

**MAUI PLANNING COMMISSION
REGULAR MINUTES
OCTOBER 27, 2015**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice-Chairperson Max Tsai at approximately 9:08 a.m., Tuesday, October 27, 2015, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

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

Vice-Chair Tsai: Hello everyone, Today's October 27, 2015 calling the Planning Commission to meeting...call to order.

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

Vice-Chair Tsai: So if anyone wants to testify on any of the items right now if you cannot be around later you can do so or you can choose to wait, but you can't do both. So does anyone choose to testify right now, please come forward, identify yourself, and you have three minutes.

The following individual testified at the beginning of the meeting:

Riley Edwards - Item D1, Tom Croly on behalf of Terry and Kay Epstein, SUP2 and STKM

His testimony can be found under the item he testified on.

Vice-Chair Tsai: Anyone else wish testify at this point? Seeing none, we're going to the Public Hearing, the first item on the agenda.

Mr. Spence: Okay, good morning Commissioners. We're on Item C1, Sunstone Hawaii 3-0, LLC requesting an SMA Permit and a Step II Planned Development Approval. Our Staff Planner this morning is Mr. Keith Scott.

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

- 1. SUNSTONE HAWAII 3-0, LLC requesting a Special Management Area Use Permit and a Step II Planned Development Approval for the Proposed Renovations at Wailea Beach Marriott Resort Project involving replacing signage, renovation of outdoor pools, luau ground improvements, guestroom building improvements, a shade trellis off of the Grand Lanai, landscaping and related renovation of existing resort facilities at 3700 Wailea Alanui Drive, TMK: 2-1-008: 061, 074 (por.), and 076, Wailea, Island of Maui. (SM1 2015/0006) (PD2 2015/0001) (K. Scott)**

Mr. Keith Scott: Good morning, Chair and Members of the Commission.

Commission Members: Good morning.

Mr. Scott: As you saw from the report, the proposed project is some significant improvements to the Wailea Marriott Resort and Spa. There are a couple of minor modifications to the report that I need to give you verbally. On the face page, it does say that it's a Phase II Permit, it is not it is a Step II Development Permit. And I should also note that all of the activities are outside the shoreline setback area and so no shoreline setback approval or environmental assessment exemption will need to be issued subsequent to your consideration of this permit.

At this juncture, Bryan Esmeralda of Munekiyo and Hiraga will lead a consultant presentation.

Mr. Bryan Esmeralda: Good morning Commissioners and staff. My name is Bryan Esmeralda of Munekiyo Hiraga and I'm here on behalf of Group 70 International and Sunstone Hawaii to present the plans for the proposed renovations at the Wailea Beach Marriott Resort and Spa.

Just like to take a minute to recognize the project team who's here with us this morning. The landowner and applicant is Sunstone Hawaii and you have Guy Lindsey and Stacy Camps with us this morning. The architect and civil engineers were Group 70 International. We have Katie MacNeil and David Brochie this morning. Landscape architect, McKelvey Associates, Shelley McKelvey is here and the planning consultants were Munekiyo Hiraga, myself and Mark Roy.

Again, the property is the Wailea Beach Marriott and it's located within the Wailea Resort. I know everyone's familiar with the area but it's located here. It's just makai of The Shops at Wailea property, and it's accessed via a driveway off Wailea Alanui Drive.

The resort itself is comprised of three different tax map keys. The majority of the resort buildings and facilities are located on Parcel 61. The resort parking structure is located on Parcel 76, and the resort driveway is on an access easement on Parcel 74. Parcel 74 is The Shops at Wailea parcel, and again, that driveway is an easement off of Wailea Alanui Drive into the resort.

Also this morning the applicant is requesting that the Maui Planning Commission consider a Special Management Area Use Permit and Planned Development Step II Approval for the proposed improvements at the resort.

The scope of work is comprised of seven different items and I'll just briefly go through them before I turn the presentation over to the project's architect. The first item is improvements to the entry drive and this includes the installation of new identification signs, repaving of the entry drive, the construction of a new concrete parallel parking area along the entry drive, minor demolition and regrading for creation of a grass parking area, landscaping and lighting improvements. Also, with regards to the existing parking structure, relocating the entrance and exit control devices and ticket dispensers and replotting the entrances to the parking structure.

Second item involves extending the lanais on the east side of the Maluhia serenity pool in front of Hale 4. These lanais will be off of the ground units and will include private spas on each lanai. Also, the construction of a new pool bar alongside the existing serenity pool.

The third item involves the kids pool area and luau ground. This involves enlarging the existing kids pool with the addition of water slide and a new bar, the conversion of an existing storage building into restrooms for the pool and luau areas. The construction of a new pool, mechanical equipment and luau storage, and _____ dressing room structures, and the construction of a sound and lighting system tower.

The fourth item involves signage improvements and the replacement of awnings and railings within guest room Hale Buildings 4, 5, 7, the Haleakala Tower and the Lobby Building, and the replacement of the awnings and the railings and the stairways within those buildings.

Item five is the construction of a new trellis over the western or makai side of the Grand Lanai.

Item six is the extension of ground floor lanai units, 14 units within Hales 4, 5, and 6.

And the last item here is an infill of a portion of the existing koi pond for the creation of a small event lawn. At this point I'm gonna turn the project over to Katie MacNeil of Group 70 to go through the plans.

Ms. Katie MacNeil: Good morning Commission and Staff. Thank you for giving us the opportunity to present this project. So the improvements—

Vice-Chair Tsai: I'm sorry, can you please identify yourself?

Ms. MacNeil: Oh, I'm name is Katie MacNeil. I'm the project architect with Group 70 International. We're a design firm from Honolulu. So the project development—

Vice-Chair Tsai: Ma'am I'm sorry can you speak to the mic a little better.

Ms. MacNeil: Sure. Is that better?

Vice-Chair Tsai: Yeah, thanks.

Ms. MacNeil: I can hear myself now too, great. So the project development as the scope of the work that Bryan just stated we've mapped here in the key plan. There's seven project areas which we've identified. One is the entry drive. And so the entry drive as it connect up to Wailea Alanui Drive and extends down to the porte cochere drop off area. The second area is the serenity pool bar and lanais, and it's addition of lanais outside of Hale 4, and a open air pool bar next to existing serenity pool. The third item is the ohana kids pool and luau and that's on the southern end of the site which is located here. There's existing children's pool area that will be redeveloped and existing luau facilities that will be rebuilt. Item number four, our hale portals, the property as it exists now there's a number of hales and one guest room tower Haleakala, so way finding is an issue around the property and so these hale portal signs really are just to help and that's why you see them scattered at the entrances throughout are to help the guests find their way around the property. Item number five is the lobby which we...it's an open air structure and we've named it the Grand Lanai. There's a extension off of the back of a shade trellis being proposed. And then item six is extended lanais off of the ground floor units of the hales associated closely with the ohana

children's pool. And then finally, item seven which is over here in this landscape area, there's an existing koi pond, we're gonna modify the perimeter of that infilling it some in order to create a flat area for some event gathering. I'll be referring back to the key plan throughout the presentation. That's why we have the presentation board here to the side.

Okay, so the property itself already has been developed as Bryan was saying. It consists of many mature trees and palms that provide shade and erosion and sediment control. Those will be maintained. Additionally, there's a number of drought tolerant plants on the property such as ginger and bougainvillea, the palms, those will be maintained and enhanced with native and Polynesian introduced plantings. So that is kind of a comprehensive maintenance plan and infill for the property.

Also, the irrigation systems will be utilized. Standard water efficiency controls and the operations for water efficiency and sustainability will be timed to avoid water loss from evaporation and wind dispersion.

This slide presents the civil drainage concept. The civil drainage again, this is already a developed property so the minor grading for the renovation will not alter the current drainage patterns. The existing planting throughout provide a natural and excellent buffer between the development and ocean as well as Kihei gulch here to the north. And then existing drainage patterns will be maintained with the majority of water being absorbed in the landscape planting. Where there are dry wells on site, those two will be maintained. And if there's a need for additional dry wells those would be added in order to eliminate any potential for offsite runoff.

Okay, so the various areas of improvement, specifically the entry drive improvements. This is the drive as it comes in from Wailea Alanui and you proceed down. The Shops are here in the lower portion of the plan and you come down the drive. You may be familiar with the property. There's a...it's a tree-lined, banyan-lined drive. It's wide enough for us to develop parallel parking along one side of it in order to meet County standards. Additional improvements involve the introduction of the natives and Polynesian introduced plants as well as just generally cleaning up the under story and maintenance of the banyans.

As we move through the entry drive, we come to what we're calling the knuckle in which you turn down to access porte cochere. There's an existing staff parking area. There will be replacement of LED or to LED lights for the site lighting. There's a general replacement throughout the property for more energy efficiency. So the existing lights are being relamped to LED.

And then for way finding purposes we have replaced the existing signage in here with the proposed signage to identify the property, added an entrance gate in this area to control access through to the staff parking area, and then we'll get into some improvements around the parking...entrance to the parking lot.

And then finally, taking down a temporary type structure that is used for landscape maintenance to provide some grass parking in this vicinity. Again, this just identifies some of the planting concepts for this area.

At the parking lot or parking garage, it's a two-story parking structure. General cleanup of visual

clutter. So we are looking to move some of the ticket spitters into the interior of the structure and what that results in is...this is the before, this is the condition now, you see cars on the second level. It's a gable stay railing. We want...we are proposing to clean that up and just dress up that entrance and clean up the visual clutter in the front of the parking structure as it's on our entry drive.

And the main stair that's kitty corner from the porte cochere, this is as it exists today. Just cladding the existing structure again with what the property is looking at some stones, natural stone accents and continuation of the material that's present on site which is a cement plaster.

And then porte cochere island, cleaning up the center of the island, introducing some new low landscape site walls that are clad in the natural stone and a center art piece. Art piece itself, this is a conceptual image of what that...this is the existing lanai roof what the image of the porte cochere island would look like. The art piece is under design so this is not representational of the final design. Also adding a fire element as a backdrop to an existing water landscape fountain, waterfall landscape fountain feature. Many of the guests actually come here and take their photographs as a memory of the trip and so this is just cleaning up this visual image.

The second area of improvement is around this existing pool. It's called the Maluhia Pool or also Serenity Pool, and involves....this is the existing condition. This the site that is identified for the Serenity Pool Bar so that correlates to this number two here. And then this is the site for the extended lanai spas which is the ground floor units off of that hotel which this is called Hale 4.

So Hale 4 which...so to orient yourself this is makai so this is the shoreline in the distance back here. Hale 4 along this edge is proposing extending the lanais with EK decking and individual spas and those would have views downslope to the ocean, and so we're taking advantage of the natural grade there just to cascade that extended lanai down. They would be separated from each other with some privacy screens and separated from the second floor by a trellis and overhang. Actually you get a glimpse of where the relationship of Serenity Pool Bar is in the plan. So it's in this vicinity of the pool. Again, it's upsloped and this is the shoreline downslope.

The Serenity Pool Bar itself is an outdoor structure. Sorry, the image is a little weak here, but it's a cascading down. It's taking advantage of the natural slope of the site. The upper portion is our service area that will be your bar and service counter top, covered but open-air, and then a series of individual shade structures, covered areas with lounge-type seating that would be served from this location, and it just, you know, makes for a wonderful setting and view, western view out to the ocean. And the structure itself is very minimal with the intent that the landscape and the existing development, the hotel is the prime structure.

Ohana kids pool, luau ground improvement. So this is the area to the south of the property. It's a redevelopment of the area. There's existing pools there. What we have here is a shot of the upper pool. It's often used for scuba training. It's just a standard, their square enclosure pool, and it's behind...so behind the phototaker is an existing structure, snack bar. Downslope of that is a ohana kids pool area, and this is a shot from the luau area looking back mauka of that pool. So there's existing...this is a small play slide and even beyond that there's some slides for the older kids existing.

So the proposal is to connect those two pool areas into a comprehensive amenity which we're

calling the ohana pool. Also upgrade the finishes of the pool. If you notice that they're...they weren't integrated so the finishes of the pool will utilize the natural coloration of stone and introduce water features such as cascading water and some fun areas for the kids in this zone that would have play areas for kids of all ages. And then interconnecting the two would be a replacement of the slides with a double slide feature and an improvements in the safety because we're bringing up the depth of the pool...(inaudible)...outlet. The current pool slides dump these slide outs so we're able to lower the depth of the pool in that case.

The area will be united by comprehensive landscape, decking and plantings throughout. And then in the center portion here you see the planned location for the Serenity Pool Bar. This is a section view of the natural, the rock work that will mimic natural rock work, the integration of landscape planting, and this is...houses the slides and then this is a little grotto feature cave exiting of the slides into the pool. You can see it just has a natural form to it. And these are natural sections through the pool. This shows the water depth at basically no more than four feet in this area and then the...the extensions that allows us to slide out into a minimal depth of pool.

This is the Serenity Pool Bar. It's a mixture of guest services, towel facility, with some food and beverage at this end. The towels, towels and guest amenities would be served from this area and there's a triangular shaped roof that would provide shade, much needed shade for many of us out by the pool. And then these are some conceptual drawings of the pool structure. It's a low slung, hip style roof that shades the central bar area.

Related to the pool is the luau structures. The luau structures are occurring where this dot here is on the key plan. There's existing dressing huts. There's an outdoor enclosure for pool mechanical that it is...had some fencing and landscape buffers. We're gonna clean up that whole area putting the pool mechanical into a new facility and adding a pool/dressing room facility which also will have a bar service here for premade cocktails to serve the luau guests and patrons. This addition of some landscape pavers to have a low maintenance area to service the buffet for the luau and then the light/sound controls will occur in this structure. And the idea is that it blends well with the structure of the luau building which will be a more traditional looking structure with thatched and ohia style posts and the use of lava rock for some cladding.

The plan you see here is that redevelopment of the existing storage room into toilets. These are convenient toilets for both luau patron uses and the ohana pool bar and they're located right here. So you see it's in close vicinity to the pool as well as to the luau area.

So I mentioned earlier the existing development is a scattered site to guest units and so way finding is a problem for the guests and so there is a comprehensive signage program that's gonna be implemented and there's these small building signage located throughout the property. So the red sign collate to this style of sign. The green signs, the smaller sign reference this style of signs. The larger hale signs are backlit for nighttime viewing and they all utilize that natural stone. But just for orientation purposes this is the north side, this is ocean, makai, and this is Wailea Alanui Drive. So they're all scattered throughout the property.

And then this is another architectural way of helping with way finding is just improving some of nodes for circulation and this is a vertical circulation into the building. This is a renovation of replacing these canopies with glass and aluminum frame canopies and just opening up the view

to our natural asset, the ocean.

The existing lanais or lobby area is an open lobby with a large hale style roof. This is the back side of that lobby facing away from the porte cochere and what it is today is a large open terraced area. It's under utilized. It's very sunny. You know, it's not very conducive to people gathering there and waiting for their families to check in. So the proposal is to add a shade structure above that tiled terraced area, and this would essentially add some space where outdoor furnishing could be placed and the guest experience can be extended. Many people go out there to take pictures upon arrival of the view. And this is gonna have a natural material choice. It will be wood like. And just to orient you back to the key plan, that's located here at number five.

And then the improvements, these are similar in style as the Hale 4 spas, but they just lack the spa, and they're not falling away on the landscape. These are ground floor units so we're using concrete pavers to extend the lanai. It will be a way to bring out some chaise lounges into the ground...for the ground floor units separating the lanais by privacy screens in the vertical and then above from the second floor with a trellis. So you can see the extension here from the second floor and those occur just at this knuckle area close to the children's pool.

And then finally, the last improvement in the set is the small event lawn. This is located here on the plan at number seven. There's an existing koi pond there, and what we're proposing to do is just modifying the edge. The edge comes out into here. By modifying the edge and pulling it back some we're creating a flat grassed area which will be used for small events. Gonna turn it over to Bryan to conclude the presentation. Thank you for your time.

Mr. Esmeralda: Okay, the Special Management Area Use Permit and Planned Development Step II Approval applications were circulated and distributed for agency review and comment and nonsubstantive comments were received back from that review. Also, the applicant engaged the Wailea Community Association. It has obtained preliminary design approval for the project.

The project assessment report that was prepared in support the SMA and Planned Development applications included an analysis of potential environmental, infrastructural, and socio economic impacts and proposed mitigation measures as well as an analysis of the project's conformity to applicable State and County rules, regulations, and plans. Because the resort is existing and predeveloped, the proposed project was determined to...was anticipated to not pose significant adverse impacts with regards to environment, the infrastructure or socio economic considerations nor will the project be contrary to the goals and objectives of those State and County rules, regulations and plans. The Urban Design Review Board did review this project at its meeting on September 1st and UDRB unanimously voted to recommend approval as the project was presented.

So in summary, the applicant is again requesting the Commission's consideration of the SMA Use Permit and Planned Development Step II Approval applications. Thank you very much for your time. At this time, the project team is available to answer any questions you may have. Thank you.

a) Public Hearing

Vice-Chair Tsai: Thank you. We're going to open the floor up for public testimony. Anyone wishing to testify, please come forward, identify yourself, you have three minutes.

Mr. Bud Pikrone: Good morning, my name is Bud Pikrone. I'm the General Manager of the Wailea Community Association. As noted, from the moment Sunstone purchased the property they contacted and engaged WCA in their planning. So we've been working with them for quite a while now on this project. It has been reviewed by our Design Review Committee of architects and homeowners and they have made every effort to listen to our comments and make adjustments as needed. And also to keep us up-to-date on everything they're doing. So we are very happy with it. We feel that they've done a very good job of revitalizing this property and as noted, we've given preliminary approval and now it's just waiting for some of the final finishes to give their final approval. So we hope that it does move forward quickly. It's gonna be a great addition to the community and help the community with its, as I tell the homeowners property values of everybody when we can revitalize any property within the resort. Thank you.

Vice-Chair Tsai: Thank you. Any questions from the Commission?

Mr. Dave Dreisch: Good morning, Commission. My name's Dave Dreisch. I'm the General Manager for Wailea Beach Villas. We are the property just adjacent to Wailea Marriott. Been working with WCA and they do a fantastic job at trying to regulate that particular area and I appreciate their help and effort in working with Marriott as well. In the past, we've always wanted to make sure we're respecting our owner's wishes and make sure we maintain the noise abatement when they deal with the luau as well as any construction process that may go along. Just wanna make sure that it is brought to your attention that we want to make sure we wanna be good neighbors to them with that respect. They're gonna continue with the luau. I hope the looks a great fantastic process which I think the grounds based on what I've seen in the SMA drawings look fantastic. I do wanna know that their pool mechanical has been also been in consideration of making sure we maintain that noise control as well.

Vice-Chair Tsai: Anyone else? Seeing none, public testimony is closed. I'm gonna open the floor for questions from the Commission. Commissioner Robinson?

Mr. Robinson: I have a question in regards to public access and impacts of parking and beach access. I didn't hear anything about that. I don't know what the existing is now, can you...do you know anything about what the current status is?

Mr. Mark Roy: Thank you for the question. Mark Roy with Munekiyo Hiraga. In terms of public access around the property there is the Elua Beach Park that provides access down from Wailea Alanui Drive for the public. That's recently I believe been enhanced with the Andaz project that's being implemented. So there is unrestricted public access through that I believe privately owned, privately maintained beach park that's a County beach park facility. There is obviously the beach walk that goes all the way along and through the Wailea Resort that provides public access from a lateral access standpoint across the frontage of the resort and connects to the next available beach park I believe would be Wailea Beach Park on the south side of the Grand Wailea.

Mr. Robinson: I guess my question is, is there any requirements of the hotel? I know the parking structure is that a public parking structure or is that only for hotel guests? I know that there's couple restaurants there that a lot of people, you know, are they only allowed to valet, you know, that type of stuff. How does it affect the public if there is...if the access is only from our public parks so is the hotel exempt from having to maintain any parking stalls for them?

Mr. Roy: The Resort does of course welcome guests and visitors to the resort facilities and if they're residents or if guests are not staying at the facility they have the ability to park in the parking structure. I believe there is a charge. We can probably confirm this with representatives of the resort here today, but I, myself, have visited one of the restaurants at the resort, and I believe at the time we went down we, we didn't valet, we just parked in the parking structure. And I think at that specific instance they validated the parking ticket. But we can maybe invite one of the representatives from the resort who's able to respond better to that question. I don't believe there are dedicated public access stalls that would avoid the need to park in the parking facility itself.

Vice-Chair Tsai: Commissioner Lay?

Mr. Lay: So you're saying there's no parking for the public just to go to the beach there from that hotel?

Ms. MacNeil: Currently there is no dedicated parking in the same way that County required parking is at the beach access points. I think what Mark was trying to address is that the public is welcome at the hotel. There is public access to the retail and restaurants and the parking has been allotted for them to come and park. It's all hotel resort facilities.

Mr. Lay: Question to the Director or Public Works. Aren't they supposed to supply public beach access parking, hotels within a certain range?

Vice-Chair Tsai: Director?

Mr. Spence: I don't believe there's any requirement. If this was a new hotel and they're going, you know, undergoing construction that would be a much bigger thing, but since this is renovations and I haven't heard anything where any public access is you know, being hindered or there's any changes with that regard with the renovations proposed. So I don't see a trigger to require additional.

Mr. Lay: Okay, for me in that area we've got Wailea, Shops of Wailea, but they're starting to do public...you know you have to pay to go in. I don't know if they opened it up after that. Down there by the beach that's a big area. You know, that's a very big ocean area that we don't have any place to park unless we pay, and I don't see for us to pay to go to our beach. I have a difficult time and I love public access. For me, I took my kids there. It's the first place they went to night dive, and now what? That's my only concern is public access for us to go to the beach down there. It's a beautiful beach. Oh, and one...on that same level, I mean, how many employees are employed at the hotel, a round about?

Ms. MacNeil: Actually, we want to address your earlier question.

Vice-Chair Tsai: I'm sorry, can you please identify yourself again for the record.

Ms. MacNeil: Oh, sorry. Katie MacNeil, Group 70. I think a lot of the questions that you're asking have addressing Wailea as a whole and with Bud here representing WCA, he's gracefully offered to answer the particular question about beach access and parking.

Vice-Chair Tsai: Great.

Mr. Bud Pikrone: Bud Pikrone, Wailea Community Association. Just to give you a layout there. There are five beach accesses in the Wailea area with parking. We have what we call Keawakapu 1 and Keawakapu 2. There's a parking lot for 1 that has an access across the street and at the end of South Kihei Road there's parking there with an access to the beach there. Then you get to Ulua Beach where a lot of the diving takes place. That was expanded by about 22 stalls a few years ago when the Andaz was constructed. Then you go further south and you have by the Four Seasons and the Grand Wailea, you have the Wailea Beach access with parking there, parking lot also. And at the end by Polo Beach you have the Polo Beach parking lot area which is a large lot which is very seldom half full. So you have those accesses.

Also of note, there's no beach in front of the Wailea Beach Marriott. It's all rock. So their guests even go off to Ulua Beach or go to Wailea Beach. So it's...that particular area really doesn't have a direct access to a beach. But there is, there is access there. You did mention that The Shops is now charging for parking and that which again does open it up for public parking rather than I'm trying to not allow parking for beach access at certain times. Now anybody can park there. And I do believe as they're saying here if you want to, you can go to the hotel but it is paid parking unless you're, you know, using their facility. You can go to lunch there, get validated and go to the beach if you want. So anyway, I just wanted to give you a little bit of a outline of the area.

Mr. Lay: May I ask a question?

Vice-Chair Tsai: Yeah, Commissioner Lay?

Mr. Lay: So Bud what you're saying, the only public access we have to those beaches are public beaches, beach parks, not from any hotels?

Mr. Pikrone: Well the hotels again, you can go to a hotel and you can access through a hotel, you're free to do that. You can park at the hotels. Now some of them charge, some of them don't charge. Four Seasons doesn't charge, Kea Lani doesn't charge, Andaz doesn't charge I don't believe now. And a matter of fact, Andaz does have...when they were built they had to put in I believe ten additional besides the 22 in the park, they had to put ten additional parking stalls in their property for beach access parking. So there are some areas there that are free to the public. But all of the hotels allow parking for their beaches.

Mr. Lay: Okay.

Vice-Chair Tsai: Commissioner Higashi?

Mr. Higashi: This is going back to parking again. At one time before Marriott acquired the property, I think it was Intercontinental and they had double parking area where actually the public could go in there and park. They didn't have a ticket meter. So we used to be able to go there and then walk the path. Presently they're all ticketed. In fact, Wailea Shopping Center area where there's a lotta parking used to be open. Now, they have to be ticketed. And if you go in there to just park and just to go shop without buying anything, you have to pay a fee. And so I think for the public that's a concern because Marriott is basically the central area of the hotels and I think there should

be some way so that the public can go in without having to purchase anything and enjoy the beach scenery area, et cetera, and I think that's one of the concern that Commission Lay has. And it is a concern for me too because now I see all the area in that particular place is all ticketed. You have to pay. It's not free.

Ms. MacNeil: I appreciate your comments. I think the only response I can give at this time is that the controls of the parking are in place. This is how the...like you mentioned, you know, as it developed from Intercontinental, it actually was an Outrigger, I believe it was under Outrigger that they developed the two-level parking structure then Marriott took over and then there's been two different ownerships under Marriott, Blackstone and now Sunstone. And so the control of the parking, condition of the parking access hasn't changed since that Outrigger time so we're not addressing that and you can see the trigger as the Planning Director mentioned to address any change in the parking controls under our improvements.

Vice-Chair Tsai: Commissioner Higashi?

Mr. Higashi: So is that some way of providing public access to parking 'cause I didn't hear an answer as far as...

Ms. MacNeil: Oh, you're saying public free access?

Mr. Higashi: Yeah.

Ms. MacNeil: Free public access.

Mr. Higashi: Right.

Ms. MacNeil: I'm not...as a representative of the design team, I'm not in a position to comment on that. ...(inaudible)...anything from the planning side that you'd wanna add?

Mr. Roy: I do, I do appreciate the comments and the concerns.

Vice-Chair Tsai: Please identify yourself again.

Mr. Roy: I'm sorry. This is Mark Roy from Munekiyo Hiraga. As part of the SMA application process for this project which is essentially just a renovation of the existing resort that's part of the challenge I guess with the project is that they're enhancing what is already there from a resort standpoint. There has been a lot of coordination with the Planning Department and the Zoning Administration in terms of addressing applicable Code requirements for provision of parking stalls on the property and the property is an old long standing property that's been developed I think in the early 80's so parking codes have changed over the years. There has been a lot of effort by the applicant to formulate a set of renovation plans for this project allows the existing resort to continue to comply with the County Code parking requirements, the off-street parking requirements. And we've got to a point where we've been able to put a plan together that meets the County parking requirements and there's been the coordination with Planning Department on that. So I guess essentially what I'm saying is this isn't a resort where there's a lot of parking available based on the existing conditions and the fact that it was developed quite some time ago. So that's the only

consideration I would offer to the Commission in response to the specific concern.

Mr. Higashi: The reason why I ask was because in your request for approval on the plan, you have guest parking area but there's no designation for public parking itself. As Commissioner Lay had mentioned about having the public be notified that if they wanted to go there, they could find a place that they could park instead of having to acquire a ticket in order to get in.

Mr. Roy: I understand. Essentially you're asking for some element of free parking for the public?

Mr. Higashi: Right.

Ms. MacNeil: ...(inaudible-not speaking into a mic)...

Vice-Chair Tsai: Please speak to the mic.

Ms. MacNeil: Thank you. The Commission brought it up as an issue and so I think as Mark was saying and as I saying is that it's not an existing condition and it's not one that was required in our process with the County to meet County requirements. This is a new concern that was brought up by the Commission, rightfully so. In discussing it, there are some unregulated spots you know from a management, parking management condition. The entry drive parallel spots which account for about 19 won't be regulated in the same that the structure is which is by pulling a ticket. So the public could find parking that would not, you know, trigger cost. That's what, you know, you're looking for on...

Mr. Hudson: That's what I was gonna ask.

Ms. MacNeil: So those aren't...there's no mechanism for regulating those. So those are available to...

Vice-Chair Tsai: Commissioner Lay?

Mr. Lay: Question for the Director. So let's say if a hotel is being made and they tell us we have 20 public parkings, when this hotel changes hand does the other hotel have to say we're taking away the public parking, it's no longer going to happen, do they have to divulge that? I mean, it's a change in the area. I mean, not to say with anybody, but you know, you know how it is if a hotel comes out we've got 20 parking stalls that's public, the next owner comes by and they get rid of it and they say, a change of ownership. But the reason we approved it at the start was there is public access. Now it's being taken away without us even having a chance to say anything. I mean is that a common practice or do they have to tell us and let us know that there won't be public parking after that?

Mr. Spence: If, if there was a condition on the original SMA Permit for beach access parking...I haven't heard anything, and I'm not familiar with the history of the property, I haven't heard anything that would change any other conditions from previous SMA Permit. Okay, I know like in Kaanapali...

Mr. Lay: You got the source right there.

Mr. Spence: ...you know, each one of the hotels has some kind of requirement for, you know, public parking. I can't say each one, a number of properties down there. And so when they come in for subsequent permitting whether it's the Sheraton, for renovations or whatever, you know, those earlier conditions don't go away. So if there were earlier conditions related to this property, those conditions would not go away. If there were no conditions, we would have to define...make some other kind of findings on...related to the Special Management Area as far as requirements. I, personally do not see the renovation an existing property where there's already, you know, it's already pretty much developed. We're just basically doing a facelift and some changes to it, but would trigger any additional parking or public access requirements and I don't hear anything about the renovations that themselves that would change public access.

Vice-Chair Tsai: Commissioner Hudson?

Mr. Hudson: Just for clarification then, you said that the 19 stalls that will be created when you make the entryway, that's not gonna be ticketed and will be open to the public is that correct?

Ms. MacNeil: Correct.

Vice-Chair Tsai: Director?

Mr. Spence: For the Staff Planner, for Keith, are you aware of any previous conditions on other SMA Permits for parking?

Mr. Scott: No sir.

Mr. Spence: Okay.

Mr. Lay: So it has to be—

Vice-Chair Tsai: Commissioner Lay?

Mr. Lay: —made a condition? You know, it can't be the applicant coming in and saying we're giving 20 stalls. It's not a condition. They're saying they're doing that, but it has to be us asking for that condition for it to remain?

Mr. Spence: There would have to be some rational basic for it. You would have to make findings like if they were adding rooms, if they were completely reconfiguring the buildings so that whatever public access is already there and we've heard that, you know, the public is welcome to come there. If there was some change in that kind of access that would trigger. That could possibly trigger other things. But as it is, I'm personally not seeing anything that would make additional requirements.

Vice-Chair Tsai: Commissioner Robinson?

Mr. Robinson: First off, Sunstone's been great to Wailea and the investment they've put in. Everybody's happy so this isn't a Sunstone question so I wanna make sure...we're not talking about Sunstone's not being friendly, but I think the question that Commission Lay's trying to get to is it

never used to be ticketed. It was parking where we could go in the double structure and we could park because it wasn't a necessity for the generation and of course, times are changing and people are coming on there. So since the...it's been...it was actually ticketed and not charged I think, and then I think now it's ticketed and charged. So in the future when somebody come on top of our panel do we have to say, you have to have public parking forever? I mean, and then when a owner comes in, you know, because 'cause when a owner is gonna purchase a hotel the assumption is he's purchasing what the current rules are right? He has that stuff so we can't put new conditions on him just because he's the new guy? Right, there's that assumption. So how do we get around this? Because this is gonna be going towards the future. You know, there's gonna be more development and there's gonna be more people development across Wailea not just Bud's people, but the people that live across the street they're gonna use the beach so this is gonna become an issue. And again, it's not Sunstone's issue, it's how are we gonna look at it now and moving forward with all the projects, how do we put it into where we can keep access? You know, Andaz, ...(inaudible)...Andaz where they added the stalls. But I've been to a Sunday at 1 o'clock where there was no stalls, you know, I'm too late, right? Too bad. But it does fill up, and this is now with the new development 'cause you know five years from now, ten years from now there's gonna be a parking issue and it's gonna be how come the Commission didn't address it when had the opportunity to while Kaanapali already has?

Mr. Spence: And I understand. Conditions are supposed to related to—

Mr. Robinson: To development.

Mr. Spence: —to development, but it's supposed to be related to some impact that a proposed project has on the Special Management Area. So if the Commission can find that there is an impact from these improvements on shoreline access, you know, for the general public then you would formulate a condition. If there is no relationship between adding a requirement then I would say you probably shouldn't add a requirement.

Vice-Chair Tsai: Commission Hedani?

Mr. Hedani: This is an interesting one. The correct answer I think that you should give is that when Wailea was developed part of the commitment that Wailea made to the public was the creation of five beach access areas throughout the resort to...and they went one step further and they dedicated the property to the County of Maui for a perpetual beach access to the beaches at Wailea. I don't know the exact number of stalls that you have in those five beach access areas, but I think it's significant. I think it's about 100 or more. And they went one step further to not only create those accesses but take back the requirement to maintain those accesses so that they don't turn into a County park, they turn into a very well maintained public beach access system throughout the resort. The reason I know that was because when I was in high school, I marched into the Planning Director's office with a friend of mine and we said, this development that you call Wailea that's being developed on our beaches that we use for diving, how are you guaranteeing public access in the future? And Tosh's answer, Mr. Ishikawa's answer at the time was we're creating five beach access areas throughout the resort dedicated to the County, left perpetually in perpetuity for access to the public. And then we said, oh okay, in that case we won't protest. That's as far as my memory goes.

But in this particular case, I'm not sure if at a prior review of the Commission a commitment might have been made to provide free beach parking within the structure itself, and that's something that I'd like to know. 'Cause I thought there was something where so many stalls were set aside for public beach parking. If I heard you correctly, right now, you just made a commitment for 19 stalls for public—

Ms. MacNeil: Unregulated.

Mr. Hedani: —for public parking along the entry driveway which is something that's significant from my perspective. The second question that I had relative to the parallel parking on your entry driveway from a resort planning standpoint, from a design criteria, parking should be shielded from view essentially screened from view from public areas so that you have to put it in a parking structure and you screen it with landscaping so it's not obtrusive to everybody. When you create 19 stalls or parallel parking on your entry driveway into the resort, the entry experience for your guests becomes parallel parking instead of a beautifully landscaped entry driveway that's wide and welcoming and beautiful. Have you folks thought about that?

Ms. MacNeil: We certainly have given that consideration. Because we are in an area that we're redeveloping we are...existing parking that met old County Codes and we need to meet new County Codes. The parking demand is such that we need to balance the offsite experience in the driveway with additional parking. We've moved to make that as pleasant as possible. We' looked to assure that the driveway itself is wider than standard driveway requirements. The banyans provide what we believe is the shielding from neighboring properties and the enhancement within the driveway itself, one of the elements that I neglected to discuss was the lighting. We're gonna be adding some lanterns so that there is a magical appeal as you drive down there in the evening time. But you're correct, I mean it doesn't, it doesn't remove the parking from there and we see that the parking is gonna be used until this discussion somewhat infrequently because we do have other parking structures within the property. And so you know, we felt that that was a good compromise in order to be able to meet the requirements that the County has placed on parking.

Vice-Chair Tsai: Commissioner Robinson?

Mr. Robinson: When I saw your extended parking on the driveway I took it as probably an event parking, you know, like every other hotel does with their valet. Their parking structure is kinda tied up for their guests and I look at it as a overflow. So I just kind of wanna make sure that you don't promise something that you guys don't wanna think about first that's all. I mean, because I know it's gonna be there, but you know just me as a planner and looking at your hotel it's that's you know, I'm thinking that's my thought, smart you know, they're making overflow parking for events, for weddings, whatever it is, could be kept in the structure but not a of say a parking lot per se.

Ms. MacNeil: Well, as the conversation has evolved, and I really thank the Commissioner for giving the context of the Wailea Resort 'cause that was obviously information new to me. I know that there has been reference back to Andaz and some dedicated parking there, and also what the Planning Director has referenced in regards to the trigger for that. I understand that Andaz wasn't just, you know, to the same level it was a further development of that property. So me not having been involved in that that there was triggers to have dedicated beach parking you know, beyond what the Wailea Resort Association in the original development promised the County beach public areas.

When you talk about a commitment, I think what I...you know, I stated is that it's unregulated parking.

Vice-Chair Tsai: Commissioner Higashi?

Mr. Higashi: In your presentation on Exhibit 1 and 2, I notice that on ours there's no No. 7, but on yours there's a No. 7. I was wondering was it omitted purposely or was it left out?

Ms. MacNeil: In No. 7 is—

Mr. Higashi: In your Exhibit 1 and 2.

Ms. MacNeil: —yeah. Exhibit 7 as we see up there is the koi pond. No, I see what you're looking at Commissioner.

Mr. Robinson: ...(inaudible)...

Ms. MacNeil: That's an older version and we've updated that.

Mr. Higashi: Oh, so that's an updated version?

Ms. MacNeil: Yeah.

Mr. Higashi: Okay. 'Cause I was trying to follow you plan and I didn't see a seven.

Ms. MacNeil: Yep. It's a more comprehensive and coordinated.

Mr. Higashi: So that is still there that small events area?

Ms. MacNeil: Correct. It's an existing koi pond so we're taking...we're infilling and making the koi pond smaller and creating more lawn area.

Mr. Higashi: Okay.

Vice-Chair Tsai: Questions? Commissioner Hedani?

Mr. Hedani: If the parallel stalls on your entry driveway are open to the public they're gonna be occupied 100 percent of the time by the public I can tell you that much. And the question becomes at that point do the people that disembark from the 19 stalls have an access path to the common walkway that ties in lateral beach access along the property throughout the Wailea Resort?

Ms. MacNeil: It was not developed beach access parking.

Mr. Hedani: I'm sorry?

Ms. MacNeil: It was not developed as beach access parking so there is not a common pathway next from that parking down to the beachwalk.

Mr. Hedani: Well, I guess my question is is there a path that can be designated through the property to the walkway that connects all of Wailea?

Ms. MacNeil: There isn't any now that I'm familiar with. As Mark was saying the beach access comes through the public access points, the five that you identified and it extends through the whole shoreline in the front of the property. So public access is accessed from the north and from the south.

Mr. Hedani: So the answer is no?

Ms. MacNeil: Correct.

Unidentified Speaker: Well, it's not designated but you can walk right through the luau grounds.

Ms. MacNeil: I guess what you're...your asking are some operational questions so I'm responding more from the design side.

Mr. Hedani: From my perspective if it were to trade off the adverse impact of parallel parking on your entry driveway for an additional 19 stalls open to the public I would trade it off automatically and say, great, we just added 19 more access stalls, beach access stalls for the public through the property unregulated, not charged, where anybody can use. And I think that's what I had heard you say.

Vice-Chair Tsai: Commissioner Robinson?

Mr. Robinson: In regard to unregulated stalls, if unregulated that means that beach access people have to actually be using it for the beach or they could get a ticket like in Kaanapali? Well, those 19 stalls because it's very close to The Shops where they might charge for parking so how will these unregulated stalls leave the hotel with the responsibility with having to monitor that? So... 'cause they're not gonna say it's beach access because then they have to say we're saving it for beach access. Unregulated means unregulated and they don't have to be responsible to make sure what the people are using the parking stall for. So it could be employees, it could be restaurant guests, right? I mean, we don't wanna, we don't want the hotel to give us parking stalls and then be stuck with the quagmire after.

Mr. Spence: Right.

Vice-Chair Tsai: Director?

Mr. Spence: I think that's more a question to the applicant.

Ms. MacNeil: And actually Mark reminded me that the reason why we're providing these stalls is to meet County requirements for the uses that we have onsite. So it actually isn't for us to give as public stalls because we need them for the uses that we have onsite at the property. So it's important I think for the group here to recognize that those stalls are being provided in order to meet County requirements for the functional uses that we have onsite, dedicating them for public use kind of double dips into that requirement we're not in a position to offer that.

Vice-Chair Tsai: Commissioner Lay?

Mr. Lay: I mean, I have agree with Commissioner Hedani, 'cause some of the cars that park in front that might stay there might not be the first view that you want your people to people see when you go into the hotel 'cause it's wide open as far as who can park there and if you got them in one area in the back corner where they got that access, it's...you know, they can go there that might enhance your property some too.

Ms. MacNeil: Actually I know that we're kinda working around this issue. We have a County requirement to meet the parking demand of the hotel. In the event that we have excess parking and I appreciate your point 'cause you know, when we first conceived of this as I said earlier it was to have it utilized in the event that they needed to, you know, have additional stalls. So they've met their demand in the parking garage, you know, they can meet their demand and it would be monitored for use by the hotel, but not...I mean, they can't charge for it. We don't have mechanisms for charging it, but there would be a way of monitoring it. The complexity comes is that we need to meet the County requirement, we can't double dip on that by offering public stalls. In consultation with the ownership here knowing this concern that has been raised by the Commission in the event that we have excess stalls beyond the County requirements they'd be willing to look at allowing for public parking, beach access parking, a certain amount of beach access parking and that would be in the parking stalls or parking structure itself so there would be a mechanism to utilize that. In some way they're doing that now with Starbucks for example, as part of their lease agreement there's some dedicated stalls just for the Starbucks users that's part of the lease agreement. So it's not that the property is trying to prohibit public use and public access and enjoyment of the beach, trying to manage a number of different needs on the property and I appreciate Bud's perspective, Commissioner's perspective is that we are within the Wailea Resort Development, we are...whenever...when this property was developed, it was developed in reference to the larger resort access issues. You know our understanding is that the property has met all the public access requirements to date. I think the question whether there's any condition in past SMAs can easily be researched and answered and the County would be holding us to that regardless of what occurs here today. But you know, this I guess is where you know, as we fleshed out the issue there's a way to offer public access parking, beach access parking for any of our excess stalls beyond what we need functionally. I think they're will to offer that.

Vice-Chair Tsai: We keep talking about these County requirements. Director, do you wanna address that please?

Mr. Spence: So it sounds like all the parking and I don't know if we've reviewed the hotel and everything for if there is excess parking or not within the structure. But it sounds like the parking is taken up by the uses on the property. You know, we not only look at the number of rooms and employees, but we also look at how much retail space, restaurant space, I mean, we look at all that stuff. If the Commission wants we could research it further. And I'm sure we have the parking analysis somewhere.

Vice-Chair Tsai: Commissioner Higashi?

Mr. Higashi: Yes, we don't wanna kill this whole thing about public parking, but I think this particular thing came about because the rippling effect of The Wailea Shops that set in this ticketed parking

area which automatically eliminated excess parking for the public.

Unidentified Speaker: I agree.

Vice-Chair Tsai: Commissioner Hedani?

Mr. Hedani: I have two other questions actually on the property. Generally speaking I like all of the improvements that you're proposing. It looks like it's a beautiful upgrade for the property. It's functional, it's attractive, it's an investment in the property which is a positive. And I support it from that perspective. The two questions that I had was the area where your kids pool is that you're renovating is gonna be very attractive to kids. It's gonna be beautiful and noisy. Because it's located to the furthest south of the property closest to your boundary with your adjoining property what property is adjoining that and have you interfaced with them in terms of addressing concerns relative to noise generated off that area?

Ms. MacNeil: Yes, and thank you for your support of the improvements. The Wailea Beach Villas are adjacent to the property. And I appreciate the General Manager's testimony earlier and the concern he raised specific to the pool mechanical. And I actually, and this is a chance for me to address that, the pool mechanical will improve because we're providing an enclosure to it. Right now it's an open air mechanical area that is surrounded by fencing. So there is no acoustical control measures. By enclosing it in a substantial building and roof those, the acoustical controls are there. So where...(inaudible)...we're approving the acoustical controls. The pool itself is an existing use so it already has kid use. There's slides and play equipment and deep water play so it's already getting a lot of good use. So the plans themselves have been reviewed. We have similar needs on the property. We have guest rooms that face out on the pool itself so there'll be operating hours so the guests aren't disturbed. Those would also benefit our neighbors to the south of us.

Vice-Chair Tsai: Commissioner Hedani?

Mr. Hedani: The second question that I had was related to outdoor lighting where you're gonna install a luau tower, a lighting tower basically is what you referred to it as.

Ms. MacNeil: Right.

Mr. Hedani: I guess it's for special effects lighting for the performers that are doing the performances for the luau.

Ms. MacNeil: Correct.

Mr. Hedani: And the question that I had was does that comply with the Outdoor Lighting Ordinance from the standpoint of protection of glare you know to sea birds and other criteria that is taken up by the Outdoor Lighting Ordinance?

Ms. MacNeil: Well, the actual existing...it's replacing an existing and it's lighting controls for that tower piece. So the event lighting associated with the luau will largely remain as it is today. So it's operated by Tahati and group and so we're not specifying that lighting, but it's in operations today.

It has the requirements, the same requirements that the County has for lighting, I don't know that they meet all the areas because I'm not privy to it.

Vice-Chair Tsai: Commissioner Hedani?

Mr. Hedani: The answer that I'm looking for is that the lighting comes with the luau area...let me give you an example, the existing driving range from Maui LanI has extremely bright lights that light up their driving range. It's an existing facility. In all probability it does not comply with the Outdoor Lighting Ordinance which requires full cutoff lighting for outdoor lighting. And it contributes to light pollution basically in the Kahului area. Existing lighting for your luau operations may not comply with the Outdoor Lighting Ordinance and my question is is the outdoor lighting on the renovation plans going to comply with the ordinance?

Ms. MacNeil: Yes.

Mr. Hedani: Yes. Thank you.

Vice-Chair Tsai: I have a question for the applicant. So what is the SMA total cost of this renovation?

Ms. MacNeil: Excuse?

Vice-Chair Tsai: Estimated total cost of this renovation? While you're looking for that, the reason I'm asking is you guys assume have financing in place that's not gonna keep you from starting if we approve this today?

Ms. MacNeil: No. The financing is in place. We are looking to start as soon as possible and are looking for an earliest, you know, to start as early as possible. So we're ready to go. The total estimate that was...is \$6 million for the renovation work that-

Vice-Chair Tsai: And what's your time line?

Ms. MacNeil: Time line would be to start next year when we...upon SMA approval we have design documentation moving forward as WCA has indicated and if we get all of our regulatory approvals in place, we'll be ready to begin near the end of the first quarter of 2016.

Vice-Chair Tsai: And completion date?

Ms. MacNeil: Completion date, again we're looking to roll these out simultaneously so that we could complete by the end of 2016. We're looking to avoid high season and I think is operational...(inaudible)...

Vice-Chair Tsai: Commissioner Lay?

Mr. Lay: That number again was again was it six or sixty? Sixty million or was it six?

Ms. MacNeil: Six. ...(inaudible)...

Vice-Chair Tsai: Commissioner Lay?

Mr. Lay: And if I may, and just to let you know I agree upon on all hotel enhancements. I'm sure it's it gonna be really...I didn't wanna come down on you guys or anything like that, it's just trying to keep public access out there. And I'm looking at your drawings and everything, very beautiful, I like the enhancements. Looking forward to it being developed.

Ms. MacNeil: Thank you.

Vice-Chair Tsai: Any further questions from the Commission? Commissioner Medeiros?

Mr. Medeiros: I got lost. You know, I mean, I read all the material and everything. It was supposed to be a renovation and I like the renovations. I've worked in hotels most of my life. You've got a great plan. And all of sudden parking came up and then you threw in 19 stalls, you know, oh bonus. You know a good plan and a bonus, you know. When can you start?

Vice-Chair Tsai: Any other questions from the Commission? Seeing none, can we get the Director...Department's recommendation please?

a) Action

Mr. Scott: The project is consistent with State and County rules, regulations, and laws and we recommend approval using six standard conditions of approval and five project specific.

Vice-Chair Tsai: Commissioner Medeiros?

Mr. Medeiros: Move to accept the recommendation of the County.

Mr. Lay: Second.

Vice-Chair Tsai: Moved by Commissioner Medeiros, seconded by Commissioner Lay? Any questions, comments?

Mr. Robinson: I have a comment.

Vice-Chair Tsai: Commissioner Robinson?

Mr. Robinson: I welcome any hotel that wants to remodel, refurbish, make Maui a better place and we welcome the investment in Maui. Thank you.

Mr. Lay: Just a question. Now do we ask for the...to check on the stalls from the past if that was promised. I mean, is that a part of it now?

Mr. Spence: We don't have that material with us, we would have to go back and—

Mr. Lay: Okay, but it's a request that we have to make, right?

Mr. Spence: Well, yeah if...I mean, once the...assuming the Commission votes we can go back and look, but there's no, then there's no application in the front of the Commission.

Mr. Lay: But if they...they still have to hold true to it if we look back and if-

Mr. Spence: Oh yeah, if we look back and there's a preexisting condition, absolutely we'll...they have to hold to it.

Mr. Lay: Okay.

Mr. Spence: And we will do that research.

Vice-Chair Tsai: And this is not necessarily not a condition on the-

Mr. Spence: No. That was-

Vice-Chair Tsai: Preexisting.

Mr. Spence: Yeah, it be preexisting.

Vice-Chair Tsai: We have a motion on the floor. Director, you want to repeat the motion?

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

Vice-Chair Tsai: Call for a vote. All in favor?

Mr. Spence: That's six ayes.

Vice-Chair Tsai: Carries. Congratulations.

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

**VOTED: To Approve the Special Management Area Use Permit and Step II
Planned Development Approval as Recommended by the Department.
(Assenting - J. Medeiros, I. Lay, L. Hudson, W. Hedani, K. Robinson,
R. Higashi)
(Excused - K. Ball, S. Duvauchelle)**

Mr. Roy: Thank you very much.

Vice-Chair Tsai: Okay, we will take a ten-minute recess. Be back at 10:45.

A recess was called at 10:36 a.m., and the meeting was reconvened at 10:50 a.m.

Vice-Chair Tsai: Next item on Public Hearing, Director?

Mr. Spence: Commissioners, your second public hearing for the day is Mr. Jeff Alfriend requesting

a Land Use Commission Special Use Permit to operate a bed and breakfast in the State Ag District on Kamehameheiki Road in Kula, and our Staff Planner is Ms. Aako.

2. MR. JEFF ALFRIEND requesting a State Land Use Commission Special Use Permit in order to operate the Hale Kalani Bed and Breakfast in the State Agricultural District at 505 Kamehameheiki Road, TMK: 2-3-046: 002, Kula, Island of Maui. (SUP2 2015/0005) (E. Aako)

Ms. Evelyn Aako: Hi, good morning Commissioners. So again, as the Director just mentioned this item is up for review because the applicant, Mr. Jeff Alfriend is requesting a Bed and Breakfast Permit to operate the Hale Kalani B&B in Kula. The subject property of the proposed B&B is zoned by the State as Agriculture therefore, the applicant must seek a State Special Use Permit or an SUP2 in addition to the B&B Permit. And the SUP2 requires approval by you, the Maui Planning Commission. If the Commission approves the SUP2, the Department intends to approve the B&B portion of the application administratively.

Chelsea Hill, the applicant's consultant will do a presentation and go through the scope of the proposed B&B and illustrate the agricultural projects on the property. The applicant, Mr. Alfriend is also in the audience here to answer questions if need be, and then at the completion of her presentation, I'll return to the podium and do the Department's analysis and recommendation.

Ms. Chelsea Hill: Good morning, Commissioners, my name is Chelsea Hill and I've been working with the owner, Jeff Alfriend on the application for the two permits, the SUP2 and the Bed and Breakfast. So we put together a power point. And this is where you get to see how nervous I am, my little red laser shakes.

So this is a Bed and Breakfast application and it's located in Kula on a little road, country road called Kamehameheiki. And this is a closer view, you can get a little better idea of where it is. Here's Crater Road coming up off this is Kekaulike, and this is Kula Highway here. So Kamehameheiki runs in between the top road, less coffee next time, and the Lower Kula Road.

Here's a satellite image of it. Here's Kamehameheiki Road and this is the subject property. The back end of the property is on a gulch and so actually you'll see later that some of the neighbors in the 500 feet are actually on another road on the other side of the gulch.

Here's the bed and breakfast house. It's a two-bedroom house. And here's the main dwelling that the owner lives in himself. Here's a site plan, and again, this is Kamehameheiki Road and the first house is the two-bedroom house that is the proposed bed and breakfast and the owner lives in this house here, and this is gulch, and this is all, we'll see farm now. It's a farm.

This is the access to the property. This is coming up Kamehameheiki Road from the Kula Highway and this is the driveway here into the property and this is the opposite direction, this being the entrance to the property this time. And this is actually, catch a glimpse of the proposed bed and breakfast home here. And this is the front, and this is the side and back view, this would be the side facing down, facing the rest of Maui with the view down the hill.

This is bedroom number one, and again, this is the valley of the Valley Isle and the West Maui

Mountains over here. Bedroom number two would be on the makai side of the house and in between the two bedrooms there's a bathroom so there's one bathroom in this little dwelling. This is the kitchen fully equipped. This is a living area, and dining, so living...another view of the living and this is the dining area.

So this is the part why we're here today the farm plan for the Special Use Permit. And again you'll recognize this is the main house, this is the proposed bed and breakfast dwelling, Kamehameheiki Road and gulch. So in there's Zone A, there are terraced citrus trees, Meyer Lemon, Tahitian Lime and some orange trees, and down here there's some flowering Japanese Cherry trees. In this area, the owner has a native plants restoration project. He has several of those. It's here, here, and in here where you can see there's Koa, Sandalwood, I actually made a mistake on this, it's not Colorbrina, it's Caliantra, Ilima, Pohinahina, and various succulents in these areas. This would be the area that's just on the top of the gulch. So he's working on having these plants work their way down into the gulch and actually restore this...have a native plant area growing down into the gulch with the hopes of bringing native birds back into this area.

In this two, in this area here Area D you'll see in the photos later that there are two avocado orchards. They're really young keiki avocados. Up here they're dwarf and down here are Haas, and in between them and you'll see this throughout the photographs that I'll be showing you that there's a really efficient use of space and resources on this farm. It's a very rocky piece of aina and Jeff has done his best and actually hired a farm consultant to help really make the most of this, of this property and there are several different plants growing in each area using the water, and the enriched soil that he's enriched with you know all kinds of natural wastes.

Here we have an apple banana stand and here again, there's more citrus. Each you'll see there's some mature coffee plants. This is an area that...where there is located an old Chinese grave that exists from about the early 20th century and there is a buffer zone around this area that's got some...it's protected with a rock barrier and inside there the owner planted in a traditional way plum trees, again, just to honor the Chinese heritage of this site. There's some landscaping around the front of the main house and around the back here there is a rather extensive herb and vegetable garden which I'll show you photos of. This is a photo of the native plants along the side of the driveway. We didn't talk about the pumpkins where are they. Here are the there's a pumpkin patch here as well as a dragon fruit orchard which you'll see pictures of and in keeping with the season, the owner is growing orange pumpkins and this is kabocha squash and there are also white pumpkins which are pretty cool, I've never seen them before.

This is the area again where the top soil has been completely eroded off of this particular part of the property and so the farm consultant recommended putting these dragon fruits actually in pots and this is a whole pumpkin patch which this is an early picture and you'll see it's growing and growing and growing all around this area. There's a kabocha squash, white pumpkins. Here's some more of the dragon fruit. The dragon fruit takes about three years to produce a fruit. And so in the meantime, Jeff is using the pots and the irrigation, he's also planted in here cannellini beans and snap peas to make use of these resources while the dragon fruit are maturing. That's a close up, some snap peas. This is a macadamia nut tree, some Meyer lemons. This is the apple banana stand with the citrus planted around it. And around that again using the irrigation that's in place that's benefitting all these plants there's some strawberry and lavender. These are the coffee plants. Up here you see the proposed bed and breakfast home up here. And this is the main

dwelling. Another view of the coffee. And Jeff is actually roasting the coffee.

This is another area of the native plant restoration project, some ohia, some a`alii, and in the background down this is the edge of the gulch there's koa planted, pohinahina and the pili grass. Here's another view of the pili grass and then dragon fruit in the back. The pili grass is a native plant and can be cut down and used as mulch in all of these plant beds and here's some wild asparagus, not totally wild, it just keeps coming back.

Here's the view of the avocado orchards. Here's the top one, the lower one's just below this and this is the buffer area for the Chinese grave and the plum trees in that area there. And that is just below the proposed bed and breakfast. The home is right above it here. This is a fig tree with its fruit. These are pigeon peas. One of the plants that have been planted around the avocado orchard that produce very quickly while avocado are still, they still have years to go before they're producing avocado. Jeff also planted pumpkin in the avocado orchard and this is a pear tree, some vetiver. The vetiver is a nitrogen fixer and also bring...and the pigeon pea, they bring oxygen to the root of the keiki avocado trees which you can sort of make out in between these other plants here. There's one avocado.

This is the upper orchard. See how young the avocado trees are. These are the plum trees. This is the area along the Kamehameheiki Road that is planted with the citrus trees that are actually terraced also to keep the nutrients and water preserved well on the land, and some more fruit. This is the herb, part of the herb garden, dill, marjoram, basil. Marjoram is a natural pest sender awayer, ...(inaudible)..., arugula, tomatoes, green onions. And this is part of their mature a`alii planting that goes down into the gulch. Baby pumpkins, more arugula, green beans. This is the edge of the gulch. Again, here's some pili grass and down here there's some keiki koa and more a`alii and pohinahina. This is not a native plant. This is a jacaranda which was existing and will be kept because it's so beautiful. Part of the irrigation bringing up the...this is a six-year a`alii that Jeff planted six years ago and irrigating and taking care of.

Okay, on the business side, marketing and guest screening. Jeff plans to market on AirB&B and VRBO plus have his own independent website. On his website, he plans to market both the bed and breakfast rental and his farm produce. He will not have any third party screening. He will be communicating directly with potential guests and will be the only one in charge of approving potential guests after vetting them and making sure that they know what their getting into here. This is not obviously a Wailea Resort area or Kaaanapali. This is a tranquil country area, Kula, zen. Because it's a two-bedroom home he has a potential of renting to one to four guests, four guests maximum. He will absolutely have no wedding parties or large events allowed on the cottage premises.

Here are the house policies. The first four are the standard required policies. And then on top of that we added, please drive with aloha. Just to introduce visitors to the island, potential visitors to the fact that this is a tranquil country neighborhood and there is a 10-mile per hour speed limit on the road. This will be noted in the house policies also in the welcoming packet and Jeff plans to put a little sign at the exit of this driveway for the guests, a little reminder as they're leaving the property just to keep this in mind and yield to oncoming traffic as they go up and down this little road keeping everybody safe and feeling respected.

Agency comments. There were no agency comments and there were no disturbances reported ever to Maui Police Department. This is information that you'll also find in the staff report. That's where I got it. There are no permitted bed and breakfasts within 500 feet. The closest bed and breakfast is at least a mile away. There are six permitted bed and breakfasts in this entire area of Makawao, Pukalani, Kula. And you know, the cap is 40. The same cap for STRH permits and there are eight permitted STRHs in this zone. Here's the map of the area. This is the perimeter. And the green squares are permitted bed and breakfasts. This is about where Kamehameheiki is, see there's Crater Road. So there are four in Kula and the other two are located down near Makawao. The pink squares are permitted STRH operations. This is our 500-foot neighbor area. And you can see these properties over here are the ones that I was referring to. They're on the other side of the gulch and on Pulehuiki Road.

Just a little bit about the applicant. Jeff has been living in Kula for ten years, and he's a retired veterinarian. He helps out regularly with the Humane Society and the Feline Foundation of Maui providing spay and neuter services. He's also a classical musician, a clarinetist and he performs with these Maui musical organizations, Maui On Stage, Maui Chamber Orchestra, Maui Pops. He's also the Vice-President of the Board for the Maui Classical Music Festival.

Jeff is excited about combining his agricultural endeavor with the role of B&B host and manager. At present, he uses that proposed bed and breakfast home to host visiting musicians and visiting veterinarians who come in for these spay and neuter campaigns that the Humane Society does on the islands and he hosts his friends and family there. It's occupied by this people, of course, there's no charge. It's not a commercial venture, but it's occupied by those people for between two and three months of the year with you know, not all in one solid block but a few weeks here and there, holiday times and stuff like that. Jeff would like to offset his...he would like to host...he would like to earn rental income in between those occupancies by operating a bed and breakfast.

He's really excited about promoting local Kula businesses and will be letting his guests know about these places that they can buy food to bring home and cook or eat out in restaurants. These are all in the area, and then there are also plenty of activities, diversions that he's excited to share with his guests, and again, hoping to increase their business as well. And that's all. Thank you very much for your attention.

Vice-Chair Tsai: Thank you.

a) Public Hearing

Vice-Chair Tsai: Gonna open the floor up for public testimony. If anyone wish to testify, please come forward now. Please identify yourself. You have three minutes.

Ms. Jody Kele: Good morning. My name is Jody Kele and I live in this house right below Jeff. As we know him ...(inaudible)... First of all, he is...we can't ask for a better neighbor out of respect. We love Jeff. Nothing personal. It's a long story. I cannot compete with the power point. I have two goats, a golden retriever, a naughty kitty that I adopted from the gulch and my two Indians called Noah and Micah which are my boys.

We just wanna address the committee because we know that Jeff is applying for a Special Use

Permit and he intends to establish a bed and breakfast. Our neighborhood is part of Kula, Maui's agricultural and farming community and it's been in existence for more than 100 years and tourists and visitors meandering and driving through that working community scares me because it's a one-lane road, our street. And people that are not familiar, it causes hazards and you know, my kids are riding their bikes out there. And you know, my kitty thinks he owns the road as well, but it's a constant issue with cars driving up and down that one-lane road and not being familiar and rarely does anybody drive 10-miles an hour going up or down that road.

I don't understand the 500 foot perimeter as far as letting our neighbors know about the situation because the properties are really big up there. So as you can see some of them are across the road and not everybody on our street got notices, but I think, you know, everybody should be notified in our neighborhood about, you know, his intentions.

I think the one-lane road is one of our biggest concerns. People that are not familiar with that, it's not suitable for an increase of traffic for sure that road. And we've been trying to subdivide our property for over 20 years now and that's one of the main concerns that we've had to face the board as well. We have farm tractors that come down that road daily, farm equipment, trucks, and I don't feel comfortable with visitors and tourists that are not familiar. You know, I have my kids that ride their bikes.

I think you know, the water issue is a big thing for me too. "We, we have lived up there...I'm here with my husband and my father-in-law who has, this property has been in their family for over 100 years and I have original documents dating back to 1800's how we acquired that property. And we have been on a water restriction for as long as I've been up there which is almost 30 years, and so the water issue is a problem for me as well. I'm not sure if people are gonna be as courteous to the water limitations.

Ms. Takayama-Corden: Three minutes.

Ms. Kele: Oh, my gosh, I need an hour. Sorry. Okay, well thank you. I'll let...

Vice-Chair Tsai: Please identify yourself?

Mr. Ricky Kametani: Hi, I'm Ricky Kametani. I live on that road right next to the Keles and I have nothing against the applicant applying for the bed and breakfast. It's just my concerns are I am a full-time farmer that's how I make my living. And we do move equipment. I have trucks that I gotta haul up and down to my warehouse 'cause I have to do my processing up on that road because of the water situation at the Ag Park. And traffic is a big problem. It's a really narrow road. I don't know if any of you have been up that road. It's a scary road. And for somebody new especially if it's dark they will not know what do to when they meet up with my truck and my trailer or farm equipment even though we have our lights on, you know, it is a hazard, and that's my main concern.

Vice-Chair Tsai: Anyone else wish to testify? Seeing none, public testimony is closed. Going to open the floor up for questions from the Commission. Commissioner Hedani?

Mr. Hedani: I'd like to ask the applicant's representative, Chelsea I guess, who are the neighbors

on either side of the property?

Ms. Hill: I'm just gonna look up their names, I can't remember it off the top of my head. Peter Dyck is makai, and Herman Kele is...no, I'm sorry is makai, and Peter Dyck is mauka, yeah.

Mr. Hedani: Sorry, what was the second name?

Ms. Hill: Herman Kele. I believe that's Jody's father-in-law. Jody who testified.

Vice-Chair Tsai: Commissioner Medeiros?

Mr. Medeiros: How many families share that road?

Ms. Hill: I would have to count and I'm not certain that each property is a family. But this is the subject property and it would go up here. I don't know just looking it looks...I would say this isn't even the top of it. Just eyeballing it.

Mr. Medeiros: And that's just one lane that whole road?

Ms. Hill: It doesn't have...let me see if I have a picture of it. It doesn't have a line in the middle if that's what you mean by one lane. I don't know the definition of a one-lane road, but it's narrow. It...it definitely would...I, myself have been up that road a few times to visit the property as someone who is not a resident, and I would say it's a road that one would need to take care on. I wouldn't classify it as scary, but it's definitely a little winding country road. There it is.

Mr. Hopper: We have stop. Commissioners all be here. You have to go to recess. ...*(inaudible)*...consider the whole record.

Vice-Chair Tsai: Okay. All right, we're taking a recess till the other Commissioner comes, Commissioner Lay comes back.

Mr. Hopper: So we're in recess.

A recess was called at 11:20 a.m., and the meeting was reconvened at 11:22 a.m.

Vice-Chair Tsai: ...speak real quickly about since we're in a contested case all Commissioners have be present. Okay, now we're gonna continue.

Ms. Hill: Thank you, Commissioner Lay.

Vice-Chair Tsai: Director?

Mr. Spence: And just so everybody just where everybody was headed before the recess, we were discussing the one lane of Kamehameheiki Road.

Ms. Hill: Thank you, Director. And thank you, Commissioner Lay because I was able to obtain the answer to that question during the recess and it is officially a two-lane road.

Vice-Chair Tsai: Commissioner Lay?

Mr. Lay: Question to Public Works. How big is a two-lane road? How wide?

Vice-Chair Tsai: Welcome.

Ms. Dagdag-Andaya: Thank you. You know, it could vary. I was just thinking about the work that we recently did in Kahakuloa, and in that instance, I mean, you have two-way traffic going along that road, and on one side there's a cliff and barely enough shoulder space. Whereas on this road Kamehemeheiki I don't know exactly how wide it is but you do have some area on the sides just a little bit of shoulder area. So I mean, if you can, I mean, just the differences there, you would I think there is enough for two cars to pass through. I don't think it's a fast moving road. I think you know you should be very careful when you're passing through there and maybe that's a question that you can ask Maui Police Department about. But you know, just to give you other examples of narrow roads that have two lanes, I mean, there is one in Kahakuloa which is Kahekili Highway.

Vice-Chair Tsai: Yeah, thank you Deputy Director. That brings up a good point. Is there a minimum width because the Kahakuloa Roads are pretty narrow on certain points and I mean, and it's still considered as two-way.

Ms. Dagdag-Andaya: Well, for older roads, I mean, I'm assuming this is an older road, a lot of them were developed this way and they just become grandfathered in. Now in our current subdivision standards, I mean you have new standards coming up. I believe we have pavement widths of about 22 feet wide...I mean, it varies in several areas, but a lot of older roads, you're gonna see narrower widths that allow traffic to move in both directions.

Vice-Chair Tsai: Thank you. Any other questions from the Commission?
Commissioner Robinson?

Mr. Robinson: I don't know if Public Works can answer this, but with a testifier earlier he explained that he uses his tractor above the property and below the property. Who has the right of way in a rural area for a tractor and what would happen at circumstance where they would meet on top of the highway and there's no off? Mr. Hedani, no?

Vice-Chair Tsai: Director?

Mr. Spence: I know I yield right of way to whoever's bigger. You know, I just wanted to comment I don't know the exact answer to that. But I'm pretty familiar with the road and it varies. You know, there's portions that are narrow and it is a road you do definitely need to take care on. There's portions that are narrower and it widens out and you know, you negotiate traffic. You see somebody coming there's usually a driveway where you can make room for and stuff like that. Yeah, it varies in width all the way up and down the length.

Vice-Chair Tsai: Commissioner Higashi?

Mr. Higashi: I guess for me looking at the presentation or listening to the presentation it seemed like this particular road is not really a well traveled road. It's like a country road. Especially in a

situation where you have a farmer who is using this road quite regularly I would think would become a safety hazard having this kind of operation in this area. So I would be concerned about the traffic condition understanding the road in this particular area.

Vice-Chair Tsai: Commissioner Hedani?

Mr. Hedani: Yeah, I echo Commissioner Higashi's concern about the road. My guess would be that it was an agricultural road in the past serving agricultural lots and when you're changing from an agricultural use to essentially a hotel use the question is, you know, do you upgrade road to current standards, 22-foot wide pavement, et cetera in order to accommodate the new use. The question that I had was, the area where the testifiers indicated that the area is under water restrictions and how do they intend to address the expanded use with water restrictions in place.

Vice-Chair Tsai: Yeah, that's a good point. I mean we don't have anything on record that shows how wide the road is so we need to have that brought forth.

Ms. Aako: Staff Planner Evelyn Aako again. In regards to water in the Analysis, in the preparation of the staff report, there's no anticipated significant increase of use of water from this use than there would be for say, long term residential. It's actually generally anticipated that there's less water usage because it's not occupied at full occupancy all the time in the same way that it would be if there was long term residents. And I believe the staff report says something indicating that.

As far as the official width of the road I know I can echo...

Vice-Chair Tsai: Deputy?

Ms. Dagdag-Andaya: I just got a message from staff saying that's approximately 20 feet wide and...but it varies as you go up and down the road, so an average 20 feet wide and so that...some of our roads are actually 11 feet wide...not 11 feet wide but the travel width for one lane is 11, so sometimes 22. But as a whole and as an average it's 20 feet wide. So...

Vice-Chair Tsai: Thank you. Commissioner Hudson?

Mr. Hudson: Question for Public Works. It is a County road, right?

Ms. Dagdag-Andaya: That is correct, sir.

Mr. Hudson: Okay, here's my take on this. All roads are inherently dangerous. Every single road we travel on is dangerous, all of them. A ten mile an hour speed limit curtails a lot of that dangers. People that drive it ten miles an hour have reaction time and can stop. Since it's a County road it doesn't preclude the use by the public. In other words, a person, a visitor has just as much right on that road as a farmer. I think the concern for me is the bed and breakfast application. That's my comment on that. And by the way, usually farm vehicles if they're slow moving can only use the road to cross it going that way not the long way, you know what I'm saying. If you have a slow moving vehicle you can cross the road. You're not supposed to drive on the road for extended periods of time. Thank you.

Vice-Chair Tsai: Thank you, Commissioner Hudson for the insight. Any other questions from the Commission? Commissioner Hedani?

Mr. Hedani: I guess this is a question for Public Works. It looks like the gulch is on the backside of the property are there any cliffs along Kamehameheiki Road?

Ms. Dagdag-Andaya: You know I don't...I'm not familiar with the road so I can't answer that.

Mr. Hedani: Maybe the applicant can answer that question?

Ms. Hill: Can't see the slide now with the lights on but the answer is no. The...all along the Kamehameheiki Road there are properties that cars typically pull off onto when there are two cars coming toward each other. And if it's at one of the narrower points, then there's plenty of opportunity to pull over on the side. There are no cliffs along the edge of this road. It's all bordered by properties.

Vice-Chair Tsai: Director?

Mr. Spence: I would confirm that. It's a...Kamehameheiki was originally established as a homestead road. So that being the case it went down the middle of the farmable lands not along an edge. But you know, we would probably think a little differently now, but just at that time, that's when it was established and it's just I having driven it probably several dozen times, I'm not aware at all that there's any cliffs along side the road.

Vice-Chair Tsai: Commissioner Robinson?

Mr. Robinson: This is for Corp. Counsel. Does my memory serve us correct that are we in another case where a issue of road width is the main topic and if so, would you recommend us go into executive session right now or do you think that's not relevant?

Mr. Hopper: I'm not sure. I mean, are there questions regarding the road, legal questions that you have regarding the road? I mean, you have the...you can get the data from Public Works as far as the width of the road. If you've got legal questions that you want to ask me then we can go into executive session and you could ask the legal questions.

Mr. Robinson: I actually do Commissioners.

Vice-Chair Tsai: You need a motion.

Mr. Hopper: Yeah, if you want to go to executive session then you would need a motion for executive session and a two-thirds vote and the sole purpose would have to be for getting legal advice from myself, as your assigned Deputy Corporation Counsel, and that's under Hawaii Revised Statutes 92.

Mr. Medeiros: So move.

Vice-Chair Tsai: I have a motion from Commissioner Medeiros to go to executive session.

Mr. Hedani: Second.

Vice-Chair Tsai: Second from Commissioner Hedani. Call for a vote. Five.

Mr. Spence: That's five.

Mr. Hopper: Okay, opposed.

Vice-Chair Tsai: Opposed?

Mr. Spence: One opposed.

Mr. Higashi: Mr. Chair, can I get the motion repeated again? I didn't quite hear it.

Vice-Chair Tsai: Okay, the motion, wait let's recall for the motion on the floor is to go to executive session and all in favor to go into executive session raise your hand please?

Mr. Spence: That's five ayes.

Vice-Chair Tsai: Opposed?

Mr. Spence: That's one opposed.

Vice-Chair Tsai: Motion passed. We're going into executive session.

Mr. Robinson: Sorry folks.

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

VOTED: To Go into Executive Session.
(Assenting - J. Medeiros, W. Hedani, I. Lay, K. Robinson, R. Higashi)
(Dissenting - L. Hudson)
(Excused - K. Ball, S.Duvauchelle)

The Commission went into executive session at 11:36 a.m. until 11:47 a.m. The regular meeting was then reconvened at 11:49 p.m.

Vice-Chair Tsai: So any more questions from the Commission or do we want to hear the recommendation? Recommendation from the Department, please?

b) Action

Ms. Aako: So the application complies with the applicable standards for a State Special Use Permit and as such the Department is recommending approval. Approval is based upon the seven standard conditions, conditions for a B&B related SUP2. I can review those if you like? No, okay.

In consideration of the foregoing the Planning Department recommends that the Maui Planning Commission adopt the Planning Department's Report and Recommendation prepared for the October 13, 2015 meeting as its findings of fact, conclusion of law, and decision and order and to authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Mr. Hudson: I'll make the motion.

Vice-Chair Tsai: To approve?

Mr. Hudson: Yes.

Vice-Chair Tsai: Motion to approve by Commissioner Hudson. Do I hear a second?

Mr. Hedani: Second.

Vice-Chair Tsai: Second for Commissioner Hedani. Discussion? Commissioner Hedani?

Mr. Hedani: I seconded for the purpose of discussion. I'm a little concerned on this one because we have an agricultural operation, you have a homesteading situation. We have substandard roads relative to current standards and to some degree my concern is over abridging the right to farm for neighboring farmers. When an agricultural operation becomes a hotel operation which is what a B&B is at some point where does it affect surrounding properties ability to continue to conduct agriculture, dirty, serious agriculture?

Vice-Chair Tsai: Commissioner Hudson?

Mr. Hudson: For myself, I initially have no problem with bed and breakfasts and I understand why you seconded it. But I'll say this I do not in good conscience see how if there are two vehicles or one mini van is gonna have that much of an adverse impact on traffic especially if the people drive at ten miles an hour.

Vice-Chair Tsai: Further discussion? Seeing none, Director will you repeat the motion on the floor?

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

Vice-Chair Tsai: Call for a vote. All in favor of the motion?

Mr. Spence: That's one aye, two ayes.

Vice-Chair Tsai: Opposed?

Mr. Spence: That's one nay.

Mr. Hopper: So that's one, two, three, four, five ayes.

Mr. Spence: Five ayes.

Mr. Hopper: Again, noting for the record under the Commission's Rules a silence...silence is considered an affirmative vote in favor of the motion.

Vice-Chair Tsai: So motion carries. Congratulations.

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

**VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended by the Department.
(Assenting - L. Hudson, W. Hedani, Abstained -J. Medeiros, I. Lay, K. Robinson)
(Dissenting - R. Higashi)
(Excused - K. Ball, S. Duvauchelle)**

Vice-Chair Tsai: Okay, going on the next public hearing item in the interest of time we understand some of the testifiers wants to testify.

Mr. Hopper: You can start, have the people that wanted to go, and then have the rest after lunch.

Vice-Chair Tsai: Testify first.

Mr. Hopper: Give them a minute to set up?

Vice-Chair Tsai: Yeah, you want a minute to set up, Danny?

Mr. Dias: Okay. Mr. Chair, just some clarification. Are we going to just let the, I believe it's around six people that wanted to testify because they have to go soon, are we just gonna let them testify or do you wanna....

Vice-Chair Tsai: Yeah, let's do that.

Mr. Dias: Okay.

Mr. Hopper: Let them testify, and then go to lunch and then when you come back from lunch, we would continue the public testimony.

Vice-Chair Tsai: Correct.

Mr. Hopper: Okay. You want to note that for the record.

Vice-Chair Tsai: Yeah, for the record we're gonna have the people who had to testify now testify, then we'll go to lunch, and then continue the public testimony after lunch.

Vice-Chair Tsai: So whoever wish to testify please come forward?

Mr. Hopper: We're gonna introduce the item first?

Vice-Chair Tsai: Oh, that will help.

Mr. Spence: Okay, Commissioners we're on Item D1, Mr. Tom Crolly on behalf of Mr. and Mrs. Terry Epstein. Our Staff Planner, it's still morning for four more minutes is Danny Dias and this is...maybe Corporation Counsel wants to explain exactly what...this is a remand from Circuit Court for additional hearing.

D. SECOND PUBLIC HEARING

- 1. MR. TOM CROLY on behalf of MR. and MRS. TERRY EPSTEIN requesting a State Land Use Commission Special Use Permit and a Short-Term Rental Home Permit in order to operate the Shambala Short-Term Rental Home, a six (6)-bedroom short-term rental home in the State Agricultural District at 120 Kaimanu Place, TMK: 2-1-019: 100, Wailea, Kihei, Island of Maui. (SUP2 2012/0030) (STKM T2012/0012) (D. Dias)**

The Short-Term Home Rental Home Permit application is being brought to the Maui Planning Commission because the neighbor protest threshold has been met.

The first public hearing was conducted on October 8, 2013.

The matter was remanded back to the Maui Planning Commission by the Second Circuit Court for further review.

Mr. Danny Dias: Thank you, Director Spence. Good morning, Chairman Tsai and Members of the Maui Planning Commission. I believe we're going to lunch after this so I will, you know, reserve my presentation for that time. The applicant will also hold off until that time. For now, for the sake of time I believe some of the applicant's, some of the people that were gonna testify on behalf of the project need to leave and so if we can let them come up, do their testimony and then break for lunch and start after lunch. Thank you.

Mr. Hopper: And to be clear, the remaining, anyone else who wants to testify, public testimony will be kept open and continued after lunch?

Vice-Chair Tsai: Correct. The first testifier please come forward, identify yourself, you have three minutes please.

Mr. Jim Wagner: Good morning. My name is Jim Wagner. I'm a realtor on Maui. I'm the broker in charge for Coldwell Banker in The Shops of Wailea. I've been a realtor there for 28 years. I have also been a Maui Meadows resident for 28 years and I live within 500 feet of the Epstein's home. So obviously I got the letter and had the opportunity to testify which I've done once before. The reason I'm testifying on behalf of the Epsteins is because I think the operation that they've explained to me is one that will be beneficial for everyone that I can think of. It's a very, very good plan and you'll see it later.

My other reason is simply because they're nice people. They do a great deal of good for the

community. They are angels as far as the Maui AIDS Foundation is concerned. They help very much with fundraising. They've gone ahead and helped us with our outreach program for kids and high schools and things. So there's a lot of things they do I think for community good. They also do things for other organizations as well. I have been fortunate enough to serve on a number of different boards on Maui including the Hale O Keiki for Montessori Schools, as the President of the Montessori School Foundation at one time, and a Director a number of years. I've been on the Chamber of Commerce as a Director. I've been on the Maui Board of Realtors for many, many years and one of the things that we have as realtors we try to speak for private property rights. And I think this is a real example of a very good thing as far as you know, property rights are concerned. These folks want to offset some of their cost and open their home to other people on occasion. And you'll see I think the probably the prices at which they're charging they're not gonna get any rabble in there, they're not going to find anybody that I can think of that would be objectionable. They've taken all kinds of plans to make sure that nothing would be objectionable to anybody in that community.

I know there's some people who's spoken out against this. I disagree with those people who've done so. I've spoken to three of them and asked them for their support. They've all said no, but not only have they said no, they've never given me a good reason for having denied the permit. It just seems to be some kind of let's get 'em I don't know. One of the major things is one of the people who's complained and sent a letter in again recently, when I first asked him about the permits for them will they support it. He said, no. It's Mr. Kendrick. He said no because he said it will effect the other properties in Maui Meadows. And he said there are other people far more needy is the word he used who deserved to get that kind of help with holding onto their property. And I thought that was kind of an interesting remark to make because not once at that time did he complain about anything the Epsteins were doing.

Ms. Takayama-Corden: Three minutes.

Mr. Wagner: All in all, these are good people, they have a very good plan. And as a close neighbor, I hope very much that you'll consider their application and okay them. Thank you.

Vice-Chair Tsai: Thank you. Questions? Yes, we have a question, sir.

Mr. Wagner: Oh, I'm sorry.

Mr. Robinson: You said you're located at The Shops at Wailea?

Mr. Wagner: My office is there, yes.

Mr. Robinson: Are you pro free parking or against free parking?

Mr. Wagner: I am totally against paid parking.

Mr. Robinson: Okay, thank you. No, I want to quantify, I don't know who he is, I want to quantify how he thinks and he's vouching for somebody. I wanna see what his thoughts are. That's all it was.

Vice-Chair Tsai: Thank you.

Mr. Wagner: I think it's unfair to employees and I think it's unfair to the general public.

Vice-Chair Tsai: Thank you.

Mr. Aaron Placourakis: Aloha, my name is Aaron Placourakis. I'm a restaurant guy. I've got four operations here in Maui, one in Waikiki. I've been part of the part of the community here since 1985, I've been in the islands. I love everything about it. I love Maui Meadows where I live and the Epsteins have been super people, friends, customers, and big supporters of everything in the community. I've been involved in canoe races, tennis tournaments, golf tournaments, soccer. Anytime we do anything they're the first people I call and they're always there to help anything to do with the community. But even more important than that is what they do to people and the effect they have on people. That's the kind of people they are. Where they...you know, they don't hang out with all the big owners of hotels. It's the people like me, and other wait staff and this and that they actually affect their lives, and that's one of the things and one of the reasons I like to really support what they're trying to do here. I think...and their home is meticulous.

I'm a former Chairman of the Hawaii Restaurant Association. I was on the original Board of Directors of the Hawaii Food Bank. They supply thousands of pounds of produce from their meticulously maintained garden in their home right now as we speak. The place is meticulous. It's all based on family. The rooms are for each of their kids. They have special beds for their grandchildren. I mean, it's just...they epitomize what Maui and what people in Maui are all about. So to be able to grant them what they are asking I think would be a benefit to all. And being a neighbor of a bed and breakfast myself in Maui, in Maui Meadows I had that same kind of feeling, you know, people coming in all the time. And I'm embarrassed to say, that the only call that's been made about that bed and breakfast was someone calling because I had a little party myself and Frank Sinatra was playing a little too loud at about 9:30 on a Saturday night, and that's embarrassing when a bed and breakfast complained about me. Anyway, other than that, please grant them what they're asking. They're super people and a big part of the community, and thanks for your time. Any questions? Mahalo.

Vice-Chair Tsai: Questions? Okay, thank you, Aaron. Next?

Mr. Bob Burrichter: Good afternoon, gentlemen. My name is Bob Burrichter. I am a three-year resident of Maui and I am the Marketing Director of the Maui Arts and Cultural Center. And I, for I think all of us, I'd like to thank you guys for the opportunity for us who do have to leave to have the opportunity to address you, so thank you.

I'm gonna make mine very short and sweet. I'm one person, one perspective, one opinion about Terry and Kay and from your perspective I can't think of a better prototype for operators and owners of a short-term rental property like this. I can second what Jim and Aaron have said. Their home is their home and they would not do anything that would jeopardize that, jeopardize their standing in the community with the neighbors. And I think that from that perspective, I certainly hope that you guys will grant the permit. So thank you very much.

Vice-Chair Tsai: Thank you.

Mr. Michael Waddell: My notes say good morning, but it's really good afternoon. My name is Michael Waddell. I'm the General Manager for the Maui Sunseeker Hotel and Resort in Kihei and I've been there for about ten years. I first met Terry and Kay Epstein several years ago at a fundraising event for the Maui Pride nonprofit group. They were attending with mutual friends and we instantly became really good friends. They're warm and loving people. The Epsteins have been solid supporters and large monetary contributors of various island causes. They give back a lot to our community of their time and their financial support. They're among the finest individuals I know on Maui, but more importantly across the globe. They're fine, outstanding people. If you need something all you have to do is ask and it happens. They have high standards and they expect anyone that they work with to meet or exceed those standards. Through the Epstein Family Foundation Terry and Kay have been significant financial supporters for both the Maui Pride and the Maui Aids Foundation Organizations both nonprofit groups that I help as a volunteer. I assist both of these organizations in fundraising efforts in coordination with their respective staffs. Terry and Kay's financial support in both these organizations has allowed both groups to expand our reach across the island. For Maui Pride a lot to do with their financial support in the last two years. We've given away over \$30,000 in scholarship money to keiki on this island to help them go to school. For the Maui Aids Foundation, as Jim mentioned earlier they help us financially to do more outreach for HIV testing, for Hep C and for just doing outreach in our schools.

More to the point, as a general manager of a boutique hotel, my hotel has 25 rooms I recognize the diversity of Maui visitors and that there are different accommodation experiences sought by those different Maui visitors. The Epstein's beautiful home is a perfect place for visitors seeking privacy, security, peace and quiet. Interestingly those are many of the same requirements that my own guests force on me. Many of our valued tourists on Maui are looking for that unique experience that you can't get in a big box resort or a hotel. A private home just like the small boutique hotel that I run offers of that unique and demanded experience. Echoing what other people have said, I believe Terry and Kay Epstein would be fine operators of a short-term rental program and I highly encourage you to grant them the necessary approvals. And last but certainly not least, thank you for what you do for Maui in helping us make this a better place to live. Mahalo.

Vice-Chair Tsai: Thank you. Oh, question. Commissioner Robinson?

Mr. Robinson: Hi, thank you. You say you're with the Aids Foundation?

Mr. Waddell: I'm not with the Foundation, I'm a volunteer.

Mr. Robinson: Okay.

Mr. Waddell: I'm just a volunteer.

Mr. Robinson: Thank you.

Ms. Sanya Fujiwara: Hello, my name is Sanya Fujiwara. First and foremost, I'd like to thank you for allowing us to speak on behalf of the Epsteins in obtaining their short-term rental permit in the County of Maui. I am a proud local born who has been residing on Maui since 1997. I am currently employed with the State of Hawaii in the Behavioral Health Division as a social worker. Some of you might even know my office located down a few blocks which sponsors the training program that

has been, that has the open market weekly, the 1977 building that's being worked on right now or just finished. That's currently where my office is.

I have had the pleasure of meeting the Epsteins in 1999. Please allow me to share with you how my relationship with them has been much more than a friendship, but more like the family I left behind on Oahu. I would like to point out some key elements of their involvement within our community which includes also my family. During the first few years of building their home, the Epsteins generously donated their fruit to our organization, the nonprofit, the Lanakila Club. Folks..these are folks with severe mental health diagnoses, and those are the people that I serve.

The Epsteins have donated and gifted by daughter's Kihei Elementary School with air conditioning units which they needed back then and was acknowledged with that special gift to the school and was shown appreciation by Kihei Elementary with the presentation of leis. The Epsteins have participated in my wedding as far as Terry being the groomsman to the husband, Kay being a bridesmaid to myself. They Epsteins have also supported K-9s for Independence and had sponsored a beautiful retriever dog named Yoda, who also works with patients in the Cancer Department at Queen's Hospital. I mentioned before the Lanakila Club, the organization which I work for. There was a time when we needed a venue, this was back in 2011 to host a celebration and the Epsteins again stepped up and generously offered their home for us to hold the venue. This allowed us to have our celebration which included both State and County workers. The Epsteins continually donate their fresh fruit from their property to the Maui Food Bank as mentioned before and gives monetary donations to support the Backpack Buddy Program with the Maui Food Bank. I don't want there to be any doubts if the Epsteins are full-time residents here. I think that was a question or is a question. In true facts since 1999 to current, the Epsteins have always been looking to giving back to our community. Don't we wanna support folks like Terry and Kay who are sincerely supporting our local agencies here in helping others. Thank you for letting me speak.

Mr. Dan Coleman: My name is Dan Coleman. I'm a Maui Meadows resident and a resident of Maui for 32 years. I've lived in Maui Meadows for 15 years and my wife and I operate a small upholstery business and we had the opportunity to work with the Epsteins for about the last five or six years and they're wonderful people to work for, super nice people. And they...everything they do is nice, you know, and quality and so I think whatever bed and breakfast or short-term rental they will provide will be very top notch and you know, well taken care of and I'm sure the guests will love it. Anyway, it's just...I just wanted to come and support them because they've supported us for a number of years. Thank you.

Vice-Chair Tsai: Thank you.

Mr. Croly: Thank you, Chair for the opportunity to have these folks testify early and we'll start our presentation after lunch.

Vice-Chair Tsai: Okay.

Mr. Hopper: Just to note if there's any further testimony, if you want, I mean you could take it now if you want, but if you want to recess and then continue with public testimony that's another option of the Commission.

Vice-Chair Tsai: Right. We're gonna recess for lunch right now and we'll come back at 1:15, and we're gonna continue with public testimony at that time. Thank you.

A recess was called at 12:12 p.m., and the meeting was reconvened at 1:18 p.m.

Vice-Chair Tsai: Okay, the Maui Planning Commission is called back to order. If there's no objection to the rest of the Commissioners, we're gonna go out of order for just a moment. On Item E1, Director?

E. SPECIAL MANAGEMENT AREA (SMA) APPEALS (Item to begin at 1:00 p.m. or soon thereafter.)

1. **PAUL ALSTON & PAMELA W. BUNN of ALSTON HUNT FLOYD & ING, attorneys for Appellant SEASHORE PROPERTIES, LLC submitting a Notice of Appeal on July 24, 2015 of the Planning Director's decision to issue an After-The-Fact (ATF) Special Management Area (SMA) Minor Permit Approval for Flatbread Restaurant at 87/89 Hana Highway, TMK: 2-6-002: 002, Paia, Island of Maui. (SMX 2014/0291) (SM2 2015/0054) (APPL 2015/0002) (K. Scott)**

The Commission and the public were notified of this appeal through the August 11, 2015 Maui Planning Commission agenda. The Commission granted the Petition to Intervene request from MAUI AINA COMPANY, LLC at its September 22, 2013 meeting.

The parties to the appeal are:

**Appellant - Seashore Properties, LLC
Appellee - Maui County Department of Planning
Applicant - Francis Skowronski
Intervenor - Maui Aina Company, LLC**

The Commission may take action on the following matters:

- a. **August 20, 2015 Motion to Dismiss the Notice of Appeal submitted by ISAAC HALL, attorney for Applicant FRANCIS E. SKOWRONSKI and Intervenor MAUI AINA COMPANY**
- b. **Appointment of the Hearings Body/Hearings Officer**
- c. **Appointment of Mediator if parties wish to enter into mediation**
- d. **Selection of date(s) for the contested case hearing if the Commission is the hearings body**
- e. **Selection of presiding officer(s) to conduct prehearing conference(s) to establish deadlines for orderly conducting of the contested case**

hearing if the Commission is the hearings body.

Mr. Spence: Commissioners, I just want to draw to your and so we have a couple people here so they don't have to stick around. We have a Notice of Withdrawal of Appeal for like I said Item E1, that's Paul Alston and Pamela Bunn of Alston Hunt Floyd & Ing. They have withdrawn their appeal of my decision to issue an after-the-fact SMA Permit for the Flatbread Restaurant. So that is, that is being taken off the agenda and no need to hear. I see Mr. Hall. ...(inaudible)...

Vice-Chair Tsai: Do we need to?

Mr. Hopper: I'm not sure what he...(inaudible)...

Vice-Chair Tsai: Yeah, I don't think we need anything on it.

Mr. Spence: Yeah, and we'll send you a letter saying the same thing.

Mr. Isaac Hall: You'll send us a letter.

Mr. Spence: Yes.

Mr. Hall: Because we have a Motion to Dismiss. We just wanted to make sure that the appeal is dead. It is not coming back and that the SMA Permit is valid and we can continue on based on that valid SMA Permit.

Mr. Spence: Of course, I think it's valid anyway 'cause I issued it.

Mr. Hopper: Yeah, it's been withdrawn. The appeal's withdrawn, so it's at this stage, it's off the Commission's agenda as far as the appeal. So that's done.

Mr. Hall: All right, thank you very much.

Mr. Spence: Thank you.

Vice-Chair Tsai: Thank you. All right going back on track here.

Continuation of:

D. SECOND PUBLIC HEARING

- 1. MR. TOM CROLY on behalf of MR. and MRS. TERRY EPSTEIN requesting a State Land Use Commission Special Use Permit and a Short-Term Rental Home Permit in order to operate the Shambala Short-Term Rental Home, a six (6)-bedroom short-term rental home in the State Agricultural District at 120 Kaimanu Place, TMK: 2-1-019: 100, Wailea, Kihei, Island of Maui. (SUP2 2012/0030) (STKM T2012/0012) (D. Dias)**

The Short-Term Home Rental Home Permit application is being brought to the

Maui Planning Commission because the neighbor protest threshold has been met.

The first public hearing was conducted on October 8, 2013.

The matter was remanded back to the Maui Planning Commission by the Second Circuit Court for further review.

Vice-Chair Tsai: We are still on agenda public hearing, agenda item D1, Public Hearing and we are at...going back to public hearing right now on this item. So anyone wish to testify regarding D1 please come forward?

Ms. Karen Barrett: Aloha Commission Members. My name is Karen Barrett and I am a realtor at Coldwell Banker at The Shops of Wailea, a musician and I'm also the President of my homeowners in West Kuiaha Meadows. I used to own a lot in Kaimanu Estates and that's how I met the Epsteins around 2004. I was there when the design review committee was going through their new house with them and the Epstein's attitude was always so amazing to me. They were going, what do we need to do? What do you want from us? What will put us in compliance, what will...what are your rules? We want to work with you guys.

So over the years we've been friends with the Epsteins and I have found them to be the most amazing people. They are the kindest, generous...when Charlie Scott went missing, I'm sure you remember that case, Kay had a torn meniscus, got in her car and came over and walked the fields with us. They're just those types of people. I've even heard more stories of generosity and just things they've done for the community I didn't even know about today and I elect myself their best friend. They know that. I see...call them almost everyday. I see them weekly. They're just neatest, most wonderful people and I have watched them go through so much to get this permit.

And I just find it really sad that they're four letters that I don't know if they have a basis or I don't know if there's any foundation to the letters and their complaints against the Epsteins because I think they're unfounded. I've never left their house after 9:30 p.m. I've had dinners and movies with them. They're just amazing people and I think they're the poster children of an STR permit, the way it will be run, the they run their lives already. They are...like I said they should be the poster child for how an STR should be run and I really wish you guys would really consider giving them their permit. I mean, even if you're scared to do it, do it for a year. Give it to them for a year and if you don't like it, then reevaluate it, but I'm pleading with you guys just as a nice person on Maui that thinks that these people are wonderful, great to our community. I really wish they would have that permit because they're here applying when a lot of people aren't. A lot of people are still flying under the radar and that's not cool. So please consider giving them a permit you guys. I really thank you for your time today.

Vice-Chair Tsai: Anyone else?

Mr. Huey Johnson: Good afternoon, my name is Huey Johnson and I grew up my whole life here in Hawaii, and mostly in Kihei and I live up, just up the street from here now. And I graduated from the Kihei Charter High School and excelled in their IT program and then started my own business after high school. Sorry, I'm really nervous.

Anyway, so I'm the owner of a computer repair company and home theater installation company and I've known the Epsteins for quite some time now and I have years of experience of audio systems, whole home audio systems and rental condos and in private homes. I just wanted to give my testify saying that I was hired to go over and set thresholds, like levels on all the speakers around the property so that basically that no one is able to increase the volume up above a level that can disturb anyone else outside of their property. And so when I went ahead did all this and tested it and I walked to the very edge border of their property where you know, they have all their plants, and on their side of the plants I had a real hard time hearing anything from the speakers. So I just wanted to say that.

And also we have a system in place where you can on an iPad you can remotely connect to the house and turn the volume down. So if ever there was a complaint it's like...(inaudible)...outside. So I think that they're excellent people and I really enjoy working with them and they're just very generous and I think they would be excellent bed and breakfast owners and manage it really well. So that's basically...and if there's any questions feel free to ask and answer any questions.

Vice-Chair Tsai: Thank you. Commissioner Hedani?

Mr. Hedani: Mr. Johnson?

Mr. Johnson: Yes?

Mr. Hedani: Did you install the speaker system around the pools?

Mr. Johnson: I did not install it. I am their assistant onsite. So I go and make changes and reprogramming. It was installed when they first built the house so years and years ago.

Mr. Hedani: So the speaker system is still intact.

Mr. Johnson: Yes, yeah.

Mr. Hedani: That's ten speakers?

Mr. Johnson: I'm not sure of the number, but I believe it's...there's speakers, you know around the pool area.

Vice-Chair Tsai: Do you have that set on a certain decibel or just a max level?

Mr. Johnson: Yeah, I believe it's the max is 55 decibels it can go up to.

Vice-Chair Tsai: Okay.

Mr. Johnson: And then by the time you get away from the speakers itself it obviously drops down lower.

Vice-Chair Tsai: Of course. Thank you. Anyone else? Okay, I have a sign up sheet here and I have one individual that signed up this morning, already...Riley?

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

Mr. Riley Edwards: Good morning fellas, ladies, my name is Riley Edwards.

Commission Members: Good morning.

Mr. Edwards: I'm born and raised here in Hawaii, Maui and on behalf of the Epsteins, Terry and Kay just wanted to share a small story. My job as a delivery person is real simple. It's from my door to their front door regardless of hill and valley. Geographically their property is 295 plus paces uphill little bit greater than 45 degree and I gotta walk that 'cause my truck doesn't drive up there and I can't safely reverse down without taking any chances. So did that a few times and this is about seven ago, I knew them for about seven years, and yeah, he was nice enough to extend the courtesy to me and say, hey you know what here's my phone number, call me whenever you have anything, I'll come down there and pick it up from you. And to me, that's huge. That's save me, my knees, huffing and puffing and that's my job. I cannot ask that of my customers but he was nice enough to extend the courtesy and he honors this till this day. That's equivalent to getting a landscape artist to go do your yard and you're out there weed whacking with him you know. To me, that's the biggest thing, that's more valuable than any currency or possession that you can ever give to somebody that you don't even know, you know. I always was thankful for that, you know. Just speaking on his behalf as his character that's everything right there. That's the local style. Giving something without any expectation in return that to me, that's Hawaii that to me. Anyway, I know how it's not that big to you guys, you guys not delivery guys, but just to shed some light on that. That's big for me and I wanted to share that story. I share that story with my folks all the time because he's one of two people that will extend that courtesy to me. But I hope that helps, but the opportunity to give back, I'll jump on that opportunity and here I am. Thank you very much.

Vice-Chair Tsai: Thank you. Any questions from the Commission?

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

Vice-Chair Tsai: All right, so I guess we'll proceed with the presentation. Oh, sorry, public testimony is now closed.

Mr. Danny Dias: Thank you, Chairman Tsai. Good afternoon Members of the Maui Planning Commission. Very briefly, just wanna go over the reason why we're here. Obviously the item before you is for a Special Use Permit and Short-Term Rental Permit for the Shambala Short-Term Rental. It's a six-bedroom dwelling in Kihei.

The project does have some history before this Commission. As you folks know, this application was originally scheduled before this Commission on October 8th of 2013. At that meeting the Commission deferred the item subject to more information from the applicant. The applicant provided that and the Commission reconvened on November 12, 2013 and heard the item again. At that meeting the Commission voted to deny the application by a vote of six to two. Subsequently the applicant appealed the decision in Second Circuit Court. And from what I understand, the Court remanded this item back to this Commission which is why we're here today, and the reason they remanded it back is because there was no evidence that every Commission member who voted on it received and reviewed the full record. So three Commissioners that voted on November 12th were

not at the October 8th meeting and so that's why it was remanded. Therefore, in order to avoid that situation again, the Department provided this Commission with the complete record of the applications. We sent you two memos, they're both dated October 14, 2015. The first memo included all the documents pertaining to the original application so there's a Department's report and recommendation, various letters of testimony, the minutes, et cetera. We also provided with you yesterday and by hard copies today minutes of the July 22, 2014 meeting where the Commission took up the decision and order.

The second memo included some new information, letters of support and agricultural sales receipts provided by the applicant and we also provided some new letters of testimony that came in in the last few days. So I think it's important that the Commission verify that you received this information and that you did review it. If not, I believe the procedure would be to hold a recess and give us the opportunity to provide anything that you may not have received and give you time to review it. But everything listed in those memos, we did provide to you. So unless there are any questions, I'm going to hand this over to the applicant's representative, Tom Croly for a presentation. Thank you.

Vice-Chair Tsai: Commissioner Robinson?

Mr. Robinson: Corp. Counsel, I did not read this whole packet. Is there a problem?

Mr. Hopper: Yes. You need to review the entire record before deliberating or taking a vote. So if we wanna take a recess and have that read that's going to be required. Otherwise, we cannot take action on this item today. Or you could recuse yourself from voting and not count as a vote in this case.

Mr. Robinson: Do I have to do it before the presentation or can I do it after?

Mr. Hopper: Before deliberation and decision making you would need to review the entire record before you.

Mr. Robinson: Or recuse myself before then—

Mr. Hopper: Or the vote would not count, but...and you would not vote. Those are your options. But if you have not reviewed the entire record at this point, my recommendation would be before the presentation starts that you complete your review.

Mr. Robinson: Before deliberation?

Mr. Hopper: Well, I would recommend you do it before the actual, before the actual presentation begins so you're familiar with the whole record. That's why it was provided to you in advance. Okay, so we can take a ten-minute recess?

Vice-Chair Tsai: Yeah, let's take a ten-minute recess.

Mr. Robinson: I apologize.

Vice-Chair Tsai: We'll be back at 1:40.

A recess was called at 1:32 p.m., and the meeting was reconvened at 1:48 p.m.

Vice-Chair Tsai: The Commission is back to order. Corp. Counsel?

Mr. Hopper: Commissioner Robinson, hello? Yes, Commissioner Robinson informed me that he doesn't think he has adequate time at this time to complete reading the record. So what we're going to do is proceed with the hearing. Commissioner Robinson will not be voting on this item so there will be six members taking a vote on this item. And so we can proceed with the presentation, but again, Commissioner Robinson will not be participating in the hearing or voting at this time so we can proceed, but again, there will only be six members voting on this item.

Vice-Chair Tsai: Please proceed.

Mr. Thomas Croly: Aloha Chair, aloha Commission. You know me, I'm Thomas Croly and I'm here on behalf of Terry and Kay Epstein for their home, Shambala Short-Term Home Permit and County Special Use Permit. My presentation is approximately 20 minutes long and one of the participants in my presentation is Chivo Ching-Johnson, who you know from Akaku. He has something that he has to do for the Council so I'm gonna jump ahead to the part of the presentation that Chivo was participating in and let him, you know, present that and then we'll come in and do it in earnest. Chivo? In just a moment Chivo's going to show a video that he shot and I'll let him introduce it and I set up a speaker here so that you can clearly hear the audio that he shot when he did that video.

Mr. Chivo Ching-Johnson: Good afternoon, Commissioners. Thank you so much. I wanted to preface this by saying that this is only—

Vice-Chair Tsai: Chivo, can you just announce your name into the record?

Mr. Ching-Johnson: Chivo Ching-Johnson. Thank you.

Vice-Chair Tsai: Thank you.

Mr. Ching-Johnson: And I am also, I'm testifying on behalf of myself through video images through my production company not in my capacity with Akaku. I do a lot of side work, a lot of event videography and photography, real estate video. And Tom contacted me to do a video and when I further explored it and got there it was with the Epsteins here who way back when I was here in the Commission when they were first applying so I tried to remain as neutral as possible and did tell them as well as Tom Croly here that I would video tape what they wanted me to video tape which is a demonstration of the audio in the property, but that I would not do anything or nor would I misrepresent anything and they said that they absolutely wanted just what was on the video. So that is what you're seeing. I did edit it as far as adding some lower thirds, some description to it and that was description to it and that was basically it. I didn't do any manipulation to it. It's an hour and a half long...no, it's very, very short and here we go. (He then played the audio for the Commission)

Right now we are at the pool...(inaudible)... maximum volume of our...(inaudible)...This is the fence line closest to the house from Maui Meadows. Here we are at the ...(inaudible)...boundary, the eastern boundary of the property, southwestern boundary of the property.

And that's it. Short and to the point. Now I just wanted to point out that while I have no vested interest in the outcome of this, honestly I found when I was there that if there were allegations of there being music carrying over to the boundary and really loud it just wasn't there. I mean, I had my record volume set on 50 percent which usually comes out to about zero minus six to minus twelve which is broadcast level for replay. I had my meter set on zero dB which is just the baseline for the audio and I really, really want to emphasize that that while you could hear the music in the distance, the sound of the waterfall and the wind was far more, more evident. So that's an actual depiction of what I did. I know it was a little shaky and I have done better films but I do want you to know that that's an honest representation of it. I find in a conversation with the Espteins that they were very concerned about disturbing the neighbors and so they had agreed to lower, lower their threshold for the maximum volume which is what it was played at right there. Thank you very much.

Vice-Chair Tsai: We have a question if you don't mind from Commissioner Hudson.

Mr. Ching-Johnson: Yes.

Mr. Hudson: Just a couple of real quick questions. How far in feet is the closest speaker to a neighbor?

Mr. Ching-Johnson: In feet I would say maybe 40, 50 feet probably to the fence, yeah.

Mr. Hudson: And how far to the residence after that do you know?

Mr. Ching-Johnson: To their house?

Mr. Hudson: Right.

Mr. Ching-Johnson: Well, where the house...when I left the covering of that house and started to go into the yard in the first part of the video they had deactivated the speakers in that part of the house because that was closest to the fence. So they have turned those completely off. But the speaker, the last speaker that was actually working that they have left working was probably 50 to 60 feet from the fence line to the house.

Mr. Hudson: Okay, assuming the decibels was 55...55 decibels as I recall from the earlier speaker?

Mr. Ching-Johnson: No, it was 50 percent volume on my camera where I can record from zero to ten, I had my little dial set on five but it was on zero dB which means just the baseline for recording audio.

Mr. Hudson: All right, thank you.

Mr. Ching-Johnson: And I know that that's kinda confusing, but...yes?

Vice-Chair Tsai: Yeah, I think what the clarification we're looking for here, Commissioner Hudson—

Mr. Hudson: I believe that it was —

Vice-Chair Tsai: Yeah, I think Huey was present–

Unidentified Speaker speaking from the audience.

Unidentified Speaker: You have to come up here.

Vice-Chair Tsai: Please come to the mic.

Mr. Huey Johnson: My name's Huey Johnson. So to answer your question, the very maximum threshold that you can turn the volume up is 55 decibels on the receiver...(inaudible)...

Unidentified Speaker:(inaudible...speaking from audience)...

Mr. Johnson: Basically it just...it means that–

Mr. Hudson: We'll get to that in a minute. Okay, there's normal degradation between decibel levels and distance so the further the distance obviously there's more degradation to it.

Mr. Johnson: Exactly.

Mr. Hudson: Okay. So you're saying 50 feet which really isn't that far. Fifty feet is not that far. So I don't know how far more it is to the actual residence. But what I'm trying to get at is in layman's terms if I'm sitting on a porch by the neighbor's yard what decibel level is that and what would it sound like? Like dropping a book, a jet engine?

Mr. Johnson: An example, I wasn't at the neighbor's yard and I haven't taken decibel level measurements or anything like that but I walked to edge where he was and I heard Terry sneeze and I could hear that clear than the actual music so that's in layman's terms that's my best analogy like a sneeze is probably louder than what we're hearing here.

Mr. Hudson: Thank you.

Mr. Ching-Johnson And Commissioner if I could just say that to maybe help clarify that, my VU meters on my camera were barely moving at the fence line and it was whether it was the wind...and there was wind in my microphone. I had a wind sock on my microphone at first and then I took it off to record this audio. So I think it was as much wind as anything else. I couldn't really say if it was music or what it was, but my VU meters were barely even registering at the fence line, yeah.

Mr. Hudson: Thank you.

Vice-Chair Tsai: And again, that was taken a maximum level and it's after the adjustment was done.

Mr. Ching-Johnson: Yeah, after the adjustment was made.

Vice-Chair Tsai: Okay.

Mr. Ching-Johnson: And from what I understand, a guest can press the volume button and it will say max but it's set down to that level. So they just can't get it any higher than that. Thank you.

Vice-Chair Tsai: Thank you.

Mr. Croly: Thank you, Chivo. Tom Croly again, for the applicant. Okay, so now I'll take you through the whole presentation. This property is located in Kaimanu Estates. Kaimanu Estates is a gated subdivision consisting of nine, two-acre lots and it's included in the Rural Growth Boundary. So while it is agricultural in nature, in the County General Plan it has been included in the Rural Growth Boundary.

In this subdivision of nine homes, there are three homes that are utilized as the full-time residence of their owners that is the applicants and two others. Six of the homes in this neighborhood as you would call it are vacation homes. They are owned by people who do not live on Maui and only use them occasionally when they come to visit Maui. So three of the homes are full-time residents including the applicants, six are second residences.

All of the owners of the Kaimanu Estates Owners Association are members of the Kaimanu Estates Owners Association. And before this permit ever was applied for a vote was taken of the Kaimanu Estates Owners Association and it was approved. This use by their association was approved as a use.

I do wanna bring up some points from the last hearings that just need to be crystal clear because I think they clouded the matter to some extent. Kaimanu Estates is not part of Maui Meadows. It never has been part of Maui Meadows. The road serving Kaimanu Estates are Maui County public roads and are not in any way, shape or form part of Maui Meadows. You may use those homes to access a Maui Meadows house, but Maui Meadows is a subdivision unlike Kaimanu Estates is not a private subdivision. So those are rural lots in Maui Meadows and the roads are County rural roads.

Kaimanu Estates was established in 1987 as a subdivision from land that was once part of Ulupalakua Ranch. It was then subdivided and one lot that was part of Maui Meadows was used as the access to Kaimanu Estates. There was a lawsuit that involved that lot being used in that manner and it went all the way to the Hawaii Supreme Court and the Supreme Court did affirm that this use of this lot as a connector, if you will, to grant access to this private subdivision was a legal use. It's also not a unique use. There's another lot that is adjacent to Maui Meadows where the Maui Meadows lot acts as the access to that adjacent lot that again used to be part of Ulupalakua Ranch.

As far as the short-term rentals in the area, there are no other permitted short-term rentals within 500 feet of this property. The nearest one is about a half a mile away. There are five short-term rentals in the adjacent Maui Meadows neighborhood. One that existed for approximately 15 years and was granted a conditional permit to operate in 2008 about seven years ago, three whose permits were granted administratively shortly after the short-term rental law came into existence that were previously operating, and one that came before this Commission specifically and it was before this Commission for the same reason that we are today because two or more of the immediate neighbors filed objections to this...that that particular permit, and that permit was granted by this

Commission. What I wanna...the point I wanna make here is none of the neighbors have complained at all since that permit was granted. That guy has really been a model of short-term rental owner and I think a permit is one of the things that makes a good operator.

The Short-Term Rental Ordinance as you're probably aware was established in May of 2012, and the applicants immediately contacted me about making application to get a permit and they immediately ceased taking any reservations and they've never taken reservations since that time and no one has stayed in their place since this body acted to deny the permit. The applicants are trying to do everything exactly by the letter of the law. A 145 short-term rental home permits have been issued in Maui County over the past three years, 139 of them were issued administratively and I wanna point out that most of those that were issued administratively were people who previously were operated. When we created this law there was an understanding that people are out there and they're making this use out there so we're gonna have to accept that that's the case. And one of the requirements when we first created this law was that people submit a tax clearance from the State showing that they have been paying their GET and TAT taxes and that they're all up to date with that which the applicants complied with. That has since changed. We don't have that as part of it, but that was the case back then. Six short-term rental home permits have been approved by the Maui Planning Commission and in testimony here for had established that they were previously operating. You might say, well we've had a lot more than six of these before us and that's because 35 of the permits required the State Special Use Permit which is a separate permits as you're aware so the Short-Term Home Permit gets granted administratively unless there are a certain threshold of objections from the neighbors or if they're within 500 feet of another one, but if you're in the Agricultural District you still have to get that State Special Use Permit which we do here and most of the applications that have come before you have been for the State Special Use Permits.

Of those 145 permits that have been issued over the past three years there have been few, if any, complaint made about impacts from these short-term rentals. And I do wanna point out that the median assessed value of the short-term rentals that have been granted permits to this point is \$1.592 million. I know the Commission issued a letter and they were concerned about this use taking away resident housing and I share your concern. But I do wanna point out this home would never be part of that resident, you know, housing. This is a very high end luxury home and is really not going to be part of the group that we wanna try to protect here.

The proposed use that Terry and Kay Epstein have is that they will continue to make this their full-time home, but a certain occasions will move out of the home and then then will have the home rented short-term. In most cases those rentals will be a week or two weeks, they might be a month, but you know, it depends on what the person has. They're not going to be overnighing. There's not gonna be one person in there one night and changing over the next night. They'll move out of the home, there'll be an extended stay for someone, and then they'll move back into the home after the extended stay.

When they move out of the home it will be managed by Tropical Villa Vacations and I wanna introduce Pikake Kamahela who is the General Manager of Tropical Villa Vacations. But before I do I just wanna point out this is the premiere vacation rental management company on Maui. And it's a company that's been recognized nationally and internationally as being an exceptional company in that way. So I want to introduce Pikake to talk about Tropical Villa Vacations. Thank

you.

Ms. Pikake Kamahele: Good afternoon Commissioners, I'm Pikake Kamahele. I'm the General Manager of Tropical Villa Vacations. I've been with them for three years. Prior to that I was the concierge manager at the Four Seasons Resort Maui for 17. I am a born and raised local girl. I'm from Oahu, but I live here now for the past 20 years. And I just wanna go on record to say that I, too, do not support paid parking at The Shops at Wailea 'cause happy hour can take longer than three hours and they only validate for three hours.

Anyway, we are honored to be the only rental company who will manage rentals at Shambala. We're a licensed brokerage firm. We have been in business for 20 years since 1995. We manage less than 40 properties on island simply because of the complexities that are involved, it's best to stay small and to really pay attention to the details. Our homes and villas include resort villas, permitted homes and hotel zoned homes. We are board approved for some really prestigious resorts, the Wailea Beach Villas where we have 22 villas currently, Conde Nast has just voted Wailea Beach Villas as the third destination in the country, very proud of that. We have something to do with that. We are just recently approved at Andaz which was a very, very tough thing to do. Parent company Hyatt does not really want to bring out outside companies. They would rather handle things in-house, so we're awfully proud of that. Montage out at Kapalua Bay we've been there for just shy of ten years. Very happy that Montage has now taken over that property and have partnered with us. And Makena Beach or Makena Surf, excuse me, where we have two properties.

We employ 30 full-time employees as well as work a plethora of different vendors on the island and we are Kihei based company unlike some of the larger providers out there who are actually based on the mainland and have a small contingency here on the island. All of our employees are here.

We are in good standing with the State of Hawaii. Out of all of the properties that we have, we actually property manage about 75 percent of them which means that we are in charge of paying their taxes and no one has ever been outstanding in their payment and we have a perfect service record. So not to brag, but that's who Tropical Villa Vacations is. Yeah,...(inaudible)...Four Season's managers we have been recognized very experienced.

I'd like to get to the nuts and bolts of actually renting this property. First of all, our average renter is over 40 years old primarily. They're seeking an high end home like Shambala, but they are actually looking for more privacy and space and they are professionals. What I will say is who we are not going to be renting to is probably the most important thing. The first thing is we are not going to rent to anyone who is going to bring any kind of outside press or attention to their visit here aka paparazzi. First and foremost that's not what we...that's not the presence that we wanna bring to the neighborhood and so they simply won't be considered. Secondly we question people who are here to join a larger group be it a corporate event, be it a wedding, be it a reunion, anything of that type because as you are aware one of the ordinance is that there are no parties for anyone other than who is registered can attend. And as you can see Shambala is magical so no matter if they say that they're not gonna have party, the reality of the situation is they will. We know that, we understand that, and so we have that in place.

A little bit about how we plan on marketing this property. First of all, it is not going to be offered publicly meaning it's not gonna be on our website nor will it be publicly displayed on any of our

partners VRBO, Airbnb, TripAdvisor. This is what we call in the industry a pocket listing and you have to be in the know to be able to even inquire. What we plan on doing is looking through our guest database which is extensive to see what guests are there that would be a good fit that have proven in staying in our properties previously that they will follow protocol. We do not accept all inquires. To be honest with you we are going to decline more than we are going to accept. To be honest with you Terry and Kay we are going to decline more than we are going to accept, but this is important to maintain the integrity of the neighborhood. We will request references, occupancy will be strictly enforced, and as I said before, Shambala will only be offered to vetted guests. So before anybody even gets here, these are the loops that they have to jump within to be able to be considered.

If they do meet our requirements there is a seven-page contract that needs to be signed. All occupants have to be registered and on contract. They're the only ones who are allowed on property and the guest deposit or excuse me, the security deposit is huge. This is a big house. This is an expensive house. This is a house where the minimum occupancy or the required days of reservation is seven days. So it is really a special client that will be able to actually enjoy it. Guests are also required to sign their house rules in five different locations not only are they to do that in the contracting process, they're also do that when they arrive, and we should probably put up a little plaque up too just so that everybody is really clear and aware.

Parties, events, gatherings are going to be very strictly monitored. One of the things when you offer rental as well as concierge service is that there is someone, we do have a concierge that handles all of that "party planning". And we've all been on this island for a very, very long time so trust me when I say, if there is going to be someone who is unauthorized that will be coming up to the property, someone in my company will hear or know about it. Our house manager as well as the personal concierge as I said is involved on a daily basis and that's really just with the needs of the client, the activity need of the client.

Another layer that we provide to make sure that they are complying with the house rules comes in the form of daily housekeeping. Housekeeping is required aka you cannot refuse it and the reason why we do that is want to be able to get into the home on a daily basis to make sure that the use is appropriate. One of the things that we look for is an unauthorized sleeping area. A pillow and a blanket on the floor in a walk-in closet tells us that there is unauthorized guest in the home and that is handled appropriately.

We are obviously going to post our contact information for all of the neighbors, but we're gonna make sure that we personally deliver to them all the contact information that they need to put their minds at ease. It's one thing to offer a contact, it's also another thing to actually answer the phone when it rings, and I can tell you personally you are looking at the woman who answers the phone 24/7 for this particular property.

So that's really all that I have to say other than I know that there have been a lot of permits that have been granted since we stood in front of you last, certainly since I stood in front you last and I would venture to think that you would have to look very long and hard amongst that group to find people who are more invested, more conscientious, more thoughtful, and more professional than Terry and Kay Epstein, myself and Tropical Villa Vacations. Thank you for listening.

Mr. Croly: Thank you, Pikake. Tom Croly again for the applicant. There's two permits that you're considering here today. One is the Short-Term Home Rental Permit and the second is the State Special Use Permit. The State Special Use Permit requires that our agricultural uses are in place. This property was ranch land prior to it turning into the subdivision. And the picture down at the bottom shows kind of what it looked like prior to the Epsteins taking over it. The subdivision as I already mentioned was created in 1987, and the Epsteins bought their lot in 2000. I point this out only because those issues with respect to the Maui Meadows access and so forth they were already done. The Supreme Court had ruled when the Epsteins bought their property. They got an approved farm plan in place in 2003 and they spent two more years designing the house, two and a half years building the house, and had spent seven years implementing that farm plan to date.

At this point, the agricultural uses include 70 fruit bearing trees producing more than 3,000 pounds of fruit annually. Some of the farm plans that you've looked at have been theoretical in nature and people have talked about how much fruit they may make in the future. This is one that's doing it today and as you've already heard from some of the testifiers they've been donating that fruit to many worthy causes. They've also made donations of their grass stolons to the Wailea Golf Course and to the County of Maui for reseeding their parks. And it's a very high quality grass that they are able to use for these stolons and it's not just like hey you mowed your lawn and somebody else can plant this. This is primo stuff that people would pay big dollars for.

Their agricultural sales this year and they only started the agricultural sales when it became apparent that they needed to have sales in order to show that this farming was a commercial endeavor as opposed to just donating the fruit. Their agricultural sales to date as of this September was \$2,434 and those receipts were provided to you. They do have a fully implemented farm plan and they are currently propagating new varieties of ginger in their nursery. I wanna introduce Mason Smith who manages the farm activities just to give you a little more of an oversight as to the agricultural activities taking place.

Mr. Mason Smith: Hello, my name is Mason Smith. Thank you for having us. I've worked for the Epsteins for about four years now maintaining all the ag trees, all the fruits, pineapple beds and then along with the ornamental aspects of the landscape too. As Tom pointed out we have over 70 fruit trees. We have probably about 600 square feet of pineapple beds, avocado trees, several different types of citrus, mangoes, numerous stands of banana trees. As Tom also pointed out to date this year we're at about 3,000 pounds of fruit sold. We'll probably be around 3,500 pounds maybe a little bit over that by the end of the calendar year and next year we expect to improve those numbers, and produce more fruit.

The house employs myself and four to five other part-time workers. We really like working there. In addition to all the fruit that we grow and sell, we have numerous gingers and heliconias for cut flowers. We're propagating our gingers right now so we're not trying to sell any cut flowers. We're propagating the plantlets from the gingers. We've created a nursery space there where this year I think we're around maybe 200 gingers that we have growing. The last stock that we grew a long of 'em we planted them around the house to increase our numbers so we had more propagate. We did sell stolons this years. We created about 400 bushels of stolons. We can do that twice a year if we needed to and we're expanding the nursery area on the property. We have an area that we built down on the front where we're growing gingers and we have another area in the back where

we started rooting ti plants just for more things to add around the property and then to sell when we don't have room to them anymore.

Another thing I wanna mention actually about the sound and the speakers along the Makena wall, this year we added about 20 mature palm trees in amongst the really mature palms that exist along that wall. And then in between all those palms we've added 55 maybe 60 clumps of heliconia. So it's gonna be...and it's dense now, in another six months, year, it's gonna be really dense where you, you know, there'll be no visual sight line through there and the denser it gets, you know, we're really doing that to cut down on the sound, the sound that can travel back and forth between there.

Does anybody have any questions about the ag plan, the farm plan there?

Vice-Chair Tsai: Commissioner Hedani?

Mr. Hedani: Hi.

Mr. Smith: Hello.

Mr. Hedani: The southern wall.

Mr. Smith: Yes.

Mr. Hedani: Your Makena side wall.

Mr. Smith: Makena side wall.

Mr. Hedani: How tall will those trees be at full maturity?

Mr. Smith: Well the mature trees that are there now from the original planting are 30 to 40 feet tall. The mature trees that we added this year are in the range of 10 to 12 feet. The heliconias that we added in there, some that we planted the end of last year are now around 12 to 14 feet tall. And then in the last I would say three months when we added another I think I'll say, easily say 50, all the same varieties so they'll get to between 12 to 14 feet.

Mr. Hedani: Follow up question.

Vice-Chair Tsai: Yeah, please.

Mr. Hedani: So the comment that you made was that when they're full mature there'll be no sight line along that wall?

Mr. Smith: Very ... I mean it's very limited now, but we're trying to just make it dense.

Mr. Hedani: Right. So the properties on the other side of the wall would have no sight line to the north?

Mr. Smith: They wouldn't haven't any sight line anyways.

Mr. Hedani: Because of the wall?

Mr. Smith: Well, yeah because of the wall and because of the plantings that are there.

Mr. Hedani: Thank you.

Mr. Smith: Any other questions?

Vice-Chair Tsai: Thank you.

Mr. Smith: Thank you.

Mr. Croly: Thank you Mason. Tom Croly again for the applicant. The reason we're here, the reason we're here today is that some of the Maui Meadows neighbors expressed concerns and I wanna point out that Terry and Kay have taken their concerns very seriously and they have gone out of their way to ensure that the neighbors could never, and I wanna stress never be effected in any way by their use of this property as a short-term rental.

Specific to the sound system. They turned off all the speakers on the Maui Meadows side so any of the speakers that existed on the house that are on the Maui Meadows side are disabled. They cannot be turned on at all. They also reconfigured and replaced all of the pool speakers since the last hearing here and at the top picture here that's one of the pool speakers that we see. It's approximately this big and it points directly into the pool. So when that speaker is on and you're not in the pool, you pretty much can't hear it, but if you're sitting in front of it in the pool you can hear it. They're highly directional speakers that behind them they don't emit much sound at all, in front, they do. So as you see as that picture which looks like a small spotlight, that picture is pointing into the pool. Those are the eight pool speakers that were in question at the last hearing. And again, all of those speakers were replaced with this variety of speaker that is only...shoots sound in one direction.

Let me go back. I missed they also programed the outdoor barbeque lighting to automatically turn at 9 o'clock to encourage the guests to come inside. This is out of the guests control. At 9 o'clock boom the lighting comes down and there you go. The audio that's out there gets locked out. It turns off automatically. This is a smart home where everything is controlled you know, electronically and they have full control over what's going on with the lighting, with the audio, and they even have remote control for it meaning if you were to call me right now and say, I can hear the speaker in the yard, I can tap on an iPad and turn it off immediately just like that. So they don't even have to be on premises to be able to control the lighting and the speakers and so forth.

They also have even gone inside the house and made changes and that is there's as typical for a home of this stature a home theater. Well, they didn't want there to be a possibility that someone would be watching a movie late a night and we know that the sound tracks on those movies can loud. So the home theater is locked out after 9 o'clock at night unless the sliding glass doors are closed. If the sliding glass doors are closed then they can operate the inside home theater. If they're open something displays on the screen saying please close the doors, you know, in order to proceed with the movie.

This is the point in the presentation where Chivo made his, you know, his thing and if any of the Commissioners would care I can play that again. The purpose of that was to try to bring into this room here's what it sounds like at the border of the property when the stereo is as loud as it possibly can be with the guests pushing it to maximum level. If you listen to that, you notice at the border of the property the most prevalent sound that you heard was the wind and the tweeting of the birds. When Chivo spoke at a normal volume, you heard his voice saying I'm now at the border of the property. So in answer to your question Commissioner Hudson, at the border of the property the sound level is no greater than 55 decibels. On the other side of that fence, the house is about 25 or 30 feet further back. That's getting close to the sound level of a library. Okay, so the spillover of sound from where it's being generated to the neighbors is nonexistent. And that's what we were trying to show you with this audio. It would be better if you all came there. Huey came there, he witnessed it. Chivo witnessed it, and if again, if you have interest in hearing that again, I can play it. You heard at the beginning it sounded quite loud because we were in the area where the speakers are emitting directly to it and then we moved to the fence area where it was very low.

The neighbor concerns I wanna point out five things that the Epsteins have done. First, before they ever made application they sent letters out to all their surrounding neighbors, those that were in the 500-foot including the folks in Maui Meadows saying we're intending to make this application for a short-term rental home. We would like to address any concerns that you might. We invite you to call us and they gave them their telephone number. We invite you to come over here and see what we plan to do. That was before making application. Then after they made application, notice was sent to everyone within 500 feet and sometime later letters of concern came out. At that point, the applicants tried to contact those neighbors directly and they also had the folks from Tropical Villa Vacations try to contact those folks directly and offer their, you know, assurance that they would not have any issues. We then had the hearing, expressed...there were concerned expressed about the sound system and so forth. They since made changes to the sound system. And then since then after making the changes they held an open house and invited all of the people within 500 feet to come to their home and you know, witness it firsthand. They had the folks from Tropical Villa Vacations on hand to answer questions about that. They had the volume set so that people could see this is the maximum volume that a guest could ever turn the sound system up to. We had about 20 people at this open house. Unfortunately, the folks who showed opposition did not choose to come, but we did have about 20 folks at this open house and everyone was in agreement that there's not a problem here.

I do wanna point out that the Short-Term Rental Home Permit subjects the property when it's used to short-term rentals to regulations and limits on noise that are stricter than anyone else would be subject to. There is the requirement of quiet hours from 9 to 8. Quiet means quiet, it means no sound going over. It also says that no time during the day not even, you know, from 8 o'clock in the morning till 9 o'clock at night may the sound of amplified sound be heard beyond the property boundaries and this they've assured. And also that they would be subject to no parties or group gatherings, and of course as you already heard, that's not the intent of this rental for it to ever be used for any kind of party or group gatherings.

Tropical Villa Vacations has a staff of people that are there to address neighbor concerns instantly. They're very local. All the neighbors will have the 24-hour telephone number and be able to call them if there's ever a concern, but I think Pikake didn't say what she told me many times, they just don't get these calls. It doesn't happen. The work that they do up front vetting their guests results

in the guests not causing problems. The making sure the guests sign the documents that say you can't make noise, you know, between hours and you can't do this and that, you can't have a party it ensures that it's not going to be an issue.

You heard from a number of people today who quite frankly they're friends of the Epsteins and they wanted to express the generosity of the Epsteins and the love that the Epsteins have shown. You also got letters in your packet from all of these folks, the ones on the left-hand side in Maui Meadows all in support of this application and the ones on the right-hand side in not necessarily in Maui Meadows, some in Kaimanu Estates and some that the Epsteins know from different ways. There were also five additional letters that you got today of support from some other folks...and what did I wanna say about those...oh, one was their immediate neighbor on the other side. You have the Maui Meadows side of the property and then you have the Kaimanu Estate side of the property and that property changed ownership fairly recently and the new owner reviewed the terms of this permit and wrote a letter in full support of the Epsteins having this use. So you have that side of the property with full support. You have the one side of the property that goes out to open ranch land and then you have the Maui Meadows side. But again, I don't think the case could be made any stronger that these are conscientious people that do all of the right things. They try to follow every rule that's put before them and they abide by that.

The regulatory issues, I've helped a lot of people put together permit applications. It's sad that oftentimes when I do that for people, I have to say, sorry that cottage that you have has not been properly permitted. We can't get you a permit for that cottage and they have to jump through hoops to back permit things or sometimes they can't get through the permitting process. I have never seen a permit record as clean and as complete and as, you know, every I dotted, every T crossed as the Epsteins. As well, they have met all 33 of the requirements of the Short-Term Rental Permit application. They have the implemented farm plan that's a requirement and there really has been no evidence brought forward that the use that they have proposed here would have any impact upon the neighbors, particularly the Maui Meadows neighbors that who did express some concerns that you don't even drive past their houses on the way to this house.

So finally we do ask the Commission to grant this approval for a year and do let us show that there will be no impacts from this use, and that this home can be used in this manner and in a very forthright way. Thank you.

Vice-Chair Tsai: Thank you, Tom. So now we open the floor for questions from the Commission. Commissioner Lay?

Mr. Lay: Motion to approve.

Mr. Hudson: Second.

Vice-Chair Tsai: ...discussion?

Mr. Hopper: There's no questions?

Vice-Chair Tsai: Well, I have some questions. I have some questions I wanna ask.

Mr. Hopper: You haven't called for the recommendation. You going to have questions first before motions.

Vice-Chair Tsai: Well, I did have questions and that was the motion being made.

Mr. Hopper: If you wanna ask Staff questions...

Ms. McLean: You can still have—

Vice-Chair Tsai: I can still even with a motion?

Mr. Hopper: You have questions before a motion.

Ms. McLean: It's under discussion.

Mr. Hopper: If you wanna have questions first or the discussion first.

Vice-Chair Tsai: All right, so I feel we still should ask some questions and I actually gonna ask a couple questions here.

Mr. Hopper: Again, just to clarify the Chair hasn't asked for motions yet, so if he wants to allow for a questioning period he can do that prior to allowing the motion.

Mr. Lay: He's the Chair.

Vice-Chair Tsai: Just...(inaudible)...fair here. Gotta ask them something I guess. I'd like to ask the property management company, Pikake. please?

Ms. Kamahale: Hi.

Vice-Chair Tsai: Hello. So you had expressed that you obviously go through an in-depth process screening people.

Ms. Kamahale: Correct.

Vice-Chair Tsai: And I'm also hearing that the owners I guess, this is a question for both of you and the owners. They're living here full-time, so how much, a percentage of the year are they really gonna make this place available?

Ms. Kamahale: To be very honest with you, because it is a very expensive home, because there is a seven-day minimum, because it isn't on the ocean this is actually going to be a very hard sell. And of course, because it's not going to be offered in the public domain. If we are able to achieve 21 days of rental revenue for a 365-day calendar year we would have exceeded our budget.

Vice-Chair Tsai: And what's the planned cost for this place, rental?

Ms. Kamahale: I believe we're gonna start at 10,000 a night? Okay, let me clarify this. So our

business is seasonal just the hotels are seasonal, and your high seasons are from Christmas specifically December 22nd until January 3rd. Then there is spring break which depending, you know, there's so many different school schedules at this time but it's somewhere around March until Easter. Then you've got your summer season which typically is June to the end of August. So those are your busy seasons or high rate seasons and of course, Thanksgiving just for that one week coming up on the last week of November. Those times we would certainly love to achieve something between ten to twelve thousand dollar per night room rate with a \$10,000 security deposit. Shoulder season we typically would drop that from between 20 to 25 percent. Keep in mind, that we are not gonna be renting it to celebrities. We're not going to rent it to anyone who's given me a hard time in the 17 years I was the concierge manager at the Four Seasons. But to answer your question, yes.

Vice-Chair Tsai: Thank you.

Ms. Kamahale: And I will also say because it's so expensive and because if there is any infraction while they are in-house, they lose any rent that is left on that rental and they also potentially lose their security deposit and that is written in the contract just as an extra ...(inaudible)...to make sure that everybody behaves.

Vice-Chair Tsai: Is that how you define controlling unauthorized activities?

Ms. Kamahale: That is one of the ways that is the legal way to control it. But also as I had explained before, being there for the greeting, being there on a daily basis to ensure that we know how and who the home is being used for is really the major way that we control that while they're in-house. And going through trusted partners prior to actually booking the guests is how we control that prior to their arrival.

Vice-Chair Tsai: Thank you. Commissioner Higashi?

Mr. Higashi: This question is for the Epsteins. From reading the report that transpired initially seemed like you folks did a lot of work in trying to get to comply with the rules and regulations that the County has imposed upon you. My only concern is that when it comes to outdoor sound becomes a critical issue and I think at this point although you did try to minimize the amount of sound, would it be that difficult for you to eliminate outdoor speakers within your property and yet at the same time comply with a lotta stuff because that becomes a major issue with neighbors is that whenever you put any kinda sound system outside of your home it becomes a concern no matter how much of a decibel you try to lower. It gives a better visual idea about it. Anyway that was my concern about your ...(inaudible)... package itself.

Mr. Terry Epstein: Terry Epstein. The problem we have eliminating outdoor music we're renting our home to people that are coming there to have a vacation. They could just as easily provide boom boxes and things and then we have no control. They're paying us a lot of money per day so we have to provide them an experience where they're gonna be able to use the home and they're being vetted. They're not the kind of people that are gonna come there and play loud music and have parties and things like that has been explained, but you really can't rent your house and not provide some kind of music outside at your swimming pool.

Ms. Kay Epstein: What we did was we went back in and we made sure that once you reach our grass the only thing you're really hearing is natural sounds not the music even to the closest neighbor. When Chivo was standing next to the wall you heard the birds. That wasn't put in there. That was natural sounds. You heard the waterfall. That's all you're gonna hear. We made it so that it's basically when you're sitting by our pool, I know it sounded loud on the video when they were right next to the speakers because we have so many surfaces there, it's not really loud. I wish we had had somebody talk because at the same time it's about the same as quiet elevator music, the level.

Mr. Epstein: I'm gonna ask Tom to do one thing and then I'll show you something.

Vice-Chair Tsai: Are you guys okay with this, the Commissioners?

Mr. Hopper: ...Commissioner Higashi is...(inaudible)...

Mr. Epstein: Commissioner Higashi is it okay if I just...I wanted, no the one...the one that in the beginning of the slide that shows the house.

Mr. Croly: Oh, okay 3B.

Mr. Epstein: Yes. I don't know that you're gonna be able to see as I point but, could you darken the room a minute and I'll just show you? Hit the lights? Okay, we're looking at the house and here's the cabana. And back here where you see these sliders that's our lanai and the pools are down in this area in front of the lanai. Chivo after he turned on the sound in the pool and they're unidirectional speakers and there are eight of them and they all point into the pool from the around the perimeter of the pool. He started to walk back through here and there's an opening between the lower part of the house here. We have a gym area right here that's under the master bedroom and there's an opening over here and that's where he walked through to get to the wall. And from here over to the wall it's actually about 60 feet to get to our wall and there's about 15-foot of vegetation to 20-foot of vegetation which Mason explained to you how dense it is. There's absolutely no way because of the house, the windows, the glass, other than through that area and that's why you hardly heard any noise there and then down here at the front of the property you basically heard nothing but the wind and the birds. Same thing on the back side there's literally between here, there's our house and there's another 200 foot of property to the back neighbor. So the only neighbor that could possibly hear any noise when our speakers are on would be the neighbor directly through here and that's where he walked and that's why now you can't hear it. All of the sound is turned off on the south border of our property from all the speakers. They can't run at all. And then we have a guest program when we rent our home that shuts off at the times that Tom mentioned and it has a maximum...it turns on at the maximum volume and if they sit there and they keep hitting it to turn it up it doesn't go up, it says at that level the whole time they are renting our property.

Mr. Higashi: So your answer to my question is, no you will not consider eliminating the outdoor speaker?

Mr. Epstein: We can't or we won't be able to rent our property. Nobody is gonna rent our property and not be able to listen to music outside while they're enjoying the Maui air, the Maui sunshine,

and sitting at our swimming pool.

Ms. Epstein: We also thought it would create more problems.

Mr. Epstein: They'll have their own boom boxes if they weren't using our sound system.

Mr. Higashi: Thank you.

Vice-Chair Tsai: Mr. Epstein, in all fairness I want you to respond to this letter from Doug Kendrick.

Mr. Epstein: My wife.

Vice-Chair Tsai: Okay, I find it pretty disturbing I guess based on the transpondence between I guess you guys.

Ms. Epstein: Well, Mr. Kendrick was one of the last letters that came the first time. We've never met him. We didn't know him. And we had been supporters of the Maui Aids Foundation. At the last big fundraiser we were at we realized that this Doug Kendrick was on the board. I said something to Steve Hire after the event was over, you know that it disturbed us that this person who he wrote a mean letter about us saying, the first time protesting us getting a permit but he refused any phone calls from us. He would not return our phone calls. He would not return phone calls to Tropical Villa and I felt it was cowardly that he would come out and basically lie. I believe, it's just a guess that he did it for his neighbor, Toni, in to help support her. So I spoke with Steve Hire who is the head of Maui Aids and he said, you know, Kay don't worry about it. He's on the board temporarily because there's an election in May and it's pretty certain that he's not gonna be on the board anymore. He said, well would you please put it in writing and I did and I sent him the thing.

Since then, Mr. Kendrick approached a friend of ours and basically tried to extort our vote for him for the Maui Aids Foundation in return for his vote us for the short-term rental permit and I told our friend if he felt he owed us an apology that he had done something wrong, our phone number is listed and he should call us directly. You know so our friend is here who can verify these facts. And he never did and then he decided...well, he got voted off of the board at Maui Aids and it's a vindictive letter that he wrote. We've never met him and he did the same thing the first time. He refused...he still didn't show up, he won't face us, he won't talk to us, he won't explain his actions to us. I don't understand the man, I feel sorry for him.

Mr. Epstein: The person whom he contacted to try and –

Ms. Epstein: Extort.

Mr. Epstein: –extricate a letter to get him back on the board is here and he'll testify to what took place. It's part of that letter that you got from Doug Kendrick.

Ms. Epstein: What would you like to know?

Vice-Chair Tsai: I would like to hear from your friend who's present.

Mr. Epstein: Jim Wagner, he spoke earlier.

Mr. Jim Wagner: Jim Wagner and I apologize for not having addressed this sooner. I hadn't really seen this letter that Doug wrote. Here's a little history on this. Doug was the president of the board in 2012. I've been a director of the board since 2012 myself and had just had my directorship renewed this year. Now in May, Terry and Kay had spoken to Steve Hire and what happened is that things got a little convoluted there. First of all, there was a movement by some people who were not fond of Doug Kendrick so there was a possibility that he would not be reelected anyway. As it happened, he was not voted off of by the...(inaudible)...What he did was he actually resigned after the board voted. Where they voted I can't tell you, it's not my purview to do so, but around that same time he contacted me and asked me if I would broker a deal between the Terry and Kay and himself. And his comment was perhaps you could broker a deal where Epsteins and I swap waters of mutual support. They get my support for the STR appeal, I get their support on MAF. Do I say thank you, or ...you? I spoke to the Epsteins about this feeling very uncomfortable. In fact, I think the headline of my letter said, I'm not that kind of broker. But the thing is that Kay took great offense. You know, somebody who would trade their testimony in exchange for something else here. It just felt they were selling it. It seemed pretty, pretty grossed to be honest with you. So that's that. I mean, for all of his firm conviction there isn't a...he would have given up those firm convictions very easily if they had done something. You have any questions?

Vice-Chair Tsai: Yeah, I mean, I understand maybe the actions of one individual, but at the same time Mr. Epstein or Kay, I'm a bit concerned that an action of an individual will effect how you contribute to an organization because you're saying here you would not support them. And it seems like from all the other testimonies this morning you guys are a true supporter of Maui, and that's I guess I'd like to hear your response to that.

Mr. Wagner: No more questions for me then?

Vice-Chair Tsai: Yes, thank you. No more questions. Thank you.

Ms. Epstein: It wasn't how he felt about us, it was the fact that he wouldn't speak with us. I think everyone has a right to an opinion. But you don't go and attack people from the bushes and not be willing to stand and at least say this is my opinion. I may not agree with you that's fine. I don't have to agree with everyone, but at least give me a chance to hear why or what. We weren't going to withdraw...we were upset that he was on the board and that they had elected him to the board without...we felt his character was less than somebody that should have been on the board. We don't have that impact on the Maui Aids Foundation or anyone else on who they elect. It was just our personal opinion. We have a small foundation that we established when we sold our...when my husband sold his company for charitable donations. If it didn't go to that organization, it would have gone to someone else. But would you support someone who is attacking you and refused to talk to you?

Vice-Chair Tsai: Well, thank you. I just hope my point is that you, you know, we appreciate everything you've done for the community-

Ms. Epstein: Thank you.

Vice-Chair Tsai: –and regardless what happened this one individual's action or whoever else's you'll continue to support our community, we appreciate it.

Ms. Epstein: And we are. We're committed to the Maui Aids Foundation and other–

Mr. Epstein: We're supporting them again this year. If you all wanna come it's February 20th.

Ms. Epstein: It's a good fundraiser for a good cause.

Mr. Epstein: And it's at the Four Seasons Hotel.

Ms. Epstein: Four Seasons Hotel this year, Mardi Gras.

Mr. Epstein: And we'd love to have you all there. It's gonna be a wonderful evening.

Ms. Epstein: It's a good party.

Mr. Epstein: Yes.

Vice-Chair Tsai: Well, I have a final question for you guys. So you, you know, always say you guys are full-time residents.

Ms. Epstein: Yes.

Vice-Chair Tsai: So I'm trying to grasp, so–

Mr. Epstein: We have a second home that's literally two miles away. We leave. We have a dog that has to...we wouldn't rent our home if we weren't here on island because we have a dog that is very needy and is...needs us around. We have second home. We take her with us. We go to this other home and we allow our home to be rented.

Ms. Epstein We bought a small home in Moana Estates when it was first built so that we would have a place to live during our construction. At the end of the our construction the Maui market went way down. We were so upside down in this house, we said we need to keep it. And then later we thought we need to possibly rent our house so we could use that house. Now that house has come back and we could sell it for what we paid for it at this point. But it doesn't cost us very much and if we're able to rent our home, we have a place to move to that we've lived in that's comfortable. Our dog is ten years old and it took her 17 hours to go out and make on that strange grass. We can't just leave her at a kennel. She's an old girl and our baby.

Vice-Chair Tsai: Thank you.

Ms. Epstein: Thank you.

Vice-Chair Tsai: Any other questions from the Commission? Commissioner Hedani?

Mr. Hedani: Since your first application for this short-term rental home where you had five protest

letters come into the Commission from adjoining neighbors have you communicated with those neighbors?

Ms. Epstein: We have tried. They refuse to communicate with us. We invited them all personally to our open house.

Mr. Hedani: So basically you haven't communicated with them?

Ms. Epstein: No, we don't...we don't pass their homes when we leave our home. We don't really have an occasion to see them, but we did reach out to them and try to, try to get them to come so that they could see that there would be no harm to them in any way.

Vice-Chair Tsai: Corporation Counsel?

Mr. Hopper: Danny, I don't know if you can verify, but I believe the Department did send certified mail of the notice of this hearing to all the neighbors within 500 feet, the same ones that were contacted letting them know that there would be another hearing today? That was 'cause of kind of the odd procedural history of this case, but they did receive a notice that the meeting would be happening today by certified mail?

Mr. Epstein: Any other questions?

Vice-Chair Tsai: No. Don't see any questions. Can I have the Department's recommendation, please?

Mr. Dias: Thank you, Mr. Chair. As you know, there are two permits associated with this application. First there is the Special Use Permit and the Department's recommendation is for approval with one change, the existing recommendation has a expiration date of October 31, 2016. We wanna change that to October 31, 2018. And the second recommendation is for the Short-Term Rental Permit we recommend approval on that and also the date is for October 31, 2014, if we can change that to the 2016. Thank you.

Vice-Chair Tsai: Corp. Counsel

Mr. Hopper: He's recommending other than that all of the same conditions that were on the ...(inaudible)...report?

Vice-Chair Tsai: Yeah, can you verify your-

Mr. Dias: Correct. Subject to the same conditions in the recommendation that was part of your packet. The State Special Use Permit has six conditions and the Short-Term Rental Permit has 23 conditions.

Ms. McLean: And Danny, just one more clarification. So the changes in the date aren't changing the Department's original recommendation for the duration of those permits. It's simply because the time that has transpired since the recommendation was first presented, three years for the State permit and one year for the Short-Term Rental Home Permit.

Mr. Dias: Correct.

Ms. McLean: Okay, thank you.

Mr. Lay: Motion to accept the Department's recommendation.

Mr. Hudson: Second.

Vice-Chair Tsai: Okay, we've got moved by Commissioner Lay, second by Commissioner Hudson. Discussion on the motion? Commissioner Hedani?

Mr. Hedani: Procedurally, the Commission voted to deny this application. It was referred...well, there were attorneys involved. It was referred back to the Commission again. The Commission voted to...(audio feedback)...The Commission voted to uphold the denial of the application the second time.

Mr. Hopper: After it was remanded from the court, the Commission has not taken action since it's come back from the court. There's not been an action. So this is essentially a new vote. I mean, you're gonna take a vote. This is a second hearing. The Court remanded it to you. Since that remand, while the Commission did have a couple of meeting to discuss procedurally how to go forward, the Commission has not taken a vote on the merits of this case since it has been remanded. So right now, you would be voting, you know, you would be voting based on this record before you as well as the previous record which is why we discussed in the beginning to make sure that everyone has read the whole record. But essentially you're gonna take a vote because there are new commissioners and because time has past, based on the full record in front of you whether to approve to deny. The Staff has said it's the same recommendation. So it's essentially it's the same application plus any additional information that you've received since the original.

And again, I would wanna confirm with everybody who is here today that you have had the opportunity to review all of the record in this case. If any of you other than Commissioner Robinson who will not be voting have not had the opportunity to read everything, please make the Commission aware of that before taking a vote. But everything would have been provided to you including the minutes of the previous meetings as well as anything that has happened since the remand. But the Commission has not taken a vote since the decision from the Court to remand this back to the Commission has taken place. So essentially this is your decision now to approve or deny based on the full record in front of you. And so there's a motion on the floor to approve as recommended by the Staff and that includes all the conditions and is based on all of the previous record including the meeting today, the testimony today and the presentation by the applicants today.

Vice-Chair Tsai: Commissioner Higashi?

Mr. Higashi: I'd like to amend the motion to say that according to the recommendation of staff to increase the application two years to 2018 back to one year where the Director will have the opportunity to reevaluate this particular application. And the reason for that is that I'm still concerned about the sound system within the premise that they are saying that without this sound system outside of the premise they will not be able to rent this facility and I have a concern about

that. That's my motion.

Vice-Chair Tsai: Can he do that? Is that okay with the—

Mr. Hopper: He would need a...no, you would need a second to the amendment right now. So if there's a second then you could take a vote on the motion to amend at this point. It's not a friendly amendment to the motion. It's just a simple amendment. And so if there's another member who would like to second his amendment you can take, you can undertake that amendment.

Mr. Higashi: What was the amendment?

Mr. Hopper: The amendment was...well, if the Staff can—

Vice-Chair Tsai: Yeah, can you...Director, can you repeat the amendment please?

Ms. McLean: Again, the...what the recommendation...the Department's recommendation is to issue a three-year State Special Use Permit and a one-year Short-Term Rental Permit. And Commissioner Higashi is suggesting that that three-year State Special Use Permit just be one year. So the two permits would run at the same time and only be valid for one year is what his—

Mr. Medeiros: You can't have one without the other. What difference would it make with the three years?

Vice-Chair Tsai: Commissioner Medeiros can you speak in the mic, please? Thank you.

Mr. Medeiros: Check that. I understand. I don't agree with it, but I understand. Thank you.

Mr. Hopper: Can you ask is there a second?

Ms. McLean: Is there a second for the—

Vice-Chair Tsai: Is there a second for this amendment?

Mr. Hopper: No second, then the motion fails.

Vice-Chair Tsai: The motion fails.

Mr. Hopper: Back to the original motion.

Vice-Chair Tsai: Back to the original motion.

Mr. Medeiros: I'd like to make an amendment, but mine is I think it's friendly, you know, I mentioned the last time that you know this would be because the Epsteins lived on the island a bed and breakfast would be a better bet because people that live on the property have a tendency of taking care of their property. You know, they live a few miles away, couple miles away or something. I was wondering if I could set a condition that when, if the company that they hired gets a complaint that because it's the Epstein's property that they get immediately notified. You know, because it's

their home they should know. Can I make that request?

Mr. Hopper: Ask for a second.

Vice-Chair Tsai: Is that a friendly...

Mr. Hopper: It's a motion to--

Vice-Chair Tsai: Okay. Is there a second to that?

Unidentified Speaker: Don't they get ...(inaudible)... notify the neighbor. Isn't that the--

Vice-Chair Tsai: So can I ask the Pikake? So what is the policy in regards to complaints and things like that? Does the owner get notified automatically.

Ms. Kamahele: The owner does not get notified automatically. So we would handle that complaint accordingly. If you are saying that you want us to loop them in because they are here on island that's not a problem. It's never been a problem.

Mr. Hudson: I'll second the motion.

Vice-Chair Tsai: So we have a second. Thank you. So I have a second on a friendly amendment to...you wanna...

Mr. Hopper: You wanna get the wording...

Ms. McLean: That the property manager shall immediately notify the applicant of any complaints received relating to the STRH operation or the property manager shall notify the owner immediately of any complaints relating to the STRH operation.

Vice-Chair Tsai: Commissioner Hedani?

Mr. Hedani: What is the amendment that we're considering right now?

Ms. McLean: Well, the Chair hasn't called for the vote yet. We're still in discussion but, it's --

Mr. Hedani: Are we voting on a change of the recommendation from three years to one year or are we--

Vice-Chair Tsai: No, that's--that's off.

Mr. Hopper: That failed.

Vice-Chair Tsai: That failed. There was no second.

Mr. Hedani: Oh okay.

Vice-Chair Tsai: So you wanna make another–

Mr. Hopper: Oh no this motion we have to consider first.

Vice-Chair Tsai: Unless you wanna make another amendment.

Ms. McLean: Unless you want to amend that.

Vice-Chair Tsai: Yeah, anything else. So the first–

Ms. McLean: The motion that would be on the floor right now should the Chair call for the vote would be to just add a condition to both permits or just to the STRH permit?

Mr. Medeiros: Both.

Ms. McLean: To both permits that the property manager shall immediately notify the owner of any complaints received about the STRH operation. That is the motion that's on the floor right now.

Vice-Chair Tsai: Correct, unless there's any further discussion or amendments? Seeing none, then lets call for a vote. Oh, Commissioner?

Mr. Hedani: You're asking for discussion on the amendment?

Vice-Chair Tsai: Yes.

Mr. Hedani: Okay.

Vice-Chair Tsai: Or any...

Mr. Hedani: Not the main motion?

Vice-Chair Tsai: No.

Mr. Hedani: Okay, got it.

Vice-Chair Tsai: Seeing none, let's call for a vote. All in favor of the motion...we gotta do this separately, right, twice, the amendment and the motion?

Mr. Hopper: Just do the amendment first.

Vice-Chair Tsai: Let's do the amendment first is to–notify the owner.

Ms. McLean: Notify the owner.

Vice-Chair Tsai: Right. So we're gonna vote on that first and everyone in favor of that motion raise your hand?

Ms. McLean: Three ayes.

Vice-Chair Tsai: Opposed?

Ms. McLean: Two noes and one abstain.

Vice-Chair Tsai: No, he doesn't count.

Ms. McLean: Or one—

Mr. Hopper: Abstention.

Vice-Chair Tsai: So amendment fails. So now we're gonna vote—

Mr. Hopper: Discussion on the motion.

Vice-Chair Tsai: Discussion on the main motion? Commissioner Lay?

Mr. Lay: Okay, so I was here on that first one. There was some concern with the neighbors and I could see why there was some concern with the letters coming in. You guys did a really thorough job on addressing it and with the price range that you're there, the extent that you went through to make sure that your neighbors aren't bothered, that's why I made that motion for that. You went a long way to make this a workable in that area. It's not gonna increase the traffic. You've got people that are gonna come in there and told that you gotta be quiet, your music you got that adjusted, and good job.

Vice-Chair Tsai: Any other discussion? Commissioner Medeiros?

Mr. Medeiros: Yeah, I'm gonna support this one. My major concern was all of the complaints that came in, and they tried to contact these people, no response from these people. These people were sent letters about the hearing today, they didn't show up. And there was a lot of people that showed up in support. It's a...it's for one year. Any complaints they have to come before the Director again for a renewal. So I'll support it for a year and if it works out, it works out. If it doesn't, it doesn't.

Vice-Chair Tsai: Commissioner Hedani?

Mr. Hedani: I'm not in support of the motion to approve and this is the reason why. Five different people testified against this particular case. The applicant secured a very good attorney and worked the system to the point where the people that were complaining essentially have been exhausted. How many meetings do you have to go through, how many years do you have to testify, how many times do you have to come before the Commission to tell them that this is a not a happy situation.

In this particular case, we have five short-term rentals that are already approved for Maui Meadows. Now the applicant has said we're not a part of Maui Meadows, we're a part of the Kaimana Subdivision. It goes through Maui Meadows, it's tied to Maui Meadows through a Lot 29, and

regardless of what they say, Lot 29 was a part of Maui Meadows. The roadway access lot for their subdivision was a part of Maui Meadows. Lot 29 was subject to the CC&Rs of the Maui Meadows Subdivision.

The residents of Maui Meadows was so concerned about short-term rentals as well as B&Bs that they went to the County Council and got an approval from the County Council to restrict short-term rentals in their subdivision to five short-term rentals. That cap has already been met. The five short-term rentals have already been approved administratively or by this Commission. The maximum has been hit plus an additional eight B&Bs have been approved because there was a loophole that said although the short-term rentals were capped, the B&Bs weren't capped so you could have 100 B&Bs if you wanted to. So the residents in the Maui Meadows Subdivision now have 13 or more short-term rentals and B&Bs that are impacting the subdivision.

From my perspective the residents have spoken clearly about what they prefer for their residential neighborhood. The applicant has said that they have no effect on the residents of Maui Meadows. I don't agree. If I were the applicant and I had a concern over outdoor speakers around my pool, if I had ten speakers around my pool like the original and my application was in jeopardy I would jettison the speakers. I would take 'em all out. Scream and shout as loud as you can, but you can't have amplified music at that point. That's not the case in this case. What we've heard is you cannot rent the unit out without amplified music. Okay, the house rules that they propose say, no parties. The managing agent...(audio feedback)...I get a little tied up in these things once in a while, the managing agent has said, when you rent a property out like this, although your house rules say no parties there's gonna be parties. So that's what I heard. When I'm paying \$10,000 a night or \$12,000 a night, the managing agent is not gonna tell me I can't have a party for a property that I rented at \$10,000 a night. Keep my security deposit, I don't care, I'm gonna have the party.

From the standpoint of...(audio feedback)...impact...from the standpoint of impact to the neighbors, they said they have no impact to the neighbors, yet they built a wall, a solid wall that was 13 feet high between them and their neighbors in the other subdivision, the Maui Meadows Subdivision. They're an agricultural subdivision I guess in an agricultural subdivision you can built a 13-foot wall. The wall cuts off air circulation as well as views for all of the residents along that property boundary of Maui Meadows to the north. They can no longer get the tradewinds blowing onto their property. They can no longer have a view of the ocean as well as the West Maui Mountains. Their scenic vista along the northern side of the property has essentially been destroyed. We heard that today by a confirmation that the sight line from those properties to the north would be nonexistent. What they had when they purchased their properties was an agricultural property that had open grass lands in a pasture. That's what they purchased. That's the view that they had. What Epsteins have done through the Kaimana Subdivision is basically eliminate that from their property. That's why they're not here today. You know, how many times do you have to run your head against the wall of government and the process to the point where you're exhausted and say I give up, I don't care, I'll sell my property, I'll move some place else. I think they've had a significant impact on Maui Meadows residents. I think all of the items that we had in the first two denials for the project still exists.

We're not gonna rent to celebrities. If Nicole Kidman called them or Keith Urban called them again and asked to rent the property for \$15,000 a night would they say, no you're too noisy we can't have that, sorry? I don't think so. Personally I feel the letter that they sent to the Maui Aids Foundation

and they've confirmed that they did send that letter to the Aids Foundation, I find that repugnant that you would force a nonprofit to drop a director because he dared to oppose you on a separate business venture that you're engaged in I find that vindictive, I find that cruel, I find that it lacks integrity, and to me, that's not somebody that you reward with up to \$3 million a year in income through short-term rentals that's why in any case I'm voting against the project.

Vice-Chair Tsai: Commissioner Higashi?

Mr. Higashi: I was about 100 percent in support of the Epstein's application from the standpoint that they had a lotta supportive people about the kinds of things that they were doing, but I have a major concern about one item such as the sound system would affect their income on being able to rent such a beautiful place is a major concern for me and therefore, I'm voting against this particular amendment.

Vice-Chair Tsai: Commissioner Hudson?

Mr. Hudson: Gonna take a little bit more direct approach. I believe my job is to determine whether or not they met the requirements to obtain the permit and in that I think they did. The next thing I would consider is the impact to the community. I do not believe that the impact to the community would be that great. I understand what Mr. Hedani said about the walls and stuff, and it's something they didn't even consider. But the wall's a wall. I still do not believe the impact of the community would be so adverse as to deny the permit in my opinion.

Vice-Chair Tsai: Okay, let's call for a vote.

Ms. McLean: This is the original motion. It was not amended so it would be for the three-year State Special Use Permit and the one-year Short-Term Rental Home Permit subject to the conditions that were in the staff report.

Vice-Chair Tsai: So all in favor of the motion raise your hand?

Ms. McLean: Three ayes.

Vice-Chair Tsai: Opposed?

Ms. McLean: Two noes.

Vice-Chair Tsai: Motion fails.

It was moved by Mr. Lay, seconded by Mr. Hudson, and

The Motion to Approve the State Land Use Commission Special Use Permit and Short-Term Rental Home Permit as Recommended by the Department FAILED.

(Assenting - I. Lay, L. Hudson, J. Medeiros)

(Refrained from voting - K. Robinson)

(Dissenting - W. Hedani, R. Higashi)

(Excused - K. Ball, S. Duvauchelle)

Vice-Chair Tsai: We're gonna need another motion or–

Mr. Hopper: Should there be no action, you need a vote of five members to take action, it would be...the item would automatically be deferred until the next meeting, but you would need...well, you should ask for if there's any other motions either to approve with different conditions or to deny.

Vice-Chair Tsai: Right that's what I said, we need another motion on either approve or deny or it's gonna get deferred automatically.

Mr. Medeiros: I move to defer.

Vice-Chair Tsai: So I have a move to defer, Commissioner Medeiros. Is there a second?

Mr. Hedani: Second.

Mr. Lay: Second.

Vice-Chair Tsai: I think I heard Commissioner Hedani second. Okay so we have a motion to defer. All in favor?

Ms. McLean: Five ayes.

Vice-Chair Tsai: Motion carries. We're deferring again.

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

VOTED: To Defer the Matter.
(Assenting - J. Medeiros, W. Hedani, L. Hudson, I. Lay, R. Higashi)
(Abstained - K. Robinson)
(Excused - K. Ball, S. Duvauchelle)

Vice-Chair Tsai: We're gonna take a break–

Ms. McLean: Commissioners, let's just before we do that just to establish for the record that the minutes of this meeting will be provided to the Commissioners who were not here so that when this item is scheduled again, any members who were not in attendance today will still have the full record before them when this item next comes to a vote and hopefully Commissioner Robinson will also be able to vote at that time.

Mr. Robinson: I will.

Vice-Chair Tsai: You will read it this time.

Mr. Robinson: I will.

Vice-Chair Tsai: Commissioner Hedani?

Mr. Hedani: And I think everybody should keep the information that they've been given today and go over it one more time.

Vice-Chair Tsai: All right, we'll take a recess till 3:30.

A recess was called at 3:24 p.m., and the meeting was reconvened at 3:31 p.m.

Vice-Chair Tsai: All right, calling the Maui Planning Commission back to order. Next.

Mr. Spence: Commissioners, we're on number F, Communications. This is for Ms. Caroline Killhour, Executive Director of the Hui Noeau Visual Arts Center requesting amendments to their State Land Use Commission Special Use Permit at the Hui Noeau. Our Planner this afternoon is Ms. Ann Cua.

F. COMMUNICATIONS

- 1. MS. CAROLINE KILLHOUR , Executive Director of HUI NOEAU VISUAL ARTS CENTER requesting the following amendments to the State Land Use Commission Special Use Permit for property situated at 2841 Baldwin Avenue, TMK: 2-4-002: 011 and portion of 006, Makawao, Island of Maui. (SUP2 980002) (A. Cua)**
 - a. Extend the Hui Noeau SUP2 permit for 20 years.**
 - b. Revise the permit boundary from 11.64 acres to 14.07 acres**
 - c. Extend and expand operations of a high school program for the Haleakala Waldorf School for 5 years**

Ms. Ann Cua: Good morning, Members of the Commission and Chair.

Commission Members: Good afternoon.

Ms. Cua: Oh, I'm sorry, good afternoon. I want to...before I call the applicant's consultant I wanna give you a little bit of background information as to the permit history of the Hui which got us to this point today.

The original State Special Permit, and I'm actually on Page 5 going over some of the brief history, the original State Special Permit for the Hui was granted by the Maui Planning Commission back in February of 1990. Since then the project has received time extension and the current permit is valid until June 30, 2016. The most recent action by this Commission was in August 13, 2013. The Commission approved an amendment to the Special Use Permit for the operation of a pilot high school program for Waldorf Maui for a period of two to three years with a maximum of 50 students. Under the pilot program the Hui has allowed Waldorf the use of its classrooms, art studios, and portions of its campus to conduct its curriculum. Waldorf students and staff also have exclusive use of an 872 square foot workshop storage area that was renovated into a classroom. This renovated classroom was the attached garage of the original maid's cottage referred to by Staff as the Matsumoto Building and by modern signage as the Studio Cottage. The approval letter from 2013 is attached as Exhibit 24.

And today, basically they're asking for four amendments and the applicant is gonna get more specific on these amendments but briefly, first to extend the duration for the overall Hui Noeau permit, Land Use Commission Special Use Permit for a period of 20 years. Second, to amend the boundaries of the permit area from 11.64 acres to 14.07 acres, so an increase of 2.5 acres, amend the scope of the permit to extend the Waldorf Pilot High School Program for five years and the current permit allows the high school use for a maximum of 50 students until June 30, 2016. The applicant proposes extension of the pilot high school program to June 30, 2021 serving a maximum of 100 students, and then finally, to amend the scope of the permit to allow construction of additional classrooms and associated developments for the Waldorf High School Program. So at this point, I'll turn it over to Rob Cole the project's consultant and he has a power point presentation that he's going to take you through.

Mr. Rob Cole: Thank you, Ann. My name is Rob Cole. I'm here on behalf of Waldorf Haleakala High School. I'll just point out in the audience today we do have some members, I'm sorry, of both Waldorf, we have Richard Sport from the Haleakala Waldorf Board of Directors, and from Hui Noeau which is the landlords we have Caroline Killhour, Executive Director, and Clay Sutherland, member of the Board of Directors.

I know, I believe four of you were here two years ago when we originally got this permit, and Commissioners Higashi, Robinson, and Hudson are new. I'm gonna give just kind of a brief overview of the project, its use, and we'll talk about some of the improvements. And first I wanna thank the Members of the Commission. Not everyone knows that you're volunteers, so thank you for your time today. We've got some design by Bill Mitchell of Hawaii Land Design for our landscape plan, Linda Taylor provided the engineering, and Michael Leone, who may show up today is the designer.

In Upcountry Maui along Baldwin Avenue and Kaluanui Road is a old historic estate developed almost 100 years ago today. There's two parcels here Parcel 6 which is an agricultural parcel and then Parcel 11 which is a Public/Quasi-Public parcel that the Hui Noeau, Baldwin Estate was built on.

This is looking north to south, the same property from Kaluanui Road. Gonna point out this is back when there was pineapple on the agricultural parcel. Pointing out some of the main buildings here's the historic Baldwin Estate, the tennis court where the proposed classroom buildings are gonna be, and this area here which I'll show you some more recent pictures of is a manicured lawn and this is where the parking is gonna go. This is the iconic 1916 residence designed by the famous architect C.W. Dickey, cousin of Harry and Ethel Baldwin, built in the California Mission Revival style along with two other buildings including this guest house. Ethel Baldwin was very passionate about the arts and she immediately converted this to her own jewelry making studio. Today it serves as a guesthouse for a use that she started. She would invite artists from far and wide and they would come and their rent was they would have to teach people in her art society how to paint or sculpt or whatever their news was. And the third building in the iconic trail is the garage. This is now currently the house of a print studio below that used to be the laundry which is now another classroom. Back in the day this was a stable and a tack room. Horses were kept on a neighboring agricultural parcel. And to take stress off the historic structures in 1999, Hui Noeau expanded with this children's classroom and restroom building next door. In 2008, they took some pressure off the current or the previous ceramic studio which was located in the stables and built this building

which now poses and now houses the ceramic studio and jewelry making studios. This, if those of you who were here two years ago remember is the Matsumoto Cottage. It was the maids quarters and the gardeners quarters. And if I may step back two years ago, Haleakala Waldorf School approached Hui Noeau to put together a pilot campus, the high school campus.

And what is Haleakala School? As an elementary school student at Pukalani I asked my father this when my cousin moved to...from Kula to Haleakala School. And he straight up told me, it's a bunch of hippies futting around singing songs all day, and now that I'm older I have my own children and my friends have grown up at Haleakala School and have their children in the school and I've been on campus for a couple years observing I can tell you he's wrong. There really isn't any singing. Sorry, we don't have much drama in our application so I've got to harass the applicant a little bit.

Two years ago, they came to the school and they said do you have any space for us? And in negotiations they said, not really but we do have this old derelict garage that was built next to the Matsumoto Cottage. And they came up with a plan, they turned it into a classroom building which the Urban Design Review Board and this Commission approved and at the end of 2013 they had this building which they now use as basically the headquarters of the Waldorf School.

Now I'm gonna step back to 2005, I'm going to show you how this plays in, in 2005, the owner of the property Maui Land and Pine was going through economic trouble and decided to sell the estate and luckily the community came together and they were able to purchase both Parcels 11 and 6 for Hui Noeau and expending great effort Hui Noeau beautified this entire area here. They transformed what was pineapple back into pasture and they beautified this area which is now manicured. It coincides with a future master plan which they started sharing with the County around 2003. And in that master plan they envisioned some additional parking, a future wood shop and where the tennis courts are now and the Waldorf School's proposed eventually they wanna put some sort of event pavilion in there to take advantage of these beautiful western views and to also kind of reduce the stress on the estate formal.

So back talking about this area they've beautified and reserved for future expansion they've come up with a plan and that plan coincides with some of their future developments. So the current request is Waldorf is once again looking to expand and buy themselves a little bit of time before they find their own campus, but I've outlined here in white is the location of a parking lot with the access road and connecting road and a fire lane. Three new buildings, two classroom buildings, and an administrative building and some septic improvements. This red area here is a portion of Parcel 6 that's been in use, approved in description but never by map into the current permit SUP2 98002. So we've been asked to formally adopt the area in red and this additional area into the plan and that's one of the requests before you today is to increase the size of the SUP2 area.

This is the beautiful manicured lawn. It's been reestablished. This is generally the location of the proposed parking lot looking towards Baldwin Avenue and in that same yard looking up towards the tennis court that we described. This is the tennis court itself looking northward towards the children's cottage, sorry, children's classroom. And this area has historically been used for storage. It's hidden. It still has portions of the iron netting that went around it which are now overgrown with vines,...(inaudible)... trees, lot of large ironwood and other vegetation that kind of masks the area.

I'm gonna get into some of the plans. Ann has asked me to kinda dot the i's and cross the t's here

so I'm gonna just make a couple notes as I talk to you. We have a couple replacement exhibits in here and I'll just note it...let you know which ones those are. What you have here is Exhibit 6B of your packet and this is the previous landscape plan showing the tennis court, and at that time what was proposed as three administrative buildings of 200 square feet, a walkway to the parking lot, and a number of ohia trees as landscape planting. What has changed since then and it's intermittently shown in your application packet is they've consolidated these three structures into a more practical 600-square foot structure and they've changed the routing of the accessible walkway so that the classrooms connect to the existing restroom area and as does the parking lot.

So for example, we have here what is Exhibit 7 and also more recently Exhibit 27 in your packets, 27 would be in the handout that Ann gave you. And I'll just point out these are the main features of the site, once again, the classroom buildings located on the tennis court, parking lot with the retention basin, some septic improvements. And I'll point out the changes here that are different between Exhibit 7 and 27 are essentially relocating...or sorry, the addition of this loop, the parking and this additional fire access requested by the Fire Department. And we also designated a section of the property which I'll show you in the next slide there's a 50 x 50 foot slab here. This is the landscape plan just kinda showing you the slab, during daytime hours this will be for ADA parking to provide the hard surface. During off hours will be a place to set up a telescope or assemble a project, bounce a basketball or given that's Waldorf you know perhaps compete for the largest tie dye t-shirt.

The changes to this plan which is Exhibit 7 and also Exhibit 27, sorry, excuse me, Exhibit 6B and Exhibit 28 are just some minute changes to the locations of these trees. Once again, the relocation of the ADA parking and crosswalk to the mauka side of the parking lot and the addition of this loop down here.

Getting into the meat of the development, this is in Exhibit 12 and also 26 in your packets, 26 being the most recent and I've just highlighted some of the colors here so you can see it a little clearer. This is what we're calling Waldorf Village. It's three buildings to be located on the tennis court, two classrooms mirror image of each other, 24 x 60 with a 12-foot deck, one administrative building totaling 600 square feet, a little bit of detail provided in Exhibit 26, a little bit more than that was in Exhibit 12. The primary change between the two is really manini they've just relocated one of the access ramps from the south side of the building to the north. It optimized the ADA flow.

Here are some elevations of the project shown in Exhibit 11 and shown in updated Exhibit 25. The style of the buildings is country plantation style, board and batten siding, wood framing around windows and doors, gable roofs, split pitch for the deck, and usually you have a choice, period choice of what we call ranch green or barn red and they went with the green for this one. Difference between the two Exhibits 25 and 11 is solely the repositioning of the ramp to the interior.

And lastly a rendering showing the different angles of the structures. The only inaccuracy I can point out is just this ramp which has been relocated towards the center of the complex. Michael Leone, the designer has put together a brief visual, a walk through here showing the location of the building as you progress through the campus essentially showing how hidden it is. You can barely see the top of the structure here. This is from the south lawn of the Baldwin House. This is kind of the primary event area. And you as you go down a couple of terraces you can see portions of the project through the screening vegetation.

This is a view from the lawn in the front. This is a little bit dated. This is showing the three, 200-square foot administrative buildings rather than the one singular just to give a sense of scale and color we've provided for you today.

Just to summarize, you know, two years ago they came here to start a pilot school and it was somewhat a leap of faith mitigated by the fact that they could use the Hui site without having to change the zoning or develop a new property it was successful and they actually have it says 55 students today. I've heard it's a little bit lower. They've added 11th and 12th grades this year. They're hoping to get up to 75 students by 2016, 100 by 2017. And it's gonna take some time for them to work up a new campus. Right now they're in the search and within negotiations with private landowners looking to purchase a site. Ahead of them is entitlements which could take a while depending on the zoning, after that construction planning, hopefully a couple quick short drunken wild fundraisers to get them moving, clarify I mean drunken and wildly successful fundraisers and if everything goes as planned, they'll be moving out one summer between 2018 and 2021 to their new campus. The buildings will move, the parking lot, the improvements will stay to benefit the Hui.

And just to reiterate the request, we're looking to one, extend the normal duration of the Hui's permit to 20 years, amend the boundaries of the permit area as provided by Figure 6 in your report, amend the terms of the Waldorf Pilot High School from 50 to 100 students and extending it from June of next year to June of 2021, and approve the developments for the temporary classroom and administrative buildings and permitted gravel drive, and 34-stall parking lots, the new sidewalks and septic system improvements. And with that I'll conclude and take any questions you might have.

Vice-Chair Tsai: Thank you. Okay, now I can open the floor up for public testimony. Anyone wants to testify on this action item, please come forward. Seeing none, public testimony is closed.

Ms. Cua: Thank you, Mr. Chair. I just wanna cover a couple of points in the analysis. I had planned to talk about more but you have the report, I'm sure you've read it. So I'm just gonna summarize. Both the Hui...and I'm starting on Page 7...both the Hui use as well as the school use is not an outrightly permitted use in the State Agricultural District thus the need for a Land Use Commission Special Use Permit which has been required...I mean, which has been approved, which has been extended. The reason why we're here today is because they want to extend it and add additional uses. We're indicating that the proposed amendments that have been discussed with you to this Special Use Permit are in keeping with the overall scope of the permit and qualify as unusual and reasonable uses.

Relative to County Zoning, the property is within the County Interim District. The district allows such uses as kindergartens, elementary schools, intermediate schools, high schools, and universities and therefore, the Waldorf Pilot High School Program as well as the proposed amendments and the Hui uses are permitted within the County's Interim District and that's why you only have one permit, the State Special Permit before you today.

In terms of...I'm on Page 12...in terms of the Makawao-Pukalani-Kula Community Plan the property is identified as Public/Quasi-Public Use and both the Hui use as well as the pilot high school program for Waldorf is consistent with this designation.

On Page 15, very important to this property is the historic uses and the historic character of the

buildings. Its so much so that there is a condition that has existed on this Special Use Permit that any new building has to be reviewed by the State Historic Preservation Division as well as the Urban Design Review Board. So we did send this out to State Historic Preservation Division and they had a few comments. Their comments are attached as Exhibits 19 and 21, and the applicant's response letter is in Exhibit 20. SHPD's records indicate that an Archaeological Survey has been completed for the Visual Art Center, two historic properties were identified and mitigation for these two sites include the preparation of an Archaeological Preservation Plan which has not yet been received by State Historic Preservation Division. So the applicant has met with the State Historic Preservation Division and they have agreed to the following: First, to consider the location of historic buildings when construction planning specifically that the staging area should not be located adjacent to historic buildings. That's SHPD's comment. The applicant has responded that they intend to locate primary staging areas, materials, and equipment within the adjacent agricultural property, Parcel 6 that you saw in the power point presentation. The duration of construction near the stables is expected to take approximately is that 50 days, I believe, and is limited to upgrades to the septic system.

The second comment from State Historic Preservation Division is to install orange construction fencing a minimum of ten feet from the 1920s stable tack room building to protect it during construction and the applicant has agreed to do that.

The final comment from State Historic Preservation Division is to consider treatment options for the historic concrete stairway in light of the proposed increased use once the high school temporary structures have been installed on the old tennis court. We see no need to avoid it, but increased use may have a negative effect over time, so some sort of protection may be in order. The applicant responds that they intend to use the concrete stairway...sorry, they intend to use the concrete stairway as a secondary access with the primary access to the classrooms being from the walkways proposed west of the temporary classroom buildings.

One other comment relative to wastewater. The applicant mentioned that they are proposing an individual wastewater system comprised of a new 1,250-gallon septic tank and soil absorption bed. We sent this to the Department of Health for them to review the project and they've indicated that the individual wastewater system conforms to the applicable provisions of their rules, Department of Health rules.

One last, one last comment. As I mentioned, they...their existing condition on their permit requires that any new buildings be reviewed by the State Historic Preservation Division as well as the Urban Design Review Board. So based on the fact that that they are proposing new classroom buildings we took the project to the Urban Design Review Board on May 5, 2015. The Board reviewed the project and basically gave their unanimous approval to recommend approval to you with no conditions from the Board.

In addition, regarding testimony the Department has not received any letters in support of or in opposition to this Land Use Commission Special Use Permit amendment. Are there any questions?

Vice-Chair Tsai: Commissioner Robinson?

Mr. Robinson: Ann, I have a question regarding the 1,250-gallon septic tank. I hear you say that

the Department of Health said it's okay, but I don't see any paperwork here. What's the amount of people? If you have 100 students plus teachers plus parents plus whatever it is, what's that amount of people that's supposed to hold that 1,250-gallon septic tank?

Ms. Cua: I'll ask the applicant to respond. You know, we just sent it to Department of Health because they have the expertise in reviewing that type of system and they came back and said it was acceptable. So with that, I'll defer that.

Mr. Robinson: Well, I mean because, because it's school children you have to, you also have to hit standards for that. It's ain't just a farm dwelling. So the Department of Health has to chime in on that at some point because it's public health.

Ms. Cua: And they did.

Mr. Robinson: Right. Just not in writing?

Ms. Cua: Did I not attach it? Exhibit No. 18. Yeah, Exhibit 18, letter dated June 22, 2015. The subject wastewater plans have been reviewed by the Wastewater Branch for conformance to applicable provisions of Hawaii Administrative Rules. The IWS Plan conforms to the applicable provisions of their rules.

Mr. Robinson: Okay. I apologize. I see this, but this doesn't say the number of people, but this is what they have and I guess...(inaudible)...that. The second question is as regards to the Montessori School next to it. So does not Montessori own its property? Is that also part of Noeau and a rental?

Ms. Cua: No, no.

Mr. Robinson: They own their own?

Ms. Cua: They own their own property.

Mr. Robinson: And they have no chiming in at this at all? There's no for or against or no?

Ms. Cua: They've...well, I mean, they're-

Mr. Robinson: Five hundred feet do they-

Ms. Cua: This, this-

Mr. Robinson: -know?

Ms. Cua: -this is not a public hearing. They did not do public hearing notice. We brought...we're bringing this to you as a Communication item. The original permit went and had a full public notice, but we when do a Communication item on the agenda it's not a public...it's a public presentation and people can speak, but this is not a public hearing for notification purposes.

Mr. Robinson: Sorry, I don't-

Ms. Cua: I'm sorry.

Mr. Robinson: -understand.

Ms. Cua: Okay, the three items that were before you today-

Mr. Robinson: ...(inaudible)...

Ms. Cua: -the three first, no the three first items that were before you on your agenda are listed as Public Hearing items.

Mr. Robinson: Okay.

Ms. Cua: Yeah, public hearing, and you had three. This matter is listed as a Communication item on your agenda. When something is listed as a Communication item on the agenda, the applicant is not required to do public notice, notify people either within 500 feet or adjoining neighbors.

Mr. Robinson: Because?

Ms. Cua: That's just the procedure.

Mr. Robinson: But, but what clarification lets them have to skip that process? 'Cause they're asking for a permit that happened the first time for the extension, so as part as that first permit was that was on the director's...you know, it go back to the director to see for an extension or it has to come back to us and it's not gonna be a public matter?

Mr. Spence: Well all these are public matter.

Mr. Robinson: Yeah, this is a Communication.

Mr. Spence: Public hearing items are defined in the State Law, and this Commission has and the State Land Use Commission has Administrative Rules that calls for a certain notification. Since this is not a public hearing, technically a public hearing there are no notification requirements for your adjoining neighbors.

Mr. Robinson: But there's voting on extending the permits and classifications that could affect adjoining neighbors?

Mr. Spence: Yeah.

Mr. Robinson: Like a driveway with 100 kids being dropped off every day now?

Mr. Hopper: This is a, by the way, this is a State Special Use Permit so there really aren't any in statutory notice requirements whatsoever as far as neighbors. Notice is given to the adjacent neighbors because they for due process reasons, but this is not a County permit where the public

hearing term comes into play. So there's no public hearing requirement as far as notification to neighbors whatsoever in this...for a State Special Use Permit. That issue's been litigated. It's to give notice to the neighbors for due process issues would be the requirement and the Department can explain why that wasn't required as part of this application. But that's...that would be the normal requirement for a State Special Use Permit would be giving notice to the neighbors for a new permit. But this is not like a County Special Use Permit which under the County Code, under 19.510 of the County Code there's a definition of public hearing which requires a newspaper notice and notice to neighbors within 500 feet. It's not like a short-term rental home permit where there's a specific requirement for notification with neighbors within 500 feet. The only rules that guide you here are the State Land Use Commission Rules because the County does not have any rules for State Special Use Permits. And the State Special Use Permit Rules don't specify to my knowledge any procedure for notification to the neighbors. So the County does that essentially as a courtesy to the neighbors by mailing notice out to adjacent property owners is what I understand they do for State Special Use Permits.

Ms. Cua: That's correct, and it's on the original Special Use Permit. If I could give you another example. Let's say a County Special Use Permit or even for an SMA Major Use Permit, the initial application does get...does have a public hearing, a public notice requirement. If you look at the next item on your agenda, you have a request for an extension of an SMA Permit. That's not gonna be a public hearing as well. The public hearing happened when the...at the original permit. When they just come in for an extension it doesn't require a public hearing so it's either noticed on your agenda as a Communication item or under Director's Report. You take public testimony but there's just a difference—

Mr. Robinson: No, I understand the extension, but to me this is an extension, this is an extension plus adding buildings and parking lots on it so that's where my question is.

Ms. Cua: Well, it's an expansion. It's an expansion of a previously approved use. You've already approved the use of a pilot high school program, but you had parameters. You said that it should happen from this time to this time and it's limited to 50 students. So they're asking that that continue, but that it be expanded. So the Department doesn't have the authority to just tell them you can do that. We have to come back to the Commission and we have to ask you to amend their permit and that's why we're here today.

Vice-Chair Tsai: Commissioner Higashi?

Mr. Higashi: Point of clarification, Ann. When I first looked at this document I was confused because it started with Hui Noeau. My understanding is Hui Noeau is a nonprofit entity. And then when I read further, I read Waldorf.

Ms. Cua: Right.

Mr. Higashi: And as far as my understanding is Waldorf School is in Kula and it's a private entity. And then now I see Hui Noeau is doing a partnership with Waldorf School within the parameter of a State land area and so my confusion is when it comes to schools it usually falls under the State jurisdiction not the County. And if that's the case, how is Waldorf getting into Hui Noeau area as far as I can see them doing art projects so it's partnership, but I now read they're developing an

actual school within that particular facility area. And so how did all transpire?

Ms. Cua: And I think Rob spoke to that effect. First of all, Waldorf is a private—

Mr. Higashi: Right.

Ms. Cua: —it's a private school. It's not a public school, and I don't believe they fall under the Department of Education.

Mr. Higashi: Right.

Ms. Cua: And just to kinda reiterate what Rob talked about the Hui, I mean, I'm sorry, Waldorf I guess approached the Hui to try and partner 'cause they were looking for a facility and they're still looking for a facility. But the use for Waldorf to be at the Hui Noeau site was previously established through amending of this State Special Permit back in 2013 which is what I kinda went over. So the use has been established in 2013. Now we're in 2015, and they're asking to expand upon the use that's already existing there. So this not, this is a not a brand new use. This use was already predetermined in 2013 by this body that it qualified as an unusual and reasonable use in the State Agricultural District just as the Hui qualifies as a unusual and reasonable use which the Commission has to determine that it is an unusual and reasonable use to be able to grant a permit.

Mr. Higashi: Well, my concern is that it sounds like this is gonna turn out to be a private high school within a state land area.

Ms. Cua: Okay, I think maybe the confusing point is when you say in a state land area.

Mr. Higashi: Right.

Ms. Cua: The area is zoned State Agriculture and County Interim.

Mr. Higashi: All right.

Ms. Cua: I think when you say state land area that's a little bit confusing. It's a piece of property that's owned by the Hui that happens to be zoned County Interim and State Ag.

Mr. Higashi: Well, I'm confused from the standpoint that usually when you build any educational facility it comes under the jurisdiction of the State not the County.

Mr. Hopper: Okay, just to clarify you're determining on private property, privately owned property.

Ms. Cua: Privately owned property.

Mr. Hopper: Whether or not this land use is allowed. Just like for the Epsteins earlier you voted on whether they were allowed to use their private property for a land use. That's your jurisdiction whether they can continue to use their private property in a way that exceeds what the zoning allows that's why it's a special use permit. Whether or not it's regulated by the State or anyone else that's outside of this Commission's jurisdiction. So you're right, the State Department of Education

would need to determine or if it's privately owned whatever regulations there may be for private schools would have to regulate those there. The purpose of this is not to regulate whether or not a school, what Department of Education or other schools they would have to follow, it's to determine whether or not this is a land use there, whether it would be a publicly owned school or a privately owned school is an appropriate use for the area. There are our public schools as I understand it that also have special use permits to operate. The County is given authority for properties under 15 acres, and specifically the County Planning Commission is given the authority for property under 15 acres that's both State and County property whether it's State owned or it's privately owned property the authority to determine whether or not this is a use that is allowed that goes beyond what the zoning allows. And so you're looking at it from a land use perspective. The Commission has been given a report and in that report the Staff has gone into the criteria for determining whether or not this use is appropriate and its analysis. You can agree or disagree with that analysis and place appropriate conditions on the property. But to be clear, you're not giving them the okay to build the school as far as any State Department of Education or other regulations that regulate schools specifically would be concerned with. You're regulating whether it is a school use, whether it is a short-term rental home use or whether it's any other use that's not outright allowed in the State Agricultural District. You're determining whether or not to allow a different kind of use other than what is currently allowed in the district whatever that use may be.

Vice-Chair Tsai: Director?

Mr. Spence: I'd just like to add briefly too. The Hui Noeau has always been a school. It's always been a school.

Mr. Higashi: Nonprofit.

Mr. Spence: It's a nonprofit.

Mr. Higashi: Right.

Mr. Spence: But its primary function has been teaching.

Mr. Higashi: Right.

Mr. Spence: So they always hold painting classes, drawing, ceramics, jewelry making, photography. I was a teacher. So the Waldorf mission and the Hui Noeau mission go very well together because both of their missions have to do with education. So it's really just...what can I say, they go together very well. One was purely an art school, the other has some other programs but they mesh together in the arts as well and provide the room for the Waldorf as well.

Mr. Robinson: Is it a art school or had arts programs?

Mr. Spence: It was an art school.

Mr. Robinson: School? All day school?

Mr. Spence: Yes. And so now it has expanded the addition of Haleakala Waldorf.

Ms. Cua: And if I could add, the applicant has informed me that Waldorf is also a nonprofit.

Mr. Spence: And I'm sure they're accredited as well.

Ms. Cua: I'm sure they are.

Mr. Spence: Yes, I see nods.

Vice-Chair Tsai: Any other questions? Okay, can I have the Department's recommendation, please?

Ms. Cua: Based on the foregoing findings and analysis the Planning Department finds that the proposed amendments of the permit are an extension of the unusual and reasonable uses for the Hui Noeau. The proposed uses are not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect, and encourage development of land in the state for those uses to which they are best suited in the interest of public health and welfare. Therefore the Planning Department is recommending approval of the State Land Use Commission Special Use Permit amendments subject to a number of conditions, and I'm gonna summarize.

Condition No. 1 it just extends the overall permit until June 20, 2036 which will give them 20 years. Because of the sheet that I passed out which I labeled Exhibits 25 thru 28 which is basically an additional exhibit to your report that you have I need to amend Condition No. 6, "that the proposed new classroom and administrative buildings, parking, drainage, and wastewater system improvements shall be constructed in substantial compliance with preliminary plans dated April 23, 2015, June 16, 2015, August 21 and 27, 2015 and October 15 and 26, 2015, and as depicted in Exhibits 7 thru 14 and Exhibits 25 thru 28 of the Maui Planning Department report for the October 27, 2015 meeting.

In terms of project specific conditions, do you want me to read all through the project specific conditions? There's no changes.

Vice-Chair Tsai: I don't think that's necessary.

Ms. Cua: Okay.

Vice-Chair Tsai: Thank you.

Mr. Medeiros: Move to accept the recommendation.

Mr. Hedani: Second.

Vice-Chair Tsai: Moved by Commissioner Medeiros, seconded by Commissioner Hedani. Discussion? Commissioner Hedani?

Mr. Hedani: I think the Hui has done a tremendous job of preserving the buildings that are on the site from a historical perspective and advancing the mission that they have of encouraging study in the arts. I'm glad that they're expanding the area. I guess they stayed below 15 acres in order

to avoid jumping to the State Land Use Commission jurisdiction--

Ms. Cua: Correct.

Mr. Hedani: --on the overall area. And the only question that I had was whether or not some kind of change in the basic zoning for the property at some point in time in the future would be preferable to continual renewal of a special use permit?

Ms. Cua: It's something that has been discussed with them. You know as I mentioned the community plan designates the property for Public/Quasi-Public and really it would be in the best interest of the property to be zoned Public/Quasi-Public 'cause then...but then they wouldn't be able to see you. They'd come that one time and they wouldn't be able to come every five or ten years, but no, I mean seriously that is something that has been discussed with them. You know, the reality is it is a huge financial burden for someone to go through the change in zoning process. So, you know, unless...maybe they get some help from a Council member to initiate it for them...

Mr. Hopper: Again, that would be a zoning change, so they'd still need the State Special Use Permit.

Ms. Cua: That's true.

Mr. Hopper: In that 20 years they'd still need that, so maybe a District Boundary Amendment would be a consideration as well.

Ms. Cua: Yeah, that's true. You're right.

Vice-Chair Tsai: Commissioner Lay?

Mr. Lay: Oddly enough, we used to keep horses at that stable way, way back when. So I've seen the changes through the years. We live on Kokomo Road, pass by it all the time, really positive changes, it looks really nice. You guys doing a great job out there and educating the kids, wonderful.

Vice-Chair Tsai: Commissioner Robinson?

Mr. Robinson: I have no personal opinion or disapproval of Noeau or Waldorf but I am concerned about information and about public knowledge. 2013 when this permit was issued and there was a public hearing it was for 872 square feet plus a 160 square foot patio and a 72 square foot and it wasn't about building a high school for 100 kids. I'm sure if this were to go to public the Montessori people might have being a neighbor. If I was a person that was part of the Montessori school and knew that a high school was going to be built and I invested a lot of money in children's education and the eliteness of it, I don't see why we would try to slide through an approval without going to the public and letting them know that we're gonna put 100 kids in a high school, we're gonna build it and it's gonna be beautiful and our kids are gonna be arts and it's, you know, you know, put a banner and be proud of it instead of trying to just slide through this process. And even though that's my personal feeling I just...I'm a person that likes to have disclosure and everybody sort of knowing and you know, like Montessori is right there, and that's you know, and that's very

important to them, and for them not to even have notice of it it's just strange for me and it's hard for me to support something like this that's purposely avoiding letting somebody know. I mean you could have sent them a letter, you know. That's just my personal feeling.

Ms. Cua: And if I could just comment. I did check with them and they have had discussions with Montessori. I believe they have a relationship with them as well because some of their students go onto the high school here, so...

Vice-Chair Tsai: Director?

Mr. Spence: And if I could comment too. When I was in the private sector I was the consultant for the Montessori School when they doubled their size, actually more than doubled the size of their campus next door and there was a very nice relationship between the Hui and the Montessori School. So I just expected that. I mean, that still continues. I don't see anything flying by each other. They each have their missions. They know each other next door and they work together on things.

Mr. Robinson: And I say this because I know a couple of parents that go to Montessori and they always brag to me about the isolation of it, the lack of distraction...you know, it's different people go for different things and it's not cheap.

Mr. Spence: And I would also comment--

Mr. Robinson: Either is Waldorf.

Mr. Spence: --the earlier comment was, you know, if you're gonna have all these cars driving down next to you, well, the access to the new classrooms is gonna be through Kaluanui Road not down the regular driveway that's closest to the Montessori School. So Montessori will not even be aware of the additional cars going to the new classrooms.

Vice-Chair Tsai: Okay, we have a motion on the floor. Oh, Commissioner Medeiros?

Mr. Medeiros: Yeah, I have one comment. Yeah, I made the motion for one simple reason, I like schools not for me, but for the kids. I like 'em.

Vice-Chair Tsai: Thanks for that clarification. You wanna repeat the motion the floor?

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

Vice-Chair Tsai: Call for a vote. All in favor?

Mr. Spence: That's five ayes.

Vice-Chair Tsai: Opposed?

Mr. Spence: One opposed.

Vice-Chair Tsai: The motion carries. Congratulations.

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

**VOTED: To Extend the Hui Noeau SUP2 Permit for 20 Years; Revise the Permit Boundary From 11.64 Acres to 14.07 acres; and, Extend and Expand Operations of a High School Program for the Haleakala Waldorf School for 5 years as Recommended by the Department.
(Assenting -J. Medeiros, W. Hedani, L. Hudson, I. Lay, R. Higashi)
(Dissenting - K. Robinson)
(Excused - K. Ball, S. Duvauchelle)**

Ms. Cua: Thank you.

Mr. Cole: Thank you.

Vice-Chair Tsai: All right, Director?

Mr. Spence: Commissioners, we're on number G, Acceptance of the Action Minutes for the October 13, 2015 meeting.

G. ACCEPTANCE OF THE ACTION MINUTES OF THE OCTOBER 13, 2015 MEETING

Mr. Lay: Motion to accept.

Mr. Hedani: Second.

Vice-Chair Tsai: Moved by Commissioner Lay, seconded by Commissioner Hedani. All in favor?

Commission Members: Aye.

Vice-Chair Tsai: Five ayes.

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

**VOTED: To Accept the Action Minutes of the October 13, 2015 Meeting.
(Assenting - I. Lay, W. Hedani, J. Medeiros, L. Hudson, K. Robinson,
R. Higashi)
(Excused - K. Ball, S. Duvauchelle)**

Mr. Spence: And then Commissioners, Item H1, Planning Director, me, notifying the Commission pursuant to your rules the intent to process the following time extension administratively for Mr. Alfred Fairbanks requesting a two-year time extension of an SMA Permit and our Staff Planner is Mr. Jim Buika.

H. DIRECTOR'S REPORT

1. **MR. WILLIAM SPENCE, Planning Director, notifying the Maui Planning Commission pursuant to Section 12-202-17(e) of the Maui Planning Commission's SMA Rules of his intent to process the following time extension requests administratively:**

MR. ALFRED FAIRBANKS requesting a two (2)-year time extension on the Special Management Area Use Permit condition to initiate construction of the Alahele Subdivision and related improvements at TMK: 3-9-017: 034, Kihei, Island of Maui. (SM1 2007/0006) (J. Buika)

Mr. Jim Buika: Thank you, Director. Aloha Commissioners. My name is Jim Buika with the Planning Department. There's a small packet there on the Alahele Subdivision and it is to extend the existing SM1 Permit for two more years until October 31, 2017. I'd like you to introduce you to Alfred Fairbanks, the owner of the property, and his son, Joe Fairbanks who are here who can answer any questions that you may have.

The Department recommends that the Commission does waive review and allow the Planning Commission [sic] to administratively review the time extension and look at the SMA changes and conditions in the area. There is a site map in your project there. It is a 14-acre parcel that was approved in 2008. This is the third time extension due to certain circumstances. The 14 acres, it is a 48-lot subdivision. The SM1 approval was for infrastructure only to sell the lots. The new owners, the Fairbanks plan to make it a 100 percent workforce affordable on the large lots in Kihei. So they are...The reason for the extension is they are working through the process of the Hawaii Housing Finance and Development Corporation 201H application for the 100 percent affordable project. And they do the...the applicant does want to put affordable homes on the properties now so with the extension the applicant will come back to you because the SM1 permit is only for, is for infrastructure and improvement for lots only. So they will come back once they get the affordable housing permits, come back to the Commission for approval for the houses on the parcels. They're looking at...the reason for the extension is they're working through the water requirements, potentially supplementing the existing Environmental Assessment, working with the Kihei Community Association, eventually they'll go to the Urban Design Review Board. So that's it. Again, if you need any more information, we have Alfred Fairbanks and Joe Fairbanks here to answer any questions you may have.

Vice-Chair Tsai: So we're gonna open the floor for public testimony. Anybody wish to testify at this point? Please come forward. Seeing none, public testimony is closed. We have questions from the Commission regarding this? Commissioner Hedani?

Mr. Hedani: It's just a comment. Anyone that's coming in with a proposed 100 percent affordable project I applaud their efforts. I wish them well, and God speed.

Vice-Chair Tsai: Commissioner Robinson?

Mr. Robinson: Just one question. How is your financing for this lot, you're asking for a two-year extension. Do you guys have the financing in place?

Mr. Alfred Fairbanks: Not to do the whole project.

Vice-Chair Tsai: Please identify yourself?

Mr. Buika: I'll invite Alfred Fairbanks, the owner to address the question at the podium.

Mr. Fairbanks: Not to do the whole project at once. We need to...I don't have the fire power personally to be able to do that, so we're...and have been asking to do it in phases.

Mr. Robinson: Are you guys shopping the credits and trying to get some offset with that to help the development? Is that a factor at all?

Mr. Fairbanks: Well we have tried, but at this point we haven't had anybody be willing to put up any money for it. We're not saying it's never gonna happen, but it could happen. We've talked about it.

Mr. Robinson: We hope it does.

Mr. Fairbanks: Yes.

Mr. Robinson: Anything you can do. Appreciate it. Thank you.

Mr. Fairbanks: Thank you. If you have any contacts that would be more than a little appreciated.

Vice-Chair Tsai: Anybody else? So we can either waive review or review the time extension? We have a motion?

Mr. Hedani: Move to waive review.

Mr. Medeiros: Second.

Vice-Chair Tsai: Motion by Commissioner Hedani, second by Commissioner Medeiros. Motion is to waive review. All in favor of the motion?

Mr. Spence: That six ayes.

Vice-Chair Tsai: Motion carries.

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

VOTED: To Waive Review of the Time Extension.
(Assenting - W. Hedani, J. Medeiros, L. Hudson, I. Lay, K. Robinson,
R. Higashi)
(Excused - K. Ball, S. Duvauchelle)

Mr. Fairbanks: I think you guys should all get a get into heaven free card for the mind numbing testimony that you sometimes get. I just did this for half a day, oh my.

Mr. Spence: Commissioners, Item H2, reports from the members who attended the 2015 HCPO

Conference.

2. Reports from the members who attended the 2015 Hawaii Congress of Planning Officials (HCPO) Conference - October 14-16, 2015 at the Hawaii Convention Center, Honolulu, Hawaii

Mr. Robinson: I move to defer that to our next meeting because of time.

Vice-Chair Tsai: We have a motion to defer.

Mr. Robinson: We got a second, right.

Mr. Medeiros: Second.

Vice-Chair Tsai: Second. All in favor?

Commission Members: Aye.

Vice-Chair Tsai: Six ayes.

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

VOTED: To Defer to the Next meeting.
(Assenting - K. Robinson, J. Medeiros, L. Hudson, I. Lay, W. Hedani,
R. Higashi)
(Excused - K. Ball, S. Duvauchelle)

Mr. Spence: Okay, Commissioners you also have Items 3 and 4. You have received copies of the SMA Minor and SMA Exemptions Report.

3. SMA Minor Permit Report

4. SMA Exemptions Report

Mr. Hedani: Move to accept.

Vice-Chair Tsai: Move to accept. Second?

Mr. Hudson: Second.

Vice-Chair Tsai: Commissioner Hudson. All in favor?

Commission Members: Aye.

Vice-Chair Tsai: Opposed. None.

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

VOTED: To Accept the SMA Minor and Exemptions Report.
(Assenting - W. Hedani, L. Hudson, J. Medeiros, I. Lay, K. Robinson,
R. Higashi)
(Excused - K. Ball, S. Duvauchelle)

5. Discussion of Future Maui Planning Commission Agendas

a. November 10, 2015 meeting agenda items

Mr. Spence: Future Planning Commission agendas, November 10th you have two public hearings. You have Mr. Dave Taylor from the Department of Water Supply looking for a Phase 2 Project District Approval to replace the Iao Water Treatment Plant. You also have a request for a Bed and Breakfast Permit by Mr. Steve Nickens and Ivy Nickens, two bedrooms on Kauhikoa Road in Haiku. Then Item B, New Business everybody received a copy of the Nani Loa, Victory Development requesting an Environmental Assessment Determination on a Final Environmental Assessment for a Community Plan Amendment for Multi-Family from Hotel for condo/hotel project, 39 units. And the next time we'll notify you of a SMA Emergency Permit.

I. NEXT REGULAR MEETING DATE: NOVEMBER 10, 2015

Vice-Chair Tsai: Next meeting is November 10th. Thank you. Meeting's adjourned.

J. ADJOURNMENT

The meeting was adjourned at approximately 4:31 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Wayne Hedani
Larry Hudson
Richard Higashi
Ivan Lay
Jason Medeiros
Keaka Robinson
Max Tsai, Vice-Chair

Excused

Keone Ball, Chair
Sandy Duvauchelle

Others

Will Spence, Director, Planning Department
Michele McLean, Deputy Director, Planning Department (approximately 1:30 p.m.- 3:24 p.m.)
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works