

MAUI PLANNING COMMISSION

COUNTY OF MAUI

MARCH 24, 2015

Held at the Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Maui, Hawaii, commencing at 9:14 a.m., on March 24, 2015.

Reported by: Tonya McDade
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ATTENDANCE

PRESENT:

- Ivan Lay, Chair
- John "Keone" Ball, Vice Chair (Out, 3:49 p.m.)
- Jack Freitas, Commissioner (In, 10:39 a.m.; Out, 4:05 p.m.)
- Wayne Hedani, Commissioner
- Richard Higashi, Commissioner
- Jason Medeiros, Commissioner (Out, 1:52 p.m.)
- Lori Sablas, Commissioner
- Max Tsai, Commissioner (In, 9:21 a.m.)
- Penny Wakida, Commissioner

STAFF PRESENT:

- William Spence, Planning Director, Department of Planning
- Clayton Yoshida, Administrator, Department of Planning
- Keith Scott, Planner, Department of Planning
- Gina Flammer, Planner, Department of Planning
- Richelle Thomson, Deputy Corporation Counsel
- Rowena Dagdag-Andaya, Deputy of Public Works

1 March 24, 2015

2 TRANSCRIPT OF PROCEEDINGS

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4 CHAIR LAY: (Gavel.) Planning Commission is now
5 called to order. It's March 24th, about 9:12. At this time
6 we're going to open up for public testimony. If anyone
7 wants to testify on agenda item, that you might have to
8 leave earlier, we're giving you the time right now to come
9 step forward, identify yourself and give your testimony.
10 But when the agenda item does come up, you won't be able to
11 give additional testimony at that time. You'll just be
12 given an opportunity now if you step forward now. I'm going
13 to go through the list of names that you guys signed in. If
14 you wish to testify, say, "yes," and, you know, just walk up
15 to the podium and identify yourself. And if you don't wish
16 to, just let me know that you're going to be waiting for the
17 agenda item to come up. Our first testifier Annette Niles.

18 MS. NILES: Good morning.

19 CHAIR LAY: Good morning.

20 MS. NILES: I'm here to testify on the Dragon
21 Fruit Farm first and, also, on the vacation rental on Sydney
22 Smith.

23 CHAIR LAY: Okay.

24 MS. NILES: First one --

25 CHAIR LAY: Just identify yourself for the record.

1 MS. NILES: Oh, okay. Annette Niles.

2 CHAIR LAY: Oh, just identify yourself. Just say
3 your name.

4 MS. NILES: I said, yeah.

5 CHAIR LAY: Oh, you did?

6 MS. NILES: Yeah.

7 CHAIR LAY: I missed it. Okay.

8 MS. NILES: Okay. You had your coffee this
9 morning? Okay.

10 CHAIR LAY: Sorry about that.

11 MS. NILES: Sorry. But, anyway, for the Dragon
12 Fruit, I'm just here to support them. Because I do added
13 value products and they want to get into the value-added
14 products. And this is what I do on my farm and for my
15 products. And I do (inaudible) the panini fruit, and I also
16 do butters. And they also want to do value-added products,
17 and they approached me about it. So I'm here to support
18 them. And that's my take on that one.

19 And then as far as for Sydney Smith, on the
20 vacation rental, I just wanna say, you know, that she's --
21 she's gone beyond and above being a farmer and a person that
22 is -- I've known Sydney and her husband Maurice for over
23 eight years. And she's a person that is a very, very hard
24 worker, very hard. And I'm not standing here, and I don't
25 stand here, for people that is not legit. And she is so

1 totally legit.

2 And she -- what I'm saying, she's -- she is the
3 kind of person -- like the other night, I had a problem, I
4 called her, and this is 11:30 in the night, to see -- I text
5 her first to see if she was up. She says, "I'm driving
6 home." You know, and I got off -- after I got through
7 talking to her, I said, "You know what, that's another me in
8 a different color." But please, please support her. Thank
9 you.

10 CHAIR LAY: Commissioners, any questions for the
11 testifier? Seeing none, thank you very much. The next
12 testifier, Crystal Schmitt.

13 MS. SCHMITT: (Inaudible). I'll talk later.

14 CHAIR LAY: Okay.

15 DIRECTOR SPENCE: She's an applicant.

16 CHAIR LAY: Toni Davis.

17 MS. DAVIS: I would like to provide testimony
18 after, if it's okay. Thank you.

19 CHAIR LAY: Kawika.

20 KAWIKA: I'll wait.

21 CHAIR LAY: Okay. Thank you. Hong.

22 UNIDENTIFIED SPEAKER: He'll wait.

23 MR. HONG: I am going to wait.

24 CHAIR LAY: Okay. Does anyone else wish to
25 testify at this time? Please step forward to the mic and

1 identify yourself, and you have three minutes.

2 MS. JORDAN: My name is Sunny Jordan. And I
3 live -- I'm the closest neighbor to Maurice and Sydney
4 Smith. My property is here. Theirs sits on top of a ridge,
5 about 200 feet above me. And they are great neighbors.
6 I've been there since '97, they've been my neighbor since
7 '97.

8 And prior to them going in to go for their B&B
9 permit, they had a long-term renter. And he fixed Harley
10 motorcycles. He was not a good neighbor. When he finally
11 left, he took all the windows out of the place with him, he
12 left us a pile of trash higher than a person. So when she
13 decided -- she closed -- didn't rent it for a long, long
14 time. And when she finally decided to do it as a B&B, she
15 fixed it up. It's just darling. People absolutely love it.

16 And we never hear a peep from anybody up there.
17 We see the lights on, because we're looking straight up like
18 that. And there's no way that property could bother anyone.
19 I just can't imagine anyone other than us, being that
20 close -- and there is never any partying, never any noise.
21 And so we just think that they're running a really great
22 operation.

23 CHAIR LAY: Thank you. Commissioners, any
24 questions for the testifier? Seeing none, thank you very
25 much. Does anyone else wish to testify at this time?

1 Please step forward and identify yourself, three minutes.

2 MR. HOGAN: Thank you, Commission. My name is
3 Steve Hogan. I am the neighbor of Maurice and Sydney Smith.
4 I live directly across the road from them.

5 I'm here to endorse them as neighbors, their want
6 for a vacation rental, and to -- to mirror what Ms. Jordan
7 said, that they are nothing but great neighbors. And the
8 impact to us as neighbors is nothing but positive. They've
9 helped us with an informal crime watch. We work together on
10 that. We watch out for each other. And I just -- woops.
11 Pardon me. I just want to support them and just tell you
12 all how good of people they are, how hard working they are.

13 And they've helped us, taught us how to coffee
14 farm. And they're just extremely hard workers. Ms. Smith
15 works with the farm group that helps design the -- the farm
16 plans -- or the farming for the County with the -- with the
17 County Council.

18 And, anyway, again, I just wanna support her. And
19 thank you.

20 CHAIR LAY: Commissioners, any questions for the
21 testifier? Seeing none, thank you very much. Does anyone
22 else wish to testify at this time? Seeing no one, public
23 testimony is closed.

24 Today, we're going to be switching our agenda a
25 little bit. We're going to be jumping up to D.1 at this

1 time.

2 MR. SPENCE: Okay. Commissioners, this is your
3 first public hearing item, D.1. This is for Mr. Craig Peal
4 of Costco Wholesale Corporation requesting an SMA Permit to
5 install photovoltaic cells at that store. And our staff
6 planner is Mr. Keith Scott.

7 MR. SCOTT: Good morning, Commissioners.

8 The application under consideration is a Special
9 Management Area Use Permit. The applicant proposes to
10 construct carport style supporting structures over existing
11 parking spaces and mount approximately 28,000 square feet of
12 photovoltaic solar cells on those structures. There will
13 also be some tree relocation and planting in -- in and
14 adjacent to the parking area.

15 The project site is approximately 17.2 acres,
16 located at the intersection of Dairy Road and Haleakala
17 Highway.

18 The project is located in the State Urban Land Use
19 District, Maui Island Plan Urban Growth Boundary.
20 Wailuku-Kahului Community Plan designation is light
21 industrial. And County zoning is M2 Heavy Industrial and M1
22 Light Industrial.

23 The standards for reviewing the Special Management
24 Area application are found in the report.

25 At this juncture, Brian Dobry of MulvannyG2

1 Architecture, consultants to the applicant, would like to
2 make a presentation.

3 MR. DOBRY: Good morning, Commissioners. My name
4 is Brian Dobry with MulvannyG2 Architecture. And, today, we
5 would like to present to you the Costco solar structure
6 project.

7 COMMISSIONER HIGASHI: Sir, could you speak into
8 the mic?

9 MR. DOBRY: Yes. I'm sorry. Our team today
10 includes Craig Peal, AVP of Costco, Energy Department,
11 Raymond Cabebe and David Sarita of Chris Hart & Partners,
12 and myself and Kristine (Inaudible) of MulvannyG2
13 Architecture.

14 We'll be starting off with Raymond this morning to
15 go through the project location and zoning. But before we
16 get started, we want to give you a brief history and
17 background of Costco and the project.

18 Conservation inefficiency has been a part of
19 Costco's philosophy in how they conduct business for many
20 years. As an example of this is their reuse of the boxes
21 the product comes to the warehouse in as a means to
22 transport the same products home.

23 Some of the unseen success that Costco implements
24 are the many energy savings programs they have. For
25 example, the daylight through the skylights, along with the

1 controlled lighting systems, to utilizing local materials
2 for buildings, to choosing ecological, responsible
3 rectangular packaging for their products, and remodeling and
4 improving the existing warehouse.

5 The local warehouse is a prime example of all of
6 these, even with remodeling in 2012, the warehouse -- the
7 warehouse remodel in 2012. The warehouse was first built in
8 1996, nearly 20 years ago. It was designed to the standards
9 of the time.

10 And while still safe and able to resist normal
11 forces such as the wind and seismic loads, the roof would
12 not be able to support the additional loading of a solar
13 power system. In order for the roof to support such a
14 system, significant and costly structural upgrades would be
15 required which would negatively impact the store operations.

16 The solution for this was found in practical homes
17 as a carport solar structure over the existing parking lot.
18 With the system, it will not only provide sustainable
19 energy, but it will also provide shade for the cars during
20 the day and lighting for the customers at night.

21 With that, I would like to introduce to you Craig
22 Peal from Costco Energy Department to briefly go over the
23 benefits of solar energy. Thank you.

24 MR. PEAL: Good morning. I'm Craig Peal with
25 Costco Wholesaler, Energy Department of the company, been

1 responsible for solar installations starting in 2006.

2 Currently, we have 84 installations throughout the
3 U.S. and Puerto Rico. And we've installed solar at all of
4 the locations in the Hawaiian Islands with the exception of
5 Maui and one location on Oahu because, as Brian mentioned,
6 the structural issues with the Maui building here.

7 We -- a few years ago, we did a carport structure
8 in New Mexico. And it worked out really well. And we
9 started thinking immediately about doing the same sort of
10 program at the Maui location on the remodel.

11 The specifics on the system here: It's about 670
12 kilowatts. It will provide about 18 percent of the power
13 output -- or power consumption of the building. We kind of
14 sized the system as large as we can size it without becoming
15 a problem for the local utility. We went through the
16 engineering with that. It doesn't sound -- it seems like we
17 might be able to go bigger, but, if we go any larger than
18 what we're proposing, then we have too much back-feed in the
19 utility and (inaudible).

20 As Brian mentioned, it's a carport structure.
21 It's, actually, cheaper to do that for us than to reinforce
22 the building. And it's not practical to reinforce the
23 building here for a variety of reasons.

24 It's a pretty straightforward project from our
25 standpoint. It's just -- it's a shade structure with solar

1 power on the top. And it supplements the utility power that
2 we take in during the day.

3 We've got about 84 systems installed throughout
4 the U.S. and Puerto Rico, as I mentioned. It's about 50
5 megawatts.

6 We're a little bit different than a lot of folks.
7 We, actually, own our systems outright. We don't use
8 outside financing. It's all self-financed, self-maintained.

9 And that's pretty much the program.

10 MR. CABEBE: Thank you, Craig. I'm Raymond Cabebe
11 with Chris Hart & Partners.

12 I am pretty certain everybody knows where Costco
13 is. It's in Kahului, if you didn't know.

14 And the major landmarks in the area, Kanaha Pond
15 to the north, Kahului Airport to the east, Hana Highway runs
16 here. It's, actually, on two TMK parcels. Parcel 22 is the
17 main warehouse. Parcels 13, Lots 1, 2 and 3 of the Maui
18 Business Park II, north project area. That's where the gas
19 station is. This line here is where the future airport
20 access road is currently under construction.

21 This aerial map shows the roadways along the
22 warehouse. This is Haleakala Highway here. Dairy Road to
23 the east -- to the west -- I'm sorry -- with the airport
24 triangle across the street. Big Kmart to the south with the
25 Hana Highway here. And to the east, as I said, is the north

1 project area of Maui Business Park II. To the north is
2 Haleakala Highway. The Marriott Courtyard across the
3 street. And Dairy Road turns into Keolani Place here, the
4 current access to the airport.

5 It's designated Urban as State Land Use, and the
6 Wailuku-Kahului Community Plan is designated Light
7 Industrial. It's M2 zoning for the warehouse area, M1
8 zoning for the where the gas station is. And it is within
9 the Special Management Area, so that's why we're here for a
10 Special Management Area permit.

11 And with that, I'll bring back Brian Dobry.

12 MR. DOBRY: Thank you. Brian Dobry with Mulvanny
13 again.

14 Here are some of the existing photos of the
15 Costco. The top photo being from the -- or the warehouse
16 with the recent addition that was done in 2012. The second
17 photo being along the back side of the building. It shows
18 (inaudible) being from the west elevation. There are a few
19 more. Number four is along the north face of the existing.
20 Number five being a -- pretty much a straight-on shot of the
21 recent addition that was added. We have the drainage
22 channel in both of those. And then this is an existing
23 photo of the fuel facility, the highway, Haleakala, and the
24 existing parking lot, the main drive.

25 This is an existing site plan that we have here.

1 The remodel addition was here. Recently, we added a new
2 fuel facility here.

3 And this is the proposed site plan. Here you can
4 see that the proposed locations of the photovoltaic carport
5 system is in yellow. We specifically and carefully located
6 these structures so that they were the distance away
7 necessary to keep the Type 5 construction for the warehouse.

8 And then here is a little bit more detailed site
9 plan showing its relationship to the landscaping for the
10 site. As you can see, landscaping with trees with the
11 photovoltaic array. And that will bring up David Sarita
12 with Chris Hart on landscaping.

13 Thank you.

14 MR. SARITA: Thank you. Good morning. My name is
15 David Sarita with Chris Hart & Partners. I'm a landscape
16 architect. And I'll take you through some of the landscape
17 improvements and interventions as a result of this.

18 So here's the existing site. (Inaudible). So all
19 of the existing trees are shown. These are mostly from
20 the -- the recent renovation with the new gas station and
21 some new trees here as a result of the previous expansion of
22 Costco.

23 So what we would like to do -- there's four things
24 that we would like to do as it affects the trees on the
25 site. You can see where the solar panel structures are

1 coming in. That affects approximately 12 existing autograph
2 trees where the structures are, but, because those are
3 invasive species, we're not going to relocate those. We're
4 just going to replace those with new milo trees which are to
5 match the trees that went in as part of the expansion. So
6 those will come in along here, the edges here.

7 The second thing is the yellow dots. So the
8 yellow dots are also affected by the solar panels. And so
9 we'll actually relocate those because those are recently
10 planted milo trees. So, again, we'll relocate those along
11 the edge -- along the edge here where there's room.

12 The third thing is the -- there was a deposit of
13 some trees across the street from the hotel from the
14 previous renovation project. So we're actually adding
15 additional trees to make up that deficit along here. So
16 this will make up the trees that were missing from the -- to
17 shade the parking along the highway there. And these are
18 (inaudible) trees, and they'll match what is further down
19 the street in front of the gas station.

20 And the last thing are there's three existing
21 monkeypod trees that will be affected by the structures. So
22 what we would like to do is relocate those on-site. And so
23 we've consulted an arborist. And he said that they're not
24 too big to move and there's a high probability of success.
25 So we would like to relocate those three monkeypods

1 elsewhere on site. Here's a likely candidate for a couple
2 of those trees.

3 And that concludes my portion. Thank you.

4 MR. DOBRY: Hello. Brian Dobry with Mulvanny
5 again. I just want to quickly run through what we were
6 proposing for the solar carport structure to look like.

7 Here we have some existing use of the before and
8 after what is being proposed.

9 The solar carport structure is being designed so
10 that it is high enough for the trucks, the deliveries, to
11 pass underneath, but low enough that it keeps the views of
12 the warehouse from the existing highway.

13 And as you may know, the project has been reviewed
14 and approved through UDRB. As part of it, they asked that
15 we look into the viability of Cor-Ten steel as an option for
16 this. We did look into this. And looking at the option, we
17 found that it would not meet the sustainable aspects that we
18 are looking to achieve for the warehouse for this project.

19 One of the aspects that we found in our research
20 is that as it naturally corrodes over time to give it that
21 color, it becomes more difficult for you to be able to tell
22 the good corrosion from the bad corrosion that you don't
23 want. Such that as you -- when you do find the bad
24 corrosion that you don't want, it's almost too late. At
25 which point, the cost to mitigate that becomes very

1 expensive. Aloha Stadium was an example of that in the past
2 year.

3 Also, one of the other aspects is that, as it
4 corrodes over time, it can leach and it can stain the
5 concrete as well as the parking lot. With the stormwater
6 runoff, it would get into the storm system, which then
7 eventually flows into the Pacific Ocean. And it's just an
8 environmental aspect that we want to avoid.

9 So what we are proposing, instead, or would like
10 to respectfully request is a galvanized finish for the
11 structure. The photo up to the top right is the built
12 example from that Northwest Albuquerque location for Costco.
13 This system requires minimal maintenance. It can withstand
14 the salt and air environment better than the Cor-Ten steel
15 and better than a painted structure. And, in addition, the
16 finish will darken over time to a darker patina. It won't
17 be as bright as what you're seeing now. It takes a little
18 bit of time, but it will.

19 That, with the LED lighting underneath, it will
20 provide a bright, safe area for the members to come back out
21 to at night.

22 And, also, looking at some of the existing carport
23 solar structures that we've seen on the island. This is at
24 the animal shelter where they used concrete and steel. As
25 well as the University of Hawaii Maui solar carport which

1 used concrete and steel.

2 With that, thank you.

3 MR. SCOTT: I would like to give the Department's
4 analysis at this time for discussion.

5 CHAIR LAY: At this time I want to take public
6 testimony for anyone who wishes to testify. Seeing no one,
7 public testimony is closed.

8 MR. SCOTT: The proposed project is in conformance
9 with the goals, objectives and policies of the Hawaii State
10 Plan and Urban designation of the property as well as the
11 Maui Island Plan, Community Plan and all the zoning
12 regulations.

13 The State Historic Preservation Division, in 2009,
14 opined that the project site had already been severely
15 disturbed, and that previous development of the Costco site
16 would not affect historic properties. And that's currently
17 still valid.

18 There are no impacts upon infrastructure or public
19 services anticipated from the project.

20 And we have received no letters of testimony with
21 respect to the project.

22 And there are four alternative actions for you to
23 consider.

24 CHAIR LAY: At this time, Commissioners, open up
25 for questions or comments. Commissioner Hedani.

1 COMMISSIONER HEDANI: I guess this would be for
2 the landscape architect. Chris Hart was one of the people
3 that initiated our policy of having one tree per every five
4 stalls as a means of beautification of the parking lots for
5 the County of Maui. We are relocating -- well, we are
6 replacing the 12 or 13 trees, I counted 13, that are being
7 removed from the structure area. So you still comply with
8 the one tree per five stall ratio?

9 MR. SARITA: Correct. That's correct.

10 CHAIR LAY: Okay. Commissioner Hedani.

11 COMMISSIONER HEDANI: The structure itself looks
12 butt ugly. The only thing that I could do from a -- from
13 a -- from a perspective of esthetics is to screen it with
14 landscaping. Is there an opportunity for landscaping trees
15 along the edges of the rows which are not higher than the
16 panels themselves, but could make it less industrial?

17 MR. SARITA: Well, that's a good question. David
18 Sarita, Chris Hart & Partners.

19 The -- there are some trees that will be preserved
20 along the Costco side. These are planters here with
21 existing trees. And so those will stay in there. Those are
22 the existing autograph trees. So there will be the element
23 of landscape screening along this side. There's also some
24 trees along here that are existing to remain which won't
25 interfere with the structure because they're small enough.

1 And, again, those are the existing autograph trees.

2 The trouble with putting trees next to the
3 structures is -- is, obviously, dropping things on the
4 panels and then shading the structure from the sun. Which
5 is why we're proposing to relocate the monkeypods, just
6 because they're too big in that area.

7 In terms of adding more trees next to the
8 structures, that's something that we hadn't considered just
9 due to the nature of the conflict between the trees and the
10 solar panels.

11 COMMISSIONER HEDANI: Right. From my perspective,
12 I thought you could specify a tree that would not grow to
13 the height of the panels themselves or could be trimmed so
14 it's not over the panels themselves, but could actually be
15 used as a visual screen so you're not looking down at an
16 industrial park, basically.

17 MR. SARITA: Yeah, that's certainly a possibility
18 in -- in the areas where we're removing the monkeypods, we
19 could perhaps put trees that are not likely to get too big,
20 something like maybe a jatropha tree, or something like
21 that, which could help soften from an esthetic standpoint.

22 COMMISSIONER HEDANI: Thank you.

23 CHAIR LAY: While you're up there, I have a couple
24 questions, too, in the lines of your visualization with
25 plants. So I understand, I know it's a parking area, any

1 low bushes like that cut down on visual as far as the cars
2 coming in and out, makes it a little more dangerous if you
3 do have the bushes. And I do agree with the trees, that
4 they would have to be grown where that visual aspect is
5 still there, too. One of my questions is, on that new
6 Haleakala Highway that we have coming -- coming through, I
7 think -- try go to 18. Okay. You don't have a view from
8 what it would look like new -- because there's going to be a
9 lot of people going down that new road, going to the
10 airport, people coming off the plane, it's going to be the
11 first thing they see when they get off. And I'm wondering
12 are we going to create an industrial look, are we trying to
13 cover it up to - not cover it up, but at least make it more
14 friendly as far as in greenery, you're in Hawaii, and
15 keeping that aspect. That's the first thing -- the first
16 thing they're going to see is Costco when they got off that
17 plane in their rent-a-car. And I just want to kind of keep
18 the tropical look going. And I'm hoping that you can help
19 us out with that and telling what's going to be done on that
20 side of that building.

21 MR. SARITA: Along the highway here, along this
22 frontage?

23 CHAIR LAY: No. With the new highway that's
24 coming.

25 MR. SARITA: Oh, the new --

1 CHAIR LAY: Airport highway. That's just going to
2 be traffic flowing through there. And like I said, the
3 tourists, soon as they hop off the plane, get their car,
4 they come out, the first thing they're going to see is
5 Costco.

6 MR. SARITA: So the new alignment here?

7 CHAIR LAY: Yeah. You did have another visual
8 from the upwards. I thought it was 18, but I -- I don't see
9 it. I don't see it. That was -- I mean, on that roadside,
10 are you going to do trees? I know you want to -- at least
11 you want to show your sign, of course, coming up, but at
12 least some -- not so industrial look. I mean, what are your
13 plans for that area? Try go back one. Now, is that your
14 finished aerial view? Try go back. That one.

15 MR. SARITA: This one.

16 CHAIR LAY: That's right now, right? Okay.

17 MR. SARITA: Existing.

18 CHAIR LAY: So your road is going to be on your
19 right-hand -- well, on your Kihei side, right? Your new
20 highway running through there. You have your red light on
21 that side. Is that -- are you going to be planting trees on
22 that side to help?

23 MR. SARITA: Well, on the edge of that is we do
24 have planting from the previous renovation. So we have the
25 tall oleander shrubs that run along that -- that boundary as

1 well as all of the shade trees. But the shade trees are
2 meant to shade the parking. And there's a bit of a bank
3 there. So the Costco drops down, it's lower. So those
4 trees wouldn't necessarily impact -- you know, visually
5 screen the entire building. No.

6 CHAIR LAY: If I might make a suggestion, with
7 trees along that treeline and, also, some small shrubbery
8 with flowers, just to keep it -- you know, give it a little
9 tropical look. And you'll still have your visualization of
10 Costco in the background, but at least it's -- kind of tones
11 down that look. And this is your finished product here,
12 right?

13 MR. SARITA: Sure.

14 CHAIR LAY: Not with the panels.

15 MR. SARITA: I think that we can probably do that,
16 yeah. We can probably put some type of additional screen
17 planting along -- this edge?

18 CHAIR LAY: Yeah.

19 MR. SARITA: Here?

20 CHAIR LAY: Yes.

21 MR. SARITA: Yeah. I mean, there's certainly the
22 width there. And once we get on top of the bank, then we
23 could plant something that's tall enough to address your
24 concern.

25 CHAIR LAY: To tone it down, yeah.

1 MR. SARITA: To tone down the impact of the
2 building from the -- from the new highway.

3 CHAIR LAY: Thank you. Commissioners?
4 Commissioner Higashi.

5 COMMISSIONER HIGASHI: This is in regards to
6 parking with the installation of your solar panels. Are you
7 maintaining the amount of parking space or are you going to
8 lessen the amount because of premium in parking?

9 MR. DOBRY: This is Brian Dobry with MulvannyG2.
10 We will be maintaining the current number of the parking
11 stalls in the system.

12 CHAIR LAY: Commissioner Tsai.

13 COMMISSIONER TSAI: Yeah. As a follow-up to that
14 comment, we all know parking is a big issue. During this
15 construction project phase, are you going to do it in phases
16 or are we going to lose parking while the construction is
17 being done?

18 MR. DOBRY: There will be some parking disruption
19 during the course of the construction of this project.
20 However, we are anticipating to do most of it during
21 non-peak hours when the members would be there. And while
22 they're there, the contractors will also have traffic
23 control to help direct members so that they are parking in
24 the appropriate locations and making a safe pass way to the
25 warehouse and back to (inaudible).

1 CHAIR LAY: Commissioner Wakida.

2 COMMISSIONER WAKIDA: I have a couple questions.
3 And I'll start with the design. Why did you choose to have
4 a design -- this is -- from what it looks like, is not flat,
5 it shapes up on the sides. Why did you choose to have that
6 rather than either flat or more of a pitched roof style?

7 MR. DOBRY: One of the -- one of the
8 considerations for the design was to catch the maximum
9 angles as the sun moves across. These are -- with it being
10 both pitched both ways, you're able to capture it in one
11 aspect as the sun comes across and fully capture it the most
12 as it continues its cycle through the day. That's why we
13 pitched it the way we did.

14 COMMISSIONER WAKIDA: All right. Thank you.

15 CHAIR LAY: Okay. I want to talk about your
16 photovoltaic system. The system itself, are we feeding back
17 to the store for its electrical or -- and is it also going
18 through Maui Electric, too?

19 MR. PEAL: The expectation right now is we're not
20 going to be back-feeding any power to Maui Electric. In
21 fact, I don't think they want us to. So we'll have a system
22 in place that anytime we start exporting, we would shut it
23 down.

24 COMMISSIONER HEDANI: Can you have him speak into
25 the mic, please?

1 CHAIR LAY: Please speak into the mic.

2 MR. PEAL: Sorry. The -- the plan is really not
3 to back-feed any power back to Maui Electric. We're still
4 talking to them back and forth about that, but one of the
5 concerns they have is back-feed. So the design, basically,
6 is not contemplating back-feeding anything to the local
7 electric grid.

8 CHAIR LAY: Commissioner Hedani.

9 COMMISSIONER HEDANI: You mentioned that placement
10 of the solar panels -- the roof of Costco looks like it's
11 five times bigger than the panels that you're proposing.
12 And it would be, from my perspective, the ideal place to
13 hide solar panels so you can't see them and produce five
14 times more energy. Why was that discounted?

15 MR. PEAL: Well, the roof -- go back to some of
16 the photographs. This is, actually, a larger system than we
17 could put on the roof of the building. It's about 670
18 kilowatts. Usually, we maxed out on rooftops at around 600
19 kilowatts. There's a lot of skylights, there's a lot of air
20 conditioning equipment. We have to maintain access to
21 everything on the roof in order to maintain it properly.

22 The biggest problem we have here is because of the
23 structure of the building. It wasn't designed to
24 accommodate the additional weight and wind load that we
25 would get on solar panels on the roof. In order to -- even

1 if it's feasible -- I'm not sure that it is feasible to
2 upgrade the building structure -- we literally -- we've
3 looked at this in the past in several locations, you would
4 have to go into the building and almost shut it down. You
5 would have to weld additional bracing throughout the entire
6 building. And it would probably take a month to do it. You
7 can't bolt it. You have to weld it on. And we've looked at
8 this at a couple of different buildings. And it's just --
9 it's incredibly disruptive to the business, it's very
10 expensive. And so it just didn't seem to be an option.

11 We've looked -- so we've been putting solar in
12 Hawaii for a long time. Maui has just been frustration
13 because the roof structure just -- the building structure
14 just isn't what it would need to be in order to accommodate.
15 So it seemed like the only practical solution was carport.

16 CHAIR LAY: Commissioner Ball.

17 VICE-CHAIR BALL: This is probably a question for
18 Public Works as far as the ingress/egress out of Costco.
19 And I don't know -- since they're here -- I mean, we
20 discussed this the last time. They actually had a traffic
21 study, which I disagreed with. Because the people that go
22 there know that there's accidents there at that
23 intersection, I don't know, daily, probably, because the --
24 the people going straight on old Haleakala are blinded by
25 the people turning right into Costco there. And so the

1 people that are coming out, go, and then they get T-boned by
2 the guy going straight. I've seen it. You know, I've seen
3 it. I'm sure everybody has seen an accident there. When --
4 when they built the gas station, that was a concern of mine
5 then. And it got dismissed. And now that this is coming
6 in, I don't know if we can attach that to that. And I don't
7 know if they're responsible for that light, but there needs
8 to be some kind of -- some kind of resolve there because
9 it's very unsafe. And I don't know if getting rid of that
10 right-hand turning lane, just making everybody go, you
11 know -- I don't know. That's your problem.

12 MS. DAGDAG-ANDAYA: Actually, that would be a
13 State issue. Because Old Haleakala and Dairy Road, those
14 are all them. But at the same time, you might want to
15 discuss that with their --if they have a traffic engineer,
16 they can take a look at that as well. But, yeah, we
17 wouldn't have any jurisdiction over that intersection.

18 CHAIR LAY: Director.

19 DIRECTOR SPENCE: I think, Commissioner Ball,
20 if -- if the solar panels -- I'm saying this a little tongue
21 in cheek. If the solar panels were generating traffic,
22 perhaps we could discuss that.

23 VICE-CHAIR BALL: Right.

24 DIRECTOR SPENCE: But I don't anticipate it's
25 going to be a tourist attraction.

1 VICE-CHAIR BALL: Might be.

2 DIRECTOR SPENCE: Or contribute to sales.

3 CHAIR LAY: Commissioner Wakida.

4 COMMISSIONER WAKIDA: You said that the panels
5 will generate 670 kilowatts. And you have 2,856 panels, is
6 that correct?

7 MR. PEAL: The panel count is correct. The
8 maximum output for the system at any point in time would be
9 about 670 kilowatts.

10 COMMISSIONER WAKIDA: And was -- I -- I -- I
11 missed it on your slide. What is the average load for
12 Costco, what is the average usage?

13 MR. PEAL: Average usage? Frankly, off the top of
14 my head, I don't know.

15 COMMISSIONER WAKIDA: Well, in other words, what
16 percent of the panels --

17 MR. PEAL: The panels will supply about 18 percent
18 of the building's annual consumption of power.

19 COMMISSIONER WAKIDA: Okay. Thank you.

20 CHAIR LAY: Commissioner Higashi.

21 COMMISSIONER HIGASHI: I have a question about the
22 design of the garage roof itself. And I understand that you
23 want maximum amount of sunlight.

24 MR. PEAL: Right.

25 COMMISSIONER HIGASHI: But when I think about

1 inclement weather and it rains, the water is going to now
2 drain down in the center part --

3 MR. PEAL: Right.

4 COMMISSIONER HIGASHI: -- of the structure. Where
5 does that -- you have it diverted in a place where it drains
6 so that people don't get all flooded out as they --

7 MR. PEAL: Actually, there's gaps between each
8 module. Originally, we -- it works for -- it -- it -- got
9 some benefit, but you really don't get all the water
10 sheeting to the center. Because between each module, you
11 got a half-inch gap. So it -- it really has -- in the one
12 location where we installed this same sort of structure, we
13 did not see that at all. It -- basically, the water --
14 there's gaps within each module, so the water pretty much
15 just falls through like it did before. There is no
16 waterfall in the center. We like it a little bit pitched
17 towards the center because, you know, we're -- you know,
18 there is some concern if you get a super, super heavy wind
19 storm or rainstorm. You might get some water falling out to
20 the outside and people can't get to their cars without
21 getting soaking wet. But we just haven't seen that.
22 Because of the gaps between each module, you don't really
23 get any more water on the pavement than you had before. And
24 it's fairly -- it's evenly distributed because of the gaps.
25 Each module is about three feet by five feet and you've got

1 gaps on all four sides.

2 COMMISSIONER HIGASHI: I was thinking in terms of
3 like having gutter system so that the water collects at one
4 end or the other end.

5 MR. PEAL: Right.

6 COMMISSIONER HIGASHI: So that it's not flooding
7 the whole area itself as it comes down.

8 MR. PEAL: We wanted to stay away from gutter
9 systems because then you end up with all the water -- then
10 we would have to figure out a way to collect that water. We
11 would have to butt the panels up next to each other so it
12 would sheet. And then we got to tie it into the storm
13 sewer. And it just seems to kind of compound on itself. We
14 selected this design so that, pretty much, the water just
15 falls onto the pavement like it did before. I think -- it's
16 in a lot of the carport systems we see around the country.
17 It's fairly general -- I mean, it's a fairly common
18 approach. (Inaudible). We haven't done anything to collect
19 the water and divert it. That would be a pretty heavy
20 duty -- I'm not sure how well that would work. We would
21 have to figure out how to butt those modules up tight
22 against each other (inaudible).

23 CHAIR LAY: Commissioner Hedani.

24 COMMISSIONER HEDANI: Personally, I don't -- I
25 don't agree with Urban Design Review Board when they

1 recommend a specific coating for -- for the columns
2 themselves. I don't think they should be in the business of
3 endorsing any brand names or any particular product. But I
4 think what they're trying to address is the appearance of
5 the structure itself. Have you folks given -- galvanized
6 steel is not very attractive. Have you folks given any
7 thought to coating the columns with something that would
8 work for you and be more esthetically pleasing?

9 MR. PEAL: You can always paint them, but then
10 paint is --

11 COMMISSIONER HEDANI: That's what I'm thinking.

12 MR. PEAL: Paint is a maintenance item. You got
13 to keep up the paint. And then, quite frankly, I'm not an
14 architect so I always look at stuff and ask myself what's it
15 going to look 10 years down the road. Galvanized steel -- I
16 mean, the reason is what's the lowest maintenance, what is
17 going to maintain its, I guess, integrity and quality
18 long-term. We can certainly paint it. That's always an
19 option.

20 COMMISSIONER HEDANI: Right.

21 MR. PEAL: We would still want to galvanize it.

22 COMMISSIONER HEDANI: From my perspective, you
23 know, Costco is a giant. I mean, they are an 800-pound
24 gorilla in the room. And you have the ability, you know, to
25 address it from the standpoint of doing a really first-class

1 job on the project itself. I've seen 25-unit condominiums
2 down in Kihei do a flat structure with a border around the
3 solar panels that makes it look really spiffy. And these
4 are the guys that don't have the horsepower that Costco has.
5 So what I'm suggesting is that take a look at it from the
6 standpoint of approving the esthetics of it.

7 We had a case in Whaler's Village where they
8 wanted to apply this exact same system onto the deck of a
9 parking structure. We met with the owners, and we came up
10 with an alternative solution that was flattened, horizontal
11 versus tilted or staggered. And they put a -- they put a
12 trellis around the outside edge of the panels so what you're
13 looking at is more like a rough structure than an industrial
14 park solar panel system.

15 MR. PEAL: Well, you start -- one of the concerns
16 we have is we have -- the structure that was designed is
17 designed so that traffic flow -- we have semi trucks going
18 through the parking lot. We have tall vehicles going
19 through the parking lots all the time. If we start putting
20 trellis structures around to screen things, it becomes
21 something that now it's going to get hit, it's going to get
22 damaged, it's going to be in the way. Can we paint it?
23 Yes. If we start putting screen walls up and things like
24 that, it's a little bit different just because of the nature
25 of the traffic that goes through the parking lots. It

1 becomes more complicated just to make it work. Yeah, we can
2 paint it. We just have to maintain the paint. We can
3 always do that. That's something that's operational. It
4 just cost of the paint and maintenance.

5 CHAIR LAY: To follow up on that. Okay. With
6 your gas station, how is that structured? Is it galvanized,
7 also, and is it painted over?

8 MR. PEAL: It's not galvanized and it's painted.
9 And we just had to repaint the whole thing because the paint
10 started peeling off.

11 CHAIR LAY: Commissioner Wakida.

12 COMMISSIONER WAKIDA: Quick question about the --
13 about the size of the panels that you're installing. What
14 are the kilowatts of each panel?

15 MR. PEAL: I believe these were 230-watt -- or
16 270-watt panels, I believe.

17 COMMISSIONER WAKIDA: Okay. Is that the biggest
18 that's on the market now, as far as you -- per panel?

19 MR. PEAL: No, it's not the highest. Panels
20 are -- I mean, panels come in all sorts of different shapes
21 and sizes. It's not the highest wattage rated panel, no.
22 It's just a question of, you know, these panels were
23 selected -- they're Mitsubishi panels. The reason we've
24 selected those, we have used them on the other installations
25 in the islands. And they're not -- they're certainly not

1 the cheapest modules but they seem to hold up extremely well
2 to the environment, corrosion and things like that. Their
3 performance over time has been excellent, even by higher
4 power density modules. But it's not clear that they're
5 going to hold up as well long-term.

6 COMMISSIONER WAKIDA: And do you know, could you
7 tell us where they're made?

8 MR. PEAL: Where the Mitsubishi modules -- they're
9 made in Japan.

10 COMMISSIONER WAKIDA: Thank you.

11 CHAIR LAY: Commissioners, any more questions?
12 Commissioner Medeiros.

13 COMMISSIONER MEDEIROS: Howzit. I like the idea
14 of using galvanized steel, by the way, because of what's
15 happening at Aloha Stadium. Question: And I'm all for
16 solar power, I really like it and everything, but what is
17 the lifespan of one of those solar panels?

18 MR. PEAL: Well, the warranty on the modules is 25
19 years. But it's -- frankly, the modules, if you're
20 maintaining them, they'll last for 40 years. They will keep
21 putting power out. The warranty on modules -- they all lose
22 power output over time. They figure about half a percent
23 per year. Usually, if you go back and look at the modules,
24 it's less than that. But these modules, as long as you
25 maintain them and -- and things like that, they are going to

1 last a very long time.

2 COMMISSIONER MEDEIROS: Okay. Because we don't
3 have very much room for opala, you know.

4 MR. PEAL: For what?

5 COMMISSIONER MEDEIROS: Opala, rubbish.

6 MR. PEAL: Yeah.

7 COMMISSIONER MEDEIROS: And I was wondering, what
8 is going to happen to all those old solar panels that, you
9 know, we keep producing and putting up? Where are we going
10 to put them?

11 MR. PEAL: Well --

12 COMMISSIONER MEDEIROS: You know, I mean, down the
13 road.

14 MR. PEAL: Yeah. Well, one of the reasons we
15 selected the Mitsubishi modules is they're lead free. A lot
16 of modules have varying amount of lead in them. Some of
17 them have some other, I guess, materials in there that are
18 toxic, essentially. These are essentially nontoxic. It's
19 just polysilicone; no lead i it. Our expectation is that,
20 when we change them out, we would have to haul them back and
21 have them reprocessed on the mainland. But they can be
22 recycled just as standard electronic waste.

23 COMMISSIONER MEDEIROS: Because I just wanted you
24 guys to think about it. I'm going to vote for it, by the
25 way, just -- (inaudible). I just wanted you to think about

1 what you're going to do if the need comes.

2 MR. PEAL: No. That's -- from day one, that's
3 been -- most of the locations on the islands have -- they
4 all have lead-free modules.

5 COMMISSIONER MEDEIROS: Okay. Thank you.

6 MR. PEAL: That's just been one of our concerns up
7 front is what are we going to do with these things when it's
8 time to change them out.

9 CHAIR LAY: Commissioners, any more questions?
10 Can we get the Department's -- oh, Commissioner Tsai.

11 COMMISSIONER TSAI: Timeline for construction
12 completion?

13 MR. PEAL: Typically, these things take about four
14 months. These -- these projects take -- they, obviously,
15 take longer because of the structure. If he had to build
16 rooftop systems, probably be faster, 10 weeks. But we think
17 these will be about 16 weeks.

18 CHAIR LAY: Okay. I got an installation question
19 for you. Your contractors that going to be building this
20 project, is it local, are you going to bring in somebody
21 from the mainland?

22 MR. PEAL: The lead electrician is (inaudible),
23 it's local.

24 CHAIR LAY: Commissioners, any more questions?
25 Seeing none, can we get the Department's recommendation?

1 MR. SCOTT: Actually, before I get to that, I do
2 have one question for you. One of the proposed conditions
3 of approval was the applicant consider using Cor-Ten steel.
4 And I wanted to have your input. Do you want to continue to
5 have that condition?

6 CHAIR LAY: Well, we went over, galvanized.
7 Commissioner Hedani.

8 COMMISSIONER HEDANI: I'd like to hear your
9 recommendation. I don't know what that is. So I would like
10 to hear what your recommendation is relative to the product
11 itself.

12 MR. SCOTT: I'm not an expert in that area. My
13 understanding is that Costco did do research and had some
14 results. And, actually, I'll ask Brian to share that with
15 you so you have the answer.

16 MR. DOBRY: So in the research that we did do for
17 the Cor-Ten steel and looking at it, it's primarily best
18 used in -- they use it more in a landscaping type of
19 situation, at which point that it doesn't have -- it's not
20 as visual.

21 CHAIR LAY: Please speak into the mic.

22 MR. DOBRY: Sorry. Sorry. Most of the
23 applications that we found Cor-Ten steel was used in
24 landscape applications. Even then, they had issues with the
25 leaching and the runoff of the rust and the corrosion

1 getting into the ground and the soils, which then,
2 additionally, gets into the groundwater source. So we did
3 look at it.

4 The main item and the reason why we would prefer
5 not to, and that we are recommending or requesting a
6 galvanized finish on this is, as it corrodes over time, the
7 corrosion coating can hide the more invasive corrosion and
8 structural failure corrosion that is happening to the bolts
9 and structural members themselves.

10 I think we have a slide showing that in regards to
11 a bolt that was done. The one here on the far left, that's
12 from University of Hawaii stadium where it had Cor-Ten
13 steel. And what happened is the -- the more invasive
14 structural debilitating corrosion happens underneath the
15 coating corrosion that's applied to it. So it really makes
16 it a severe maintenance hazard issue, if the bolts were to
17 fail, if the plating was to fail, and we weren't able to see
18 that and be able to correct it in a timely manner. It's one
19 of the reasons why we elected to go with the -- are
20 requesting the galvanized finish.

21 In regards to the look of the galvanized finish,
22 and the question that was brought up in regards to painting
23 it, you know, we -- we are going to be putting in some
24 additional trees at the edges of those planters to help
25 block that view, to help not make it seem so industrial or

1 unsightly, if you will. Usually, once you park, most people
2 are ready to get in the store, buy their product and come
3 back out and head out.

4 So that was our thought on the Cor-Ten steel.

5 CHAIR LAY: Commissioner Hedani.

6 COMMISSIONER HEDANI: So was that a commitment
7 to add buffering landscaping so that it would not -- to
8 soften its appearance?

9 MR. DOBRY: Yes. Yes, along those landscape
10 islands yes, we are.

11 COMMISSIONER HEDANI: I guess my question at that
12 point would be, you know, if -- if we disregard the Urban
13 Design Review Board's recommendation relative to the use of
14 Cor-Ten steel, would you be willing to paint the structure
15 or paint the steel so that -- I realize that it's a
16 maintenance issue, but, from my perspective, it would help
17 to make it esthetically more pleasing.

18 MR. DOBRY: That -- that is something that we are
19 willing to look at in -- in regards to this for the
20 structure. Yes. Yeah, we will. We can.

21 COMMISSIONER HEDANI: Thank you.

22 CHAIR LAY: Commissioners? Planning.

23 MR. SCOTT: Okay. With that in mind, the
24 Department recommends approval of the project using six
25 standard conditions. There are six additional project

1 specific conditions that had been recommended. However,
2 Number 12 said that the applicant consider using Cor-Ten
3 steel or other finish on structures, surface to create a
4 more natural look. We can actually leave that or take out
5 the Cor-Ten steel. The other finishes would be paint, I
6 would imagine. So we can modify that one condition. And,
7 with that, we would recommend approval.

8 MR. SPENCE: Can you repeat that?

9 MR. SCOTT: Condition Number 12.

10 MR. SPENCE: Right.

11 MR. SCOTT: That the applicant considering using
12 Cor-Ten steel or other finish. So we can take out "using
13 Cor-Ten steel."

14 CHAIR LAY: So consider painting finished
15 structure?

16 MR. SCOTT: Yeah.

17 DIRECTOR SPENCE: I thought that was -- my
18 understanding is the applicant was willing to paint it, not
19 just consider it.

20 MR. SCOTT: Okay.

21 MR. SPENCE: Thank you. Okay.

22 MR. SCOTT: Okay. So the applicant -- no.
23 They've indicated here that they will.

24 DIRECTOR SPENCE: Okay.

25 MR. SCOTT: So say, 12, the applicant will paint

1 structural surfaces to create more natural --

2 CHAIR LAY: Yes. Everyone agree? Okay.

3 Commissioners, any questions or comments on -- oh, motion.

4 At this time I'm going to call for a motion. Commissioner
5 Tsai.

6 COMMISSIONER TSAI: So move.

7 COMMISSIONER MEDEIROS: Second.

8 CHAIR LAY: Motion by Commissioner Tsai, seconded
9 by Commissioner Medeiros. Any discussion on the motion? I
10 would like to say thank you very much for doing this
11 photovoltaic system on top of the building, it helps reduce
12 electrical output that's being put towards your -- your
13 store and it helps other people -- you know, it lets more
14 power being out there and people in the public out there.
15 And you're -- also, the effort that you're putting into make
16 it look a little more appealing and not so industrious. I
17 applaud on you that, also.

18 MR. DOBRY: We would like to thank the Commission.

19 CHAIR LAY: Director, repeat the motion.

20 DIRECTOR SPENCE: The motion is to approve as
21 recommended by staff with the change in the one condition
22 that the applicant shall paint the structural members of the
23 system.

24 CHAIR LAY: Call for the vote. All those in
25 favor?

1 DIRECTOR SPENCE: Six ayes.

2 CHAIR LAY: Motion carries. Commissioners, we'll
3 take a 10 minute break and reconvene at 10:20.

4 (Recess, 10:11 a.m. to 10:19 a.m.)

5 CHAIR LAY: The Planning Commission is now called
6 back to order. Commissioners, at this time there's going to
7 be a little change in our agenda again. We're going to go
8 to D.3.

9 DIRECTOR SPENCE: Okay. Commissioners, Item D.3,
10 your third -- actually, your second public hearing item,
11 Number 3 on the list, Maurice and Sydney Smith requesting
12 State Land Use Special Use Permit in order to operate the
13 Maliko Coffee Cottages short-term rental home at Kaluanui
14 Road in Makawao. And our staff planner is Ms. Gina Flammer.

15 MS. FLAMMER: Okay. Good morning, Commission
16 Members.

17 Okay. So we are dealing with a request for a
18 short-term rental home. It's for two dwellings. There's --
19 one dwelling has two bedrooms, one dwelling has one bedroom.

20 There is a farm. And I think the applicant is
21 going to explain to you the farm runs across two parcels.
22 The applicant lives on one parcel. The request for the
23 rental of the homes is on a different parcel. That's why
24 it's a short-term rental and not a bed and breakfast. But
25 they do live on the adjacent parcel, and the farm does

1 encompass both of those.

2 So I'm going to turn it over to the applicant,
3 Sydney Smith, to give you a short presentation.

4 MS. SMITH: Okay. Aloha, Commissioners. This is
5 a PowerPoint that I did of our farm. We bought this parcel,
6 both parcels, in 1985. And it had been kind of abused for a
7 long time. The Kaluanui Bridge crosses right over the
8 Maliko Stream. And that's where everybody stopped and
9 dumped their garbage for many, many years. And the
10 elevation is between 1,100 and 1,300 feet, which is kind of
11 perfect for coffee. So we started growing coffee after we
12 cleaned up the trash.

13 This is what it looked like when we first bought
14 it. There was just many, many, many dump truck loads of
15 trash and appliances and 50-gallon drums and everything you
16 can possibly imagine. And it was -- we found unbelievable
17 things when we were cleaning this up. We pulled up a lot of
18 the metal and tried to have it separated so it could go to
19 Maui Scrap Metal. And Rojac Trucking provided a dump truck
20 for us. And we would fill up the truck with scrap metal or
21 whatever garbage, you know, that we had, and they would
22 bring us an empty one and switch it out. It took us four
23 years to complete it.

24 Now it's all beautiful and it's all clean water.
25 And we have springs on the property. So this portion of the

1 Maliko Stream runs year-round and there's water flow
2 year-round on the property.

3 We purchased our own tree chipper and chipped a
4 lot of the wood that we had to remove. There were a lot of
5 invasive trees and eucalyptus which poisoned the ground
6 underneath it, so the coffee didn't grow very well under
7 there. So we chipped up everything and used it to amend our
8 soil.

9 A lot of the trees were really beautiful. And so
10 we bought a sawmill and made lumber out of a lot of the
11 trees. And we've used a lot of that in a lot of the
12 building around the property.

13 Now, this is me on the left. And on the right is
14 Marco Antonio Vargas, who is from Guatemala. And we hired
15 him to help us, teach us about coffee. There wasn't anybody
16 here on Maui that we could find that knew anything about
17 coffee.

18 Even though the trees that we found on the
19 property down in the streambed were descendants from the
20 trees that Judge Copp had planted in the late 1800s -- there
21 was a coffee plantation at the top of Kokomo Road. And the
22 trees were a descendant of those. They're (inaudible)
23 variety. And it's still a very, very popular variety of
24 coffee.

25 This is me picking on our first trees that we

1 replanted, and my husband Maurice on the right. Then this
2 was our first harvest. And we managed to pick 3,000 pounds
3 that year.

4 There was no roaster or processor here on Maui, so
5 we loaded up all of our -- our harvest that year in the back
6 of our truck and we took it down to the airport. And Aloha
7 Airlines didn't charge us and put it on the plane as
8 luggage. And we went over to the Big Island and we took it
9 to a roaster and a harvester up there. And they had their
10 own mill so they milled the parchment off of the beans and
11 roasted our first roast. That's our first roast there in
12 the picture on the right.

13 These are our rows of mature trees. We grow them
14 under the canopy of the trees that we have, the kukui, we
15 have avocado, many different kinds of canopy type of trees.
16 And that's where coffee likes to grow the best. The -- the
17 milder the cut is from the shade. If they're in the direct
18 sun, they have more of an acid in the cut. So when you have
19 coffee that has more of an acid type of quality, it's
20 full-sun coffee.

21 This is my husband on the left. He's picking.
22 That's what the coffee looks like when it's coming on. You
23 just pick the red ones. And sometimes they're red on one
24 side and kind of a peach color on the other side. And you
25 can tell from the feel of the bean whether it's ready or

1 not. And then we pick it into these baskets and then we
2 take it up to our mill, which is up off of Kokomo and
3 Kaluanui, and we process it.

4 It goes down that chute that you see in the middle
5 into a containment that we put water in for overnight. And
6 that's called the fermentation. But it really doesn't
7 ferment. That's just what they call it. Then we rinse the
8 beans the following day and put them out on these racks that
9 we have for the sun. Then after they've dried in the sun
10 for about a week, then we bring them into our house, because
11 it's been so wet and rainy up there, to dry it the rest of
12 the way.

13 In 2006, the Maui County Office of Economic
14 Development purchased 700 bags of Maliko Estate Coffee for
15 the gift for the -- from the Maui Film Office, (inaudible)
16 film awards.

17 We've gotten many awards through the cupping that
18 they have every year from the Hawaii Coffee Association.

19 Alan Wong's Restaurant carries our coffee. And
20 just this past January, one of the servers at Alan Wong's in
21 Honolulu called and let us know that the Obama party ordered
22 Maliko Estate Coffee while the Obamas were in Honolulu on
23 their vacation.

24 Our coffee's available at Maui Ocean Center, Haiku
25 Grocery, Maui Oma, the Coffee Store, Alan Wong's, of course,

1 the Mudhouse in Virginia. And MRT Specialists in Toronto
2 just started carrying our Maliko Cherry Tea, which is a tea
3 we make from the dried fruit from the coffee beans.

4 This -- this year, I've become the facilitator for
5 the Ag Working Group. I'm the President of the Maui Coffee
6 Association. We have, every year, our (inaudible) event
7 which we have at the Maui Tropical Plantation in August,
8 which I organize. I was the organizer for the statewide
9 Bicentennial of Coffee Cultivation in Hawaii in 2013. And
10 we participated in the Made in Maui event at the Maui Arts
11 and Cultural Center, and we will again next year.

12 So our commitment is to sustainable farming
13 practices. We use no pesticides on our farm, especially
14 since we're, you know, close to a stream. And we are very
15 interested in helping other farmers to add ag tourism into
16 their model so that they can stay competitive and offer
17 something new to our visitors.

18 Thank you.

19 CHAIR LAY: At this time I'm going to call for
20 public testimony. If anyone wishes to testify, please step
21 forward and identify yourself. You have three minutes.

22 MR. JACOBS: Aloha. Thank you. I'm new to the
23 neighborhood, Sydney's neighbor, directly above her. From
24 the day that I moved in, she's been very instrumental in
25 helping me understand how --

1 CHAIR LAY: Can you please repeat your name?

2 MR. JACOBS: Joe -- sorry -- Joe Jacobs, Sydney's
3 neighbor. So Sydney's just been very helpful in helping me
4 understand the process of farming. With five acres, I want
5 to be doing farm being. She's been able to take me through
6 and explain. I think that's really important for people
7 visiting Maui to see that it's not just about building a
8 house and having a farm, but it's sharing it, the stories,
9 the pictures. To be able to come to Maui and to have
10 someone sit down at your house and share that with visitors,
11 I think, is really important. And we'd love to see that in
12 our neighborhood and would love to put my family there
13 instead of in my house when they come to visit.

14 CHAIR LAY: Commissioners, any questions for the
15 testifier? Seeing none, thank you very much. Does anyone
16 else wish to testify at this time? Seeing no one, public
17 testimony is closed. Commissioners, questions or comments?
18 Commissioner Hedani.

19 COMMISSIONER HEDANI: Sydney --

20 MS. SMITH: Yes.

21 COMMISSIONER HEDANI: I couldn't tell from the
22 plans, somebody said 200 feet above the stream.

23 MS. SMITH: Yes.

24 COMMISSIONER HEDANI: Only because we've allowed
25 cottages to go washing away, you know, after we've approved

1 them.

2 MS. SMITH: I know. I cleaned up that cottage.
3 Every piece of it was on my property.

4 COMMISSIONER HEDANI: At least I know where it
5 ended up. Okay. So my only concern was the elevation above
6 flood stage from the --

7 MS. SMITH: Both of them are at least 200 feet
8 above flood stage. No problem there.

9 CHAIR LAY: Commissioner Wakida.

10 COMMISSIONER WAKIDA: First of all, I congratulate
11 you on cleaning up what looked like a horrific mess. And I
12 apologize on behalf of my fellow Maui citizens that they --
13 anybody that was raised on Maui would do such a thing, but,
14 obviously, some people did. I have a question about your
15 floor plan.

16 MS. SMITH: Uh-huh.

17 COMMISSIONER WAKIDA: The main house -- I believe
18 I'm looking at the main house in Exhibit 8. I was wondering
19 how this bedroom was connected to the main house.

20 MS. SMITH: The upper floor bedroom, there's a
21 stairway leading to. And the one downstairs, there's a door
22 right into the main living room part.

23 COMMISSIONER WAKIDA: It looks like a separate
24 building.

25 VICE-CHAIR BALL: It's on the on the top.

1 MS. SMITH: Oh, I think that's the second story
2 that's just so that you can see that it's the second story.
3 It's not separate.

4 COMMISSIONER WAKIDA: Oh.

5 MS. SMITH: It's just the second story, so that
6 you can see the floor plan.

7 COMMISSIONER WAKIDA: Oh, I see. Yes. I see
8 where you're saying. Okay. Thank you.

9 CHAIR LAY: Commissioners, any more questions? So
10 I live right above you.

11 MS. SMITH: I know.

12 CHAIR LAY: I've seen improvements that you guys
13 have done to that area.

14 MS. SMITH: Thank you.

15 CHAIR LAY: You've done good work. And that fight
16 with the coqui frog itself must have been --

17 MS. SMITH: It still is.

18 CHAIR LAY: It's still going on. You hear them
19 once in a while.

20 MS. SMITH: Yeah.

21 CHAIR LAY: You've done a great job out there.

22 MS. SMITH: Thank you.

23 CHAIR LAY: Commissioner Hedani.

24 COMMISSIONER HEDANI: I just wanted to compliment
25 you on the degree to which you've immersed yourself into the

1 agricultural activities on the parcel.

2 MS. SMITH: Thank you.

3 COMMISSIONER HEDANI: We constantly hear before
4 the Commission about applications that come in that go
5 through this huge gyration of showing how they're involved
6 in agriculture, and it's not even remotely connected to
7 agriculture in some cases. But --

8 MS. SMITH: Yes.

9 COMMISSIONER HEDANI: -- this is truly an
10 outstanding example, I think, of how you can actually do
11 something successful.

12 MS. SMITH: Thank you. It's really our life, you
13 know. I mean, that's -- every day, you know, that's our --
14 that's our life on the farm. When I'm not down here at the
15 County buildings.

16 CHAIR LAY: To add to what Commissioner Hedani
17 said, and, also, that you're sharing that --

18 MS. SMITH: Yes.

19 CHAIR LAY: -- that information, which is a big
20 thing for, you know, local farmers here, sharing your
21 knowledge with them. And I appreciate that.

22 MS. SMITH: I've been working with (inaudible) to
23 bring young Hawaiian youth onto the property. Right across
24 the stream are some ancient Hawaiian pictographs that is not
25 actually on my property, but you can only see them from my

1 property. And he's been bringing young men who have gotten
2 in trouble a little bit, you know, with the law, and try to
3 bring them back to their culture and make them understand
4 their culture. And, you know, that has been really
5 gratifying for me. And they want to learn farming and they
6 want to learn about, you know, their ancestors. And that's
7 been one of the best things about the last couple of years
8 is being able to work with (Inaudible).

9 CHAIR LAY: Commissioner Medeiros.

10 COMMISSIONER MEDEIROS: I, too, would like to
11 thank you. You are a remarkable woman, you know.

12 MS. SMITH: Thank you.

13 COMMISSIONER MEDEIROS: Just thank you for being a
14 straight-up good human being.

15 MS. SMITH: Thank you. Appreciate it.

16 CHAIR LAY: Commissioners, any more questions or
17 comments? Commissioner Higashi.

18 COMMISSIONER HIGASHI: Yes. I just wanted to know
19 the road access from the highway to where you live --
20 because I -- I can see your property.

21 MS. SMITH: Uh-huh.

22 COMMISSIONER HIGASHI: But what's the access road
23 like?

24 MS. SMITH: For the vacation rentals or for my
25 home? Which one? I have different access.

1 COMMISSIONER HIGASHI: You have two?

2 MS. SMITH: Yes. I have access right off of
3 Kaluanui Road to my one-bedroom cottage. There's a concrete
4 driveway, which I'm sure Chairman Lay has seen, big concrete
5 driveway. It's right there on the road. And then when you
6 go right past that, there's another driveway that's about
7 600, 700 feet long, that's partially paved, that's gravel
8 driveway that goes down to my two-bedroom cottage. And it's
9 a good road. And then my own home is right down by Kaluanui
10 Bridge, is -- the access to that is a half-mile driveway
11 down to my home.

12 COMMISSIONER HIGASHI: So from -- from Maliko,
13 that bridge, to your home, how far is that going in?

14 MS. SMITH: From the bridge to my home that I live
15 in is one-half mile.

16 COMMISSIONER HIGASHI: One-half mile.

17 MS. SMITH: Uh-huh.

18 COMMISSIONER HIGASHI: It's all dirt?

19 MS. SMITH: It's gravel.

20 COMMISSIONER HIGASHI: It's not paved?

21 MS. SMITH: It's gravel, yeah.

22 COMMISSIONER HIGASHI: Gravel.

23 MS. SMITH: There's -- partially paved. Right
24 inside is paved with -- with blacktop, and then it goes
25 gravel.

1 COMMISSIONER HIGASHI: Okay. So it's about a
2 single lane, double lane?

3 MS. SMITH: It's a single lane with some pullouts.
4 Because it's so long, you can't back up a whole half mile if
5 you meet another car. So there's several pullouts along the
6 way. But that's not the road that -- access that's used for
7 the vacation rentals. It's only the road that goes to my
8 house which is a separate parcel. It's an adjoining parcel
9 to where my vacation cottages are.

10 CHAIR LAY: Commissioners, any more questions or
11 comments? Seeing none, can we get the Department's
12 recommendation?

13 MS. FLAMMER: Okay. This is probably the -- you
14 see this permit more than you see any other permits. I'm
15 not going to go into the seven different conditions, though.
16 If you have any questions, again, I remind you that the last
17 condition is that the farm plan remain implemented
18 throughout the duration of the permit. I don't see a
19 problem with this project, but we still will require
20 documentation when she comes in for renewal.

21 So in consideration of the foregoing, those seven
22 conditions, the Department recommends that the Commission
23 adopt today's report and recommendation for our March 24,
24 2015 hearing as your findings of fact, conclusion of law,
25 decision and order, and that you authorize the Planning

1 Director to transmit said written decision and order on
2 behalf of the Maui Planning Commission.

3 Again, a reminder, this is for the State Special
4 Use Permit. The short-term rental home permit will be
5 issued administratively by the Department once this is
6 approved. Thank you.

7 CHAIR LAY: Commissioner Hedani.

8 COMMISSIONER HEDANI: So moved.

9 CHAIR LAY: Motion by Commissioner Hedani. Do we
10 have a second?

11 COMMISSIONER TSAI: Second.

12 CHAIR LAY: And seconded by Commissioner Tsai.

13 Any questions or comments on the motion on the floor?

14 Seeing none, can we get the Director to repeat the motion?

15 DIRECTOR SPENCE: The motion is to approve as
16 recommended by staff.

17 CHAIR LAY: Commissioner Freitas just stepped in.
18 I'm afraid he won't be able to vote on this item.

19 COMMISSIONER FREITAS: No, I won't vote.

20 CHAIR LAY: Call for the vote. All those in
21 favor?

22 DIRECTOR SPENCE: Six ayes.

23 CHAIR LAY: Motion carries. Thank you very much.
24 Congratulations.

25 MS. SMITH: Thank you.

1 CHAIR LAY: Okay. Commissioners, without missing
2 a beat, at this time we're going to go back to our agenda,
3 and we're going to go back to Item C.

4 DIRECTOR SPENCE: Commissioners, what we would
5 like to do with this item is I would like to read the
6 resolutions thanking Commissioners Freitas and Wakida for
7 their service on Maui Planning Commission. So in no
8 particular order. First, Mr. Freitas.

9 Whereas the Maui County Planning Commission was
10 established in 1958; and whereas, since April 2010, Jack
11 Freitas has served as a member of the Maui Planning
12 Commission; and whereas Jack Freitas has served on the Maui
13 Planning Commission with dedication and provided valuable
14 guidance in serving the needs of the people of Maui County;
15 and whereas Jack Freitas' term of office will expire March
16 31st, 2015; now, therefore, be it resolved by the Maui
17 Planning Commission that it does hereby express its deepest
18 gratitude and appreciation to Mr. Freitas for his service
19 during the past five years, and does hereby extend its best
20 wishes in the future endeavors; and be it further resolved
21 that copies of this resolution be transmitted to the
22 Honorable Alan M. Arakawa, Mayor of Maui County, County of
23 Maui, and the Honorable Michael White, Chairperson of the
24 Maui County Council. And with all our signatures.

25 Do we need to approve?

1 CHAIR LAY: Motion to approve?

2 DIRECTOR SPENCE: Yeah. Do you want to do both?

3 CHAIR LAY: Yeah, let's do both.

4 DIRECTOR SPENCE: And we also have a resolution
5 for Commissioner Wakida. Whereas the Maui County Planning
6 Commission was established in 1958; and whereas -- two years
7 after I was born.

8 CHAIR LAY: Had to throw that in.

9 DIRECTOR SPENCE: It's been around for a while, in
10 other words. And whereas, since July 2010, Penny Wakida has
11 served as a member of the Maui Planning Commission; and
12 whereas Penny Wakida has served the Maui Planning Commission
13 with dedication and provided valuable guidance to serving
14 the needs of the people of Maui County; and whereas Penny
15 Wakida's term of office will expire March 31st, 2015; now,
16 therefore, be it resolved by the Maui Planning Commission
17 that it hereby does express its deepest gratitude and
18 appreciation to Penny Wakida for her service during the past
19 five years and hereby -- and does hereby extends its best
20 wishes for her future endeavors; and be it further resolved
21 that copies of this resolution be transmitted to the
22 Honorable Alan M. Arakawa, Mayor of the County of Maui, and
23 the Honorable Michael White, Chairperson of the Maui County
24 Council.

25 CHAIR LAY: Commissioners, we need a motion to

1 approve of this resolution.

2 COMMISSIONER TSAI: So moved.

3 COMMISSIONER HIGASHI: Second.

4 CHAIR LAY: Motion by Commissioner Tsai, second by
5 Commissioner Higashi. Any discussion on the motion?
6 Commissioner Hedani.

7 COMMISSIONER HEDANI: I would like to protest the
8 resolution for Mr. Freitas because he forgot to bring the
9 refreshments.

10 COMMISSIONER TSAI: And I second that.

11 DIRECTOR SPENCE: Mostly, with dedication.

12 CHAIR LAY: Commissioner Medeiros.

13 COMMISSIONER MEDEIROS: Yeah, I'd like to say that
14 it was such a great pleasure to work with Penny and this
15 character sitting next to me. From day one, you made me
16 really comfortable. Gotten to the point where I look at him
17 and I think that he's a brother from a different mother.
18 It's a Portuguese thing, you know. But I going to miss you
19 guys, you know. Penny, while we didn't agree on many
20 things, the only problem that I had with her is that she
21 always made sense. But I really going to miss both of you.

22 CHAIR LAY: Okay. For me, the two of you, you
23 guys have been an important input to all these -- all these
24 agenda items that have come before us. Not always -- and
25 what's important, too, is a different opinion, too. That's

1 very important, too. As a commission, we need to have that
2 difference so we can hear everybody's opinion on what this
3 item is about. We can't all be the same. And we appreciate
4 the input that you guys have given us. It's been very
5 valuable. And it's helped us out immensely for the years
6 that you've been with us.

7 And I do have something for you guys. First, I
8 got a crown flower lei, because you're wild, right, and it's
9 purple, too. Jack, you know you can give it to your wife
10 afterwards. I won't be presenting it the same way I'm going
11 to present it to Penny. Okay?

12 COMMISSIONER FREITAS: Okay.

13 CHAIR LAY: There you go. Thank you so much.

14 COMMISSIONER WAKIDA: Thank you.

15 CHAIR LAY: There you go. Thank you very much. I
16 wasn't gonna hug. Come on. And I have -- well, I have one
17 more item for you guys. The flowers will die and fade, but
18 I've got something that you guys can keep on your -- your
19 favorite desk, wherever, in momento of the work you've done.

20 First, we've got Jack. In appreciation of all
21 you've done for us, it's a warrior, showing that you fought
22 for things. And we appreciate that. Second -- this is
23 really difficult to find.

24 DIRECTOR SPENCE: You need Akaku.

25 CHAIR LAY: This is really difficult to find. I

1 went to store and store and store. Penny, to find a redhead
2 hula girl was really, really hard.

3 COMMISSIONER WAKIDA: Oh, thank you.

4 COMMISSIONER HIGASHI: Encore.

5 CHAIR LAY: And one more important fact about
6 this, it wobbles, but it doesn't fall. So you don't falter,
7 right? Commissioner Wakida.

8 COMMISSIONER WAKIDA: I would like to say
9 something. I sort of wrote out a little speech here, so I
10 didn't forget to thank so many people that have made these
11 five years so meaningful.

12 First of all, I'd like to thank the Planning
13 Directors Will Spence and Michelle McLean as well as
14 Kathleen Aoki and Ann Cua, who were in their seats before
15 them, for their guidance and direction. And I also thank
16 our esteemed counsel, Richelle Thomson and Michael Hopper
17 and James Giroux. And our Public Works Deputy Rowena
18 Dagdag-Andaya. And, of course, David Goode for their great
19 assistance to me and to this Commission. And I have
20 particularly great respect for the professionalism of the
21 Maui County Department of Planning staff. I think the
22 public really gets its monies worth from these hard-working
23 and thoughtful people.

24 And, of course, I must thank my fellow
25 Commissioners. I felt we worked well together. There are

1 various points of view helped me clarify my own. And it's
2 been a privilege to be a part of this process.

3 Lastly, I have gratitude for the members of the
4 public who come here and selflessly give of their time and
5 expertise to participate in this process. I have often
6 heard that the permitting process is unnecessarily arduous,
7 complicated and long. I've always kept in mind that Maui is
8 a finite land mass with astonishing beauty that needs
9 careful stewardship.

10 I would like to quote Commissioner Ward Mardfin
11 who said, at his final Commission meeting, change is
12 inevitable, but change must be guided and not totally driven
13 by private personal gain with no regard for the rest of the
14 community.

15 In my opinion, the more careful and thorough our
16 analysis of a project is, through careful reading, sharp
17 questioning and public testimony, the better will be the
18 balance between the economic development jobs and the
19 preservation of our national historic and cultural
20 environment.

21 This Commission has supported good projects, used
22 conditions to improve mediocre ones, and rejected bad ones.
23 This has been the work of this Commission. And I'm proud to
24 have been a part of it.

25 I close with just three words. Remember the

1 trees.

2 CHAIR LAY: Jack.

3 COMMISSIONER FREITAS: As all of you know me, I
4 didn't speak an awful lot during the Planning Commission,
5 but, when I spoke, I thought I had something to give and
6 some worthwhile input. As that is said, I still do not have
7 a lot to say. All I'd like to say is thank you for the
8 Planning Commission Members that I worked with, the County
9 staff, the Planning Director, and the public for showing up
10 and voicing their opinion. And I hope they hold no offense
11 to me because I've disagreed on several issues. And I'll
12 stand my ground. And I'd like to thank all of you. Thank
13 you.

14 CHAIR LAY: Director.

15 DIRECTOR SPENCE: Thank you, Mr. Chairman. And I
16 just want to say how much I've enjoyed working with both of
17 you. One of the things the Planning Commission is supposed
18 to -- it's supposed to represent the diversity of the
19 community. And certainly that's embodied within Mr. Freitas
20 and Ms. Wakida. Truck driver, owner, small businessman,
21 English teacher. You know, I think it's just -- it doesn't
22 get any better than that. They're volunteers. We send them
23 stacks of paper every two weeks, they get through it, they
24 know the issues, they know the questions they want to ask.
25 And it's just really been a pleasure. Personally, for me,

1 I've -- I've really enjoyed the both of you. I think it's
2 pretty safe to say staff has also enjoyed you and will miss
3 both of you on this Commission. Okay.

4 CHAIR LAY: Commissioners, any more questions or
5 comments on our motion? Commissioner Hedani.

6 COMMISSIONER HEDANI: Yeah. Seriously, I think
7 Penny has been probably the only Commissioner that I know of
8 that reads every single page of every single document that's
9 provided. We won't forget the trees. And for Jack, we
10 won't forget the moratorium.

11 CHAIR LAY: Commissioners, any more questions or
12 comments on the motion on the floor? Seeing none, can we
13 get the Director to repeat the motion?

14 DIRECTOR SPENCE: I don't know how to voice this.
15 You're adopting resolutions congratulating outgoing
16 Commissioners Jack Freitas and Penny Wakida.

17 CHAIR LAY: Call for the vote. All those in
18 favor, give it an aye aye.

19 (Response.)

20 CHAIR LAY: Those opposed.

21 (No response.)

22 CHAIR LAY: Motion carries. Congratulations. And
23 let's take a break to 11:00.

24 (Recess, 10:53 a.m. to 11:03 a.m.)

25 CHAIR LAY: Planning Commission is now called back

1 to order. Our next agenda item.

2 DIRECTOR SPENCE: Mr. Chairman, we are on Number
3 2, Item D.2. This is Ms. Crystal Schmitt of the Dragon
4 Fruit Farm, LLC, requesting a State Land Use Commission
5 Special Use Permit and a Conditional Permit to do -- sell
6 non-ag related items and agricultural products not grown on
7 the property. The Staff Planner this morning is Ms. Gina
8 Flammer.

9 MS. FLAMMER: Okay. Good morning. I am just
10 going to briefly introduce the project. And then I
11 understand we're going to take some testimony, and I believe
12 we'll break for lunch and then come back, and I can do a
13 PowerPoint presentation, and then the applicant can address
14 you.

15 So, basically, I broke down the use. What she's
16 -- what they are requesting is a giftshop that can sell some
17 retail items, to conduct special events, and, also, to have
18 agricultural tasting tours. So what happened is the
19 applicant came in, she described to us what she wants to do
20 and asked how -- what is -- what's needed for that, what
21 kind of permits.

22 So what we're looking at is, you know, as you all
23 know, we have two different layers -- three, really -- of
24 land regulation. We have the State regulations and then we
25 have the County. So when we start with the State

1 regulations, we're looking at a State Special Use Permit.
2 And I'll go into what the different criteria are later in
3 the presentation. And then for the County, when we take a
4 look at the County Code, the ag section, it doesn't fit into
5 a permitted use, not an accessory use, nor does it fit into
6 a special use. That's where they list out different uses.
7 So we use the Conditional Permit when we have a something
8 requested that's not listed out in the Code.

9 So the Conditional Permit is -- the final
10 authority for that is the County Council. So you'll be
11 making a recommendation to them. For the State Special Use
12 Permit, it is -- you are the final authority for that.

13 You will see that the conditions that we're
14 putting on the project limiting our -- limiting the -- the
15 proposed uses are put on the Conditional Permit. So the
16 final decision on those will be made by the County Council.

17 Unless there's any questions, I am going to defer
18 the presentation until we reopen later.

19 CHAIR LAY: Thank you. At this time I would open
20 up to public testimony. I'll be following the list that you
21 guys signed in earlier. But we're going to have to break
22 for lunch at 11:15, so there's only going to be a couple of
23 testifiers. If you want to testify now, I call you -- if
24 I -- when I call you, come up to the podium, you'll be given
25 three minutes, identify yourself. If you want to wait until

1 after we reconvene at 1:00, just let me know, "I'll do it
2 after when we get back."

3 Our first on the list is Toni Davis.

4 MS. DAVIS: I'll talk.

5 CHAIR LAY: Thank you.

6 MS. DAVIS: Thank you. Aloha. My name is Toni
7 Marie Davis. I am the Executive Director with the
8 Activities and Attractions Association of Hawaii. I have
9 submitted written testimony as well. I am just going to
10 speak from my heart and from my experience.

11 I have been with the activity and attraction
12 industry for over 17 years. It's a statewide nonprofit
13 trade organization that represents all the fun things to do
14 in Hawaii. And what we look for -- we have kamaaina
15 programs. We look for a balance. We reach out to
16 pre-arriving visitors, we lobby for consumer protection, we
17 put lots of laws on the regarding how a timeshare is sold.
18 We're always looking for the balance with the community.

19 And I also have known Crystal and her husband
20 Larry since 2000. Fabulous people.

21 I've read through -- probably not as thick a
22 papers that you've had, but I read through quite a bit of
23 them. And some of the things that have been addressed are
24 not accurate regarding the zipline. From the activity and
25 attraction industry side of it, I don't know if I -- it

1 would be pushing it to be called a zipline, like skyline or
2 the Flyin Hawaiian or any of those others. It's nowhere
3 near. It, actually, fills a great niche in -- for small
4 children. And it's a lure. It's a lure to come to what
5 they are passionate about and what -- if you know Crystal
6 and Larry, what they're all about, which is growing dragon
7 fruit.

8 I have never tried dragon fruit before. This is
9 the first I -- I mean, I've seen it in the store. It looks
10 kind of freaky. I wouldn't necessarily pick it up to buy.
11 Crystal was the first one to share that fruit with me. And
12 I absolutely love it, I have a plant in my back yard in my
13 home in Makawao. And I am waiting for the fruit, which
14 beautiful flowers, if you've ever seen them. They only
15 bloom once, they only bloom at night. It is an amazing
16 super food.

17 And I think for Hawaii and for Maui specifically,
18 with the agritourism and what she's doing, it's something
19 that we as a community should support.

20 Constantly, I submit testimony on behalf of
21 commercial operators because there's always that clash. We
22 live in a tourism rich economy that is our main economy.
23 And there's always going to be that rub.

24 And I want to congratulate, thank you for what you
25 do, which is that balance with Commissioner Penny was

1 talking about. And you do it so well. And it's so
2 important.

3 But knowing these people and knowing what they do
4 and reading the opposition, it's not in line with what is
5 really going on there. And I just want to extend my support
6 professionally and extend my support personally as well,
7 knowing both of them. And out of the 19 neighbors, I only
8 saw three oppositions to what they are proposing to do.

9 Thank you very much. I am open to any questions.

10 CHAIR LAY: Commissioners, any questions for the
11 testifier? Seeing none, thank you very much.

12 MS. DAVIS: Thank you very much.

13 CHAIR LAY: The next testifier is Kawika.

14 KAWIKA: Aloha. My name is Kawika (Inaudible).
15 And I am reading this on behalf of Mr. Raymond Fuqua, dated
16 October 25th, 2014, to Maui County Planning Commission.

17 My name is Raymond Fuqua. My property's address
18 is 700 Punakea Loop, which is next to the Maui Dragon Fruit
19 Farm located at 833 Punakea Loop. I have known Crystal and
20 Lawrence Schmitt ever since they started their dragon fruit
21 farm about five years ago in my neighborhood. They are
22 among the most hard-working and devoted farmers I've ever
23 known. I have seen over the five past -- the past five
24 years how they have turned the former sugarcane land into a
25 productive organic dragon fruit farm in Launiupoko. Their

1 passion for organic farming and determination for
2 commercialized dragon fruit growth on Maui is inspiring.
3 They have come to me to discuss their desire to apply for a
4 special permit use to operate a farm stand giftshop that
5 will not only sell fruits and vegetables produced from the
6 farm, but, also, some local items that are not 100
7 percent -- 100 percent produced from the farm, like
8 T-shirts, hats, et cetera. They also told me that they plan
9 to apply for a Conditional Use Permit to hold special events
10 at the farm, including catered dragon fruit tasting tours
11 and weddings, et cetera. They have asked my input and any
12 comments I might have on the above issues. I'd like to
13 inform you that I have fully supported their farming
14 endeavor and their desire to diversify the income to try to
15 sustain their farm operations. Your support of them is --
16 your support of them is support of agriculture endeavor and
17 organic food production on Maui. If you have any questions
18 regarding this, please feel free to contact me at
19 808-264-23 -- correction -- 808-268-2832. Sincerely yours,
20 Raymond Fuqua, 700 Punakea Loop, Lahaina, Hawaii, 96761.
21 Thank you.

22 CHAIR LAY: Commissioners, any questions for the
23 testifier? Seeing none, thank you very much.

24 KAWIKA: Mahalo.

25 CHAIR LAY: This will probably be our final

1 testifier, Hong.

2 HONG: Aloha. My name is Hong (Inaudible). I am
3 the owner of Hong's Farm, LLC. I am in the farmer's market,
4 Upcountry farmer's market every Saturday. So as a farm, I
5 coming here to support Maui Dragon Fruit Farm, Crystal and
6 Larry Schmitt. (Inaudible). They have work so hard.

7 I come here, I want to say is, to do organic
8 farming, we have lots of challenges. The most critical one
9 is the weather. When the tropic storm comes, heavy rain
10 flushed the fields. The crops are soaked in the -- in the
11 water. And the next six weeks, you don't have income. And
12 the dragon fruit is seasonal. And sometimes, some years,
13 (inaudible). The fruits not perfect and they devalued, you
14 know, because devalue the yield. So for organic farming, it
15 is really, really tough.

16 That's why they need diversify, some special
17 events, get some other activities to survive. So I come
18 here to support them as just for sustainable farming and for
19 survive.

20 Mahalo.

21 CHAIR LAY: Commissioners, any questions for the
22 testifier? Seeing none, thank you very much. And at this
23 time we're going to break for lunch, and reconvene at 1:00.

24 (Recess, 11:13 a.m. to 1:13 p.m.)

25 CHAIR LAY: Planning Commission is now called back

1 to order. We're back to Item D.2. At this time, Gina,
2 you're going to do a presentation.

3 MS. FLAMMER: Good afternoon. Gina Flammer, Staff
4 Planner for the project. What I am going to do now is go
5 ahead and give you a PowerPoint presentation with some
6 information about the project, and I am also going to go
7 into some of the laws behind the permits and the criteria,
8 and then I am going to turn it over to the applicant who is
9 going to give you some background on her request.

10 Okay. So we start with the location. We're
11 looking at Launiupoko subdivision. Here's the Launiupoko
12 overview map. So you can see it's quite a large lot. And
13 the applicant -- the lot's a little over 27 acres.

14 The applicant purchased it in 2009. And they
15 stated that their intent with the purchase was to promote
16 dragon fruit as a commercial crop on Maui.

17 In 2014, the parcel was divided through a
18 condominium property regime into two. I know there had been
19 some confusion with, maybe, in some of the letters they had
20 originally proposed eight, but, when it was finally done,
21 two were approved by the County. And that's what we have
22 now. You can see in Exhibit 5 of your report what lot is
23 what.

24 The applicants do not reside on the property. So
25 the farm itself, the Maui Dragon Fruit Farm, it takes up

1 about 15 acres of that 27-acre parcel. It is a diversified
2 U.S.D.A. certified organic farm. And, also, the largest
3 organic dragon fruit farm in the U.S. There are 16
4 varieties of the dragon fruit planted and over 2,500 plants
5 in addition to a couple other crops. There's some
6 pineapple, bananas, papaya, there's some sugarcane as well.

7 Currently, these are existing activities that are
8 going on right now. They are outright permitted. They have
9 a Walking Farm Tour. They have a Zipline Adventure Tour.
10 We used to allow those under open recreation land use. We
11 look at them a little differently now than we did. There's
12 also an Aquaball Adventure Tour. And these are right off
13 the website. There's a little more information in Exhibit 8
14 about those activities. This is what is going on now; this
15 is not a part of the request.

16 What is a part of the request today is the ability
17 to sell retail as well as food that's not 100 percent grown
18 in the giftshop, to hold special events, and then to conduct
19 tasting tours. Kind of a farm -- excuse me -- a farm to
20 table concept.

21 So here's where you can see the giftshop, the
22 building's already up. It's 252 square feet. I'll show you
23 some pictures of the inside in just a little bit. The
24 applicant submitted nonfood items and food items that they
25 would like to sell. We're not actually attaching this to

1 the permit. It gives you an example of the type of products
2 that they want to sell.

3 I will let you know that State law does allow some
4 value-added products. They have to be made in Hawaii.
5 We're still requiring the State Special Use Permit for the
6 other activities. And, also, we didn't want to have to go
7 in and regulate the organic skin products and see was this
8 made in Hawaii or not. We figured it's much easier just to
9 fold it into the permit.

10 For the tasting tours, what they're anticipating
11 is, initially, there will be a tour and then there will be
12 some kind of catered food. They may put a commercial
13 kitchen in later, have some of the food cooked there.

14 It's interesting, when you start talking with your
15 applicant more about what are they thinking, you realize
16 sometimes you're thinking two different things. So I wanted
17 to just be really clear. And we're going to add some
18 conditions at the end to clarify that the sole purpose of
19 the tour would be to tour the farm and then to eat the food.

20 The applicant had talked about maybe combining it
21 with some other special events, but, since there's no
22 limitations on the number of these, we wanted to make sure
23 that it's strictly a tasting tour, that's the sole purpose
24 of it, and there's no amplified sound.

25 If they're going to have another event mixed with

1 it, say a Chamber of Commerce annual type of meeting, that
2 would then be considered a special event, and not a tasting
3 tour.

4 And then they are requesting to hold special
5 events. They want to hold up to 60 a year, and with the
6 following two conditions: For 50 or less guests, they want
7 the ability to be able to do it four times a month. We're
8 going to -- we put "calendar month" in there. And then
9 events with guests of up to 100 people, they would like to
10 do that once a month.

11 They are also requesting the ability to hold
12 large-scale public events, ag-related. The conditions in
13 the permit right now do not allow this, but I know the
14 applicant has made a special request to you. There's a
15 letter that went around earlier. And that's one of the
16 things.

17 In terms of parking, there are 76 stalls on the
18 property. For events that would require more than that, a
19 shuttle bus will be used. And, again, you can see the site
20 plan in your report, in Exhibit 6.

21 And then I put the site plan in here so you could
22 see the portion that we're talking about for this permit.
23 It looks a little bit like Texas. I guess it's up in the
24 panhandle area. It's up in the area that's green, right
25 closest to the road.

1 And then I just want to show you a whole bunch of
2 photos, since we're not doing a site visit, that you get a
3 sense of what we're talking about. So that takes you out to
4 the road. You can see where the special events -- one of
5 the fields is the larger field. You can see the farm
6 dwelling that's being constructed now. They're not
7 proposing to do any events in that. They're just proposing
8 to use it as an office. They will have the ability to stay
9 there, but it's not a part of the activities they're asking.

10 You can see the parking, the paved parking area.
11 Then you can see the bathrooms that are there. There's a
12 male and a female bathroom.

13 Down in the area where the cones are is where it
14 turns into a gravel driveway where they can park additional
15 cars over the 32.

16 Again, here's the giftshop building. And then you
17 can see -- this is currently how it is. They would like to
18 turn that into a retail area. Not a whole lot of room.

19 These are the bathroom facilities. And you can
20 see the inside there.

21 The parking lot.

22 You can see the other event field where they're
23 proposing to hold the ceremony for weddings is right out
24 there.

25 So this is up from the road, looking down. They

1 do have an aquaponic area that they're -- it's kind of under
2 construction, to the right of the picture. The one event
3 field that overlooks the view, and then the second event
4 field where they would have more the receptions or the
5 larger areas where they could tent it.

6 This is the area where they would like to do the
7 wedding ceremonies. I tried to get it from down below. It
8 is one of these rock piles. So you can see from the other
9 side, it's where they had piled everything up. They had
10 gone ahead and put more sod and planted grass over it.

11 Then, here, you can see same area. I guess that
12 was Field 1; this is Field 2. So this is the larger area.

13 The applicant may talk a little about the sound
14 wall she's got behind her. I think those are all from the
15 property. There were a lot of rocks in there. She's got
16 them all up against that area in the hopes it would buffer
17 noise from going up to those properties behind it.

18 I want you also to look around at the other
19 properties. It's very hard when you're dealing with so much
20 acreage to really shoot the neighborhood. All the Google
21 Earth pictures are very old. So I kind of tried to do the
22 best I could.

23 This, again, is the field right here that shows
24 you the rock wall. That's the view from the other field.
25 And then you can see the -- the dragon fruit to the left

1 there. And then you can see some of the houses in the area.
2 You can see another one of those built-up kind of rock
3 areas. That's what this is right here.

4 This is the lower area. You see the gravel road.
5 They can come in through here. And there are grass parking
6 stalls.

7 I wanted you to see some of the plants. It's a
8 little bit dark. That's what the dragon fruit plant looks
9 like.

10 And this is just to give you an idea what -- the
11 rest of the farm. But, again, take a look at some of the
12 structures around. I think that's the zipline that's,
13 actually, in there; that's not a house. Yeah, that shows
14 you where the platform for one of the ends is. That's
15 pineapple that's right there. There's some banana you can
16 see along the back. And then you can see there's grass
17 parking area right there. And, again, the banana. If you
18 keep going out, that's where the aquaball portion of it is.

19 And then you can see one of the houses in the
20 front. You can't -- there's a couple to the right there,
21 but you can't really see those.

22 This is the lower part of the farm. Again, the
23 lower area.

24 They used different -- two different methods of
25 trellising the plants.

1 And then, again, it shows you a little bit of some
2 of the houses in the area. This is from when you go all the
3 way around the loop to the other side. I was coming up from
4 the site visit and I looked over and I thought, oh, there it
5 is. So I tried to capture it for you.

6 This may be the property the Moores where there
7 was -- they sent in a protest letter.

8 And then you can see coming in from the Punakea
9 Loop, the first way you come in. That's the farmhouse
10 that's under construction. And then you can see the two
11 homes which I believe is a condominiumized lot directly
12 behind it. And then I tried to take from the front. So
13 this is kind of some of the houses that are from the front
14 part of the property when you're on the corner where the
15 road is.

16 So we talked earlier about what kind of permits
17 are needed. And I know you deal a lot with the State
18 Special Use Permits, so you -- you know that they do allow
19 unusual and reasonable uses, but they give you five criteria
20 that they measure that against.

21 Specifically, in dealing with this one, we're
22 looking at the use and the objectives. Do they -- do they
23 promote the overall goal of the State ag ordinance. Are you
24 looking at something that's an accessory use to the ag,
25 something that maybe becomes the primary use. You're trying

1 to find a balance with that. And then also very important
2 is, is the use going to adversely affect surrounding
3 properties. We have a couple other ones that we also
4 evaluate, but those were the two that I thought were
5 probably the most applicable that I really needed to work
6 with the applicant to make sure that we met these criteria.

7 Now, when you're dealing with a Conditional
8 Permit, because it's kind of a catchall permit, they do have
9 some criteria, but it's not geared for ag land. They're
10 just criteria when you're looking at any zoning district in
11 a use that's not outright permitted. And, again, the
12 Council is the one that will have the final authority on the
13 Conditional Permit.

14 But what they do tell you for the Conditional
15 Permit is they want the proposed use -- it's supposed to be
16 similar related compatible with permitted uses in the area.
17 So in the report, I did talk a little bit about some other
18 commercial activities that are going on in the area.

19 And then, also, it talks about in the Conditional
20 Permit that there needs to be reasons justifying the
21 granting of the Conditional Permit. I know the applicant
22 has talked a lot about that this is going to promote her
23 farming activities. So that's where that would come into.
24 And, again, it can't be significantly detrimental to the
25 public interest, convenience or welfare. So you'd be

1 looking, do you need bigger roads, those kinds of things
2 like that. And it also needs to be in harmony with the
3 area. So very similar to some of those State criteria that
4 you have.

5 One of the challenges with doing Conditional
6 Permits, and, also, State Land Use Permits, is there's no
7 initial filing with the neighbors of an application. The
8 notice goes out to neighbors 30 days prior to a hearing.
9 Our reports are generally due 21 days. So when you're
10 writing the report, you don't have the benefit of all the
11 neighbor testimony. We usually encourage applicants, go
12 out, talk to your neighbors. I know the applicant has done
13 that, there are two letters of support from neighbors in
14 there.

15 So what we've gotten is you have two letters of
16 opposition that were in the Staff Report, but, since that,
17 you were emailed several letters from neighbors. And I know
18 those -- those letters from the neighbors of protest, there
19 are concerns about their properties being affected by it,
20 the peace and the harmony of the neighborhood, there are
21 concerns about adequate infrastructure, the roadways, fire
22 protection. And then there's also concerns about what would
23 become the main use of the property, is it going to be for
24 ag or is it going to be for other type tourist activities.
25 So those are kind of the three main things that were brought

1 up.

2 There was, also, many, many letters of support.
3 Two from neighbors, but, also, just from the bigger
4 community. And one of those came in today. And I believe
5 she also testified.

6 Okay. I wanted -- the applicant, actually, put
7 this together. I asked her, you know, what kind of houses
8 are there around. So she put together, so you could kind of
9 see, some of the land is vacant. However, as the
10 Department, we take a look at what's the future going to be
11 like. This permit is going to continue on. And then I just
12 let you see where the protests were. I didn't realize the
13 one above has been condominiumized, and only came from the
14 left side. Another one came in today that's from one of the
15 lower lots where that little square is. It's one of those
16 adjacent, I think, to the left, actually, of that green.

17 Okay. So permit conditions. Usually, I don't go
18 into it at this part, but I think it's -- really, kind of
19 the essence of this project is finding the balance. And the
20 balance comes through the conditions. So conditions are
21 designed to mitigate the impacts, so you're not adversely
22 affecting surrounding properties and so that it's in harmony
23 with the area. And it allows the project to meet the permit
24 review criteria by placing those on it.

25 So, again, this is what we're looking at. So I am

1 going to just briefly go over the project conditions. I am
2 going to highlight a couple areas where the applicant is
3 looking for something a little bit different. Everything
4 else, she's very comfortable with.

5 Often, we make it for one year, sometimes we make
6 it for five. We're looking at two years this time so that
7 it gives enough time for the business to actually get up and
8 running. One of the problems I've seen with the one year is
9 it may take six, eight, nine months for a business to get
10 into full swing where the full impacts can be seen and
11 you're already in the renewal, no one's really gotten upset
12 yet. It's not, sometimes, until the business is fully
13 running in the second year. You may feel differently, and
14 that's why we're here with you today, but, right now, that's
15 what we're recommending.

16 The permit cannot be transferred.

17 The giftshop will close by 8:00 at night. It can
18 open no earlier than 8:00 in the morning.

19 The tasting tours, I put a limit at 8:00 on it.
20 However, after I did the report, the applicant said, "Hey,
21 you know, our plants bloom at night. They don't start until
22 9:00 at night." So we're going to leave that in your hands,
23 how you feel about that.

24 I am asking -- at the end of this, the
25 Department's going to recommend that we just have two

1 clarifying conditions about the tasting tours. I just
2 didn't want that to become a loophole for additional special
3 events. And the applicant is just fine with that. That
4 they would be a farm to table where the tasting tour is the
5 only activity going on. Otherwise, it's considered a
6 special event and then they fall under the limits for that.
7 And no amplified music be allowed for tasting tours. We
8 just didn't see a correlation between amplified music and an
9 agricultural tour. She can do it, but then it would be
10 under a special event and under the limitations of those.

11 So for special events, kind of look at these as
12 the non-ag aspect of this permit request. The applicant
13 came in and said we would like to limit it to four times or
14 less a calendar month unless -- once a month, we would like
15 to do up to 100.

16 The Department recommended a professional event
17 planner be required or the applicant at all times. She was
18 fine with that. That's how they've done business in the
19 past. However, if they are using a planner, the Department
20 would like the applicant to be accessible. And we kind of
21 borrowed something from the short-term rental home permit
22 where we defined what being accessible means. Same thing as
23 the short-term rental, you have to physically be at the
24 property within an hour if there's a problem with a guest, a
25 neighbor or a County agency.

1 The applicant is offering to have everything
2 conclude by 10:00, including all the exterior lighting be
3 shut off.

4 All exterior lighting needs to be downward
5 shielded. That's a Public Works law, anyway, but I want to
6 specifically put it in here. I know there had been some
7 issues with the neighbors, she had been using upward
8 lighting for other purposes. But I think she understands
9 now that that was a problem.

10 And then the amplified sound, we had real concerns
11 about the surrounding properties and sound. You're dealing
12 with canyons. At nighttime, noise can go further. It's
13 very hard to figure out what's a good noise condition. We
14 could have said no amplified sound, and maybe that's what
15 you're comfortable with, however, for now, we're just asking
16 that no sound come off the property.

17 The applicant is asking that she be allowed to
18 have amplified music. And she can talk a little bit about
19 the decibels and where that came from.

20 And then large-scale events. As I mentioned
21 earlier, the Department felt a little uncomfortable with the
22 ability to manage something that's so open-ended. So we've
23 limited, just to the special events, 50 people or 100
24 people. Again, I know she's requested this through a letter
25 to you. And you do have the ability to amend conditions.

1 Parking conditions. Specifically, that everything
2 needs to be -- related to the giftshop and events, it has to
3 be all on site, no street parking. You see this all the
4 time. She has a maximum on-site parking of 76 stalls. And
5 anything more than that would require shuttle service. We
6 did something similar with the Nelson wedding facility in
7 Kihei.

8 Neighbor notification. We wanted her -- she's
9 fine with this, providing an information sheet to neighbors
10 of the contact information, so they can also see the
11 conditions of the permit, including when it comes up. And
12 then a sign, so, if there's a problem, there's a contact
13 number right there. She does have a sign. That's not a
14 problem at all.

15 And then there's just some very general conditions
16 that came out of the agency review. The wastewater system
17 she's in the process of upgrading. Before she starts
18 everything would need to be -- have DOH sign-off on. Fire
19 Prevention Bureau did add or recommend a couple conditions
20 which you can see right there.

21 And then we're asking that a compliance report be
22 submitted to us before she starts operations, just so that
23 we can know that everything has been done.

24 So I just want to point out in my recommendation
25 sheet to you that I used a Hana template. So this didn't go

1 to Hana, it's not in Hana. My apologies for making it
2 confusing. So this is -- the recommendations are to you,
3 the Maui Planning Commission.

4 And then I also wanted to remind you, I am going
5 to come back up and ask you about those two conditions we
6 would like to add on for clarifying what is a tasting tour.

7 And then I just wanted to remind you of your
8 options. They're written in your -- your green sheet, but,
9 in terms of the conditions, we really wanted to come to you
10 today, get your advice, your thoughts on what are
11 appropriate conditions for it. So you can take the
12 conditions as the Department recommended them, you can grant
13 the applicant conditions that she's asking for in there, or
14 you can restrict the conditions that we currently have on.
15 You can cut the number of events down. You can decide only
16 to have ag-related events. It's really -- you have --
17 there's a lot of leeway that you have in meeting that
18 criteria. It just needs to get linked back to those
19 criteria; harmony with the area, affecting surrounding
20 properties, things like that.

21 And, again, on that Conditional Permit where the
22 conditions are, you're making the recommendation to the
23 County Council. They will have the final authority on that.

24 So what I would like to do now is bring up the
25 applicant. And she can give you a little more information

1 on her proposal.

2 MS. SCHMITT: Aloha.

3 COMMISSIONERS: Aloha.

4 MS. SCHMITT: You guys hear me?

5 Dear Commissioners, my name is Crystal Schmitt.

6 And my husband, Larry Schmitt, and I are the owners of the
7 Maui Dragon Fruit Farm.

8 I just want you to know we have lived in Hawaii
9 now for 25 years. And we have lived on Maui for 20 years.
10 My two beautiful daughter, right there, they both born and
11 raised on Maui. Maui is our home. Maui is our island. My
12 husband can testify more than me, there's no other places
13 that we want to live other than Maui. I am always so proud
14 to tell people, "Maui no ka oi, Maui is the best."

15 Larry and I both went to University of Hawaii,
16 along with our dear friend Dawn. She and I harvest on the
17 farm. We met at University of Hawaii at Manoa. We did our
18 masters, and she did her Ph.D. Now we are together farming.

19 So prior to become a full-time farmer, I worked in
20 the visitor industry for 15 years. I worked with the
21 Marriott, I worked for Westin, I worked for Outrigger. And
22 the last hotel I worked for is the Renaissance Wailea. If
23 you remember, they shut it down. I was Director of
24 Engineering. I closed the last day of (inaudible). And now
25 what I do?

1 So -- anyway, so my mother asked me to take my two
2 daughters to China to study Chinese, because she helped me
3 raise the children, she doesn't speak English. She said, "I
4 better be able to talk to my little girls when they grow
5 up."

6 So when she went to China, we found this beautiful
7 fruit on the market. My mom was 75 years old at that time.
8 She said, "I have never tasted, I have never seen this
9 fruit." And my little girl, especially the younger one,
10 loved it. Loved it. So we (inaudible), my mom especially.

11 After I came back to try to find work again, she
12 stayed back in China. And my daughters finish school, they
13 come back. So my mom never come back with her -- with them,
14 my girls. So I said to mom, "I am getting a new job and I
15 need your help." They were like three and seven at that
16 time. "So when are you going to come back to help me?" So
17 my mother says, "I'm not coming back to Maui." I said,
18 "What? What's happening?" She said, "Maui does not have
19 dragon fruit. I am not coming back."

20 What turns out, turns out is -- my mom is diabetic
21 for 40 years. She lost most of her vision. She, basically,
22 only have one eye, be able to see little things. And she --
23 the biggest fear in her mind is she going to go to Maui
24 Lani, hooked up by this kidney dialysis machine, and she
25 cannot communicate. She just scares to death. When she

1 found the dragon fruit -- what happens when you taste dragon
2 fruit -- I don't know -- in the beginning, we just saw a
3 tasty fruit. Like me, I am diabetic for 15 years. I am not
4 as bad as my mom yet. But (inaudible) two or three dragon
5 fruit of this size, I can cut my medication intake by 75
6 percent. And she was like, if I can have such a beautiful,
7 healthy fruit to eat, why do I need to go back to Maui and
8 take those Metformins every single day, destroy my kidney,
9 and got me on a machine. She just, actually, feel that now
10 she doesn't want to come back.

11 So I was telling people, (inaudible) tell your
12 mom, tell you, you are going to come back to Maui because
13 Maui have no dragon fruit. Guess what I tell my mom. I
14 told my mom, I said, "Mom, that's too bad. You told me,
15 'You're not going to have everything in life.' Maui is not
16 going to have dragon fruit. Come on. Help me." She said,
17 "How about we learn how to grow it ourselves?" I was like,
18 I just learned accounting, I just trying to get a new
19 career, I am not going to learn how to grow a fruit. I
20 said, "It's like a cactus? I mean, I don't even know. Is
21 it a tree? Is a vine? Is it an apple, is it an orange?
22 What is it?" So she said, "You know what, how about I go
23 learn?" I was like, "Excellent. Go ahead. Please, go
24 learn."

25 Couple months later -- I didn't really take her

1 seriously -- she call me. She said, "Crystal." I said,
2 "What's up?" She said, "Crystal, I am so excited. I am so
3 excited. I am pretty sure we can grow dragon fruit on
4 Maui." I said, "How this work?" She said, "It's a cactus.
5 It's a cactus. It's easy to take care." (Inaudible).
6 Turns out, she actually went learning, went to school. She
7 found the biggest dragon fruit farm in China, 1,000 acres.
8 And she said, "I really think we can do it."

9 So my mom was 76 years old, 75, 76. I told my
10 brother, I said, "Brother, can you go back to China, please?
11 Can you check on her? Is she all right?" I don't know if
12 she -- you know. So my brother went, flew all the way to
13 China. And when she call me, she said, "Crystal, it's
14 real." She said, "I was facing this mountain. It's right
15 in front of me. The whole hill is loaded with this red
16 fruit. It's every single spot you can put a post on,
17 there's post on it." She said, "Crystal, I really think we
18 might be able to do this." So I said, "Okay. Let's take a
19 look into it more."

20 As we studied more on the dragon fruit, we found
21 out it is a cactus. Cactus is internationally protected.
22 There is international treaty on selling, growing cactus.
23 So for us to bring those dragon fruit cuttings from China to
24 America, they need to get local authority, they get county
25 and federal, whole permit issuing channel. For me to do the

1 same thing, I got to get U.S.D.A. involved, I got to get
2 permits in. So we said, "Okay. You know, it's okay, we'll
3 do it."

4 So my brother went -- another catch to this is my
5 mom anxious to get this started. (Inaudible). Says,
6 "Daughter, I met them. And they're going to sell this
7 cuttings for you really reasonable, so we can do it." I
8 said, "Okay." So my brother started doing the details and
9 found out, even though the cuttings going to be only a
10 dollar, the permit fee per cutting is 15. I said, "Okay.
11 That's still okay. We can just do less." So he went, two
12 months he was China. He came back, said, "Crystal, forget
13 about it." Said, "Don't even think of it. Just forget it.
14 Don't do it." I said, "Why?" He said he just not be able
15 to get through the permits. So I was like, "Okay."

16 My husband -- I do have to give credit to him --
17 he said, "You know what, why just give up? Why just give
18 up?" He said, "Let's look into it a little more." So he
19 spent a lot of time studying. And we realize there's 36
20 variety of dragon fruit in the world. 36. China have two.

21 She said, "Crystal, we don't have to get from
22 China." I said, "That's great. Let's get all of them one
23 spot, let's get all." She said, "No, no." She said,
24 "Crystal, just think about it. If you really want to do
25 something great, choose only the best variety. Because once

1 you get it here, start spreading, if you don't have the best
2 variety, it's a waste of people's productive time. Only
3 stick with the best."

4 So we spent more time and research. And we
5 finally decided on 16 varieties. We based on two criteria.
6 (Inaudible) the self-pollinating. They have to taste good.

7 If you realize later that you -- we are not really
8 the first to bring this species in. You see other
9 (inaudible), in Paia. And way before I know it's dragon
10 fruit, I saw it, it's like night-bloom cactus what flowers.
11 What happened, some people brought it in before. Some
12 varieties, you have to absolutely cross-pollinate it before
13 it can fruit. Some just came in just for flowering
14 purposes. So it's really nobody has, obviously, purposely
15 cultivated varieties.

16 So we contact most of the suppliers in the world.
17 And we brought in 16 best varieties.

18 And in the beginning, we don't know if we're going
19 to be successful. And we don't know what we need to know.
20 I remember I got all these pots different places, on my
21 porch and all over the place.

22 My brother -- I have a really smart brother. And
23 he really think he's smarter because he works, you know, in
24 Harvard Medicine and he's a top researcher. So he said,
25 "Crystal, what you doing?" I was like, "I am going to grow

1 dragon fruit." He, "Oh, Crystal, you're not going to be
2 able to grow dragon fruit on Maui." He said, "Believe me,
3 you're not going to be able to do it." Because he think he
4 has obligation to tell me so I don't have to waste my time
5 and energy and resources. So I said, "Oh, Dear Brother, how
6 did you get this conclusion? Mom says we can." He said,
7 "Just think about this, Sister. If Maui can grow dragon
8 fruit, if dragon fruit wonderful as you said, controls
9 diabetes and all this medicinal facts and have great value
10 and taste good," he said, "why the whole island wait for
11 you?" He said, "Must not can be done. You better save your
12 time and energy to do something to find a job."

13 So I was like, "Okay, let's try it. Let's try
14 it." So the next year, I actually had a fruit. He came
15 over for big conference. And I said, "Look, Brother, I have
16 a fruit." He said, "Crystal, it's not going to taste good."
17 I said, "Why?" He said, "Exact same reason, if it tastes
18 good, why are they waiting for you to do this?"

19 Anyway, so we are very, very proud to report at
20 this very moment, even though my brother never taste my
21 fruit yet, we have successfully cultivated 16 best varieties
22 of dragon fruit on the island. Dragon fruit is here to
23 stay. And it's going to continue to grow. We feel
24 passionate about we having the great agricultural future.

25 I feel the future of agriculture on Maui don't

1 have to be -- not be fueled by plantation models. It's
2 going to be fueled by numerous micro organic farmers. We
3 want to develop great value-added product. We feel
4 people -- kind of like Sydney Smith was talking, when she
5 first grew coffee, she had to put it on Aloha Cargo, have to
6 ship to other places. If you have great dragon fruit,
7 hopefully, if you cannot eat them all, send it to us, we
8 manufacture, we make it, we send it off the island with
9 value-added -- high value-added product.

10 So we really feel that -- I turned from tourism to
11 agriculture. I could have (inaudible) one of the biggest
12 Asian Pacific Vice-President for Marriott right now, if I
13 choose to be, but I really feel I belong to Maui. We love
14 Maui. Maui need more farmers, Maui need more producers.
15 And it's a shame that we have the best growing conditions in
16 the country when we import 90 percent of our food.

17 People telling me, said, "Are your kids going to
18 take over your farming business," they ask me. Kamehameha
19 School just came to our farm and did a video. I said, you
20 know what, my beautiful daughters are right, they're one of
21 the best students. They could have been anybody they
22 wanted. They could have been attorney, they could have been
23 accountant, they could have been a doctor, they could have
24 be CEOs. However, if they decide to choose farming as their
25 career, I would be most proud of them.

1 I always say we send people to school to make a TV
2 bigger, we send people to school to make our uniforms
3 smaller, we never really, really send our best talents to
4 agriculture school to make our food better and productive.
5 That's what we want to do the rest of our life, me and my
6 husband, we are totally committed in farming.

7 I said, once you become farmer, you're a farmer
8 for life. When I was a engineer, I wanted to be an
9 accountant. When I was accountant, I wanted to do something
10 else. Once I became a farmer, that's it, I am a farmer for
11 life.

12 Anyway, back to -- back to the -- I also wanted to
13 say one of the reasons we purchased this land for dragon
14 fruit production is because we actually grow lettuce in
15 Haiku. And when we started, we leased the land. Right now,
16 one of our major piece of production, still lease the land.
17 I have to tell you, every single year, I get a threat from
18 the landlord, oh, we're going to take the land back, oh,
19 we -- we might build something, oh, now I want to do this.
20 They don't even agree to sign a five-year lease. Dragon
21 fruit is a 25-year crop. We absolutely cannot afford to
22 farm on the leased piece of land.

23 And what is surprising me is cactus happen to love
24 the dry, dry area. And it's any soil condition. Dragon
25 fruit have major, major agricultural advantages compared to

1 sugarcane, pineapple or anything. Couple reasons: First,
2 they use very little water. You know, it's a cactus. It's
3 very easy to take care of. It can grow organically. It's
4 very high medicinal and nutritional value. You have great
5 potential to have major, major value-added product, added,
6 all aspects of it. (Inaudible). He just have a big
7 research coming up. You can use the dragon fruit to plant
8 itself to make men's skin care product, men's skin care
9 product.

10 It's so much our vision, every single part of that
11 plant will be used. I know in China, they already selling
12 the flowers. It's \$8 a pound last time I researched it on
13 the market. You can use the skin, you can use the flower,
14 you can use the fruit as -- every single part of it can be
15 used.

16 And we see what's our future for this land, this
17 island. I know pineapple is declining, sugarcane is
18 declining, but that does not mean we have to give up on
19 farming. We shouldn't give up on farming. We have
20 obstacles, we have challenges, but I still think it's
21 doable. It's doable, especially if everybody do it in a
22 micro scale. It's totally doable.

23 (Inaudible) telling you guys that right now, at
24 this moment, we always have developed the Maui Dragon Fruit
25 Farm with community in mind. At this moment, we are

1 actually one of the greatest fire barrier in the
2 neighborhood. If you can look at one of the slides, Slide
3 Number 44, what happened is -- when I first moved to Maui I
4 worked for the Marriott, the whole hill is green with
5 sugarcane. Okay. Right now, we have a beautiful, beautiful
6 homes. But we are also dealing with a major fire hazard.
7 Okay. All this land, since it's so spread out and there's
8 little homes on it, there's lot of area was left with very
9 dry brushes. And I can envision if, somehow, we can plant
10 them with cactus, which is a succulent. Cactus succulent is
11 the best something fire barrier you can expect to have. I
12 really see it's going to be much safer. It's much safer.

13 Also, we are also resources for the community.
14 It's because when tsunami warning happens, all the coastal
15 people, they retreat for our farm. We, actually, have had
16 this three times so far. And if -- like I was director of
17 engineering. When I worked at Grand Wailea, we have
18 warnings, we have to think about, in a quick way, get all of
19 our guests out of the rooms, up in the hill, go someplace to
20 stay. This way, if I was -- when I was in the hotel
21 industry, this, Maui Dragon Fruit, right now, is exactly the
22 spot me as director of engineering, who responsible for all
23 the guest safety, during emergency situation dream to have.
24 Because not only be able to keep them safe temporarily, in
25 the summer we have fruit, we have fruit.

1 Dragon fruit is a seasonal -- I know couple of my
2 neighbors really mad at us about this lighting. I really
3 want to apologize, I want to explain to you why we bought
4 those lights. So dragon fruit right now is fruiting from
5 June to December. In Vietnam, they do it all year round.
6 So we said why (inaudible) year round, where, here, we only
7 seasonal. They use lighting. They use lighting when
8 they -- I guess the vines flower according to the length of
9 the daylight hours, so that you -- the Vietnam government,
10 actually a huge, huge part of their job is to give the
11 farmers electricity. So they light up the vine at night,
12 trick the vine to think, oh, my gosh, it's still summer,
13 then the flowers. So we said, okay, seems a good idea.

14 So Maui Land & Pine was -- they had huge auction.
15 And we went over there and bought a bunch of cheap lights.
16 I mean it is very reasonable. So let's try this, let's try
17 this. So (inaudible) actually bought battery and we did
18 this whole little operation, used the lights to shine at the
19 vine. And we tried it two years in a row. And, actually,
20 unfortunately it's not successful. We still don't know why.

21 So those lights, what happens is we have them, we
22 used in a couple of events. Now, with all this, we really
23 realize without -- it's not being used anymore. We totally
24 turned those lights off. We never used them anymore.

25 And that's one thing I do want to -- you know, we

1 just don't know. We thought we would be able to do
2 something with it. And, you know, that's one of the things.
3 I want to let you know that it's with bad intention.

4 Another thing I really wanted to say is we really
5 want to be good neighbors. We want to be friends with
6 everybody. We are here, really, to -- to be part of the
7 community, to serve the community, and to be, you know,
8 friends with all my neighbors. So we will do whatever we
9 can. We will do whatever we can to make -- to mitigate all
10 impossible impact.

11 I just wanted focus on what Gina mentioned. That
12 we were definitely looking into -- me and my husband, now we
13 have a farm office, it's almost completed. So we will stay
14 down when we have event. One of the reasons I sometimes
15 don't go there often is because we keep ourselves surviving
16 by growing lettuce in Haiku. So my job is actually holding
17 down the fort and really make sure we have some cash flow
18 comes in. Especially like right now, we have really no
19 fruit in Lahaina. So that's another thing we want to make
20 committed that I personally want to have more presence as
21 well especially, you know, we can have someplace we can
22 actually set up an office and do some work, if I need to,
23 over there.

24 We really want the dragon fruit farm to be --
25 inspire other people. I want to show them that agriculture

1 still can be alive and well. And we want a place for people
2 to come and have fun, enjoy and really bring the community
3 together.

4 Anyway, we -- I would like to really request your
5 support. And your decision really going to affect our
6 future. And we feel our success would help really make
7 dragon fruit to be a great crop, future agriculture crop for
8 Hawaii. And, hopefully, because of that, we have a whole
9 value-added-oriented industry going as well. So thank you.

10 CHAIR LAY: That's your presentation? Okay.

11 MS. SCHMITT: Any questions? Sorry.

12 CHAIR LAY: Not at this time. Right now, we're
13 going to take a five-minute break and reconvene, and, at
14 that time, we'll go to public testimony.

15 (Recess, 1:52 p.m. to 1:59 p.)

16 CHAIR LAY: Planning Commission is now called back
17 to order. At this time I am going to ask for public
18 testimony. I am going to go through the list that we went
19 through earlier. We're on the second list right now. Toby
20 (Inaudible).

21 TOBY: I am going to defer to George.

22 CHAIR LAY: Okay. So you won't be testifying,
23 right?

24 TOBY: No. My -- the letter I was going to read
25 is on file here, Ken and Michelle Moore.

1 CHAIR LAY: Thank you very much.

2 TOBY: Save the -- save a little time.

3 CHAIR LAY: Next, we have Dawn Boucher, Boucher.

4 MS. BOUCHER: Boucher.

5 CHAIR LAY: There we go.

6 MS. BOUCHER: Hi. Aloha. Thank you so much for
7 taking your time to help us with this today.

8 So I am here, I am, actually, currently the
9 manager at the Maui Dragon Fruit Farm. And I got
10 involved -- Crystal and I went to school on Oahu 25 years
11 ago. I got my doctorate in chemistry. And while I was
12 doing that, I absolutely fell in love with Hawaii.

13 I am originally from California. And I grew up in
14 Southern California, which is now pretty much solid city all
15 the way down from north of L.A. to the border of Mexico.
16 And I am actually old enough to remember when north of
17 California -- north of Los Angeles was orange groves. And
18 it was really, really beautiful. And when you went down
19 below Los Angeles -- I don't know if you guys have ever
20 driven down there -- you went through Irvine, Irvine was all
21 ranches and farmland. And now north of Los Angeles is the
22 city of Santa Clarita with three million people living
23 there. And it's all houses and residential. It's become
24 purely residential. And most of Irvine is also purely
25 residential.

1 So I -- I love Maui. Maui, we still have all this
2 beautiful open green land. And when I make my daily
3 commute, which I swore I would never do again, from Haiku to
4 Launiupoko, I drive through lush green fields of sugarcane
5 and I look at the mountains, and they're just gorgeous. And
6 I feel that it's really important for Maui to preserve that.
7 It is one of the things that makes Maui so very special, is
8 our open land. And Maui has wonderful agricultural land.

9 And, fortunately, Crystal got me involved in this
10 project, in growing the dragon fruit. And dragon fruit is a
11 wonderful crop for here. It has high added value. It is
12 something that, actually, doesn't ship that well and so it
13 needs to be relatively locally produced. So Vietnam has
14 difficulty competing with us because we're closer to the
15 United States. And we can ship our fruit overnight to Los
16 Angeles and it can be in the market in two days. So, in
17 that sense, we have some advantages.

18 And then I wanted to sort of touch about the
19 events a little bit and maybe how they kind of came about.

20 So, you know, we started growing the dragon fruit.
21 It's hard to make a living farming, especially initially.
22 Dragon fruit is sort of an orchard crop. It takes several
23 years before it becomes fully productive. Right now, we
24 have some plants, the first plants that are becoming really
25 productive. So, in the meanwhile, we started doing tours,

1 we put in the zipline, to try to make money to pay for
2 everything. Because it costs a lot of money to plow the
3 fields out there, we had to bring in a D9, we had to bring
4 in an excavator, dig holes for the posts. We had to buy the
5 posts. We're organic. We had to actually ship posts in
6 from the mainland, \$20 a post.

7 MS. TAKAYAMA-CORDEN: Three minutes.

8 MS. BOUCHER: Oh.

9 CHAIR LAY: Please continue.

10 MS. BOUCHER: Anyways, so the special events kind
11 of grew out of that, of sharing what we're doing out there
12 and just trying to have some other income besides the dragon
13 fruit. Because it's just tough to make a living here on
14 solely growing crops. That's why we're losing sugarcane and
15 we're losing pineapple, is because it's hard to make a go of
16 it.

17 And so what we're trying to do at the dragon fruit
18 farm is combine or support agriculture with tourist
19 activities.

20 CHAIR LAY: Thank you. Commissioners, any
21 questions for the testifier? Commissioner Hedani.

22 COMMISSIONER HEDANI: Dawn, is it?

23 MS. BOUCHER: Yes, Dawn.

24 COMMISSIONER HEDANI: What kind of value-added
25 product have you folks gone into?

1 MS. BOUCHER: So we have some jams that we're
2 making with Jan at Upcountry Jams and Jellies. I don't know
3 if you know her. We've made dragon fruit jam. We've made,
4 you know, dragon fruit lilikoi jam. I've developed a salad
5 dressing that we aren't selling yet, but it's sort of
6 similar to papaya seed dressing, but you make it with dragon
7 fruit. I make a dragon fruit lemonade that people really
8 love. It's, actually, quite delicious with vodka. And I
9 am -- it is. It is. We're trying to get it into the
10 restaurants. Just wait, look for it. I've been working on
11 Fleetwood's, we're going to get it in there pretty soon. It
12 will be the Maui special lemonade. And I -- also, I do the
13 value-added products and I am also working on developing
14 skin care using the peel. So when you, say, make lemonade
15 or jam, you don't use the peel necessarily, you just use the
16 inner fruit. I don't know if you've ever had a dragon
17 fruit. Yeah. So the dragon fruit has this peel on the
18 outside. And the peel is very -- it has a lot of
19 polysaccharides in it. So it's, actually, really nice for
20 your skin. So I am working on developing, you know, lotion,
21 body wash, stuff like that, with the -- with the products.

22 CHAIR LAY: Commissioners, any more questions for
23 the testifier? Seeing none, thank you very much. Our next
24 testifier is George Brown.

25 MR. BROWN: You heard my name, George Brown. I

1 am -- I am from Hawaii, kanaka maoli. I graduated from
2 University of Hawaii in 1969, tropical agriculture with a
3 degree in agricultural engineering, agronomy and
4 agricultural economics. I --

5 CHAIR LAY: Can you put the mic just a little
6 closer to you?

7 MR. BROWN: Oh, I'm sorry.

8 CHAIR LAY: No, the mic. Direct it a little more
9 towards you.

10 MR. BROWN: Do I start again?

11 CHAIR LAY: No. Continue from there.

12 MR. BROWN: Any questions so far?

13 I take a look at the activity in terms of
14 agriculture. I support it. I am a farmer now. I've been a
15 farmer pretty much all my life, since graduating from
16 University of Hawaii. I worked at Pioneer Mill, the land
17 that I live on now and that the farm is on. We live about
18 620 feet away.

19 My question -- and this is going to come up with
20 the agricultural working committee. They have it in their
21 scope already, but when does an auxiliary activity become
22 the primary and the farm become the auxiliary? And I think
23 that's something that -- maybe something you guys are going
24 to have to take a look at. The -- this -- this ag group
25 here, who is under the County Council, is going to be

1 looking at it after they clear a little bit of their
2 schedule.

3 Looks to me -- Gina is not here right now, but it
4 looks to me like there might be a question as to how much
5 activity -- how much money went into the secondary activity
6 rather than the primary. I see a lot of grass. I see a lot
7 of paving. I see a lot of houses. And so that would be
8 some question I ask.

9 My main concern, and the concern of the
10 association, the Makila Plantation Association, is fire.
11 Unfortunately, I don't think we can get back to slide Number
12 3, but there is one road that goes up to the subdivision,
13 one -- one paved two-lane road. In 2011, I believe it was,
14 it was closed for over five and-a-half hours. The escape
15 road is down a Pioneer Mill road that's one lane. If we try
16 to get 600 people out of -- out of the subdivisions, Makila
17 and Launiupoko, down that road as the fire trucks are going
18 up, it's going to be -- it could be a disaster if the fire
19 gets away.

20 We've had fires of from just a few acres to 1,100
21 acres, 1,200 acres, 2,600 acres, all within, you know, the
22 last 10, 12 years.

23 MS. TAKAYAMA-CORDEN: Three minutes.

24 MR. BROWN: Anyway, I am real concerned. Every
25 time I smell smoke up there, I go outside and I go, oh, is

1 this the time, do I -- do I have to leave, you know, how am
2 I going to get my animals, my wife -- my mother-in-law is
3 living up there in a wheelchair -- unfortunately, she passed
4 away. But how do we get people out? How -- how do you
5 know -- how do you know where to go? We get 76 more cars up
6 there, they're going to be jamming on the roads. I don't
7 know. I am just really -- (inaudible), I am really afraid
8 of what could happen up there.

9 So personally now, I have heard the -- the
10 amplified music, the lights. And it is -- it is bothersome
11 at 620 feet. I can hear surfers at Launiupoko. So the
12 sound travels.

13 CHAIR LAY: Please -- please conclude.

14 MR. BROWN: The sound travels far away. Anyway, I
15 would like you to take a look at the safety issues and,
16 also, the activity and which comes first, the ag or the
17 supplement. Thank you.

18 CHAIR LAY: Commissioners, any questions for the
19 testifier? Commissioner Freitas.

20 COMMISSIONER FREITAS: Yeah. Mr. Brown, on that
21 stoplight down at the bottom --

22 MR. BROWN: Yes.

23 COMMISSIONER FREITAS: -- what is the wait time?

24 MR. BROWN: It's between four and five minutes.

25 We call it a lunch -- lunch stoplight because you just stop

1 and you wait and you wait and you wait. It's four and five
2 minutes. Certain times of day, it's -- it's sooner, but,
3 most of the time, between four and five minutes.

4 COMMISSIONER FREITAS: That's what I remember.
5 Okay.

6 MR. BROWN: Yeah.

7 CHAIR LAY: Okay. A follow-up on that. It is a
8 pressure-plate activated? Do you know if it's
9 pressure-plate activated or is it -- it's a four or five
10 minute wait all the time?

11 MR. BROWN: I'm not sure. I am not sure.

12 CHAIR LAY: Okay. Commissioners?

13 MR. BROWN: I -- I would guess there might be a
14 pressure plate and then it goes into five minutes because
15 sometimes, from our house I can see it, and it'll be -- I
16 can see the red light side and the green light side, I can
17 see it for long, long time if there's not cars coming down
18 Kai Hele Ku, which is a road that has been blocked before.

19 CHAIR LAY: Commissioners, any more questions for
20 the testifier? Commissioner Hedani.

21 COMMISSIONER HEDANI: Mr. Brown, are you engaged
22 in agriculture at Launiupoko?

23 MR. BROWN: Yes, I am.

24 COMMISSIONER HEDANI: What kind, may I ask?

25 MR. BROWN: I am growing coffee. I have about 100

1 coffee trees. I am growing bananas. I am also in the
2 process of putting in aquaponics. That's about it.

3 COMMISSIONER HEDANI: Thank you.

4 CHAIR LAY: Commissioners, any more questions?
5 Seeing none, thank you very much. The next testifier, Tom
6 Williams.

7 MR. WILLIAMS: Good afternoon. My name is Tom
8 Williams. And I live in that -- the cottage in the
9 condominium -- whatever -- the CPR'd lot right above the
10 dragon fruit farm. My wife and I bought it, the land, and
11 built the house. And moved into it on a part-time basis
12 about a year and-a-half ago. So of anybody, I mean, I -- I
13 met -- I met Crystal for the first time on Sunday. My wife
14 and I went down and talked to her.

15 I am nothing but supportive of her farm. I am
16 nothing but supportive of her need to sell her product. And
17 so from the standpoint of having a farm stand, I don't have
18 an issue. From the standpoint of the zipline farm tours,
19 they were there when we bought the land. I have no issue
20 with that.

21 What I didn't know when we bought the land was --
22 is that she was going to have parties down at that site with
23 loud music. If you have gone to weddings and there's that
24 fateful song that comes on, Brick House, "She's a brick
25 house," every single time I seem to hear a wedding down

1 there, at some point or another, I am going to hear that
2 song.

3 So I support her, I want her to be successful. I
4 do not want to have loud music that I can hear that
5 infringes on my quiet use of my property when I didn't know
6 that I was going to get that. So that's our issue, that
7 solely.

8 I don't mind about, as I said, the store. I can
9 get over T-shirts. You know, I sarcastically said, "We've
10 got enough down in Lahaina. If I want to buy a T-shirt, I
11 can go down there," I don't mind, as I said, the zipline and
12 the tours because I never hear them. And so she has tasting
13 tours. I don't think I am ever going to hear 'em, so it's
14 not going to be an issue for me.

15 I mailed the letter on the 12th. The night of the
16 11th, there was a party down there. And there's been
17 parties the last year and-a-half. And maybe she didn't know
18 what the requirements were for a permit, but she's had
19 parties for a year and-a-half. And on Wednesday, the 11th,
20 right before I mailed the letter on the 12th, there had to
21 be 400 people there. There was a huge tent, there was food
22 trucks for food, there were seven or eight buses that
23 appeared to me that were parked kind of staged ready to take
24 people when the party was over. It was over by 10:00. It
25 was raining that day. They were in the tent. And because

1 of the rain, it wasn't as loud as it normally is. But it is
2 a nuisance to me.

3 The gentleman who talked about fire risk, maybe
4 the -- you know, the plants will not burn, but if you've got
5 700 people or -- 700 people -- if you have hundreds of
6 people down in a tent on that property, and there is a fire,
7 because of the people that are there, I would wonder how
8 they're all going to get out of there.

9 So supportive of the -- of the farm, but parties,
10 celebratory events, open to anybody, is not --

11 MS. TAKAYAMA-CORDEN: Three minutes.

12 MR. WILLIAMS: -- part of ag. So the one thing I
13 would say is -- and the gentleman said -- is when does it
14 become the main event, how much of their money comes from
15 the events over the last year, which is the low point, they
16 didn't have a permit for it, and how is that going to
17 compare to her profits from that farm. And if she's making
18 her money because she's renting it out, then I don't think
19 that's right in agricultural environment.

20 CHAIR LAY: Commissioners, any questions for the
21 testifier? Commissioner Hedani.

22 COMMISSIONER HEDANI: Hi. I'm sorry. I didn't
23 catch your name.

24 MR. WILLIAMS: Tom Williams.

25 COMMISSIONER HEDANI: Tom, when you purchased the

1 property, did you understand that it was agricultural
2 property?

3 MR. WILLIAMS: I did. And -- and it was built
4 along with the main house on the other property. We had to
5 have the ag plan implemented on both sections before we even
6 got the permits. The -- the builder let his ag go to weed,
7 which I think is often a problem up there. We have palm
8 trees, we have fruit trees, we have plumeria trees. My two
9 and-a-half plus acres of my five that's planted, the County
10 is giving me a problem because I don't have ground cover,
11 because I've been keeping the weeds down because there's so
12 many rocks that you can't mow it and you can't -- and it's
13 hard to weed whack. So I've kept it up.

14 I've got a small sod farm. I got a deal with my
15 landscaper that if he can sell the sod or -- or sell the
16 trees, we split it 50-50. So I am not a farmer, I am a --
17 it's my second home, but I understood what the rules were
18 and I've abided by those rules. So I didn't expect loud
19 music as part of an ag situation.

20 As I said in my letter, I can smell the horses at
21 the stables when the wind shifts. And that's okay, because
22 that's part of living there. Above us is somebody with a
23 sod farm that, unfortunately, dumps all of the -- he's got a
24 landscape business and he dumps all of his waste in a big
25 pile that's probably 10 feet high and 40 by 50 that he has

1 one time hauled away, but I am okay with it. I am looking
2 at the ocean; I am not looking up at him.

3 But I can't -- I don't like the music. I really
4 don't like the music.

5 CHAIR LAY: Commissioner Higashi.

6 COMMISSIONER HIGASHI: I have several questions.
7 One is, where are you located in relationship to this dragon
8 fruit farm?

9 MR. WILLIAMS: Well, when you saw in -- in one of
10 the pictures, there's a cottage that's right above their
11 property that's got solar panels. That's mine.

12 COMMISSIONER HIGASHI: That's yours.

13 MR. WILLIAMS: I am -- I am it. I am right above
14 where they want to put -- yeah, my cottage is -- if you look
15 at their cottage, right to the left of it is -- is my home,
16 second home. To the right of it is a 5,000-square-foot spec
17 that was built by the same builder that bought -- built my
18 house. And he has subsequently sold that.

19 COMMISSIONER HIGASHI: Just one. So, actually,
20 there's music being played, et cetera, and you get affected
21 because sound travels up?

22 MR. WILLIAMS: Oh, you bet. You bet.

23 COMMISSIONER HIGASHI: Yeah.

24 MR. WILLIAMS: And -- and -- and I know -- and
25 Crystal didn't understand, I guess, but they were using

1 floodlights to uplight the sky, if you will, the palm trees
2 and everything else, on -- on a couple parties. That didn't
3 happen, you know, last week, week before. But I hear the
4 sound, I see the lights. Yes.

5 COMMISSIONER HIGASHI: Yeah, I notice that their
6 request is that they go 'til 10:00 at night. Would there be
7 an objection if they were to limit it to like 7:00 or 8:00
8 at night with music versus 10:00 at night?

9 MR. WILLIAMS: I can't speak for everybody else.

10 COMMISSIONER HIGASHI: No. I'm just talking to
11 you.

12 MR. WILLIAMS: For me personally, I mean, being
13 realistic about it, this has been happening for a year
14 and-a-half, I suspected they didn't have permits, but I am
15 trying to be a good neighbor and it didn't -- you know, I am
16 living with it. The problem with this process now is
17 because they've asked for a legal right to do it, and then I
18 give up my recourse -- if you approve, I give up my recourse
19 to call the Maui Police and say sound nuisance, drunken
20 people on the street. And I've never seen any drunken
21 people on the street, so that's not a good example. But I
22 am concerned that I would not -- I -- I would give up my
23 recourse to make a complaint as soon as this gets approved.
24 And so I wanted to go on record as saying I -- I would
25 rather not have that occur. 7:00 is better than 10:00, but,

1 you know, you could be in the back yard in a party with some
2 friends, dinner party, and if they're having a big, you
3 know, festival down below, it's going to affect me. Would
4 it affect me that much? No more than -- I mean, we're here
5 four to five months a year. So it can't get me every day.
6 If -- if we could work out a deal where she only had parties
7 when I was off island, maybe that would be okay for me, but
8 I don't know about everybody else.

9 COMMISSIONER HIGASHI: So you're not objecting to
10 the dragon fruit farm itself?

11 MR. WILLIAMS: Oh, no. I mean, I knew it was
12 there. I knew exactly what it was. I think --
13 realistically, I think our lot was less expensive because
14 the dragon fruit farm was right beneath us with the -- the
15 zipline towers than if we went across to the other side of
16 Launiupoko -- or of Punakea Loop, there was a 15-acre parcel
17 that was -- well, it was listed for \$1,450,000. It was
18 hundreds of thousands of dollars more. I think part of that
19 was because the farm is there. But that's okay, I knew
20 that. I didn't know about the parties.

21 COMMISSIONER HIGASHI: Thank you.

22 CHAIR LAY: Commissioners, any more questions for
23 the testifier? Seeing none, thank you very much. Oh,
24 excuse me. Commissioner Tsai.

25 COMMISSIONER TSAI: Out of curiosity, how many

1 parties do you think they've had on average in the last year
2 and-a-half? Is it weekly, monthly?

3 MR. WILLIAMS: I mean, that would be better to ask
4 of Crystal and -- and her husband. Last week -- I mean on
5 the 11th, there was one. There was an additional one on
6 either Saturday or Sunday, so four days later. The first
7 one was big, with a big tent and the buses. The second one
8 was smaller that was, actually, out on the lawn, or at least
9 a portion of it was the lawn of their farm office, that
10 building. With, you know, lights strung, but not
11 uplighting, but just kind of like the party lights that are
12 kind of on strings. That one wasn't particularly -- they
13 had a band or a deejay or whatever. I'd be happy with
14 everything if they just -- if I couldn't hear it. That's
15 for me personally. I just don't want to hear the parties.

16 CHAIR LAY: Commissioner Hedani.

17 COMMISSIONER HEDANI: Tom, was your proper
18 subdivided off of the dragon fruit farm?

19 MR. WILLIAMS: No. Theirs was -- Makila Phase III
20 was, I think, five lots. They're Lot Number 5. We're on
21 Lot Number 3. Ours was 15, theirs was 25, the other three
22 were somewhere between 18 to 22 kind of thing. So there was
23 five lots in total in Phase III of Makila.

24 CHAIR LAY: Commissioner Hedani.

25 COMMISSIONER HEDANI: From -- from your

1 perspective, Tom, your existing farm operation, from a
2 standpoint of economics, does it generate anything
3 significant on an annual basis?

4 MR. WILLIAMS: It hasn't yet. I mean, it was
5 planted probably two years ago. I've got 40 coconut palm
6 trees that are -- you know, the base is -- I mean, they were
7 coconuts when we -- when we put 'em in. They're probably
8 five years away before anybody would even want to look at
9 them. I've got some Phoenix palms that are probably that
10 tall that I bought a couple when we landscaped that were
11 three or four hundred bucks. And so I am talking to my
12 landscaper about trying to -- as I said, if he can find
13 somebody and use my ag, we'd just split the -- split the --
14 split the proceeds. I am not a -- I am a ex-CPA, retired,
15 live in Northern California, played game night at Bunt's
16 house on Tuesdays. That was -- that was for Penny. You
17 know, I -- I am not a farmer. I can't say I am a farmer.
18 She's a farmer. She wants to be a farmer. I need to comply
19 with the rules which were I had to have ag because it's --
20 it's -- it's zoned ag. And so I did it in a fashion where I
21 thought that I would at least get something back. But it
22 was, obviously, never intended -- like most everything up at
23 Launiupoko, ever intended to actually be a profitable
24 endeavor because that -- that soil in those conditions are
25 terrible. Maybe they're good to grow dragon fruit. And

1 maybe I'll take her up on her -- her offer of planting them
2 on -- on -- on the lower part of my property. Okay.

3 CHAIR LAY: Commissioners, any more questions for
4 the testifier? Seeing none, thank you very much. Does
5 anyone else wish to testify at this time? If so, step up to
6 the mic, you have three minutes, identify yourself.

7 MS. WATERS: Hi. My name is Teresa Waters, and I
8 own Lahaina Animal Farm and Guest Ranch. And I have bought
9 in Launiupoko eleven years ago. I lived 20 years in Haiku
10 prior to that.

11 I wasn't planning to get up to talk today, but
12 when I see this happening in the neighborhood, and I am
13 right below the dragon fruit farm, is that neighbors are
14 right now pitted against other neighbors which makes it
15 really uncomfortable for me because I am a farmer, I know
16 that Crystal's a farmer. I understand the noise because I
17 have animals.

18 My -- my -- I think we're putting the cart before
19 the horse. The ag working group, I finally was invited to
20 go there this Thursday. They didn't really -- west side is
21 like this horrible thing, Kapalua, Launiupoko, not doing any
22 real ag. And I am like, you know what, they're right, but
23 in order to -- to have people want to do farming or ag --
24 first of all, I was sold my six acres as a gentleman estate.
25 I don't even have a husband. I am like what the hell is a

1 gentleman estate, right. So I find out that that's how they
2 sell it. So that's the first problem in Launiupoko. Okay.

3 So I have a bona fide farm. I think what we need
4 to do is really figure out what is a bona fide farm. I
5 mean, that really -- it says it, you know, in the
6 agricultural verbiage, but nobody seems to know what a bona
7 fide farm is. And I think that's the first thing.

8 So to rule in favor or disfavor of this is, I
9 think, premature. I think we have a lot of work to do.
10 What happens if it does get out of control? Do we have --
11 does the County have regulators for it? I just think we
12 should be working on the foundation of farming, especially
13 on the west side, and not pitting neighbors against
14 neighbors.

15 I mean, for me it's really uncomfortable just
16 because, like I said, I -- I understand where Crystal is
17 coming from because, you know, special events is going to
18 make a lot more money. There's over 60 farms doing weddings
19 right now. 60 farms. So everybody's doing a blind eye to
20 it. At least she comes up and she's trying to ask for a
21 permit. A lot of people don't know that it's not legal.

22 I think, again, we're putting the cart before the
23 horse, if that makes any sense.

24 CHAIR LAY: Commissioners, any questions.
25 Commissioner Freitas.

1 COMMISSIONER FREITAS: Do you believe ziplines
2 and, what do you call, weddings are part of a bona fide
3 farm?

4 MS. WATERS: Personally, no.

5 COMMISSIONER FREITAS: Thank you.

6 CHAIR LAY: Commissioners, any more questions for
7 the testifier? Seeing none, thank you very much. Does
8 anyone else wish to testify at this time? Seeing no one,
9 public testimony is closed. Commissioners, any questions or
10 comments? Commissioner Wakida.

11 COMMISSIONER WAKIDA: I will start. I guess the
12 applicant --

13 CHAIR LAY: Commissioner Wakida, Penny, mic
14 closer.

15 COMMISSIONER WAKIDA: Sorry. The giftshop that
16 you -- the structure, what was its previous use?

17 MS. SCHMITT: Actually, that -- we built it as a
18 farm stand. And we, actually, get a permit for it. And
19 then the law changed, so we don't need the permit anymore.
20 It's like (inaudible) and we put a foundation. So right
21 now, we are using it for like little greeting place for our
22 farm tours. And that's what used for so far. We would like
23 to sell the T-shirt. We're very proud of our logo. We want
24 this to be a national/international brand.

25 CHAIR LAY: Commissioner Freitas.

1 COMMISSIONER FREITAS: I heard from somebody up
2 here that tasting the, what do you call, dragon fruit --

3 MS. SCHMITT: Yes.

4 COMMISSIONER FREITAS: -- has to be done at night
5 because it blooms at 10:00. Don't you pick the fruit and
6 then taste it? Or do you have to -- I don't -- I know a
7 little bit about agriculture. And it does not make sense
8 that the fruit blooms at night so that's when we have to
9 have our tasting. I think you pick the fruit and you taste
10 the fruit. Am I correct?

11 MS. SCHMITT: Excellent question. So we mentioned
12 the dragon fruit variety we brought in is called
13 self-pollinating. What self-pollinating means, some
14 plants --

15 COMMISSIONER FREITAS: I know what it means.

16 MS. SCHMITT: Our flowers, this huge when it
17 opens. (Inaudible). What we do is, South, Central America,
18 where the dragon fruit is from, they have bats. So when the
19 flower opens, the bats come and they pollinate the flowers.
20 So we first thought we can do self-pollinate, it was, oh, my
21 gosh, no need to work. And then we found that Hawaii, no
22 bats. We don't have bats. We have the one little bats in
23 West Maui that somebody is trying to get them out, but
24 they're not those kind of bats. So what we heard, even
25 though we brought in the self-pollinating varieties, we

1 still have to hand-pollinate. And the good news is, the
2 more pollens you put in, the bigger the fruit. So it's not
3 a waste of the effort.

4 So the flowers start opening at 9:00. The flower
5 is huge, okay, it's this big. And they're not -- they're
6 going to stay like spuds, then it gets bigger and bigger.
7 And then, one night, magic happens, start opening. You can
8 literally watch it. You can sit there, watching the flowers
9 open. By 12:00 midnight, it gets --

10 CHAIR LAY: Commissioner Freitas, you wish --

11 MS. SCHMITT: We teach the people how to
12 pollinate. We teach people --

13 CHAIR LAY: Restate your question.

14 COMMISSIONER FREITAS: Yes. The question is, do
15 you have to do the tasting at 10:00 because the flowers
16 bloom at 10:00? My understanding is you can pick your fruit
17 and you can bring it in and you can have a tasting at 2:00
18 in the afternoon versus 10:00. You don't have to have the
19 farm operating to 10:00 to have a tasting. Now, we're
20 talking about -- we're not talking about pollinating. Let's
21 not --

22 MS. SCHMITT: I understand. I understand. We
23 don't do -- first of all, offseason, there's no flowers to
24 pollinate. So it's really -- we only do pollination tour
25 once in a while. We're still promoting them. It brings

1 people a great, great memorable experience when you actually
2 have opportunity to learn how to pollinate the flower.
3 People just mind blown away when they saw this and they do
4 it. It's just one of the memorable experiences we would
5 like to provide.

6 CHAIR LAY: Okay.

7 MS. SCHMITT: It's not -- we're finished by 9:00.

8 CHAIR LAY: Corp Counsel wishes to comment.

9 MS. THOMSON: Just a quick, quick comment on that.
10 So an agricultural tour, a guided agricultural tour is a --
11 it's an allowed accessory use. So if it's just a tour of --
12 a nighttime tour of this pollinating -- you know, the flower
13 opening activity, that would be already an allowed use.
14 What they're asking for, though -- and the applicant can
15 clarify this -- is that these tasting tours are actually
16 special events. So it doesn't have -- it's in addition to
17 an accessory or allowed uses. And it is a catered dinner,
18 so it's -- it incorporates a catered dinner or some other
19 type of small-scale special event. And that's what the
20 applicant is asking for.

21 COMMISSIONER FREITAS: Comment to that. While
22 they didn't say that it was dinner. It was stated when
23 the -- whoever testified, that they were going to have
24 tasting tours and they wanted to have it until 10:00 for the
25 tasting tour. That's what I understood.

1 MS. SCHMITT: It just added extra (inaudible)
2 unique points to it.

3 CHAIR LAY: Commissioners, any more questions?
4 Commissioner Wakida.

5 COMMISSIONER WAKIDA: You're in the process of
6 constructing a farm dwelling, correct?

7 MS. SCHMITT: Yes.

8 COMMISSIONER WAKIDA: And who will live in it?

9 MS. SCHMITT: Okay. So my husband goes, drives
10 from Haiku to Launiupoko every single day. Okay. I have to
11 stay in Haiku because we grow lettuce there. And that's --
12 offseason, that's how to make money. So our idea is to
13 somehow be able to split a little bit in between. And we
14 also use it as a farm office. So, hopefully, my husband
15 won't have to commute five days a week. Maybe like three
16 days. He would be able to spend some time there.
17 Especially when the season comes, we have to supervise the
18 work of pollinating the flowers at night.

19 We are getting more and more flowers now. The
20 first year, our record is, one night, we pollinated 450
21 flowers. I can imagine this year, our second field start
22 producing. I wouldn't be surprised if, this year, our
23 record would be 1,200 flowers per night.

24 COMMISSIONER WAKIDA: So you -- what you're saying
25 is that you or your husband will be occupying the farm

1 dwelling?

2 MS. SCHMITT: Yes.

3 COMMISSIONER WAKIDA: And are you planning to have
4 other people stay there?

5 MS. SCHMITT: Not on a regular basis. Not on a
6 regular basis. Like, for example, of course, like my --

7 COMMISSIONER WAKIDA: Thank you.

8 MS. SCHMITT: Yeah.

9 CHAIR LAY: Commissioner Higashi.

10 COMMISSIONER HIGASHI: So your request for hours
11 of operation necessarily doesn't have to be until 10:00 at
12 night.

13 MS. SCHMITT: Not necessarily.

14 COMMISSIONER HIGASHI: Yeah. But your
15 application, basically, says closed from 8:00 to 10:00 at
16 night.

17 MS. SCHMITT: The giftshop -- the giftshop is
18 probably closed 8:00 p.m. The special event -- so, first of
19 all, the special event only happen, really, once a week,
20 hopefully. And then the summer event, we put it at 10:00
21 just because that's normally the sound curfew, and we want
22 everything shut down before that. So that's why we put it
23 there.

24 COMMISSIONER HIGASHI: Well, I think -- I think
25 the -- the concern of your neighbors is that part of it is

1 the time that you have sound going on, or light or whatever.

2 MS. SCHMITT: Uh-huh.

3 COMMISSIONER HIGASHI: Would it be agreeable to
4 you if -- if the Commission would put it at 7:00 at night
5 versus 10:00 at night in your operation, including your
6 giftshop?

7 MS. SCHMITT: Yeah. I would say, yeah, 8:00
8 probably good, then close together with the giftshop.

9 COMMISSIONER HIGASHI: Question, would it be okay
10 for you if you closed it at 7:00 versus at 10:00 or 8:00 at
11 night?

12 MS. SCHMITT: I would say 8:00 would be great.

13 COMMISSIONER HIGASHI: All right.

14 CHAIR LAY: Commissioner Hedani.

15 COMMISSIONER HEDANI: Commissioner Higashi, I
16 think, if you have a wedding, you have to ask all the guests
17 to leave at 7:00, it gets really tough.

18 CHAIR LAY: Commissioner Hedani.

19 COMMISSIONER HEDANI: Crystal --

20 MS. SCHMITT: Yes.

21 COMMISSIONER HEDANI: -- I get the farm tours.

22 MS. SCHMITT: Yes.

23 COMMISSIONER HEDANI: I even get the zipline, if
24 you have to have a zipline to help make ends meet. I get
25 the tasting tours.

1 MS. SCHMITT: Uh-huh.

2 COMMISSIONER HEDANI: I get the giftshop.

3 MS. SCHMITT: Uh-huh.

4 COMMISSIONER HEDANI: I don't get the weddings.

5 My concern is that the wastewater system on the property is
6 very small and it's not sized to handle large (inaudible).

7 MS. SCHMITT: Actually, we worked with the Health
8 Department. We expanded each field. So, right now, for 60
9 people, the system is designed for, for 60 people, for --
10 according to the Health Department. That's why we put our
11 request to be most of the event would be under 50, just to
12 give this extra cushion.

13 COMMISSIONER HEDANI: How do you handle
14 large-scale festival events of 250 people?

15 MS. SCHMITT: Yeah. That's -- we going to be
16 definitely limited, don't even do that. When that happen
17 once a year, it's going to be -- when that do happen,
18 because we really want to have something so-called like
19 Dragon Fruit Festival -- they just started having one in
20 California. We would love to have it on Maui. If that do
21 happens, for that particular event, porta-potty probably
22 have to be used.

23 CHAIR LAY: Commissioner Tsai.

24 COMMISSIONER TSAI: Crystal, can you give us an
25 idea, say, what percentage of your -- very general here --

1 percentage of revenue comes from actual farming operations
2 as opposed to your -- your activities?

3 MS. SCHMITT: I have to honestly say, at this
4 point we did a lot of -- okay. First of all, in the
5 beginning, like Teresa said really well, there's 60 farms,
6 obviously, doing weddings on Maui. And we didn't realize
7 that this -- this permit. When we realized there's permit
8 process needed, we actually canceled the -- we spent so much
9 money advertising, we just started, booking comes in, we
10 realized they need to be permitted. So we actually end up
11 cancel the majority of our weddings. Some of them we still
12 have because a couple reasons. One is, people booked way
13 ahead. On this couple occasion, we just absolutely cannot
14 just cancel on them because it's going to really ruin our
15 reputation, island reputation, people from Canada or
16 whatever. So we cannot -- (inaudible) Planning Department
17 know what we have to have to keep in the books, but the
18 majority of them actually was canceled. And then we have
19 the lettuce farm in Haiku which helps out. So at this
20 moment, we wish we have more, but we haven't had a lot of
21 special events because of that.

22 COMMISSIONER TSAI: Crystal, I am asking you, I
23 guess, going back to one of the testifier's comment about
24 what's constituted as an actual agricultural function. So,
25 for me, I think it's good relation to how much revenue

1 percentage. If you're getting -- if you do at least 50
2 percent of your revenue from farming, I think that's, for
3 me, a valid number. So I am asking what is the percentage
4 of your total revenue generated actually from farming versus
5 doing other things currently?

6 MS. SCHMITT: If you look at my tax returns, which
7 I -- I have for you, multiple Schedule Fs, because we have
8 multiple farms, my income from farming is actually way more
9 right now than the other revenues. Even though we are --
10 struggle to see if we can bring that a little higher because
11 the reality is we are -- I am not making ends meet right
12 now. We were wiped out four times by the rain in Haiku the
13 last two years. This is -- like this -- I was telling
14 people. So we grow lettuce, that's one of our major farming
15 income. And Christmas is our best busy season. In
16 November, we start working daily, we (inaudible) to make
17 sure we have enough for Christmas. Then, if you remember,
18 December 22nd, we got a huge storm coming, 100 percent wiped
19 out my crop, 100 percent. We actually don't have -- because
20 of that, even though, on the tax returns, my farming higher
21 than activities, but I am not making my ends meet because we
22 get wiped out more than normal in the past two years. Wiped
23 100 percent.

24 CHAIR LAY: Commissioner Freitas.

25 COMMISSIONER FREITAS: So the bulk of your

1 agriculture income is coming from raising lettuce in Haiku,
2 evidently, yeah?

3 MS. SCHMITT: That's because dragon fruit take
4 time to produce, take time to put it in. We only have the
5 top -- we have four fields, one, two, three, four. Only the
6 top fields is producing right now. The second is going to
7 go this year. And the other -- the new method that we
8 tried, the (inaudible) method, we just put it in January,
9 that's, hopefully, maybe 10 percent going to produce this
10 summer. The rest are going to be -- take about four years
11 for them to reach full production. So that's why we so
12 committed to farming because we have to have the -- we have
13 to diversify, we just have to. I mean, people have big
14 rain, tourists say, okay, cannot go to the beach today, then
15 they forgot. For a farmer, that means eight weeks no income
16 when the rain comes like that. No.

17 COMMISSIONER FREITAS: I farm.

18 MS. SCHMITT: That's why we wish to bring the
19 dragon fruit a little higher, activity a little higher at
20 this point, not yet. Not yet. Majority income still from
21 farming, majority, 75 percent. And it's not enough. That's
22 the problem. Really, not enough, because we get wiped out
23 two times this year.

24 CHAIR LAY: Commissioner Wakida.

25 COMMISSIONER WAKIDA: According to your

1 application, you're requesting tasting tours and that looks
2 to be unlimited, and then you're requesting special events
3 up to 60. How did you arrive at the number 60?

4 MS. SCHMITT: Gina come up with the number because
5 we added -- four times -- four times --

6 CHAIR LAY: Please speak into the mic.

7 MS. SCHMITT: It's, I guess, the -- if it's once a
8 week, it's 52 weeks. And then there's a couple -- if we
9 have a couple for like different events, then add it up to
10 60, I guess. We never had that yet. Just something once a
11 week is 52 weeks a year. That's how the numbers comes up.

12 COMMISSIONER WAKIDA: And over the past -- let's
13 see. When did you start your business there?

14 MS. SCHMITT: 2009.

15 COMMISSIONER WAKIDA: And since 2009, you've been
16 having events?

17 MS. SCHMITT: No. No. No. Take three years just
18 to have the farm look like a farm.

19 COMMISSIONER WAKIDA: And when did you start
20 having special events?

21 MS. SCHMITT: We started, I want to say, maybe
22 2012, a little bit. In the beginning, what happen in the --

23 COMMISSIONER WAKIDA: And how often do -- in the
24 past year, have you had either a tour or a special event?

25 MS. SCHMITT: We 100 percent stopped November.

1 November, zero; December, zero; January, zero.

2 COMMISSIONER WAKIDA: After that --

3 MS. SCHMITT: Prior to that, I might have -- I
4 would say February, I had one.

5 COMMISSIONER WAKIDA: Well, can you give me --

6 MS. SCHMITT: Total?

7 COMMISSIONER WAKIDA: -- like how many a month?

8 MS. SCHMITT: Oh, gee. Some -- some month, it's
9 only once. Some months, twice. I think, May, we had three.
10 That's the most amount I had in a month.

11 COMMISSIONER WAKIDA: Thank you.

12 CHAIR LAY: Corp Counsel.

13 MS. THOMSON: Just a couple of things for the
14 Commission's consideration.

15 So the Staff Report and recommendation right now
16 recommends that conditions be attached to the Conditional
17 Permit which is going to be approved by Council --
18 considered and approved by Council. We also have the option
19 of including those conditions or different conditions in the
20 Special Use Permit which is controlled and approved by you.

21 Something to remember about a Conditional Permit
22 is that when -- if an applicant needs to modify a condition,
23 it comes before either this body or the Planning Director,
24 depending on the level of the condition. There's some cases
25 where they go through the same application process. It's

1 quite a large condition modification being requested to
2 change. So that's something to consider. Do you want to
3 control the conditions by way of the Special Use Permit or
4 do you want to recommend that Council, recommend that the
5 Council.

6 This is a fairly minor point that I had discussed
7 with Gina Flammer. The insurance limit, because of the
8 nature of the operations, I would recommend a larger
9 aggregate of three million. So one million per occurrence
10 and three million in the aggregate for the insurance for the
11 commercial general liability insurance.

12 The special events, I don't see a difference
13 between the tasting tours, weddings and all that. It's
14 semantics. I would call them all special events. I would
15 limit them -- you know, for your consideration, limit them
16 by number, you know, number of times per month, you know,
17 per week, the hours, et cetera.

18 VICE-CHAIR BALL: Not people.

19 MS. THOMSON: Yeah. Rather than calling them
20 tasting tours, just not defined, just consider them all
21 special events.

22 CHAIR LAY: Commissioner Freitas.

23 COMMISSIONER FREITAS: Corporation Counsel, can --
24 when can we start putting conditions on this? And can we
25 omit, say, one special event that they're asking for on a

1 condition or we have to only (inaudible)?

2 MS. THOMSON: It's completely within your
3 discretion to deny the permit, you know, deny the request in
4 its entirety, if you feel that's the direction you want to
5 go, or you can modify it with -- you know, to your
6 discretion. So you have, basically, free rein as long as
7 it's tied to State Land Use Commission admin rules, unusual
8 and reasonable and the affects on the neighborhood and
9 things like that. So that would be the basis for modifying
10 or opposing the conditions.

11 CHAIR LAY: Commissioner Higashi.

12 COMMISSIONER HIGASHI: I have a question for the
13 applicant. It sounds like, from the testimonies that we're
14 getting, et cetera, from your neighbors, it's -- they're not
15 basically objecting to your dragon fruit farm; it's like
16 numbers of people that's there, sound, light. And -- and if
17 those things can be worked out, I think it will be something
18 that would be more compatible for you since I heard you say
19 earlier that you're there to work and cooperate with the
20 rest of the people around you.

21 MS. SCHMITT: Yes. Yes, that's our total
22 intention. That's why we don't use those lights anymore.
23 And we would love to make the function totally small-scale.
24 So, absolutely, we're here to work with everybody. We would
25 adhere to those conditions, absolutely.

1 COMMISSIONER HIGASHI: Yeah. Well, remember I
2 asked you a question prior. And I said isn't 7:00 better
3 for you, something you can live with, or, you know,
4 eliminating the 10:00, and you said 8:00.

5 COMMISSIONER FREITAS: Yeah.

6 COMMISSIONER HIGASHI: And, to me, it doesn't
7 sound like you're trying to cooperate with the group. You
8 have your own standard that you want to keep. And that
9 concerns me as a Commissioner. Listening to you, it's like
10 you're cooperating and, yet, you want your own thing to do.
11 So that's why I called you back and asked you a question,
12 because there are comments that are made not specifically
13 about your agricultural farming as much as it is other
14 factors.

15 MS. SCHMITT: I understand.

16 CHAIR LAY: Commissioner Wakida.

17 COMMISSIONER WAKIDA: I have a question for Gina,
18 just a housekeeping question.

19 MS. FLAMMER: Sure.

20 COMMISSIONER WAKIDA: Mr. (Inaudible) said he gave
21 us a letter, but I don't see it in our packet. He said it
22 was on file.

23 MS. FLAMMER: Oh, he was here representing the
24 Moores. It's the letter from the Moores.

25 COMMISSIONER WAKIDA: Oh.

1 MS. FLAMMER: Who are the two parcels --

2 COMMISSIONER WAKIDA: Oh.

3 MS. FLAMMER: -- south.

4 COMMISSIONER WAKIDA: Thank you.

5 MS. FLAMMER: If I could make a comment, too, on
6 what Richelle and I talked about, Corporation Counsel, with
7 the tasting tours. I think she's got an excellent idea of
8 moving them into special events. It's you're talking with
9 someone, you both seem like you're on the same page. I
10 wrote the report with the tasting tours, and then we started
11 talking a little more about the details. I talked with some
12 other people. And I realized how difficult it is to nail
13 down what is a tasting tour. And we tried to come up with a
14 definition. And Richelle and I just talked about it. Then
15 I think the Department, it would be easier to administer the
16 permit. And I think we could ask Crystal as well, but she
17 seemed comfortable. We had discussions about that.

18 The tours themselves are okay under ag. It's
19 really the catering aspect of it. It's also that catering
20 aspect of it that can turn it into a special event. The
21 Department would be very comfortable with just listing them
22 under special events, should you decide to go with special
23 events being okay.

24 CHAIR LAY: Commissioners, any more questions?

25 Commissioner Ball.

1 VICE-CHAIR BALL: (Inaudible).

2 CHAIR LAY: Commissioner Wakida.

3 COMMISSIONER WAKIDA: I'm sorry, Gina, is Moores
4 the Makila Plantation Homeowners Association?

5 MS. FLAMMER: It was emailed to you.

6 COMMISSIONER WAKIDA: Oh.

7 MS. FLAMMER: The letter.

8 COMMISSIONER WAKIDA: We didn't get a hard copy?

9 MS. FLAMMER: When notification goes out right
10 before the hearing, you guys often get letters after the
11 Staff Report comes. It was one of the ones that was emailed
12 to you. It was one of the first ones that was emailed. I
13 know there was probably three emails you got.

14 COMMISSIONER WAKIDA: Oh, okay.

15 MS. FLAMMER: You want me to come look?

16 COMMISSIONER WAKIDA: That's okay.

17 CHAIR LAY: Commissioner Ball.

18 VICE-CHAIR BALL: I have major concerns with
19 ingress/egress of the whole subdivision. As the testifier
20 alluded to, the problem is, in an emergency, evacuating.
21 And maybe even on a regular basis, that then increase of
22 traffic also will affect Honoapiilani Highway with the
23 triggering of that light constantly when people are coming
24 out of there. And I already ran into that. I am sure
25 everybody else has that drives to Lahaina. I don't know

1 what it is, but it seems like every day, around 3:00, it
2 starts backing up all the way to Maalaea. I don't know what
3 the trigger is of that, but I feel that it will make it
4 worse. That being said, I think that the other testimony
5 about the beauty of the island and all that, that's part of
6 it. To get to a destination without being stuck in a long
7 line of traffic is also something that should be considered
8 and how this affects that.

9 With that being said, you know, I know traffic
10 studies are very expensive. And I don't think the applicant
11 should -- should brunt the whole cost of that, but, you
12 know, something like that may be needed on a smaller scale.
13 And, also, not sure how the County -- maybe a Public Works
14 question on how those roads -- and the impact on those roads
15 with an increased traffic of 250 people, or 50, or whatever
16 it may be, I have concerns with.

17 I also have concerns with -- with the direct
18 neighbors and their use of their property for quiet
19 enjoyment.

20 So I am not thrilled at this point.

21 CHAIR LAY: Commissioners, any more questions or
22 comments? Commissioner Hedani.

23 COMMISSIONER HEDANI: I guess this is for Gina.
24 The recommendation is that special events be restricted to
25 100 guests, that's your recommendation?

1 MS. FLAMMER: We took the applicant's proposal for
2 the number of guests and brought it to you. Our Director
3 had said -- the 250 just seemed too much. He had said he
4 would like to bring it to you for discussion for the number
5 of amount. We did put it in the recommendations to keep
6 what she came in with, which is once a week for up to 50,
7 but then 100 once a month. But it's -- it's your
8 discretion, really, as to what the -- how they're limited.

9 COMMISSIONER HEDANI: How do you reconcile the 100
10 with the 60-guest wastewater computation?

11 MS. FLAMMER: So our standard procedure is to send
12 it out to agencies for review. And Department of Health
13 came back and said you need to upgrade it to a certain
14 point, and then, I guess, you can use porta-potties after
15 that. So it would be -- DOH would have to sign off on the
16 capacity of it. And I know the applicant is working with
17 DOH now, but before she would go forward -- we weren't sure
18 what the outcome would be. So I was hesitant to tell her to
19 go ahead and put in infrastructure for up to 100. So what
20 she did is she's got -- she had built it originally for 50,
21 or it came in just under 50. DOH recommended expanding it,
22 they came to a level of 60. We still need DOH's final
23 sign-off, which is why the condition -- well, it will be in
24 there, anyway -- that everything has to be done to their
25 requirements. Is that clear enough?

1 COMMISSIONER HEDANI: But they have the area in
2 order to expand it to whatever capacity it needs to be?

3 MS. FLAMMER: They do. It's just how far -- how
4 much of the leach field, how much money do you want to put
5 in.

6 COMMISSIONER HEDANI: Right.

7 MS. FLAMMER: And then is DOH comfortable with
8 porta-potties. Sometimes they are, sometimes they're not.

9 CHAIR LAY: Commissioners, any more questions or
10 comments? At this time, let's get the Department's
11 recommendation.

12 MS. FLAMMER: Okay. Did you want to go through
13 the conditions? Did you want me to read them where they
14 stand right now? We've had a couple changes from what's in
15 your paper.

16 So we're recommending approval on the State
17 Special Use Permit. That doesn't currently have any
18 conditions on it, though. As Richelle, our Corp Counsel,
19 pointed out, you have the ability to add conditions on to
20 that.

21 We're recommending that you recommend approval of
22 the Conditional Permit to the County Council based upon --
23 currently, we have 22 recommendations. I think Corp
24 Counsel's suggestion to just take out tasting tours, which
25 would be Condition 7, and the tasting tours would then be

1 considered special events. We would also like to amend the
2 insurance condition, which would be the aggregate of three
3 million. And I believe the one million is per occurrence,
4 is that correct?

5 MS. THOMSON: That's correct.

6 MS. FLAMMER: Okay. And I think that's where it
7 stands for everything else. I went over the other ones in
8 the PowerPoint. We could go through them individually, or
9 not. It's --

10 CHAIR LAY: I think once the motions are made, we
11 can go over conditions at that time more specific.

12 MS. FLAMMER: Okay.

13 CHAIR LAY: Commissioner Higashi.

14 COMMISSIONER HIGASHI: Yes. I have a question on
15 Condition Number 13. You have all exterior light being shut
16 off at 10:00 p.m. Why isn't the light 7:00 or 8:00 p.m.
17 versus 10:00?

18 MS. FLAMMER: Yeah. Again, we went with what the
19 applicant's proposal was in the application for 10:00.

20 CHAIR LAY: I have a question on that, relating to
21 that. So they're saying they have to pollinate the flowers
22 at 10:00. Obviously, they're going to need lighting out
23 there to do that pollinization, so maybe we should be more
24 specific as far as if there is something after 10:00, if
25 it's specifically used for pollinating, and what type of

1 lighting would be used at that time.

2 MS. FLAMMER: That's an agricultural activity,
3 that's a permitted use. We can't actually put regulations
4 on agricultural activities.

5 CHAIR LAY: Even if it's shining up?

6 MS. FLAMMER: They are not allowed to have upward
7 shining lights. The applicant told me, when they pollinate,
8 they use --

9 COMMISSIONER FREITAS: Head lamps.

10 MS. FLAMMER: Yeah, head lamps in order to do it.
11 I asked how a tour might work, are you going to have
12 lighting. But, anyway, the law is you cannot -- you can
13 only have downward shield lighting, anyway. There are birds
14 that migrate and it does throw them off to have the upward
15 lighting. So lighting should be down, anyway. The -- the
16 10:00 is for the special events. So it would be for the
17 activities happening on that field. That's the project
18 area. The agricultural activities on the rest of the parcel
19 are protected, as you will, under State and County law.

20 CHAIR LAY: Commissioner Freitas. Sorry.

21 COMMISSIONER FREITAS: I'd like --

22 VICE-CHAIR BALL: (Inaudible).

23 CHAIR LAY: Yeah, he's gone. He's gone.

24 COMMISSIONER FREITAS: I would like to put a
25 condition that there be no weddings on the property because

1 I believe it's not directly got anything to do with
2 agriculture.

3 CHAIR LAY: Corp Counsel.

4 MS. THOMSON: Yes. I think probably it would be
5 easier to recommend a limitation on the number of guests per
6 special event rather than trying to get into, you know, all
7 the nuance types of special events that you can have. So
8 where you might want to center the discussion around is how
9 many people, maximum number of people, maximum number of
10 events, if you're considering granting the permit.

11 CHAIR LAY: Commissioner Ball.

12 VICE-CHAIR BALL: Question for Gina, I guess,
13 whoever who wants to answer this. Under the current rules,
14 is there a maximum amount of people that can go to the
15 farm -- I mean to the place of business?

16 MS. FLAMMER: Richelle, you want to take that one?

17 MS. THOMSON: Yeah. Under, you know, Maui County
18 Code, with the accessory uses and the guarded -- guided farm
19 tours, I don't think there's a restriction on the numbers.
20 It would probably be, you know, restricted by different, you
21 know, road usage requirements. Maybe there's something in,
22 you know, (inaudible) that would govern it, but I'm not
23 aware of anything that would restrict the number of people
24 allowed to participate in the agricultural activities.

25 CHAIR LAY: Commissioner Tsai.

1 COMMISSIONER TSAI: Yes. Corp Counsel, my
2 question is, obviously, the issue we're trying to address
3 here is noise and possibly lighting. If we limit the number
4 of people, that does not restrain or constrain anything
5 about music, I mean, noise and stuff. I mean, is there
6 something we can do about that?

7 MS. THOMSON: Condition 10 currently states that
8 amplified sound that is audible beyond the property
9 boundaries is prohibited. I did read that the applicant
10 does not -- has some concerns with that limit and prefers a
11 decibel limit, you know. So you can -- you can restrict the
12 noise, you know, either by time, you know, no amplified
13 sound past, you know, whatever p.m., or no amplified sound
14 whatsoever, you know, or, you know, the condition as it's
15 stated right now.

16 CHAIR LAY: Commissioner Ball.

17 VICE-CHAIR BALL: Jack said no weddings, then you
18 said, well, restrict the number of attendees, how do you
19 restrict the number of attendees if you can't restrict the
20 number of --

21 COMMISSIONER TSAI: Exactly.

22 VICE-CHAIR BALL: -- attendees if they're under
23 the ag (inaudible)?

24 MS. THOMSON: Well, a wedding or a catered dinner,
25 or something like that, would be -- that's what they're

1 asking for is, you know, permission to do a
2 non-agricultural, non-permitted uses.

3 VICE-CHAIR BALL: Thank you.

4 MS. THOMSON: So the permit doesn't have anything
5 to do with the uses that are allowed already.

6 COMMISSIONER FREITAS: I'd like to rephrase my
7 question.

8 CHAIR LAY: Commissioner Freitas.

9 COMMISSIONER FREITAS: That we delete weddings
10 from the Special Use Permit.

11 MS. FLAMMER: Would that be something like special
12 events shall not include wedding --

13 COMMISSIONER FREITAS: Yes.

14 MS. FLAMMER: Wedding ceremonies --

15 VICE-CHAIR BALL: Second that.

16 MS. FLAMMER: -- and receptions?

17 COMMISSIONER FREITAS: Yeah, deleting.

18 MS. THOMSON: Yeah. I don't -- I don't think
19 there's anything -- that probably doesn't have a problem
20 legally, but, you know, you're looking at all kinds of
21 different parties, and a wedding is just one type of party.

22 COMMISSIONER TSAI: Yeah.

23 COMMISSIONER FREITAS: Well, the -- the reason why
24 a wedding is because like the amount of events they're going
25 to carry. Special use permit, a party, I would -- wouldn't

1 think that they would have that much. But weddings, they
2 advertise nationally, and you will have 'em stacked up.
3 That's my -- that's my reasoning for it. I am looking for
4 the neighborhood, I am looking for what agriculture stands
5 for. Agriculture stands for specifically what it says,
6 agriculture, not having wedding chapels on every piece of
7 agricultural land.

8 MS. THOMSON: Yeah. You know, something to
9 consider, too, is that you can have a wedding party that's
10 10 people, you know. And that's not out of the ordinary for
11 people coming here from other places, to have a very small
12 wedding party. But you could have a baby luau for two or
13 three hundred pretty darn easily. So restricting -- I am
14 just suggesting that if you want to look at restricting the
15 numbers of people, I would just restrict the numbers of
16 people. It's just a more straightforward way. And it also
17 would enable enforcement to be a little more straight --
18 straight lined.

19 MS. FLAMMER: You also have the option to,
20 for special events, period, to exclude special events
21 altogether.

22 CHAIR LAY: Commissioner Tsai.

23 COMMISSIONER TSAI: Yeah. My concern -- and I am
24 in agreement with Commissioner Freitas -- and I think, you
25 know, weddings definitely is one of them, but, like Corp

1 Counsel says, you know, you could have a birthday party for
2 your one-year-old, have a live band that is going to
3 generate a lot of noise possibly. You could have a lot of
4 activities, parties, for that matter, that generates noise.
5 So I think if noise is a concern, as long as we have that in
6 the conditions, then I think I am okay.

7 CHAIR LAY: Corp Counsel.

8 MS. THOMSON: Maybe this is a question for Gina or
9 Clayton. If the property owner wanted to have a special
10 event, you know, that's not related to this permit, they
11 still could go for a special event permit, right?

12 MS. FLAMMER: There is no -- we don't have a
13 special event permit, the County does not.

14 MS. THOMSON: Okay.

15 MS. FLAMMER: We've talked about it with Council,
16 but they chose not to have it be a special permit.

17 CHAIR LAY: Commissioner Hedani.

18 COMMISSIONER HEDANI: I just wanted to throw out
19 some food for thought for the Commission. Of all of the
20 applicants that have come before the Commission from
21 Launiupoko, from the subdivision, the Launiupoko
22 agricultural subdivision, this is probably the first that
23 I've seen that's trying to make a bona fide go of
24 agriculture. A lot of the other residents in this area are
25 gentleman estates, independently wealthy, retired CPAs, they

1 don't have to generate a dime of agriculture if they don't
2 want to. And I am not that concerned about their
3 convenience or their quiet solitude in their estates if it
4 comes to a point of trying to decide what makes a viable
5 agricultural activity function economically feasible. It
6 sounds to me like the applicant in this particular case has
7 a product which, if it's allowed to grow, can actually work.
8 It can actually be a non-shibai agricultural activity at
9 Launiupoko that actually works. And I think, to some
10 degree, giving them a little bit of help along the way by
11 special uses and accessories, from my perspective, would be
12 a step in the right direction.

13 CHAIR LAY: Commissioner Ball.

14 VICE-CHAIR BALL: And I can agree to that
15 statement by Commissioner Hedani; however, most of those
16 people aren't trying to pull in 100 people, 50 people every
17 week to their place. That's where I have a concern, of that
18 much people heading up there. And what are the impacts to
19 that, we don't know. Because in those other cases, we've
20 prohibited that from happening. So we know what that test
21 is. But we've never gotten, you know, the mass amount of
22 people up there. And, obviously, there's already issues
23 because we're getting testimony as such. But -- so I don't
24 know. I still think that the 100 is -- I mean, I think 50
25 is a lot, too, for that area. I mean, the one way in, one

1 way out, not a commercial area. It's -- you know, it's got
2 a lot of issues as far as sewer and that kind of thing.

3 And, you know, (inaudible), but --

4 CHAIR LAY: Talk a little louder. Commissioner
5 Freitas.

6 COMMISSIONER FREITAS: No.

7 CHAIR LAY: Oh, excuse me. Commissioner Hedani.

8 COMMISSIONER HEDANI: What I am thinking of is
9 something like the Tedeschi Vineyards where you have
10 vineyards, you have the wine tasting room where you come in
11 for the wine tasting, taste the product. I can't wait to
12 taste the Margaritas that are going to be made out of dragon
13 fruit. But I --

14 VICE-CHAIR BALL: (Inaudible).

15 COMMISSIONER HEDANI: But I'm thinking that, you
16 know, you come in for a tasting of the product itself, it's
17 not a special event, something you can do from 8:00 a.m. to
18 8:00 p.m., and you can actually buy the product. And from
19 my perspective, that's something that we should encourage.

20 VICE-CHAIR BALL: Yes.

21 COMMISSIONER HEDANI: And 250 people for a
22 festival once a year, I can see that. You know, bring in
23 the porta-potties, bring in cops at the -- at the stoplight,
24 whatever you got to do, and -- and promote the agriculture,
25 you know, from that standpoint. Every month, not so much,

1 maybe 50 people max, something like that, 60 people, if
2 that's what the sewage system handles.

3 CHAIR LAY: Corp Counsel.

4 MS. THOMSON: Just before anybody gets ready to
5 make a motion on this, I wanted to make sure that you decide
6 whether or not you want to attach these conditions to the
7 Special Use Permit or whether you want to recommend the
8 conditions for this -- for the Conditional Permit. So,
9 again, the Special Use Permit, you approve it, it's subject
10 to those conditions. If, however, you leave it as is
11 currently in the recommendation, the Staff recommendation,
12 the conditions would apply to a Conditional Permit. And you
13 don't have control over the final outcome of what those
14 conditions would look like. Thanks.

15 COMMISSIONER FREITAS: Let's do it here as a body.

16 CHAIR LAY: Yes.

17 COMMISSIONER FREITAS: That's my recommendation.

18 I make a motion that we handle it here as a Special Use
19 Permit.

20 CHAIR LAY: So we have a motion by Commissioner
21 Freitas to handle this as a Special Use Permit. Second by
22 Commissioner Ball?

23 VICE-CHAIR BALL: Correct.

24 MS. FLAMMER: Would it be easier if I went through
25 each condition and you can talk about it, decide what you

1 want?

2 VICE-CHAIR BALL: Yeah.

3 CHAIR LAY: That might work.

4 MS. FLAMMER: Let's do that. Okay. So given that
5 we're also going to put this on the State Special Use
6 Permit. If Council feels differently, they'll send it back
7 down to you to take a look at it.

8 The Conditional Permit shall be valid for two
9 years from the effective date of the ordinance. That will
10 be the Conditional Permit. An extension can be granted
11 according to how they grant special use -- I mean how they
12 grant extensions to the conditional. There's no way around
13 that. So it will be two years, the original permit.

14 CHAIR LAY: Commissioner Higashi.

15 COMMISSIONER HIGASHI: It sounds like the
16 applicant going through all this process takes a lot of
17 time. And two years, I don't feel like is something that's
18 reasonable. I would recommend that we go like five years
19 with the option of, after two years, the Planning staff
20 reevaluate what's there and make the decision to either
21 terminate or have them renew. Otherwise, every two years,
22 they have to come back. Is that what it is now?

23 MS. FLAMMER: The only way the Department has the
24 opportunity to revisit the conditions is whether the
25 applicant asks for it or when it comes up for renewal or if

1 they're in violation. So what would happen is, after two
2 years, they would come back for a renewal, and then we would
3 evaluate and review. The next extension period could be
4 whatever is determined by --

5 COMMISSIONER FREITAS: 10, 15.

6 MS. FLAMMER: -- either the County Council or it
7 would be the Department.

8 COMMISSIONER HIGASHI: So they can, basically, use
9 the same application?

10 MS. FLAMMER: It's a renewal at that point. They
11 would probably have to do a compliance report.

12 COMMISSIONER HIGASHI: Okay.

13 CHAIR LAY: Commissioner Hedani.

14 COMMISSIONER HEDANI: I am slow on the uptake.
15 Can you tell me what we're doing?

16 CHAIR LAY: So, right now, we're going through the
17 Special Use Permit, right?

18 MS. FLAMMER: Yeah.

19 CHAIR LAY: And she's going through each and every
20 one of those items that are under that. And we're seeing
21 that we all agree with it, and then we can have them all
22 totaled out at the end and then vote on it. Right, that's
23 what we're doing?

24 MS. FLAMMER: Yes.

25 CHAIR LAY: Commissioner Wakida.

1 COMMISSIONER WAKIDA: I thought the motion was
2 simply to have the conditions be part --

3 COMMISSIONER FREITAS: No.

4 COMMISSIONER WAKIDA: -- as -- oh.

5 CHAIR LAY: She's making sure that we're all in
6 compliance with the conditions.

7 COMMISSIONER FREITAS: Yes.

8 COMMISSIONER WAKIDA: Oh.

9 CHAIR LAY: That way, if it comes up and it's
10 something you want to ask a question about, we can deal with
11 it now and then move on after it's been dealt with, and then
12 we just go through the whole thing and vote on it after
13 that.

14 MS. FLAMMER: Yeah. I think that's easiest. Now,
15 for the first condition where we're talking about the two
16 years, the Special Use Permit is currently written where the
17 Planning Director can extend it. The Conditional Permit,
18 what would happen with that is a notice goes out to all the
19 neighbors within 500 feet. If there's one protest, it then
20 goes back to the County Council, the Conditional Permit
21 does. The Department would then wait for that outcome
22 before determining what to do with the Special Use Permit.
23 That could -- yeah.

24 CHAIR LAY: Commissioner Higashi.

25 COMMISSIONER HIGASHI: Yeah, Number 13, is that

1 still left at 10:00 p.m. or has --

2 MS. FLAMMER: Let's go through them one by one so
3 we're not jumping around. We'll get to 13 in due time.

4 CHAIR LAY: Let's take a quick five-minute
5 timeout.

6 (Recess, 3:11 p.m. to 3:18 p.m.)

7 CHAIR LAY: Planning Commission is now back in
8 session. Where were we, Gina?

9 MS. FLAMMER: Okay. We're at Number 1. Sometimes
10 the first couple are the -- take the most time. Okay. So
11 Number 1 says that the -- the permit, the State Land Use
12 Permit, will be valid for two years from the effective date
13 of the Conditional Permit, and that the Land Use -- the
14 State Land Use extension would be granted by the Planning
15 Director.

16 CHAIR LAY: Everybody in agreement on that?

17 MS. FLAMMER: Okay. Number 2, the Conditional
18 Permit and the State Land Use permit would not be
19 transferable.

20 Okay. I think we went over the insurance. We're
21 going to up it a little bit one million per occurrence,
22 three million aggregate for that. I'll get the exact
23 language from Richelle.

24 Number 4, the applicant shall develop the property
25 in substantial compliance with representations made. Pretty

1 standard.

2 Pretty standard, also, is Number 5, full
3 compliance with all applicable government requirements shall
4 be rendered in a timely manner. So if there's a problem
5 later on whether or not in compliance, they need to become
6 compliant in a timely manner.

7 The giftshop shall open no earlier than 8:00 a.m.
8 and close by 8:00 p.m.

9 CHAIR LAY: Everyone good with that?

10 MS. FLAMMER: Okay.

11 CHAIR LAY: Commissioner Wakida.

12 COMMISSIONER WAKIDA: 8:00 a.m. seems a little
13 early for -- to be opening. But I don't know, maybe I need
14 some feedback on that.

15 MS. FLAMMER: I guess it's an individual call as
16 to how early. Tourists often come in from an earlier --
17 later time zone. I don't know.

18 COMMISSIONER WAKIDA: So they're expecting people
19 up there 8:00 in the morning?

20 MS. FLAMMER: I am going to have the applicant --
21 she would be best to address that question.

22 COMMISSIONER FREITAS: Oh, no.

23 MS. SCHMITT: Okay. The dragon fruit flower dies
24 at 10:00. Only live for one night. Opens at 9:00, dies at
25 10:00 a.m. So like Kamehameha School, the principals,

1 everybody came 8:00 and pollinate all the flowers for one
2 field last year. So that's why 8:00. Some people come to
3 do the flowers.

4 COMMISSIONER WAKIDA: And you want the giftshop
5 open during that time?

6 MS. SCHMITT: We don't have to. 10:00, I am fine
7 with it. I just wanted you to know that's one of the
8 reasons we do have early tours. If those people want to buy
9 shirt, I would love to sell to them.

10 COMMISSIONER WAKIDA: Yeah. Well, I would say
11 9:00 is a reasonable time.

12 MS. SCHMITT: Okay. Fine.

13 MS. FLAMMER: We'll let --

14 CHAIR LAY: Commissioner Ball.

15 VICE-CHAIR BALL: Question on the 8:00. Maybe I
16 didn't hear it, but what is the lighting situation up there
17 as far as public walkways and that sort of --

18 MS. FLAMMER: I am going to have the applicant
19 address what existing lighting is on the property.

20 VICE-CHAIR BALL: Right. Because it's going to be
21 dark, obviously, then. So --

22 MS. FLAMMER: At 8:00 in the morning?

23 VICE-CHAIR BALL: No. At night.

24 MS. FLAMMER: Oh, you're talking -- okay.

25 VICE-CHAIR BALL: It is for my 8:00 morning,

1 but --

2 MS. SCHMITT: Are you asking the lighting outside
3 the property or in the property, inside the property?

4 MS. FLAMMER: Inside, near the giftshop.

5 MS. SCHMITT: Oh. We, actually, only have very
6 minimum lighting right now. We have three lights outside
7 the giftshop. We have -- we haven't installed yet. No
8 lights yet.

9 VICE-CHAIR BALL: So back to Gina, then. Is there
10 a County requirement for a public facility as far as
11 lighting goes that's going to be open in the dark, in the
12 night?

13 MS. FLAMMER: Let me grab this. I would think
14 that would be a Public Works requirement; however, the
15 building doesn't require a County permit because it's in ag,
16 it's under the State exemption. So I would say --

17 VICE-CHAIR BALL: If we're allowing them to stay
18 open until, you know --

19 MS. FLAMMER: Yeah.

20 VICE-CHAIR BALL: -- dark, until after dark, I
21 would think that we would want to address that.

22 COMMISSIONER FREITAS: Yeah.

23 MS. FLAMMER: So we can do that in two ways. We
24 could make it earlier so it's daylight hours, which we would
25 want to define, or you could request adequate lighting and

1 try to get a little more specific about that. Keeping in
2 mind it would have to be downward shielded.

3 VICE-CHAIR BALL: I'm just -- I am just --

4 MS. FLAMMER: Yeah. No. I know.

5 VICE-CHAIR BALL: -- thinking --

6 MS. FLAMMER: I agree.

7 VICE-CHAIR BALL: -- of putting the public up
8 there. And then like it's -- you know, it's dark.

9 MS. FLAMMER: It's black. And it gets dark.

10 VICE-CHAIR BALL: And it gets dark at Launiupoko,
11 yeah.

12 COMMISSIONER FREITAS: Yeah, real dark.

13 MS. FLAMMER: That's why we bring these to you for
14 comments.

15 CHAIR LAY: Commissioner Wakida.

16 COMMISSIONER WAKIDA: And -- and as far as the
17 closing and the time to terminate all activities, I am
18 comfortable with 7:00, or when it gets dark, so that there
19 isn't this issue of extra lighting.

20 CHAIR LAY: Commissioner Ball.

21 VICE-CHAIR BALL: But we will have special events
22 up there, also, so they won't -- you know what I mean,
23 unless all events are going to be done at that time.

24 COMMISSIONER FREITAS: 8:00.

25 COMMISSIONER WAKIDA: Well, I am suggesting they

1 should be.

2 VICE-CHAIR BALL: Okay.

3 MS. FLAMMER: Did you want me to put 7:00? Am I
4 seeing consensus to vote at the end, or did you want to vote
5 on this one independently?

6 CHAIR LAY: Commissioner Freitas.

7 COMMISSIONER FREITAS: Can I make a suggestion?
8 Can we get all the conditions and vote on all at one time?

9 MS. FLAMMER: We will. Do you want me to come
10 back to this one once you've decided what to do with special
11 events?

12 COMMISSIONER FREITAS: Yeah.

13 MS. FLAMMER: Yeah, it seems like it ties into
14 everything. Okay.

15 The Department is recommending that we take out
16 Number 7 which was acknowledging tasting tours as separate
17 than a special event. It just seems cleaner given that they
18 can do tours, anyway, under the ag code. It's just the
19 catered event part of it that -- okay.

20 Then we come to special events shall be limited to
21 100 guests.

22 The next condition went on to say no more than one
23 at 100 once a calendar month. I did hear a lot of
24 discussion of it.

25 COMMISSIONER FREITAS: Once a month?

1 MS. FLAMMER: You want me to change this?

2 CHAIR LAY: Commissioner Wakida.

3 COMMISSIONER WAKIDA: I am most comfortable with a
4 cap of 50. I think when you get up to 100, you can't tell
5 if you have 100 or 125. I don't know how they're going to
6 keep track of all those people. But I think in terms of
7 impact on the area, Launiupoko is sparsely vegetated,
8 there's no trees except those that someone has actually
9 planted, so sound really does travel. So I am personally
10 comfortable with a maximum of 50 people per event.

11 MS. FLAMMER: Are you saying that makes it more in
12 harmony with the surrounding area?

13 COMMISSIONER WAKIDA: I believe, yes, exactly.

14 COMMISSIONER TSAI: How often?

15 MS. FLAMMER: Am I seeing nodding heads?

16 VICE-CHAIR BALL: How often?

17 COMMISSIONER TSAI: How often?

18 CHAIR LAY: Is 50 all right with everyone?

19 COMMISSIONER FREITAS: Once a week.

20 CHAIR LAY: Commissioner Hedani.

21 COMMISSIONER WAKIDA: It's a special event, too.

22 And I am -- excuse me.

23 COMMISSIONER HEDANI: For the benefit of the --

24 CHAIR LAY: Stenographer.

25 COMMISSIONER HEDANI: -- stenographer, I think we

1 need to identify ourselves before we speak or be identified
2 by the Chair and speak one at a time.

3 CHAIR LAY: Okay. Which I give you the floor.

4 COMMISSIONER TSAI: So my question --

5 CHAIR LAY: Commissioner Tsai.

6 COMMISSIONER TSAI: Yes. My question back to
7 Commissioner Wakida, how often do you recommend?

8 COMMISSIONER WAKIDA: Well, I am comfortable with
9 twice a month.

10 CHAIR LAY: Commissioner Wakida.

11 COMMISSIONER WAKIDA: Sorry.

12 CHAIR LAY: Okay. Commissioner Hedani.

13 COMMISSIONER HEDANI: I'd like to ask the
14 applicant if we're creating conditions that are making the
15 special events essentially unworkable for them.

16 CHAIR LAY: Okay.

17 MS. SCHMITT: Your question is?

18 COMMISSIONER HEDANI: Can you live with 50 people
19 for special event twice a month?

20 MS. SCHMITT: Yes.

21 COMMISSIONER HEDANI: Yes?

22 MS. SCHMITT: Yes.

23 CHAIR LAY: Commissioner Tsai.

24 COMMISSIONER TSAI: I hate to break it up. I
25 think every other week, 50 people seems a lot.

1 CHAIR LAY: Do we have another number?

2 Commissioner Wakida.

3 COMMISSIONER WAKIDA: No, I don't have another
4 number. I am just wondering if I heard you said 50 twice a
5 week is a lot?

6 COMMISSIONER TSAI: If you're saying twice a
7 month, basically, that's every other month -- every other
8 week. Sorry. So having 50 people every other week seems a
9 lot to me.

10 COMMISSIONER WAKIDA: Okay.

11 CHAIR LAY: Commissioners, are we in agreement on
12 that?

13 COMMISSIONER HEDANI: On what?

14 CHAIR LAY: On the 50 people every other -- every
15 other week as far as a special event, right?

16 VICE-CHAIR BALL: I am not in agreement with that.

17 COMMISSIONER TSAI: I am not in agreement with
18 that.

19 COMMISSIONER FREITAS: No.

20 CHAIR LAY: Okay. Commissioner Hedani.

21 COMMISSIONER HEDANI: What number are we on?

22 CHAIR LAY: What number can we give them?

23 VICE-CHAIR BALL: We're on 9, Number 9.

24 MS. FLAMMER: No. I think he's asking how many
25 times a month. Is there another suggestion?

1 COMMISSIONER FREITAS: We're on Number 9.

2 CHAIR LAY: Commissioner Higashi.

3 COMMISSIONER HIGASHI: At this point, it sounds
4 like, for an applicant's standpoint, having one event at 100
5 versus two events for 50, it means more traffic in that
6 particular area versus having one event a month at 100.

7 CHAIR LAY: Commissioners, any comments on that?
8 Commissioner Freitas.

9 COMMISSIONER FREITAS: Yeah. If they want to size
10 it down, let's -- let's go 50 once -- special event once --
11 once a month instead of every other week.

12 CHAIR LAY: Commissioner Wakida.

13 COMMISSIONER WAKIDA: And I think we have to keep
14 in mind this does not include the agriculturally directed
15 activities like --

16 COMMISSIONER FREITAS: Tasting.

17 COMMISSIONER WAKIDA: -- pollination viewing and
18 things like that, correct?

19 MS. FLAMMER: Agriculture. Anything agriculture
20 is permitted.

21 COMMISSIONER WAKIDA: Yeah. So we're talking
22 special events.

23 CHAIR LAY: So with the school children coming to
24 their property, that's an agricultural event, right, because
25 they're there --

1 COMMISSIONER FREITAS: Yes.

2 CHAIR LAY: -- to be educated.

3 COMMISSIONER FREITAS: Yes.

4 MS. FLAMMER: I brought my language here.

5 Title 19, we do allow educational tours. I mean, I think

6 the State allows educational tours. I don't know if

7 Richelle knows how the County works with educational tours.

8 We're looking at having the State and the County be the

9 same, but, right now, it's not.

10 VICE-CHAIR BALL: I think the County hates

11 educational tours.

12 MS. THOMSON: Well, guided tours are considered an
13 accessory use.

14 MS. FLAMMER: Oh, thank you. Okay. Good. Would
15 you like to hear from the applicant with the current
16 proposal of once a month?

17 MS. THOMSON: The other thing you may want to
18 consider, too, is, right now, it's -- you're kind of
19 discussing 50 people one time a month. Do you have
20 something like events for 25 or fewer more times per month,
21 you know. So before you move off this topic, you might want
22 to flesh out your options.

23 MS. FLAMMER: You might want to add in there
24 educational tours are okay, too, just to make sure. I am
25 not seeing it under Title 19.

1 MS. THOMSON: I think it would fall under like the
2 botanical gardens and the guided tours of --

3 MS. FLAMMER: It would.

4 MS. THOMSON: Yeah.

5 MS. FLAMMER: Under the State.

6 MS. THOMSON: It would be okay. Uh-huh.

7 CHAIR LAY: Commissioner Wakida.

8 COMMISSIONER WAKIDA: Then perhaps the language
9 should say limited to one event a month of not more than 50
10 people.

11 COMMISSIONER TSAI: I agree with that.

12 COMMISSIONER WAKIDA: Is that correct? Is that --
13 is that the language?

14 MS. THOMSON: Well, that would mean that they
15 could just have one special event per month.

16 COMMISSIONER WAKIDA: Right.

17 CHAIR LAY: Commissioner --

18 VICE-CHAIR BALL: How is that different, then?
19 How is that different?

20 MS. THOMSON: Well, if you want to -- if you
21 wanted to give the applicant the opportunity to do more
22 special events but of smaller size.

23 CHAIR LAY: Uh-huh. So instead of one at 50, do
24 four at --

25 VICE-CHAIR BALL: 49.

1 CHAIR LAY: No. At 25. And when does a special
2 event become a special event?

3 VICE-CHAIR BALL: Right.

4 CHAIR LAY: I mean, are you looking at somebody
5 getting married and got four people there?

6 VICE-CHAIR BALL: Or do they take them to the farm
7 first and then --

8 CHAIR LAY: A tour.

9 MS. THOMSON: As you're discussing it right now,
10 even if it was just four people, that would be your once
11 monthly special event because that would be anywhere from
12 one person to 50. So it wouldn't matter the size, currently
13 what you're talking about.

14 CHAIR LAY: Commissioner Hedani.

15 COMMISSIONER HEDANI: I am confused.

16 VICE-CHAIR BALL: I have a question.

17 COMMISSIONER HEDANI: What are we talking about?

18 CHAIR LAY: How many people we can have at a party
19 and how often the party or the special event is per month.
20 So right now, they're talking about one special event at 50
21 people, which should mean there could be only one special
22 event, no other weddings, even if it's two people, because
23 that would still be a special event. So --

24 COMMISSIONER HEDANI: I guess my question is, at
25 what point is it just not worth it to even pursue the --

1 pursue the approval, if we're going to get it to the point
2 where it's not economically feasible.

3 CHAIR LAY: Well, for me, I am worried about -- if
4 this farm is in fact -- well, as it all seems to be, a farm
5 that's trying to make it happen, it's the only -- there's
6 only two up there. You got your animal farm and you got
7 them that's actually trying to pursue it. Do we make it so
8 hard where they fail? You know, we haven't given -- we got
9 people doing their short-term rental or they're renting out
10 their place and saying, can I have a wedding, and we're
11 saying, you know, within a certain amount of time. And here
12 we've got somebody actually working to do that. I mean, of
13 course, we tried to make it where this doesn't become the
14 big ball on the table, where they're making all this money
15 off the wedding, and there's my dragon patch over there. Of
16 course, that's not what we want. We want them to pursue
17 what they're doing. Commissioner Ball.

18 VICE-CHAIR BALL: Well, and I believe that from --
19 from being on the Commission for other applicants, like bed
20 and breakfasts and transient vacation rentals, that we
21 eliminated those weddings and things for the quiet enjoyment
22 of the -- of the neighbors. Because that's testimony that
23 we got put on about a bunch of partying going on up here and
24 that sort of thing. And now we're creating a big party up
25 there, possibly. I don't know. It's very difficult to come

1 up with a number at amount of events because location --

2 CHAIR LAY: For me, too, it's just like you could
3 have somebody come out there and raise chickens, roosters.
4 And that's all good. Commissioner Wakida.

5 COMMISSIONER WAKIDA: Just -- just a comment.
6 There are a number of working farms up in Launiupoko,
7 there's an egg farm. There are -- I know several of the
8 people who have farms. And that's all they -- that's what
9 they principally do on their property. Some of them sell
10 their stuff down in the little farmer's market there on
11 Saturdays. Others actually market them around Lahaina. So
12 there's -- there's more going on in the farming business
13 than -- than just this animal farm, and I think the other
14 one Gina mentioned in the report, and dragon fruit.

15 CHAIR LAY: Good to hear. Commissioner Freitas.

16 COMMISSIONER FREITAS: Okay. I have a comment.
17 My whole, what do you call, outlook on this thing is, is
18 that farming is farming. And we're talking about, you know,
19 protecting them. Good and well. I -- I can respect that.
20 I know how hard it is to be in business. I'm in business.
21 And what -- when all of these people bought in Launiupoko,
22 every last one bought an ag lot, there was not a wedding
23 chapel there per se. And they bought agricultural land. I
24 don't think, after the fact, when people buy things that
25 they should come and say, okay, I am going to have a special

1 permit and I am going to put a funeral home on my ag
2 property. Same thing.

3 CHAIR LAY: Okay. So if we can get back to what
4 we have on the table as far as how many people are going be
5 scheduled per month and how many events per month. And,
6 right now, we've got 50 one time a month. Is that the only
7 option we're going to give them, or we're gonna you can do
8 three at 30? Commissioner Hedani.

9 COMMISSIONER HEDANI: I would suggest two events
10 at 50 people or one event at 100 -- just say up to 100
11 people per month.

12 COMMISSIONER FREITAS: Same thing.

13 CHAIR LAY: Commissioner Tsai.

14 COMMISSIONER TSAI: Well, based on what I heard
15 from the applicant, Crystal said that she's had -- I guess
16 before October, September, she was doing one or two, or one
17 month you had three. So if -- maybe I can -- I'd like to
18 hear from the applicant whether one event with 50 people a
19 month, is that sufficient for what they're trying to
20 accomplish or is that enough for them to continue to make
21 the farming work?

22 MS. SCHMITT: So, again, the challenge with
23 farming is sometimes we really cannot predict the weather.
24 For example, in December, if that big rain don't wipe us 100
25 percent, I'd be okay with one event. However, if 100

1 percent wiped out that month, which I don't know when that
2 going to happen, it's really hard to predict. It's
3 really -- that's one of the reasons we determined to
4 survive. And one way to do it is diversify opportunity,
5 potential opportunity open for us. Even if I had that
6 permission from you doesn't decide if I even get the
7 bookings. It's just an opportunity we could, maximum, do
8 it. And all honesty, I love just farming, you know, I
9 really do. And I just don't know. That's really the
10 challenge you facing when you're real farmers. You could
11 hear all the weather, hurricane coming, hurricane coming,
12 nothing happens. And then when you don't hear anything,
13 boom, you get hit. It's just the (inaudible) of life. We
14 don't know. If I could predict everything -- oh, I really
15 wish I could. I don't -- I cannot. I am just asking
16 possibility. It doesn't mean it's all going to happen.

17 CHAIR LAY: Commissioner Hedani.

18 COMMISSIONER HEDANI: Crystal --

19 MS. SCHMITT: Yeah.

20 COMMISSIONER HEDANI: -- what they're asking is 50
21 people once a month, would that work, or do you need more
22 than 50 people once a month in order to make it work?

23 MS. SCHMITT: (Inaudible) when you asked me before
24 if we do twice a month, 50, you can live with it. I said
25 yes.

1 COMMISSIONER HEDANI: Okay.

2 CHAIR LAY: Okay.

3 VICE-CHAIR BALL: Question.

4 CHAIR LAY: Commissioner Wakida.

5 COMMISSIONER WAKIDA: Well, I -- again, I just --
6 I want to -- I personally want to keep in mind that these
7 are not the only activities other than ag that they're
8 doing, I mean event type activities, because they can bring
9 up tasting groups, they can bring up visitors for that kind
10 of thing. So they are able to generate additional revenue
11 beyond what they would do for something like a wedding, a
12 one shot activity.

13 CHAIR LAY: Commission, at this time I am going to
14 try and speed this up by saying, are we going to go with one
15 50-person special event or are we going to go with two
16 50-person special events? So what I would like to do is
17 call a vote real quick just to see what numbers we got
18 working here. For those of you in favor of the one 50
19 event -- special event per month. Anyone in favor? We have
20 four. Okay. So we got -- then, now, the second choice is
21 two 50-person special event. We got one person with that.

22 COMMISSIONER HIGASHI: You got two.

23 COMMISSIONER TSAI: I voted for both. You did
24 both, so I vote.

25 CHAIR LAY: You can't vote twice. It throws off

1 everything.

2 COMMISSIONER TSAI: He didn't vote, so I voted for
3 him.

4 CHAIR LAY: Commissioner Hedani.

5 COMMISSIONER HEDANI: I think -- from the
6 standpoint of the neighbors, I think what they're concerned
7 about is special events that have 800 people there. I don't
8 think they're that concerned about 50 people being there
9 twice a month.

10 CHAIR LAY: And, for me, what I've heard is the
11 noise issue. I mean, if we can --

12 COMMISSIONER HEDANI: Chickens make noise, pigs
13 make noise, cattle make noise, horses have horseflies.

14 CHAIR LAY: Commissioner Hedani -- Higashi.
15 Excuse me.

16 COMMISSIONER HIGASHI: Just one point of
17 clarification on the tours, that educational tours is
18 automatically allowed for ag area? So that doesn't include
19 having schools come once or twice a month for an activity?

20 MS. THOMSON: That's correct. So their
21 agricultural-related activities are not -- we're not
22 discussing any of those. Those are not affected by this
23 Special Use Permit.

24 MS. FLAMMER: Specifically, she knows it by heart,
25 guided tours that are accessory to principal uses such as

1 farm or plantation tours are allowed under open land
2 recreation. Educational tours are allowed under the State.

3 VICE-CHAIR BALL: They can't be in --

4 CHAIR LAY: Commissioner Hedani.

5 COMMISSIONER HEDANI: Gina, you know, from the
6 standpoint of enforcement, how will the folks enforce?

7 MS. FLAMMER: Complaints. However, when they come
8 in for renewal, we'll ask for an accounting. We could -- I
9 have in the past asked for an annual reporting. And I do
10 this with the Wailea Golf Course. It's a little too much to
11 ask us, every year, to come in. We could ask for an annual
12 accounting that they submit to the Department every year.

13 COMMISSIONER HEDANI: So some, at least, basically
14 submit a report to you of events that they've had.

15 MS. FLAMMER: Probably what would happen would be
16 at renewal right now, the two years. They would have to
17 submit a list of other events, at renewal, the way it's
18 written now.

19 CHAIR LAY: Okay. Follow up that one. So let's
20 say there was 300 complaints the whole year long and, you
21 know, two years went by and nothing was done. I mean, is
22 that a possibility? Or it will be dealt with way before
23 that?

24 MS. FLAMMER: It would -- a complaint goes into
25 our Zoning Division, Enforcement Division, and they would go

1 out and do an investigation.

2 CHAIR LAY: Okay.

3 MS. FLAMMER: And we could -- that would be enough
4 to allow us to ask for her to submit some information, also.

5 CHAIR LAY: Okay. So, Commissioners, we voted on
6 what timeframe we were gonna give them or the amount of
7 people that we were going to give them. As far as a special
8 event, it was -- I mean, we might want to go through that
9 vote again just to make sure.

10 COMMISSIONER TSAI: Can I ask a question?

11 CHAIR LAY: Sure. Commissioner Tsai.

12 COMMISSIONER TSAI: Can I ask the applicant one
13 more question, Crystal?

14 MS. SCHMITT: Yes.

15 COMMISSIONER TSAI: I mean, we're, obviously, kind
16 of locked on the frequency, amount of people. So based on
17 your prior experience doing events and so forth, would it be
18 beneficial if we allow you to have one event maybe, say, 100
19 people a month, up to 100? Is that going to be more
20 worthwhile for you?

21 MS. SCHMITT: You know, I personally believe 100
22 is a lot of people. I really think 50 twice is way more --
23 it's better for everybody and it's better for us. We -- we
24 really don't want to handle huge parties, honestly. We're
25 learning in the process. You know, sometimes we live and

1 learn. And I would honestly respectfully request twice a
2 month, but a small amount of people.

3 CHAIR LAY: Your system is set up for it, too,
4 already?

5 MS. SCHMITT: Yeah.

6 COMMISSIONER TSAI: Thank you.

7 CHAIR LAY: Okay. Commissioners, let's vote, vote
8 on this, and we're going to move on. Okay. One special
9 event of 50 people per month, all those in favor? Two now.
10 Okay. The second one, two special events a month at 50
11 people, all those in favor?

12 COMMISSIONER HEDANI: Everybody has to vote.

13 CHAIR LAY: I am in on this. I am going to go
14 with the two, okay. (Inaudible). Okay.

15 MS. FLAMMER: So make it two now down --

16 CHAIR LAY: Yes.

17 MS. FLAMMER: -- for the final vote.

18 CHAIR LAY: Yeah.

19 MS. FLAMMER: Okay.

20 CHAIR LAY: Moving on to our next.

21 MS. FLAMMER: The next one deals with amplified
22 sound. It allows amplified sound; however, amplified sound
23 that is audible beyond the property boundaries is
24 prohibited.

25 CHAIR LAY: Can I --

1 MS. FLAMMER: Yes.

2 CHAIR LAY: Can I ask you a question? On the ag
3 one, if they have an audible sound box so everybody hears,
4 because it's an ag tour, is that -- would that fall into it
5 automatically where -- because, you know, if you got 100
6 kids, you got one person talking.

7 MS. FLAMMER: I don't know.

8 MS. THOMSON: You would still probably have the
9 general nuisance laws. So sound can be a nuisance. So if
10 it rose to the level of a nuisance, then it could be
11 regulated that way. Even though it would be an allowed --
12 you know, when you're guiding a tour, it would be --
13 feasibly, it would have an amplification device, but if it
14 rises to the level of a nuisance, a complaint could be filed
15 with the Police Department.

16 CHAIR LAY: Commissioner Wakida.

17 COMMISSIONER WAKIDA: Perhaps you might realize
18 that if you have 100 kids, you would probably break them up
19 into groups of, say, 20. So you would have somebody with
20 each 20. That way, you wouldn't have one person trying to
21 talk to all 100 kids. They would never do that.

22 CHAIR LAY: Okay. She's a teacher, that's why.
23 Anyway -- Commissioner Hedani.

24 COMMISSIONER HEDANI: The sound of a chicken can
25 go beyond your property boundaries, but I don't -- although

1 from my -- I personally believe that it's impossible to have
2 amplified sound not carried beyond the boundary of the
3 premises. If the applicant is okay with it, I am okay with
4 it.

5 MS. FLAMMER: She is an engineer. We have had
6 lots of conversations about sound. And I did ask her to
7 check out the sound during the day, it's not the same as at
8 night, but to check out where that goes on the property
9 boundaries. So she can talk a little about that.

10 MS. SCHMITT: What we did is we -- again, we do
11 want to be good neighbors. And we will really like to have
12 minimum impact. So what we did is on the research is we
13 asked the other (inaudible) on Maui who did weddings to
14 research what everybody's, you know, perimeter is. And we
15 found out the most strict -- most strict venue says the
16 sound level keep above average -- below average under 85
17 decibel. That's the strictest one on Maui. And hard to
18 explain, but it's kind of like this. If you're in the
19 living room, like this size, maybe this size living room,
20 and you're watching TV and you put the TV volume about 75
21 percent of volume, that's equivalent to 85 dB. And now this
22 is really easy to measure. Everybody can download the app,
23 if you have a iPhone. And you can just -- you can see. So
24 that's -- we feel like -- like you mentioned, it's really,
25 really -- we want to be reasonable, reasonable. So far as

1 not audible beyond property boundary, that was really -- I
2 feel that's really, really difficult. But we want to keep
3 it really reasonable. It's like your neighbor watching TV
4 in the living room. It's not above average sound level.
5 That's what we're looking at. And that's the most strict
6 one so far on Maui, all venues, the most strict one. We
7 would like to request if we can adhere to that.

8 CHAIR LAY: Commissioner Higashi.

9 COMMISSIONER HIGASHI: I have a question, Crystal,
10 on the last one you have. You have music to be turned off
11 at 9:45. Is that possible to go to like 8:00 or 7:00? Why
12 is it going to 9:45?

13 MS. SCHMITT: Yeah. (Inaudible) before you asked
14 me the critical question.

15 COMMISSIONER HIGASHI: Right.

16 CHAIR LAY: Commissioner, this is going to come up
17 probably later. Right?

18 COMMISSIONER HIGASHI: It's a part --

19 MS. FLAMMER: No.

20 COMMISSIONER HIGASHI: -- of the application.

21 CHAIR LAY: No?

22 MS. FLAMMER: This is it now.

23 CHAIR LAY: Okay. Time --

24 MS. SCHMITT: It was, before this, because the
25 sound curfew was -- normally, on Maui, was 10:00. So we --

1 COMMISSIONER HIGASHI: So you're changing that,
2 actually, not --

3 CHAIR LAY: Commissioner Hedani.

4 COMMISSIONER HEDANI: Mr. Chairman, three people
5 are talking at once.

6 CHAIR LAY: Excuse me. For me, okay, you got 60
7 people, you got a live band playing, they're playing
8 acoustic, I mean, the -- it does have variables as far as
9 wind and all that kind of conditions. Commissioner Tsai.

10 COMMISSIONER TSAI: Question. Decibel reading is
11 relative to distance. Are you talking about 85 decibels
12 measuring from the source?

13 MS. SCHMITT: 50 feet directly -- it's actually --

14 CHAIR LAY: The mic.

15 MS. SCHMITT: This slide didn't finish the
16 sentence. The sentence actually is stay under 85 dB 15 feet
17 away directly towards the speaker. That's what I mean when
18 you're in the living room watching TV, you actually measure
19 directly at the speaker 15 feet away. That's the most
20 strict standards on Maui right now.

21 COMMISSIONER TSAI: I think that's reasonable
22 because that was about 75 decibels where you were just
23 talking from where I am measuring.

24 MS. SCHMITT: That's what I mean. That's the most
25 strict standards.

1 COMMISSIONER TSAI: It's a decibel meter.

2 CHAIR LAY: Corp Counsel.

3 MS. THOMSON: Perhaps a measurement location would
4 be, if -- if you're all comfortable with 85 decibels, it
5 could be measured at the property line. And that would be,
6 you know, a definite point of measurement.

7 MS. FLAMMER: I think from the Department
8 enforcement perspective, it might -- I don't know if that
9 app allows you to take a picture or some captured time
10 what's happening right then. We're going to get a complaint
11 into our Enforcement Division, and they're going to have to
12 then investigate. It's kind of hard after the fact. I
13 think that's why, in the past, people have gone with just no
14 amplified sound at all. We were trying to be flexible so,
15 if a neighbor could hear it, they could hold up the phone,
16 report the sound, and there you have your evidence. We were
17 just concerned that something 15 feet away would require a
18 neighbor to bust into the party and have their phone to
19 capture. And I am not -- I don't know. I haven't worked
20 with the app. But we would want something that was
21 enforceable easily after the fact.

22 MS. THOMSON: Another alternative would be to go
23 with no amplified sound. So --

24 CHAIR LAY: Okay. Commissioners, on the table
25 we've got decibels and amplified sound and no amplified

1 sound. Commissioner Wakida.

2 COMMISSIONER WAKIDA: If Commissioner Tsai's amp
3 meter correctly measured this and that was 75 decibels,
4 that's -- that wasn't very loud. If a neighbor complains,
5 obviously they hear the sound beyond the property. I have a
6 question. During these special events, will the owners be
7 on property?

8 MS. FLAMMER: The requirement is for either them
9 or a professional event planner to be on the property.

10 COMMISSIONER WAKIDA: Okay. Who will know,
11 obviously, what all the rules are.

12 MS. FLAMMER: That's the intent. With the added
13 restriction that if there's a problem that the applicant
14 would have to show up within one hour.

15 COMMISSIONER WAKIDA: Okay.

16 CHAIR LAY: For me, if I heard my voice like this
17 right on the property line, that's pretty loud. It is. I
18 mean, here you got somebody could be 100 feet away, 200 feet
19 away and they're listening to this, that's loud. I mean,
20 not that I don't have a nice voice or anything like that,
21 but -- Commissioner Wakida.

22 COMMISSIONER WAKIDA: So you're suggesting no
23 amplified sound?

24 CHAIR LAY: I suggest you guys put it under
25 consideration in case I don't have to vote. Commissioner

1 Hedani.

2 COMMISSIONER HEDANI: So they could go with
3 acoustic guitars and harps instead of amplified music?

4 CHAIR LAY: Yes. Yes. Commissioner Freitas.

5 COMMISSIONER FREITAS: No amplified sound. I
6 would go with no amplified sound.

7 CHAIR LAY: A motion for no amplified sounds. All
8 those in favor? Because -- anyway. Commissioner Hedani.

9 COMMISSIONER HEDANI: How about if you have an
10 annual festival with the 250 people?

11 CHAIR LAY: Special events, okay. Are we going to
12 come across -- where they want this big dragon fruit event
13 once a year, is that one of the --

14 MS. FLAMMER: Let's take that at the end. You can
15 add that. It's currently not in there because we've limited
16 it to 50. It would have to be another condition if you
17 wanted to add that. Okay.

18 So the next condition that we're at is that the
19 applicant or professional event planner shall be required to
20 be present during all events and same day event cleanup. If
21 a professional planner is used, then the applicant shall be
22 accessible during all events. Being accessible means being
23 able to answer the phone at all times, being able to be
24 physically present at the property with one -- excuse me --
25 within one hour followed by a request by a guest, a neighbor

1 or County agency.

2 COMMISSIONER FREITAS: So move.

3 MS. FLAMMER: Okay.

4 CHAIR LAY: Everyone good with that? Okay.

5 MS. FLAMMER: That all special events, including
6 cleanup, shall be concluded by 10:00 p.m. in the evening.

7 CHAIR LAY: Okay. Commissioner Wakida.

8 COMMISSIONER WAKIDA: I am in favor of things
9 being concluded by approximately sunset or 7:00.

10 COMMISSIONER HIGASHI: Second.

11 CHAIR LAY: Any discussion on that? In the
12 summer, you're looking at 8:00.

13 COMMISSIONER FREITAS: Sunset.

14 CHAIR LAY: Sunset, at a wedding event, that's the
15 moment, you're going to tell them no. I mean, it's just
16 difficult to enforce. I mean, I would say half an hour
17 after sunset, something like that, because then that's that
18 moment gone. Commissioner Wakida.

19 COMMISSIONER WAKIDA: The latest sunset in the
20 summer is -- in Lahaina is about 7:20. So -- and then, of
21 course, it gets dark very quickly. So you're suggesting
22 perhaps 8:00?

23 CHAIR LAY: Or half an hour. If you're saying
24 7:20, 7:30. As far as half an hour after, you know,
25 somewhere around, say, 7:30. Commissioner Hedani.

1 COMMISSIONER HEDANI: Is the applicant okay with
2 that?

3 MS. SCHMITT: (Inaudible). 8:00, half an hour
4 after sunset.

5 COMMISSIONER FREITAS: 8:00, that's acceptable.

6 COMMISSIONER TSAI: I am good.

7 COMMISSIONER FREITAS: I am good with that.

8 COMMISSIONER TSAI: 8:00.

9 MS. FLAMMER: Okay. The next one says all
10 exterior lighting will be shut off by 10:00. I don't know
11 if you wanted to adjust just that with the new --

12 CHAIR LAY: Then it would be 8:30, yeah? I mean,
13 for me, 8:30, total shutdown of everything, everyone out of
14 there.

15 COMMISSIONER FREITAS: Yeah.

16 CHAIR LAY: End at 8:00, 8:30 cleared. Good?

17 COMMISSIONER FREITAS: Yeah.

18 MS. THOMSON: Sorry to butt in. So Number 12, all
19 special events, do you want to remove "including cleanup"
20 and just all special events shall be concluded by whatever
21 time you guys decided, and then all exterior lighting and
22 all cleanup completed by -- because that's a -- probably a
23 later time, so 8:00 and 8:30.

24 CHAIR LAY: Yeah.

25 MS. FLAMMER: Thank you. That's a good

1 suggestion.

2 All exterior lighting shall be downward shielded.
3 I know it's redundant because it's already in our Code, but
4 I find it's better if you just put it in as a condition.

5 CHAIR LAY: Okay.

6 MS. FLAMMER: All parking related to the giftshop
7 and events shall be on site, no street parking allowed.

8 COMMISSIONER FREITAS: Yes.

9 MS. FLAMMER: Okay. The maximum on-site parking
10 shall be limited to 76 stalls.

11 CHAIR LAY: Okay.

12 MS. FLAMMER: That for events -- well, we're --
13 there won't be, unless you add something later. That for
14 events requiring more than 76 parking stalls, a shuttle
15 service will be provided for guests.

16 COMMISSIONER TSAI: Question. Gina, how did you
17 arrive with 76 stalls?

18 MS. FLAMMER: That's what she has.

19 CHAIR LAY: Commissioner Hedani.

20 MS. FLAMMER: She worked with our parking --

21 CHAIR LAY: Specialist.

22 MS. FLAMMER: Yes, specialist, (Inaudible).

23 MS. SCHMITT: Yes, we have 76.

24 MS. FLAMMER: At the end, if we limit everything
25 to 50, we can change that Number 17. There may not be

1 events requiring more than -- I don't think one person has
2 two cars.

3 COMMISSIONER FREITAS: On Number --

4 CHAIR LAY: Commissioner Freitas.

5 COMMISSIONER FREITAS: Number 17, 76 -- more than
6 76 would allow you 50 people. Why do we need more than 76
7 shuttle -- by shuttle?

8 MS. FLAMMER: Yeah, that was my comment. If
9 something is added on at the end to allow a large-scale
10 event, that would come into play; however, we would have to
11 work that one out.

12 COMMISSIONER FREITAS: Okay.

13 MS. FLAMMER: I am going put an arrow to go back
14 at the end.

15 CHAIR LAY: Commissioner Hedani.

16 COMMISSIONER HEDANI: If you have 76 stalls, Gina,
17 there's the parking requirement for one tree every five
18 stalls. So they should be planting?

19 CHAIR LAY: Dragon trees.

20 MS. FLAMMER: They are going to come in afterwards
21 for a landscape parking plan approval. Yeah, we'd have
22 to --

23 COMMISSIONER HEDANI: Okay.

24 MS. FLAMMER: Great question.

25 COMMISSIONER HEDANI: That would help shield some

1 of the sound, also.

2 MS. FLAMMER: It's in a different location than --
3 it may, yeah.

4 CHAIR LAY: Do they still fall under that?

5 COMMISSIONER FREITAS: Yes.

6 CHAIR LAY: Under ag?

7 MS. FLAMMER: I think the parking code applies.
8 Yeah, the parking code does apply to ag. I would have to
9 get with our zoning to find out exactly how the landscaping
10 works with that. There are a lot of -- there's a lot of
11 trees in that area that might already qualify towards it.
12 We would have to look at that.

13 MS. SCHMITT: Can I say something? So I worked
14 with Gerald in the Zoning Department Enforcement Division on
15 the parking. Out of the 76 stalls, there's 40 of them
16 actually grass parking. So if we don't use them, that's no
17 problem, because it's grass already.

18 MS. FLAMMER: Did they talk to you about the --

19 MS. SCHMITT: No, but we have -- they didn't talk
20 to me, but he's very happy with whatever we did now as the
21 parking plan.

22 CHAIR LAY: See, for me, if you got one special
23 event going on and you got people in your farm and at the
24 store --

25 MS. SCHMITT: Yeah, be big enough.

1 MS. FLAMMER: She's got 32 paved.

2 COMMISSIONER HIGASHI: It sounds like 17 can be
3 eliminated.

4 COMMISSIONER HEDANI: What?

5 MS. FLAMMER: 26. We'll come back at the end in
6 case you --

7 COMMISSIONER HIGASHI: 75 parking stalls according
8 to -- you're requiring shuttle.

9 MS. FLAMMER: We may -- we're going to come back
10 to that at the end in case there's another provision that
11 allows larger events. Sounds like that's going to come up
12 for discussion. I put an arrow to come back at the very
13 end. If we need to adjust that, we can.

14 Okay. The applicant shall provide an information
15 sheet providing neighbors with a contact phone number and a
16 copy of the permit approvals. Okay. That a sign shall be
17 placed at the entrance of the property with the farm name
18 and a contact number. I think that's already there.

19 And then the last three, that the Department of --
20 all Department of Health applicable requirements shall be
21 met. That's going to be just -- also, for the kitchen, when
22 they get that, it will also include the wastewater.

23 That all the -- okay. That the review and
24 approval as required by the Fire Prevention Bureau for
25 events open to the public with 50 more people in attendance

1 and/or when temporary tents or canopies in excess of 700
2 square feet in size are utilized. That's a fire condition.

3 And then, finally, that a compliance report shall
4 be admitted by the applicants and approved by the Department
5 prior to starting operations.

6 Okay. So if there's anything extra, this would be
7 the time to bring that up.

8 CHAIR LAY: Can we go back to that one special
9 event?

10 COMMISSIONER FREITAS: 17.

11 CHAIR LAY: Okay. Commissioners, on this one
12 special event that they're wanting to plan for the dragon
13 fruit festival, how many people are we going to allow for
14 that and timeframes? Let me ask this question to the
15 applicant. How many people do you see attending this
16 festival, I mean within reason?

17 MS. SCHMITT: So one of our mission is that we
18 really want to promote. Right now, lot of people don't even
19 know what dragon fruit is. I would say if I go on the
20 street, I ask three people, most of the time none of them
21 know it. So our mission is to really promote. So the next
22 couple years -- I can see 20 years from now, everybody would
23 know about it. It's going to be from here to 20 years,
24 really, really depends how -- how actively we actually
25 promoting the fruit. So I really don't know how many

1 people -- if we do decide to hold it, how many people would
2 be interested enough to come. We do not know.

3 CHAIR LAY: Okay. So it's up to us. Commission,
4 any suggestions on this festival? What do you guys perceive
5 as an organized and still safe gathering? Commissioner
6 Hedani.

7 COMMISSIONER HEDANI: I would suggest that if you
8 have a festival trying to promote agriculture, promote
9 dragon fruit, you'll have other people involved in it from
10 the subdivision that have agricultural endeavors, that it
11 should be encouraged and on a onetime basis. You know, I
12 would think 250 people for an event like that would be
13 successful.

14 CHAIR LAY: Okay. All in agreement with that, 250
15 people onetime event? Commissioner Higashi. Oh, we're all
16 in agreement.

17 COMMISSIONER HIGASHI: Go ahead.

18 CHAIR LAY: Commissioner Wakida.

19 COMMISSIONER WAKIDA: I would like to ask the
20 applicant, have you had such an event already?

21 MS. SCHMITT: We had -- one of the biggest event
22 we had, it was organization called the Maui Business
23 Brainstormers.

24 COMMISSIONER WAKIDA: Okay. No. I am asking
25 specifically a dragon fruit festival. Have you had a dragon

1 fruit festival yet?

2 MS. SCHMITT: No, not yet.

3 COMMISSIONER WAKIDA: And at what point in your
4 operations would you think you were ready to proceed with
5 that?

6 MS. SCHMITT: Actually, University of Hawaii Maui
7 College has approached us twice already. They, actually,
8 brought people from the Philippines. The Filipino people
9 really like to learn about dragon fruit. They don't have
10 enough varieties we have. So they brought a big team over
11 two years ago from the Philippines. (Inaudible) University
12 of Hawaii Maui Campus. And so they actually want to work
13 with us. We just not quite ready.

14 COMMISSIONER WAKIDA: Okay. But my question is, I
15 know that you're working hard to get your production up, at
16 what point do you think you would be ready to host a dragon
17 fruit festival? Would this be couple years down the road?

18 MS. SCHMITT: Hopefully, this October, hopefully,
19 if we have enough (inaudible) the get-together, because they
20 request to have with us for twice already. I just not
21 ready. This year, we have a lot of fruit. We want to have
22 enough fruit so -- because my vision is when we do have this
23 dragon festival, we probably end up giving all the fruits
24 away. That's how people know, on tasting and all that. So
25 we be able to make sure we have enough capacity. Hopefully,

1 this October, we are somewhat ready. Realistically,
2 definitely maybe by next year.

3 COMMISSIONER WAKIDA: All right. Thank you.

4 MS. SCHMITT: Yeah.

5 CHAIR LAY: Okay. Commissioners, the timeframe of
6 this festival. For me, I am thinking 9:00 to 5:00 because,
7 with this amount of people, you don't want to go into dark,
8 I mean, in my opinion. And if you start it too early,
9 there's not going to be anyone there, anyway. You guys have
10 any suggestions on that? Commissioner Wakida.

11 COMMISSIONER WAKIDA: I think 9:00 to 5:00 is
12 reasonable. I am a little concerned about the way we word
13 this. I mean, it -- it needs to be a dragon fruit festival
14 and not a big wedding disguised as a dragon fruit festival.
15 However, I think the applicants seem quite -- have quite a
16 lot of integrity and seem like very earnest people. Perhaps
17 200 would be a reasonable number.

18 COMMISSIONER HEDANI: We're losing quorum.

19 COMMISSIONER WAKIDA: Dropping like flies.

20 CHAIR LAY: Okay. We have one number at 250, one
21 at 200. Before Jack does a quick one, let's do a -- go
22 ahead, Commissioner Tsai.

23 COMMISSIONER TSAI: No.

24 CHAIR LAY: Oh, let's vote on this. Okay. Those
25 in favor of 200 people, raise your hand. For those of you

1 in favor of 250, raise your hand. Okay. For 250 gets it.

2 MS. FLAMMER: Did you want to require that a
3 police officer be used to manage traffic in any way or --
4 down at the intersection?

5 CHAIR LAY: The traffic, yes.

6 MS. FLAMMER: You recommend -- okay. I know you
7 can hire them for specific events.

8 Then this question is for Richelle. In terms of
9 the language of the condition, we're allowing, once a year,
10 an agriculturally-related public event. Should I put in
11 such as a dragon fruit festival or celebration of local
12 agriculture?

13 CHAIR LAY: I would say label it as a dragon fruit
14 festival.

15 MS. FLAMMER: Just label it.

16 MS. THOMSON: I would probably label it as a
17 dragon fruit festival.

18 MS. FLAMMER: A dragon fruit festival which is an
19 agriculturally-related public event.

20 CHAIR LAY: If that name is suitable for how you
21 wanted it labeled, too. Because once you do it, it's going
22 to have to be called that.

23 MS. FLAMMER: Okay. And it's up to 250 people so
24 she'll be taking order when people come in. So when you
25 reach 250, you've reached your maximum. You turn people

1 away at that point? It's hard to know when you invite the
2 public --

3 MS. SCHMITT: I want to make a comment.

4 CHAIR LAY: Please step up to the mic.

5 MS. SCHMITT: Mrs. Wakida mentioned if we probably
6 end up having that event, we probably cooperate with our
7 neighbors who are also in the agriculture production. So I
8 would say it's probably better to say celebration for local
9 agriculture than just specifically dragon fruit, just in
10 case like if Teresa want to get involved, if Tim want to get
11 involved with coffee, if George's coffee is producing, and
12 we all want to do together. I mean, we want to be good
13 neighbors. And we might cooperate. So I want to say
14 celebration of local agriculture is probably a preferred
15 name.

16 CHAIR LAY: It's your party, so --

17 MS. SCHMITT: Yeah.

18 CHAIR LAY: -- label it however you want it to be.

19 COMMISSIONER TSAI: Can I say something?

20 CHAIR LAY: Commissioner Tsai.

21 COMMISSIONER TSAI: Well, personally, I am in
22 favor of, you know, local festivities. I think, you know, a
23 lot of the Kaanapali Fresh, Taste of Wailea, those bigger
24 festivals really bring forth what we have to offer and bring
25 the farmers and the producers, and even, you know, the

1 restaurants, and all this stuff together. I am not saying
2 that's what you should go after, but I -- I hate to see this
3 kind of limitation, personally, on this because I think it's
4 a great event, the intention is great. I would -- I would
5 support that any way I personally can. So --

6 CHAIR LAY: Commissioner Hedani.

7 COMMISSIONER HEDANI: I kind of agree with Max. I
8 wouldn't try to cap the number of people and start turning
9 people away when you have a festival trying to promote
10 agriculture.

11 COMMISSIONER TSAI: Exactly.

12 COMMISSIONER HEDANI: You could have 50 people an
13 hour for eight hours and you would have over 250 people.

14 MS. THOMSON: Can I -- so trying to work on maybe
15 condition language. So one special agricultural -- local
16 agricultural-related event annually with all traffic and
17 safety controls as recommended by the Maui Police
18 Department. So require consultation with the Maui Police
19 Department prior to the event.

20 MS. FLAMMER: Okay.

21 MS. THOMSON: And -- but concise.

22 CHAIR LAY: Commissioner Hedani.

23 COMMISSIONER TSAI: Sounds good to me.

24 CHAIR LAY: Commissioner Higashi.

25 COMMISSIONER HIGASHI: Gina, Number 17, I had

1 brought up about 76 parking.

2 MS. FLAMMER: Yes. Yes.

3 COMMISSIONER HIGASHI: Now that we upped the
4 number, I think 76 would be the maximum and then --

5 CHAIR LAY: Please speak into the mic. Sorry.
6 Sorry about that. If you can speak into the mic.

7 COMMISSIONER HIGASHI: Oh.

8 CHAIR LAY: Just pull the mic.

9 COMMISSIONER HIGASHI: Since we upped the number
10 to 250, that the number of parking stalls available should
11 stay the same, and then they should go with shuttle, shuttle
12 bus or whatever, so that you minimize the amount of vehicles
13 that are going up there, although you do have space to put
14 more vehicles in the grassy area or whatever.

15 MS. FLAMMER: She did have a section in her
16 application about traffic controls and using a shuttle
17 service. So I -- and that would play into the traffic and
18 safety concerns by the Police Department, also. Okay.

19 Did we get rid of the 250 people? I thought I
20 just heard that.

21 COMMISSIONER TSAI: Yeah, we did.

22 MS. FLAMMER: Yes. Okay. Great. Okay, we kept
23 the 9:00 to 5:00.

24 CHAIR LAY: Yeah. Commissioner Hedani.

25 COMMISSIONER HEDANI: From a procedural

1 standpoint, after we get through imposing all of these
2 restrictions, do they have to go through the same thing
3 again with the Council?

4 MS. THOMSON: Well, assuming that, you know, that
5 you vote to approve the Special Use Permit with all these
6 conditions, you would be recommending to Council to approve
7 the Conditional Permit with or without the same conditions.
8 So -- and then Council is going to do what they are going to
9 do, though, when they get up there.

10 COMMISSIONER HEDANI: So they're not out of the
11 woods yet?

12 MS. THOMSON: They're not out of the woods.

13 MS. FLAMMER: However, any changes from Council
14 that are different would come back. I am going to put the
15 same conditions on the Conditional Permit. I think that's
16 the only way to do it. If they do anything that's
17 substantially different, you're going to have to -- she's
18 going to have to amend that State Land Use Permit here.

19 CHAIR LAY: Commissioner Tsai.

20 COMMISSIONER TSAI: In regards to the hours 9:00
21 to 5:00, having been to all the major festivals and events,
22 I think, you know, what's exciting sometimes, they do have
23 tastings, food, if you choose to have that. That happens
24 right at sunset hours. And I would like to modify that, if
25 okay with the Commission, to make it the same as -- one

1 event a year, we can go up to 8:00 at night, same as the
2 other events. I think that's fair.

3 CHAIR LAY: Commissioner Wakida.

4 COMMISSIONER WAKIDA: I prefer the 5:00 because we
5 are not in a big public place like Maui Tropical Plantation
6 or some other really public venue. We're in the middle of a
7 ag subdivision. And I think -- while I agree some things go
8 later, I think those are in venues that are better placed
9 for that. And I -- if the applicant's okay, I think 9:00 to
10 5:00 is reasonable.

11 CHAIR LAY: Any more discussion? Commissioner
12 Hedani.

13 COMMISSIONER HEDANI: The later you get past 5:00,
14 the better from the standpoint of traffic on Honoapiilani
15 Highway.

16 COMMISSIONER TSAI: Exactly. That's what I am
17 thinking, too.

18 CHAIR LAY: Commissioner Wakida.

19 COMMISSIONER WAKIDA: However, it is only once a
20 year.

21 COMMISSIONER FREITAS: Yeah.

22 CHAIR LAY: Okay. So at this point, I'm going to
23 call for a vote. Are we raising the time limit on the
24 special event from 5:00 -- from 9:00 to 5:00 to 9:00 to 8:00
25 with everything being completed and cleaned up by 8:30? All

1 those in favor?

2 COMMISSIONER WAKIDA: Of -- I'm sorry. Which
3 hours are we voting on?

4 CHAIR LAY: For that special event with their
5 agricultural thing, we're going from 9:00, and we're moving
6 it to 8:00 now. Because you're saying that you agree with
7 that, too?

8 COMMISSIONER WAKIDA: No. I -- I prefer 5:00.

9 COMMISSIONER FREITAS: She said 5:00.

10 COMMISSIONER WAKIDA: I prefer 5:00, but we can
11 still vote on it.

12 CHAIR LAY: Yeah, we're going to vote on it.
13 Okay. So -- okay. Just --

14 COMMISSIONER FREITAS: 9:00 to 5:00.

15 CHAIR LAY: Just as a heads up kind of thing, if
16 it ends at 8:00 and you've got a whole bunch of people there
17 and a whole bunch of other people there who set up booths,
18 8:30 is going to be difficult for everybody to get out. So
19 I don't know if we want to -- Commissioner Wakida.

20 COMMISSIONER WAKIDA: Usually, these things are
21 nice family events and people come in the middle of the day.
22 They don't stay late in the evening.

23 CHAIR LAY: But if we have tourists and it's
24 sunset and there's a place to go to eat, it's ag orientated,
25 you might get a really good turnout at that time.

1 COMMISSIONER TSAI: And my thinking is, you know,
2 instead of restricting, just like with number of people, you
3 know, leave it to the applicant to decide what the best
4 venue is. I mean, instead of close at 5:00, they can close
5 -- you know, have it in the morning, whatever they want. I
6 think, instead of limiting it, it just prohibits -- or
7 restricting what the event could be. And that's what I
8 don't want to have. So --

9 COMMISSIONER FREITAS: 9:00 to 5:00.

10 CHAIR LAY: Okay. So moving on. So right now, I
11 am going to go back to our timeframe we were looking at. So
12 all those in favor of the 9:00 to 5:00, raise your hand.
13 All those in favor of the 9:00 to 8:00, raise your hand. I
14 am with the 9:00 to 5:00, just because of safety reasons and
15 all the people in one area and trying to get them all out at
16 that time. So we're at 9:00 to 5:00, back again. Back
17 to --

18 MS. FLAMMER: One other one to come back to which
19 was the giftshop. You were discussing an 8:00 closing.
20 Everybody okay with that?

21 CHAIR LAY: Yeah. Good.

22 MS. FLAMMER: Want me to run through them
23 real quickly, or is everybody comfortable with them?

24 COMMISSIONER FREITAS: That's good.

25 CHAIR LAY: Is that it?

1 MS. FLAMMER: That's it. Done.

2 COMMISSIONER FREITAS: It's good.

3 CHAIR LAY: At this time we need a motion to
4 recommend the recommendations that we made for this. Corp
5 Counsel.

6 MS. THOMSON: Thank you. Perhaps the Planning
7 Department can restate what the motion is. I want to make
8 sure that the motion that was made -- the motion that was
9 made, from my memory, was that we were going to do the -- do
10 all of these conditions by way of a Special Use Permit. But
11 as we went through all of the conditions, they weren't all
12 approved by the majority of the Commission. They were
13 approved by the majority -- you know, two or three of you,
14 or four. So just so that we're really clear, we don't have
15 a record that is messy, I'm sorry, but I would recommend
16 that we just go through the conditions real quick and then
17 vote on it, make a motion and vote on it with the
18 conditions. Sorry, Jack.

19 CHAIR LAY: I agree.

20 MS. FLAMMER: I'll be really quick. Okay. The --
21 the permit, the State Special Use Permit, I am going to do
22 this first and then, instead of reading them again, we're
23 just going to do the Conditional Permit. But right now,
24 we're on the State Special Use Permit.

25 The State Special Use Permit shall be valid for

1 two years from the effective date of the Conditional Permit,
2 and shall be subject to further extension by the Maui
3 Planning Director. The permit shall not -- be
4 nontransferable. We discussed the insurance requirement,
5 which is going to be one million per occurrence, three
6 million aggregate.

7 The Land Use Commission permit has conditions that
8 explain its enforcement. We ask for detailed copies of
9 report addressing compliance upon renewal. The applicant
10 shall develop the property in substantial compliance with
11 the representations made. Full compliance with all
12 government regulations shall be rendered in a timely mode.
13 The giftshop shall open no earlier than 8:00 a.m. and close
14 by 8:00 p.m.

15 COMMISSIONER WAKIDA: No. I think the applicant
16 agreed to 9:00.

17 MS. FLAMMER: For the giftshop?

18 COMMISSIONER WAKIDA: The giftshop.

19 COMMISSIONER FREITAS: To open.

20 MS. FLAMMER: Oh, to open at 9:00. Thank you.

21 COMMISSIONER WAKIDA: To open at 9:00.

22 MS. FLAMMER: Okay. Great. The giftshop shall be
23 open no earlier than 9:00 a.m. and close by 8:00 p.m.
24 Special events shall be limited to 50 guests, and be limited
25 to two events per calendar month. Amplified sound shall be

1 prohibited. That a professional event planner should be
2 required, and the applicant shall be accessible during all
3 events when a planner is used. All special events shall be
4 concluded by 8:00 p.m. in the evening. All exterior
5 lighting and cleanup shall be shut off by 8:30. All
6 exterior lighting shall be downward shielded. All parking
7 related to the giftshop and events shall be on-site, no
8 parking on street. Maximum on-site parking limited to 76
9 stalls. For events requiring more than 76 stalls, a shuttle
10 service will be provided. The applicant shall provide an
11 information sheet providing neighbors with a contact phone
12 number and copy of the permit approvals. A sign shall be
13 placed at the entrance of the property with the farm name
14 and contact number. All DOH applicable requirements shall
15 be met. Compliance shall be determined by the Department of
16 Health. Review and approval as required by the Fire
17 Prevention Bureau for events open to the public of 50 or
18 more people in attendance and/or when temporary events or
19 canopies in excess of 700 square feet in size are utilized.
20 That a compliance report be submitted by the applicants and
21 approved by the Department prior to starting operations.
22 And that one special local agricultural event, conducted
23 once a calendar year, shall be allowed providing all traffic
24 and safety --

25 COMMISSIONER FREITAS: (Inaudible).

1 MS. FLAMMER: What? Requirements be met by the
2 Planning -- Maui Planning Department. I'll work on that,
3 but you know what I am saying. And the hours of that annual
4 special local agricultural event be between 9:00 a.m. and
5 5:00 p.m.

6 COMMISSIONER FREITAS: Moved.

7 COMMISSIONER TSAI: Move to approve just like how
8 she stated it.

9 CHAIR LAY: Motion by Commissioner Tsai, seconded
10 by Commissioner Freitas. Any discussion on the motion?
11 Commissioner Hedani.

12 COMMISSIONER HEDANI: You know, for once, I found
13 it refreshing to have a person with a master's in
14 engineering and a doctorate in chemistry take a stab at
15 agriculture, farming. And I think if any -- any company got
16 involved in agriculture has a fighting chance, they probably
17 have a fighting chance of making a success. I wish them the
18 best.

19 CHAIR LAY: Any more discussion on the motion?
20 Seeing none, can we have Clayton repeat the motion?

21 MR. YOSHIDA: The motion is to approve the State
22 Special Use Permit and the Conditional Permit subject to the
23 conditions as read into the record by Gina.

24 CHAIR LAY: Call for the vote. All those in
25 favor?

1 MS. THOMSON: Wait. Wait. Wait.

2 CHAIR LAY: Excuse me.

3 MS. THOMSON: I think that the motion was just
4 related to the Special Use Permit, unless someone wants to
5 amend the motion to add -- recommend that -- approval of the
6 Conditional Permit subject to the same conditions in the
7 Special Use Permit.

8 COMMISSIONER HIGASHI: So moved.

9 COMMISSIONER TSAI: Second.

10 CHAIR LAY: You were the maker of the motion.

11 COMMISSIONER TSAI: I am okay with it.

12 MS. THOMSON: So do the amendment first, then go
13 back to the main motion.

14 CHAIR LAY: So let's vote on the amendment. All
15 those in favor? Motion carries. And I -- I am there, too.

16 COMMISSIONER HEDANI: Okay.

17 CHAIR LAY: Six "ayes." No opposed. And now to
18 the main motion.

19 COMMISSIONER HIGASHI: I make the motion to go
20 along with the same (inaudible) conditions.

21 MS. THOMSON: So there is already a main motion.
22 So now it's the main motion as amended. So it's both to
23 approve the Special Use Permit with all of the conditions
24 that have been read by staff and, also, recommend approval
25 of the Conditional Permit with the same conditions. So

1 that's what -- what you would be voting on right now.

2 CHAIR LAY: Okay. Any discussion on that motion?

3 No. All those in favor? Thank you, Jack. Those opposed?

4 Okay. Congratulations.

5 Next agenda item.

6 MR. YOSHIDA: Thank you, Mr. Chairman. We're on
7 Item E, acceptance of the action minutes of the March 10 --

8 COMMISSIONER FREITAS: So moved.

9 MR. YOSHIDA: -- 2015 meeting, and the regular
10 minutes February 10 and February 24, 2015 meetings.

11 CHAIR LAY: Do we have a motion on acceptance of
12 the minutes?

13 COMMISSIONER HIGASHI: So moved.

14 COMMISSIONER TSAI: Second.

15 CHAIR LAY: All those in favor, say "aye."

16 (Response.)

17 CHAIR LAY: Next agenda item.

18 MR. YOSHIDA: Okay. Under Director's Report, Item
19 1, we're notifying the Commission of the issuance of a
20 Special Management Area Emergency Permit to Ms. Melani
21 Palmer for repair of one sinkhole located at 1568 Halama
22 Street, TMK:3-9-010:007, Kihei, Island of Maui. Keith Scott
23 is here if you have questions. If not, we're just notifying
24 you of the issuance of this emergency permit subject to the
25 SMA rules.

1 COMMISSIONER FREITAS: So moved.

2 COMMISSIONER TSAI: Second.

3 CHAIR LAY: All those in favor, "aye."

4 (Response.)

5 CHAIR LAY: Those opposed?

6 (No response.)

7 CHAIR LAY: Carries.

8 MR. YOSHIDA: Moving on to Items 2 and 3, we have
9 submitted our SMA Minor Permit Report and SMA Exemption
10 Report.

11 COMMISSIONER HEDANI: Move to accept.

12 CHAIR LAY: Motion to accept our exemption report,
13 and seconded. All those in favor, say "aye."

14 (Response.)

15 MR. YOSHIDA: Okay. Thank you. Moving to
16 discussion of items for future Maui Planning Commission
17 agendas. I've circulated a memo from me. On your April
18 14th meeting, we have introduction of the two new Members,
19 Lawrence Hudson and Thurston Keaka Robinson, election of
20 officers, Chair and Vice-Chair for the year, the annual
21 orientation session number one, and bringing back the South
22 Maui Citizens for Sensible Growth, letter on the State DOT
23 (Inaudible) Road, Piilani Highway, SMA relative to sidewalk
24 installation.

25 With that, if there aren't any others, we'd like,

1 again, to thank our outgoing Members for their five years of
2 service, Commissioners Wakida and Freitas, and wish them the
3 best in their future endeavors.

4 COMMISSIONER WAKIDA: And thank you for lunch.

5 COMMISSIONER FREITAS: Thank you. Thank you.

6 CHAIR LAY: We're going to miss you guys, just to
7 let you know. We're going to miss you guys.

8 COMMISSIONER TSAI: We're going to miss you, Jack.

9 COMMISSIONER WAKIDA: I got my little hula girl
10 here.

11 CHAIR LAY: With no further business, meeting's
12 adjourned.

13 (Meeting adjourned, 4:24 p.m.)

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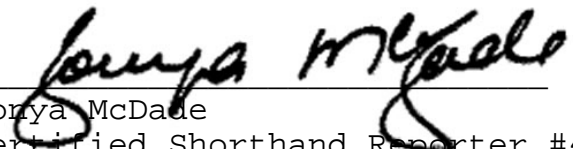
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CERTIFICATE

I, TONYA MCDADE, Certified Court Reporter of the State of Hawaii, do hereby certify that the proceedings contained herein were taken by me in machine shorthand and thereafter was reduced to print by means of computer-aided transcription; and that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney nor an employee of any of the parties hereto, nor in any way concerned with the cause.

DATED this 13th day of April, 2015.



Tonya McDade
Certified Shorthand Reporter #447
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