Wayne's predecessor in title I think may have reserved an easement some time ago, many decades ago, and I looked at those documents. Those easements were never granted through the successor of activity to ...(inaudible)... corporations. The question is can those easements be granted now, When you say, granted, can the association go ahead and amend their declaration and change their common interest to accommodate that? So it's a little more complicated than just saying put the easement there. If it's that requirement it would have to go through those steps creating the easement and the easement would have to go to the owners who have a common interest in that area to amend the common interest.

That's not to say that they wouldn't go to the owners to do it, but what I think Norm was trying to tell you is he can't basically tell you that the owners will agree to it. I'd suggest you don't put the condition, but a condition that might be reasonable is that the AOA will cooperate with Mr. Hedani's organization to attempt to implement such a matter. I think that's a reasonable solution to the issue 'cause then you could move on as opposed to asking them for a commitment that they can't themselves fulfill. As in all SMA Permits you gotta give a compliance report at the end and if you got a condition that they can't comply it, it would breach the SMA Permit and that's not good for anyone. I don't know if I explained it well enough. It's a little complicated. Be happy to answer any questions.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Paul, when changes to the common area go to the ownership in this particular case I can understand the owners of those particular units on the makai side where the walkway would go in front of are trying to preserve their privacy so they would vote against in all likelihood. The question that I have is when you make changes to the common elements does it ask...does it have to be 100 percent unanimous approval or is there a majority?

Mr. Mancini: To change your declaration statutorily is 75 percent.

Mr. Hedani: Seventy-five percent.

Mr. Mancini: Yeah, to change your declaration...you would have to change the declaration to somehow deal with it. Now again, the declaration would have to change such that compel the owners to do it. So it's a bit of complicated issue between the declaration...declaration...see when the property was developed I think the intent of Amfac at that point in time and this is 50 years ago remember, this is half a century ago when this property was developed and Amfac was just feeling what they were doing there. And at that time they didn't create an easement. Later when they were developing properties Amfac would create the easement and then the grant the...and the AOA, the property owner would grant the easement. This didn't happen 50 years ago and it puts us in the current conundrum. But again I think the resolution, the reasonable resolution is a matter of cooperation to see what can be done. I don't think anybody is confrontation with you, Wayne. It's just how do you get it done? And I'd like to see how Royal Lahaina is getting done. Maybe they have a template. We haven't talked to them. Can I answer any questions?

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: I'd like to follow up with what Commissioner Hedani had said about having right-of-way along the beach. As an example looking at Kihei they have a right-of-way from the beginning of the hotels all the way down to the end toward Makena and I think some way or another we should incorporate a master plan in which we would be able to connect all of the various hotels that are separate now that came up at different times. And that's why I think we're running into the problem of ownership and easement. And some way or another if this Commission can incorporate a future plan that would line up a walkway similar to the one in the Kihei I think would resolve that problem for public access.

Mr. Mancini: If I could comment on that. That's what Wailea did way back in the early 70's when

they developed Wailea they created that easement around the front so that you can walk through in front of all the hotels. Unfortunately, they...maybe they learned from Amfac's mistake at the time, but we can't go back 50 years ago, but all we can do is cooperate and see what we can do, but your point is well taken.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Paul, just for your information, Mr. Chairman, I'm not voting on this particular issue. I'm supportive of the project moving forward. I just wanted to make the Commission aware of the discussions that were taking place between the applicant and us that haven't been resolved yet.

Chairperson Lay: Thank you. Commissioner Wakida?

Ms. Wakida: Yeah, I have a question on another topic.

Mr. Mancini: Okay, thank you.

Ms. Wakida: This is on parking so maybe, ...(inaudible)...who would answer this. According to the introduction in this document it will be a total of 214 parking stalls on this project is that correct?

Mr. Cabebe: That's correct.

Ms. Wakida: On the next page though, No. 4, it says there's 231. Am I misreading something? I'm wondering where other parking stalls?

Chairperson Lay: What number page is that?

Ms. Wakida: Page 4, No. 4, it says there's 231 stalls. So are we decreasing the parking or am I reading this wrong?

Mr. Cabebe: Yeah, that was...from the original application and the parking stall count at that time was incorrect. We were counting stalls that were along Kai Ala Place and there's street parking along that Kai Ala Place and also at the end of it and we were counting all of those stalls. So we deleted those stalls from there and we came up with the 191.

Ms. Wakida: Came up with 214.

Mr. Cabebe: Yes.

Ms. Wakida: Where's Kai Ala Place?

Mr. Cabebe: It runs from Honoapiilani Highway and then it turns into...you turn left into the project.

Ms. Wakida: Ka Ala Drive? I'm not...

Mr. Cabebe: It's right here. And then this driveway there's no marked parking there but you can park parallel all along here and also through here. There's also some stalls at the end of this

driveway in here that's not included in the 191 stalls.

Ms. Wakida: A question maybe for the Planning Director, this is a 264-unit residential condominium. You don't need to provide one parking stall per unit in these places?

Ms. McLean: The parking would have been assessed at the time the project was initially built I don't know what the parking requirements were at that time.

Ms. Wakida: So when it was initially built it was a hotel and then it was converted, then things were converted into units and so on. So I'm just wondering what the standards are now?

Mr. Cabebe: Can I answer that Penny?

Ms. Wakida: Certainly. Originally it was a condominium hotel. It was built as a condominium. So in the variance itself there was a parking ratio that was stated of one stall per 1.5 units which was kind of I guess must of been some kind of compromise between apartment and hotel parking and so that's how it became about. So it's basically two stalls per three, every three units. I don't know how they came up with that, but that's what was in the variance.

Ms. Wakida: Yeah, because you've increased the units. It was originally a Hilton Hotel, right? And then it sort of morphed to different things over the years.

Mr. Cabebe: Yeah, it was marketed as a...they called it a timeshare back then, but it's not a timeshare what...the way it's done now, but you could buy a unit, you had use of the unit for four weeks per year and then rest of the time Hilton operated it as a hotel. So it kind of like a hybrid type operation.

Ms. Wakida: And I have another question on parking?

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: So when you have a public restaurant like the Castaways, does that...I guess I'd like to ask the Planning Director does that increase the number of parking stalls required?

Ms. McLean: With this project in particular you know, you'll see that the SMA application number is 2010 so we've been working with the applicant on this project for quite a long time and we spent a lot of time going through the parking requirements. When a project is initially approved decades ago it was assessed at that time and then as changed happened over time typically we review parking again when a building permit comes in. Sometimes we review it at SMA if there's specificity for us to redo a parking analysis.

So this project the uses have changed subtly, some of those minor distinctions have different parking requirements. And then as you mentioned, the restaurant that's opened to the public, are there other facilities that are open to the public, we look at all of those each step of the way when there's a building permit. And this project also had the variance that Raymond mentioned. So we did spend a lot of time with the applicant and going through our old files to determine the parking requirements and what ultimately was determined as the staff report mentions, our Zoning

Administration Division who does the parking analysis confirmed what we can impose today based on expanded use and prior approvals.

Ms. Wakida: Okay, thank you.

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

b) Action

Ms. Thackerson: I have one edit to make to the recommendation and that's on Condition No. 10. It should have in the first sentence it should say, "That the applicant shall implement the archaeological monitoring plan." Right now it just says, archaeological plan. And with that amendment, the Planning Department recommends approval based upon the 12 conditions as listed in the report. In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the January 27, 2015 meeting as its findings of fact, conclusions of law and decision and order and to authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: I move to approve with a condition added per Commissioner Hedani's request to have the AOA to work closely with full cooperation with Kaanapali Operations regarding the beach access if that's acceptable to Commissioner Hedani?

Mr. Higashi: Second.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Tsai, seconded by Commissioner Higashi. Any discussion on the motion with the condition? Commissioner Wakida?

Ms. Wakida: I applaud Mr. Hedani's diligence on this. In the comments from the President of the Association it appears that this is already taking place this working together and I'm wondering if we need to have that kind of condition and if it's even enforceable?

Ms. McLean: Everyone's looking at me so I think I'm supposed to say something. If you do not put that condition in place then there wouldn't be any obligation tied to this SMA Permit for them to continue that effort. If the condition is put in place then during our review of compliance reports the applicant would provide some description of what they're doing to cooperate. So it's a...we would have a mechanism to at least monitor it. I would ask though if...whether Mr. Mancini or our Corporation Counsel could nail down that language before you vote on it just because there are some subtleties that we would might make...(inaudible)...

Mr. Mancini: We do not object to the condition as we understand the condition. The AOA and Mr. Hedani's organization will try to work together to see whether it's possible to create that

easement requested or identified in today's hearing. I think that's it. We have no objection to that.

Ms. Thackerson: Staff planner. How about, "that the applicant shall continue to pursue efforts towards providing a beach lateral access boardwalk makai of the existing buildings of which construction of said boardwalk shall be tied to occur in conjunction with the construction of the Royal Lahaina Resort beachwalk." So really it's just the first part with, "continue to pursue", the applicant shall continue to pursue efforts towards providing a beach lateral access. And at the end I can possibly put, "and evidence of such shall be provided in a final compliance report." So that they at least have to show me in the final compliance report that they're pursuing the efforts, that there's some discussion still going on.

Chairperson Lay: I have a question for Corp. Counsel. How can we strengthen it? How can we make it happen? I mean, we want to do it. That boardwalk to me ties in everything. It's a walkway for tourist. It's a walkway for the locals. It's the walkway for people to walk through. I unfortunately was there a couple months ago and hit the brush. I think it would enhance it and if we can do whatever we can to fix it up, I'm all for it and I'm wondering what verbiage you can put in or words you can put in it to make it...if it's not possible, then you know, it's not but if we can do whatever can do to make it happen I would appreciate you helping us out on that.

Mr. Hopper: I don't have any...This is Corporation Counsel, I don't have any additional language to suggest off the top of my head at this point. We could consider going into executive session and discuss the condition further if we would like, but I don't have anything to suggest at the moment.

Chairperson Lay: Mr. Mancini, would you wish to comment on that?

Mr. Mancini: Well, I was just going to try to be practical in saying we will work with the Department and possibly come up with a number of steps to show our cooperation in an effort to go through it. I think, I'm just trying to be practical. The easiest thing is start with a plan, show the Department what the plan was, and then move along with the plan. I think the language is okay as it is. Michele has been very helpful in everything else and I'm sure we'll be able to come up with a plan.

Ms. McLean: I think the challenge with this one is that the applicant just simply isn't in a position to say, yes we can do this because it requires ownership approval and so that's how far can the Commission go and ensuring that that happens short of requiring that vote 'cause you don't have the authority to do that.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I'd like to move that we go into executive session.

Chairperson Lay: Have a motion to go into executive session to discuss the matter.

Mr. Tsai: Second.

Chairperson Lay: Seconded by Commissioner Tsai.

Mr. Hopper: To clarify the purpose of the executive session is to discuss the board's rights, duties

and liabilities pursuant to HRS 92.

Chairperson Lay: That's correct. At this time, we going to...oh, all those in favor of going into executive session please say, "aye".

Commission Members: Aye.

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

**VOTED: To Go Into Executive Session to Discuss the Boards, Rights, Duties and Liabilities Pursuant to HRS 92.
(Assenting J. Medeiros, M. Tsai, W. Hedani, S. Duvauchelle,
P. Wakida, R. Higashi)
(Excused - K. Ball, J. Freitas)**

Chairperson Lay: Let's go into executive session.

The Commission went into executive session from approximately 10:17 a.m. to 10:28 a.m., then the regular meeting was reconvened at approximately 10:29 a.m.

Chairperson Lay: Commissioners, any more discussion or questions on the motion on the floor? At this time, I'm going to ask Michelle to repeat the motion.

Ms. McLean: The motion is to approve the Special Management Area Use Permit subject to the 12 conditions in the staff report with the one revision noted on Condition 10, the archaeological monitoring plan, and the addition of a 13th condition, "That the applicant shall continue to pursue efforts toward providing a beach lateral access boardwalk makai of the existing buildings. Construction of said boardwalk shall be timed to occur in conjunction with construction of the Royal Lahaina beach walk and evidence of compliance shall be provided in the preliminary and final compliance reports".

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

Ms. McLean: Five ayes and one recusal.

Chairperson Lay: Motion carries. Congratulations.

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

VOTED: To Approve the Special Management Area Use Permit as Recommended by the Department with the Revision Noted on Condition No. 10, the Archaeological Monitoring Plan, and the Addition of Condition No. 13, "That the applicant shall continue to pursue efforts toward providing a beach lateral access boardwalk makai of the existing buildings. Construction of said boardwalk shall be timed to occur in conjunction with construction of the Royal Lahaina beachwalk

and evidence of compliance shall be provided in the preliminary and final compliance report.”

(Assenting - M. Tsai, R. Higashi, J. Medeiros, S. Duvauchelle, P. Wakida)

(Recused - W. Hedani)

(Excused - K. Ball, J. Freitas)

Chairperson Lay: At this time, I'm gonna take a seven-minute break, make it ten then, ten-minute break, and we'll reconvene at 10:40.

A recess was called at approximately 10:30 a.m., and the meeting was reconvened at approximately 10:40 a.m.

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

Ms. McLean: Thank you, Chair. This is your second public hearing item. It's a request from Steve Robinson of Makai Hana V, LLC for a Special Management Area Use Permit for the proposed Nalu Ola West Subdivision Improvements project including the construction of utility, drainage, and roadway improvements as well as an onsite well, water tank, and an approximately 480 square foot building to house a pump and privately owned and operated water treatment facility located at Hana Highway relating to TMKs: 2-5-004: 055, 068, 069, and 070, and 2-7-004: 007, 022, 048, 049, 052, 053, 054, 055, 056, and 058 in Haiku. Candace Thackerson is once again your Staff Planner.

- 2. MR. STEVE ROBINSON of MAKAI HANA V, LLC requesting a Special Management Area Use Permit for the proposed Nalu Ola West Subdivision Improvements project including the construction of utility (electrical, cable, water), drainage, and roadway improvements as well as an onsite well, water tank, and an approximately 480 square feet building to house a pump and privately owned and operated water treatment facility located at Hana Highway, TMK: 2-5-004: 055, 068, 069, and 070, 2-7-004: 007, 022, 048, 049, 052, 053, 054, 055, 056, and 058, Haiku, Island of Maui. (SM1 2014/0004) (C. Thackerson)**

Ms. Candace Thackerson: So it's still morning so good morning, Commissioners. And once again this item's under your review because it's located within the Special Management Area which requires review under HRS 205. Again, while this parcel is located along the shoreline, none of the proposed improvements are located within the shoreline setback area so it does not trigger compliance with HRS Chapter 343 or Chapter 203. The subject property is located makai of Hana Highway in Haiku and includes approximately 309.76 acres of land area. The subject property was previously utilized for pineapple production but currently the land is fallow and undeveloped.

The applicant is proposing construction of utility, drainage and roadway improvements for the Nalu Ola Ranch West Subdivision in Haiku, Maui. The subdivision will be comprised of 14 lots ranging in size from approximately 6 acres to 57 acres and 9 easements. In an effort of time, I think I won't repeat myself so the applicant has prepared a presentation as well to go over the project in more aspects and more detail, and I'll go ahead and let them, I'll turn it over to them.

Mr. Mich Hirano: Thank you, Candace. Good morning, Chair Lay and Commissioners. My name is Mich Hirano with Munekiyo & Hiraga and our firm is assisting the applicant Makai Hana V LLC with the SMA application before you today. We've prepared a Power Point presentation to just give you an overview of the project and the analysis that was done for the SMA Permit application.

Just like to introduce the project team. The landowner is Alexander and Baldwin LLC, and the applicant is Makai Hana V LLC. The President, Steve Robinson is in attendance today to answer any questions the Commissioners may have. The civil engineering firm is Otomo Engineering and Stacy Otomo is President and Ashley Otomo, engineer are in attendance today. Traffic engineer is Austin Tsutsumi & Associates, and Matt Nakamoto is representing ATA. Archaeology and cultural resources consultant is Scientific Consultant Services, Inc., and Mike Dega is the archaeologist and he's in attendance as well. Water resource engineer is Tom Nance, Water Resource Engineering, unfortunately Tom is not available today, but we'll try and answer some of the questions and Steve will also be available. We're the planning consultants, Munekiyo & Hiraga. I'm Mich Hirano, and Brian Esmeralda, associate with Munekiyo & Hiraga is also here. And Brian actually will be doing the Power Point presentation and just giving an overview of the project. Brian?

Mr. Brian Esmeralda: Good morning, Commissioners and Staff. My name is Brian Esmeralda of Munekiyo & Hiraga. So as Candace noted, the project is located in Haiku on just under 310 acres makai of Hana Highway which is here and it's right in the vicinity of Maliko Gulch which is right here.

So the applicant is requesting the approval of a Special Management Area Use Permit for the construction of utility, drainage, roadway improvements for the Nalu Ola Ranch West Agricultural Subdivision. The subdivision is comprised of 14 lots ranging in size from approximately 6 to 57 acres and 10 easement for a total area of just under 310 acres.

The roadway improvements involve grading to provide access to the lots and shoreline areas. Utility improvements include underground water distribution lines from an existing onsite well and underground electrical and cable distribution lines and the construction of a water tank and water pumping and treatment building. Drainage improvements include the development swales to convey runoff into onsite basins. I would just like to note that again, this Special Management Area Use Permit is just for these improvements and does not include any other construction other than the well tank and well pumping building.

So the subdivision is comprised of 14 lots and are here outlined in green and 10 easements which are noted in blue. This Easement 6 which is located within Lot 1 is comprised of all the State Conservation District lands. They have been compiled into a single easement and no development will occur within this area. And this is just a site plan of the well area. The well area is actually Easement No. 8 in the subdivision and includes the well, a 100,000-gallon tank and a well pumping building here.

In preparing the Special Management Area Use Permit application a project assessment report was prepared to assess environmental, socio economic and infrastructure impacts that the project may have. In terms of environmental impacts, the construction of the improvements will have no adverse impacts to topography or soil characteristics. The project area was once in pineapple cultivation, but is currently fallow so there'll be no adverse effects to agricultural lands. The majority

of the project site because it's located...it's bound a cliff on the makai side. It's located within Flood Zone X. However, areas within Maliko Gulch are located within Zones EE, AE, and A. But again, no development will occur in this area. A flora/fauna study was also prepared and yielded no significant negative impacts to flora or fauna. And there'll be no long-term impacts to air or noise quality.

An archaeological inventory survey was prepared for the site and accepted by the State Historic Preservation Division. The AIS documented six significant archaeological sites of which two will be preserved. A cultural impact assessment was also prepared. The area was found to have ties to traditional cultural purposes, however, the applicant is intending to respect these practices and allow them to continue through the designation of the conservation easement and the provision of access to this area. Again, traditional beach and coastal access will be maintained and scenic and open space area resources will be preserved by this conservation easement and the existing proposed public access easements.

As I noted, the SHPD recommended two sites for preservation. These are identified as Site 7600 and 7603. 7600 is comprised of artificial concavities in the coastal shelf characterized as pre contact workshop or fishing sites. 7603 is comprised of five artificial concavities in stone characterized as grindings or bait cups also related to fishing. So this is a map of the project area and it shows the six documented archaeological sites. The two that will be preserved are located here within Maliko Gulch. This is a photo of the first site, Site 7600. This is the second site.

In terms of shoreline access, again the conservation area will be maintained as an easement and no development will occur within this area. Access to this conservation easement will be achieved through an existing public access easement located here which is identified as Easement A10 and two proposed easements which are a part of this new subdivision Easement 4 and Easement 10. These two easements provide access from Hana Highway to the Conservation District area.

In terms of socio economic impacts, the proposed project will support future development of the subdivision which would provide opportunities for small scale agricultural ventures. The lots will be maintained for agricultural purposes providing some opportunity for employment. There'll be no effect on the capabilities of existing police or fire services. The conservation area provides a positive effect on existing recreational opportunities.

In terms of infrastructure, a traffic impact analysis report was prepared and did project a slight increase in vehicular traffic in the area. However, this increase was not...did not warrant any mitigation measures. So none were recommended. Water will be provided by the private onsite well and the proposed distribution system and there'll be no effect on the capabilities of existing wastewater systems in the area. Drainage, again, will be retained onsite with the use of swales and drainage basins.

The project assessment report did undergo agency review. Various Federal, State and County agencies were given the opportunity to review the analysis and provide comment. And nonsubstantive comments were received.

Again, the applicant is requesting the approval of a Special Management Area Use Permit for the subdivision improvements for the Nalu Ola West Ranch Subdivision. And at this time, the project

team would like to open it up to any questions.

Mr. Hirano: Thank you, Brian.

a) Public Hearing

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

Ms. Lucienne de Naie: Thank you, Chairman Lay. Good morning, my name is Lucienne de Naie, I'm here as an individual. I did sign up to testify. I'm testifying on two items so may I have three minutes for each please?

Chairperson Lay: Yes.

Ms. de Naie: Thank you. First is Item No. C-2 which is the Special Management Area Permit for the Nalu Ola West Subdivision. I would like to point out to the Commission that this development is providing a public easement along the lands that were identified in the community plan as conservation lands and lands that should be outside any development range, and this is really wonderful feature. However, to my knowledge there is no, there's no one to defend this easement. It is not being conveyed to a land trust, maybe it will be conveyed to a homeowner's group sometime in the future. This is not really a strong way to make sure that the conservation objectives are met over time because you know, homeowners groups kind of sometimes regard these things as an imposition rather than as a privilege to take care of and they just become places where people dump their green waste and so forth and so on. So I would just urge the Commission to ask the landowners that a proper conservation easement that is held by an independent party such as a land trust be put in place so that there's continuity. I serve on the board of the Hawaiian Island Land Trust when it was Maui Coastal Land Trust and we held a number of easements, and we actually had to go and defend some. People would start activities that are not permitted in the easement and we had to go and talk with them. And there was never any lawsuits or anything but it's a set of eyes protecting this public interest. So that's an important feature.

The other thing about this project is that they are utilizing a private well system and there are some very important marine resources in this area in the vicinity of where the current watercress farm is. These are old taro loi. This land was claimed by Kaniela I'i, who was a, you know a famous person in Hawaiian history. There are Land Commission awards all along this gulch, Kanemoeala Gulch. And it is unclear of what the effects of pumping this well will have on the spring fed nearshore inputs. This is an important fishing grounds. Unfortunately on short notice I couldn't get any of the local fishermen to pry themselves away for 9:00 a.m. this morning. But I know people who do fish here. There are limu kala beds here which attract certain kinds of fish and this is just an unknown. What's customary to do in this case is to ask for before and after studies of the marine habitat so that if there are impacts from the wells they can be addressed by moderating the pumping.

Ms. Takayama-Corden: Three minutes.

Ms. de Naie: Thank you. If we have nothing then we'll know nothing. Thank you.

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

Ms. Wakida: Thank you, Lucienne. I had a question on your first item.

Ms. de Naie: Yes.

Ms. Wakida: You were recommending doing...on the fishing—

Ms. de Naie: Yes.

Ms. Wakida: Doing a study before and after of—

Ms. de Naie: Development. It's a very common condition.

Ms. Wakida: Wait a minute. Are you suggesting a study of the nearshore water or are you suggesting a study...what specifically are you suggesting a study of?

Ms. de Naie: What the studies encompass is they do a analysis of the nearshore waters. So they will look at the kinds of fish that are found there, the limu populations. Limu is very important for our fish, fisheries in the East Maui area. We have so few streams that run in the Haiku area that anytime we have groundwater input that's where the fishing is. You can ask any fisherman. I serve on the Fisheries Council here, so I hear from all the old timers. And you know, this is where you look to go fishing and this little particular cove is a favorite fishing spot of many. And the well, my understanding is kind of just up gradient of this and could be tapping some of the same underground aquifer spring sources because so near the coast your lower elevation aquifer that if you had a well like you know 1,000-foot elevation, it might be in a very separate aquifer. But near the coast, the aquifers are kind of merged because it gets, you know, the land mass gets skinny near the coast. It's not very deep. So the aquifers come out near the surface.

Ms. Wakida: Thank you.

Ms. de Naie: You're welcome.

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

Ms. de Naie: Thank you.

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

Chairperson Lay: At this time we're gonna open up to public testimony. If anyone wishes to testify, step up to the mic, you have three minutes to testify. Seeing no one, public testimony is closed. Commissioners, questions or comments? Okay, Commissioner Wakida?

Ms. Wakida: Well, I have a number of questions, but I would first like to ask Candace or maybe the developer to address the concern brought up in a letter from Charles Jacob and also an email from Hokoana, excuse me, regarding clear title?

Ms. Thackerson: The applicant can address both of those. I emailed him the email regarding the one we just received yesterday as well as testimony from Charles Jacobs.

Mr. Hirano: The applicant had submitted title information documents, warranty deeds with the application and all of the TMKs had corresponding warranty deeds, legal documents that established the ownership of that property in the application area to the owner. So you know, I mean those were submitted with the application as all applications are required to have in terms of documentation of land ownership.

Ms. Wakida: So the topic of...so the concern of clear title as you far you and the Department are concerned is not a concern?

Mr. Hirano: Not for the area of application.

Chairperson Lay: Commissioners? Commissioner Hedani?

(Sound system feedback)

Mr. Hedani: Apparently it's a bad question. I'm always the bearer of bad questions. Is the conservation easement area, the area that's currently occupied by a Native Hawaiian group that's claiming title? It's on the...it would be on the right-hand side of the access road to Maliko Gulch, I mean to the boat launch?

Mr. Hirano: This is the, Commissioner Hedani, the blue area is the conservation easement. This is the Maliko Gulch area in here and this is the access. So I'm not aware of any people settling in this area. It may be in the Maliko Gulch or further up.

Mr. Hedani: I'm referring to Maliko Gulch.

Mr. Hirano: Maliko Gulch?

Mr. Hedani: Yeah.

Mr. Hirano: This is the only piece of the Maliko Gulch that is in part of the application, this near the water.

Mr. Hedani: Right, is that area that currently has the flag planted where they're claiming ownership for the property?

Mr. Hirano: Yes.

Mr. Hedani: It is?

Mr. Hirano: Yes.

Mr. Hedani: Now you got me worried.

Chairperson Lay: Also that boat ramp is that part of the area that's in?

Mr. Hirano: Steve Robinson is the applicant and President of Makai Hana.

Mr. Steve Robinson: Yes hi, Steve Robinson with Makai Hana V. I'm sorry I'm having a hard time hearing. If you could repeat the question, I'd appreciate it.

Chairperson Lay: The boat harbor and ramp, who maintains that? Is that you along with the parking?

Mr. Robinson: It's mostly maintained by the users. There's not a lot of formal maintenance that's happening there now that's down in the gulch. You're talking about the ramp and launch?

Chairperson Lay: Yes.

Mr. Robinson: Yeah.

Chairperson Lay: And that's gonna be left open and--

Mr. Robinson: Well, there's been considerable conversations over the years relative to the stewardship of Maliko, and I know there have been conversations taking place with the County as well as other interest groups about the appropriate stewardship for that area. There's a lot of different interests down there and so we're just trying to come up with a system that you know, satisfies all the users and the public for that area.

Chairperson Lay: There's also a rodeo grounds in there also. Is that part of it or is that...

Mr. Robinson: The rodeo grounds is also part of this property, the former rodeo grounds, yeah. And has area the of occupancy I think that you brought up earlier.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: On the topic of easements could you...not the easement that's Easement 6, but the others could you clarify what is allowed on those easements? Are they...

Mr. Hirano: The easements are governed by the CC&Rs for the property. But Steve can you just talk about what those CC&Rs and what's allowed?

Mr. Robinson: Essentially, the...I don't know how you turn this pointer on, this easements right here are for vehicle access for the owners of the individual properties as well as this, these two easements here and which also provide access to the well house. There is an easement, a 15-foot wide easement between Lots 7 and 8 that provide pedestrian access out to the shoreline area as well as this easement A10 which allows again pedestrian access out to the shoreline area.

Ms. Wakida: So is Figure 3 incorrect? This map?

Mr. Hirano: Yes, Figure 3 was updated and I'm sorry that...apologize for not getting it into the staff

report, but when the applicant looked at the conditions of approval, proposed conditions in the staff report and recommendations from the Department in the map that you have with the staff report it shows that it's terminating here and not actually connecting. But trying to be in compliance with staff report and proposed conditions this recent amendment to the subdivision that was done to provide this easement so that there will be public access, two points of public access, one in the west and one in the east. So this map has this little piece in it that completes the loop.

Ms. Wakida: Okay.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: At the end of your easement—

Mr. Hirano: Yes.

Mr. Higashi: —toward the ocean, you have ample parking available for public access?

Mr. Hirano: The parking is in this kind of cul de sac, Commissioner and it doesn't go all the way through. This is pedestrian only. So the parking that will be provided Commissioner Higashi is in this area here for public.

Mr. Higashi: Is it similar to the one on the left, that access down to the—

Mr. Hirano: This is pedestrian, open to pedestrian, but it has been blocked for vehicular access because just for the management of this area. A lot of derelict sort of cars were dumped there, a lot of garbage you know was dumped in that area so the landowner, the applicant had cleaned this up. And in order to kind of monitor and just manage so the debris that would flow down to this area if it wasn't monitored and restricted to some extent, you know that's why they made that decision. Now there is right now anyone who needs to get public access for a vehicle down there have a number to call and somebody...and make arrangements to do that. But you know just to preserve the land and to keep it clean after the applicants have cleaned it up, they wanted to just restrict and manage and monitor the access that flows down there.

Mr. Higashi: Is that when you get to the bottom is that a cliff or is that access that you could go to the ocean for fishing?

Mr. Robinson: You can access, well I can access, there's probably people out there that can access other points but I'm kind of a wimp that way, you can access here and they access here, and I believe there's an access point right here that's been traditional and we've seen activity at.

Mr. Higashi: So to get to that point—

Mr. Robinson: To this point?

Mr. Higashi: —how do you get there? Park my car there and walk?

Mr. Robinson: Yeah, that's what we...you know, when we first made the decision to gate this which

was a complicated decision for us, but you know, I would speak to fishermen out here, I remember going out there one day, a fisherman had his car parked halfway over the top of the cliff and I said, you know, why do you hang your car over the cliff. Well, we gotta keep an eye on it because of the people back here, we don't want our car stolen. But we found at least anecdotally that the fishermen are much happier now having a cleaner, safer environment even though they have to walk a little bit. And if they want to call us, although we very rarely get calls for car, for vehicle access everybody seem...we saw guys out there yesterday and they seemed very happy to be walking in.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Just to follow up on a couple of items that were in the packet. One was...both of them were from the Department of Land and Natural Resources. One was in May of 2014 and the other one was in-

Mr. Hirano: November.

Ms. Wakida: -November saying you need to do something before you...have those been taken care of?

Mr. Hirano: Yes, the first letter they hadn't reviewed the AIS thoroughly I think on that, and they had some comments on it and then that was finalized in November 4th cleared it, but Mike Dega is available. I'll just let him provide the background to that.

Mr. Mike Dega: Hi, I'm Mike Dega from SCS Archaeology. We got a comment letter back from them. Basically we turned in a draft report on that first archaeological study. They had a couple of comments for revision. We revised it and November 3rd they accepted the archaeological inventory survey with the stipulation being to preserve two sites along the coast and that's where we are today.

Ms. Wakida: Okay, thank you.

Mr. Dega: Thank you.

Chairperson Lay: Commissioners? Commissioner Freitas?

Mr. Freitas: Can you show me where the bridge is, where that stream run under?

Mr. Robinson: Right here.

Mr. Freitas: Where the stream, the stream run--

Mr. Robinson: In Maliko?

Mr. Freitas: Yeah.

Mr. Robinson: The old Akau house is right down there.

Mr. Freitas: So that area where the fishermen go and what have you will act a little park that will be all sold off am I right?

Mr. Robinson: This is not being...no, this is being preserved as a open space for public. There's no access easement showing here because it abuts right up against the road so it has access.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: You probably heard a previous testifier with a couple of suggestions. One was to in order to protect the easement and monitor it and see that it's that way in perpetuity there was the suggestion to put it into a land trust or to make some other designation. I was wondering the applicant's ideas on this?

Mr. Hirano: You know,...yes, go ahead on the land trust.

Mr. Robinson: Relative to the eventual stewardship of the access easements and the shoreline easement, I think the specific question was relative to the access easements. You know we would love to have the appropriate steward whether it be the County or one of these other nonprofit groups. We can't obviously force them into accepting those easements, but that would be our objective to continue to work with those groups and find the appropriate steward either through them, through the homeowner's association or through a combination of both. But we're very open to that. We'd like to see that happen.

Ms. Wakida: I don't know if we're talking about the same thing.

Mr. Robinson: Oh, I'm sorry.

Ms. Wakida: Maybe we are. I think the suggestion was to allow another organization like the Hawaii Land Trust to be in charge of that easement in order to see that it's protected from misuse.

Mr. Robinson: Yes, we are talking about the same thing, but I can't, I can't guarantee they'll accept it, but you know, certainly we're gonna make that offer to one of those stewardship groups.

Ms. Wakida: Oh you are?

Mr. Robinson: Yes.

Ms. Wakida: That's good. I think that's what they wanted to hear.

Chairperson Lay: I have a question. On these access points are there gonna be signage saying that this is a public access area?

Mr. Hirano: I guess looking at the staff report and the proposed conditions there is some suggestion for the signage. So there will be appropriate signage put on these roads as part of their proposed condition, I think of staff's recommendation. So I think the applicant will work with the County, with the Planning Department as to what the appropriate signage would be for that.

Chairperson Lay: Thank you. Commissioner Hedani?

Mr. Hedani: This is a question for Steve. I applaud your efforts to create the easement for a public access along the coastline. I think that's fantastic. How many acres are you contributing toward that easement?

Mr. Robinson: I'll have to look it up. I have a number in my head, but I don't wanna give you the wrong number so if you'll forgive the break while we look it up.

Mr. Hedani: While they're looking that up that actually wasn't my question. The public access easement area that you're talking about encompasses some of the most beautiful lands on the island of Maui, scenic, rugged lands that are a resource to fishermen and others and me being one of them. I've actually climbed down the cliffs in those areas in order to get to the ocean. One of the things that people have right now or had up to the recent past to my knowledge was vehicular access to the area which you indicated was cut off. Is there a way to establish vehicular access to those easement areas and then have an appropriate parking area that could be monitored?

Mr. Robinson: You know, that's something that we've debated internally to some great extent and it seems that the vehicles are what brings the bad along with the good. So it's been quite a fine balance which is why we've tried to maintain appropriate vehicle access where you...we have a number posted right on the gate and it says, if you'd like vehicular access please call this number. We'd like some advance notice, but we have someone there on property that's there to open it up. And we found that at the very beginning we got, we got a lot of phone calls most of them were hoax calls, but we did get a few from fishermen and those calls have significantly died off. You know, a real concern is when we started working on the project just nearly four years ago, it is beautiful especially if you stand 1,000 feet from it, but as you get close, this is some pretty beat up, heavily impacted property with the dumping over the years, some of the vagrancy, you have needles, you know, and even you know, some of the fishing practices down there with guys trying to make money to feed their habits and things like that that were taking place and we've seen a significant scale back of that with the elimination of the vehicles. So you know, I think we've really tried to come up with a balance point that may not be a perfect balance point, but we really have to deal with the realities of some of the negative users you know, of historically of that property over the last years, but we're open to suggestions. But this is the balance point that we tried to settle in on, and we've met with a lot of the fishermen and as well as locals and we've heard you know, both positive and negative to our decision. But it seems to have really found a nice point of equilibrium right now. But again, we're open to that discussion.

Mr. Hedani: I guess my question would be from the area where they can furthest drive towards the easement what is the distance from that point to the actual easement area?

Mr. Robinson: Well, it will be significantly shorter once we put in the road. How long is the easement? The easement area is 29 acres by the way to get back to your original. It roughly I think goes, and I'll give you rough numbers while they look up the real number, I think it's roughly about a 1,800 to 2,000 square foot.

Mr. Esmeralda: Nine hundred.

Mr. Robinson: A 900-foot walk now to get to the nearest point and that would be along Easement 10 and that should shorten up to I think...so 900 feet will be the future distance, but right now it's several thousand feet that they walk off that old...the pine trees gate that we...where we put the gate at pine trees, well that's a couple thousand feet walk in. Depending on which direction you go eventually you'll be able to come up to the end of the drive and park there and it go down to about 900 feet.

Mr. Hedani: Okay. I don't fish for ulua so it's not a problem for me. I'll walk five miles to get to some place in order to fish the area that I wanna fish. Ulua fisherman have a couple of hundred pounds of stuff that they carry with them and that always becomes a problem when they're not able to...you carry 40 pounds, walk down 900 feet, and then you go back and bring another 40 pounds worth, you make five trips in order to get...is there a way to allow them to get to the area?

Mr. Robinson: I assume those guys are gonna call the number and have the gate open for them.

Mr. Hedani: Right, and then they would have vehicular access--

Mr. Robinson: And they have vehicular access and that way we have a record of who came, what the license plate number was, when they came in and when they left.

Mr. Hedani: Right. And that access is something that could be preserved in perpetuity?

Mr. Robinson: Yes.

Mr. Hedani: You know, once you sell the property to somebody else who says I changed my mind.

Mr. Robinson: I think that the mechanism of that is something we'll have to figure out within the CC&Rs. That's not a concept we've been opposed to. That's the way we're treating it now. Again, I think it gets very little usage, but we can certainly mechanism to try to keep that open.

Mr. Hedani: And I share your concern about abuse of the area because it can be abused, but it also can be a very valuable asset for the community if it's properly managed.

Mr. Robinson: Yes.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: One more question, Steve.

Mr. Robinson: They told me I wouldn't have to speak.

Ms. Wakida: Oh, we're full of surprises. This phone call, who answers the phone?

Mr. Robinson: Right now it's Alex Bodie.

Ms. Wakida: And that would be a person that's living there?

Mr. Robinson: He does not reside on the property full time, but he runs an organization called the ...(inaudible)...Association which is a tenant on the property.

Ms. Wakida: So he's available to come down and open the gate?

Mr. Robinson: Again, you know we try to get...I think the people that have been using it know, you know, try to give him a notice 'cause you can't call him at 6 o'clock in the morning and expect him to open the gate at 6:15, but I think it's all worked out pretty well. I mean, quite honestly the majority of the calls that we've received have been hoax calls just trying to get him out of bed in the morning.

Chairperson Lay: Tell me a little bit about Easement 7, the access to that? It's on the very tip of Lot 10. 'Cause I'm looking at different points for getting down there and that is another point that helps out a lot. The very ocean tip of Lot 10.

Mr. Robinson: I apologize the delay while we educate ourselves. That's simply part of the Conservation District. The lot, Easement 6 and Easement 7 there was a preexisting delineation there, I mean, underlying TMKs so that line didn't disappear so it's effectively a continuation of Easement 6. The big conservation easement, that's strictly a conservation easement with the same uses and description as Easement 6.

Chairperson Lay: Okay. Your distance on the shoreline from one easement to the next what is that about 1,000 feet?

Mr. Robinson: Between the two?

Chairperson Lay: Your access points on the bottom where you join your walkway, your pedestrian walkway, to the next pedestrian walkway. How far is that, a couple thousand feet? Not where you get from the car to ocean side, but from ocean side to the next point ocean side?

Mr. Robinson: That's about 2,500 feet, and there's an existing, you know, trail there now that goes from one to the other, the old ag road.

Chairperson Lay: Okay, when these people call you and they wanna know if they can bring their car down and if they can go. How far is that access across the bottom, I mean, how allowable would it be?

Mr. Robinson: Well, you can drive, you can drive all the way to top of Lot 8 once you get down to the...'cause that's the old ag road is there now.

Chairperson Lay: And then with these access points are you gonna allow camping?

Mr. Robinson: No, we're not. I don't think we're intending to allow camping but whatever the conditions of the CDUA and conservation land is now.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Where would somebody park if they're going fishing, Steve?

Mr. Robinson: If they're going fishing? Currently they park outside the pine trees gate. In the future they'll be parking, they'll park here or here. I'm sorry, on the mauka side of Lot 14 and 1 outside pine trees gate is where they park currently. And then once the road is constructed they'll have access to this point right there.

Mr. Hedani: And they can park along the road is what you're saying?

Mr. Robinson: Well, we can create and I think it was requested as an informal parking area, we'll just grade out a little extra and mow it so that there's parking.

Chairperson Lay: Commissioners? Commissioner Wakida?

Ms. Wakida: Would you please flag out not the top easement but the bottom one again, please? Is the Easement 2 on this map, it says Easement 2, goes across that. Can you drive, can a vehicle drive along there and park inside of that, at that juncture?

Mr. Hirano: Commissioner Wakida, I'm not sure.

Ms. Wakida: I'm looking at a vehicle entering in at-

Mr. Hirano: Here?

Ms. Wakida: Correct.

Mr. Hirano: This one?

Ms. Wakida: Wherever that is...this map is...(inaudible)...it's difficult to work. If a vehicle is going down to the first easement where do they leave the highway?

Mr. Hirano: Well, they park here. As we mentioned, there's a gate restricting vehicular access, but if the gate is open and the person wants to drive down there then they would drive down to here.

Ms. Wakida: And the other one, the other?

Mr. Hirano: The other easement is here. And then there is a cul de sac at the end of the easement and then there is this 15-foot pedestrian easement. So the person would park here and 15-foot pedestrian easement that would connect to the conservation easement.

Ms. Wakida: Okay, my question is if you back up that road-

Mr. Hirano: Up here, yeah.

Ms. Wakida: Stop halfway where that easement goes across-

Mr. Hirano: Oh, here?

Ms. Wakida: No.

Mr. Hirano: Okay, go ahead.

Mr. Robinson: This easement here?

Ms. Wakida: Correct. Can a vehicle go down there and then park and then walk the rest of the way?

Mr. Robinson: Well, there's a road in the cul de sac here. We hadn't really considered that, but probably.

Ms. Wakida: What is there now?

Mr. Robinson: What is here now?

Ms. Wakida: That easement is there a road there?

Mr. Robinson: No, this is fallow pineapple.

Ms. Wakida: Okay.

Mr. Robinson: This roadway exists right now.

Ms. Wakida: Okay.

Mr. Hirano: Just primarily internally this would provide access to this lot, you know, this driveway.

Ms. Wakida: I see.

Mr. Hirano: The roadways are...the main road this one's 40 feet and then the others would be 20 feet in width.

Mr. Robinson: They're 40-foot easements.

Mr. Hirano: Forty-foot easements and yeah, 20 foot pavement or gravel, I think on there.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I have one more item I wanna bring up that was brought up by the testifier and it was about a concern about the nearshore waters and any impact and doing a study before development goes in and then further on down the road. You want to respond to that?

Mr. Hirano: Well, I've discussed that with the applicant. I think there are two points that we'd like to make just in response. And I think there was also some discussion in the testimony in association with the well sites and the impact. The well site is in this location and it's about 5,000 feet or sorry, 4,300 feet from here to the ocean. So there's quite a distance between here.

For the...I think the concern the applicant has with respect to monitoring and doing water studies on the nearshore environment is that there could be so many other possible I guess source points of possible pollution and not what the applicant is doing in terms of grading the road and putting in the utilities. But, it would be very I think an onerous task for the applicant to monitor the nearshore waters and do an inventory of, you know, marine biology when there may be so other potential sources of impact on those in consideration of what and the scope that the applicant is actually carrying out on the property.

Chairperson Lay: At this time, I'd like to discuss their easement on as far as Condition 11, as what we're supposed to follow on that as far as the laws for State and for County as far as where easements are supposed to be for the subdivision?

Mr. Hirano: I'll ask Stacy, who's the civil engineer, but the subdivision and the easements are registered on title as easements. So there is a legal sort of instrument regarding the easements. The easements are also described in the CC&Rs in terms of the uses and the purposes for those easement which are part of...it is registered again on title to the property. Stacy, can you talk about how the easements are documented in the subdivision?

Chairperson Lay: 'Cause what we're looking at on that condition is every 1,500 feet as far as one access point to the shoreline to another access point to the shoreline for a subdivision?

Mr. Hirano: No, the easements are spelled out. At least these public easements are spelled out in the conditions of the SMA approval and the easements are also part of the official, it will be part of the official subdivision of this property.

Chairperson Lay: Deputy Director?

Ms. McLean: Thank you, Chair. I think what the Chair is referring to the subdivision ordinance that in general requires shoreline access every 1,500 feet during the subdivision process. But that provision also allows the Public Works Director to take certain factors into consideration. And this particular project we should clarify that these are existing lots. He's gone through the consolidation and resubdivision process already so the lot layout in the subdivision itself is done. That's an administrative process. What's before the Commission are the infrastructural improvements. So maybe Public Works can confirm that through the consolidation and resubdivision they did look at the provision of the subdivision ordinance and if those two easements were proposed as you're describing today that Public Works allowed the consolidation and resubdivision to go through with those two access points about 2,500 feet apart rather than the general 1,500 that's typically in the Code.

Mr. Hirano: Just to explain as well though this whole...this is a 30-acre easement that is being set aside for conservation purposes. This is the whole water frontage of the shoreline of the subject area. Access is provided at one point. Once you're in this easement you have complete access to the total shoreline.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess I can ask this of Mich since Steven is shy about talking. Mich?

Mr. Hirano: Yes.

Mr. Hedani: Ideally from my standpoint you don't wanna overburden the area with public access and make it crazy.

Mr. Hirano: Right.

Mr. Hedani: And have people dumping cars like Steve alluded to. From my perspective it would be ideal if vehicular parking were provided at the edge of the public easement area. A small controlled number of parking stalls that could be improved to the point where it's not impacting the easement area. Say five stalls at the end of each easement where it abuts the public easement or conservation easement?

Mr. Hirano: Well, this one Commissioner Hedani is sort from here which is 900 feet of a pedestrian walk there is proposed to have public parking in this area or parking in this area. It's this one that's probably the most problematic in terms of having some sort of more open public access, vehicular access. I think Steve, you know, is sort of the representative of the applicant and proposed developer of it. I think he has to discuss this and...

Mr. Robinson: Yeah, as we've discussed there's certainly two sides of this debate and I'm very...I understand you know your side of the debate and we've really tried to consider that. And yeah, I think during some of our initial research as looked at I think there's a Upcountry Greenway Plan, forgive if I've got the wrong label on that, you know, and what the original plan looked like and we've tried to incorporate a lot of those elements to the plan. And most of the walkways and everything else that we've seen you know, are non vehicular. And I do know that you know at least through anecdotally if you look at the use that we see a lot more pedestrian traffic than we do vehicular traffic that not specific to the fishermen and the fishing community, but also to dog walkers and everybody else that uses, you know, uses this property. I fall on the other side of the debate. We tried to again, hit that balance point. I don't like the idea of cars all the way down on that shoreline. Yes, it brings fishing equipment but it brings other less desirable product to the shore as well. You know if you walk the shoreline, if you've seen the shoreline we got refrigerators halfway down the pali, we've got, you know the gulches are full of stuff and that's all stuff that we've, I mean, we've hand swept glass, you know, it's a really, really impacted piece of property and you know, I think from my perspective and it's just mine is that from a stewardship standpoint, from an impact to the land standpoint it would be best to keep the vehicles away from the shore. Yeah, we have you know, ...(inaudible)... there as well. But it's a tough...you know, I completely respect the request. I probably would fall on the other side of that.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: I gotta agree with you about keeping the cars off the shoreline because I took over 100 cars off of that area and what do you call trash and what have you when we were cleaning that place up there was a car that came over there and they were doing, they were mainlining. They were shooting up. We witnessed it. So I tend to, not tend to, I agree with you that the cars should not be on the shoreline for those reasons alone. I'm very glad that this property now is gonna be occupied and be used because there was some crazy stuff that would be happening.

Chairperson Lay: For me the public access to the shoreline has always been important especially in that area because of its beauty, the abundance of fish. For me, taking my kids diving when they made that other area down the road we didn't have access to get down to the beach. We're actually walking through people's yards and wondering whether they're going to yell at us. So I'm glad that you did do this so we do have access and I appreciate what you have done with it.

Mr. Robinson: Yeah, either we can formalize the parking area out on Hana Highway and you know, if that would be helpful, but thank you for your comments. From the very, very beginning of this project we've understood, we've met with members of the community and asked them is there another access used, is there other, some other traditional access point, you know, we just...there wasn't and so that's where the access points were set at where they are 'cause that's what's being used and we just have not heard or seen I think because this property's been in cultivation for you know so long that there's just no other traditional access points left.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Well to some degree I agree with Commissioner Freitas. In the distant past, I'm talking when my brothers were young, entertainment for them was taking an old abandoned car, setting it on fire and driving it over the cliff.

Chairperson Lay: That's before T.V.

Mr. Hedani: And that's the kind of stuff that Jack is talking about. You end up with cars at the bottom of the cliff that are a hell of a problem to try to tow away. They actually dissolve in the ocean is what they did, but to some degree I agree from that perspective and I think what you've struck to some degree is coming up with a reasonable balance which I think is what we're looking for. The last question that I have is have you had any discussions with the Native Hawaiian groups that are occupying the property in Maliko Gulch?

Mr. Robinson: I can say that I personally have not had direct conversations with them. That conversation avenue hasn't been open to me. I don't think they're my biggest fans. I know that there's some questions relative to ownership that have been discussed within the court system. I believe those questions have been answered now. You know, I think it's our objective again is just you know for the appropriate stewardship and open that property up for all of the community to use and because I think Maliko provides so much opportunity untapped you know for the community to use.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I agree. Because you have now found two of most secret and cherished fishing spots.

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

Ms. Thackerson: For Condition No. 11, I'd like to add an amendment to Condition 11 just so that it correctly reflects the maps that were shown by the applicant. I don't even think it's on this map entirely. There's another easement gonna be connecting from...past through Lot 1, right?

Ms. McLean: Just to back up Candace while we're putting the map up. Condition 11 right now only specifies the one easement on the eastern side. The easement between Lot 7 and 8 we wanted to add an amendment so that the condition also includes that other easement along the eastern border of Lot 1.

Ms. Thackerson: Yeah, because the staff report right now contains as Penny was saying, as Commissioner Wakida saying the incorrect map. So I wanna make sure the condition reflects what's shown here on this one. So what it says, "That to the satisfaction of the Department a shoreline public access easement, a minimum of 15 feet in width dedicated to the County or responsible conservation organization shall be provided from the northerly tip of Easement No. 4 to Easement No. 6, and along the easement boundary of Lot 1 to Easement 6 as well." So I'm just gonna add that language, "and along the eastern boundary of Lot 1 to Easement 6 in Condition No. 11.

Subject to that amendment the Planning Department recommends approval based upon the 17 conditions as listed in the report. In consideration of the foregoing, the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the January 27, 2015 meeting as its findings of fact, conclusions of law and decision and order and to authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Chairperson Lay: Commissioner Medeiros?

Mr. Medeiros: I move to approve the recommendation of the Planning.

Mr. Freitas: Second.

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

Ms. Wakida: I'm sorry Candace you went a little fast for me. Did you said that the Condition 11 wasn't going to include the easement between Lots 7 and 8.

Ms. Thackerson: No, it was going to--

Ms. McLean: It already does.

Ms. Thackerson: It already does include. So at the time that the applicant, the map that was in the staff report at the time that that was given, as you can see in Exhibit...Figure 3 that you were talking about earlier, it just kinda ended, it didn't go all the way, it didn't connect all the way up. So the Planning Department recommended that that easement connect.

Ms. Wakida: Right.

Ms. Thackerson: As been shown by the applicant, the easement now does connect all the way through. So technically this condition has been satisfied. However, they did also add along the eastern boundary of Lot 1 to Easement 6. So this easement right here, I just need to make sure

because it's not reflected in the map that's on here, so I wanna make sure I reflect it somewhere in the writing. So I just added the words, "and along the easternly boundary of Lot 1 to Easement 6" 'cause this is Lot 1. Just so that it's all in here correctly.

Chairperson Lay: Can...Commissioner Hedani you had something to say?

Mr. Hedani: I have a question.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Candace from all of the conditions that are imposed on this property right now, where did you envision parking for beach access?

Ms. Thackerson: I did mention...there's parking mentioned in Condition No. 11 somewhat. I know there's parking along Hana Highway right now. It does say, furthermore, the northerly end of driveway Easement No. 4 shall be graded and maintained to facilitate informal parking for the pedestrian access easement connecting to Easement No. 6 and the shoreline. So that was the one that we were talking about that on the other side, not that shorter one, but that longer one where they were saying they have the turn around at that point. I mean, that's where we had kind of envisioned it going.

Mr. Hedani: So from your perspective parking could occur along the length of Easement No. 4?

Ms. Thackerson: Yes it could.

Mr. Hedani: For the entire length of Easement No. 4 up to that point?

Ms. Thackerson: I mean, once you start parking cars along it, now you're limiting other people's access as well as the road gets more narrow. I, too, am not really a fan of cars along the shoreline and getting to close to the shoreline.

Mr. Hedani: No, I'll agree. I'm just saying if you look at it one way you have a controlled parking lot, you can limit the number of cars that are in there five cars, ten cars whatever you decide. If it's parking along Easement No. 4 for the length of Easement No. 4 you could have 150 cars parked along Easement No. 4, and then the neighbors in this particular area are gonna start to get crazy and then the parking disappears altogether.

Ms. Thackerson: That would be up to the Commission to phrase some kind of parking requirement should that be imposed.

Mr. Hedani: Okay.

Chairperson Lay: Follow up on the parking. At the harbor at the bottom in Maliko Gulch with that boat ramp and everything there is parking still gonna be allowed there 'cause that's an access point too? Okay. Commissioners, any more questions or comments on the motion on the floor? Seeing none, can I get the Deputy Director to repeat the motion?

Ms. McLean: The motion is to approve the issuance of a Special Management Area Use Permit subject to the 17 conditions in the staff report which includes the amendment to Condition No. 11 to add the shoreline access point that's along the eastern boundary of Lot 1.

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

Ms. McLean: Seven ayes.

Chairperson Lay: Motion carries. Congratulations.

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

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

**VOTED: To Approve the Special Management Area Use Permit as Recommended by the Department with the Amendment to Condition No. 11 to Add the Shoreline Access Point That's Along the Eastern Boundary of Lot 1.
(Assenting - J. Medeiros, J. Freitas, M. Tsai, W. Hedani, S. Duvauchelle, P. Wakida, R. Higashi)
(Excused - K. Ball)**

Chairperson Lay: Commissioners, are we starting our next agenda item or do you wanna break for lunch early?

Ms. Flammer: My applicant has her baby here it be nice if we could take–

Ms. McLean: Gina's asking if we can try to do it–

Ms. Flammer: If we could just do it now so they can bring the baby home for the nap.

Chairperson Lay: Oh, okay. Moving onto our next agenda item.

Ms. McLean: Commissioners, your third public hearing item is a request from Melissa Pierce and Jordan Kolton for a State Land Use Commission Special Use Permit to operate the Lilikoi Retreat Bed and Breakfast, a one-bedroom B&B located in the State Agricultural District at 2120 Lilikoi Road, TMK: 2-7-022: 032 in Haiku. Gina Flammer is your Staff Planner.

3. MELISSA PIERCE and JORDAN KOLTON requesting a State Land Use Commission Special Use Permit in order to operate the Lilikoi Retreat Bed and Breakfast, a one (1)-bedroom bed and breakfast located in the State Agricultural District at 2120 Lilikoi Road, TMK: 2-7-022: 032, Haiku, Island of Maui. (SUP2 2014/0009) (G. Flammer)

Ms. Gina Flammer: Okay, thank you. Good morning. Thank you for taking this item. They really appreciate it. So we have today the State Land Use Commission Special Use Permit which is

associated with a Bed and Breakfast Permit. The Bed and Breakfast Permit there were no triggers for a public hearing so we're here today just for the ag permit as we call it. The B&B is for one bedroom. The house that we're looking at today was built in 2001. It was purchased by the applicant in 2010, and in the area that's to be used for the bed and breakfast was the remodel that was done in 2012. The applicant's father is an architect so he designed the area for himself to live part-time. So the permit request is for when the father-in-law is not there.

In terms of the agriculture, this is one of the few applications that we have where it's actually a commercial agriculture operation. So I'm gonna go ahead and show you some photos and then if you have questions afterwards, we have the applicant here. So we're looking...it's Haiku. Liliko'i Road if you're not familiar if you're coming down from Makawao a little bit before Giggie Hill it's a U-shaped road, very flat area through there. It's a flag lot. So here's the entrance to it. Very easy to find, well especially with the sign. You can see the road, easy to get in and out. Very rural, agricultural area. Here we have the property. The bed and breakfast area is above the garage. So it's this area that's right here. It's a bedroom, a living room and a bathroom and there's a floor plan in your staff report if you're interested in that. I wanted to just show you some pictures of what it looks like. Kinda nice the balcony overlooks the ag area. And then here's the inside, the living room area. There is no kitchen. It's just the living room area. You have a bedroom and then you have a bathroom. Very simple.

I wanted to show you the site plan just so you can see how much agriculture is going on this property. And then the farm list I wanted to show you which is quite extensive. Some of this changes due to demand. You'll see in the letter that was just handed out to you, sometimes the applicants get...he gets requests for certain products and then he will grow those products. This was for my site visit. First time I've actually seen agricultural workers when I've showed up for a site visit. And then I'm just gonna quickly go through just to show you some photos to give you an idea of what's going on there. There's quite a wide variety and it's a good example of what we call diversified agriculture. Very different than the mono crop. There's our applicant here. I have to tell you those were delicious carrots. I got to eat a couple that day I was there. They have eggplant. Lots of banana on the property. You can see some tomatoes, papaya, kinda wherever they could put anything they did, and then just to show where the equipment is. He's got the little nursery where he can grow some seed. And then he's got a citrus orchard as well.

So in terms of the application itself there were no comments from the State Office of Planning. Real Property Tax did not have any comments and there were no police reports with this property. In terms of public notice, the Bed and Breakfast application do require that at the beginning when the Department receives the application that notice go out to the neighbors. I didn't receive any comments. I didn't even get phone calls this time. Then again, there's a notice mailed for the SUP to adjacent neighbors, again, I didn't have any comments. And then there's also a newspaper notice which is published in the paper, and again, there was no comments, no emails, anything from that. And then I did receive a letter from one of the businesses the applicant supplies stating that he supplies 75 percent of all the produce and he's now growing other things to help with their needs. And then I have the applicant here in the front should you have any questions.

a) Public Hearing

Chairperson Lay: At this time I'm gonna open up to public testimony. If anyone wishes to testify

please step forward. You have three minutes to testify. Seeing no one, public testimony is closed. Commissioners any questions or comments? Commissioner Wakida?

Ms. Wakida: This was a pleasure to have this application. This is exactly what I like to see. This is a serious, extensive farm. The owners will be on property. They want obviously this is gonna be...the B&B will supplement the farm activity. So it's exactly what I like to see an application from an ag area.

Ms. Flammer: Thank you. I should have noted also that the applicant has two other jobs. As you know, farming isn't a very...you don't become wealthy. Yeah, it's no lucrative. The hope is that the income that will brought in will allow him to focus a little bit more on the agricultural activities.

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

Mr. Hedani: I'm not sure if this is for Gina or for the Deputy Director. Not pertaining to this particular applicant, I agree with Penny's comments relative to this application. When I'm out shopping, when I'm driving around, when I'm in the community down in Kahului, tied up in the middle of traffic, and I'm noticing traffic and congestion becoming more and more of a problem affecting everyday life of everyone on the island. And the question that I have in my head is does the Department have an opinion as to whether or not the current guidelines 400 hotels spread across these areas, 100 hotels spread across area, does the Department have an opinion as to whether or not the number is correct?

Ms. McLean: Are you referring to the cap?

Mr. Hedani: Right.

Ms. McLean: For the B&B and Short-Term Rental cap?

Mr. Hedani: Right.

Ms. McLean: We haven't even gotten close to reaching those caps for B&Bs or Short-Term Rental Homes. And when we...in discussing those ordinances with Council and the potential impacts to them the general understanding is that whether those homes occupied by short-term visitors or long-term tenants or owner-occupants, the impacts are generally the same. Certainly visitors drive different places than residents do, but overall in terms of density or occupancy if you will, it's still residential occupancy whether it's short-term or long term.

Mr. Hedani: Okay, that's a good answer, but it didn't answer my question. What is the caps right now?

Ms. McLean: The total caps—

Mr. Hedani: Is 400?

Ms. McLean: —400 B&Bs, 400 short-term rentals.

Mr. Hedani: So we're talking 800 total?

Ms. McLean: Yes.

Mr. Hedani: Is that the correct number in your opinion?

Ms. McLean: That's a policy call that was established by the Council. We administer that ...*(inaudible)*...

Mr. Hedani: I see. Okay.

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

Mr. Freitas: I'd like to make a comment. Haiku where this young man is farming is a very hard place to farm. That soil is very, very bad. The job that you have done is outstanding. I'd like to compliment you.

Chairperson Lay: I live right above you and I have to agree with Commissioner Freitas. I have a number of plants that didn't make it. I try, but the soil isn't that good. It's really porous, it flushes through because it rains so much. You've done a good job. Commissioners, any more questions or comments? Seeing none, can we get the Department's recommendation?

b) Action

Ms. Flammer: Sure. The Department is recommending approval subject to the seven standard conditions that you normally see. Again, I wanna remind you that our last condition is that the farm plan remain implemented throughout the duration of the permit, and evidence is required when they submit. I don't think in this case we really have an issue with that, but it's still in there and part of it.

So with that being said, we recommend to the Planning Commission that you adopt the Department's report and recommendation prepared for today's meeting, January 27, 2015 as your findings of fact, conclusion of law, and decision and order and that you authorize the Planning Director to transmit said written decision and order on behalf of the Planning Commission.

Mr. Higashi: So move.

Mr. Freitas: Second.

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

Ms. McLean: To approve the State Special Use Permit subject to the seven conditions in the staff recommendation.

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

Ms. McLean: Seven ayes.

Chairperson Lay: Thank you and congratulations and good work.

Mr. Kolton: Thank you very much.

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

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

Chairperson Lay: At this time, I'm gonna break for lunch everyone, and return at 1 o'clock.

A recess was called at 12:00 p.m., and the meeting was reconvened at 1:05 p.m.

Chairperson Lay: ...in order. Commissioners, what we're gonna do, we're gonna change our agenda a little bit. We're gonna go from C-4 2 which is the next one coming up, and then we're gonna go to F-1. We'll take care of the small stuff first hopefully, and then we can go onto the other stuff after that. Is everybody all right with that?

Commission Members concurred.

Chairperson Lay: Okay, our next agenda?

Ms. McLean: Thank you, Chair. This is your last of four public hearing items today. A request from Charlene Casserley for a Land Use Commission Special Use Permit in order to operate the Island Sunset Villas Short-Term Rental Home.

Ms. Wakida: Wait.

Unidentified Speaker: I thought you said F-1?

Chairperson Lay: No, that's the next one after. C-4 and then after.

Ms. McLean: C-4, and then F-1.

Chairperson Lay: Excuse us.

Ms. McLean: Just doing what you said. A request from Charlene Casserley for a State Land Use Commission Special Use Permit for the Island Sunset Villas Short-Term Rental Home, a five-bedroom short-term rental home located in the State Agricultural District at 674 and 676 Holopuni Road at TMK: 2-3-060: 054 in Kula. Danny Dias is the Staff Planner.

4. MS. CHARLENE CASSERLEY requesting a Land Use Commission Special Use Permit in order to operate the Island Sunset Villas Short-Term Rental Home, a five (5) bedroom short-term rental home located in the State Agricultural District at 674 and 676 Holopuni Road, TMK: 2-3-060: 054, Kula, Island of Maui. (SUP2 2014/0008) (D. Dias)

Mr. Danny Dias: Thanks, Deputy Director McLean. Good afternoon, Chairman Lay and Members of the Maui Planning Commission. I don't really have anything to say on this project. I think it's pretty straight forward. The applicant is basically asking for a Special Use Permit in order to operate a short-term rental. The short-term rental will occur in a main dwelling and then an accessory dwelling and that's why you have 674 and 676 as the address. With respect to their farm plan it was reviewed and approved and field verified by our Zoning Division around April of last year. So with that I'm just gonna turn it over to the applicant's representative Chelsey Hill for about a five-minute presentation. Thank you.

Ms. Chelsey Hill: Thanks, Danny. Deputy and Commissioners, I'm Chelsey Hill. Just before I start the Power Point presentation I wanted to explain this which the applicants handed out. There's a pile of them over there. This is an innovative mac nut cracker. You place the nut in the hole and smash it with a rock or a hammer and there's one for everybody if you'd like to take one home. These are just one example of or addition to the fruits and vegetables that the applicants sell on their property or from their property.

So the property is located in Kula. It's specifically a little... or a neighborhood called Kula Glen that comes down from Kula Highway and you can see by the map where it's located in this agricultural area. This is a site plan of the property. I'm sorry that the actual structures are very, very faint and almost impossible to see but this is the main dwelling here and this is second farm dwelling here.

The farming goes on all over the property. This part here is the newest orchard that was implemented early last year of figs, fig trees that a lot of them took beautifully and some didn't and were replaced with papaya trees. You'll see through the slides all the farming that goes on on this property. In this area here which this property by the way is very, very rocky. It's rated C64 so recommended only for grazing. The applicant has farmed this property for 26 years and she and her six children have removed countless stones by hand and built rock walls and so on, just to keep farming the property. This is the access from Holopuni Road and this is a fruit stand on the edge of the road, and this is looking up the driveway. So it's coming up the driveway some of the fruit trees already starting. Cherimoya there.

This is the main dwelling and the rooms inside the main dwelling. There are three bedrooms and three bathrooms. It is obviously currently not being rented for short-term. This is the second farm dwelling and the interior. It's two bedrooms, one-bathroom.

And the rest is about the ag. This is a farming family. Like I said, they've been removing rocks and farming this property for 26 years. This is a list of what they're currently farming and they brought a sample of this produce for you today, the star fruit and yacon as well as the macadamia nuts. It was tough to decide what to bring to you today because they do have so much. They started...one of their earlier projects was palms, cultivating palms which they ordered from the Big Island and

planted and sold through special order and also from their roadside stand. They've practiced all kinds of different farming but never used pesticides. They've been organic and GMO free from the very beginning. This is a grafting of an avocado tree. The avocado trees that they planted were not producing so they acquired some saplings I guess they're called from another farm in Kula that was producing really beautiful avocados. There's some banana, lychee, some of what we've been sampling today, mango, cherimoya, ...(inaudible)...limes, this is the area in front of the house where an orchard, the most recent planting. Actually it's no longer the most recent planting. They've planted...they've started another orchard on the other side of the driveway. This is looking at it from the other direction. Some of the healthy plants, the ones that made it, and the ones that replaced the figs that didn't make it. Very healthy papayas. It's the fruit stand. Safe pull out area for said fruit stand. And in keeping with the neighborhood this fruit stand is just down the road a couple of driveways. This is some of the rock projects. In this area over here, this has been cleared and you can't see them very well in this picture, but these are new citrus plantings. The applicant has hired a horticulturalist ...(inaudible).....I can't remember his last name, who's actually helping them figure...this used to be a pasture for miniature horses and since then it's been the duck pasture. They raise free range ducks, but they're clearing it and planting it in addition to that and this is where mango trees according to the advice of ...(inaudible)... will be...they do well on a little slope like that. And so...this is some of the rock walls that...

Oh, house policies. Basically I think the one thing that's a little different is that they wanna do week to week stays and they want to rent predominantly to families because they feel that that would be...this is a good family type of vacation place. And week to week to limit all of the rigmarole that happens with constant check-in and check-outs and they can continue farming the property.

Agency comments. No comments from the State Office, no comments from the Real Property Tax and there were no police reports for this property.

There were two response letters to the letters that were sent out to the neighbors within 500 feet of the property. And they were letters in opposition to the...or to the permit approval, and both letters were responded to by the applicant in person. And that's it. Thank you.

a) Public Hearing

Chairperson Lay: At this time, I'm gonna open up to public testimony. If anyone wishes to testify, step forward, identify yourself, and you have three minutes.

Ms. Hill: Also, the applicant and owner of the property is here to answer questions.

Chairperson Lay: Seeing none, public testimony is closed. Commissioners, any questions or comments? Commissioner Freitas?

Mr. Freitas: Yes, you have little over two acres. I'd like you to bring back that list of stuff that you're growing on the farm. That's an awful lot of stuff for three acres especially when you get to the trees. I live on two acres and I have a house, a smaller house than that. So you don't have a lot of any particular planting. It's just basically I would refer to like hobby gardening because you have...you don't have like ten mango tree orchard or 100 coconut trees. It's, it's...I am right?

Ms. Hill: That there is a variety of different fruit is definitely right. That it's a hobby farm, is pretty mild way of putting it because these guys do this full time.

Mr. Freitas: How much money did they generate last year and paid 4 percent tax on?

Chairperson Lay: Please identify yourself, please.

Ms. Charlene Casserley: Last year was about four grand. I'm sorry, my name is Charlene Casserley, the owner of the property. You're correct there is...we do have a lot of variety and a diversified thing, orchard. Working...first to answer your question. We earned about \$4,000 on the produce last year. We have 45 trees. The trees that we're continuing to put in are basically dwarf citrus which produce in a very small area. We're putting in about 10 of those. We'll have 8 new mangoes and probably 6 new avocados. And though that may not seem significant, it is a challenging area to farm, it is.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Yes, so our Planner which she's doing a good job, she said that it is a full-time operation. You cannot live on \$4,000. It's basically what I would consider a hobby farm which is okay.

Ms. Casserley: Right.

Mr. Freitas: How much money do you intend to generate in two years?

Ms. Casserley: In two years, well not significantly more than we are now because trees that we're now planting will take a little while to mature and develop, but we're putting in things like Tahitian limes which have good value because of a lot of restaurants and bars are interested in the Tahitian limes. Avocados, mangoes and citrus all do really well as papayas do. We can sell...we sell a boatload of things right along the side of the road as well as you know, the farmers market and local stores. We sell to Mana Foods. We get to four to five dollars a pound for figs.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: I understand, but the amount of land that you get you cannot generate a living. I understand that. I understand the value of all of what you're saying. I understand all of that totally, but what I'm saying is you cannot generate enough money to sustain even keeping up with the property, and appreciate that. Thank you.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: The applicant, what's her name? Ms. Casserley?

Ms. Casserley: Yes.

Ms. Wakida: Are you raising the ducks for slaughter?

Ms. Casserley: Yes, mostly for meat. There is an issue with the hygiene with the eggs and we just decided just to keep those for family and friends.

Chairperson Lay: Commissioners? Commissioner Hedani?

Mr. Hedani: Charlene, The two opposition letters from your neighbors–

Ms. Casserley: Yes.

Mr. Hedani: –how did you respond?

Ms. Casserley: They were worried about traffic on the road. Currently now with full-time renters in the property we have six to seven cars on the road at any...I mean, on the property at any given time. And really with two rental properties, we'll probably have maybe two cars at the most. So I don't believe there'll be more traffic. I believe there'll actually be less traffic. They had concerns about water use. We've been...we've had drip irrigation for more than 20 years. I actually think the water use will go down. People don't wash their cars or as many clothes and do all those other things that you would do if you lived their full-time. What else were they concerned about? I think they were concerned about noise. I have actually been a property manager for more than 20 years and if you screen people really, really well, you really don't...you get good clients that come in or good people that come in. I can't think of something else that they were concerned about. Oh yeah, and I lived there up until this last year. And I moved five minutes away to our other farm so I'll be really close if there's any issues.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I guess my question is were their concerned addressed? Obviously they're not here today. Were their concerned addressed to the point where they were satisfied?

Ms. Casserley: They never came back to me. I told them I concerned whether I had long or short-term rentals. If there was any problem, you know, I would like them to tell me so that I could address them. And I responded to both of them with the letters. I haven't actually walked by and talked to them and they've never contacted me. I left them my phone number, my email. So I haven't heard back anything.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: The Kula Glen Subdivision does it have CC&Rs that are prohibitive of any short-term rentals?

Ms. Casserley: You know, nothing's ever really been implemented in that neighborhood. We've all...you know, there are things in the neighborhood saying you can't have a three-story building or things like that, but there really hasn't been any issues, so I would say no.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: Young lady, you said that you have six rentals on there now?

Ms. Casserley: No, no, no we have a main house and we have a cottage. We have six children.

Mr. Freitas: Oh, I heard you said six cars.

Ms. Casserley: Well, yes that people are in the...living in those things there a lot of cars on the property because there's a lot of people who drive on the property currently.

Mr. Freitas: So you...

Ms. Casserley: So the people, the tenants in the cottage have four cars.

Mr. Freitas: I see.

Ms. Casserley: And there's probably five cars at the main house. There's quite a few cars on the property.

Mr. Freitas: I understand how they have traffic.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Yes, you currently have long-term renters?

Ms. Casserley: I have long-term renters in the cottage. They came as a young family. They've been there for 12 years. They now have three adolescent children and they live in 700 square foot cottage and they've pretty much outgrown the, outgrown it, and they've just told me recently that they are planning to move to Washington where they have family. They haven't given notice, but that's what they said. In the main house, my daughter and her family came over to help us with the farm. She's an RN in Kaneohe at Castle and she commutes back and forth and her husband helps us on the farm.

Ms. Wakida: So my question is why have you decided not to have it...have long-term renters?

Ms. Casserley: Well, we have four of six children live off island and they come several weeks or many weeks out of the year to help us with the farm and to visit. And with long-term rentals we'd have absolutely no place for them to stay. With a short-term rental we can block out if there's a time when they come home, work the farm, and have a place to stay helping on the farm.

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

Ms. Wakida: Just one. It's for Danny. On Page 10 of the report, maybe it's...it's probably just a misstatement on No. B, the response to be because there's two dwellings, right?

Mr. Dias: Correct.

Ms. Wakida: So when you say the dwelling will be required to be rented to a single group, you're really talking each dwelling?

Mr. Dias: Yeah, the word should be "each", each dwelling will be required.

Ms. Wakida: Okay.

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

b) Action

Mr. Dias: The Department of Planning recommends approval of the Special Use Permit subject to seven standard conditions.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Move to approve as recommended.

Chairperson Lay: Motion by Commissioner Tsai?

Mr. Higashi: Second.

Chairperson Lay: Seconded by Commissioner Higashi? Any questions or comments on the motion on the floor? Commissioner Freitas?

Mr. Freitas: I'm gonna vote to deny this motion and the prime reason is we're taking a long-term unit that has been long-term rental for 12 years out of the rental market which we need what do you call long-term rentals. And also, I've been on that road, I know the traffic issue. I can see how the neighbors would have a concern with the traffic.

Chairperson Lay: Any more? Commissioner Tsai?

Mr. Tsai: I'm voting to approve this based on judgement of the Planning Department. And also too, I agree with the fact that if this is used as weekly rental, it wouldn't be such a increase in traffic and also definitely not much less, lot less cars and vehicle traffic with that scenario.

Chairperson Lay: Any more discussion on the motion? If not, can we get the Deputy Director to repeat the motion?

Ms. McLean: The motion is to approve the State Special Use Permit subject to the seven conditions in the staff recommendation.

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

Ms. McLean: Two ayes.

Chairperson Lay: Those opposed?

Ms. McLean: Five noes.

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

**The Motion to Approve the Land Use Commission Special Use Permit FAILED.
(Assenting - M. Tsai, R. Higashi)
(Dissenting - J. Medeiros, J. Freitas, W. Hedani, S. Duvauchelle, P. Wakida)
(Excused - K. Ball)**

Ms. McLean: So Chair that means that that particular motion fails.

Chairperson Lay: Motion fails. Does anyone else wish to make another motion? So you guys understand the options, right? Then a motion to deny if a not a motion to approve, and if not, Corp. Counsel what happens if we don't?

Mr. Hopper: Item would be deferred. You'd wanna...you would need to take action to deny the permit and state the reason for that as a body to give guidance to the Department for the preparation of a decision and order which would be contrary to the staff report.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: I move to deny the motion, the Special Use Permit and the reasons previously stated by myself.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commission Freitas to deny. Seconded by Commissioner Medeiros. Any discussion on the motion on the floor? Deputy Director wishes to address.

Ms. McLean: Thank you, Chair and I apologize if this is an inappropriate question and I haven't discussed this at all with Danny or with the applicant, but I didn't know if another option for the Commission might be to consider approving just one of the units rather than both. So just putting that out there. I apologize if that's an inappropriate question. I'll leave it to the Commission on that point.

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

Ms. Wakida: I voted to deny because of exactly what the Deputy Director pointed out. I don't like to see a long-term rental being thrown out and I would entertain one of the dwellings being short-term rental so that the other one could remain in the long-term rental pool, but that obviously is up to the applicant.

Chairperson Lay: Any more discussion? Commissioner Hedani?

Mr. Hedani: I'd like to echo the comments of Commissioner Wakida. In this particular case we have an agricultural subdivision, we haven an agricultural farm dwelling, we have agricultural accessory dwelling, and both dwellings are being committed to transient vacation rental. The accessory farm dwelling by definition is supposed to be a farm dwelling for the people that work on

the farm. I think in this particular case the Deputy Director is correct. Possibly they could consider coming back with a revised proposal but to me going for rental of both properties or both dwellings on the same property goes against the spirit of the agricultural subdivision law that allowed the second dwelling.

Chairperson Lay: Any more discussion on the motion on the floor?

Mr. Hopper: I'd like to note for the record. I mean, if there's a denial, it's a denial of the application. I don't think a new application can come in. There may be a time limit. If that is something of interest to the Commission you could consider either tabling this motion and asking for a deferral to see a presentation of one dwelling. Again, I don't know if that's of interest to anybody on the Commission, but I would caution against a denial at this point because once the denial, once you do the vote, that will trigger other things, it will be harder to undo that. You'd have to go through amending or adopting...you know, amending something previously adopted and a decision and order would be rendered and that would be appealable and would trigger a lot of things. If the Commission's will is to deny this, deny this permit and there's no chance of a separate type of application on this property then so be it. But if there's going to be an entertaining of alternative proposal I would probably caution against denial at this point until something like that's considered. I don't know offhand if there is a time limit if there is a denial. If another application can just be filed with one dwelling. But my instincts are that that's generally not something that is permitted because the denial would encompass both dwellings and would also result in a decision and order that would be issued by the Commission in writing. So that's just a word of caution there. It's up to the Commission how it wants to go, but that will, I think to a large extent, close the door on the idea of an alternative proposal at least for a while.

Chairperson Lay: That's only if they get the votes for the denial, but right?

Mr. Hopper: That's correct.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Well, based on that obviously I'm voting against this motion to deny the application and I...personally I feel that perhaps you know I'm in agreement with Commissioner Hedani's comments, but also I think to keep it consistency with our previous applications where there's plenty of ag land with houses we approved for short-term rental, B&Bs and so forth, and I'm definitely interested in, you know, pursuing probably a partial rental for the units if the applicant chooses to.

Chairperson Lay: Commissioner Higashi?

Mr. Higashi: I, too, who seconded the motion to approve would like to also say that I'd like to reconsider from the standpoint that I think the applicant should take a look a second time and reconsider their application and then come back to the board and make a presentation based upon the fact that they're now be considering either somebody staying permanently in a dwelling and the other being a worker's dwelling might change the view of the Commission.

Chairperson Lay: Commissioner Higashi, I mean, Hedani, excuse me. Wrong end of the table.

Mr. Hedani: We look alike. I have more gray hair though. Danny, is the applicant even interested in separating the two dwellings?

Ms. Hill: Requesting permission to address the Commissioners?

Chairperson Lay: Granted.

Ms. Hill: Just to...I'm not sure how it works, but in the name of saving time and money and energy is it possible to...so given that the applicant has agreed to relinquish part of her application for the short-term rental, in other words, relinquish the smaller cottage and have that be short...excuse me, have the cottage or the second farm dwelling, the smaller of the two be long-term could we do something today like issue a condition rather than having to go through the whole process of reapplying and taking up precious Commission time?

Chairperson Lay: We were just discussing that, but we're gonna have to take care of the motion on the floor first and then we can move onto that.

Mr. Hopper: Just would like to note because it could be relevant to your vote. I don't necessarily see a problem with the Commission approving a less intense use meaning it be as if someone applied for a five-bedroom vacation rental and they approved the use of two bedrooms. That's different than if someone applies for five bedrooms and you grant ten. There's an agenda notice, there's notice to neighbors. This would be a less intense approval so I don't necessarily see a problem with the Commission acting to approve only of the two dwellings today. I think that's relevant information. As far as what that would be or with what conditions, we can maybe have a recess and discuss that, but I don't think there has to be a brand new application from the beginning to do that provided it is a less intense use that's being approved. That has been done before in other meetings I know.

Chairperson Lay: Okay, at this time we'll take care of the motion on the floor. Any more questions about the motion or discussion? If not, can we get the Deputy Director to repeat the motion?

Ms. McLean: The motion is to deny the permit.

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

Ms. McLean: Three ayes.

Chairperson Lay: And those opposed?

Ms. McLean: Four noes.

Chairperson Lay: Make it five. Okay. Motion fails.

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

**The Motion to Deny the State Land Use Commission Special Use Permit FAILED.
(Assenting - J. Freitas, J. Medeiros, W. Hedani)**

(Dissenting - M. Tsai, S. Duvauchelle, P. Wakida, R. Higashi, I Lay)
(Excused - K. Ball)

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Motion to approve the application, so that will be a condition or—

Mr. Hopper: ...(inaudible)...recess to craft a motion.

Chairperson Lay: Yeah, let's call for a recess so we can discuss this so we can make the motion. We're going to recess right now.

Mr. Hopper: Danny, if you could find help with wording...(inaudible)..dwelling or something like that to come up with a more specific way so that it's clear what's being approved. I just didn't want that happen on the floor. You can discuss with the applicant and then maybe have a revised proposal I think that would be helpful.

Chairperson Lay: Okay, we'll take a short, five-minute recess.

A recess was called at 1:40 p.m., and the meeting was reconvened at 1:46 p.m.

Chairperson Lay: ...is now called back to order. Danny you have the floor.

Mr. Dias: Thank you, Mr. Chair. I believe the Deputy Director has a suggestion for a condition.

Ms. McLean: In talking with Corp. Counsel there are two options if the Commission chooses to go in the direction of approving one of the dwellings. One option would be to make a motion to approve with an additional condition that the permit applies only to the three-bedroom main farm dwelling and that no other short-term rental use shall be permitted on the property. Or the Commission could vote to defer and the Department could prepare a revised report and recommendation at a future meeting potentially the next meeting, I'm not sure what the calendar looks like on the next meeting that applies just to the single dwelling and then the Commission could consider that at that time.

Chairperson Lay: Commissioner Tsai?

Mr. Tsai: Well, in the interest of time for everyone here, I'd like to make a motion to approve with condition that the approval applies to the main house, main dwelling.

Mr. Higashi: Second.

Mr. Hopper: Including the language that no other short-term home rental use shall be permitted on the remainder of the property?

Mr. Tsai: Yes.

Mr. Hopper: Yes. Okay.

Chairperson Lay: Agreed by the maker of the motion and the seconder of the motion. Any discussion on the motion on the floor? Commissioner Wakida?

Ms. Wakida: Danny, is that...I had hoped to hear from you first, but is that what the applicant would like?

Mr. Dias: Yeah, they're agreeable to that for a few reasons. One is that the access dwelling is what they're actually renting out long-term. The main dwelling is really the one that I believe the applicant's daughter lives in now and that's the one that they want to keep you know, open so that their...you know, they have six children so their children can come back and visit. So I do believe that they're agreeable to that.

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

Chairperson Lay: The motion is to approve the State Land Use Commission Special Use Permit so that it applies only to the three-bedroom main farm dwelling and that no other short-term rental use shall be permitted on the remainder of the property and also subject to the other seven conditions in the staff recommendation.

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

Ms. McLean: Six ayes.

Chairperson Lay: Those opposed?

Ms. McLean: One no.

Chairperson Lay: Motion carries. Congratulations.

Mr. Dias: Thank you.

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

VOTED: To Approve the State Land Use Commission Special Use Permit to Apply Only to the Three-Bedroom Main Farm Dwelling and That No Other Short-Term Rental Use Shall be Permitted on the Remainder of the Property and Also Subject to the Other Seven Conditions in the Staff Recommendation.
(Assenting - M. Tsai, R. Higashi, J. Medeiros, W. Hedani, S. Duvauchelle, P. Wakida)
(Dissenting - J. Freitas)
(Excused - K. Ball)

Chairperson Lay: Our next agenda item?

Ms. McLean: Yes, Commissioners as the Chair stated we're going to jump ahead to Item F-1 and this is Proposed Findings of Fact, Conclusions of Law and Decision and Order denying the request for a Short-Term Rental Home Permit by Steve and Janna Schlag in order to operate Azure, a four (4) bedroom short-term rental home operation located in the R-3 Residential District at 45 West Mahi Pua Place, TMK: 4-4-018: 015 in Lahaina. Livit Callentine is the Staff Planner.

F. ADOPTION OF WRITTEN DECISION AND ORDER

- 1. Proposed Findings of Fact, Conclusions of Law and Decision and Order denying the request for a Short-Term Rental Home Permit by STEVE AND JANNA SCHLAG in order to operate Azure, a four (4) bedroom short-term rental home operation located in the R-3 Residential District at 45 W. Mahi Pua Place, TMK: 4-4-018: 015, Lahaina, Island of Maui. (STWM T2013/0011) (L. Callentine) (The Commission took action on the permit request at its January 28, 2014 meeting.)**

Ms. Livit Callentine: Good afternoon, Commissioners. Livit Callentine from the Planning Department. I don't have a presentation for you. I'm just here to answer any questions you may have and clarifications you may need.

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

Mr. Hopper: In order to vote on this by the way, you should have all...and I'm not sure, I think everybody was present during the meetings with the exception of Commissioner Higashi. But to vote on this you would have had to review the entire record and the case prior to voting that's general either been present for the meetings or reviewed the minutes. If you've not done that, then you can excuse yourself from voting, but presumably you've all either attended all the meetings on this, read through the staff report and other relevant documents and/or had a chance to review the minutes if you didn't actually attend the meeting.

Chairperson Lay: Commissioner Higashi, I know that you weren't here for that meeting are you comfortable with voting on this or would you wish to recuse yourself from this?

Mr. Higashi: At this time, I've looked at the majority of the Commission and based upon they vote if it's a decision on what go one way or the other I will definitely participate.

Chairperson Lay: Thank you.

Mr. Hopper: And this is to vote to adopt the findings, conclusions, and decision and order. If you had any changes to it or wanted anything else noted as part of the decision you could add that, if not you can take a vote to adopt that as your written decision.

Chairperson Lay: Any questions? Comments? Call for the vote then? Is there a motion to adopt? I need a motion to adopt.

Mr. Medeiros: Second.

Chairperson Lay: I need a first.

Mr. Hopper: You're the first.

Chairperson Lay: You gotta be number one. You can't be number two. I can't --

Mr. Medeiros: I'll move.

Chairperson Lay: Motion by Commissioner Medeiros.

Mr. Hedani: Second.

Chairperson Lay: Seconded by Commissioner Hedani. Any discussion on the motion? And for clarity, we'll have our Deputy Director repeat the motion.

Ms. McLean: The motion is to adopt the proposed findings of fact, conclusions of law, and decision and order as presented in your packets.

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

Ms. McLean: That was four ayes.

Ms. Duvauchelle: I will excuse myself, I wasn't there.

Mr. Hopper: You need five ayes.

Ms. McLean: Chair, there were four ayes. Do you wish to vote?

Chairperson Lay: I will vote and I am in favor.

Ms. McLean: Five ayes.

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

**VOTED: To Adopt the Proposed Findings of Fact, Conclusions of Law and Decision and Order.
(Assenting - J. Medeiros, W. Hedani, M. Tsai, P. Wakida, I. Lay)
(Dissenting - J. Freitas)
(Excused - K. Ball, S. Duvauchelle, R. Higashi)**

Chairperson Lay: Okay, back to our regular agenda.

Ms. McLean: Commissioners, we are on New Business under Item D-1, a request from Dee Coyle, Project Manager of KBHL, LLC for an Environmental Assessment Determination on the Final

Environmental Assessment prepared in support of the SMA Use Permit for the Plantation Inn Redevelopment Project to demolish the existing structures on Parcels 36 and 44; consolidate Parcels 36, 38, and 44; construct a two (2)-story guest building with 14 rooms; create separate 9-stall and 14-stall parking lots with driveways; construct accessory hotel improvements, install landscape plantings, required infrastructure and utility systems at 174 Lahainaluna Street, TMK: 4-6-009: 036, 038, and 044, Lahaina. Candace Thackerson is the Staff Planner. Again, what's before you today is acceptance of the Final Environmental Assessment. If the project proceeds then the Commission will at a later date consider the SMA Permit itself. Candace Thackerson, once again.

D. NEW BUSINESS

- 1. MS. DEE COYLE, Project Manager of KBHL, LLC requesting an Environmental Assessment Determination on the Final Environmental Assessment (FEA) prepared in support of the Special Management Area Use Permit for the Plantation Inn Redevelopment Project to demolish the existing structures on Parcels 36 and 44; consolidate Parcels 36, 38, and 44; construct a two (2)-story guest building with 14 rooms; create separate 9-stall and 14-stall parking lots with driveways; construct accessory hotel improvements, install landscape plantings, required infrastructure and utility systems at 174 Lahainaluna Street, TMK: 4-6-009: 036, 038, and 044, Lahaina, Island of Maui. (EA 2013/0002) (SM1 2013/0008) (C. Thackerson) (Draft EA reviewed at the January 14, 2014 meeting.)**

The entity who will decide on the acceptance of the Final Environmental Assessment is the Maui Planning Commission.

The EA trigger is the location of the subject property in the Lahaina National Historic Landmark District.

The public hearing on the Special Management Area (SMA) Use Permit will be conducted by the Maui Planning Commission after the Chapter 343 process has been completed.

Ms. Candace Thackerson: Yes, once again. Good afternoon. Let's see, so you guys reviewed, the Commission reviewed the Draft EA back on January 14, 2014, and the Commission's five comments from that meeting were forward to the applicant by letter dated February 6, 2014. The applicant's revisions and responses to the Commissioner's comments are in your Final EA document and are clearly marked in red. The Planning Department has reviewed the Final EA document and finds that pursuant to the Department of Health, Office of Environmental Quality Control, the document meets the requirements for a Final EA. The applicant has prepared a short presentation to go over the different adjustments made and revisions for the Final EA.

Mr. Jordan Hart: Good morning, Commissioners. My name is Jordan Hart of Chris Hart & Partners here to present the project. As Candace stated this is the redevelopment of the existing Plantation Inn in Lahaina. I understand it's been a long day so I'm gonna try and go as fast as possible

through these slides. It's a Final EA so it's a disclosure document so there's a lot in there. And so, I'm gonna move quickly if that's okay.

So the TMKs are 2-4-6:009: 036, 036, and 044, Lahaina, Maui. The applicant and owner is KBHL LLC, the representative of the owner is Ms. Dee Coyle. She's here in the gallery today. Architect for the project is Steven Heller. Chris Hart & Partners is planning consultant. The civil engineer is Kirk Tanaka and the archaeological consultant is Scientific Consultant Services, Mike Dega is here in attendance.

This is a combination of four parcels or three parcels. Parcel 036 is .67 acres, Parcel 038 .15 acres, Parcel 044 is .20 acres. This is a total land area of 1.02 acres. The property is on the block bounded by Lahainaluna Road on the north side, Wainee Street on the east side, Panaewa Street on south side, and Luakini Street on the west. State Land Use District for all parcels is Urban. Community Plan Designation for Parcel 036 and 044 is Hotel, 038 is Business/Commercial. The Zoning for Parcel 036 and 044 is HM-Hotel, and Parcel '38 is B-2, Community Business. The project is located within the Lahaina National Historic Landmark District. It's within the Special Management Area, and it's designated Flood Zone X.

This is the location of the existing Plantation Inn Hotel. This is Parcel 044 which is the Agena residence. This is 036 which is the...I'm sorry, 038 which is the former Trilogy office. This is a County Historic District map, this is Historic District 1 in grey on the right side. Historic District 2 on the left in beige. The parcel or the project is mauka of that. It's not in any of the Historic Districts but it is in the Lahaina National Historical Landmark District. That's this larger black border here. It's also shown in this key here. This is the trigger for the environmental assessment.

The existing conditions on Parcel 036 is the existing Plantation Inn Hotel. It's a two-story building with 19 guestrooms, Gerard's Restaurant, landscape courtyard, pool, spa, paved and a gravel parking lot. And there's also a 11-stall parking lot, detached...sorry, it's offsite parking that's provided in excess. It's at the corner of Panaewa and Luakini Street. The Ishikawa, again, a residence later became the Trilogy office is abutting the Plantation Inn to the northeast, that's Parcel 038. It currently serves as security monitoring station for the hotel as well as flower garden nursery to restock their landscaping. The former Agenda residence and barbershop on Parcel 044 serves as storage for the hotel. Here is the survey. This is Parcel 038. The primary Parcel -036 in the middle which includes the existing hotel and the gravel parking lot. Parcel 034 which is the former Agenda residence and barbershop.

This map was created as request of the State Office of Planning. This illustrates the parking configuration of the current conditions. Parcel 044 currently offers no parking. I'm sorry, the gravel lot on Parcel 036 provides approximately 24 unlined stalls. There are also 4 paved stalls on the west end of that parcel, 10 paved stalls at the east end, and then 1 and 3 stalls at the south end. Parcel 38 provides no parking. And then this map here on the right side indicates the relationship to the separate parking parcel that the Plantation Inn has.

These are photographs of the project site and the streetscape around. This is...No. 1 is from Lahainaluna Road facing south. This is Gerard's Restaurant on the ground level. Building 1 close up facing south again, Gerard's. This is the lobby of Building 1, reception area again, facing south, Gerard's Restaurant facing north from the interior. This is the courtyard looking over the pool facing

south. This is from the back end on Panaewa Street facing north looking at the west entrance of the property. Close up of Building 2 facing south. Building 2 guest rooms and lanais and these are typical...those are typical lanai scenario. Overlooking the pool facing east. Looking over the courtyard facing west. Overlooking the gravel parking lot on Lahainaluna Road facing east. And then this is a view of the offsite 11-stall parking lot facing north. This is the Ishikawa, again, a residence which later became the Trilogy office that's at the northeast corner of the existing Plantation Inn Hotel that you can see here. This is the Agenda residence. On the backside you can see the existing Plantation Inn Hotel here. This is the former structure that was a barbershop. These are some streetscape photographs. Lahainaluna Road facing east, Lahainaluna Road facing west. Panaewa Street facing east and then a view towards Luakini Street facing north.

So this project has happened in a number of phases and I'll try and go over some of those because this third phase is kind of a carryover from a previous proposal that was approved but then was allowed to lapse. Phase 1, 1987, the existing Building 1, seven rooms, Gerard's Restaurant, lobby, reception pavilion, and parking and landscape improvements were constructed. Phase 2 was built in 1990, that's the existing Building 2 that's 12 rooms, and the courtyard with pool, spa and parking and landscape improvements. The proposed Phase 3 which is we're proposing a reiteration of Phase 3. That was a new Building 3, 14 guestrooms, one building alteration, courtyard, parking, landscape, infrastructure, and utility system improvements.

In 1998, and in 2005, the Maui Planning Commission approved an SMA Permit for Phase 3. The Plantation Inn allowed the SMA Permit from 2005 to lapse. That was the Phase 3 and basically what happened is they were gearing up and then there was a lull in the economy and they started to second guess things and then in that timeframe they were able to purchase the Trilogy parcel from the operators of the Trilogy and that caused them to basically be able to gain more space on their master plan and so they went back to the drawing board, redid their master plan and this is new proposed Phase 3 is being presented now. And so this is an illustration of the similarities of the project. This was the original approval in 1998. This was the later approval in 2005 which is very similar to the current proposal with the exception that now there's additional parking that can be provided here. So as stated earlier, the project is not in the County Historic Districts, but it is in the Lahaina National Landmark...National Historic Landmark District. And so that really tied into the design considerations for the project. The architectural elements have been designed to be consistent with the Historic District Standards for Lahaina including the Architectural Style Book for Lahaina and the Lahaina Historic District Design Guidelines.

The proposed buildings and structures, signs and lighting will continue to maintain the architectural theme and historic character of the Plantation Inn. Appropriate energy and water conservation measures have been examined including but not limited to energy efficient lighting, appliances and air conditioning, low-flow plumbing fixtures, fiberglass wall and ceiling installation, double glazed windows, and extended roof eaves to minimize heat gain through windows. The applicant intends to install photo voltaic roof mounted PV system. Now this is obviously pending MECO's approval of a proposal at the time of construction. But at this time, they are proposing it. They have already constructed a significant solar installation at their sister property, the Kaanapali Beach Hotel in Kaanapali that's been completed just this past year. And so they are interested in reducing their own operating costs and so it's definitely a desire, but it's contingent on later approvals that happen towards the building permit issuance. All exterior landscaping and lighting will be compliance with Maui Code 20.35 which is intended to shield and down...(inaudible)...to prevent light pollution and

affecting the seabirds.

The proposed scope of work includes demolition of the existing residences on Parcel 38 and 44. Parcels 036, 038 and 044 consolidate and resubdivide the parcels into a single lot in order to provide road widening lots. Parcels 036 and 044 construct a two-story guest building with 14 rooms. Parcel 038 build an 11-stall parking lot with a one-way only entry from Lahainaluna Road. Parcel 044, construct a 9-stall parking lot with a two-way drive on Panaewa.

Related work and improvements, install new landscape planting and irrigation, provide required utility line connections and/or modifications, improve road widening lots along the Plantation Inn's frontage of Lahainaluna Road and Panaewa Street with pavement, curb, gutters and sidewalks. Parallel stalls will be provided on Lahainaluna Road. Now this has been a pending Public Works approval of the construction plans so it looks like it's available at this time, but they're gonna have to draw up the entire road right of way on a construction level and have that reviewed and approved. And so it's not completely possible and determined that's gonna be available at this time. Demolish existing pool and spa, adjacent pool deck and construct new pool and spa. Interior improvements to the Plantation Inn existing pavilion area will provide new entry, lobby, reception area as well as additional storage and utility space. Construct covered lanais along the west side of the Plantation Inn building fronting Lahainaluna Road.

The estimated construction cost is \$4.6 million. Construction is expected to take 20 months and will be undertaken in the three phases shown here. Demolition of structures on Parcels 038 and 044; construction of offsite adjacent improvements to Parcels 038; interior improvements to existing Plantation Inn building; build an 11-stall parking lot/driveway; and install and/or realign utilities. This is a five-month phase. Phase 2, construct lanai on the west side of the Plantation Inn building; demolish and rebuild existing pool, spa, and adjacent pool deck; install new landscaping pool area, three-month phase. Phase 3 is build the two-story guest building; construct a nine-stall parking lot and driveway and install landscaping; build offsite and adjacent area improvements for Parcel 044, install and/or realign utilities; erect a perimeter fence this is a 12-month phase.

These are the updated architectural plans. Comments that we received were to include a bike rack at the project site. The bike rack is now installed at this location. Additionally we were requested that we clearly identify the ADA accessible unit which is this unit here.

This is the project's landscape plan. The landscape plan was reviewed and approved or recommended for approval by the Urban Design Review Board. I'm gonna go over the trees that are included. These are the primary plant material, Pink Tecoma, Hong Kong Orchid, Areca Palm, Loulu Palm. Shrubs are Ohai Alii, let's see, Natal Plum, Blue Plumbago, Seashore Paspalum, El Toro Zoysia. Water conservation measures: Use drip irrigation, rainfall sensor devices, low-flow emitters, evening watering schedules. Organic mulch will be provided in planter beds to retain ground moisture and reduce evaporation. Maintenance staff will periodically inspect the irrigation system to repair leaks and to resupply planter beds with mulch. I just want to back up and acknowledge that Russell Gushi is the landscape architect for this project and this is his design.

This is the exterior elevations for the proposed Building 3. Additional comment that we received from the Urban Design Review Board is that we use the narrow window shape that's consistent with the Lahaina Design Guidelines and so that was done. The window fixture was changed for that

face of the building. This is exterior elevation of Building 1. This is the lanai that's gonna be added to Gerard's. This is the existing Building No. 2, this is gonna be remain unchanged.

This is an excerpt from the preliminary engineering engineering plan. It illustrates the roadway improvements. There was discussion with the Planning Commission the previous time we were here about improvements, the road right of way and the road frontages as well as the one-way entrance on Lahainaluna Road. And so this figure just calls out those locations. As stated earlier, our proposal is to provide parallel stalls on Lahainaluna Road pending Public Works final approval.

This is a slide to document the EA process. The trigger is Lahaina National Landmark District. The Draft EA and anticipated Finding of No Significant Impact were proposed in the December 8, 2013 issue of the Environmental Notice. The EA and SMA Major application were concurrently submitted for review and processing. The Draft EA was distributed to various government agencies and the Maui Planning Commission. Maui Planning Commission meeting to review the DEA was in January 14, 2014. All substantive comments received on the Draft EA have been included in the Draft Final EA that you're reviewing now along with the replies. This is the Maui Planning Commission meeting to review and provide any additional comments on the Final EA and to ideally accept the Final EA as it is for publication.

This is a list of the government agencies that provided nonsubstantive comments. In a lot of ways it does say a lot of things because it means that these agencies have no problem with the proposal. This includes the State Department of Health. Their only comment was that the applicant and the contractor verify whether or not NPDES or noise permits are required. State Department of Transportation has no comment for the project with the exception of noting that DOT permits are required for oversized and overweight materials going on state highways. State Department of Accounting and General Services, Survey Division has no comment. The County DOT has no comment. County Department of Environmental Management provided Code compliance and nonsubstantive statements about the project in their review of the proposed wastewater system. County Department of Water Supply provided code compliance and nonsubstantive comments with regard to the project's water supply and system. Public Works, Development Services Administration had no comment at this time. Fire also had no significant comment with the exception that they reserve the right to comment further during subdivision and building permit processing. State Office of Planning requested the parking layout that was provided. Police Department clarified that the developer is responsible for securing security for the site during construction and demolition phases to prevent crime and to ensure safe vehicular and pedestrian movement and that a plan for construction and demolition should be provided to limit impacts on Lahainaluna Road and Panaewa Street and the applicant has committed to that. The Urban Design Review Board requested bike racks, consider energy and water conservation measures which were discussed. Requested the change to the rear window which is done and shown in the plans. The Planning Commission requested the identification of the ADA accessible unit; examining parallel parking on Lahainaluna Road and the effect this may have on traffic; reevaluating peak traffic hours in the area, examining the effects of the intersection of Lahainaluna Road with regard to the entrance on Lahainaluna Road, and that the...basically look at a minimum of 40 percent of the proposed project's energy use to come from renewable energy sources.

Historic Hawaii Foundation...this slide relates to the treatment of the existing residences. So Historic Hawaii Foundation basically asked for further information and analysis of those residences

and so we've done that at this time. We provided a HABS Level III analysis of both residences. Those are provided in the Final EA. SHPD Architecture noted that demolition of the buildings will negatively affect the Historic Landmark District. And as mitigation, they request that the HABS Level III Studies be done and those were done. SHPD archaeology noted that the archaeological assessment has been conditionally accepted and that revisions have been received and are pending review and that the archaeological monitoring plan will be required. So the applicant has made their resubmittal of the archaeological assessment and they made a submittal of their archaeological monitoring plan some time ago and SHPD's comment is pending on both of those items. Planning Department, Long Range Planning Division noted that demolition of these homes will detract from the Lahaina National Historic Landmark District which is currently listed by the National Parks Service as threatened due to loss of historic resources from the demolition of or intensive alteration.

And so as a result of this and...well, as a result of many things specifically these structures and our meeting with the Planning Commission went to see the Cultural Resources Commission. The Cultural Resources Commission required that a HABS Level 3 be...for both structures be completed prior to the issuance of a demolition permit for the project. And the encouraged the applicant to obtain grafts for the Hayden Mango trees and to utilize the grafts in the new landscape for the proposed project. So at this time, the Plantation Inn has collected seven saplings. They are going to make grafts of the trees. It's most likely that these grafts are going to be shared with staff members and things like that. The reason for this is that the Maui County Planting Plan does not actually provide for fruiting trees in landscape plans and so it kind of precludes that. Another item that was raised by the Cultural Resource Commission was that consider not removing a Common Mango Tree. However, if it is removed use the wood for Native Hawaiian cultural practices such as the Kaanapali Beach Hotel Makahiki Festival. Ernie Rezens, a certified arborist was consulted for the Common Mango tree and the determination was that it's not worth saving and so because of that it's most likely that the wood will be used at one of the Makahiki Festival events at the Kaanapali Beach Hotel. During the tree removal observe Native Hawaiian cultural protocol. The applicant has committed to doing this.

And then the CRC also expressed the overall concern about SHPD's letter and the Lahaina National Historic Landmark District and the designation due to redevelopment of the Lahaina Town. And so, the applicant acknowledges this and this is an ongoing situation and there definitely needs to be a comprehensive plan about what's gonna happen in Lahaina Town. At the time this application was filed there's no special instructions or restrictions for applicants on doing these kinds of things. I should also note that back in 2005 when the applicant filed for their change in zoning, the demolition of the Agena house proposed and that the demolition permit was actually issued back in 2005, but because they basically second guessed whether or not to proceed with the project they didn't act on that. And so, a conclusion from SHPD Architecture and from CRC has been that the HABS Level III studies are gonna be adequate documentation in order to mitigate the loss of those two structures. And so that's what we've done and that's what we're proposing.

Regarding the project assessment this is a infill development and it involves the expansion of preexisting entitled land uses. It's compatible with the surrounding development in the area and will not alter existing land use patterns. No rare, threatened or endangered species of flora or fauna on the subject property are known to exist nor does it contain any critical wildlife habitat. Best management practices and compliance with applicable regulatory requirements to help ensure

natural and manmade environment will not be adversely impacted by the construction activities will be observed. It does not lie within any scenic view corridors nor does possess any significant natural features.

The archaeological assessment received conditional approval in late 2012. It was resubmitted in November, sorry, in December of 2013. That final review is pending. It should be stated that no significant cultural deposits were uncovered during that study. The monitoring plan was submitted to SHPD in February 2013. It's pending approval. Monitoring will occur at the project for all ground disturbing activities. Cultural impact assessment report for the subject property notes that the construction of the project is not expected to have an adverse effect on the cultural beliefs, practices, resources or gathering rights of the project area. Former resident, Brigadier General Clarence Merton Agena (retired) and his aunt, Nancy Agena were interviewed for the cultural impact assessment. They former residents of the Agena residence. Neither General Agena nor Nancy Agena recall any Hawaiian cultural practices taking place on the property and do not feel the project will have a negative cultural impact on the vicinity. If during ground disturbing activities human skeletal remains are uncovered, the applicant's contractor will immediately contact SHPD Maui.

The proposed project does benefit the economy in various ways including direct construction jobs, hotel, operational jobs, as well as tax base transient accommodation tax. The applicant was subject to a 2005 change in zoning where the workforce housing...it wasn't workforce housing at that time, it was affordable housing where their affordable housing requirement was established. They did participate in a West Maui project to construct affordable housing and the Department of Housing and Human Concerns has verified that their obligation is complete with regard to that subject.

Estimated average daily domestic irrigation demand for the project is 39.53 gallons per minute while fireflow requirements are 1,500 gallons per minute. The project is served by six existing water meters and has adequate supply for the proposed use. A new fire hydrant will be installed along the Lahainaluna frontage. And there is an existing, there's an existing hydrant on Panaewa Street.

Talked about some of the water conservation measures for the landscape architecture. Sewer system for the project will consist of property sewer service manhole and a 6-inch PVC sewer pipe as well as single service lateral which will connect to existing 8-inch sewer line on Lahainaluna Road. The average wastewater flow for the proposed project is 4,200 gallons. The Department of Environmental Management did not express any objection to our proposed...to this. One hundred percent of the increase in post development storm water runoff will be retained onsite.

The Planning Commission requested that we double check our assessment of when the peak traffic flow in this location occurs. Phillip Rowell, our project traffic engineer is not available today but he did complete a supplemental study which is included in the Final EA. He concluded that the...he expanded his study times as shown here. He concluded that the peak for the project occurs at 8:45...between 8:45 and 9:45 a.m. and between 4:30 and 5:30 p.m., a maximum of 12 trips are gonna be generated by the project in the p.m. hour. There was also concern on the relationship between Wainee and Lahainaluna intersection and the project's Lahainaluna Street one-way project entrance. We didn't have the dimension at our last meeting. It's actually 315 feet away from the entrance of the project site the intersection is, and so there's no anticipated effect from that

distance. Construction management and demolition management plan will be implemented in order to mitigate traffic impacts. There's no anticipated effect of the level of service for related intersections as a result of parallel parking stalls fronting the project site, and these would be public parallel parking stalls and not project stalls.

Based on the analysis provided, we respectfully request the Planning Commission accept the Final Environmental Assessment for this project. Thank you very much.

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

Mr. Hedani: Do we actually vote on this item or is it just comments?

Ms. McLean: Yes, Commissioners your action today would be to issue the Finding of No Significant Impact, to accept the Final Environmental Assessment and there will be a vote, yes.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: I need to recuse myself from voting because Kaanapali Beach Hotel is member of Kaanapali Operations.

Chairperson Lay: Okay.

Mr. Freitas: So move to accept.

Mr. Medeiros: Second.

Chairperson Lay: Any more questions? Commissioner Wakida?

Ms. Wakida: Well, there's a motion on the floor.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Okay, I'll start with the picky stuff first here. In your slide presentation you said former residents Clarence Agena and Nancy Agena were interviewed for the cultural impact assessment. When was that done the cultural impact assessment? It's it under...the reason I'm asking is because Clarence has been dead for 15 years. So I just don't...I'm wondering if it's just misstatement there.

Mr. Hart: Our consultant Jill Engledow prepared the cultural impact assessment report. I'm not certain. I don't have a reply to that comment specifically I'm not sure if here's an additional Clarence Agena that's being referred to or not.

Ms. Wakida: No.

Mr. Hart: She certainly...

Ms. Wakida: No, no, no. It's the same Clarence Agena. I knew him. I think it's just that you've just misstated here in this project assessment because they weren't interviewed recently that's for sure. I mean, you've got right in here that he died in 2000, so but they may discussed their property at some earlier time, but before his death.

Mr. Hart: I just a comment from the project manager. She believes there's a son with the same name who exists.

Ms. McLean: Jordan, if I may?

Mr. Hart: Yes.

Ms. McLean: I'm looking at the cultural impact assessment which is Exhibit H in the document. It indicates that there's a Brigadier General Clarence Merton Agena who was the couple's oldest son. There were interviews conducted in 2012. The gentleman who passed away was Clarence S....and this is just according to the document. Clarence S. Agena and then there's a Clarence Merton Agenda who was 68 years old in 2012, who was referenced as the couple's oldest son.

Ms. Wakida: Okay, thank you.

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

Ms. Wakida: Could you go back to your...on your slide, your picture of the aerial view right at the beginning, the photo? That one. Thank you. How many of those trees are gonna get cut down?

Mr. Hart: I think that many of trees in this vicinity here are gonna be removed. I would say probably most of them because this...I would probably say all, all the trees that you can see in this area with the exception of the trees that are existing landscape that may be able to be preserved are gonna be removed and that's because it's gonna be reconfigured as a parking lot, but it will be replanted with shade trees compliant with the County Code.

Ms. Wakida: Well, I'd like to have you look at one of your site photograph of the Ishikawa residence and notice all that shade. And that has taken years and years for that tree to grow. One of the charms of Lahaina is that it has a lot of old growth trees and they really contribute to the beauty and charm of that area. It takes a long time for those trees to get big. In addition, this is extremely hot in the summer and other times of the years of course, but right here and it would behoove the developer to try and keep that shade not only to cut down on the heat buildup in that area for their own purposes and everybody else, but also just to add charm to these development and to try to work around the base of that tree and leave it in the parking lot.

Mr. Hart: Okay, if I could make a suggestion. I completely recognize what you're saying and I do want to note that we're gonna be coming back for an SMA Major Permit after this document is published ideally. And obviously the Planning Commission has the ability to affect projects at that time as well. And so, well....in regards to the Final EA I was curious if maybe we could look at that the EA as it's published and then perhaps the Planning Commission had wanted to make comments on like the landscape plan as an example to redesign it for example that could be addressed during the SMA Major hearing or something to that effect.

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

Ms. Wakida: I have a strong...I'm very active in the historic preservation of Lahaina. And repeatedly in this document has been the statement that these structures that are being torn down the Akena and the Ishikawa, no...is that it, structures contribute to the National Historic Landmark and the Historic Hawaii Foundation has urged strongly that the Commission, that the Cultural Resource Commission explore alternatives that would incorporate the structures and I know that the Cultural Resource Commission made their determination but I don't really see that the project has explored in trying to incorporate those structures. It just simply stated well, we need a parking lot so they gotta go.

Mr. Hart: Well, the project's analysis is basically as you stated. In the current condition there's a gravel parking lot that's being used. However, that's not exactly standard. And so it wouldn't be, you know, permitted to be part of an expansion project that we'd be filing building permits for. And so when that happens, we'll actually be in a situation where we're basically right at the limit of parking and so I recognize that it's not an ideal explanation for why you know, historic structures that are contributing to this district need to be demolished. But when you come down to the fact of trying to obtain a building permit and trying to obtain a C.O. for a hotel that's in operation there's just no parking in Lahaina, and you need to have these facilities. And so if you were...basically the proposal is to go for a 14-room expansion, trying to adaptably reuse these structures they're quite limited in size, they're basically gonna be cutting the unit cut almost in half if not more than that, and then you're gonna be getting into the issue of having a lack of parking. And so, that was basically the project's analysis of why they couldn't maintain the structures. It's not economically viable for the Plantation Inn to pursue it. I mean, that's the answer, but it's just not...I mean, it's not a attractive or entertaining answer.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: Well, I can understand it from the developer's point of view. However, if we keep chipping away in Lahaina at the historic buildings and the old buildings because well, we need more parking, pretty soon we won't have the Lahaina that everybody wants to come visit. It will be a matter of people saying well, why should we come to Lahaina. It's just like every other sort of manmade resort. So it's these historic buildings that are...and it's old structures that create the charm and the trees that have been growing there for 50 years or more. So I'm a little conflicted by this. But there's been a wonderful study done by the HABS, I forgot what it stands for about both the structures. However, once the building's gone, it's gone. And we've replacing historic structures with a study on a historic structure we no longer have it. So I just wanted to contribute that concern that I have.

Mr. Hart: Yeah, I also acknowledge and I understand what the letter writers are trying to say, and being in the position where you're processing an application as I said earlier where the applicants or the property owners don't have any existing restrictions or notice from the county or the state that they can't be pursuing these actions but you have reviewers that are basically making a statement about the lack of a control over this overall process that's happening, I recognize that and I do think that some sort of accounting by one of the departments should begin to happen so that they can firm up you know, what will be done so that everything can be quantified. But when you're in this time frame where, you know, you have the State Historic Preservation Division, Architecture Branch

acknowledging that these are contributing structures because they're old but not specifically unique examples of especially you know amazing architecture. They're old homes, but they're not architectural masterpieces. HABS level is adequate for their documentation to mitigate the destruction demolition.

Ms. Wakida: Wait a minute. You gotta realize that Lahaina is a plantation town. There were no amazing structures. They were all you know, homes built out of left over materials and tin roofs, so that that was the ...going on.

Mr. Hart: I recognize that. I understand what you're saying. I guess, and I don't mean to downplay the value of any of these structures, but there are, you know, examples like the courthouse and structures that are extremely unique civic structures that you know it would absurd to propose anything to happen to them, but if you're a property owner and you purchase property for a specific purpose, you've obtained a change in zoning, you've even obtained demolition permits from the County of Maui in the past, and now you're proceeding to take action on what you've been proposing, barring any other existing requirements or obligations or restrictions, you have the state agencies and the County CRC to look to for their decisions on these things and HABS Level III was an adequate mitigation for this proposal at this time, I recognize that if this went on forever on all projects that come through the door after this completely unchecked it would undermine the Lahaina National Historic Landmark District. But when this applicant filed when they did with the lack of any of you know prohibition on this action, I guess that it...I don't think that this is the appropriate place to create a comprehensive policy like that, but I do think that a comprehensive policy needs to exist.

Chairperson Lay: Commissioner Freitas, I mean, Medeiros?

Mr. Medeiros: As a kid I played in that house or in that yard. Cynthia was my classmate and she did have an older brother, Clarence. And if Clarence is on record saying you know, he's okay with that's going on sentimental value and everything...if somebody wanted to breakdown my old house where I grew up in homestead, I would be bummed. But you know, Clarence seems to be okay with it. I'll go with Clarence on this one.

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

Ms. Wakida: Well, I know this is a fight I'm not gonna win so I'd like to make another proposal. Would it be possible within your hotel to put up a plaque of some sort that acknowledges the Agena house as well as the other one and more or less their locations? There are similar plaques around Lahaina. They have...put a picture on it of the house, some words on it and the, I think the Lahaina Restoration is a good source in how to do this. So would the developer be amenable to putting something like that within the...

Mr. Hart: Absolutely. And I could make the amendment to the Final EA before it's published as well.

Ms. Wakida: Okay.

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

Ms. Wakida: Just my last one. This HABS study, other than being in this document what happens to it?

Mr. Hart: It was send to the State, sorry, the State Historic Preservation Division, Architectural Branch. It was sent to the County of Maui, Long Range Planning Division, Annalise Kehler, and I'm blanking on the transmittal sheet. There was another entity it was sent to.

Ms. Wakida: I was wondering if it would be appropriate to also send a copy to the Lahaina Restoration Foundation?

Mr. Hart: We will do that.

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

Mr. Hedani: I'd like to encourage support for this particular application or the acceptance of the application. I think the beauty of the Plantation Inn as it's being proposed on the redevelopment is it breathes life back into the uses of Lahaina Town that are in character with what the Lahaina Historic District represented in the past. The Plantation Inn becomes a functioning entity with the architectural style of the period similar to the Pioneer Inn. And not only celebrates the history of Lahaina, but creates that history as a living, functioning organization with architecture of the period.

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

Ms. Thackerson: Recommends that the Commission accept the Final EA and issue a FONSI Determination, a Finding of No Significant Impact. We would like to add the plaque also, as a...yeah, the two plaques. So the Department recommends the Commission accept the Final EA with the addition of the two plaques that will be going in place of the homes and which you'll amend in the Final EA document and then issue a Finding of No Significant Impact.

Mr. Freitas: So move.

Mr. Medeiros: Second.

Chairperson Lay: Motion by Commissioner Freitas, seconded by Commissioner Medeiros. Any discussion on the motion on the floor? Jordan would you like to say something?

Mr. Hart: I would just like to clarify are we talking about plaques on the exterior in front of the locations of the former residences or some sort of display of photos and text within the structure to explain what was existing and a bit of the history?

Ms. Wakida: I think plaques would be better. I can explain a little bit later rather than a display.

Mr. Hart: Okay.

Chairperson Lay: Any more discussion on the motion on the floor? Seeing none, can the Deputy Director to repeat the motion?

Ms. McLean: The motion is to accept the Final Environmental Assessment with its amendment to make reference to the two plaques and to issue a Finding of No Significant Impact.

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

Ms. McLean: Six ayes and one recusal.

Chairperson Lay: Thank you very much.

Mr. Hart: Thank you.

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

**VOTED: To Accept the Final Environmental Assessment and Issue a Findings of No Significant Impact (FONSI) as Recommended by the Department with the Amendment to Make Reference to the Two Plaques.
(Assenting - J. Freitas, J. Medeiros, M. Tsai, S. Duvauchelle, P. Wakida, R. Higashi)
(Recused - W. Hedani)
(Excused - K. Ball)**

Chairperson Lay: Commissioners, you need a break or are we gonna move to the next agenda? Okay, let's take ten-minute break.

A recess was called at 2:40 p.m., and the meeting was reconvened at 2:57 p.m.

Chairperson Lay: Next agenda item?

Ms. McLean: Thank you, Chair. This is Item E, under Communications, request from A&B Properties, Inc., requesting a Step 1 Planned Development Approval for the transfer of zoning land uses for two parcels of located within the Wailea Resort Planned Unit Development Area located along Piilani Highway and Wailea Ike Drive at TMK: 2-1-028: 004 and 2-1-008: 130 (por.) in Wailea. Kurt Wollenhaupt is your Staff Planner.

E. COMMUNICATIONS

- 1. A & B PROPERTIES, INC. requesting a Step 1 Planned Development Approval for the transfer of zoning land uses for two (2) parcels of located within the Wailea Resort Planned Unit Development Area located along Piilani Highway and Wailea Ike Drive at TMK: 2-1-028: 004 and 2-1-008: 130 (por.), Wailea, Island of Maui. (PD1 2014/0002) (K. Wollenhaupt)**

Mr. Kurt Wollenhaupt: Good afternoon, Commissioners. This matter does arise from an application for what we call the Planned Development Step 1 Approval for the transfer of zoning between two existing parcels within the Wailea Planned Development area. One of the parcels being along the Piilani Highway, the other along Wailea Ike Drive.

Essentially as the Commissioners have seen this many times before Wailea is a jigsaw puzzle. At the original conception of it many years ago each of the pieces of the puzzle had zoning designations, but instead of having to go through this Commission and then go to the ordinance and then go to the County Council, a planned development allows the developer as years go by, in this case 20, 30 years to be able to move different pieces of this puzzle in order to make sense. So that's really all we're doing here today is moving two pieces of the puzzle. This isn't for a specific project, this isn't for any vertical construction. This is to try to move a piece of apartment which is located along the Wailea Ike Drive and move that up so that it is consistent with other apartment zoning and then to take a small 2.611 acre of hotel zone and move that adjacent to the newly or new construction that's currently going on with the Marriott Piilani Suites. So that's all that we're looking at today is moving 2.611 acres of land from one location to another. Mich Hirano is going to give a short presentation, but essentially Exhibit 2 and Exhibit 6 those are the two exhibits that will be on the screen so that we can see what's actually go on. And Grant Chun is here and Dan is here with A&B also.

Mr. Mich Hirano: Thank you, Kurt. And good afternoon, Chair Lay, Commissioners and Staff. My name is Mich Hirano with Munekiyo & Hiraga. And we prepared a Power Point for you just to go through the mechanics of the PD Step 1 that's before this afternoon.

Again, the Planned Development Step 1 Approval is really right...this action is restricted to a 2.6 acres of A-1 and A-2 Apartment zoning on one parcel and they're transferring or switching that with a 2.6 acres of HM and H-1 Hotel zoning on Parcel 130. And both of these parcels are within the Wailea Resort.

This is a aerial photo of the project site or the project area and the subject parcels. This is Parcel 004, it's 3.4 acres in area. This is Wailea Ike Drive as you come off of Piilani Highway and then you start turning makai on Wailea Ike Drive. This is just on the north side of Wailea Ike Drive. This is Wailea Ike Place and you would take a left at Wailea Ike Place and go to the Wailea Tennis Center or continue up to the Wailea Center. And this is a commercial area. Further on of course it intersects with Wailea Alanui Drive and then The Shops at Wailea, Grand Wailea to the south. So that's kind of a orientation of the two sites. This is Parcel 004 which is the subject of the...one of the subject parcels. And this is Parcel 130 which is bordered by Piilani Highway on the east side and Okalani Drive on the north side. So you could take a right off of Piilani Highway to Okalani Drive and you will hit Parcel 130.

I'm not sure if the Commissioners may recall a few months ago, maybe four, five months ago the Commission had approved this is the Piilani Suites Hotel. This is a Hotel zoned property. And this zoning right now is A-1....and A-2 and A-1. This little sliver is A-1. And this is Parcel 004. It was originally part of Parcel 121 which was this larger parcel. However, it was subdivided and this area was sold to Olsen Development for the hotel. A&B Property still owns this parcel up above which is a separate parcel now and this is the subject parcel, Parcel 004. It's zoned...the underlying zoning of the Planned Development is A-2 and A-1 Apartment zoning, and this is a small portion on Parcel 130 which has HM and H-1 zoning and the idea would be to move this zoning down into this parcel and switch it with the zoning of the A-2 and A-1 in Parcel 004. And that way eventually then this parcel would have Hotel zoning, this would have Hotel zoning. There would be some compatibility, land use compatibility with the uses. And again, Business and Apartment zoning on the Parcel 130 which would make this again, more cohesive in terms its land use.

Part of the Parcel 004 has an existing SMA approval on it and the approval was for four building containing nine apartments and so when this gets approved or the Commission would approve the Step 1 today, then the SMA for the existing parcel will have to be amended, either canceled or amended. And a new SMA and a Planned Development Step 2 would need to be approved for Parcel 004. So the switch is really the zoning and not the project. You know, the project stays here until it's dealt with by the Commission.

So with the transfer, this will be the 2.6 acre Hotel H-M and H-1. You know, the...I think the as you can tell from your handouts the HM is just a smaller portion of the parcel .4 acres. So when it comes in for a subsequent SMA and a Planned Development Step 2 because there are three steps to the Planned Development then that would be...the site plan would designate which piece was H-1 and which piece was H-2. This one again stays A-1. So this is really the area that would be transferred on Parcel 004.

At the end of the day, with the approval of the Planned Development Step 1 you would have the Apartment zoning up in this area on the top part of the project. This would be the Piilani Suites parcel, the hotel, this would be then HM and H-1 zoning underlying zoning and then similarly Parcel 130 with the switch, this is Business and these would be A-1 and A-2 Apartment underlying zoning. And again, we're just transferring the underlying zoning designation and there's no other physical component to this particular action. So we're available to answer any questions that you may have. Thank you.

Chairperson Lay: At this time, I'm gonna open up to public testimony. If anyone wishes to testify, please step forward, identify yourself and you have three minutes.

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

Ms. Lucienne de Naie: The second matter I wanted to address was Item E, this is the kind of swap in zoning for two parcels in Wailea. And the Parcel No. 130, I believe it is, which goes along kinda parallel to the Piilani Highway has been the subject of an archaeological inventory survey that was done fairly recently, you know, the last few years. And around 45 features, cultural features were identified in this survey. Although these features were sort of characterized in the survey as being of not great value. There were, you know, severely disturbed or you know, the subsurface investigations didn't yield any artifacts or they were assumed to be military origin or ranching origin. Still it is the largest cluster of remaining physical features we have in this Ahupua'a of Paeahu. Paeahu was the old name for what we call Wailea today. Wailea was just one single point, but the Ahupua'a was Paeahu. It was originally owned by a, you know, a famous alii, John Young's son. And it is an area that has a lot of historical significance because of its access to the fishing resources. This is a pali. It's very interesting, all these sites are arrayed along this pali. Even if some of them were readapted by the military there's a historical precedent for areas in the Wailea region for instance, the Grand Wailea found some former military sites there, actually eventually contained burials and four or five other layers of habitation, but they were dismissed in the first two or three surveys. So just to be cautious I would suggest that when this comes up for its SMA it also have review by the Cultural Resources Commission who can ask some questions about it and it's not to oppose the swap of the zoning. It's just to make sure that this last place that we have to look at really gets a good deep look. Thank you.

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

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

Ms. Wakida: Mich, I don't know if you were here first thing this morning, but-

Mr. Hirano: Yes, I was.

Ms. Wakida: Oh good because there was-

Mr. Hirano: A testimony.

Ms. Wakida: A testifier, yeah about...I'm a little fuzzy on what she wanted maybe you can address that?

Mr. Hirano: The testimony that was presented this morning was just a caution that there was an archaeological inventory survey that was done on Parcel 130 and some features, archaeological features were identified and as well as I was informed by the applicant, a preservation plan for one of the features or one of the sites that was identified. So I think the testimony this morning this morning was that just to kind of give the...make the Commission aware that there are historic features on Parcel 130 that should be considered in terms of their potential impact if and when Parcel 130 comes up before the Commission for any land use permitting or designation. But right now there is no plan for Parcel 130. And it was just the transfer of the underlying zoning, but there's been no physical plan proposed. But this parcel, both parcels are within the SMA and both parcels are within the Planned Development of Wailea. So any further development of Parcel 130 would have to come again before the Commission with a Planned Development Step 2 and an SMA application.

Chairperson Lay: Commissioner Hedani?

Mr. Hedani: Mich?

Mr. Hirano: Yes?

Mr. Hedani: Several projects back, Jim Buika made a very impassioned speech to the Commission to look at ways to preserve an open space view plane from Piilani Highway to the ocean. And that would affect what looks like Apartment zoning on this particular application.

Mr. Hirano: Up in...the Apartment zoning would now be transferred here. Yes, what has been approved Commissioner Hedani was these four buildings on the, you know, Parcel 004 which would have to come in for an amendment or a new SMA with the Step 2 and SMA. But for the future, yes, that would be a possible concern and there would have to be some, you know view analysis done on that.

Mr. Hedani: I guess my question is the approval of the project that took place next to the Wailea Gateway Center was done with the understanding that there was an open space drainageway that

ran mauka to makai next to it that would preserve view planes to the sea.

Mr. Hirano: I see.

Mr. Hedani: And if I look at that map and compare it to what I remember it shows it covered with buildings as opposed to open space, you know, you have open space along the highway running parallel to the highway but no open space designation running mauka-makai.

Mr. Hirano: I see.

Mr. Hedani: And my concern is that that should be taken in to consideration at some point.

Mr. Hirano: You know, the applicants are here, the owners of the property, so I think when the SMA comes forward those are things that would be considered, yes.

Chairperson Lay: Commissioner Tsai?

Mr. Hirano: Thank you for those comments, Commissioner Hedani.

Mr. Tsai: All right. I'm not sure if this question is for you, Mich or Kurt. I don't have any objections obviously for this particular request, but my question is if you're changing the Parcel 4 to H-1, HM which is Hotel now the project site that's originally approved for the four buildings appears to be a apartment building.

Mr. Hirano: Yes.

Mr. Tsai: So you will have to change the whole use completely?

Mr. Hirano: Pretty much, yes. Yeah, I think it's...you know, I think what the applicant and landowner has realized is that very develop what was proposed you know, and that may be the more appropriate use in the long term was make it more compatible with has seem to be a market sorta need in the area in terms of the hotel and try and get some land use compatibility and maybe some synergy with you know, the initiative of Piilani Suites. So they realize that they would have to come in to change that approval.

Mr. Tsai: Is there anything in the works or something?

Mr. Hirano: I'll let Grant Chun, who's Vice-President of A&B to just sort of talk about what the status is.

Mr. Grant Chun: Good afternoon everyone. Grant Chun on behalf of A&B Properties. To answer your question, Mr. Tsai no, there's no pending design or project planned at this point for that makai acreage of the parcel, Parcel No. 4. However, we as Mr. Hirano mentioned we think that the proposed designation being that it's consistent with the use immediately mauka of that makes sense and would be a good planning vehicle for us to ultimately come back to the Commission with a project consistent with that zoning.

Mr. Tsai: Thank you.

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

Mr. Wollenhaupt: The Maui Planning Department recommends the approval of the Step 1 Development application transfer of the parcels that were referenced in the presentation and also to adopt the Planning Department's report and recommendation prepared for today's meeting as the findings of fact, conclusion of law, and decision and order, and authorize the Director of Planning to transmit the D&O on behalf of the Maui Planning Commission.

Mr. Tsai: Move to approve.

Mr. Medeiros: Move to accept the recommendation of the Planning Department.

Chairperson Lay: Okay, we got a motion by Commissioner Tsai, seconded by Commissioner Medeiros. Any discussion on the motion on the floor? Seeing no discussion, can we get our Deputy Director to repeat the motion?

Ms. McLean: To approve the Step1 Planned Development request for the two separate parcels.

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

Ms. McLean: Six ayes.

Chairperson Lay: Motion carries. Thank you. Congratulations.

Mr. Hirano: Thank you very much, Commissioners.

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

**VOTED: To Approve the Step 1 Planned Development Approval for the Transfer of Zoning Land Uses for Two Parcels Located Within the Wailea Resort Planned Unit Development Area Along Piilani Highway and Wailea Ike Drive as Recommended by the Department.
(Assenting - M. Tsai, J. Medeiros, J. Freitas, W. Hedani, P. Wakida, R. Higashi)
(Excused - K. Ball, S. Duvauchelle)**

Chairperson Lay: Next agenda item? Moving onto our next agenda item.

Ms. McLean: The next agenda item is the acceptance of the Action Minutes of the January 13th meeting and Regular Minutes of the November 10th and November 25th meetings?

G. ACCEPTANCE OF THE ACTION MINUTES OF THE JANUARY 13, 2015 MEETING and REGULAR MINUTES OF THE NOVEMBER 10, 2014 AND NOVEMBER 25, 2014

MEETINGS

Chairperson Lay: Everybody get a chance to look at those minutes and make sure everything all right?

Mr. Freitas: So move to accept.

Chairperson Lay: Got a motion by Commissioner Freitas. Can I have a verbal approval? All those in favor?

Commission Members: Aye.

Chairperson Lay: Those opposed. Acceptance of the Action Minutes of last meeting.

It was moved by Mr. Freitas, then

VOTED: To Accept the Action Minutes of the January 13, 2015 Meeting and Regular Minutes of the November 10, 2015 and November 25, 2015 Meetings.
(Assenting - J. Freitas, J. Medeiros, M. Tsai, W. Hedani, P. Wakida, R. Higashi)
(Excused - K. Ball, S. Duvauchelle)

Ms. McLean: Next item under Director's Report is for the Department, excuse me, for the Commission to designate the Hana Advisory Committee to conduct the public hearing and provide recommendations on an application from Gary Stice, President of Hana Beachfront Associates for an SMA Permit to construct two single family residences in the State Rural District at 177 Haneoo Road, TMK: 1-4-008: 001 in Hana.

H. DIRECTOR'S REPORT

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

MR. GARY STICE, President of HANA BEACHFRONT ASSOCIATES requesting a Special Management Area Use Permit in order to construct two (2) single family residences in the State Rural District at 177 Haneoo Road, TMK: 1-4-008: 001, Hana, Island of Maui. (SM1 2013/0010) (J. Buika)

Ms. McLean: And again, this is just to conduct the public hearing. The application would come to the Commission for action.

Mr. Medeiros: So move.

Mr. Freitas: Second.

Chairperson Lay: Got a motion by Commissioner Medeiros. All those in favor say, "aye".

Commission Members: Aye.

Chairperson Lay: Those opposed? Motion carries.

Ms. Wakida: Was it seconded?

Mr. Freitas: Yeah.

Chairperson Lay: Jack seconded that.

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

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

Ms. McLean: Commissioners, next you have the SMA Minor and Exemption Reports.

2. SMA Minor Permit Report (Appendix A)

3. SMA Exemption Report (Appendix B)

Chairperson Lay: Everyone get a chance to look at it, at our Exemption Reports.

Mr. Freitas: So move.

Mr. Medeiros: Second.

Chairperson Lay: Motion to accept by Commissioner Freitas, and seconded by Commissioner Medeiros. Verbal acknowledgment. All those in favor say, "aye"?

Commission Members: Aye.

Chairperson Lay: Those opposed? Motion carries.

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

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

4. Discussion of Future Maui Planning Commission Agendas

Ms. McLean: Next item is discussion of future Planning Commission Agendas.

Chairperson Lay: Commissioner Freitas?

Mr. Freitas: I have one. What do you call, I'd like to bring to the Commission and to the Council the idea of doing a moratorium on short-term rentals or reducing the number of short-term rentals.

Ms. McLean: Okay, so noted.

Chairperson Lay: Commissioner Wakida?

Ms. Wakida: I have two items for future agenda items. These were both part of our packet last time and it was requested that they be brought up to be put on a future agenda and it was items that weren't on our agenda. It was just in our packet. One is a request by the Kihei Community Association to modify the SMA boundary line in South Maui. And the second one is from the South Maui Citizens for Responsible Growth and that was having to do with the construction of road improvements, I think specifically sidewalks and they had...in this letter I guess they...these improvements was supposed to be made and they never were and the community wants to hold the developer accountable for this.

Ms. McLean: And that was in relation to a specific project?

Ms. Wakida: Yes, ...(inaudible)...

Ms. McLean: Okay.

Chairperson Lay: Anything else Commissioners?

Ms. McLean: That's what Commissioner Wakida just asked to be on a future agenda.

a. February 10, 2015 meeting agenda items

Ms. McLean: We also have the memorandum that was distributed today from Clayton Yoshida listing four public hearing items, and the Director's Report specifically for the February 10th meeting. These other three items mentioned today, I don't know if that will be February 10th, but we'll have them down for a future meeting.

I. NEXT REGULAR MEETING DATE: February 10, 2015

Chairperson Lay: If not, a motion to adjourn.

Commission Members: We don't need a motion.

J. ADJOURNMENT

The meeting was adjourned at approximately 3:19 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Sandy Duvauchelle (excused at 2:40 p.m.)
Jack Freitas (in attendance at 10:53 a.m.)
Wayne Hedani
Richard Higashi
Ivan Lay, Chair
Jason Medeiros
Max Tsai (in attendance at 9:18 a.m.)
Penny Wakida

Excused

Keone Ball, Vice-Chair

Others

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